

**PALMERSTON NORTH
DISTRICT LICENSING COMMITTEE**

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

AND

**IN THE MATTER of an application by NZ
GLOBAL TRADE N SERVICES LIMITED for an
On-Licence pursuant to section 14 of the
Act in respect of premises known as The
Shed, situated at 61 Vogel Street, Roslyn
Palmerston North**

BEFORE THE PALMERSTON NORTH DISTRICT LICENSING COMMITTEE

Hearing: 12 & 13 June 2025

Committee

Chairperson: Aleisha Rutherford

Members: Antonia Crisford
Chantelle Fraser-Clark

Appearances: Jared Rawiri, Applicant
Carla Woollaston, In support of the Applicant
Lynne Kroll, Agent for the Applicant, Industry Training Solutions

Marlene Lyall, Licensing Inspector, Palmerston North City
Council

Ian Shaw, Chief Licensing Inspector, Palmerston North City
Council

Jill Job, for Dr Rob Weir, Medical Officer of Health
Sergeant Samantha Bourke, New Zealand Police

Dr Grant Hewison, Counsel for Objectors (Bruce Thomson, Julie,
Cath Healey)

Bruce Thomson, Public Objector

Julie (surname withheld), Public Objector

Cath Healey, Te Rangihaeata Oranga, Public Objector

Josephine Gutry, Cancer Society Manawatū, Public Objector

Natalie Bromley, Mana o te Tangata Trust, Public Objector

Ana Ika, The Salvation Army, Public Objector

RESERVED DECISION OF THE COMMITTEE

Introduction

[1] This is an application by NZ Global Trade N Services Limited for an On-Licence pursuant to section 14 of the Act in respect of premises known as The Shed situated at 61 Vogel Street, Roslyn, Palmerston North. The application was received on 18 July 2024.

[2] The applicant is the sole Director/Shareholder of the company.

[3] The applicant initially sought the following trading hours:

**Thursday to Saturday between the hours of 10:00am and 12:00am, and
Sunday to Wednesday between the hours of 10:00am and 8:00pm**

[4] The Application states that the intended nature of the business is that of a tavern and will be designated Restricted for gaming.

[5] The Application was publicly notified on the Council's website and remained on the website for a minimum period of 25 working days.

[6] 69 public objections were received, raising concerns of local amenity and good order including a high deprivation community and history of loitering about licensed establishments, proximity to sensitive sites, suitability of applicant including the management of the applicant's other premises, object of the Act, proposed hours and concerns it is more of a gambling venue than a tavern. 6 of the objectors appeared at the hearing to give evidence.

[7] The Application was opposed by the New Zealand Police, Medical Officer of Health and the Licensing Inspector.

[8] The New Zealand Police opposed the Application under sections 105(1)(a) and 105(1)(b). They raised concerns regarding the locality being within a high deprivation area, around 70 public objections to the application, and the way the applicant runs his existing premises.

[9] The Medical Officer of Health opposed the Application under sections 105(1)(a), 105(1)(b), 105(1)(h), 105(1)(j) and 106 of the Act. They raised particular concerns regarding the way the applicant manages their existing premises, whether the premises fits the definition of a tavern, the locality and overall suitability of the applicant.

[10] The Licensing Inspector opposed the Application under sections 105(1)(a), 105(1)(b), 105(1)(h) and 105(1)(j), stating the applicant does not meet the criteria under section 105 to hold a licence.

Submissions and Evidence

[11] All parties to the hearing who made submissions were sworn in by the chairperson with an affirmation. This occurred throughout the duration, prior to each individual or group making their submission.

[12] The applicant introduced himself and his supporters, of which, Carla Woollaston and Lynne Kroll would be available to speak as the applicant required.

For clarification, throughout this decision "the applicant" is used to reference both Jared Rawiri and any of his supporters who were reading statements or speaking on his behalf. Evidence presented by the applicant has been summarised by theme rather than chronology.

[13] The applicant started their submissions by giving an overview of their experience working in the hospitality industry over the past 28 years. The applicant explained he purchased The New Royal Hotel Papaioea (The Royal) in July 2023 and then a year later, in July 2024, had the opportunity to purchase The Birdcage Bar situated at 61 Vogel Street, Roslyn, Palmerston North. This is the premise the application is regarding, intending to be called "The Shed".

[14] The applicant stated The Birdcage Bar operated in the Rossmont Shopping Centre for 20+ years with no reported issues in relation to the Sale and Supply of Alcohol Act or any nuisance or vandalism in the immediate area. He told the Committee that the previous owner relied on renewal letters from Palmerston North City Council when the licence was due. As a result of missing a notification, the On-Licence expired without the licensee's awareness and he ceased trading on 14 June 2024. The applicant knowingly purchased the business with an expired licence.

[15] The applicant explained when he purchased the business he spoke to a Licensing Inspector who advised him that an application for a new on-licence would be required. This surprised the applicant as he felt a Temporary Authority should have been issued.

[16] The applicant told the Committee that The Birdcage Bar was a quiet community tavern where regulars would come to socialise. He stated that the premises had always had gaming machines and an ATM facility. The applicant's vision for The Shed is to continue as a quiet, intimate, community tavern that symbolises a shed where people can come, hang out, play pool and socialise as if they were home in their own garage. He did not plan on running any events that would emanate loud music or excessive noise from the premises.

[17] The applicant highlighted approximately 70 submissions made in opposition to the Application, agreeing with some points raised and giving examples of where he had considered and responded. Examples included removing a table smokers sat at when the previous premise was in operation; the purchase of a wall mounted ash tray for smokers to dispose of butts responsibly; and a decision to prohibit drinks to be taken

outside.

[18] The applicant responded to points raised by submitters that there is a bar around the corner and several other places to purchase alcohol in Palmerston North. He explained he felt a small suburban bar was about belonging and referenced the concept of Third Place, a public gathering place where people can socialise. The applicant stated that it was so valuable to community wellness for people to establish a third place that fits them, and that a small establishment rather than a busy bar or events space such as those nearby, would appeal to introverted patrons.

[19] In response to concerns from submitters that the applicant had not considered the impact of the proposed tavern on the local community, the applicant stated at the time of application, he had every reason to believe that he was continuing a good little business that had operated for decades. He believed this premise would not cause any variation to amenity and good order of Roslyn, and being denied a licence was unlikely to improve the amenity and good order very much at all. The applicant highlighted getting the ATM working again and enabling social connections that guests did not have to drive to, as examples of his considerations.

[20] Responding to submitters' concern that some members of the local community are very vulnerable to alcohol-related harm, and that the Roslyn area is already affected by alcohol-related harm, and a new tavern will make it worse, the applicant's perspective was that harmful drinkers who are driven by volume of intake and not social experience, will use supermarket priced products to meet their needs. The applicant stated that the proximity being close to the library, a pharmacy, schools, early-childhood centres, churches, parks, affordable accommodation for older people, and other important community spaces, was nationwide and that it was a matter for his team to be vigilant of any problems so they can make changes to how they work.

[21] The applicant suggested the concerns from submitters regarding people drinking in public places near the proposed site, and alcohol related rubbish in the area, could be addressed through the council extending the liquor ban area.

[22] The applicant told the Committee that though he visited nearby businesses to chat prior to buying the business, he thought the interaction with the local community regarding the proposed tavern came after the public notification went up. The applicant agreed with submitters' points raised that there was nothing in the application to indicate that the applicant consulted with the community before submitting this proposal. After meeting with the health team he phoned almost all local schools and ECEs to let them know he was applying for an On-Licence. The applicant told the Committee he could not get a hold of one daycare near Featherston Street.

[23] Responding to submissions concerned that the licensed hours were too long, the applicant stated that the proposed hours are shorter than the previous owners' hours and that he had made a judgment call to balance a general flow of patrons taking

their different time out, with his investment in wages.

[24] In response to questions from the Committee regarding licensed hours, the applicant stated he would reduce the proposed hours to a closing time of 9pm on Thursday, Friday and Saturdays if that would be favourable to the Committee. He had already purchased a courtesy van for The Royal and that would be available to bring patrons from The Shed to The Royal, if they wanted to continue on after The Shed closed.

[25] Regarding submitters' concerns that the proposed premises may be mainly a gambling venue rather than a tavern, the applicant stated the premise had previously been a Tavern with gaming for 28 years. He confirmed gambling machines remain part of his plan. The applicant highlighted he put in a bigger pool table as both gaming and drinking are best enjoyed with interruptions. The applicant stated his offering would bring new customers to the fish and chip shop and possibly other services nearby.

[26] The applicant submitted that objections which commented on incidents occurring at The Royal were largely misinformed due to incorrect media reporting. He highlighted two separate incidents of a stabbing and a shooting which were reported as occurring outside The Royal. The applicant highlighted the addresses which occurred nearby, but not outside his premises, and stated bad information sticks in people's mind.

[27] The applicant argued misinformation regarding the Police enquiries in response to a complaint made by one objector alleging harassment. He stated the officer took no statement from him and made no enquiries as to his version of the call. The applicant reiterated, at the time of emailing the invitation for objectors to meet him, he believed he was entitled to engage with those who submitted.

[28] The applicant disputed much of the Police evidence referring to The Royal and suggested an analyst cross refer and compare to the local norms before he would consider any bar as a huge problem.

[29] The applicant highlighted he has been adding strategies to address problems right from week one of operating The Royal. He gave examples of a strict policy on gang patches, creating subject-specific staff messenger groups, established a messenger-based connection with other premises to share information, invested in facial recognition software, implemented lock down procedures and worked with the local MP to get stronger Police visibility in and around licensed premises. The applicant explained Police visits used to be 3 monthly and they are now weekly as a result of this.

[30] The applicant talked the Committee through his application process for the On-Licence and his frustrations with how long the process had taken. He explained how he requested a copy of the objections and was given those with contact details of all objectors. Following this he started reaching out to those objectors, including the Cancer Society who he had a fundraising relationship with. The applicant explained

that following the phone call regarding the objection both parties agreed to terminate the fundraising relationship.

[31] The applicant explained further how he proceeded to email objectors inviting them to meet with him to show them his business plan and vision for the premises, and to try to ease some of their concerns. Soon after the email was sent the applicant was contacted by the council advising that the document with objectors' information was sent in error and breached the Privacy Act as it disclosed personal contact information of all objectors. The applicant disagreed with this and believed he was entitled under the Act to receive a copy of all objections. He explained the Council also emailed him to request the applicant delete the objectors' information he had been given.

[32] He highlighted his meeting with Public Health where he was asked about what community engagement he had undertaken ahead of submitting the application. The applicant explained he left the meeting without any sense that there were concerns regarding his application.

[33] The applicant highlighted that the Police submitted a report in opposition to the Application 23 working days after they received it. He drew the Committee's attention to Section 103(4) of the Sale and Supply of Alcohol Act 2012 which states:

The licensing committee may assume that, if no report is received from the Police or Medical Officer of Health within 15 working days after the Police or Medical Officer of Health received the copy of the application, the Police or Medical Officer of Health does not oppose the application.

The applicant requested the Police report be disregarded from the proceedings.

[34] The applicant told the Committee that in September 2024 after attending an Alcohol Liaison meeting he was approached by Police who accused him of abusing and intimidating a staff member from the Cancer Society over the phone, which the applicant denies. The applicant believes from here there has been a witch hunt by the Police and Ministry of Health with multiple compliance checks, inspections and requests for information regarding The Royal and the applicant's manager's certificate. The applicant told the Committee Police visits increased from every couple of months to multiple times a week.

[35] The applicant spoke about a compliance visit undertaken to The Royal in September 2024 where it was found that there were no low alcohol options available, no food available and staff unaware of their responsibilities under the Act. Following the visit, the applicant received a warning letter from the Licensing Inspector. The applicant told the Committee there was a mistake where low carb beer was put in the fridge where low alcohol beer normally went. The error was due to similar labels. As a result of this error, the applicant has changed the brand of beer he orders to prevent it happening again.

[36] In response to the issue of not having food available at The Royal, the applicant

told the Committee he keeps his deep fryer warm and as soon as food is ordered, turns it up to cook. He stated that food is served to patrons within 10 to 15 minutes. The applicant disagreed his staff were not aware of their responsibilities under the Act, telling the Committee that they receive on-going training using their Host Responsibility Plan.

[37] The applicant told the Committee that the Licensing Inspector, Police and MOH have opposed The Shed application due to his suitability to be a manager and the way he is running his current premises. He stated Police have said he has allowed disorderly conduct, minors in the premises and multiple reports of intoxication in and around the premises. The applicant questioned why Police and the Inspector allowed him to continue to trade if this was the case, highlighting Police powers within the Act, to take action.

[38] The applicant told the Committee his business plan for The Shed was totally different from The Royal. He stated that The Shed will be a quiet community tavern as it has been for the past 20+ years. The applicant felt that all objections, with the exception of one, have objected to the application due to the way he runs his current premises, and that this cannot be relied upon as these are all perceived reports. The applicant asked the Committee to grant his on-licence application.

[39] The applicant confirmed he had 2 duty managers who worked for him at The Royal who would move to The Shed. They would share the role, working sole charge and if additional cover for illness or annual leave was required, the applicant would take shifts or he could use his 6 duty managers who worked at The Royal. The applicant confirmed the person working would also take responsibility for monitoring the gaming machines.

[40] When asked about a smoking area, the applicant confirmed there is nowhere within the bar and that patrons would go to the street around the corner to smoke.

[41] The applicant confirmed age identification checks were done through software on an ipad for every person coming into the premises. He explained facial recognition software scans the identification provided and then takes a photo of the patron, as a tool to confirm the identity of the individual and the legitimacy of the identification provided. The applicant was aware of a small number of venues in the city centre who were also using the software, including his current premises. The applicant told the Committee there will only be one person working at The Shed at a time so when a patron enters the premises they'll be required to go straight to the bar to have their ID checked.

[42] The applicant stated the main area of premises was about 11 metres by 11 metres, removing the office and toilets from the approximate calculation. He guessed the capacity of the building was about 60 people but acknowledged he was unsure about the official capacity on the building warrant of fitness as he paused work on the premises when he realised the Application would be going to a hearing.

[43] In response to questions regarding the layout, the applicant explained he had removed a partition which provided a separation between the gaming area and that it was now open plan. The bar had visibility across the entire room and a screen would be installed at the front door creating a visible barrier from the street to prevent kids from seeing into the premises if the front door was open. There would be an ATM located inside the premises. There is a single point of exit and entry for patrons with a fire exit through the kitchen, at the rear, for emergencies.

[44] The applicant told the Committee behind the bar is a small kitchen area with a sink, fridge, glasswasher and microwave. When asked if the takeaway shop next door was intended to be the main external food source, the applicant confirmed it was, alongside frozen food he would supply from The Royal. Through further questioning, the applicant told the Committee the takeaway shops opening hours are not identical to the proposed licensed hours for The Shed as they opened later and closed earlier.

[45] The applicant was invited to comment on the Police evidence containing references to intoxicated people who had come to Police attention either onsite at The Royal or who had stated they'd come from the premises, which is under the applicant's management. The applicant submitted that a lot of the Police's claims are unfounded with no evidence to back them up. He reiterated they are very stringent on intoxication.

[46] The Committee asked the applicant about a specific incident in Police evidence where one of his staff members had been pulled over, found to be intoxicated and claimed they came from The Royal. The applicant was familiar with the individual and stated they lived out of town, and that something happened out of work and out of his responsibility. He stated he cannot control what people do and that the insinuation there is a drinking culture after work at The Royal, is untrue and unfounded.

[47] When asked about how the applicant spoke about a health team member who was a part of a compliance visit undertaken to The Royal, the applicant explained he speaks to people in a colloquial manner, swears when he talks and is open and candid. The applicant's view was that the person's conduct during her visit was snarky and condescending, and that his opinion of her is not unlawful and he's entitled to it. The applicant stated he was completely open to compliance visits.

[48] In response to questions about community engagement, the applicant told the Committee it slipped his mind and took steps to engage with the local community after being promoted from a visit from the Medical Officer of Health. The applicant explained he rang around schools and ECE's in the immediate area to introduce himself and let them know he was applying for an on-licence. He confirmed he did not contact any other sensitive sites such as organisations or churches. The applicant told the Committee no initial concerns were raised during any of his phone calls.

[49] The applicant identified one risk the proposed premises had was being the last bar on the outskirts of town in an area where a lot of gang members were known to live. He stated that they will try and forcefully make their way into the bar to probably play on the gambling machines. The applicant told the Committee he has a strict policy and so will be denying entry. He reinforced his facial recognition systems will pick up on who cannot come in.

[50] The applicant spoke about how he currently records incidents happening at The Royal, having a separate log at the bar and with security at the door. They were kept with each other in their toolkit. The applicant confirmed if someone was refused entry that would not constitute an incident on their door because there can be a multitude of reasons why they're not allowed in, for example they were minors or intoxicated. When the Committee questioned this further, pointing to an example where a patron was refused entry, went away and came back to the premises with a weapon, the applicant confirmed that wouldn't go in an incident log because it was bigger than an incident report and became a police report. The applicant stated that a lot of his incidents become bigger than an incident report because they become full on police reports as they are criminal acts.

[51] Explaining what constitutes an incident to him, the applicant told the Committee any incidents within the bar which are violent, intimidating or there is some harm of some sort. He said they've never had any problematic patrons that need to be removed, but they would constitute an incident. The applicant stated things that are directly alcohol related go into the reports, or a banning of somebody. He stated they ban people just about every day as it's his way of just pulling out the weeds and keeping it clean. The applicant confirmed if someone is banned they will record it as an incident.

[52] In response to questions regarding the process of recording incidents happening at The Royal and how this will be applied at The Shed, the applicant told the Committee there will be one combined incident log because the duty manager is the security person. He stated that he doesn't deem The Shed to have anywhere near the trouble of what the inner city bars have because it's just not that type of pub or area.

[53] The applicant confirmed he didn't have any intention of hosting functions at The Shed as it was too small. He highlighted the previous operations did karaoke with no problems so he could pursue it, but has no interest at this point in time. The applicant stated he wanted the opportunity to prove that this is not going to be a Royal Hotel in Roslyn. He highlighted that he has invested in renovating it and plans to grow a community culture there with its own pool and dart clubs.

[54] The applicant read through and tabled a number of appendices including emails between the applicant and Licensing Inspector with queries and updates regarding the application, screenshots of Facebook posts and an email circulated encouraging the community to make submissions, signage and the menu used at the applicant's existing premises and copies of manager's certificates.

Disclosure

[55] Following a break, the chairperson made a disclosure that was not materially significant, in reference to the evidence submitted by the applicant in paragraph 120. There was mention of a person who is a family member and the chairperson was not aware this would be in the brief of evidence as it was submitted on the morning of the hearing. The family member had no decision-making function throughout the application, they were a contracted inspector at the time and no longer had any involvement with the Council. The chairperson was confident there is no conflict of interest but gave the opportunity for any party to the hearing to raise a question or concern on the matter. No issues were raised and the applicant confirmed they were happy to proceed with the chairperson running the hearing.

Licensing Inspector

[56] The Licensing Inspector spoke about the numerous public objections received and concerns raised about the potential increase in alcohol related harm within an already vulnerable community. He referenced section 105(1)(a): Object of the Act, quoting:

the sale, supply and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

[57] The Licensing Inspector told the Committee there are concerns that the applicant does not have a system of control over his current premises, to be able to comply with the conditions of the Sale of Supply of Alcohol Act 2012, and that the object of the Act will not be met with the proposed premise. He referred to Police evidence expressing serious concerns regarding the applicant's capability to manage licensed premises appropriately, citing evidence of several breaches of the Act that have occurred at the Royal Hotel.

[58] The Licensing Inspector acknowledged the Royal is not the premises of this application, but suggested evaluating how the current premises is operated was as crucial to understanding how the applicant intends to manage another premises. He highlighted the numerous incidents at the Royal related to breaches of the Act, including serious assaults, instances of intoxication and disturbances. The Licensing Inspector said after reviewing the information, the inspectorate concluded that effective management appears to be lacking.

[59] The Licensing Inspector told the Committee that during the incidents referred to in evidence, the objectives of the Act are not being met, demonstrating a failure to provide safe and responsible service. He said while it was challenging to manage the unexpected reactions of patrons, effective management of patrons' behaviour in intoxication is essential. The Licensing Inspector stated there was substantial evidence in the Police report that inadequate processes regarding screening patrons for preloading, illicit substances, intoxication assessment, and consistent intoxication

management practices were not being applied, and that patrons are discharged from the premises in an intoxicated state together with associated unacceptable behaviour.

[60] The Licensing Inspector said they have serious concern with respect to the management practices at The Royal as presented in the Police report for the application for The Shed and that, together with the numerous incidents that the Police have dealt with, they consider the applicant to be unsuitable to manage the licensed premises responsibly. This is why the Licensing Inspector was opposing the application.

[61] The Licensing Inspector referred to section 105(1)(b) of the Act, suitability of the applicant. He concluded that the types and number of incidents that the police have responded to at The Royal appeared to be linked to the operations. The Licensing Inspector told the Committee that given the concerns expressed by the Police, the current evidence does not demonstrate suitability regarding the sale and supply of alcohol on the premises under the applicant's control.

[62] The Licensing Inspector referred to section 105(1)(h) of the Act, whether the amenity and good order of the locality would be likely to be reduced to more than a minor extent by the effects of the issue of a licence. He stated when deciding whether a Tavern is suitable for this location, consideration should be given to the amenity and good order in a community already facing significant deprivation. The Licensing Inspector highlighted the immediate environment included the footpath and pedestrian crossing in close proximity where after school, children making their way home from will have to navigate around patrons standing in and near the corner, smoking and perhaps under the influence of alcohol.

[63] The Licensing Inspector identified numerous sensitive sites within 500 metres of the proposed premises, including two churches, one primary school, two early childhood education centres, one assisted living facility and one pharmacy that provides a methadone programme. The Licensing Inspector suggested the statistical figures regarding deprivation in the community will inevitably rise if the licence is granted.

[64] The Licensing Inspector referred to section 105(1)(j) of the Act, whether the applicant has appropriate systems, staff and training to comply with the law. As a part of the application he evaluated the operation of the existing premises under the applicant's oversight, while also considering the information provided by the Police and Medical Officer of Health concerns regarding the applicant's suitability to manage another licensed establishment. The Licensing Inspector told the Committee he observed that the applicant may not fully comprehend the severity of the harm associated with the irresponsible sale of alcohol and may not fully appreciate the ramifications of such actions, particularly in relation to the incidents that the Police are responding to. The Licensing Inspector has formed the view that this is not the standard expected of a licensee and he is not confident that the applicant's current management practices demonstrated historically at The Royal Hotel will prevent alcohol related issues.

[65] The Licensing Inspector stated he wanted to make the Committee aware of certain comments made by the applicant that would be considered inappropriate. Referring to his notes from 2 October 2024, he stated during multiple compliance visits, there was no managers register on site and staff advised the Licensing Inspector the applicant kept the register on his cellphone and he was not onsite. In a further visit the applicant's agent was in attendance and stated she was updating the manager's register as it wasn't filled out. The agent confirmed she was redoing the entire toolkit. The Licensing Inspector stated that during this visit the applicant discussed a recent evening inspection with Palmerston North City Council and the health officer, declaring the Health Protection Officer a cunt as she was asking dumb questions about host responsibility. The applicant further referred to a senior management person of the Council as an uptight bitch.

[66] The Licensing Inspector read a further statement from another Licensing Inspector regarding the routine inspection where the applicant referred to the Health Protection Officer as a cunt after his staff were questioned on their host responsibilities and struggled to provide adequate answers. The Licensing Inspector had told the applicant his comments were unacceptable and the questions posed to the staff were appropriate to assess their knowledge.

[67] The Licensing Inspector read through further notes documenting interactions with the applicant including a site visit to The Shed, highlighting the observations of 12 gaming machines requiring the entire floor area to be R18 and it appearing to be a gaming venue. The Licensing Inspector read their notes documenting the licensing process being explained to the applicant, and the applicant stating, if the licence was unsuccessful, he would get someone else to reapply.

[68] The Licensing Inspector told the Committee the plans the applicant had for food provision were not common in a tavern environment but do happen in certain situations. He explained the situations he was aware where there were similarities to what was proposed were in the Selwyn District where post-earthquake, they brought in a food truck to provide food to a hotel as a temporary measure, and in Kaikoura where a seafood BBQ held a licence and provided food to the neighbouring venue which was also licensed. Both the examples provided had legal agreements in place between the two parties with strict conditions requiring food operations at all times when the bars were open.

[69] The Licensing Inspector commented on the applicant's plans to have the venue operating with one duty manager as sole charge and no other staff. The Licensing Inspector stated he would suggest a minimum of three staff to be working together or two if it was a quiet period. This was to ensure the premises were carefully monitored and controlled with the mix of gaming, alcohol and food service.

[70] The Licensing Inspector confirmed he was of the view that there is overwhelming evidence the licence should be declined. He did not think there were any conditions that could be put in place to mitigate the concerns raised.

[71] In response to questions regarding documentation, the Licensing Inspector stated that prior to the applicant engaging an agent, staff knowledge of host responsibility and the general requirements of their responsibilities under the Act was lacking. He felt it needed to be reassessed before he could agree that those issues had been addressed. The Licensing Inspector also confirmed he had not seen a managers register in place for the proposed premises.

Medical Officer of Health

[72] The Medical Officer of Health submitted the application does not satisfy the object of the Act, the applicant is not suitable to hold the type of alcohol licence proposed in the locality given the prospective risk of alcohol related harm, and the applicant has inadequate systems and staffing that may not operate at the most basic of the legal minimum requirements to meet the requirements of the Sale and Supply of Alcohol Act 2012 and the new gambling harm minimisation Regulations, 2023.

[73] The Medical Officer of Health told the Committee they have concerns whether this premises can be considered under the definition of Tavern, given that the principle layout predominantly accommodates 12 gambling machines with only a small bar, limited seating for patrons not engaging in gambling and a pool table. They suggested with this layout, the premises' primary purpose is to operate as a gaming lounge rather than as a traditional Tavern, whose primary focus is the sale and consumption of alcohol on the premises. The Medical Officer of Health further stated it would appear that the greater source of business income would be from gaming machines and that 12 machines for the size of the bar was a lot.

[74] The Medical Officer of Health stated the area was a deprived locality with a relatively high proportion of population being Māori and Pacific. She highlighted that either of these characteristics in the community make them vulnerable and likely to suffer high levels of alcohol related harm, but having both present make it one of the highest risk localities in terms of alcohol related harm. The Medical Officer of Health highlighted there was Kainga Ora housing nearby and other sensitive sites including three early childhood centres, one primary school, two churches and a pharmacy.

[75] The Medical Officer of Health told the Committee she was particularly concerned about the proximity to the pharmacy which had a methadone programme. She explained Methadone programmes are administered by the pharmacy, clarifying only a select few pharmacies offer the programme. The Medical Officer of Health stated that the participants are very, very vulnerable people in our community and these programmes are vastly important for their recovery. She stated having a premise that also supplies alcohol in this area does not bode well.

[76] The Medical Officer of Health reminded the Committee an application could be declined based on a failure to satisfy even just one of section 105 criteria, and that if an application is not compatible with the object of the Act, then it must be declined. She referenced caselaw from General J, stating *if the object of the Act cannot be*

achieved by the application then it cannot succeed.

[77] The Medical Officer of Health told the Committee submissions of the tri-agencies highlight ongoing compliance issues at the applicant's existing premises The Royal. She said these issues show the applicant to be unsuitable to be in charge of a licensed premise in a vulnerable community, and that this raises the bar regarding the applicant's suitability because there are high risks.

[78] The Medical Officer of Health told the Committee the applicant made no attempt to find out what the local community thought about the proposed reopening of this premises, prior to submitting his application. The Medical Officer of Health referenced Authority decision AP84/98 which stated: *Section 13(1)(a) provides that the applicant for an on licence must demonstrate his or her suitability. In other words what is required is a positive finding. That implies an onus on the applicant to demonstrate suitability.* The Medical Officer of Health stated that such suitability is not established in a vacuum but in the context of the particular case. She told the Committee, for example, the place, the intended business here in a vulnerable community, the nature of the business itself, the hours of operation and the intended activities, provide the basis for the assessment of the individual in this case; the suitability of the applicant needs to be determined in the context of the location of the proposed premises.

[79] The Medical Officer of Health referenced a previous Authority decision (391/2001) which dealt with noise issues and a licensee's responsibilities, stating: *noise issues are only one of the matters that can adversely affect neighbours from the operation of licensed premises. Issues such as rubbish, graffiti, loitering, and the attraction of undesirables to premises in a residential area are all relevant factors.* The Medical Officer of Health explained this concept is included in the legislation itself when imposing conditions, referencing section 37(5) of the Act, which entitles the Authority to have regard to the site of the premises in relation to neighbouring land use.

[80] The Medical Officer of Health pointed to caselaw of Pankhurst J, which suggested the locality of a premises can have a bearing on the assessment of suitability, noting many of the foregoing criticisms would be pedantic in most situations. She told the Committee, this locality as a particularly vulnerable and sensitive one, this has raised the threshold of suitability. The Medical Officer of Health said there had been a huge amount of rebuilding social housing in the area within a 5 minute walk to the proposed premises. In addition to this, it was the applicant's own evidence which stated one of the highest risks for this Tavern could be that the local gang may decide to accommodate that premises and come there on a regular basis. This would become a very high risk for other patrons and the staff that are on, especially if there's only one working in a sole-charge environment.

[81] The Medical Officer of Health states the applicant demonstrates a lack of understanding that the reporting agencies are relied upon to monitor and enforce the Act. She spoke about an incident in September 2024 during a compliance visit

undertaken by a Licensing Inspector and Health Protection Officer to The Royal. During the visit the Health Protection Officer spoke to a staff member, asking questions about her training for selling alcohol. The staff member was not confident in her answers and could not answer general alcohol harm related questions. Following this, a discussion with the applicant was held where he implied the questioning was stupid and became irritated. The Medical Officer of Health was later informed the applicant referred to the Health Protection Officer as a cunt.

[82] The Medical Officer of Health submitted that looking at all of the circumstances, the application would not satisfy the object of the Act. She stated that based on the evidence before the Committee, it was clear that granting a licence would present an unreasonably high risk that the sale, supply, and consumption of alcohol will not be undertaken safely and responsibly; and rather than minimising harm caused by the excessive or inappropriate consumption of alcohol, alcohol-related harm will increase.

[83] The Medical Officer of Health said she had considerable concern about the applicant's ability to supply food, based on the evidence she had heard. She highlighted the hours from the nearby takeaway shop do not align with the proposed hours of the premises and there was no evidence of any agreement between the two premises that they will undertake the supply of food.

[84] In response to a question regarding training and systems, The Medical Officer of Health was confident the applicant could replicate what was in place currently at The Royal, over at The Shed too. She was concerned it was only since the applicant engaged an agent, that there had been a focus on improvement in this area and told the Committee this signalled a lack of responsibility from a licensee who's been in the industry for many many years. The Medical Officer of Health referenced the example of the applicant previously having the managers register on his phone and being away from the premises, resulting in no managers register on-site.

New Zealand Police

[85] Police submitted they have a good working relationship with the applicant and see him as supportive and willing to engage with Police when bar checks occur. They stated the main concern of the Police is the new on-licence in Roslyn, particularly as they don't see community support for it.

[86] Police told the Committee that the evidence showing the issues with The Royal was due to a combination of location, patrons and management of the premises. They stated The Royal does typically attract patrons who cannot get into other bars, observing there is a lower threshold to get into the Royal than other establishments. Police stated they haven't seen anything from the applicant to show The Shed will be run any differently than The Royal.

[87] Police stated there is a clear cluster of events around the address The Royal is located at, and that they are concerned the applicant does not acknowledge that

his bar plays a factor in these events. Police said this highlights the applicant thinks he is not at any fault for these alcohol events Police attend. They highlighted the unusual nature of having a metal detector at the door to identify patrons with weapons, and couldn't recall any other bar locally or in Hamilton where the officer previously worked, having one.

[88] Police stated there is currently police attendance to The Royal approximately once a week in response to calls from the premises or wider area, or at the request of the Alcohol Harm Prevention Officer. She told the Committee that due to staffing numbers these visits were all responsive as the Police do not have staff for proactive visits.

[89] Police told the Committee that the evidence submitted shows there is currently limited alcohol harm in Roslyn within the last year compared to the city centre, and that they are concerned that having a new on-licence will increase their call outs. They were concerned The Shed was going to be a new Royal Hotel in Roslyn.

[90] Police stated they were concerned the applicant was going to have a single staff member working sole-charge. This was due to the combined role of security, duty manager and supervising gambling machines. They highlighted a scenario in which a patron needed to be removed from the bar and questioned how that could be managed with one staff member. Police reiterated they would like to see the application declined.

Public Objectors

Grant Hewison

[91] Grant Hewison submitted that the licensing authority has been clear that a licence is a privilege, not a right, and from what he has heard today he believes the applicant considers an alcohol licence to be his right. He told the Committee the applicant has to put his best foot forward to show us why this licence should be granted, supported by evidence, and the applicant has not done that. Grant Hewison further stated the applicant has particularly failed around suitability.

[92] Grant Hewison highlighted strong police evidence showing the applicant was not suitable across character, interacting with the public and interacting with (tri)agencies. He stated in the past decade of working in this space he has never heard an applicant be so contrary, in terms of their view of the role of the agencies.

[93] Grant Hewison stated there was a range of features in the submissions and in the evidence in the agency's reports and evidence that shows clearly this area is vulnerable. These were due to socioeconomics, the sensitive activities that go on in the small set of neighbourhood shops, the social housing, the rentals and the police statistics. He suggested these factors introduce a higher threshold of suitability- of extended suitability. Grant Hewison submitted the applicant is not suitable and furthermore, at the extended level of suitability, the applicant is not suitable.

[94] Speaking about the design and layout of the premises, Grant Hewison submitted that the combination of alcohol gambling activities and one small premise, creates a very vulnerable internal area, highlighting it also had no windows. He told the Committee these features create a really vulnerable environment for someone consuming alcohol, gambling and with an ATM machine on-site to access cash inside the premises. Grant Hewison highlighted the lack of outdoor area for smoking was also of concern both in terms of amenity and good order, but also design.

[95] Grant Hewison reminded the Committee this is a new licence and to disregard the history of the previous establishment. He submitted the locality is the hub of Roslyn with multiple sensitive sites in the area such as churches, libraries, the pharmacy, schools, children and reserves. He stated this was not a place to locate a premises of this kind, and the application does not meet the object or purpose of the Act.

Bruce Thomson

[96] Bruce Thomson read through his submission focussing on the balance of benefit against the harm from allowing the business to operate; the concept of free will of patrons choosing to consume alcohol; and his experience in placemaking in public spaces.

[97] Bruce Thomson told the Committee he did not think there were any circumstances that The Shed could operate as it encourages substance abuse which damages judgment and encourages people to spend more than they really should.

Julie

[98] Julie introduced herself as a resident who lived on the street the proposed establishment was on. She explained that she uses the neighbouring shops, library, bakeries, dairy, pharmacy and the gym around the corner. Julie said she walks past these shops every day and when the previous bar was open, felt uncomfortable due to people loitering, asking for money and swearing at her.

[99] Julie told the Committee she considers Roslyn to be a vulnerable suburb because it is a lower socioeconomic area with a lot of Kainga Ora housing and rentals. She explained in the last 15 years she has lived there, she's seen a huge increase of social housing being infilled. Julie has also seen a huge increase of boy racers, car drifting, burnouts, tagging, windows boarded up, broken glass at bus stops, broken bottles and theft, personally experiencing her house tagged with obscenities.

[100] Julie explained to the Committee how the local area had an increase in social housing in recent years with a number of duplexes removed, and replaced by multiple houses on the same piece of land. Julie gave a specific example of a single house that was replaced by three Kainga Ora houses specifically for people with disabilities or elderly people.

[101] Julie said she was very aware that this pub is close to local schools, preschools and churches and feels it is not a good location for any activity that involves alcohol

and gambling. She stated that these things add to the depravity in that area, encouraging, more antisocial behaviour.

[102] Julie submitted that, since the previous bar had closed down, she was much happier walking to the shops and using the facilities. She noted it was a better atmosphere without people sitting outside, smoking and drinking, and abusing people or asking for money. Julie was concerned the antisocial behaviour would return if the licence was granted and requested it be declined.

Cath Healey

[103] Cath Healey told the Committee she was opposing the licence because the premise appears to be a pokie den and she is concerned about the impact of the venue on a high deprivation and vulnerable community. She told the Committee she was concerned about one sole-charge staff member being able to manage a premises in a way that meets their obligations for gambling and alcohol sales, especially with an ATM on-site that would need supervision for those withdrawing cash to gamble.

[104] Cath Healey submitted there were too many unknowns with the way the premises would operate to ensure alcohol harm would be minimised for the local community. She stated that she wanted to see the application declined.

Josephine Gutry

[105] Josephine Gutry introduced herself to the Committee as working as a health promoter for the Cancer Society Manawatū. She explained they work with communities to reduce the incidence and impact of cancer.

[106] Josephine Gutry submitted The International Agency for Research on Cancer, IARC, has classed alcohol as a Group 1 carcinogen, the highest classification. She stated that the harm caused by alcohol as a known carcinogen, continues to put growing strain on the health system, and that it was widely evident that a key factor in reducing alcohol harm is to reduce the consumption via reduced availability of alcohol. Josephine Gutry told the Committee she was concerned that the way the applicant had presented evidence regarding third place during the hearing, misrepresented how the research was originally presented.

[107] Josephine Gutry told the Committee there is substantial evidence regarding the operations of the applicant's current business, suggesting that opening another alcohol serving venue could lead to similar issues arising in Roslyn. She suggested that given that Roslyn is already classified as a highly socially deprived area, there is a strong likelihood that such an establishment would contribute to increased social dysfunction, elevate crime rates and create unsafe living conditions for local residents.

[108] Josephine Gutry raised concern with the location of the proposed venue and its proximity with multiple sensitive sites within 500 metres, such as a library, church,

pharmacy and schools. She was concerned the layout of the establishment would have a negative effect on tamariki and rangatahi from overflow of patrons exiting the venue or patrons wishing to smoke or vape on the footpath outside the venue.

[109] Josephine Gutry highlighted the applicant's behaviour towards the objectors to this application. She stated she was one of the objectors that the applicant tried to contact by phone and engage in harassing behaviour towards, finding his approaches threatening. Josephine Gutry believed the applicant was intending to persuade her to withdraw her opposition. She told the Committee she reported this to the Police.

[110] Josephine Gutry stated the applicant's evidence in relation to the interaction with the Cancer Society, was not correct. She said there is not a person called Debbie at the Cancer Society and the applicant's version of events was not accurate.

Natalie Bromley

[111] Natalie Bromley introduced herself and explained she worked for Mana o te Tangata who are a Māori kaupapa mental health addiction service based near the proposed establishment, and they work across Palmerston North, Tararua and Horowhenua. She told the Committee their service had seen an increase in clients seeking help and support for addiction relating to alcohol and gambling harm in Roslyn. Natalie Bromley submitted Roslyn is one of the highest vulnerable communities within Papaioea.

[112] Natalie Bromley told the Committee about the crisis cafe Mana o te Tangata runs on a Friday, Saturday and Sunday night around the corner from the proposed premises. The crisis cafe was a walk-in service offering support for mental health and addiction, offering meals, activities, 1-1 support and positive connections with kaimahi. She stated her concern with the licence being approved is that it increases the risk of addiction behaviour within a community that is very, very vulnerable.

[113] Natalie Bromley stated she was concerned about the safety of having someone working sole-charge and questioned their ability to manage violence or other risks. She stated she was concerned with the proposal of having people under the influence of alcohol, smoking and vaping out on the street with a school around the corner, and the impact of students and young people walking past seeing that. Natalie Bromley told the Committee she was very concerned with the easy access of the ATM within the establishment and a lack of regulation or monitoring how people are withdrawing that money or utilising that money directly within the bar.

[114] Natalie Bromley highlighted feedback from the whanau they work with who had noticed they felt safer walking past the shops with the previous establishment closed. They identified they no longer felt intimidated by people loitering outside the premises. She stated Mana o te Tangata and herself, strongly object to this licence being granted as it could cause serious harm in the community.

Ana Ika

[115] Ana Ika introduced herself to the Committee explaining she was a senior social policy analyst and advocate for the Salvation Army Social Policy and Parliamentary Unit. She stated that they do not usually object to on-licences but given the history of the applicant and the surroundings of where this premises are, they have put an objection to this particular licence.

[116] Ana Ika stated the Salvation Army supports around 1900 families within a 2 kilometre radius of the proposed premise and has over 400 clients within a kilometre. Those clients included the bridge addictions programme, transitional housing, financial mentoring, food banks and welfare support. She said there had been an increase in whanau accessing their services over the past year.

[117] Ana Ika told the Committee the 407 clients they work with in the locality of the proposed premises had alcohol misuse as a common factor. She said some of the key challenges, for those that live in close proximity, were that alcohol exasperates depression, PTSD, stress and suicidal ideation for those that they support, particularly for young people. Anna Ika referenced the police evidence which reported on police calls in the area.

[118] Ana Ika submitted they believe granting the licence will decrease amenity and good order in the community and requested the Committee decline the licence.

Right of Reply / Closing Submissions

[119] The applicant read out a letter dated January 2024 from the Cancer Society regarding arrangements for The Royal to run fundraising events. He further reiterated that he called the Cancer Society to discuss their objection to his on-licence application where he spoke to someone called Debbie. He was told someone would call him back but that never happened.

[120] Responding to the subject of suitability, the applicant stated that suitability is about being over the age of 20 and not having a criminal history. He reiterated he fits the criteria and if there was an issue with the way he managed The Royal, he would have had a conversation (with the Licensing Inspector) or a suspension or fine would have been imposed. The applicant told the Committee the proposed premises will be totally different from The Royal.

[121] Responding to the managers register not being available during a compliance visit, the applicant stated his agent had removed the tool kit to update it as he hadn't filled things out correctly. He stated that he admits he did not know the process or didn't understand the legislation fully, particularly around recording incidents. The applicant assured the Committee this had been addressed and the managers register was now up-to-date and his agent checks it regularly.

[122] The applicant reiterated he takes the object of the Act very seriously and has safety at the forefront. He stated he ensures all his staff are trained and minimise

alcohol and gaming related harm.

[123] Responding to the evidence regarding the applicant's comments toward a Health Protection Officer during a compliance visit, the applicant reiterated that the staff member couldn't hear the questions. He stated he did not say anything derogatory and that he is wholeheartedly entitled to name her what he did and it was not unlawful. The applicant stated he was a very up-front person and calls a spade a spade and does not apologise for who he is.

[124] In response to concerns raised regarding a duty manager working sole-charge, the applicant highlighted there were several other pubs with gaming machines with one staff member working. He stated that should a licence be granted, he would assess the number of staff members needed to be on duty at the premises, ensuring significant cover if the number of patrols increase from the previous licence figures.

[125] The applicant stated that The Shed would be able to supply an adequate variety of food in a timely manner available at all times as it wouldn't be hard. He told The Committee he didn't think it was common practice for fish and chip shops to supply food but he had seen it happen and it was his way of supplying food without having to put a kitchen in.

[126] The applicant told the Committee he was now aware gathering community support was a thing. He stated had he known that he could gather support or bring a petition or survey to illustrate the support for his application, we would have had to hold the hearing in the town hall. The applicant shared he had also spoken to his agent about community engagement and she told the applicant in her 22 years of experience she's never heard of it either.

[127] The applicant addressed existing use, telling the Committee historical events have been brought to everyone's attention regarding him as a person and his existing business. He stated if the proposed premises cannot be considered in its historical format as a bar, then the whole application should be looked at onwards rather than considering his personal history and associated incidents that may or may not have happened. The applicant stated the Licensing Inspector's report was a litany of lies.

[128] The applicant stated that approval or declining an application was not a right or privilege as it is as a result of a mandated process to go through. He disputed the statement from an objector saying he didn't have a right and submitted it was not a privilege but his right to a licence as long as criteria was met. The applicant stated he had been denied natural justice as the application has not been processed in a timely manner. He told the Committee if the application was declined, he would get someone else to apply.

Criteria for issuing a license

Section 105

[129] In deciding whether to issue a licence, the licensing authority or the licensing

committee concerned must have regard to the following matters:

- (a) the object of this Act:
- (b) the suitability of the applicant:
- (c) any relevant local alcohol policy:
- (d) the days on which and the hours during which the applicant proposes to sell alcohol:
- (e) the design and layout of any proposed premises:
- (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
- (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
- (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the license:
- (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licenses that—
 - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - (ii) it is nevertheless desirable not to issue any further licences:
- (j) whether the applicant has appropriate systems, staff, and training to comply with the law:
- (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.

Section 106(1)

[130] In forming for the purposes of section 105(1)(h) an opinion on whether the amenity and good order of a locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of a licence, the licensing authority or a licensing committee must have regard to—

(a) the following matters (as they relate to the locality):

(i) current, and possible future, noise levels:

(ii) current, and possible future, levels of nuisance and vandalism:

(iii) the number of premises for which licences of the kind concerned are already held; and

(b) the extent to which the following purposes are compatible:

(i) the purposes for which land near the premises concerned is used:

(ii) the purposes for which those premises will be used if the licence is issued.

Considerations of the Committee

[131] The Committee must first have regard to the objects of the Act and in particular to minimising the harm caused by the excessive or inappropriate consumption of alcohol. Considering the criteria identified in s105, the Committee now looks to undertake our evaluative function assessing the risk.

[132] As stated in [2018]NZARLA273, "In undertaking this assessment of risk, it is the risk profile which is relevant and there is no requirement to link specific alcohol-related harm to a specific licence (in that case an off-licence), or as Clark J put it in *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited*, 'for the premises to be at the centre of the harm'. Further:

'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.'

As Clark J also said:

'It is not necessary to establish,..., that the proposed operation "would be likely to lead to" alcohol-related harm. To require demonstration of a link to this degree of specificity is not much different from requiring proof. Requiring proof of "a causative link" is not only unrealistic but is contrary to the correct legal position'

[133] When undertaking the necessary evaluation both limbs of s4 must be satisfied

'The statutory provisions must be applied in a way that promotes the twin statutory objects which are that the sale, supply and consumption of alcohol should be undertaken safely and responsibly and that alcohol-related harm should be minimised.'

The Issues

[134] The Committee note the following issues initially raised through reporting from agencies and objections:

- the object of the Act
- the suitability of the applicant and the management of his existing premises
- availability of food within a reasonable time
- whether the premises would primarily operate as a gambling venue
- amenity and good order, including distance to sensitive sites
- locality of a vulnerable and high deprivation community
- appropriate systems and staff available
- applicant's engagement with compliance visits and objectors

[135] The Committee considered the applicant's request for the Police report and objection to be rejected due to it being submitted 23 working days after they received it. We note the applicant has referenced Section 103(4) of the Act in support of this. The Committee highlights the use of the word "may", and considers the discretion within that phrase, as guided by The Parliamentary Counsel Office regarding interpreting language within legislation. We compare the statement to other areas of the Act which use the word "must", giving the Committee limited flexibility in its actions. Nevertheless, under Section 208 of Act, we believe the delay was not wilful and waive the reporting timeframe for Police.

[136] Having considered the Application together with Agency Reports and Objections placed before it, and the oral evidence and submissions received at the hearing, the Committee must now stand back and determine whether the application for a new licence should be granted.

[137] The Committee notes in *Kaiti Club Hotel Ltd, in Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited*, Clark J summarised the principles applicable to issuing licences, including that:

- a) there is no presumption that an application will be granted;
- (b) after having regard to the criteria in the Act, the decision-maker is required to step back and consider whether there is any evidence indicating that granting the application will be contrary to statutory object in s4;

(c) the application of rules involving onus of proof may be inappropriate, and similarly, there is no onus on the reporting agencies to prove the application should not be granted;

(d) the criteria for the issue of licences are not to be interpreted in any narrow or exhaustive sense and the decision-maker may take into account anything which, from the terms of the statute as a whole, appears to be regarded by the legislature as relevant to licence conditions and the terms on which they should be granted.

[138] With this in mind, we now look to assess the issues raised from objectors.

The object of the Act

[139] It is clear to the Committee, the applicant has extensive experience in the hospitality industry, as outlined in both his opening submissions and right of reply. There is some evidence of a lack of up-to-date knowledge of the Act, as demonstrated by the absence of awareness regarding basic record keeping in areas such as the toolkit and being up-to-date and a managers register being on-site. It was pleasing to hear the engagement of an agent has addressed this and monitoring is in place for the future.

[140] The Committee finds there is limited evidence presented by the applicant to demonstrate the Act will be met. It appeared the applicant was presenting his experience in the hospitality industry as evidence he would ensure the Act will be met. Despite the deprivation of the locality being raised in various objections there was little to no evidence presented to suggest the applicant had given thorough consideration to harm minimisation, including reducing crime, injury and other harm directly and indirectly linked to alcohol misuse.

[141] The Committee finds there is insufficient evidence to meet section 105(1)(a) of the Act.

The suitability of the applicant and the management of his existing premises

[142] The Committee acknowledge the applicant was clear he did not believe the management of his existing premises was relevant to the hearing proceedings. The Committee disagrees and finds it useful to consider how the current premises are run as a way of understanding how the applicant operates within the Act and deals with various challenges that face licensed premises.

[143] The Committee finds the applicant is well connected to the wider sector and has established communication channels to share information in real-time. We heard from the applicant regarding his years of experience and confidence advocating for issues to be resolved, though noted some contradictions from the applicant in regard to the Police presence at his existing premises. In his opening submissions the applicant spoke about his role in advocating for an increased police presence and spoke of the

success in getting visits to be approximately weekly. In later submissions the applicant spoke critically of the Police visits being weekly and described these as being a part of a witch hunt.

[144] We noted there is some Police evidence to show more monitoring for compliance of the Act is needed at the existing premises due to allegations regarding intoxicated people coming from the existing premises. We accept the applicant's submissions that he cannot directly control what happens in the surrounding streets and that several Police callouts recorded are near the premises but not in the premises. There does however, appear to be a higher level of Police callouts than what we have observed at other premises within the city centre. This is supported by Police submissions that they have observed a lower threshold for entry into the premises and the unusual nature of needing to have a metal detector at the door to prevent weapons being brought in. As stated in [2018]NZARLA273:

"Finally, in terms of the Police evidence of disorder within a one kilometre radius of the premises...there is no need when undertaking the risk assessment implicit in the evaluation of s105(1) criteria, to link specific alcohol-related harm to a specific licence, or 'for the premises to be at the centre of the harm'". The Committee finds the Police evidence does reflect negatively on the applicant's suitability and management of his existing premises.

[145] The Committee is concerned about the applicant's discernment with record keeping of incidents occurring. We noted contradictions in examples such as an incident where someone who was refused entry, returned with a weapon, and the applicant deeming this a police matter and not recording in an incident log, despite being very clear that violence inside the bar would be recorded. We suggest the applicant may like to explore further training in this area.

[146] The Committee finds there is insufficient evidence to meet section 105(1)(b) of the Act.

Availability of food within a reasonable time

[147] The Committee accepts that the applicant has given consideration to the provision of food by engaging with the nearby bakery and fish and chip shops. He has further outlined having frozen meals made offsite at The Royal available, along with various snack foods. We note the operating hours of both the bakery and takeaway shop do not match the proposed licensed hours; however the availability of frozen meals meets the requirement of the Act.

[148] The Committee finds there is clear evidence section 105(1)(f) has been met.

Whether the premises would primarily operate as a gambling venue

[149] We acknowledge the various objections that referenced the Palmerston North City Council's Class 4 Gambling Venue Policy 2023, taking the view the premises would not be eligible for a gaming licence under the sinking lid policy. No evidence was

presented by any party who had an in-depth knowledge of the policy, and the ruling falls outside of the Committee's scope.

[150] The Committee agrees with the concerns from the Licensing Inspector, Medical Officer of Health and various objectors, that the primary use of the premises appears to be a gambling venue. The size of the venue is not large and the applicant has been clear they intend to provide a pool table along with the 12 gaming machines currently on-site. We note there is very limited space left for patrons who are not engaging in gambling. The Committee believes the offering of an in-house menu of reheated frozen meals and snack food does not indicate patrons would frequent the premises for the food offerings alone, but rather their intention would be to use the gaming machines.

[151] The Committee finds there is sufficient evidence to demonstrate section 105(1)(g) of the Act has not been met.

Amenity and good order, including distance to sensitive sites

[152] The Committee finds the applicant has not demonstrated how the premises will not reduce amenity and good order of the locality, nor has he given serious consideration to nearby sensitive sites. It was clear from the applicant's own submissions and the evidence of objections that consideration of the locality was an afterthought.

[153] Under Section 106 of the Act, the Committee must evaluate whether a new licence would worsen the existing noise, nuisance, or vandalism in a community. If the Committee believes issuing a licence would negatively impact the area's amenity and good order, it can give that concern significant importance. The Committee finds the evidence from objectors, in particular from Julie, to be compelling in demonstrating the difference of an on-licence operating and the negative effect on local amenity, versus it being closed.

[154] It was clear to the Committee, the applicant made some attempts to contact nearby education facilities however, evidence presented by the tri-agencies and objectors shows significantly more sensitive sites within the locality, including a pharmacy with a methadone programme, providers of alcohol and drug addiction support services, drop in centres and social housing. It appeared the applicant knew little about these sites and therefore could not consider the impact the premises would have on nearby sensitive sites.

[155] The Committee finds there is sufficient evidence to demonstrate sections 105(1)(h) and 106 of the Act have not been met.

Locality of a vulnerable and high deprivation community

[156] The Committee finds the applicant appeared to have limited awareness of the level of deprivation surrounding the proposed premises. We accept the evidence in

Police submissions regarding deprivation in the locality (exhibit c & d) which shows the surrounding residential area is a high deprivation community.

[157] Furthermore, The Committee note within the Police evidence there is currently limited alcohol harm in the community surrounding the proposed area over the previous year, coinciding with the former premises being closed. The Committee accept the evidence from objectors living in the area who observed a decrease in community harm. While there is no direct evidence showing it is a result of the previous on-licence closing down, The Committee is required to consider whether the granting of a new on-licence will likely lead to alcohol related harm where one currently does not exist. On balance this would appear to likely be the case.

[158] The Committee accepts the submissions from the Medical Officer of Health and objectors who referenced the risk high deprivation has to alcohol related harm. We note there was a limited response from the applicant to indicate how he would minimise alcohol-related harm as per section 4 of the Act in this high deprivation area of the city.

[159] The Committee finds there is sufficient evidence to demonstrate section 105(1)(i) of the Act has not been met.

Appropriate systems and staff available

[160] The Committee finds the applicant generally has good systems in place with the exception of the applicant's judgement on the threshold of recording incidents. We heard evidence showing since the applicant engaged with an agent there have been improvements made regarding record keeping, training and compliance.

[161] The Committee agrees with the tri-agencies and objectors regarding the concern of staff availability and a sole-charge worker at the proposed premises. The applicant has submitted the staff he intends to use are trained in security however he also drew the Committee's attention to risks such as local gang members who lived close by, frequenting the premises and it being one of the last on-licensed bars 'on the way out of town'. Following the identification of these risks the applicant reiterated a strict policy and his facial recognition software as a plan to mitigate risk. There was no further detail provided on what the policy in question was. These two examples did not satisfy the Committee that the applicant had fully considered the implications of a sole-charge worker enacting such a policy.

[162] The Committee finds there is insufficient evidence to meet section 105(1)(j) of the Act.

Applicant's engagement with compliance visits and objectors

[163] The Committee finds there is clear evidence the applicant has a level of disregard for compliance. Whilst we accept the applicant may speak freely about whomever he wishes, the comments made regarding a Health Promotion Officer

were made in response to a compliance visit where he wasn't given satisfactory feedback. Additionally, the Committee noted the applicant's general attitude toward Licensing Inspectors was negative following monitoring, restating his view of the Inspector's report being untrue, and disregarding evidence associated with it. Furthermore, multiple requests were made to disregard the original Police submissions due to both timing and the author, a police officer the applicant described as "*on a witch hunt (against him)*".

[164] The Committee accepts the applicant's attempts to engage with objectors was genuine, though acknowledge it shouldn't have happened but did so due to the Council's error in releasing objectors contact information. We can see the attempts to engage with the Cancer Society in particular were confronting for the objector and not well received. The Committee finds it unfortunate the privacy breach occurred and was pleased to hear the applicant stopped attempts to contact when made aware of this.

[165] The Committee finds there is insufficient evidence to meet section 105(1)(k) of the Act.

Other matters raised

[166] The Committee acknowledge the applicant raised several times that he felt he was denied natural justice through the time it took from lodging the application to the hearing. Additionally, the applicant raised criticism with Licensing Inspectors and the Council's process in dealing with the Application. These matters are outside of the Committee's scope in considering the Application. We are confident the applicant had a fair level of participation in the hearing process.

[167] The applicant made several references to the former premises operations, making it clear to the Committee he believed he had a level of existing use rights, despite purchasing the business knowing it had an expired on-licence. The Committee finds the applicant has limited understanding of the changes implemented in the 2012 Act, which created a stricter licensing system, as stated when the bill was passed into legislation, where "licences will be harder to get and easier to lose." Contrary to the applicant's submissions, a licence is a privilege, not a right.

Decision

[168] Having considered the Application together with agency reports and written objections, together with the oral evidence and submissions received, The Committee believes the applicant has not presented sufficient evidence to grant the on-licence. The onus is on the applicant to prove its case and the Committee does not believe that has happened.

[169] We find the Application has not met the object of the Act, and are not satisfied that the matters to which it must have regard as set out in section 105 of the Act have been properly addressed and considered. The Committee has not been provided

with satisfactory evidence to demonstrate sections 105(1)(a), 105(1)(b), 105(1)(g), 105(1)(h), 105(1)(i), 105(1)(j), 105(1)(k), and 106 of the Act will be met.

[170] The On-Licence is declined.

Non-publication order

[171] The Chairperson directed the non-publication of the following, to the media:

- a. any staff member's names associated with the applicant's existing and proposed premises. This excludes the applicant.
- b. The names of the Committee members and Licensing Inspectors
- c. The location of the safe at the proposed premises
- d. Names and addresses of individuals mentioned in Police evidence
- e. The names of any submitters, unless they have given written consent to engage with the media.

DATED at Palmerston North this 15th day of September 2025



Aleisha Rutherford

Chairperson

Palmerston North District Licensing Committee



Chantelle Fraser-Clark

Committee Member

Palmerston North District Licensing Committee



Antonia Crisford

Committee Member

Palmerston North District Licensing Committee

