

Decision No. 45/2025/221

Reference OFF888

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER** of an application pursuant to section 100 of the Sale and Supply of Alcohol Act 2012 by **Mellow Spirits Limited** for an OFF Licence for premises situated at 1B Parata St, Waikanae, to be known as Waikanae Super Liquor

**BEFORE THE KAPITI COAST DISTRICT LICENSING COMMITTEE**

Chair: Cr Nigel Wilson

Members: Mrs Jackie Elliott

Mr Bede Laracy

**HEARING** at Kapiti Coast District Council offices, Paraparaumu, on 26 February 2025.

**APPEARANCES**

**Mr John Young of Brookfields Lawyers** – acting for the applicant Mellow Spirits Limited

**Mr Suhkjinder Singh** – Applicant

**Mr Peter Joseph** – Super Liquor for the Applicant

**Reporting Agencies:**

**Antoinette Bliss** - Licensing Inspector

**Luke Taunton** – Police Sergeant

**Amanda Bradley** – Medical Officer of Health

**Nicola Campbell** - Medical Officer of Health

**Objectors:**

**Ms Liz Gordon** – Objector – Lawyer for Mandy Savage

**Ms Sonya Sloan** - Witness

**Mr Steve Botica** – Objector

**Mr Doug Miller** – Objector

**Mr Ron Tustin** – Objector

**Ms Belinda Foster** – Objector *appeared via Zoom*

**Ms Janet Calder** – Objector *appeared via Zoom*

**Te Atiawa representative** - Objector

### **Preliminary procedural matter relating to objections**

Prior to commencement Mr Young for the Applicant raised the issue of Objector evidence that was delayed in presentation to the Hearing. Mr Young told the Hearing the Applicant needed time to respond.

Ms Gordon for the Objector said she had been engaged very late and this did cause some delays. She said they found issues they didn't expect particularly in relation to the evidence of Belinda Fowler.

The parties were given time to consider the evidence.

**All those appearing were sworn in.**

### **INTRODUCTION**

1. This is a hearing in relation to an application pursuant to section 100 of the Sale and Supply of Alcohol Act 2012 by **Mellow Spirits Limited** for a new OFF Licence for premises situated at 1B Parata St, Waikanae, to be known as Waikanae Super Liquor.

### **EVIDENCE IN CHIEF – Applicant**

Mr Young presented on behalf of the Applicant.

2. Mr Young asked the DLC to consider which objections were cogent and self-sustaining and which were not, noting the Act is not a prohibitive statute and that the goal is to minimise harm, not eliminate it.
3. Mr Young referred to the Townhill (2021) decision relating to objections and those that were specific to the application and those against alcohol in general.
4. The application attracted 77 public objections. Mr Young told the hearing of the objections, 71 public were via a jotform template produced by Communities Against Alcohol Harm (CAAH). Mr Young noted the small percent of objectors

- appearing at the hearing. He said it is well settled that little or no weight can be given to objections where objectors do not appear at a hearing.
5. Mr Young said if an objection is cogent and self-sustaining on its face, some weight might be given to it. However, in his submission, pro-forma objections should receive no weight if the objector does not appear because the parties do not know precisely what the objector's concerns are when the written objection is produced in a formulaic and predetermined way.
  6. Mr Young stated many of the objections were very general and largely just anti-alcohol without being specific.
  7. Mr Young addressed the opposition from the reporting agencies to the application.
  8. Mr Young was of the view that based on the evidence adduced by the Medical Officer of Health (MOH), it would appear that the opposition is primarily focused on the single sale condition, although the MOH report raises the object of the Sale and Supply of Alcohol Act 2012 (Act), suitability and proliferation (by reference to objections). He said no evidence has been adduced by the Police or the Inspector, but both have indicated support for the proposed single sale condition advanced by the MOH.
  9. In written and oral evidence Mr Young's submissions addressed:

- (a) Relevant legal principles;
- (b) The single sale condition and the Memorandum of Understanding;
- (c) National studies; and
- (d) Local evidence (MOH, objectors and MSL).

and cited case law:

1. *Re Sapphire Dreams Ltd* [2014] NZARLA 92 (at 3).
  2. *Karakari Charitable Trust Inc v E R Bellas Ltd* [2020] NZARLA 106 (at 200).
  3. *Auckland Medical Officer of Health v Birthcare Auckland Limited* [2015] NZHC 2689.
  4. *Townill Limited - Thirsty Liquor Amberley v Alcohol Wise Hurunui Incorporated* [2021] NZARLA 50 (17 May 2021). See, for example, paragraphs [115], [119] and [120].
10. Mr Young made the following submission regarding relevant legal principles:

- (a) The Act is not a prohibition statute. The goal is to minimise harm, not eliminate it.
- (b) Generalised evidence will not establish a real risk of harm. In the *Townill* decision which concerned a new off-licence application the Authority commented (citing *Lion Liquor*):

*The Authority agrees with Townill that there can be no doubt that alcohol can cause harm and probably does so in varying degrees within most communities in*

*the country. As Clark J put it in Lion Liquor, the Act looks to minimise alcohol-related harm. Where there is an evidential foundation enabling a link to be drawn between a real risk of alcohol-related harm and the grant or renewal of a licence, the harm must be minimised not ignored or condoned.” In the present case the Authority does not consider that the evidence supports the proposition that there is a real risk between this generalised harm discussed by Mr Green, Mr Healey, Witness A, Rev Dr Missen, Ms Thorpe and Professor Boden, and the issue of this new off-licence.*

The evidence is of periodic alcohol-related incidents and periodic incidents of nuisance and vandalism but the evidence does not provide a foundation for concluding that there is a real risk that alcohol-related harm will result from the grant of the application and the issue of the licence.

(c) Proliferation, is not, in itself, a ground for objection

[84] In terms of proliferation, as Mr Young has also submitted, in Gisborne Liquormart Limited this Authority said: *While the number of premises of the kind concerned in a locality is a matter which goes to the DLC's opinion of amenity and good order of the locality, an objection must relate to a matter in s 105 of the Act. The Trust's objection relates to proliferation of alcohol outlets in Gisborne and the harm that alcohol creates in Gisborne as a result. The proliferation of outlets is a legislative aid for the DLC when forming an opinion on s 105(1)(h) and (i). In itself, proliferation is not a ground of objection without some discussion of the effects of the issue of the licence on amenity and good order which is the s 105 criterion against which the application is being evaluated.*

(d) Mr Young submitted that car-parking and traffic are generally not relevant to alcohol licensing decisions. The Authority has commented:

*Accordingly, the Authority agrees with Mr Wiles that the lack of car parking and any potential for increased traffic congestion are not matters which go to the amenity and good order of a locality. The presence or absence of car parking for licensed premises is more appropriately a matter for the Resource Management Act 1991 for which this Authority has no jurisdiction. In any event, the premises comply with planning and resource consent requirements.*

In this vein too, whether or not an off-licence is compatible or harmonious with the professional nature of the surrounding businesses in itself, is not a matter which goes to the amenity and good order of the locality.

11. To the issue of the Single Sale Condition – Craft Beer Mr Young submitted:
12. MSL has agreed to the following single sales condition:

Single sales - no single sales of:

(i) beer or ready to drink spirits (RTDs) in bottles, cans or containers of 500mls or less may occur except for craft beer; and

(ii) shots or premixed shots.

13. This condition (or variations of it) is reasonably common in areas of high deprivation and/or where it has been accepted by an applicant as part of the application process. It has been successfully resisted on occasion (such as the Liquorland Hornby decision of the Christchurch DLC). It is not universally applied.
14. Mr Young submitted he is not aware of any historical issues arising with the interpretation of the plain words of the condition and the specific exclusion of “craft beer” and that there seems to be a shared understanding between the agencies and licensees as to what is craft beer.
15. However, Mr Young submitted in relation to this application, the MOH now seeks to augment the interpretation of the condition by reference to a Memorandum of Understanding (MoU) it has entered with the Police and the Inspectors within the Greater Wellington Regional Council area. The MoU refers to a definition of “craft beer” from the Oxford English Dictionary as “A beer made in a traditional or non-mechanised way, esp, by an individual or a small brewery”. Based on discussions with the MOH, the applicant understands that the MOH considers that craft beer such as Emersons, Panhead, Harringtons and Tuatara cannot be considered to be craft beer because they are now owned by large breweries such as Lion and DB.
16. Mr Young submitted that if this is the MOH’s approach, it is deeply flawed. He states there appears to be no alcohol related harm basis for adopting the definition in the MoU. In relation to the single sales condition and the definition of craft beer in the MoU, he noted that:
  - (a) It is not clear what a “traditional” brewing method is. Is it the way beer was brewed in the 18th century? If that is the intention, such methods are unlikely to meet current food safety codes and standards;
  - (b) The reference to an “individual or a small brewery” is not exclusive (noting the preceding use of “esp”) and, as such, craft beer could be brewed by a large brewery. As such, craft beer such as Panhead may fit within the MoU definition;
  - (c) The Oxford English Dictionary is not drafted to achieve the object of the Act. Conditions of licences should be drafted to achieve the object of the Act;
17. Further, Mr Young submitted that the MoU gives rise to the following broader issues:
  - (a) Reporting agencies cannot adopt and impose blanket policy positions (as the MoU seeks to do). The following is noted in that regard:

*(i) In Emkay Trading Company Limited the Authority granted an application for an off-licence in Karangahape Road with reduced trading hours as compared to other nearby bottle stores (Sunday to Wednesday 10.00 am to 6.00 pm; Thursday to Saturday 10.00 am to 9.00 pm). Based on this decision, the Police opposed various other bottle store renewals “due to concerns relating to liquor abuse in the Auckland Central Business District and Karangahape Road areas”. The first such opposed application was Boutique Wines where the Authority stated:*

*“The Police filed reports in opposition requesting that the trading hours be reduced to provide for a blanket closing time of 10.00pm for all off-licensed premises. This opposition is based upon a recent decision Emkay Trading Company Limited NZLLA PH837/2009. That decision was reached after a lengthy public hearing in which compelling evidence was provided by a significant number of public objectors.*

*In these applications advertising did not attract any notices of public objection.*

*In the absence of any evidence of breaches of the provisions of the Act or of the conditions of the licences we are not persuaded that the Police have established grounds to have the hours reduced. Consequently, we are not prepared to tamper with them. Matters raised in opposition in reports filed under s.43 of the Act do not have the status of objections lodged pursuant to s.42 and it is not, therefore, incumbent upon the Authority to convene a public hearing to determine the matters.*

*Accordingly we propose to deal with the applications on the papers.*

*We are satisfied as to the matters to which we must have regard as set out in s.45 of the Act and we renew each of the licences on the existing terms and conditions for a period of three years. We authorise the issue of notices of renewal.”*

*(ii) Mr Young submitted that; Notwithstanding the clear statements of the Authority in Boutique Wines, the Police persisted with a “blanket closing time of 10pm” (with occasional support from the Inspectorate). The approach was rejected a further 4 times by the Authority without a public hearing. The blanket policy approach was then abandoned by the Police;*

*(iii) The spectre of a blanket policy approach to trading hours emerged again in Super Liquor. In that case, the Police and an Inspector sought reduced trading hours on the basis of “an unofficial accord between the two of them whereunder they have agreed on a uniform and united approach which is intended to apply to off-licence applications and their renewals” the Authority stated:*

*“The agreement of the Police and Inspector has no force. There is no mandate for it. It simply represents the opinion of the Inspectors and the Police (which*

the Authority does take into account on an evidential basis). It does not constitute a local alcohol policy emanating from a local authority and it has not been the subject of public consultation as envisaged in *My Noodle Limited and Ors v Queenstown Lakes District Council and New Zealand Police* [2009] NZCA 564.

18. Mr Young's submission cited *Pukekohe Food Warehouse Limited* [2010] NZLLA 1563 in which the Authority referred to local authority liquor policies in the following way:

*"We have made it clear in numerous previous decisions that where a local authority adopts a liquor policy after due community consultation and a ratification process, we will seriously consider the recommendations contained therein. On the other hand, where we are satisfied that the applicant is suitable, the object of the Act, as set out in s.4 is not in jeopardy and a business has operated without blemish for over 10 years, then our obligation to act reasonably takes precedence.*

*Without seeking to be unduly critical it seems that the blanket off-licence hours recommended in the policy document have not taken into account the widely diverse nature of businesses to which an off-licence can relate."*

19. Mr Young contended that the comments in *Super Liquor* regarding *My Noodle Limited and Ors v Queenstown Lakes District Council* and "commercial disadvantage" are important. He states the *My Noodle Limited* line of decisions established that a local authority could develop an alcohol policy provided it was subject to a proper and public process. The policy in that case concerned on-licence trading hours in Queenstown. In the first decision of the Authority it stated (in deciding to uphold and implement the policy);

*We agree with Dr Wylie, and Mr Horn, and Mr Clark that it would be quite unreasonable to implement changes immediately. This is particularly important where applications were legitimately filed prior to the formal adoption of the Policy. There is also the issue that a number of other premises have licences due to expire in over twelve months time. Any trading disparity should be limited as much as possible. In the case of "The Mini Bar", the application to vary the hours was filed before the Policy was adopted. However, in our view, given the current climate, there was never a probability that the application would be successful.*

*After careful consideration we have determined that the aspects of the Policy that effect licensees with trading hours after 4.00 am will come into effect on 4 August 2008. Apart from the need for fairness, this date was chosen to allow a potential appeal process to be completed, and provide licensees with an opportunity to prepare for change. It will, in our view, mitigate the potential for the migration of drinkers. It may well be that the remaining licensees will take the opportunity to fall into line with the proposed changes on a voluntary basis.*

20. Mr Young submitted the Authority's desire to ensure that any policy applied even-handedly to all licensees so that any trading disparity would be limited "as much as possible" was not challenged or disturbed on appeal. It is consistent with the duty to act reasonably under the Act (and its predecessor).
21. Mr Young states the comments above remain good law in his submission, particularly given that the Act now contains a specific process by which policies are to be developed. The Act specifically provides for the development of a local alcohol policy relating to the sale, supply or consumption of alcohol in a district (or part of a district) at Subpart 2. Such a policy may provide differently for different parts of a district. A local alcohol policy may set maximum trading hours. The process by which a local alcohol policy is developed is set out at sections 78 to 90 of the Act and includes the requirement to follow the "special consultative procedure" under the Local Government Act 1974 (LGA).
22. Mr Young's submissions states "For completeness, we set out the requirements of a special consultative procedure under section 83 of the LGA."
23. Mr Young states it is important to note that the procedure for developing a local alcohol policy is deliberately public and participatory. There are also rights of appeal.
24. He notes The MoU refers to Dharma Enterprises Limited to justify the proposed condition. However, My Young states that decision does not draw a distinction between craft beer from small breweries and craft beer from large breweries. Moreover, the Dharma decision concerned a bottle store in a high deprivation area (Manurewa) and focused on the risks associated "cheap single units of high strength beer".
25. My Young says The Authority has expressed the view that the imposition of conditions should be undertaken on a case-by-case basis. In Sahota Limited the Authority stated:
26. *Turning to the matters raised by the appellant, the main argument appeared to be the "level playing field" argument which proposes the same treatment of all licensed outlets in terms of hours. Otherwise, the appellant argues, it is unfair to the appellant if competitors have an advantage by way of later opening hours. We are not persuaded by this argument. The issue of uniform hours may well be addressed in the area by the PLAP. Otherwise, the Authority is required to have regard to the specific circumstances of each individual outlet. Because of a range of factors that might differ, including the character of the area (for example residential or predominantly commercial) the degree of vulnerability of the area and other such factors, different conditions may be imposed. We are therefore not satisfied that imposing hours that may differ from the hours of other licensed outlets in the area is a valid argument to suggest the DLC decision in this context was wrong. Indeed, the Authority is aware of other licensed outlets in the same general area that have earlier closing times.*
27. Mr Young submits that further to the Dharma Enterprises Limited case cited, MSL is not aware of evidence of a particular issue with the sale of single craft beer (from small, medium or large breweries) in Waikanae. For example, it is not suggested that craft beer containers are seen in the local reserves or



- carparks, or that public consumption of craft beer is a known and documented issue.
28. Mr Young contends that seeking to distinguish between small and larger breweries may engage Commerce Act 1986 implications (anti-competition). While the Authority did not consider such issues arose in Dharma, the matter at issue was narrow (1 hour reduction in trading hours) and the small/large brewery distinction was not in play;
29. Mr Young says it is not clear what constitutes a “small” brewery, and it is not clear if the MoU is intended to be retrospective. He says Licensees that previously accepted the condition would not have been on notice of the definition of “craft beer” now being advanced by the MOH. If the MOH consider that the MoU is retrospective, this raises procedural and substantive fairness;
30. Further, Mr Young states the definition of craft beer upon which the MOH now seeks to rely is not evident in the plain words of the condition. Mr Young states it is contained in a separate document, and as far as possible, a condition should be clear on its face and reference to an external document should not be required.
31. Mr Young submits that the MoU is misconceived and deeply flawed for the reasons set out above.
32. He says by stark comparison, Mr Joseph’s reply evidence includes a detailed and erudite analysis of what craft beer means to the industry, retailers and consumers (and, in counsel’s experience, the reporting agencies outside of Wellington). The letter attached to Mr Joseph’s reply evidence and to which he can speak explains:
- (a) Craft beers from larger breweries are included in Neilsens data;
  - (b) Craft breweries acquired by larger companies often continue to operate in the same manner they did prior to acquisition (site, staff etc.);
  - (c) Brewing methods and flavours tend to define craft beer (bespoke recipes, small batches, manual methods);
  - (d) Craft brewers sometimes use larger facilities (co-pack arrangements);
  - (e) Craft beer from large breweries compete at craft beer awards;
  - (f) Retailers market certain beer as craft beer and have craft beer sections; and
  - (g) Consumers wanting craft beer will deliberately go to the craft beer section in a retail store.
33. Mr Young submits that what is a craft beer is generally well known. While there might be debate “at the edges”, it is of little consequence. No probative or cogent reason is given for distinguishing a Hazy IPA from a large brewery from a Hazy IPA from a small brewery.
34. In his submission Mr Young contends there is no alcohol harm related justification for distinguishing craft beer from small, medium or large breweries.

- He says it is generally accepted that craft beer is a quality over quantity product. The bold flavour profiles are not designed for rapid consumption. They are designed to be savoured. The size of the brewery does not change that.
35. Mr Young further submits that the reporting agency duty to collaborate does not mandate or authorise the unilateral development of policy. It simply means that the agencies should, for example, share information, discuss applications and reporting, and, when able, allocate responsibilities.
36. International and National studies - Mr Young states the MOH rely on various studies which are not specific to the Kapiti Coast or the wider Wellington region. He says the Authority has held that international and national studies do not assist in LAP proceedings (in the Wellington LAP decision).
37. Mr Young submitted that such studies do not assist a site-specific application which has an even more specific focus than an LAP.
38. Turning to local evidence Mr Young noted objectors raised issues relating to:
- (a) Proliferation of off-licences;
  - (b) Traffic volumes and parking;
  - (c) Supply to minors;
  - (d) Amenity and good order.
39. Mr Young contended that much of the evidence provided by the objectors is general and non-specific in nature (noting the submissions above regarding generalised evidence).
40. Traffic volumes and parking – Mr Young submitted that increased traffic volumes or parking are generally not relevant considerations for the Committee. He also submitted that any commercial activity in the vacant premises would generate traffic. However, as a commercial centre, the locality is designed to attract and accommodate people and vehicles.
41. Supply to minors – Mr Young noted that objectors have raised concerns about the risk of supply to minors. He stated MSL takes this risk seriously. That is why strong systems and processes have been put in place to minimise this risk. Examples of this were provided in evidence:
- (a) The store is not within view from the secondary school bus stop;
  - (b) Sales will not be made to anyone wearing school uniform;
  - (c) The applicant has never failed a CPO and the applicant as well as his staff have experience and training in checking ID's;
  - (d) There will be a point-of-sale ID system;
  - (e) RTDs or other drinks that youth are attracted to will be located away from the front of the store; and,

- (f) The applicant has agreed not to sell vapes to minimise the risk of ram raids or potential interest from minors.
42. Mr Young stated that in his evidence, Peter Joseph also explains the extensive training programs that are provided to franchisees including compliance audits conducted by Super Liquor head office.
43. Mr Young asserted that the evidence provided by MSL clearly shows that not only does it take the risk of supply to minors seriously, but it has dedicated strategies in place to ensure that this risk is minimised.
44. Amenity and good order - The objectors have raised general concerns about the impact that granting this application may have on amenity and good order in the area.
45. Mr Young states no evidence has been produced which demonstrates that there are pre-existing issues such as vandalism or loitering that will be made worse by the granting of the application.
46. He states the applicant has systems in place to ensure that the amenity and good order of the area will not be reduced by this application. These are set out in the statements of evidence by Mr Singh and summarise as;
- (a) The Social Responsibility Plan will be complied with at all times;
- (b) Regular checks will be carried out in the areas immediately outside the store. Any graffiti will be removed as soon as possible. Any vandalism will be quickly rectified;
- (c) The areas around the store will be kept clean and tidy, and free of alcohol related litter;
- (d) Any loitering or nuisance behaviour will be addressed by staff or, if necessary, with Police assistance;
- (e) Any incidents of nuisance or disorder will be recorded and reported to Council and/or the Police;
- (f) There are windows fronting the road which provide good visibility for staff to see customers as they enter from the car park outside;
- (g) From the point of sale, staff will have a good view of the retail area, the principal entrance, and of the street frontage from CCTV; and
- (h) The store will be well lit, both inside and at the street frontage.
47. In relation to MOH evidence Mr Young offered that there is very little site or locality specific evidence adduced by the MOH.
48. He said the MOH refers to high levels of harm in the over 65 cohort in Waikanae West. It asserts this on the basis of ED admissions count for that cohort. Mr Young says evidence demonstrates that Waikanae West has significantly more people in that age cohort than the other three SA2 areas shown which explains

- why Waikanae West has more admissions for person over 65 then elsewhere because it has far more people over 65. He said it is not clear why the MOH have not used a rate or percentage approach so that a genuine comparison can be made.
49. Proliferation – Mr Young submitted that proliferation is not an issue in this case as there is only one existing bottle store. There are over 9000 people over the age of 20. There is evidence that there is a significant spend outside of Waikanae. He states Mr Joseph’s evidence is comprehensive on this matter. Mr Young further submits that proliferation per se is not a statutory criterion. Impacts must be identified and established.
50. In conclusion Mr Young submitted that the application meets the section 105 criteria and that he will call evidence from Mr Singh and Mr Joseph.

#### **Evidence in Chief from Applicant Mr Sukhjinder Singh**

51. Mr Singh stated he was the currently own and operator of Otaki Super Liquor and has been the 100% shareholder of Mellow Spirits Limited since 12 August 2024.
52. Mr Singh outlined his relevant experience and qualifications. He stated when he first received his Manager’s Certificate in November 2023, he only had seven months part-time experience at Black Bull Liquor in Richmond. Since then, he has had more experience owning and operating his store in Otaki. In 2024, his Certificate was renewed and the Inspector said that he was suitable to operate under a licence.
53. Mr Singh said, as a Super Liquor franchisee, he regularly participated in the alcohol.org.nz ServeWise programme. Every quarter all staff members sign the Super Liquor acknowledgement form which commits staff and franchisees to upholding standards and expectations. Every six months staff participated in online training modules run by Super Liquor. These are three different modules: the Foundation Course which covers the essential elements of the Sale and Supply of Alcohol Act; a module covering controlled purchase operations; and the Minor Module which focuses on checking ID’s and making sure staff are aware of the rules around minors.
54. Mr Singh said he is the only candidate listed as a certified manager at this stage. However, if the licence is granted, he will employ a further three duty managers to ensure there is always full coverage for the times the store is open for business.
55. Mr Singh said he was aware that objections have been made to his application. He has read these objections carefully, and he is of the understanding that they mainly address social deprivation in the area.
56. Mr Singh said making sure that he runs his business in a responsible manner is important to him. He said he takes this seriously and in his view, he has comprehensive systems in place which will ensure that he will comply with the Act.

57. Mr Singh stated he was pleased to read that neither the Police nor the Inspector opposed his application. He said, in her report, the Inspector says that he has demonstrated that he is aware of his responsibilities under the Act, and that he is a suitable candidate to operate a licence.
58. Mr Singh noted that the MoH have requested that if his application is granted, that it is subject to the addition of a single sale condition. Mr Singh said he has had initial discussions with MoH but haven't been able to resolve this yet. He said he is open to this condition as long as it is understandable and excludes craft beers.
59. Mr Singh said he made the application because many customers at Otaki have said to him that they would like Super Liquor in Waikanae. He stated there is only one other bottle store in Waikanae. The population of urban Waikanae is 9150. If his application is granted, the ratio of off-licences to population would only reduce from 1:3050 to 1:2287.
60. Mr Singh said he was aware of the requirements in section 105 of the Act. He said this has been recognised by the Inspector, who says that he has been able to demonstrate compliance with the object of the Act.
61. Addressing the store location Mr Singh said the store is located on Parata Street within the Town Centre in Waikanae. Next door is the Samrat Indian Restaurant. Other nearby businesses are The Achievement Room (Health and Fitness Centre), Allure Hair clinic, Revolve Physiotherapy, and several auto businesses. Woolworths Waikanae is nearby across Ngaio Road, and New World Waikanae is on the other side. We are also close to the Railway Station which is across Main Road. There are also residential neighbours near our store.
62. Mr Singh said they identified and visited the following sensitive sites: (a) Waikanae School; (b) Waikanae Montessori Pre School; (c) BestStart Waikanae; (d) Waikanae Playcentre; (e) Waikanae Health Centre; (f) Mahara Health; (g) CardioLabs; (h) Awanui Labs; (i) Church at Cedarwood; (j) Sisters of the Missions; (k) St Luke's Anglican Church; (l) Otaki Waikanae Presbyterian Church; (m) GKS Holism Ltd.
63. Mr Singh said during their visits, they explained to each site that they intend to apply for a new liquor license for a bottle store at Parata Street. He said the purpose of the letter was to inform them of the application and invite them to contact him with any concerns. He said to date, he has not received any emails or calls from sensitive sites expressing concerns.
64. He said at each site, we left the letter with the receptionist and asked that it be passed on to their main boss. For schools and medical centres, we requested that the letter be posted on the notice board for all staff to review. (A copy of this letter was attached)
65. Mr Singh said, as of writing, none of these sites have contacted him back. However, he is committed to maintaining an open relationship with these sites in the future. He said no objections from any of these sensitive sites had been received by him.
66. Mr Singh identified the following list of premises with licences of similar kind which are nearby:

- (a) Barrel 2 Bottle Waikanae – bottle store;
  - (b) New World Waikanae – supermarket;
  - (c) Woolworths Waikanae – supermarket.
67. Addressing deprivation in the area Mr Singh said according to the 2023 Deprivation Index, his store sits in a deprivation index area of 6. Over time, the NZDep score for this area has declined – with a score of 7 in 2013, and 8 in 2018. Mr Singh said he is aware of this NZDep2023 score, and it has played a large role in how he plans to operate the store.
68. Mr Singh said data showed within a 2.7km radius which includes Waikanae, and Waikanae beach, the census count increased from 11,828 to 12,588 from 2018 to 2023.
69. Mr Singh said he takes the issue of social deprivation seriously. He said his observation of the area is that it is clean and tidy, and people are not, for example, drinking in public areas. He had spoken to a local Policeman who said that there are not many issues with alcohol consumption in local reserves.
70. Mr Singh said he did not think there is evidence that the amenity and good order of the locality would be reduced by my licence. In fact, he has strong systems in place to make sure this is the case. He said his premises will be clean and tidy, and he will monitor customers leaving the store. If a person is identified as a troublemaker, he will not serve them, as there is no obligation to serve anyone.
71. Mr Singh said was pleased to read that the Inspector believes that the amenity and good order of the locality would not be reduced by the licence (if the application is granted).
72. Mr Singh then addressed Systems and training - He said he is aware of the need to maintain high standards in his store and understand this depends on having good management systems and processes in place. As a Super Liquor franchisee, he must uphold the contents of the Social Responsibility Plan. A copy of this can be found at page 41 of the Inspector's report. Mr Singh said he is familiar with this plan and uses it every day in his current role at the Otaki store. He said the Licensing Inspector is aware of this policy and has described it as "comprehensive."
73. Mr Singh explained that Super Liquor undertakes quarterly audits of his store which will make sure they are compliant with their systems and training. He said this adds another layer of compliance to make sure they are meeting their obligations under the Act.
74. Mr Singh undertook to will meet with his staff regularly to discuss the operation of the licence. He would also provide training in customer service and responsibilities under the Act. Emphasis will be placed on the cleanliness of the store, keeping the external area tidy and free of graffiti and rubbish, and ensuring that incident logs are used, and signage is clearly displayed.
75. Because of the nearby college bus stops, Mr Singh said he will expect staff to be particularly vigilant about not supplying minors. Sales will not be made to

- anyone in school uniform. He said they are aware that some students do not wear school uniforms, so their policy of requesting valid ID will be vigilantly upheld.
76. Mr Singh said Mr Joseph will also address the Super Liquor systems and support.
77. Objections - Mr Singh said he understand there have been 71 objections to his application.
78. He then addressed the issues raised by objectors; There are already nearby off-licences: (Mr Singh's evidence is quoted)

"There are only three other off-licence vendors within 500m or so of our store – two supermarkets and one other bottle store. As I explain in my application, the ratio of off licences to population is low. I think two bottle stores is OK."

- a) The store will be close to sensitive sites:

"While there are nearby sensitive sites, I have engaged with these sites to make sure that I am meeting my obligations under the Act. I will continue to maintain an open relationship with these sites. None of these sites have opposed my application."

- b) Deprivation /vulnerability of the area:

"The area is potentially vulnerable to alcohol related harm. I take this issue seriously, and that is reflected through the systems and training in place.

"I have strong processes in place to make sure that the amenity and good order of the locality is not reduced by our licence."

- c) There is an overnight liquor ban

"I am aware of the alcohol-free zone which is near the store. It is my expectation that staff will make it very clear to customers that they must not drink their product anywhere where there is an alcohol-free zone. Signs will be clearly displayed around the store alerting customers of this fact."

- d) Sale of smoking products - Mr Singh's written evidence was that Vapes will be sold at the store. He said the Inspector was aware of this before writing her report and did not raise any issues with it. Mr Singh acknowledged there are risks associated with selling vapes and smoking products, such as ram raids. He said this is why they will not be visible from the front entrance of the store.
- e) Mr Singh said there will be a comprehensive security system in place at the store which will minimise the risk of ram raids or other similar issues. This includes CCTV, security doors, an alarm system and good lighting.
- f) At the Hearing Mr Singh said they will not be selling Vapes at the Waikanae store.

- g) Trading hours - Mr Singh said the proposed opening hours for the store are 10.00am to 9.00pm, from Monday to Sunday. He was aware that most bottle stores in the wider area are open for similar hours and in his view, the hours he has proposed are reasonable.
  - h) Increased vehicle movements - Mr Singh is of the view that increased vehicle movements around his store is not a relevant consideration by the Committee unless it impacts safety. He did not believe there is evidence that his licence will generate a significant increase in vehicle movements which would be a risk to safety.
  - i) Alcohol-related rubbish in the area - Mr Singh said there has been a Crime Prevention Through Environmental Design assessment of the store. This was discussed with the Inspector. As part of this, the exterior frontage will be kept clear and tidy, and various security measures upheld like CCTV and security sliding doors.
79. Mr Singh said it is his policy to make the store and its surrounding area an attractive place to visit. It is important that the surrounding area is kept clean and tidy. He said they will have a zero tolerance for nuisance or loitering behaviour. Mr Singh noted that the current retail premises has not experienced any noise, nuisance or vandalism to date. He will make sure that this continues.
80. Mr Singh said his evidence demonstrates how he meets the criteria under section 105 of the Act. He said everything outlined in his evidence and his original application is designed to ensure that alcohol is sold safely. He accepts that alcohol can cause harm and that, as an off licence, the alcohol sold is consumed elsewhere. However Mr Singh said if he maintains high standards in what he does then it will minimise the risk of customers consuming alcohol irresponsibly or unsafely.
81. Mr Singh had contacted the management of ten sensitive sites surrounding the proposed premises prior to making his application. He accepted he was remiss in not contacting the Atiawa Ki Whakarongotai Charitable Trust, from the marae in the town centre, as it was not signposted or included in the list of sensitive sites that he was referring to, however he made an undertaking that he would contact them with regard to his application.

#### **Statement of Evidence from Mr Peter Joseph for the Applicant**

82. Mr Joseph said he was resident in Waitārere Beach Levin, with the previous 12 years in Kapiti Coast. Mr Joseph is employed by Super Liquor Holdings Limited (SLH) as the Franchise Manager - Lower North and Lower South Islands, reporting to the Operations Manager.
83. Mr Joseph told the hearing he has worked in the liquor industry for approximately 38 years in a number of Sales Management, Business Development and Regional Management roles. He has worked for SLH for a total of five and a half years after 32 years with Lion Breweries.
84. Mr Joseph said SLH is a New Zealand franchise with 189 stores across New Zealand, from Kaitaia in the North to Invercargill in the South. Each store is a locally operated business which has entered into a franchise agreement with



- SLH. Each franchisee receives the benefits and honours the obligations of participating in the SLH branded system. The SLH franchisee offer is based on creating long term sustainable retail businesses.
85. Mr Joseph's evidence gave background information as to the nature of SLH franchisees.
86. He said Franchisees are required to stock a core range of products. Beyond this, franchisees tailor their products to their local market. While the core range is standard across all stores, the proportions of product categories sold vary depending on the characteristics of the local market and the preferences and / or interests of the store owner.
87. Mr Joseph said as part of their ongoing commitment to improving the shopping experience, SLH launched the Super Liquor 2.0 brand standards programme in July 2021. Super Liquor 2.0 delivers both an aspirational consistent standard across our network of stores and a strong shopping experience. He said all new greenfield stores are required to meet the new standards on opening their store. The standards include painting, lighting, flooring, counters, and shelving.
88. Mr Joseph said Super Liquor Otaki, which our franchisee and applicant for Super Liquor Waikanae (Premises) owns, has completed the brand standards required and has maintained the high standards expected.
89. Mr Joseph said SLH takes its obligation to minimise alcohol related harm seriously. He said they receive many applications to become franchisees, many of which are declined due to lack of suitability.
90. He said SLH is committed to minimising risk to our franchisees and alcohol related harm in the communities. Extensive training and compliance resources, systems and processes have been developed by SLH for its franchisees.
91. Mr Joseph said SLH conducts two cluster meetings and one conference per annum. At the cluster meetings, training is conducted and franchisees are updated on the latest requirements around compliance, standards, licensing, health and safety, together with other systems and processes, including measures to put in place to prevent robberies. Other presentations relate to licensing, compliance with license conditions, and the Sale and Supply of Alcohol Act 2012 (Act).
92. He said all stores are required to install SLH point-of-sale (POS) systems. All customers who appear to be under age 25 are requested to verify their age by staff members. As an added checkpoint, the POS system also prompts the staff member to ask for a customer's date of birth before a transaction commences.
93. SLH currently has five Franchise Managers nationally, I am based in the Lower North Island. The role of a Franchise Manager is to ensure franchisees maintain a high standard through a 9-step compliance system conducted on a quarterly basis.
94. He said any store that fails an audit on franchisee standards does not qualify for their compliance rebate. In other words, there is a financial incentive to comply.
95. Mr Joseph said SLH has taken a leadership position in engaging with the Health Promotion Agency to produce an in-house (SLH branded) set of host and social responsibly material. These materials comprise posters for customers and staff.

96. Mr Joseph said he emphasised these measures because he was aware that there is a perception within some parts of the community that this store will contribute significantly to alcohol-related harm.
97. Mr Joseph said in his view there are several "rogue operators" within the traditional bottle store sector (which SLH is not one), who through generally low standards by which they run their stores, have contributed to this perception. However, concerns with these operators can be addressed through provisions in the Act allowing for licenses to be suspended or cancelled where operators have failed controlled purchase operations, or by district licensing committees deciding not to renew licenses when they come up for renewal.
98. He said as part of the recent rebrand program, SLH has requested that all stores have "clean branded sites". This means SLH does not allow suppliers brands to be painted or positioned on the exterior of their buildings.
99. Mr Joseph said with all franchisees operating under the SLH banner, it is extremely important that all stores are operating in accordance with the object of the Act. He said SLH has systems in place to ensure that its stores sell alcohol safely and responsibly and alcohol-related harm is minimised. These systems include:
- (a) Completing background checks on its franchisees;
  - (b) Providing training for our franchisees;
  - (c) Ensuring that all national promotions are not sold at a price less than 25% of the average Super Liquor national price; and
  - (d) Carrying out quarterly audits of its stores to confirm that each store is operating in accordance with the Act.
100. Mr Joseph considered the layout of the premises is very good and improves safety for the staff and customers.
101. Regarding amenity and good order, Mr Joseph said in his experience, bottle shops do not generate a lot of noise and noise complaints are very rare. Mr Joseph said SLH has a comprehensive training program for all persons that work in their stores.
102. He said to ensure that each SLH franchise is meeting its requirements under the Act, SLH carries out a compliance audit each quarter. Amongst other things, this audit confirms that all manager's certificates are current; that the duty manager's name and manager's certificate is displayed; and the training has been carried out by all serving staff.
103. Support ranges from detailed guidance in SLH's Franchise Operations Manual; a clear policy that refers to the key employment obligations that a franchisee owes towards its employees and a requirement to meet those obligations, ongoing education and training, and workshops on New Zealand employment legislation and practice.

104. Mr Joseph said where SLH finds evidence that the law has been deliberately broken, they will continue to take a hard line. He said SLH has been quoted in the media by MBIE as being a gold standard in terms of employment law.
105. Suitability of the Applicant - Mr Joseph said Mr Singh has been part of SLH since December 2023. SLH has a thorough application process which includes a 5-person approval process that includes but is not limited to: (a) Personal meeting with director(s); (b) Formal application; (c) Credit checks; (d) Profit and loss forecast; (e) Site Visit(s); and (f) Workplace Law review in association with Lane Neave Solicitors.
106. He said since joining SLH, he had found Mr Singh “to be very engaged and extremely professional. He acts with integrity and has always listened to, and taken on, advice plus has brought to SLH a strong understanding of retail, brand standards and customer service from his previous ownership of Domino’s Pizza. We have had no issues with his suitability to hold a liquor licence.”
107. Mr Joseph said he is confident that if the application for Super Liquor Waikanae is approved, it will have systems and procedures in place to ensure that the Premises operate in compliance with the law and any conditions of the off licence.

**The Committee posed a number of questions to the Applicant;**

108. Ms Elliott requested another copy of the floor plan layout with readable labels and this was supplied.
109. Mr Laracy asked if bollards were to be installed for security at the front of the premises. The applicant said he had enquired into this with KCDC who had confirmed that external bollards could not be installed due to existing underground services under the pavement, but that they could be installed inside the premises between the front window and a pull down mesh security screen that will be utilized after hours.
110. Ms Elliott asked if window mounted promotional posters would be used and what size as they could restrict the staff view out onto the street. Mr Joseph showed the size of promotional material for window displays and that it is kept to a standard size.
111. Ms Elliott asked how a staff member at the point of sale could make a phone call in an emergency. It was explained satisfactorily that there were a number of ways that this could be done.
112. Mr Laracy asked the applicant about the safety of the customer car parking at the south side and rear of the premises, given that although car parking is an RMA issue, site safety is a consideration of the committee. The applicant clarified that two car parking spaces at the rear of the building were designated for Superliquor staff/customers.
113. Ms Elliott asked if sign written car park spaces were marked for other business around the car park. Mr Singh said there were not really clear markings.

- 114. Mr Laracy asked about lighting at the rear of the building and the applicant agreed that lighting high on the corner was intended to be installed and that it would be permanent not motion activated.
- 115. Mr Laracy also asked what measures were in place to ensure those walking alongside the building from the car park to the front door remained safe. It was agreed that the lack of width of the vehicle entry prohibited the installation of physical barriers to protect pedestrian traffic but that a walkway could be painted onto the car park surface along the wall.
- 116. Mr Laracy asked if the south facing exterior wall could also be painted with corporate colours or a mural to discourage graffiti which would lower the amenity of the area. The applicant agreed this could be done.
- 117. Mr Laracy asked the applicant to define craft beer. Mr Singh suggested IPA, Pilsner or Hazy were all craft beers adding that single sales of craft beers in containers over 500mls were already allowable in supermarkets and liquor outlets. The committee noted they were aware of this and concerned about it.

#### **EVIDENCE IN CHIEF – Licensing Inspector**

- 118. Ms Bliss reported on the 19 September 2024 application from Mellow Spirits Limited, an Off licence to sell alcohol for consumption elsewhere, in respect of premises situated at 1B Parata Street, Waikanae, to be known as Waikanae Super Liquor, with no opposition.
- 119. A copy of the Inspector's report was distributed to parties on the 31 January 2025.
- 120. Ms Bliss said she was at the hearing to provide assistance and answer any questions that may arise from the objectors, agencies, applicant, and committee members.
- 121. Ms Bliss noted that in Mr Singh's brief of evidence, he wrote that 'Vapes' will be sold at the store and that 'The Inspector' is aware of this before writing her report and did not raise any issues with it. Ms Bliss said the applicant should be aware that Council's and the Inspector have no power to control who is able to sell these products, this is implemented and monitored by Health New Zealand.
- 122. Ms Bliss also drew to the Committee's attention that the Wellington Tri-Agency Regulatory Group agencies are currently developing a Memorandum of Understanding with a focus on single sales.
- 123. She said as part of section 295 Duty to Collaborate, Health New Zealand and New Zealand Police are working with local authorities in the Wellington Area to develop a local strategy with the aim to reduce alcohol harm in communities. The first part of this strategy is looking at single sales and recent case law.
- 124. Ms Bliss said Health New Zealand will discuss this in further detail but in support of their opposition she asked that the committee seek agreement from the applicant that the additional discretionary condition around 'single sales' is added to their licence, if granted.

### **Evidence from Luke Taunton – Police Sergeant**

125. Sergeant Taunton said Police had not reported in opposition to the application. He said Police supported the public objectors and acknowledged the public impact of alcohol may be different from that seen by Police.
126. Sergeant Taunton said Police supported the condition relating to Single Sales.
127. Ms Elliott asked Sergeant Taunton if he was aware of an increasing problem of public disorder and loss of amenity in the vicinity of the Waikanae town centre as a result of the current off-licence operations in the area. He responded he was unaware of significant increases.
128. Ms Elliott asked Sergeant Taunton to define craft beer, he responded there was not a clear definition and this was a work in progress.
129. The committee was aware of an overnight liquor ban within the town centre and that the hours of the ban are outside of the proposed trading hours of the premises. So at all times during the liquor ban operation, the store would be closed.
130. Ms Elliott asked Sergeant Taunton how the existing liquor ban designation in the town centre was enforced. He was not aware of how it was enforced and suggested it was a council responsibility. When asked if there had been any arrests to date for breaches of the overnight liquor ban in the town centre he responded he was unaware of any.
131. Mr Laracy asked if Police had a view on the premise that more liquor stores would cause more harm. Sgt Taunton responded that more stores tend to create more competition which can lead to lower prices and more availability and more harm could fall out of that.

### **Evidence in Chief of Amanda Bradley – Manager, Community and Whanau Wellbeing, National Public Health Service**

132. Ms Bradley's evidence noted her position as Manager, Community and Whānau Wellbeing for the greater Wellington region for the National Public Health Service, Te Whatu Ora | Health New Zealand. She has a 20 plus year career spanning public health and governance, including regulatory and policy responsibilities.
133. Her team is responsible for supporting the Medical Officer of Health (MOoH) in alcohol licencing under Section 151 of the Sale and Supply of Alcohol Act 2012. The MOoH has delegated to Ms Bradley the functions and powers under Section 151 of the Sale and Supply of Alcohol Act 2012.

### **Matters in opposition**

134. The Medical Officer of Health filed a report on 11 October 2024 stating the grounds of opposition for the application for this new OFF licence as:
  - Section 105(1)(a) - The object of the Act

- Section 105(1)(b) - Suitability of the applicant
- Section 105(1)(k) - Any matters dealt with in any report from a Medical Officer of Health Section 105(1)(a) and 105(1)(b)

135. Ms Bradley stated the MOoH is concerned about alcohol-related harm resulting from single sales of alcohol. Under s295 “The Police, inspectors, and Medical Officers of Health within each territorial authority’s district must work together to develop and implement strategies for the reduction of alcohol-related harm”.
136. The Medical Officer of Health is working with Police and licensing inspectorates across the Greater Wellington region to implement the following single sale condition for all off-licences.
137. All off-licence applicants are advised about the single sale condition during the 15-day reporting period.
138. The single sale condition from Dharma Enterprises Limited [2023] NZARLA 79, is below:  
  
No single sales of:  
  
(i) beer or ready to drink spirits (RTDs) in bottles, cans or containers of 500mls or less in volume may occur except for craft beer; and  
  
(ii) shots or premixed shots.
139. The single sale strategy is being implemented across all off-licences the Greater Wellington region.
140. A Memorandum of Understanding is in place with the Wellington City Licensing inspectorate (Appendix 1), and this is currently in development for the other areas of Wellington, including Kapiti.
141. The World Health Organisation in 2018 launched the SAFER initiative to reduce alcohol related harm.
142. The SAFER initiative comprises five key policy interventions to reduce alcohol related harm that are based on evidence of health impacts and cost-effectiveness.
143. Ms Bradley evidence is that restricting the availability of alcohol, such as physical availability of alcohol (density) is a strong policy lever to reduce alcohol related harm;
144. Addressing the low price and high affordability of alcohol has the strongest evidence for reducing alcohol related harm;
145. Purchasing a single can of beer, is cheaper than purchasing a pack and encourages impulsive purchases; She said prohibiting the sale of single alcoholic serves (also known as single sales) is supported by evidence.
146. Research has documented the association between single sales and alcohol-related violence and crime. Furthermore, an intervention to reduce single sales was found to reduce rates of alcohol-related ambulance attendances among 15 to 24 year olds.

147. Single units of alcohol are likely to be favoured by those who are heavy drinkers and also price sensitive; namely adolescents and young adults, and those with an alcohol dependence.
148. Restricting single sales can also reduce pre-loading or side-loading at nearby licensed premises. There is an alcohol-free zone in place in the Waikanae area every day from 9pm to 6am.
149. Potential harms from single sales:
- A customer purchasing a single alcoholic drink and then opening it immediately and drinking in public may reduce the amenity and good order.
  - A person may buy a single sale to drink on their way to an on-licence which increases the risk of intoxication and alcohol related harm.
  - Cheap alcohol may appeal to young people with limited money; citing New Zealand Law Commission. Alcohol in Our Lives: Curbing the Harm [Internet], New Zealand Law Commission, 2010. NZLC Report No. 114.
150. Ms Bradley said the Applicant's view that single sales will not encourage people to buy more alcohol has no supporting evidence whereas there is evidence of the negative effects of single sales
151. She also refuted the contention that single sales help people to control their drinking by allowing them to just buy one drink.
152. In regard to the Applicant's view that they will lose sales to other stores/competitors unless all stores have the same condition (including supermarkets), Ms Bradley's evidence is that it will take time to get all off-licences onboard as the agencies are asking for the single sale condition when licences come up for renewal.
153. In response to the Applicant's view The MOoH has defined craft beer as produced by small breweries, which will then exclude brands such as Panhead, Macs, Tuatara, Emersons, which are brands produced by larger breweries (Lion). So, the stores will not be able to sell single cans of these brands, and this is entering Commerce Commission territory. – MOoH view is if they are owned by a larger brewery, then they do not meet the definition of a craft beer.
154. Ms Bradley's evidence cited data relating to Alcohol related harm at a national level including a study that showed alcohol was ranked as New Zealand's most harmful drug
155. When separately considering harm to those who use it and harm to others, alcohol remained the most harmful drug.
156. Alcohol related harm at a local level was also addressed extensively by Ms Bradley. This included evidence relating to the domicile code of the area and the large number of over 65 residents. She also made a link between the number of falls of elderly and the number of falls relating to alcohol use.
157. Ms Bradley contends Waikanae West experiences very high levels of alcohol-related harm (ARH) for those aged 65 years and over.

158. Ms Bradley noted there are already three off-licences in Waikanae West DC area and in close proximity to the location proposed for Super Liquor Waikanae. She said an additional off-licence will not fulfil the second limb of the object of the Act and will not be in sync with s3 and therefore ARH will not be minimised and will not be for the benefit of the community.
159. Addressing Section 105(1)(k) MOoH states there is significant objection by the community. She said she supports the community's aspirations to reduce alcohol related harm in their community.
160. Ms Bradley noted many objectors have raised their concerns about another off-licence opening in their community, because there are already many licensed premises in the area. Further noting concerns about vehicle movements near the store posing a risk to pedestrians, especially elderly pedestrians who regularly walk in that area, was raised by objectors.
161. She said this demonstrates the need for community objectors to share their concerns and stories regarding this application for a new off-licence, and for the DLC to consider their views.
162. MOoH emphasised that alcohol outlet density is positively correlated with alcohol related harm and disease, stating Meta-analyses and retrospective observational studies have shown statistically significant positive correlations between outlet density (off-, on-license) and alcohol related harm, crime, and ill-health.
163. Further, an increase in alcohol density appears to impact the socioeconomic framework of the surrounding communities, resulting in harm against community residents in lower socioeconomic backgrounds compared to higher. This effect remains even when the consumption of alcohol is similar between groups.
164. Ms Bradley's evidence included a table which lists the nearby sensitive sites, off-licences, on-licences, and club licences and highlighted the walking distances from the sensitive sites to the proposed new premises.
165. The walking time assumes that a person has a .72 metre stride length, so they can walk 43.2 metres in a minute and 432 metres in 10 minutes.
166. In conclusion Ms Bradley asked the DLC to take into consideration the concerns of Waikanae community members. She said if the licence were to be granted, the addition of the single sale condition would be consistent with the implementation of the tri-agency strategy under s295, to reduce alcohol related harm in the Greater Wellington region.

**The Committee then had questions for the agencies:**

167. Mr Laracy asked Ms Bradley what, in her opinion, constituted craft beer. She answered she could not define it.
168. Mr Laracy asked Ms Bradley the legal definition of craft beer. She answered she was no expert, but suggested the committee use the opportunity to write a special condition that will work.



169. Mr Laracy asked Ms Bradley what the maximum Alcohol/volume % allowable was for craft beer. She answered that there was no maximum level for craft beer.
170. Ms Elliott asked Mr Joseph what was the level of discretion a franchisee had to choose their own tailored mix of alcoholic beverages to stock and their pricing. Mr Joseph referred the committee to the evidence documents describing existing practices and said there was discretion so the franchisee could tailor stock types to meet the needs of his particular market. But that price discounting could not go below 25%.

### **Objection from Mr Doug Miller**

171. Mr Miller stated his objections are on two grounds: Firstly, present availability of alcohol in the community; and secondly, traffic considerations.
172. Mr Miller's objection noted Waikanae already has at least four businesses that sell alcohol. They being:
173. a. New World supermarket (hours 7am to 9pm),
174. b. Countdown/Woolworths supermarket (hours 7am to 10pm),
175. c. Barrel 2 Bottle (Waikanae Liquor) on Ngaio Road (hours 10am – 7/8/9pm),
176. d. Four Square on Tutere St, Waikanae Beach (Winter hours 7am to 8pm).
177. Mr Miller said Waikanae has enough liquor outlets to more than adequately serve the community both with the selection of alcohol and the hours it is available in retail outlets.
178. His evidence noted the proposed outlet is less than 100m (in a direct line) from three existing outlets in Waikanae already selling alcohol.
179. Mr Miller said there is currently no time restriction for street parking outside the proposed outlet. The parking spaces there are usually full and often with clients for the Achievement Room gym next door. He considered traffic coming and going from the proposed liquor outlet will present a traffic hazard to local inhabitants.
180. He said the outlet is very near a busy intersection with raised pedestrian crossings and there are many older people, including some with a walking frame, using these crossings. The intersection is challenging at the best of times with a steady flow of traffic and three pedestrian crossings. The additional traffic using the proposed business will add to the congestion at this intersection. Also very nearby is an entrance/exit to the New World supermarket and many older people drive to/from the supermarket. He said the liquor store customers' vehicles will be a hazard to the older drivers.

### **Brief of evidence of Mandy Savage - Objector for the Cancer Society**

**Ms Savage's evidence was presented by Dr Liz Gordon, Barrister**

181. Ms Savage is employed full time by the Cancer Society NZ in the Kāpiti Support Centre. Her evidence is on behalf of the Cancer Society NZ and with their permission.
182. Ms Savage lives less than one kilometre from the location. She is also a Trustee of Waikanae Montessori Pre-School Inc (which is also less than 1 km away), and is a concerned member of the Achievement Room gym which is situated right next door to the proposed premises.
183. Ms Savage noted that she was one of more than 70 objectors who have raised their voices against this new liquor store in this location.
184. Ms Savage said Waikanae already has numerous businesses that sell alcohol. They include:
185. a. New World supermarket (hours 7am to 9pm), b. Countdown/Woolworths supermarket (hours 7am to 10pm), c. Barrel 2 Bottle on Ngaio Road (hours 10am – 7/8/9pm), d. Four Square on Tutere St, Waikanae Beach (Winter hours 7am to 8pm).
186. Alcohol can also be purchased at the following restaurants and cafes: a. Salt and Wood BBQ (including a brewery), Long Beach Café, Sharron`s Eastern Egret Restaurant, b. Tuk Tuk Waimea, Hey Coastie, Relish Café, Prah Ta Pang Restaurant, c. The Olive Grove Cafe & Gifts, Shoreline Cinema and Waikanae Chartered Club.
187. Alcohol can also be purchased at the following sports clubs: Waikanae Bowling Club, Waikanae Beach Bowling Club, Waikanae Golf Club, Waikanae Rugby Football Club Inc and Waikanae Boating Club.
188. Ms Savage therefore considers Waikanae has enough liquor outlets to more than adequately serve the community both with the selection of alcohol, and the hours it is available, and the range of outlets.
189. She said the proposed hours of 9am until 10pm also seem excessive.
190. Ms Savage said “The Cancer Society NZ is concerned with issues relating to the design and layout of the premises. We do not have adequate information from the application to judge the look and feel.”
191. He evidence is that Super Liquor has already saturated our community with three stores in Kāpiti in Otaki, Paraparaumu and Raumati Beach. Super Liquor stores generally have a large amount of brightly coloured and discount focused advertising. This takes up a large proportion of their front windows. Shop front advertising displays contain enticements and advertising attractive to younger drinkers. Alcohol products are heavily promoted yet alcohol companies often downplay the harm they can cause to health. Research suggests that young people who are exposed to alcohol advertising are more likely to drink more hazardously.
192. She noted that there is a large amount of alcohol advertising in the Kāpiti Region.
193. Ms Savage said there is strong public support for stronger restrictions on alcohol advertising and sponsorship, particularly to protect children.
194. She said the Health and Lifestyle Survey study looked at peoples’ alcohol related attitudes over time. It reported that 80% of the people surveyed supported

increasing restrictions on alcohol advertising and promotion seen or heard by young people. Furthermore, 68 percent supported banning alcohol related sponsorship of events that people under 18 may attend.

195. Ms Savage considers the location is completely inappropriate for a liquor store. It is near a busy intersection where many people have difficulty crossing. It is near other alcohol outlets. It will cause increased hazards, especially for older and young persons.
196. Ms Savage considers the local community is already negatively affected by the harm that flows from existing alcohol outlets. A new store would cause more harm and would reduce the amenity and good order of the area by more than a minor extent. She contends the alcohol industry often downplays the harm of alcohol and encouraged Kāpiti Coast District Council to prioritise health over profit and protect the community from alcohol harm. She said the evidence outlines that the large financial burden with the cost of alcohol-related harm remains with the public.
197. In evidence Ms Savage said Nationally, total societal cost of alcohol harm in 2023 is approximately \$9.1 billion based on increased risk of morbidity and mortality. Productivity losses were nearly \$4 billion. The societal costs of alcohol span a wide range of impacts due to availability of alcohol in people's lives and the wide range of consequences that alcohol consumption may have. Many of these impact drinkers and non-drinkers alike and have ripple effects affecting multiple sectors and even intergenerational outcomes.
198. Ms Savage said alcohol consumption causes cancer - it is linked to 7 different cancers. She said we are mindful that many lives are harmed and lost from alcohol-attributable cancer.
199. Ms Savage said stronger alcohol regulation is needed to minimise the incidence, impact, and inequities of cancer in Aotearoa, New Zealand. In 2020, an estimated 943 cancers were attributed to alcohol and an estimated 6.6 percent of cancer deaths were attributable to alcohol.

"The number of deaths is close to triple that of both the annual road toll and annual deaths from melanoma skin cancer.

In research the Cancer Society New Zealand commissioned (Oct 2023), of the public awareness of cancer risk factors including alcohol, we found that people were generally supportive for stronger prevention policies.

Furthermore, the Cancer Society Wellington Division completed our own street survey. This followed the 'Less Alcohol, Less Cancer' billboard in Summer 2022/2023 as part of our Alcohol and Cancer Awareness campaign. In response to the billboard, people surveyed volunteered that the harms of alcohol should be treated more like smoking, and there should be reduced accessibility to alcohol."

200. She said alcohol is a proven but preventable cause of many cancers. Alcohol increases the risk of cancers of the mouth, pharynx, larynx, oesophagus, bowel,

- liver and breast (in women). Any regular alcohol use (even small amounts) can increase the likelihood of cancer. The more alcohol the greater the risk of developing cancer.
201. Ms Savage's evidence is that, additionally, combining alcohol and tobacco use increases cancer risk further and alcohol's high energy content increases the risk of 12-13 weight-related-cancers. There is no safe minimum level of alcohol use in relation to cancer.
202. She said intergenerational experiences of colonisation, discrimination and inequity in structural and environmental factors have contributed to Māori being burdened by alcohol-attributable cancers.
203. Māori were disproportionately affected by alcohol attributable cancer with Māori 2.5 times more likely to die than non-Māori and suffering a greater average loss of healthy lifestyle than non-Māori.
204. Ms Savage said it is intended that cigarettes will also be sold. More cancer will be caused. Such products are also targeted in ram raids and burglaries.
205. Ms Savage said despite alcohol causing considerable harm, including cancer, it has become normalised and readily available, affordable, and has high levels of marketing in our neighbourhoods. It is estimated that 75 percent of all alcohol consumed in Aotearoa is sold from off-licensed premises. There is a disproportionately high number of such premises (particularly bottle stores) in more socioeconomically deprived areas.
206. These premises are known to be a significant concern for many communities. Nationally, they are an important contributor to alcohol-related harm in Aotearoa, including the disproportionate impact on the health of Māori.
207. Reducing the number of outlets would provide an opportunity for Kāpiti Coast District Council to honour their obligations to Te Tiriti o Waitangi and actively protect Māori health.
208. Ms Savage contended that reducing the number of stores in the community not only protects the user, but also protects the whole community. A recently completed study based across New Zealand reported that residents felt that alcohol supply, public drinking and intoxication negatively impacts their neighbourhoods, detracting from their positive features and making them feel less safe. Residents also felt that the visibility of alcohol outlets close to schools and food outlets visited by children, alongside public drinking, normalised alcohol and contributed to underage drinking. The majority of respondents said there were too many bottle stores in their suburb and that the easy access contributed to alcohol-related harm in the neighbourhood. Adopting these recommendations will allow the Kāpiti Coast District Council to positively respond to community voice and concerns.
209. Ms Savage said she was also concerned that several significant nearby sites have not been acknowledged in the application. Next door to the proposed outlet is The Achievement Room, a friendly, community centred gym of which she is a member.
210. Ms Savage says the gym attracts a significant number of teenaged and elderly members. Some of these have mobility issues and need close access and

- parking. The gym runs a number of classes designed to keep older adults fit and mobile, despite ongoing health concerns such as cancer, heart issues and fall rehabilitation.
211. She said there are significant vulnerabilities in this community, including heavy use by school children of the local areas (school buses) and significant alcohol advertising from nearby locations.
212. Ms Savage said she did not believe the applicant is suitable, stating, He [The Applicant] does not live in the area. He has made no effort to engage with the community. His aim is just to make money in our community. He is not experienced enough to run this new store. He will cause more alcohol related harm.
213. The Cancer Society NZ is of the view that this application cannot meet the object of the Act and in particular cannot minimise alcohol related harm in the area.
214. Ms Savage's Evidence concludes that the application should be declined.
215. Ms Gordon said ARLA has stated a licence is a privilege, not a right and the High Court says there is no presumption that a licence would be given

#### **Evidence from Steve Botica, Resident**

216. Mr Botica stated his objection to the licence on the following criteria:
1. The object of the Act
  2. Amenity and good order
217. Mr Botica said the object of the Act - the purpose of the law, is to minimise alcohol harm through safe and responsible sale and use. He said it is generally accepted that New Zealand has bad drinking culture.
218. Mr Botica said in 2020/21, one in every five New Zealand adults were hazardous drinkers, placing themselves and others at risk of harm. In 2022/23, the prevalence of past-year drinking among New Zealand adults aged 15+ years was 76.3% (equating to 3,205,000 adults).
219. He said it is well-known that youth experience disproportionate harms from alcohol and other drugs and are at higher risk of addiction. In Aotearoa New Zealand, half of alcohol abuse and dependence cases have developed by the age of 20.
220. Mr Botica said his concern here is that it has been proven that sale of liquor to minors is more likely from a standalone liquor store, than a supermarket where process of ID is more stringently enforced.
221. He said this concern is borne out by his own experience of coaching the senior boys basketball team at Paraparaumu College. There was lots of talk about how someone got "wasted" on the weekend drinking RTDs. So wasted he couldn't walk. That stuck with me.

222. Mr Botica also cited research found data on the Action Point website relating to Off-Licence availability (density and hours).
223. Mr Botica said all this data tells him that an additional bottle store in Waikanae, perhaps Kapiti, is unwarranted.
224. In evidence Mr Botica said given the known issues of harm alcohol causes and the strong evidence that suggests underage youth purchase their alcohol at a bottle store, his objection here is that there are three outlets within a 250m radius of the proposed site. He said there are multiple options eight minutes away by car, in Paraparaumu, including a Super Liquor outlet.
225. Mr Botica said two other bottle stores have popped in the recent past, the last one in the former BNZ building and the other near Prah Ta Pang on the old state highway. He said both were in a good position, catching passengers off the train, and shoppers, however both closed within months.
226. He said the location and number of outlets is something that has been tested by other decision makers.
227. Mr Botica referred to Section 106 (1) (a) (iii) of the Sale and Supply of Alcohol Act (2012) that requires the licensing committee to consider “the number of premises for which licences of the kind concerned are already held”.
228. Mr Botica said in The High Court in Lower Hutt Liquormart Limited v Shady Lady Lighting Limited [2018] NZHC 3100, the court found that “Not only is the amenity and good order of the locality an integral part of two of the mandatory criteria to be considered in s 105(1) of the Act, namely s 105(1)(h) and (i), s 106(1) is also provided as a legislative aid, detailing the factors to which decision makers must have regard in forming an opinion as to the amenity and good order of the locality.”
229. Mr Botica concluded his evidence saying there is existing harm and supply of alcohol in the area, and in his opinion, it’s not desirable to issue any more licences.
230. He said he has seen through his time coaching teenagers that they can underestimate the impact alcohol can have on their bodies and developing brains.

**Statement of Evidence for Objection for Off-licence: Janet Calder (Appeared via Zoom)**

231. Ms Calder is from Te Wananga o Aotearoa and is involved in both Alcohol Education and a youth social work program.
232. Ms Calder said she was representing myself and her wider whanau (who for reasons of privacy do not wish to be named but who have contributed to this evidence).
233. Ms Calder said between them, they represent most age-groups living in Waikanae: retirees, younger working people and tertiary students, and rangatahi - two young women who are high school students and part-time workers in the vicinity of the proposed premise. She said her extended family have been residents of Waikanae for between 12 and 20 years and actively

- support the community and the businesses in the Mahara shopping area. Ms Calder said she lived within one kilometre of the premises and believed this outlet will reduce the overall safety of our community.
234. Ms Calder said she had decided to engage in this process to contribute to ensuring that the intention of the Act is upheld and that the outcome of this application will be ensuring the safe and responsible sale and consumption of alcohol and minimising the harm from excessive and inappropriate drinking, including crime and public health outcomes for our Kāpiti communities, and particularly those who are vulnerable.
235. She said the objection is made under the criteria in section 105 of the Sale and Supply of Alcohol Act 2012, specifically 105 (1)(a) The Object of the Act with regard to 4 (1) (b) that harm caused by the excessive or inappropriate consumption of alcohol should be minimised and 105 (1)(h) with regard to the negative impact issuing this licence will have on the Amenity and Good order of the neighbourhood.
236. Ms Calder said major ways that the neighbourhood community will be negatively impacted are:
237. Increase in Alcohol Consumption - There are currently two supermarkets and one existing off-licence within metres of this new site. There are also a number of restaurants, a club and a brewery in the same location where alcohol is available so currently there are plenty of options for alcohol to be purchased and consumed. There is every indication that the community is satisfied with the current number of sites as a previous off-site liquor store around the corner from this site was closed.
238. Ms Calder contended the rationale for the applications appears to her to one of increasing competition with the aim to sell more off-licence alcohol. Research from NZ and overseas indicates that increased density of liquors outlets and competition often results in lower prices and more alcohol-related harm; (Connor et al, 2010); (Kavanagh et al, 2011).
239. Section 106 (1) (a) (iii) requires the licensing committee to consider “the number of premises for which licences of the kind concerned are already held”. In The High Court in Lower Hutt Liquormart Limited v Shady Lady Lighting Limited [2018] NZHC 3100, the court found that “Not only is the amenity and good order of the locality an integral part of two of the mandatory criteria to be considered in s 105(1) of the Act, namely s 105(1)(h) and (i), s 106(1) is also provided as a legislative aid, detailing the factors to which decision makers must have regard in forming an opinion as to the amenity and good order of the locality.”
240. Increase in Traffic Danger due to store location - Ms Calder said the store is on a very busy uncontrolled T intersection which has multiple pedestrian crossings, is the main route to the station, shops and Kapakapanui School. The road is increasingly busy as customers drive to and from New World supermarket carpark, attend services at the Waikanae Funeral Home and other businesses on Parata St and Ngaio Road.

241. She said there is no dedicated parking available apart from a few parks outside the store which presumably are shared with the other tenants. Customers will be either parking in other premises' carpark or possibly park illegally.
242. Ms Calder said it would seem irresponsible to approve the application at this location without considering the impact of the increased traffic and likely customer behaviour e.g. frequent short stops and cars pulling in and out at the right at the intersection.
243. Negative impact on community members and safety of community due to increased alcohol consumption - Ms Calder said she is very concerned about the proximity to bus stops and particularly the location of secondary school buses daily pick up and drop off. There is a daily concentration of rangatahi who do not need to be exposed to behaviour that might be associated with this outlet or to alcohol advertising. She said our young people are subjected to significant challenges, particularly with mental health and we know that some of them already experience the negative impacts of alcohol both as consumers and as the victims of family harm and domestic abuse.
244. Ms Calder said alcohol is not harmless, in fact many of those who experience harm are living in our communities without being immediately identifiable. These include those being subjected to family harm, sexual abuse and those having poor health and increased likelihood of disease and morbidity.
245. Ms Calder noted: In their 2021 Report to Parliament, the Alcohol Regulatory and Licensing Authority (ARLA) noted that single serve sales of beer cider and RTDs are increasingly recognised as causing particularly high amounts of harm due to their low cost, and more and more sellers are accepting restrictions on their licences against selling these products.
246. Ms Calder said for all of the stated reasons, she believes that the granting of this off-licence will reduce the current character and safety of our community by more than a minor extent, in both the short-term and long-term. This in turn may lead to increased alcohol-related harm and hence works against achieving the object of the Sale and Supply of Alcohol Act 2012.
247. Ms Calder said although she opposed this application, should this licence be approved, she would like to see restrictions that recognise the position of this site and the protection that our rangatahi and tamariki deserve. For example, a requirement for closure between 3 and 4pm to acknowledge the large numbers of young people in the vicinity; a ban on single sales of beer or RTDs of 500ml or less, no RTDS displayed near the entrance to the store, external advertising minimised and no sales to anyone in school uniform.
248. Mr Laracy asked Ms Calder was the objection relating to general harm or specific harm. Ms Calder responded that fewer licences issued would reduce harm.

**Counsel for the objector, Ms Liz Gordon called on Ms Sonia Sloan,** (witness for Mandy Savage) Ms Sloan read out her statement and answered questions from the Committee.



249. Ms Sloan is a retired local police officer who worked in the Kapiti-mana policing district. She had experience in and gave examples of incidents dealing with domestic violence particularly relating to elderly people, where alcohol was often a factor. She also expressed concern over local incidents of intoxication of youth at mass events and youth drink driving issues.
250. Counsel Ms Liz Gordon, called on Mr Ron Tustin (witness for Ms Mandy Savage) to read out his evidence statement and answer questions from the committee.
251. Mr Tustin spoke about his son previously making a purchase of a single kingfisher beer can from the Otaki Super Liquor owned by Mr Singh. He felt this was a breach of clause 8 of the current conditions of the license for that premises. The applicant maintains that they are complying with the regulations as they understood them, as he had made an undertaking.

**Counsel Ms Liz Gordon, called on Ms Belinda Fowler**, (witness for Ms Mandy Savage), via zoom, Ms Fowler read her brief of evidence and answered questions from the Committee.

252. Ms Fowler spoke on the merits of jotform submissions and gave statistics relating to the demographics of the submitters. She questioned the suitability and experience of the applicant and upholding amenity and good order in the community.
253. The committee acknowledges and thanks the 77 objectors who used the jotform platform to make their submissions in objection and the 48 of them who made further comment with stated objections. Eleven of the stated objections related to high concentration of on and off license alcohol sales premises within the Waikanae town centre, negative effects on tamariki, proximity to the college and school bus stops, upholding the good order and amenity of the town centre and proximity to a children's dance studio on the same street.

**The committee acknowledges and thanks the objectors who made written submissions summarized below:**

1. Doug Watt (Waikanae Resident) – Objected on the basis of there already being three businesses that serve alcohol ( OFF Licence) – two supermarkets and a bottle store – in close proximity to 1B Parata St. A further objection related to the potential traffic hazard to local residents if the licence is granted.
2. Katherine Croft (Waikanae Resident) in a letter to MP Tim Costley raised objections which were copied to KCDC. Ms Croft raised objections to the location and its proximity to schools, church and Marae. Further, Ms Croft expressed the view that there were already three off licenses within 300m. Ms Croft also raised issues that could be considered under the criteria of whether amenity (attractiveness) and good order of the area would be substantially reduced.

3. Te Atiawa ki Whakarongotai Charitable Trust have lodged an objection to the license on the criteria (a) the object of the Act: and (h) whether the amenity and good order of the area would likely be reduced, to more than a minor extent, by the effects of the issue of the license.

The submission states: ' Our kaumatua council have expressed their concern with the potential adverse implications the new outlet may have, particularly regarding health and social issues that are already prevalent within our community.

4. Dan Ford ( Business operator in the vicinity) – submits there is no need for another liquor outlet in the area.

5. Amanda Smart (Waikanae Resident) who gave a personal account of family farm and supplied study documentation from the Health Promotion Forum of New Zealand.

**The hearing was adjourned at 5.07pm until Monday 3rd of March 2025 for closing statements.**

**Reconvened HEARING** at Kapiti Coast District Council offices, Paraparaumu, on 3 March 2025.

**BEFORE THE KAPITI COAST DISTRICT LICENSING COMMITTEE**

Chair: Cr Nigel Wilson

Members: Mrs Jackie Elliott

Mr Bede Laracy

DLC Member - Ms Julia Palmer (In an observer capacity only) – in person

DLC Member - Cr Martin Halliday (In an observer capacity only) – in person

**IN ATTENDANCE**

**Mr John Young of Brookfields Lawyers** – acting for the applicant Mellow Spirits Limited (via Zoom)

**Mr Suhkjinder Singh** – Applicant (via Zoom)

**Mr Peter Joseph** – Super Liquor for the Applicant (via Zoom)

**Reporting Agencies:**

**Antoinette Bliss** - Licensing Inspector

**Amanda Bradley** – Medical Officer of Health (via Zoom)

**Nicola Campbell** - Medical Officer of Health (via Zoom)

## **Objectors:**

**Ms Liz Gordon** – Objector – Lawyer for Mandy Savage (via Zoom)

## **CLOSING SUBMISSIONS**

- 254. Ms Liz Gordon, on behalf of Ms Mandy Savage of the Cancer Society, read her closing submission.
- 255. Ms Gordon reminded the Committee the powers of the committee included asking questions to lift the corporate veil and ask detailed questions about the financial situation of the applicant. Who the staff would be and if they were intended to be migrants. She reminded the committee of New Zealand labour laws.
- 256. Ms Gordon referred to the 'Asher Ventures' application – para 19, of the written closing submission. The importance of plans and processes the applicant brings to the license.
- 257. Ms Gordon said Mr Tustin's evidence showed his purchase was in breach of clause 8 of conditions of the Otaki Super Liquor license and this goes to the suitability of the applicant.
- 258. She said under section 201 of the Act it is the role of the DLC to determine suitability of applicants and the DLC has appropriate powers of inquiry.
- 259. Similarly, Ms Gordon argued the DLC may determine variations of conditions under s120 of the Act and therefore it is up to the DLC to determine if clause 8 should remain or be varied.
- 260. Ms Gordon reiterated the granting of a licence is a privilege and not a right. She said there were many unanswered questions about how the store would operate.
- 261. She said there was a blurring of the lines in relation to single sales and craft beer and called for the DLC to state a view regarding size, strength of craft beers.
- 262. Ms Gordon said the applicant had relied very heavily on Super Liquor in his application. She said the applicant had very little experience and would be heavily reliant on Super Liquor and Super Liquor have had many failures.

## **Medical Officer of Health Ms Amanda Bradley**

- 263. Medical Officer of Health Ms Amanda Bradley took her closing submission as read and summarized points. Ms Bradley said she was pleased the applicant had agreed to no single sales. She felt the sensitive site consultation was inadequate and the objection from the marae was significant.

**Licensing Inspectorate, Ms Antionette Bliss read her closing submission.**

264. The Inspectors' closing report was detailed and noted 'The committee must have to sections 105 and 106 required to consider if the good order and amenity is affected in a more than minor way'. That the onus is on the applicant to prove their suitability. Referring section (106 1a3) of the Act – proliferation of licenses in an area is becoming more relevant. That the object is now to the minimisation of harm, not just the reduction, and that agencies have a duty to collaborate. She would like the license granted with a specific condition re single unit sales. The inspector was also seeking a legal opinion on clause 8 of the Otaki license.

**The applicant Mr Sukhjinder Singh read his closing submission.**

265. Mr Singh noted no exterior signage would be on his premises. There would be no remote sales outside the store licensed hours, was still enquiring about exterior bollards and confirmed staff could carry cell phones when working in the premises for safety purposes.
266. Mr Singh still believed the Tustin undertaking in clause 8 was correct and maintained single unit cans are not available for sale on his website. Mr Singh acknowledges and apologised for not contacting Whakarongotai Marae and will make amends if the license is granted. He has had ongoing experience for 2 years after 7 months in Tasman. He purchased the Otaki site in December 2023 and reminded the committee that Super Liquor carry out a 5-person suitability check for franchisees.
267. Mr Singh said the store would not make singles sales outside of craft beer.

**The applicants counsel, Mr John Young spoke to his closing legal submissions.**

268. On a single sale condition and options, agreed that a condition can be added. He noted the Police and Inspector did not dispute definition of craft beer but the absence of a KCDC/ MoH MOU is unhelpful.
269. He recommends a \$6 – 6% condition. Mr Young accepts there is a small overlap after store closing at 9 pm and the start of the nightly liquor ban at 9 pm. Mr Young notes he has never been in a hearing where C.A.A.H. have found the community anything but 'vulnerable' even in Herne Bay Auckland.
270. In summary he felt the committee does not need to engage in the MOU, describing it as confusing and suggested the DLC may wish to suggest the MoH rethink the MOU.
271. Mr Young felt the committee did not need to resolve the Otaki condition as it was not relevant to this application, and that any breach was unintentional and was in effect endorsed by the inspector.

272. Mr Young felt that in regards to suitability, Ms Gordon asserts the applicant did no engagement, this is wrong, he did. Mr Young said experience in other outlets or as an employer were all relevant in this and in every application. He said there are already a range of processes Mr Singh has already put in place including removal of vapes and vape products from the stock line, training hours and displays of RTD's at the back of the store. Mr Young felt the case was not relevant to the Shady Lady application and noted Police and the retirement villages had not objected to the application.
273. He felt the problem with template objections is they propagate objector bias and asked – How many objectors have read the application, noting 48/77 objectors did not include comments. He noted car parking was not relevant to the decision. There was no evidence of price wars. There was plenty of good evidence of how the business is to be run, backed by Super Liquor support and audit processes. Mr Young said the applicant showed common sense, would employ locals, and clean up graffiti.
274. Mr Young emphasised the application was for one year, so if problems arise, the DLC did not have to renew it. He also noted the lack of authorisation from the Cancer Society to make a submission on their behalf or under their banner.
275. As to the applicant's suitability, Mr Young felt the evidence of Ms Savage was hyperbolic, particularly in relation to public engagement. He accepted there was a mistake in not consulting with the marae but noted Mr Singh's intention to do so.

**The Chair said the decision was reserved.**

#### **COMMITTEE'S CONCLUSION**

276. In making a decision, the committee notes case law (Sahota) – 'The authority has expressed the view that the imposition of conditions should be undertaken on a case by case basis. Therefore I have no hesitation in supporting a decision about single unit sales of any product regardless of what competitions are able to sell at the current time, within the terms of their licences. '
277. The committee checked page 6/20 of the applicant's original application and confirmed his original managers certificate issued by Tasman DC until 2 November 2024 was renewed by KCDC.
278. In consideration of exposure to minors and college students to alcohol advertising while using the bus services to and from local schools and colleges, the committee notes that an existing Off License outlet is operating from within the same carpark area as the bus stops and that the proposed outlet is one block away and around a corner, so not in direct line of sight, It could also be further hidden by the inclusion of a mural on the large featureless Ngaio road facing wall seen from passing buses.

279. The committee sought clarification of whether or not a breach of clause 8 of the conditions of the Otaki Super Liquor License has occurred, and ..... However, the committee is reminded that this is not a relevant point to the consideration of this application.
280. The committee is charged with determining the suitability of the applicant. The committee finds that the applicant has had experience in the alcohol industry in New Zealand across a number of outlets, as a trainee and a store owner/operator since April 2023 (3 years and three months), in this time he has not failed any CPO's. He will continue to be residing locally to his Super Liquor Outlets.
281. The committee do not see it inappropriate that he relies on the ongoing support of the Super Liquor Social Responsibility plan for ongoing support and training and internal auditing. The Committee notes comments on the internal support provided to Super Liquor franchisees from the Licencing Inspectorate.
282. The committee notes that upon considering the comments from the objectors, the applicant has at an early stage in the hearing, voluntarily decided not to sell vapes and vape products from the proposed Waikanae Liquor outlet. The committee notes this undertaking and it will form part of the conditions.
283. The committee notes that this is one of the positive aspects of the DLC hearings process, where the applicant has an opportunity to change their intended plans by being in a position to listen to objections, identify potential risks and initiate solutions that they can implement before they are imposed by the committee as license conditions.
284. The committee accepts there is concern about the ability to sell single unit 'craft beer'. Mr Joseph appearing for the applicant notes the applicant is open to a single sales condition that is understandable, clear and excludes 'craft beers'.
285. The committee notes that the labelling of beers and craft beers and ciders is clearly following the trend of RTD's in using artwork and names designed to appeal to young people, with examples being one named 'Lollies before dinner' and another called 'Rex Attitude' where artwork and colours mimic 'V' sports drinks. This is a major concern to the committee and a reason why accessibility to alcohol consumption through single unit sales is something we wish to be active in avoiding.
286. The committee has tried, through this process to identify and establish a common definition of 'craft beer' through this process and conclude there is no common definition in use. This leaves a level of uncomfortable ambiguity around an extensive line of products where sellers are requesting they be exempt from single unit size limitations. Currently 'craft beer' have been defined by neither country of origin, local origin, exclusivity of the source brewery, special reserve product releases, container size, alcohol strength or type or flavour of the product. With little attempt by the liquor industry leaders or stakeholders to bring conformity to the product range called 'craft beer', the same can be said for cider.
287. The committee considers the wording of the Tri-agency MOU to be unhelpful as we have seen beer cans appearing on liquor outlet shelves of up to and over 1

litre being sold cheaply as single units. We note that this may be in response to the '500 ml or less limit' in the MOU wording, in effect larger containers are being used so sales of these fall outside of the restrictions of a condition. We will write the condition imposed and not adopt one.

288. The committee has noted the availability of single serve units of products through Off-licence premises and remote sales to the community. The committee is mindful that section 59 of the Act covers obligations to verify entitlement to purchase but does not mention the receiver. The Committee wishes to impose the same condition as has been recently applied in Kapiti on the delivery on remote sales to customers.
289. The committee also notes that upholding amenity and good order in the community of Waikanae is of high priority to many who have objected to this application. Objectors point to and demonstrate the general effects on community caused by alcohol. Evidence is broad/ general and could be applied to any site (paragraphs 43 – 44 Otautau Hotel decision)
290. The Committee in its decision must decide whether the granting of this licence will be contrary to the object of the Act.

## FINDINGS

291. In determining this application consideration was given to Sections: The Committee considered the application in reference to Sections 3, 4, 42, 43, 45, 59, 78, 90, 105, 106, 109, 116, 117, 151, 295, of the Act.

292. This application meets all other requirements of section 105(1) of the Act.

In particular:

- a. The applicant is a suitable person to hold a liquor licence;
- b. There is no operative local alcohol policy;
- c. The hours in which sales are proposed are reasonable;
- d. The design and layout of the premises will be appropriate;
- e. The other goods sold by the Applicant are appropriate;
- f. Taking into account the matters described at section 106(1), the amenity and good order of the locality will not be reduced by more than a minor amount by the granting of this licence.

293. The application is hereby granted subject to the conditions set out below. Subject to appeal, the license may be issued on approval by the license inspector upon satisfactory completion of all works as stated by the applicant and recorded at the hearing.

294. The District Licensing Committee hereby grants the application for an Off licence with the reason being that the application meets the criteria of the Sale and Supply of Liquor Act 201.

295. That the license be issued for one year with the following conditions:

- (1) Alcohol may only be sold on the following days within the following hours:  
Monday to Sunday 10.00am – 9.00pm
- (2) No alcohol is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day or before 1.00pm on Anzac Day.
- (3) 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 of sales to intoxicated persons.
- (4) That vapes or vaping products, cigarettes and tobacco products not be sold from the premises.
- (5) That single units of beer, craft beer, cider, shots or ready to a drink spirits (RTD's) are not sold from the premises.



- (6) All deliveries of alcohol must be signed for by a person aged 18 years old or older. Signs of intoxication on the part of the recipient would result in non-delivery.
- (7) That the floor plan of the premises is modified as per the amended plan with the inclusion of (2/3/4) interior bollards inside the front window of the site.
- (8) That suitable lighting is installed for the safety of car parking users on the southern side and rear of the premises.

Dated at Paraparaumu this 27th day of July 2025.

A handwritten signature in black ink, appearing to read 'Nigel Wilson', with a stylized, flowing script.

**Nigel Wilson**

**Chairperson**

**Kapiti Coast District Licensing Committee**