

April 2020 Contents

Types of licence: CLU = Club
 OFF = OFF
 ON = ON
 SP = Special
 TA = Temporary Authority

SP - Suburbia & Biggies - off-site. declined.pdf

SP - Ombrellos - off-site. declined.pdf

SP - Sessions - off-site. declined.pdf

Decision No. 2020/68/SP

IN THE MATTER

Of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

Of an application by Loboski Hospitality Services Limited pursuant to s.138 of the act for an off-site special licence in respect of the premises situated at 10 Clarendon Street, Dunedin, and known as "Ombrellos"

DECISION OF THE DUNEDIN DISTRICT LICENSING COMMITTEE

In accordance with section 191(2) of the Sale and Supply of Alcohol Act 2012 this application has been considered under delegated authority.

DECISION

This is an application by Loboski Hospitality Services Limited for an off-site special licence for their premises situated at 10 Clarendon Street, Dunedin, and known as "Ombrellos".

New Zealand is at an Alert Level 4 because of the Covid-19 coronavirus. This state is essentially a 'lockdown' for all non-essential businesses which includes all bars and restaurants. Ordinarily premises that are food orientated cannot obtain an off-licence and there are a number of tavern style premises that do not have an off-licence. In the current lockdown it is not possible for premises to apply for new licences.

Before the lockdown took effect, some licensees approached the Council about the possibility of being able to sell alcohol as an off-licence so they could supply alcohol with 'takeaway' meals. It was agreed that interested premises could apply for an off-site special licence which, because of the unprecedented times, would be very short notice.

With the introduction of the Alert Level 4, the sale of prepared meals did not become an option.

On 5 April 2020, the Ministry of Business, Innovation and Employment (*MBIE*) made changes to those businesses considered 'essential' and allowed off-licensed premises to sell alcohol remotely and deliver to people's addresses so long as the remote seller obligations stated in the Act were being followed.

As mentioned above, these are unprecedented times and the Committee was willing to consider applications from on-licensed premises to help them with cashflow in these times.

The application was circulated to the reporting agencies (Police and Medical Officer of Health). This led to the Medical Officer of Health opposing the grant of the special licence because they did not believe Covid-19 to be an event. They said in the first instance, every step should be taken to diminish the spread of the pandemic and that the Government has clearly stated that limiting unnecessary community contact is paramount.

While we would argue the 'Lockdown 2020' is a valid event which is a result of the Covid-19 pandemic, we sought legal advice about whether we had interpreted the MBIE website properly. We have been advised that on-licensed premises that do not normally have an off-licence cannot be granted any kind of licence to circumvent the requirement for them to remain closed during the lockdown.

While there is an Alert Level 4 in place a hearing cannot be convened for the parties to put their points of view to the Committee. This may also be the case at Alert Level 3. By the time a hearing was possible, businesses would be able to operate again, and any hearing would be of no value.

For these reasons we must decline the application.

DATED at Dunedin this 10th day of April 2020

Kevin Mechen

Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

Sale and Supply of Alcohol Regulations 2013

14 Reasonable steps to verify that people not under purchase age

- (1) The procedures described in subclauses (2) to (4) are reasonable procedures for the purposes of complying with [section 59\(3\)](#) of the Act (which requires the holder of an off-licence to take reasonable steps to verify that the buyer of any alcohol that the holder sells by remote sale (and, if a person other than the buyer is to receive it, to verify that the receiver) is not under the purchase age).
- (2) In the case of an order made using an **internet** site, the procedure is to—
 - (a) ask the prospective buyer to declare, by ticking an on-screen box, that he or she is 18 years of age or over (and, where a prospective receiver is involved, that the prospective receiver is also 18 years of age or over)—
 - (i) once when the prospective buyer first enters the internet site; and
 - (ii) again, immediately before the sale of any alcohol is completed; and
 - (b) refuse to sell alcohol to the prospective buyer unless, on both occasions, he or she declares that he or she is 18 years of age or over (and, where a prospective receiver is involved, also declares that the prospective receiver is 18 years of age or over).
- (3) In the case of a **telephone order**, the procedure is to—
 - (a) **ask the prospective buyer to declare, orally, that he or she is 18 years of age or over** (and, where a prospective receiver is involved, that the prospective receiver is also 18 years of age or over)—
 - (i) once when the conversation concerned begins; and
 - (ii) again, immediately before the conversation is completed; and
 - (b) refuse to sell alcohol to the prospective buyer unless, on both occasions, he or she declares that he or she is 18 years of age or over (and, where a prospective receiver is involved, also declares that the prospective receiver is 18 years of age or over).
- (4) In the case of an order made on a physical order form, the procedure is to—
 - (a) ensure that the form—
 - (i) requires the prospective buyer to sign the form at a place at or near its end; and
 - (ii) contains 2 requests for the prospective buyer to declare, by ticking a box, that he or she is 18 years of age or over (and, where a prospective receiver is involved, that the prospective receiver is also 18 years of age or over)—
 - (A) one at the beginning of the form; and
 - (B) the other, immediately before the place on the form where the prospective buyer is required to sign it; and
 - (b) refuse to sell alcohol to the prospective buyer unless he or she has ticked both boxes and signed the form.

Decision No. 2020/67/SP

IN THE MATTER

Of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

Of an application by Sessions
Dunedin Limited pursuant to
s.138 of the act for an off-site
special licence in respect of the
premises situated at 138 Princes
Street, Dunedin, and known as
“Sessions”

DECISION OF THE DUNEDIN DISTRICT LICENSING COMMITTEE

In accordance with section 191(2) of the Sale and Supply of Alcohol Act 2012 this application has been considered under delegated authority.

DECISION

This is an application by Sessions Dunedin Limited for an off-site special licence for their premises situated at 138 Princes Street, Dunedin, and known as “Sessions”.

New Zealand is at an Alert Level 4 because of the Covid-19 coronavirus. This state is essentially a ‘lockdown’ for all non-essential businesses which includes all bars and restaurants. Ordinarily premises that are food orientated cannot obtain an off-licence and there are a number of tavern style premises that do not have an off-licence. In the current lockdown it is not possible for premises to apply for new licences.

Before the lockdown took effect, some licensees approached the Council about the possibility of being able to sell alcohol as an off-licence so they could supply alcohol with ‘takeaway’ meals. It was agreed that interested premises could apply for an off-site special licence which, because of the unprecedented times, would be very short notice.

With the introduction of the Alert Level 4, the sale of prepared meals did not become an option.

On 5 April 2020, the Ministry of Business, Innovation and Employment (*MBIE*) made changes to those businesses considered ‘essential’ and allowed off-licensed premises to sell alcohol remotely and deliver to people’s addresses so long as the remote seller obligations stated in the Act were being followed.

As mentioned above, these are unprecedented times and the Committee was willing to consider applications from on-licensed premises to help them with cashflow in these times.

The application was circulated to the reporting agencies (Police and Medical Officer of Health). This led to the Medical Officer of Health opposing the grant of the special licence because they did not believe Covid-19 to be an event. They said in the first instance, every step should be taken to diminish the spread of the pandemic and that the Government has clearly stated that limiting unnecessary community contact is paramount.

While we would argue the 'Lockdown 2020' is a valid event which is a result of the Covid-19 pandemic, we sought legal advice about whether we had interpreted the MBIE website properly. We have been advised that on-licensed premises that do not normally have an off-licence cannot be granted any kind of licence to circumvent the requirement for them to remain closed during the lockdown.

While there is an Alert Level 4 in place a hearing cannot be convened for the parties to put their points of view to the Committee. This may also be the case at Alert Level 3. By the time a hearing was possible, businesses would be able to operate again, and any hearing would be of no value.

For these reasons we must decline the application.

DATED at Dunedin this 10th day of April 2020

Kevin Mechen

Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

Decision No. 2020/66/SP

IN THE MATTER

Of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

Of an application by Ampt
Entertainment Limited pursuant
to s.138 of the act for an off-site
special licence in respect of the
premises situated at 145 Stuart
Street, Dunedin, and known as
“Biggies & Suburbia”

DECISION OF THE DUNEDIN DISTRICT LICENSING COMMITTEE

In accordance with section 191(2) of the Sale and Supply of Alcohol Act 2012 this application has been considered under delegated authority.

DECISION

This is an application by Ampt Entertainment Limited for an off-site special licence for their premises situated at 145 Stuart Street, Dunedin, and known as “Biggies & Suburbia”.

New Zealand is at an Alert Level 4 because of the Covid-19 coronavirus. This state is essentially a ‘lockdown’ for all non-essential businesses which includes all bars and restaurants. Ordinarily premises that are food orientated cannot obtain an off-licence and there are a number of tavern style premises that do not have an off-licence. In the current lockdown it is not possible for premises to apply for new licences.

Before the lockdown took effect, some licensees approached the Council about the possibility of being able to sell alcohol as an off-licence so they could supply alcohol with ‘takeaway’ meals. It was agreed that interested premises could apply for an off-site special licence which, because of the unprecedented times, would be very short notice.

With the introduction of the Alert Level 4, the sale of prepared meals did not become an option.

On 5 April 2020, the Ministry of Business, Innovation and Employment (*MBIE*) made changes to those businesses considered ‘essential’ and allowed off-licensed premises to sell alcohol remotely and deliver to people’s addresses so long as the remote seller obligations stated in the Act were being followed.

As mentioned above, these are unprecedented times and the Committee was willing to consider applications from on-licensed premises to help them with cashflow in these times.

The application was circulated to the reporting agencies (Police and Medical Officer of Health). This led to the Medical Officer of Health opposing the grant of the special licence because they did not believe Covid-19 to be an event. They said in the first instance, every step should be taken to diminish the spread of the pandemic and that the Government has clearly stated that limiting unnecessary community contact is paramount.

While we would argue the 'Lockdown 2020' is a valid event which is a result of the Covid-19 pandemic, we sought legal advice about whether we had interpreted the MBIE website properly. We have been advised that on-licensed premises that do not normally have an off-licence cannot be granted any kind of licence to circumvent the requirement for them to remain closed during the lockdown.

While there is an Alert Level 4 in place a hearing cannot be convened for the parties to put their points of view to the Committee. This may also be the case at Alert Level 3. By the time a hearing was possible, businesses would be able to operate again, and any hearing would be of no value.

For these reasons we must decline the application.

DATED at Dunedin this 10th day of April 2020

Kevin Mechen

Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE