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IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Eastern Rugby
Football Club Incorporated pursuant to
s.127 of the Act for renewal of a club
licence in respect of premises situated
at 133 Matanaka Drive, Waikouaiti,
known as "Eastern Rugby Football Club"

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 Eastern Rugby Football Club Incorporated for the renewal of an alcohol club licence in respect of their premises situated at 133 Matanaka Drive, Waikouaiti, and known as the "Eastern Rugby Football Club".

The application is for a roll-over of the present conditions.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is being operated properly.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 9 November 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 18th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Gardens Pavilion Management Society Incorporated pursuant to s.127 of the Act for renewal of a club licence in respect of premises situated at 1 Bank Street, Dunedin, known as "Northern Association Football Club & North East Valley Cricket Club"

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 Gardens Pavilion Management Society Incorporated for the renewal of an alcohol club licence in respect of their premises situated at 1 Bank Street, Dunedin, and known as the "Northern Association Football Club & North East Valley Cricket Club".

The application is for a roll-over of the present conditions.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is being operated properly.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 9 November 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 30th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Emmjae N Z Limited pursuant to s.127 of the Act for renewal of an off-licence in respect of premises situated at 1870 Waikouaiti-Waitati Road, Merton, known as "Arc Brewing Co."

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 Emmjae N Z Limited for the renewal of an alcohol off-licence in respect of their premises situated at 1870 Waikouaiti-Waitati Road, Merton, and known as the "Arc Brewing Co.".

The application is for a roll-over of the present conditions.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is being operated properly.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 15 October 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 17th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by General Distributors Limited pursuant to s.127 of the Act for renewal of an off-licence in respect of premises situated at 323 Andersons Bay Road, Dunedin, known as "Countdown Dunedin South"

BEFORE THE DUNEDIN DISTRICT LICENSING COMMITTEE

Chair: Commissioner C Weatherall
Mr R Amohau

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

DECISION

- [1] This is an application by General Distributors Limited for the renewal of an alcohol off-licence in respect of their premises situated at 323 Andersons Bay Road, Dunedin, and known as "Countdown Dunedin South".
- [2] The application is for a roll-over of the present conditions.
- [3] The application was duly advertised, and no public objection has been received. Neither the Medical Officer of Health nor Licensing Inspector oppose the renewal of the licence however the Police raised matters of concern.
- [4] It is the practice in Dunedin for the three agencies to meet with the applicant or a representative of their company, usually on site, to discuss the application received and to consider the layout of a premises. This is important for premises such as this one because there are statutory constraints relating to the placement and advertising of alcohol in the store. On this occasion, such a meeting has not taken place for various reasons which will not be discussed here.
- [5] The application was received by Council on 17 May 2022 and subsequently circulated to the reporting agencies who were advised their reports were required by 8 June 2022, that being 15 working days from receipt of the application. However, at the time, the Epidemic Preparedness (Covid-19) Notice 2020 was still in place which meant the associated Immediate Modification Order (IMO) was still active. The effect of the IMO was that the Police and Medical Officer of Health had until 30 working days after the expiry of the Epidemic

Preparedness (Covid-19) Notice 2020 in which to report on applications. The Notice expired on 20 October 2022 which meant the 30 working days expired on 2 December 2022.

- [6] The Police sent an email advising they had no opposition to the application on 14 June 2022. One month later on 14 July 2022, another email was sent by the Police advising of interim opposition to the application. This is 22 working days after their initial no opposition email. The full Police opposition report was received on 19 October 2022.
- [7] During the time of the IMO, section 103(4) was amended to state:
- “(4) The licensing committee may decide an application for a licence only if it has received—*
(a) a report from the Police; and
(b) a report from the Medical Officer of Health.”
- [8] In *Sargent v Kapiti Supermarket Ltd*, [2015] NZARLA 194, the Authority said at [15][a] *“In terms of s.103(3)(b) of the Act the Police must decide within 15 working days after receiving a copy of the application whether or not they have any matters in opposition to it. Whether or not the Police have matters in opposition must be determined within the timeframe stated in the Act and the Police are bound by the indication that they give. There is nothing in the Act to prevent the Police altering their stance within the 15 day period. Likewise, it is permissible for the Police to withdraw their opposition at any time. If the Police do have matters in opposition to an application they must state those matters within the 15 working day period. Merely to state that they oppose an application without setting out the matters in opposition is not adequate as this fails to tell an applicant the nature of the case it must answer at the subsequent hearing”*.
- [9] The email dated 14 June 2022 constitutes a neutral, if not positive, report from the Police stating they did not oppose to the application. In submitting the report, Police nullified the effects of the IMO and could no longer rely on the extended reporting times. The email dated 14 July 2022 indicated a change of position and they wanted to oppose the application. It is the Committee’s position that having submitted the report on 14 June 2022, Police had fulfilled the reporting requirements and the IMO was nullified. As mentioned above, there is nothing in the legislation preventing a change of position, however this is clarified in *Sargent v Kapiti Supermarket Ltd* where the Authority states at [16], *“After the expiration of the 15 day period and at the hearing before the DLC, the Police were not entitled to alter their original stance.”* In this matter, the change of position email was submitted 22 working days after the first email.
- [10] Given the Police report of 14 June 2022 had nullified the IMO and 22 working days had elapsed when the second email of 14 July 2022 was received, the Committee has determined the Police are not entitled to alter their original stance which is consistent with the above-mentioned caselaw.
- [11] The application was not considered earlier because the Licensing Inspector was not able to meet with the applicant’s representative at a mutually acceptable time and the Medical Officer of Health did not report until 28 September 2022. This is acceptable because the IMO was still in place.
- [12] The Committee is disappointed that the applicant and Inspector have not been able to discuss the application. It would be preferable for there to be a local representative who understands the daily operation of the premises and we hope this can happen in the future.

- [13] The Inspector does not oppose the renewal of this licence however they do comment that they would support the imposition of a condition relating to the sale of single serve, high strength products at low prices. The two cases cited, *Two Brothers Wholesale Limited*, [2021] NZARLA 32, and *Nekita Enterprises Limited*, [2021] NZARLA 139-145, relate to very low decile areas in Tokoroa and Christchurch. There is no requirement to have a hearing in this matter so evidence as to the area in which the applicant's premises is situated will not be presented so a comparison cannot be made.
- [14] We are satisfied as to the matters to which we must have regard as set out in s.131 of the Act and therefore renew the licence until 19 June 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 30th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

Decision No. 2023/01/OFF

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Duty Free Stores
Wellington Limited pursuant to s.127
of the Act for renewal of an off-
licence in respect of premises
situated at 25 Miller Road, Momona,
known as "Discover Dunedin"

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 Duty Free Stores Wellington Limited for the renewal of an alcohol off-licence in respect of their duty-free premises situated at the Dunedin International Airport, 25 Miller Road, Momona, and known as "Discover Dunedin".

This is the first renewal for the premises and is for a roll-over of the present conditions.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is operated properly.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 30 November 2025, that being three years from the first anniversary of the licence and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 18th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Mexi-Bev (NZ) Limited pursuant to s.127 of the Act for renewal of an off-licence, endorsed pursuant to s.40 of the Act, in respect of premises situated at 100 Glenross Street, Dunedin, known as "Mexi-Bev"

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 Mexi-Bev (NZ) Limited for the renewal of an alcohol off-licence, endorsed as a remote seller, in respect of their premises situated at 100 Glenross Street, Dunedin, and known as the "Mexi-Bev".

The application is for a roll-over of the present conditions.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that it complies with the legislation for this type of licence. It has been noted that the original application submitted was of poor quality and did not have required supporting documentation. Administration staff were required to ask the applicant to provide the missing information before the matter it could be processed.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 16 October 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 23rd day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

Decision No. 2023/02/ON

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Alacrity Dining
Limited pursuant to s.127 of the Act
for renewal of an on-licence in
respect of premises situated at 73 St
Andrew Street, Dunedin, known as
“Gaslight Dunedin”

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 Alacrity Dining Limited for the renewal of an alcohol on-licence in respect of their premises situated at 73 St Andrew Street, Dunedin, and known as “Gaslight Dunedin”.

The application is for a roll-over of the present conditions.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is being operated properly.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 21 November 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 18th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

Decision No 2023/05/ON

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by K & S Hospitality
Limited pursuant to s.127 of the Act
for renewal of an on-licence in
respect of premises situated at 42
Queens Gardens, Dunedin, known as
“Moiety”

BEFORE THE DUNEDIN DISTRICT LICENSING COMMITTEE

Chairperson: Mr R Amohau
Members: Mr C Weatherall
Ms K Elliot

HEARING at Dunedin on 21 November 2022

Appearances: Ms K Underwood – for the Applicant
Mr S Gasson – for the Applicant

Ms A Blair – Licensing Inspector
Sgt S Jones – Dunedin Police Alcohol Harm Prevention Officer
Mr A Whipp – Medical Officer of Health Delegate

Ms L Adamson – Governance Support Officer
Mr K Mechen – Secretary to DLC/Alcohol Advisor

INTRODUCTION

- [1] This is an application by K & S Hospitality Limited for the renewal of an alcohol on-licence in respect of premises situated at 42 Queens Gardens, Dunedin, and known as “Moiety”.
- [2] The application is for a rollover of the current conditions which has licence hours of Monday to Sunday, 9.00 am to 12.00 midnight, however, they are currently only trading Wednesday to Saturday evenings from 5.00 pm. There is one certified manager listed for the premises.
- [3] The Applicant has asked to retain their current licence hours so they have the ability to be flexible as the economy improves and because retaining the current licence hours will make the business more desirable as the business is currently on the market.
- [4] While there is no opposition from the reporting agencies, the Committee has called the matter before them because there is only one certified manager to cover the 105 licenced hours.

HEARING

Ms Underwood and Mr Gasson

- [5] The Applicant company has two directors and shareholders, Ms Underwood and Mr Gasson. They were first licensed in 2018 and the licence conditions were unchanged at the first renewal in 2019. Ms Underwood is the only certified manager for the company and Mr Gasson is the main chef. The kitchen is open to the main body of the restaurant so Mr Gasson could be an effective duty manager while still in the kitchen area.
- [6] They have two other front of house staff who have previously worked in and owned premises. They had another duty manager, but they went back to Ireland and did not get the renewal documents in time to be able to reapply for their manager's certificate. Ms Underwood said she would look at having the two main staff complete the Licence Controller Qualification (LCQ), depending on the outcome of this hearing. Mr Gasson said he would also be applying for his manager's certificate.
- [7] In the future they will look at expanding their trading hours to include more nights as well as looking at the lunch market. They also have functions throughout the year with a lot of them taking place on Mondays and Tuesdays. While there is only seating for 24 people, the premises has an occupancy of 95 people total and can cater for 45 people seated. When they have functions, they only allow group sizes up to mid-30s.
- [8] There are flats above their premises, but they have never had a noise complaint recorded against their premises.
- [9] Ms Underwood said another reason was that the premises was for sale and they have been told by the sales broker that if the trading hours are reduced it will make the premises less desirable to potential buyers.
- [10] The Committee wanted to know how they cover their trading hours with only one certified manager. Ms Underwood said if she was not available to be at the premises, they did not open. If a function was to take place on a day they would not normally be open they had the ability to operate as normal. Mr Gasson said only opening four days per week meant that if they needed to open on another day, it was not excessive.
- [11] In response to another question, Ms Underwood said if she needed to be away from the premises, they use other staff. However, the arrangement did need to be formalised. They are aware of the requirement to notify the Committee and Police of any appointment of temporary or acting managers.
- [12] The Committee asked if the premises had ever operated as a lunch venue. Ms Underwood said they do occasionally and have also opened for the occasional late morning brunch.
- [13] In response to another question from the Committee, Ms Underwood said that when Mr Gasson obtained a manager's certificate there would be no issues because the whole premises can be viewed from the kitchen area. There is table service only so there will be no one going to the counter to get drinks. Ms Blair, the Licensing Inspector, confirmed that visibility from the bar was excellent.
- [14] The Applicant was asked to confirm the trading hours they were requesting for the renewal. Ms Underwood said they were now seeking 10.00 am to 12.00 midnight on each day. Mr Gasson commented that they did not think they were asking for anything unreasonable. It would allow them to hold functions without the need to apply for special licences. There is good parking in the area which should make it desirable for functions.

- [15] The reporting agencies, the Licensing Inspector, Police and Medical Officer of Health, did not oppose the applicant and did not present any evidence.

DECISION

- [16] The Committee called this matter to a hearing because the Applicant only had one certified manager to cover 105 potential licenced hours in a week. They also are only operating four nights per week for dinners only.
- [17] Ms Underwood, one of the two owners of the business, explained that as well as the nights they are open to dinners, they also open for functions and occasionally late breakfasts or brunch. They will look at expanding their business as the economy improves and when this happens, will have staff complete the LCQ and get manager's certificates.
- [18] The sole certified manager for the premises, Ms Underwood, is one of the business owners. They explained that when Ms Underwood was not able to go to the restaurant, the premises remained closed.
- [19] The premises is also on the market for sale. The Applicant has been told that any reduction in licence hours will make the business less desirable to potential purchasers.
- [20] This premises is very low risk, and the owners satisfied the Committee they were operating properly. They understand the requirements of having a certified manager present and manage the business around the availability of Ms Underwood. However, it would be advantageous for a second certified manager to be employed. The Committee recommends the second owner, Mr Gasson, obtain a manager's certificate as a way of safe-guarding their business.
- [21] When the Committee asked for clarification regarding the hours sought for the licence renewal, the Applicant said 10.00 am to 12.00 midnight would be sufficient.
- [22] The Committee is satisfied as to the matters to which we must have regard as set out in s.131 of the Act and therefore renew the licence, with the amended opening time of 10.00 am, until 15 May 2025, that being the anniversary date of the licence and three years from the most recent date of expiry. We authorise the issue of a replacement licence and notice of renewal once the Committee is in receipt of a manager's certificate application from another staff member from the premises.

DATED at Dunedin this 24th day of January 2023

Kevin Mechen

Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

of an application by Pride Thai
Limited for an on-licence pursuant
to s.99 of the Act in respect of
premises situated at 18 Mailer
Street, Dunedin, and known as
“Mornington Thai”

BEFORE THE DUNEDIN DISTRICT LICENSING COMMITTEE

Chairperson: Commissioner C Weatherall

Members: Mr R Amohau
Ms K Lane

HEARING at Dunedin on 21 October 2021

Appearances: Ms S Nongyang – for the Applicant
Mr N Malhotra – in support of the Applicant
Ms Kimi Winata – in support of the Applicant after adjournment
Mr José Santos – in support of the Applicant after adjournment

Ms T Morrison – Licensing Inspector
Mr A Whipp – Medical Officer of Health Delegate
Sgt S Jones – Dunedin Alcohol Harm Prevention Officer

Ms L Riddle – Governance Support Officer
Mr K Mechen – Secretary to DLC/Alcohol Advisor

INTRODUCTION

- [1] This is an application by Pride Thai Limited for an on-licence for their premises situated at 18 Mailer Street, Dunedin, and known as “Mornington Thai”. The company was formed in June 2020.
- [2] The premises was formerly an Indian restaurant and takeaway but is now operating as a Thai restaurant.
- [3] The sole director and shareholder of the applicant company is Ms Sonthaya Nongyang. Ms Nongyang was a director shareholder of Savoury Japan 2015 Limited, but that role ceased in October 2021.
- [4] The applicant purchased the business from Navnik NZ Limited of which Mr Malhotra is a former director and current shareholder.

- [5] While there were no objections after the public notice and the reporting agencies, Police, Medical Officer of Health and Licensing Inspector did not submit adverse reports, there were questions raised by the Committee that are best addressed at a public hearing.

HEARING

Ms Nongyang

- [6] Ms Nongyang is the sole director and shareholder of the applicant company Pride Thai Limited. She bought the Indian Cuisine business from Navnik NZ Limited and has turned it into a Thai restaurant. She did not buy the building itself, just the business associated with it.
- [7] A private purchase agreement has been signed which has a condition that one of the directors of the vendor company, Mr Malhotra, would assist for the initial three months at no cost.
- [8] Ms Nongyang is not a certified manager but will be looking at that as the business becomes established.

Mr Malhotra

- [9] Mr Malhotra is a director of the vendor company and is assisting the Applicant at this hearing.
- [10] He asked what the concerns of the Committee were. He said the Applicant was paying off the purchase of the business interest free and his only involvement is to ensure the money was paid according to the contract. He said he would be returning to Sydney, Australia, when the money had been paid.
- [11] Mornington Thai has two chefs and three duty managers with a fourth to be appointed.
- [12] When asked, Ms Nongyang said they were open for lunch seven days per week from 11.30 am to 2.30 pm and evenings from 4.30 pm to 9.30 pm, although sometimes they are there later until 10.00 pm. Later hours were requested for the weekends because sometimes people come in later and the food doesn't get served to them until about 10.00 pm.
- [13] Ms Nongyang explained there were two chefs, two kitchen hands, two front of house staff and herself working at the premises at that time. When asked, she said Mr Kirit Gandhi worked as a manager four days per week and Mr Malhotra covers the remaining three days until Ms Winata returns to New Zealand. Mr Santos, when he returns to New Zealand, will train as a duty manager and get his manager's certificate.
- [14] The Committee asked about Mr Malhotra's continued involvement in the business. The Sale and Purchase Agreement states 180 days assistance but it is now 185 days. Mr Malhotra told the Committee he would be happy to sign another agreement to continue helping.
- [15] The Committee asked about issues relating to the other premises Mr Malhotra was involved with. When asked what the relevance of this was, the Committee highlighted their concern that there were suitability issues with another premises he was director of, and he had continued involvement with the Applicant's business. It was also raised as a possible issue in the Licensing Inspector's report. Mr Malhotra said that matter was with lawyers and would not discuss the issues.
- [16] When asked, Ms Nongyang said she was not really aware of the issues being discussed. The Committee commented they felt it important that she was aware of these issues.

- [17] The Committee asked who was responsible for the setting of alcohol prices at the premises and the presence of a bottle of tequila in a restaurant because this was not consistent with a restaurant. Ms Nongyang said she set the prices and Mr Malhotra stated that the bottle of tequila sat on the shelf unopened.
- [18] Ms Nongyang, when asked, explained the training of staff at the premises. So far as the duty manager's role, Mr Gandhi oversaw that until Ms Winata returned to the country. He decided when they were ready to complete the application for a manager's certificate. When asked another question, Ms Nongyang said she prepared the rosters and Mr Malhotra helped with the payroll system. They have an accountant for the business.
- [19] Mr Malhotra was asked about his actual involvement in the premises. He said he was there to help for the first three months but has decided to continue to help until staffing improves. He said he is not being paid for the work and offered to help with the alcohol licence application. In response to further questioning, he said the drinks 'menu' was from the previous business with some input from staff.
- [20] The Committee wanted to clarify the times Mr Malhotra was working because the roster presented to the hearing has him as a predominant worker. He said it was not right, that it didn't show what was actually worked. The current week's roster was on the wall at the premises.
- [21] The Police asked Mr Malhotra if he was working at his other premises. He said he wasn't, that he had been helping the Applicant set up her business and apply for this alcohol licence. He said he saw no reason to tell her about the other businesses because it had nothing to do with this one. When asked, Ms Nongyang said Mr Malhotra had a bit to do with staff training, but it was mostly the paperwork he helped with.
- [22] The Licensing Inspector asked why the sale of the business was not done through a lawyer. Mr Malhotra said it was a financial reason. The Indian Spice business lost its chef in January 2022, so they had to stop trading. The change of ownership was in April 2022. They just wanted out, so they offered the purchase as an interest free loan.
- [23] When asked why she took it on, Ms Nongyang said she was a chef and because the place was already set up as a restaurant she could just walk in and start trading. She said she tried to find a location in Mosgiel, but it was not successful. She heard about this premises from a friend of hers.
- [24] When asked about her knowledge of the alcohol legislation she said she has been learning from Ms Winata. She would like to get her manager's certificate when she is more confident.
- [25] The Committee asked how much alcohol is sold at the premises. She said it was not much, just the occasional glass of wine. Most of the customers only come for the food.
- [26] The Inspector asked about Mr Gandhi's involvement in the business because he was the owner prior to Navnik NZ Limited taking over. The roster shows that he is working a lot of the time. Mr Malhotra said he helps out when needed and when Ms Winata returns, he will be there less often.
- [27] The Licensing Inspector asked Mr Malhotra if he thought he was a suitable person to be offering advice and help to the applicant. He replied that yes, he was a suitable person.

- [28] The Committee asked about another employee shown on the roster, Mr Shailendra Dhakal. He was employed in September 2022 but then had to return to Nepal. He is still shown on the roster because it was copied and pasted from previous weeks.

Sgt Jones

- [29] Sgt Jones referred to *Ferguson v McCullough*, LLA PH915/2007, in which the applicant's business was not what it appeared. Sgt Jones was concerned at the involvement of Mr Malhotra in this matter.
- [30] Ms Nongyang emphasised that wanted the alcohol licence to run her business but needed help getting it. She said Mr Malhotra would not be helping for much longer.

INTERIM DECISION

- [31] The Committee is aware there is no opposition to the granting of this licence but needs to be satisfied the Applicant has appropriate systems, staff and training to comply with the requirements of having an alcohol licence and that it is the Applicant that is running the company and is responsible for it, not Mr Malhotra.
- [32] The hearing is adjourned until such time as Ms Winata and Mr Santos are available to speak to the Committee with Ms Nongyang.
- [33] The Committee requested copies of the latest rosters, bank statements for the business and a letter from Mr Gandhi explaining his role in the business.

HEARING RECONVENED 16 DECEMBER 2022

- [34] Ms Nongyang is accompanied by Ms Kimi Winata and Mr José Santos.
- [35] Committee member Ms Lane said she and another member, Mr Amohau, went to the premises for dinner after the first hearing to look first hand at how the business operated. She said they were impressed what they witnessed. They were impressed with the clientele and there was no sign of alcohol abuse. The only point to note was that water was not offered when they first arrived. Overall, it was a pleasant experience.
- [36] Ms Winata spoke for the Applicant. She asked that the information supplied prior to the reconvened hearing be accepted by the Committee.
- [37] She said since she has been back in New Zealand she has been working fulltime and when she has days off, Mr Gandhi covers her role.
- [38] The Committee noticed on the roster there were two days when neither Ms Winata nor Mr Gandhi were present but a note on those days indicate alcohol was not available. Ms Winata confirmed that was the case.
- [39] It was also noted that Mr Malhotra's name did not appear on the roster. Ms Winata said he helps when they are short staffed, but he is not involved with the sale and supply of alcohol.
- [40] The Licensing Inspector asked about Mr Dhakal and was told he had just returned to New Zealand. In response to another question, Ms Winata said she was training Mr Santos.
- [41] The Inspector asked Mr Santos if he was doing the Licence Controller Qualification (LCQ). He said he had completed it in 2012 but because he did not complete the LCQ Bridging Test, a

requirement in the Sale and Supply of Alcohol Act 2012, it 'expired' so he is required to resit the test. He said he was doing it online. He said a lot of the training is the same but in other areas, it was quite different.

- [42] In response to a question from the Committee, Mr Santos said prior to starting at Mornington Thai, he was a dealer/supervisor at the Dunedin Grand Casino for six years. When he left there, he thought he had a current LCQ for when he applied for his current position.

RESERVED DECISION

- [43] This Applicant in this matter bought a business that had ceased trading about three months earlier in an agreement not overseen by a lawyer. One of the directors of the previous business has remained to help the Applicant, Ms Nongyang, become established and obtain her alcohol licence.
- [44] While there was no opposition to the application, the reports from the reporting agencies raised some concerns for the Committee so the matter was called before them
- [45] Ms Nongyang is genuine in her efforts to establish a successful restaurant business. She was convinced a lawyer was not required and she was offered the opportunity to pay off the business in regular payments at no interest.
- [46] The previous director, Mr Malhotra, is also a director of another licensed premises in Dunedin that is the subject of several applications to the Authority for cancellation of the licence.
- [47] During the hearing Mr Malhotra appeared to be controlling the Applicant's case. The Committee was not certain whether the Applicant was in control of their case or whether Mr Malhotra was overriding her position.
- [48] When the matter was reconvened, the Committee saw a much more confident Applicant in Mr Malhotra's absence. They were told Mr Malhotra was having far less involvement in the business now Ms Winata had returned to New Zealand. Another certified manager, Mr Dhakal, was now back in the country and another, Mr Santos, was completing the requirements for his LCQ.
- [49] The Committee is now more confident the Applicant's business will be operated properly. We strongly recommend the Applicant completes her LCQ within twelve months as a protection for her business.
- [50] We are now satisfied as to the matters to which we must have regard as set out in section 105 of the Act and we grant the Applicant an on-licence authorising the sale and supply of alcohol for consumption on the premises, to any person who is present on the premises.
- [51] The Applicant's attention is drawn to sections 56 and 57(1) of the Act obliging the holder of an on-licence to display:
- a. A sign attached to the exterior of the premises, so as to be easily read by persons outside each principal entrance, stating the ordinary hours of business during which the premises will be open for the sale of alcohol; AND,
 - b. A copy of the licence, and of the conditions of the licence, attached to the interior of the premises so as to be easily read by persons entering through each principal entrance; AND,
 - c. A sign prominently displayed inside the premises, which identifies by name the manager for the time being on duty.

[52] The licence will be subject to the following conditions:

- a. No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day to any person who is not present on the premises to dine.
- b. Alcohol may be sold only on the following days and during the following hours:
Sunday to Thursday 10.00 am to 10.00 pm
Friday and Saturday 10.00 am to 12.00 midnight
- c. The following steps must be taken to promote the responsible consumption of alcohol:
 - i. A range of food choices must be readily available at all times that the premises is open. Menus must be visible, and food should be actively promoted. A minimum of three types of food should be available. The range or style of food will be shown on any menu submitted. Alternatively, the range of food should include such items as paninis, pizzas, lasagne, toasted or fresh sandwiches, wedges, pies, filled rolls, and/or salads.
 - ii. A range of low alcohol and non-alcoholic drinks must be readily available at all times the premises is open.
 - iii. Water must be freely available at all times that the premises is open.
- d. The following steps must be taken to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:
 - i. The licensee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- e. The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.

DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE/S

[53] A copy of this licence must be displayed at the principal entrance(s) to the premises as outlined in the plan received by the Dunedin District Licensing Committee on 25 May 2022. The entrance from Mailer Street is designated as the principal entrance.

DATED at Dunedin this 9th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Minigold Trading (2012) Limited pursuant to s.127 of the Act for renewal of an on-licence in respect of premises situated at 66A St Andrew Street, Dunedin, known as "Saigon Van Restaurant"

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 Minigold Trading (2012) Limited for the renewal of an alcohol on-licence in respect of their premises situated at 66A St Andrew Street, Dunedin, and known as the "Saigon Van Restaurant".

The application was originally for a roll-over of the present conditions, however, after discussion with the Licensing Inspector, they now seek a reduction in their licence hours to better reflect their business practice. Currently their licence allows trading between 10.00 am and midnight. They are now seeking 11.30 am to 9.00 pm, Tuesday to Sunday.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is being operated. The Inspector said the new licence hours are appropriate for this business.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 22 November 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 18th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Otago
Hospitality Limited pursuant to s.127
of the Act for renewal of an on-
licence in respect of premises
situated at 125 Balmacewen Road,
Dunedin, known as "The Otago Golf
Club"

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 Otago Hospitality Limited for the renewal of an alcohol on-licence in respect of their premises situated at 125 Balmacewen Road, Dunedin, and known as the "The Otago Golf Club".

The application was for a roll-over of the present conditions however, after discussion with the Licensing Inspector, decided to move the licensed opening time forward from 8.00 am to 10.00 am. This reflects the operating hours of the premises.

The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly, we deal with the matter on the papers.

The Licensing Inspector has assessed the application against the criteria in the Act and is satisfied that the premises is being operated properly and that the change in the licensed opening time is appropriate.

We are satisfied as to the matters to which we must have regard as set out in s.105 of the Act and therefore renew the licence until 21 November 2025, that being the anniversary date of the licence and three years from the most recent date of expiry and authorise the issue of a replacement licence and notice of renewal.

DATED at Dunedin this 18th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

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 a special licence in
respect of an extended area in front of
the premises situated at 153 Stuart
Street, Dunedin, and known as "Biggies
Pizza & Suburbia"

DECISION OF 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 a special licence for an extended area in front of their premises situated at 153 Stuart Street, Dunedin, and known as "Biggies Pizza & Suburbia".

The applicant has requested a special licence to extend their licensed area for the Red Hot Chilli Peppers Concert to be held on Thursday 26 January 2023 to maximise the area resulting from a planned road closure. They have asked for the extension from 3.00 pm to 3.00 am the following day and they have asked for the area to carry the same designation as the premises itself.

The Medical Officer of Health and Licensing Inspector have not raised any matters of concern. The Police have not commented but have no issue with other premises extending their areas on this occasion. A one-way door policy shall apply from 2.30 am.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

We must remind the applicant that, although the special licence was granted on this occasion due to exceptional circumstances, there is no guarantee that future applications received within 20 working days of the event will be processed in time.

DATED at Dunedin this 26th day of January 2023

Kevin Mechen

Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Brighton Rugby
Football Club Incorporated pursuant
to s.138 of the act for a special
licence in respect of the premises
situated at 1047 Brighton Road,
Brighton, and known as "Brighton
Rugby Football Club"

DECISION OF 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 Brighton Rugby Football Club Incorporated for a special licence for their premises situated at 1047 Brighton Road, Brighton, and known as the "Brighton Rugby Football Club".

The applicant has requested a special licence for the Brighton Gala Day to be held on Sunday 22 January 2023 between 10.00 am and 5.00 pm. They will have their facilities open for anyone who would like an alcoholic refreshment through the event.

The reporting agencies (Police, Medical Officer of Health and Licensing Inspector) have not raised any matters of concern. There are no extra conditions that need to be added to this licence.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

DATED at Dunedin this 19th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Outram Bowling Club Incorporated pursuant to s.138 of the act for a special licence in respect of the premises situated at 8 Skerries Street, Outram, and known as "Outram Bowling Club"

DECISION OF 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 Outram Bowling Club Incorporated for a special licence for their premises situated at 8 Skerries Street, Outram, and known as the "Outram Bowling Club".

The applicant has requested the special licence so they can host Outram Community Bingo evenings to be held on the following days:

Friday 3 March 2023	6.15 pm to 9.15 pm
Tuesday 7 March 2023	6.15 pm to 9.15 pm
Tuesday 26 March 2023	6.15 pm to 9.15 pm
Tuesday 4 April 2023	6.15 pm to 9.15 pm
Tuesday 18 April 2023	6.15 pm to 9.15 pm
Tuesday 2 May 2023	6.15 pm to 9.15 pm
Tuesday 16 May 2023	6.15 pm to 9.15 pm
Tuesday 30 May 2023	6.15 pm to 9.15 pm
Tuesday 13 June 2023	6.15 pm to 9.15 pm
Tuesday 27 June 2023	6.15 pm to 9.15 pm
Tuesday 11 July 2022	6.15 pm to 9.15 pm
Tuesday 25 July 2023	6.15 pm to 9.15 pm

The reporting agencies (Police, Medical Officer of Health and Licensing Inspector) have not raised any matters of concern. There are no extra conditions that need to be added to this licence.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

DATED at Dunedin this 20th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Samgan Limited pursuant to s.138 of the act for a special licence in respect of the premises situated at 31 Queens Gardens, Dunedin, and known as "Toitū Otago Settlers Museum"

DECISION OF 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 Samgan Limited for a special licence for premises situated at 31 Queens Gardens, Dunedin, and known as "Toitū Otago Settlers Museum".

The applicant has requested a special licence for the Burns Night Dinner to be held on Wednesday 25 January 2023 between 7.00 pm and 12.00 midnight. They have requested the premises be designated a supervised area for the duration of the evening.

The reporting agencies (Police, Medical Officer of Health and Licensing Inspector) have not raised any matters of concern. There are no extra conditions that need to be added to this licence.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

We would like to remind the applicant that there is a shutdown period for alcohol licensing between 20 December and 15 January which is set in the legislation. In the future it would be helpful if any special licence applications for January and February were to be submitted early in the preceding December.

DATED at Dunedin this 13th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by St Clair Golf Club Incorporated pursuant to s.138 of the act for a special licence in respect of the premises situated at 20 Isadore Road, Dunedin, and known as "St Clair Golf Club"

DECISION OF 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 St Clair Golf Club Incorporated for a special licence for their premises situated at 20 Isadore Road, Dunedin, and known as the "St Clair Golf Club".

The applicant has requested a special licence to host the Bungard Wedding to be held on Saturday 4 January 2023 from 3.30 pm to 12.00 midnight. They have requested the premises be designated a supervised area for the duration of the function.

The reporting agencies (Police, Medical Officer of Health and Licensing Inspector) have not raised any matters of concern. There are no extra conditions that need to be added to this licence.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

We would like to remind the applicant that there is a shutdown period for alcohol licensing between 20 December and 15 January which is set in the legislation. In the future it would be helpful if any special licence applications for January and February were to be submitted early in the preceding December.

DATED at Dunedin this 20th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by St Clair Golf Club
Incorporated pursuant to s.138 of
the act for a special licence in respect
of the premises situated at 20
Isadore Road, Dunedin, and known
as "St Clair Golf Club"

DECISION OF 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 St Clair Golf Club Incorporated for a special licence for their premises situated at 20 Isadore Road, Dunedin, and known as the "St Clair Golf Club".

The applicant has requested a special licence for Symone Fitton-Abernethy & Kyle Martin's Engagement Party to be held on Saturday 25 February 2023 between 7.00 pm and 12.00 midnight. They have requested the premises be designated a supervised area for the duration of the evening.

The reporting agencies (Police, Medical Officer of Health and Licensing Inspector) have not raised any matters of concern. There are no extra conditions that need to be added to this licence.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

DATED at Dunedin this 20th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by The Alchemist
Limited pursuant to s.138 of the act
for a special licence in respect of the
premises situated at 16 Owen Street,
Dunedin, and known as "16 Owen
Street"

DECISION OF 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 The Alchemist Limited for a special licence for the premises situated at 16 Owen Street, Dunedin, and known as "16 Owen Street".

The applicant has requested a special licence to cater for Holly Bell's Hens' Do to be held on Saturday 18 February 2023 between 4.30 pm and 7.30 pm. They have requested the premises be designated a restricted area for the duration of the function.

The reporting agencies (Police, Medical Officer of Health and Licensing Inspector) have not raised any matters of concern. There are no extra conditions that need to be added to this licence.

We are satisfied as to the matters to which we must have regard as set out in s.142 of the Act and we grant the special licence. A copy of the special licence setting out the conditions to which it is subject is attached to this decision.

DATED at Dunedin this 20th day of January 2023

Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE