

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

**AND**

**IN THE MATTER** of an application by **KEYROUZ HOLDINGS LIMITED** at **107 LONGVIEW DRIVE, LAKE HĀWEA** pursuant to s.137 of the Act for an off-licence.

**BEFORE THE DISTRICT LICENSING COMMITTEE**

Chairman: Mr C Cooney  
Members: Mr JM Mann  
Mr LA Cocks

**HEARING** at WANAKA on 12<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup> November 2025

**APPEARANCES**

Mr JD Young – Lawyer for the Applicant  
Mr AB McKay – Applicant witness  
Mr GJ Hoar – Applicant witness  
Ms ME Given – Applicant witness  
Mr GW Christiansen – Applicant witness  
Mr M Butchard – Health New Zealand Te Whatu Ora Southern  
Miss AE Smyth – Health New Zealand Te Whatu Ora Southern  
Mrs SA Bekhuis-Pay – Health New Zealand Te Whatu Ora Southern  
Ms S Swinney – Queenstown Lakes District Council Chief Licensing Inspector – to assist  
Sergeant K Chirnside – Police – to assist  
Dr L Gordon – Lawyer for the Public Objector  
Ms LKR Riley – Public Objector

**RESERVED DECISION OF THE COMMITTEE**

**The Application**

1. This is an application by Keyrouz Holdings Limited (the Applicant) (KHL) lodged on 3<sup>rd</sup> April 2025 pursuant to s137 of the Act for an off licence in respect of premises proposed to be situated at 107 Longview Drive, Lake Hāwea to be known as 'Super Liquor Hāwea'. The licensed hours sought are Monday to Sunday from 9.00am to 9.00pm which have been approved in the resource consent and comply with national default hours at s.43(1)(b) of the Act.
2. Resource consent RM250132 was approved and issued on 8<sup>th</sup> May 2025 for the construction of the building over 300 sq/m, signage and transport breaches. The premises proposed location is within the Local Shopping Centre Zone (LSCZ) in

the new subdivision of Longview which is south of the Lake Hāwea township. Ten off-street carparks and bicycle parks will be provided plus short-term parking for up to four vehicles in front of the entrance for pick-ups. The proposed building will be single storey, with schist exterior cladding and a total footprint of 333 sq/m.

3. The application received a record high public objections for the district at 542, plus also for the first time submissions in support of an application. 525 submissions were made via a pre-formatted template (Cognito Forms).

### **The Applicant**

4. Mr John Young from Brookfield Lawyers represented the applicant and in summary emphasised the applicant's extensive experience, blemish free record, compliance with Crime Prevention Through Environmental Design (CPTED) principles, and provided evaluation of potential impacts on amenity and good order of the area. He concluded the application meets the s.105 of the Act criteria.
5. Mr Young also emphasised that neither the Inspector nor the Police oppose the application, and this is significant particularly in relation to suitability and amenity and good order impacts as it is generally accepted that Police is the lead agency in relation to amenity and good order. To support this, he referred us to the decision **Shady Lady Lighting Limited v Lower Hutt Liquormart Limited** NZARLA 198 (2 July 2018) in which the Medical Officer of Health (MOH) acknowledged the limitations on the contribution it could make to the amenity and good order evaluation as follows:

*“[96] Dr Stephen Geoffrey Palmer, is one of two medical officers of health for the Wellington region working within the alcohol portfolio with responsibilities under the Act. Dr Palmer gave evidence primarily relating to s.105(1)(a) (the object) of the Act. Dr Palmer considered that only a small set of health harm can be linked to problems associated with amenity and good order, and this is mostly exclusively confined to injury from assaults.”*

6. Evaluation by the applicant of the impacts highlighted the absence of a bottle store in this Lake Hāwea locality, KHL's commitment to and how it would maintain and potentially enhance the amenity and good order of the locality, and sensitive sights noting the land is zoned 'Local Shopping Centre'. Mr Young concluded the locality is not considered high risk or vulnerable (in alcohol harm sense), and the locality is not badly affected by existing licences.
7. Mr Young addressed aspects of the Inspector's report noting suitability of the applicant is not in question, the hours are in accordance with the resource consent, there were no issues with the design and layout of the proposed premises, and the 'supervised' designation is appropriate.
8. With regard to the objections, Mr Young set out the objections and pointed out that the vast majority were pre-formatted and repetitive, and this made it difficult to distil precise and site-specific issues. There were concerns raised about sensitive sites, for which the Applicant has specifically addressed in its application, but another issue of concern for the submitters was KHL's lack of engagement with the

community. It was suggested that this has led to an inadequate assessment of the locality, as no local knowledge was factored into the assessment, and as such, the effects of the licence on the amenity of the location have not been fully considered.

9. In response to the criticism of the lack of community engagement and the seeking of local knowledge, Mr Young noted KHL and its staff have vast experience in the district and in Wanaka and referred to relevant case law on community engagement. In particular **Hunter Grocer Limited v Waikato District Council** [2025] NZARLA 167:

*"[28] Furthermore, we do not accept the specific complaint made by Mr Hewitson that Ms Martelli had made no attempt to engage with the community before the application was made. There is no requirement, or even an expectation, that an intending applicant for a licence engage with the local community before the application is made. The purpose of the requirement to give public notification of the application is to provide the local community with the opportunity to respond to it including by way of formal objection."*

10. Mr Young also highlighted the Authority has expressed significant concerns about template objections. In **Hendry v Tanishanaya Holding Limited** [2025] NZARLA 181, the Authority commented:

*"[103] ... That is particularly so because the Amendment Act appears to have generated the increased use of pro forma/tick box objections prepared by a group(s) potentially with their own agendas. Such objections suffer from lack of author authenticity and are likely to carry less weight...."*

11. Mr Young submitted that the Authority's comments about a 'lack of author authenticity' are irrefutable and although some objectors have taken umbrage to these references as belittling the template objections, it is the current law, irrespective of whether a particular party likes it or not.
12. Mr Young considered the MOH reporting problematic because the first report stated a report could not be completed as the premises was not built and a further report appeared to be prompted by public objections. He expressed concern the report repeated themes from the objections and references to high level academic studies as the basis for opposition rather than evaluating and presenting health data for this particular locality.
13. The concept of proliferation as introduced at s.106(1)(a)(iii) of the Act was addressed in some detail by Mr Young who submitted that this is not considered a statutory criterion nor a ground for objection. He referred to **Gisborne Liquormart Limited v Ka Pai Kaiti Trust** [2018] NZARLA 316, where the Authority commented that proliferation, is not, in itself, a ground for objection:

*"[89] 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.”*

14. With regard to the object of the Act, Mr Young emphasised the Act is not a prohibition statute and the goal is to minimise harm, not eliminate it as was the reasoning of some objectors (e.g. MoH, Dr Morris, Ms McHolm) who (in Mr Young's opinion) clearly revealed a prohibitionist stance. Mr Young went on to state that he relied on a decision of the High Court in **Auckland Medical Officer of Health v Birthcare Auckland Limited** [2015] NZHC 2689 where Moore J stated:

*[116] The Act's new system is intended to be reasonable. This means some sense of proportionality must characterise its operation. This principle is reflected in the way evidence is received by the Authority. The evaluative exercise requires the Authority to consider the pool of evidence available to it against the criteria and the Act's object. In this case it included Birthcare's statements about how the sale of alcohol operated, the limits on consumption and the modest levels of sale. It also included evidence on how Birthcare had operated its licence in the past. The MOH's evidence formed part of that available pool.*

*[117] Taking the criteria and statutory object into account the Authority's decisions to renew Birthcare's licence was entirely reasonable. Given Birthcare's operation the risk of harm was minimised albeit not eliminated.”*

15. Mr Young further submitted that it is the prospective risk of harm arising from the specific application that is to be evaluated by the Committee and contextual matters, such as the locality are relevant. However, the more general concerns about the harm that alcohol can cause society are not relevant as they invoke broader policy considerations that are the domain of Local Government when producing Local Alcohol Policies (LAPs) and Central Government through legislation.

16. Following on from this, Mr Young submitted that generalised evidence would not establish a 'real' risk of harm and much of the objector's evidence was mere speculation with no reference to incidents occurring elsewhere that corroborated their assertions. To support this, Mr Young referred to a new off licence application where the Authority in **Townill Limited – Thirsty Liquor Amberley v Alcohol Wise Hurunui Incorporated** [2021] NZARLA 50 commented:

*[198] 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.

[199] 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.

[200] ...

[201] ...

[202] While objectors may feel they ought not to have to be exposed to any risk of alcohol-related harm, the Act seeks to strike a balance through the requirement to consider the criteria in s 105, shored up by there being no presumption in favour of renewal of the licence after the first probationary year, or thereafter. Any future harm, should it ensue, is able to be, and ought to be, addressed on renewal.

[203] When a locality has high values of amenity and good order that is, when a locality is pleasant and agreeable, a community is entitled maintain that position and the scheme of the Act provides for this. At the same time the Act recognises that once that amenity and good order is gone, it is much harder to restore and it is for this purpose that regular renewals are required. But the risk must be real.

[204] In the present case, the risk is low and effectively amounts to a mere concern that things might deteriorate in the future. In the absence of a provision in the LAP restricting the location of licensed premises relative to certain types of facilities, or restricting the density of licensed premises (again noting that there is no density issue in Amberley), it would not be reasonable to refuse an application which meets the criteria in s 105 when the amenity and good order of the locality is unlikely to be impacted to more than a minor extent by the issue of the licence.”

17. Mr Young reminded us that s.105(1)(h) requires the Committee to reach an opinion as to whether a reduction in the amenity and good order of the locality “would be likely” if the licence were issued and this is a matter of judgement based on the facts at hand and there is no onus of proof on an applicant, supported in **Re Venus NZ Ltd** [2015] NZHC 1377 at [53] where Heath J stated:

*“It seems to me that the question whether amenity and good order will not be materially reduced is one on which a judgment must be formed by the Authority, on the facts of a specific case, as opposed to something that an applicant is required to prove on a balance of probabilities. The difficulties inherent in proving a negative support that view.”*

18. The reliance on academic studies and national trends was countered by Mr Young as a generalised approach to harm minimisation (or effectively harm elimination) which has been rejected by the Authority in the context of Local Alcohol Policy

(LAP) appeals as outlined in **Super Liquor Holdings Limited v Wellington City Council** [2015] NZARLA 28 at [45]:

*[45] The difficulty with Professor Caswell's evidence is that it has little relevance to the Wellington position. Whilst it is of general interest in an international and national sense, it does little to assist the Authority in determining whether a provision in the PLAP permitting Wellington on-licences to trade until 5.00 am is unreasonable in the light of the object of the Act. Likewise, it does little to assist in determining if off-licences being permitted to close in Wellington at 11.00 pm is unreasonable in the light of the object of the Act. Her evidence was that the research shows that a reduction in the availability of alcohol through a reduction in trading hours will result in a decrease in alcohol-related harm. Probably it would; notwithstanding the flawed data as suggested by Dr Crampton. However, the same could be said for all PLAPs across the country. The Authority is not dealing here with national trends (which is the province of the legislation) but with the specific alcohol-related problems associated with Wellington City. In that context, Professor Casswell's evidence was of minimal value. Professor Casswell did note that the availability theory was more obviously applicable to the on -licence appeal than the off-licence appeal."*

19. Mr Young concluded that such high-level evidence is of even less assistance when considering a site-specific application, and if accepted as relevant or persuasive, no licences would ever be issued.
20. In support of the application Mr Young called on Mr Glen Christiansen (Group CEO), Mr Alan McKay (Director of KHL), Ms Michelle Given (Operations Manager), and Mr Greg Hoar (National Operations Manager).
21. Mr Christiansen will oversee the operation of the premises to be known as 'Super Liquor Hāwea'. He told us he has established extensive and ongoing community engagement across the wider Upper Clutha area and has researched deprivation data throughout the region. It was his observation that in areas with higher deprivation he has not experienced the issues as raised by the objectors. He provided details of how Hāwea South was developed under the Housing Accords and Special Housing Areas (SHA) Act 2013 to facilitate housing affordability and the premises is part of this SHA consent. He emphasised the point that the housing is not emergency or social housing and it is inaccurate to say the SHA will attract vulnerable people.
22. With regard to being located near sensitive sites, Mr Christiansen explained this has not caused issues near other similar stores. Local examples of this include the Wanaka store being next to a church, Remarkables Park next to a gym and the Alexandra store located next to a park. He described how this may be the first commercial building in this area and in time will be completely circled by one to two story commercial buildings. He confirmed the building would be high-quality with schist exterior cladding; there would be no 'drive-through' service, but there was a covered area near the proposed entrance to provide shelter for customers during inclement weather.

23. Mr Christiansen provided responses to address other issues raised by objectors including staffing, alcohol availability, litter, medical services, alternative community needs, demographics, and traffic and safety concerns. Finally, he confirmed that generally there would be two staff on duty and up to three during peak periods, and he offered conditions removing single sales of mainstream beers and RTDs, not allowing alcohol signs in the windows, and a commitment to monitor immediate areas of the stores.

24. Mr McKay described his working relationship with Mr Christiansen and Ms Given over the past twenty years and emphasised that he had a very experienced team. Based on his experience in business and land development, his view was the Super Liquor store would be the catalyst for other development in this commercial zoned area.

25. In relation to the sale and purchase agreement, Mr McKay clarified that it was contingent on obtaining a license and if the application was granted, KHL was committed to proceeding with building the premises as proposed.

26. Ms Given told us she was confident there would be adequate and qualified staff to run the Hāwea store and outlined the training using online courses and encouragement given to employees to get them to duty manager status.

27. Mr Hoar explained the Super Liquor support office role which included auditing stores and ensuring compliance with the Act. He confirmed there would be no brand or price advertising on the exterior of the premises and although Super Liquor seeks to be competitive, it does not seek to be cheapest.

**The Medical Officer of Health (MOH)**

28. On the 1<sup>st</sup> of May 2025 Ms Stephanie Bekhuis-Pay (Health Promotion Officer) lodged an 'Interim Opposition' on behalf of the MOH, not pertaining to any sections of the Act but advised:

*"The applicant is awaiting the outcome of a resource consent application for the proposed premises. As a result, there is currently no building work that has been undertaken. I am therefore unable to complete our enquiry into this application on behalf of the Medical Officer of Health.*

*When the building for the proposed premises is in a state that can be inspected, a site visit will be arranged, and a further full report will be submitted to the Committee.*

*The application is opposed."*

29. Further to this 'Interim Opposition', on 19<sup>th</sup> June 2025, Ms Bekhuis-Pay lodged a full opposition report relating to s.105(1)(a),(b),(e),(h),(j),(k) and s.106(1)(a) & (b) of the Act. She explained the change from an interim to full report as follows:

*"We have since become aware of a large number of objections to the application and have formed the opinion it is in the best interests of all parties*

*to file our full report in advance of being able to complete this usual enquiry process.”*

30. Ms Bekhuis-Pay did not provide evidence at the hearing, so no justification or reasoning was given for the reports in opposition she had prepared. Instead, MOH Doctor Michael Butchard, submitted that he opposed the application largely due to the nature and locality of the proposed site for the premises and the increased likelihood of alcohol-related harm occurring. He had additional concerns about the application as follows:

- i. It did not achieve the statutory object of the Act;
- ii. The applicant appears to have insufficient knowledge of the locality with regards to sensitive sites and how risk will be mitigated;
- iii. It will likely reduce the amenity and good order of the locality to more than a minor extent; and
- iv. It will not achieve the purpose of the Act.

31. Doctor Butchard referred to the Law Commission Report NZLC-R114 highlighting that alcohol is no ordinary commodity and the trend towards regarding alcohol as a normal food or beverage product needs to be reversed. He went on to outline that the decision maker must make a merit-based determination on the application, and not all matters have to be weighed evenly and provided case law to assist with this determination.

32. Doctor Butchard submitted granting the application would be contrary to the object of the Act because it would increase the availability of alcohol in a rural township already served by three off licensed premises. Based on the community having approximately 2340 residents and approximately 1725 being of the current legal age to purchase alcohol, he equated a fourth off licence would provide a density of 1 per 432 people, which is high by national standards. Doctor Butchard concluded that increasing the number of outlets in Lake Hāwea is likely to increase consumption and alcohol related harm, particularly among vulnerable groups. Data was provided from local survey and regional statistics to support his view of vulnerability.

33. Doctor Butchard did accept that Hāwea was not deprived but highlighted social demographics and limited access to health care services, combined with youth binge drinking and likely episodic alcohol consumption in the area as likely to contribute to alcohol related harm within the community. He also raised concerns there would be an increase in volume and spread of alcohol, tobacco and vape related litter and the proximity of the premises to sensitive sites would undermine the amenity of the area. Questions were also raised regarding level of staffing, how adverse effects on the surrounding area will be mitigated, and knowledge of sensitive sites.

34. Doctor Butchard criticised the design and layout of the proposed premises in the application as it did not show product placement, floor space for various products, visibility of advertising, and where the point of sale will be located. He also asserted that s.100(f) has not been complied with as there is no evidence of the premises complying with the building code.

35. Ms Alannah Smyth, Health Promotion Officer for MOH provided evidence of her site visits to areas in Lake Hāwea (including Peter Fraser Park, the Lake Hāwea Community Centre, playgrounds at Hāwea and Longview, Scotts Beach recreation area) and had not observed any persons drinking or creating alcohol related litter. She did notice cans and bottles on Cemetery Road near the Longview subdivision and on nearby tracks. Ms Smyth also visited the school bus drop off near the applicant's proposed site and observed children walking home from the bus, some unaccompanied by parents. She deduced this indicated there is a feeling of safety in the community.

### **The Police**

36. Sergeant Chirnside did not oppose the application and advised the Police actively patrol the whole of the area including Hāwea and response times to any location will depend on the whereabouts of the Police at the time of a call/request.

### **The Licensing Inspector**

37. Ms Sian Swinney, the Chief Licensing Inspector, provided a summary of the application and advised it was a first for the Queenstown Lakes District Licensing Inspectorate, agency partners and the District Licensing Committee (DLC) in that the application received the highest number of public objections (538) that any one application has ever received in this District and it is the first time there have been submissions received in support of an application being approved.

38. Details of KHL were provided by Ms Swinney including its directorship and shareholdings. KHL is the sole shareholder of 'The Gate Limited' (TGL) which holds the off licences for Super Liquor stores at Alexandra, Lorneville, Cromwell, Remarkables Park, and Wanaka. TGL also holds on and off licences for 'The Gate' premises in Cromwell. Ms Swinney highlighted the four directors for TGL are the same four directors for the applicant company.

39. Ms Swinney reported the applicant's suitability is not in question given it has been operating a number of licensed premises in the Otago and Southland regions for many years and only one of those premises has failed a Controlled Purchase Operation (CPO) some nine years ago, which indicates the systems and training the company has in place at its premises are robust, well managed, and the staff are trained well and frequently.

40. Four off licences already issued for premises in Lake Hāwea were detailed by Ms Swinney as follows:

- i. Lake Hāwea Hotel – Hotel off licence - Monday to Sunday 7.00am to 11.00pm;
- ii. The Camp – Lake Hāwea – Hotel (Campground) off licence – Monday to Sunday 8.00am to 8.00pm;
- iii. On The Spot Hāwea Store and Kitchen – Grocery Store off licence – Monday to Sunday 8.00am to 10.00pm; and
- iv. Fresh Choice Lake Hāwea – Grocery Store off licence – Monday to Sunday 7.00am to 10.00pm.

41. Ms Swinney highlighted that of these off licences, currently only the Lake Hāwea Hotel sells spirits and RTDs.

42. Comprehensive details of CPTED as provided by the applicant were reported by Ms Swinney, including lighting, CCTV (internal & external), internal layout, bollards in front of main entrance and alarm systems.

43. In consideration of the effects on amenity and good order of locality, Ms Swinney advised that the premises would be located in the centre of the LSCZ and approximately ninety-five metres from the closest residential property. There are no childcare or school facilities currently within a 500m radius but other sensitive activities include a playground, public toilets and a proposed church, a possible childcare centre at the southern end of the LSCZ furthest from the proposed Super Liquor site, and a school bus pick up and drop off nearby on the other side of the road.

44. Ms Swinney provided the deprivation score (NZ2023) for the site as '1' out of 10 which is the least deprived rating. Ms Swinney continued that the current population of Lake Hāwea is 2,340 and projected to grow to over 6,100 residents over the next thirty years.

45. The genesis of the Longview Development was explained by Ms Swinney as an 'Approved Special Housing Area' enabling development to be fast tracked to enhance housing affordability. Under this Special Housing decision SH190005 a childcare centre and commercial building which would house a café and two commercial spaces on the ground floor with two separate office spaces upstairs, were approved to be located beside the playground and proposed church. No consents have been lodged for the construction of these facilities as yet and no other resource or building consents have been lodged for any other retail or commercial activities within the LSCZ.

46. In relation to noise, Ms Swinney did not anticipate any issues from the proposed premises and continued that although it may add to traffic movements, this would be expected with development in and around this LSCZ. Ms Swinney did not highlight any issues or concerns with the Systems, Staff and Training as detailed by the applicant in the application.

47. As another matter, Ms Swinney addressed the issue of compliance with s.100(f) of the Act which had been raised by the MOH and Objectors. Section 100(f) of the Act states:

*'except in the case of an application relating to a conveyance, must be accompanied by a certificate by the territorial authority that the proposed use of the premises meets requirements of the Resource Management Act 1991 and of the building code.'*

48. Ms Swinney reported the planning portion of the certification had been signed by a QLDC planner on 7<sup>th</sup> July 2024 and the building portion of the certification was signed by QLDC Team Leader Inspections on 3<sup>rd</sup> July 2025 with the comment 'No building consent applied for this building yet.' In response to the question of the

legality of the application without an accompanying building consent certificate, Ms Swinney provided the following guidance from Westlaw:

*'SA100.03 Natural and Built Environment Act and Building Code certificates/approvals.*

*A strict reading of s 100(f) would suggest that the application cannot be filed unless it is accompanied by the certificates confirming compliance with the Natural and Built Environment Act 2023 and the Building Code. However, in *Re NZ LNZ Ltd [2014] NZARLA 229*, one of its last decisions made under the former Act, the Authority held at [4]:*

*"[b] The application was not complete. It failed to comply with s 9(1)(e) [the predecessor of the present s 100(f)] of the Sale of Liquor Act 1989 as at the time of filing there was no certificate by the Local Authority that the proposed use of the premises met the requirements of the Building Code. Technically, therefore, it was not an application. Nevertheless, this situation frequently arises and the Authority considers that it was correct to treat the application as a valid application, merely noting that before any licence could issue an appropriate Building Certificate would be required. The Authority appreciates that s 9(1)(e) is impractical as frequently an applicant is not prepared to complete a building until it knows whether or not a licence will be granted. Plainly the situation qualifies for a waiver in terms of s 111 of the Act."*

*Licensing committees and the Licensing Authority do not have jurisdiction to go behind a certificate issued by a territorial authority and examine its validity. Objectors or others wishing to challenge the validity of this certificate or certificates are required to pursue those issues under the Natural and Built Environment Act or the Building Act 1991.'*

49. Mr Young also addressed this in his closing submission and emphasised that 'Re NZ LNZ Ltd' remains good law and a waiver of the requirement to include a building code certificate should be issued, and the application could be granted with a statement the licence shall not be issued until the building certificate is issued. He went on to respond to assertions that the 'Design and Layout' of the premises cannot be assessed on the available information by submitting the design and layout of a bottle store is largely formulaic and in this case is clearly shown in the plan at page eight of the Inspector's report.

50. The Inspector provided a comprehensive report of Objectors which is covered below. Ms Swinney also provided information on two emails in support of the application with reasons for support being:

- i. The store would be another step to building this community that is quickly growing;
- ii. Will provide more job opportunities for locals;
- iii. Will increase work ethic and life education for young adults;
- iv. Annoyed that a small group of individuals are vocally opposing this application; and

v. Most of my friends are really happy we are getting a new off licence store in the village. We currently cannot purchase spirits unless we are in Wanaka or Albert Town and I'm all for us having that choice walking distance from home.

### **Objectors**

51. 542 public objections were received and of these 525 were submitted using an online form created through a website platform called 'Cognito Forms' which enables users to create template public objection forms and share them via emails, and social media. For this application a group called 'Communities Against Alcohol Harm' (CAAH) created a Cognito form public objection template with a link to the application public notice and to a redacted version of the off-licence application. The template form provided nineteen 'Concerns' for people to consider and select if they supported the particular concerns and invited comments and asked what their association was with Lake Hāwea. None of the concerns listed made reference to any specific sections of the Act.

52. Doctor Liz Gordon (Barrister) submitted on behalf of Ms Lisa Riley (Objector) who lives within two hundred metres of the proposed premises and her witness Mr Darren Rewi who is mana whenua with deep involvement in social and environmental issues in the area. Doctor Gordon stated the application is opposed on the grounds of a lack of suitability of the applicant, a likely decrease in the amenity and good order of the area, and an inability to meet the purpose and object of the Act.

53. Doctor Gordon submitted that as the application was not accompanied by the building code certification it should not succeed. She stated s.100(f) of the Act is absolutely clear and that an application 'must be accompanied' by the certificates but it is occasionally interpreted wrongly as being that building code compliance must be achieved before the issue of a licence (e.g. **Big Barrel** 2013 NZARLA 256), in her view. Finally, she submitted we cannot have regard to the layout and design criteria when there is only bare land.

54. With regard to suitability, amenity and good order, Doctor Gordon submitted there is a large gap between the applicant's perception of the vulnerability of the area than that of the objectors and MOH and based on assumptions and indications of what is currently happening in the area, the proposed Super Liquor store will make it worse. The closeness of the store to the residential zone was also considered unacceptable.

55. Ms Riley contended that the criticism of the proforma/tick box objections was not relevant in this case as it was in line with how many organisations facilitate and encourage the gathering of local submissions. She went on to highlight the large number of objectors and the number of objectors (twenty-eight) who appeared and gave evidence at the hearing and referred us to a decision of the Rotorua DLC regarding weight to be put on evidence. In the decision ALOFF24-010036 for a new off-licence application by **Sethi Group of Companies Limited**, Ms Riley highlighted the Rotorua DLCs following comments:

*“[132] Greater weight is placed on the evidence of objectors with links to the locality, who appeared in person and whose evidence was able to be tested through questioning by the Committee. By contrast, written submissions alone, while relevant, carry limited weight individually.*

*[133] That said, weight can still be attributed to the Jotform submissions collectively. The sheer number of objections demonstrates the depth of community concern, while the diversity of objectors and consistency of themes reflect a broad awareness of the effects of alcohol-related harm on communities, whanau, and individuals. Taken together, these submissions provide insight into the strength and breadth of community opposition, even if individually they do not carry the same evidential weight as oral evidence.”*

56. Ms Riley continued that it was her view the strong weight of evidence whilst noting the purpose in s.3(1) of the Act is ‘for the benefit of the community as a whole’, should persuade us to decline the licence.
57. The applicant was considered unsuitable by Ms Riley for a number of reasons ranging from incorrect assessment of risks, failure to consult locals, failure to recognise alcohol harm, proposed staffing, attempts to normalise the licence and make it appear routine, and one failed CPO.
58. With regard to amenity and good order of the area, Ms Riley believed the area is already affected by alcohol-related harm and a liquor store in the proposed location will reduce it further. She spoke of existing issues including proximity to houses, number of children, vulnerable families, lack of local resources, rubbish, and incompatibility with future land use e.g. residential development, and the upcoming build of medical, educational and church facilities.
59. Ms Riley finally submitted that the object of the Act could not be achieved by the grant of this licence due to the proposed staffing levels being unable to conduct the safe and responsible sale of alcohol. In addition, a large new bottle store in a very prominent location in a brand new, high density residential area will significantly increase the community’s exposure to alcohol related harm.
60. Mr Rewi gave evidence of his role dealing with issues in the Māori community and had dealt with some in this area. He told us he was not against business growth, but he preferred businesses that do not attract alcoholism. His concern for Longview as a provider of ‘social housing’ becoming a magnet for socially deprived or vulnerable families was tempered when he was advised and accepted that Longview does not have ‘social housing’.

#### **The Committee’s Decision and Reasons**

61. The Committee acknowledges the large amount of time and effort that has gone into this application by all parties involved. The application is unique in this District as it is for a premises that has not yet been built in a LSCZ in a greenfield residential subdivision. The applicant is also the first business to apply for a consent although as reported by the Inspector, under the Special Housing decision SH190005 for this subdivision, a childcare centre and commercial building with a café and two

commercial spaces were approved to be located beside the playground and proposed church. Other commercial activities are anticipated in the LSCZ which surrounds the proposed Super Liquor premises.

62. With regard to the challenge by the MOH and some objectors to the application not complying with s.100(f) of the Act, we are comfortable that the case law provided by the Applicant and Inspector enables us to consider the application and if approved, the licence would not be issued until Building Certification is received. We accept that this is a pragmatic approach, but is supported by relevant caselaw, and we agree with the Applicant that it would have been impractical to build a premises without knowing whether it can be used for the purpose for which it is being built.
63. We acknowledge the large number of submissions objecting to this application and accept that collectively they reflect the concern by many in the community. The majority of the submissions were made via the Cognito public objection template created by CAAH and we are guided by the comments made by NZARLA In **Hendry v Tanishanaya Holding Limited** [2025] NZARLA 181, to put less weight on these submissions. The Authority commented: '*Such objections suffer from lack of author authenticity and are likely to carry less weight.*'
64. Furthermore, as the objections were pre-formatted with no reference to the criteria at s.105 and s.106 of the Act, and did not address site-specific issues, we found the evidential value of these submissions to be low – for example, there was limited if any tangible evidence to support the assumptions made, and conclusions arrived at, in the collective submissions.
65. Twenty-eight objectors and witnesses appeared at the hearing and gave evidence. Much of the evidence presented was repetitive in the sense it focused on similar issues, and we have addressed the key issues under the relevant criteria below, rather than referring to individual speaker's evidence.
66. The MOH and several objectors referred to International and National studies to show the harm and effects of alcohol. These are not dismissed, but we consider that while these are relevant to shaping national policies and legislation, they do not specifically relate to the application before the Committee – particularly in terms of whether the application meets the purpose and objectives of the Act. Of note was the recent international statistic presented by one objector showing there is a massive decrease in alcohol consumption, especially by younger people. Again, while of interest, these studies were not presented by the writer, nor were they prepared for the purpose of this application. The Committee must be guided by what is before it, and the evidence at the hearing (which must be weighted accordingly) to make a proper assessment of this application in accordance with the requirements under the Act.
67. We were particularly interested in the MOH opposition and expected more specific and expert evidence and reasoning to support the proposition that this particular application would present a real risk of generalised harm occurring. No evidence was provided to show an increase in alcohol related harm or a deterioration of

amenity including litter, loitering or anti-social behaviour near other off licence premises in the area.

68. To the contrary, Ms Smyth provided evidence that this is not the case near the relatively new FreshChoice off licence in Lake Hāwea, which is adjacent to a school bus pickup/drop off point and 100m from a playground.
69. A lack of medical services raised by the MOH and other objectors as posing a significant public health risk with an additional off licence brings into question why this was not considered a risk when FreshChoice made its application in August 2024 for an off licence? Or if it was considered but it was concluded this was not a risk factor there, why is it for this application?
70. The analysis and statistics relied on for this opposition should have also applied when assessing the FreshChoice application. In response to our question as to what the tipping point is for MOH opposition, we were told '*that each application is considered on its own merit*'. This is all very well, but the analysis should accord with the relevant provisions of the Act.
71. We did not consider the MOH's inconsistent approach to be very helpful particularly as no evidence was provided to support the MOH assumptions that delayed or unmet care creates a greater risk of alcohol related harm in KHL's application, and we consider the risk less than significant. Further, with a medical centre proposed in the resource consent for redevelopment of the Hāwea Store and Kitchen site, the risk (if any) will be mitigated further.
72. In addition to our site visits to the Longview subdivision and its LSCZ area, we also had a good look around the existing Lake Hāwea LSCZ, and the Albert Town LSCZ. As these two developed LSCZs both have three off licence premises within them and residential development surrounding them, we were keen to see if any of the concerns raised by the MOH and other objectors regarding amenity and good order were evident in these areas.
73. We found that there was no evidence of alcohol related litter, loitering or anti-social behaviour, and this appeared to confirm the evidence provided by Ms Smyth for the MOH. We also looked at the 'sensitive' sites in these areas including school bus stops and a playground, and there was no evidence of a reduced use of nearby public spaces due to safety concerns, or that the presence of off-licences has resulted in an increase in alcohol related harm.
74. The criteria that we must have regard to when considering an application for an off licence are set out in s.105(1) and s.106(1) of the Act as follows:

**a. S.105(1)(a) - The object of the Act:**

- i. We are satisfied the applicant's proposed staffing and systems based on considerable experience operating similar stores, will ensure the sale and supply of alcohol will be undertaken safely and responsibly. This applicant is not a sole trader with limited resources, rather it is a well-established organisation with a significant support structure.

Some objectors disagreed but did not provide evidence to counter this other than one CPO failure.

- ii. We accept that satisfying the second limb of the Object is more difficult. We heard objectors talk of existing alcohol related harm in the area and this was supported by retired medical professionals and others who provide care services to the community. Some objectors classified the Longview community vulnerable because it is new with greater numbers of young people, whereas one said it was a robust community. Overall, the evidence from submitters suggests that the community is made up of people with ordinary concerns including high mortgages, young children, no families in the immediate area – but there was nothing further to suggest that these factors, in and of themselves, make the community more vulnerable than the average community, or not to the extent that the Committee should weight these matters more highly than it ought in the scheme of things. We accept this is a new subdivision with a younger population, but that in itself does not support the view that the community is more vulnerable. When the Committee asked about this, the submitters had little more to add on the matter. We find it relevant that the Lake Hāwea community (including Longview residents) did not object to the FreshChoice off licence, and there was no evidence provided to show that there had been an increase in alcohol related harm after that licence was issued.
- iii. We are confronted with a situation where the majority of the objectors focused on the risk of alcohol to general society rather than pinpointing specific evidence to show that this application will inevitably increase the harm caused by excessive or inappropriate consumption of alcohol. Based on the evidence presented and noting the Act is not a prohibition statute (i.e. the goal is to minimise harm, not eliminate it), we have reasonably assessed the prospective risk of alcohol harm specific to this application to be minimal.

**b. S.105(1)(b) - The suitability of the Applicant:**

- i. The suitability of an applicant is a mandatory consideration for the Committee and must be assessed by considering a variety of factors, including: business or industry knowledge to effectively operate a licensed premises, recent experience in the industry, criminal history, association with undesirable people, or previous behaviour relating to the sale of alcohol.
- ii. The Inspector provided the Committee with a report setting out the suitability of KHL to hold a licence and in particular, it detailed the successful operation, over many years, of several licensed premises in the region, mostly without incident.
- iii. In considering the suitability of KHL, the Committee is required to take a holistic view of the applicant both in terms of the statutory requirements, and the factual considerations; in doing so, it should

consider the suitability of the applicant “*through a wide lens, considering character, reputation, past and proposed conduct, engagement with community and vulnerability issues, ability to minimise harm, and compliance history*”.

- iv. While the objectors have pointed to failures of KHL to properly assess the location in terms of vulnerability, and in its engagement with the community (both factors for consideration), we find these are matters for us to consider, but are not the overriding factors, and must be weighed accordingly.
- v. In terms of vulnerability, the application addresses the areas adequately, as such the Committee does not find the location vulnerable beyond that of the ordinary community as the evidence does not lead us to any other conclusion. While there has been much concern about KHL’s application from the community, this should not lead the Committee to accept that KHL is an unsuitable entity to hold a licence, when we weigh this up against other relevant criteria, which we must do.
- vi. Some objectors considered the applicant unsuitable because of failure to: identify sensitive sites, assess risks, recognise alcohol harm, provide adequate staff, and it normalised alcohol and failed one CPO. These issues will be addressed below.
- vii. We recognise that applicant is not a sole trader and has significant resources to call on to ensure the licensed premises is operated effectively, as is the case for its other stores.
- viii. Weighing up the criteria, evidence of the applicant, submitters, and the reporting bodies views on these matters, the Committee finds that the Applicant is a suitable person to hold a licence.

**c. S.105(1)(c) – Relevant Local Alcohol Policy:**

- i. The Queenstown Lakes District does not have a Local Alcohol Policy.

**d. S.105(1)(d) – Proposed Days and Hours:**

- i. The hours sought by the applicant (*Monday to Sunday from 9.00am to 9.00pm*) have been approved under condition 7 of the resource consent and comply with the national default hours set out in s.43(1)(b) of the Act relating to off licence premises. We support the Inspector’s assessment that these hours are reasonable, considering they are maximum hours and not necessarily the hours the store will be open.

**e. S.105(1)(e) - Design and Layout of any Proposed Premises:**

- i. The premises is proposed to be located within the LCSZ zoned area in the new subdivision of Longview at Lake Hāwea. We do not agree the assertion made by the MOH and objectors that the design and

layout of the premises cannot be assessed on the available information or because the premises has not yet been built.

- ii. As highlighted by the applicant, the design and layout of a bottle store is largely formulaic (unlike an on-licence premises) and the plans provided show this along with the building materials, glazing and signage. Based on this, and a visit to other Super Liquor stores in the area, we are satisfied the design and layout of the proposed premises is satisfactory.

**f. S.105(1)(f) and (g) – Provision and Sale of Other Goods and Services:**

- i. Non-alcoholic mixers, food items, ice, cigarettes and tobacco, vape products, and other merchandise will be sold in addition to alcohol.

**g. S.105(1)(h) and (i), and s.106(1) – Amenity and Good Order of the Locality and Consideration of Effects:**

- i. Many of the objectors raised issues relating to the amenity and good order of the locality, in particular its prominent location, traffic generation, noise, signage, litter, and the number of other off licensed premises in the area.
- ii. Putting the proposed location for the premises into perspective, it is in the internal section of the LSCZ surrounded by residential development which is not unusual. Because it is the first commercial building to get a consent in this zone, many are concerned it will dominate the area. As it is inevitable this zone will eventually fill up with commercial buildings, we are comfortable the prominence of this proposed premise will reduce over time, and in line with the development of the zone.
- iii. Traffic movements in and around this commercial zone will increase as businesses become established. The applicant is providing ten off street carparks and another four for short term parking which will reduce on-street parking near the premises. We accept there will be increased interaction between vehicles and pedestrians in this zone, but this will not be unique to this development.
- iv. The resource consent sets noise limits, and we have no evidence to suggest that the proposed business will generate unacceptable noise. The KHL application has considered these effects, and we accept the assessment given there was no expert evidence to suggest otherwise. Further, there was no evidence presented to support the view that KHL's other stores suffer from nuisance behaviour and vandalism, or any other amenity impacts as a result of the sale and supply of alcohol, and there is no evidence to counter the Inspector's report and conclusions that this same standard will not be maintained at the proposed site.

- v. Some objectors raised concerns that the visibility of the external 'Super Liquor' signage will contribute to 'normalising' alcohol in young people's minds. Signage on the exterior of the building and fence that would be seen by people walking down the street and from the school bus pick up/drop off point and playground has now been removed from the plan by the applicant. The applicant also confirmed there would be no brand or price advertising on the exterior of the premises. Considering these changes in response to concerns raised will mitigate the concerns expressed by the community and we accept that the new proposed signage is reasonable and takes into account the views of the community.
- vi. Several objectors gave evidence of a large amount of glass litter along Cemetery Road and nearby tracks but could not provide evidence of the source of the litter - other than it had been deposited there by unknown people, who have behaved badly. The litter cannot be sheeted back to any premises, let alone a licensed one. The MOH witness did give evidence that there was no such litter in the Lake Hāwea township area or down on the lake front. Considering these areas are near the existing off licensed premises, there is no evidentiary foundation for the suggestion that granting this licence will increase the litter problem.
- vii. It was argued by several objectors that four existing off licence premises in Lake Hāwea are enough. The Act does not stipulate how many licensed premises are enough, and there are no rules as to the ratio of licensed premises to population under the Act for the Committee to consider. However, compared to Albert Town (another residential subdivision with a central LSCZ) which has three off licensed premises for approximately 2320 people, if granted, this application will mean Lake Hāwea will have five off licensed premises for a population of approximately 2340 people, which is forecast to grow to 3400 by 2028 (QLDC Growth Projections). Of relevance, as reported by the Inspector, two of the Lake Hāwea off licensed premises are subject to Resource Consents for redevelopment and when this happens, the number of off licences may reduce to three. The 1.4 kilometre distance from the existing off licensed premises to Longview also needs to be considered.
- viii. As reported by the Inspector, there are no childcare or school facilities currently in the Longview Subdivision. There is a playground, a proposed church, and a planned childcare facility on the edge of the LSCZ about fifty metres from the proposed premises. Eventually there will be other commercial buildings between the proposed premises and these sensitive sites. Many of the objectors expressed concern that the Super Liquor store would be too close and detrimental to these sensitive activities. There was no evidence provided to show there are issues with the other Super Liquor stores that are close to similar sensitive sites (e.g. Wanaka Store is beside a church and near a child education centre, Alexandra store is beside a playground), nor with the

Hāwea FreshChoice off licence which is near a playground and beside a school bus stop.

- ix. The objectors strongly expressed opinions relating to how this proposal would degrade the amenity and good order of locality were largely conjecture. The Committee is required to form its opinion on the amenity and good order of the area, and whether the application, if granted, will lead to a deterioration of that amenity and good order: **Re Venus NZ Ltd [2015] NZHC 1377**. Based on what was before the Committee at the hearing, and what was presented along with the application, and as discussed above, the Committee considers that the amenity and good order of the locality will not be reduced by more than a minor extent by the effects of the issue of this licence.

**h. S.105(1)(j) - Whether the applicant has appropriate Systems, Staff, and Training to comply with the law:**

- i. Based on the details provided by the applicant of the comprehensive training provided to all Super Liquor staff, the oversight auditing by Super Liquor Holdings (the franchiser), the system prompts, CCTV, and staff management, as well as the Inspector's report and recommendations, we are confident the applicant has appropriate Systems, Staff and Training to comply with the law. Some objectors raised concerns that there would be inadequate staff at times to safely manage the store. We questioned the applicant on this and were assured that there would be adequate qualified staff to run this store, generally with two staff on duty and three staff during peak periods. The licensee will be required to comply with the conditions of the licence, and their proposed management plans at all times the premises is open for business.

**i. S.105(1)(k) – Any matters dealt with in any report from the Police, an Inspector, or a Medical Officer of Health made under s.103 of the Act:**

- i. Details of the MOH opposition to this application have been covered above.
- ii. The Police did not oppose the application and submitted as detailed above.

75. The deliberation of this hearing has been complex. On the one hand a large number of objections were received, mainly objecting in general that this off licensed premises is not wanted or needed in this location, and it will increase alcohol related harm. The Committee has weighed the objector's submissions and any oral evidence against contrary evidence provided by KHL that the application meets the purpose and objectives of the Act, including that it safely and responsibly sells and supplies alcohol from its other stores and has the resources to continue doing so at this store, and that it is a suitable person to hold a licence (demonstrated by past performance).

76. In terms of amenity and good order, and the objectors concerns that these will deteriorate as a result of this application being granted, they provided no evidence to show that other off licensed premises in the area have reduced the amenity and good order of their localities or had detrimental effects on nearby 'sensitive' activities, or that this application will do so.

77. International and national data was provided detailing the harm excessive or inappropriate consumption of alcohol can cause but we cannot simply take that information and hold it as relevant where it does not specifically relate to the effects as assessed in this application. We must consider the legislative requirements, which guide us in respect of what we must take into consideration – and in this case, the objectors have provided nothing specific to show this application will directly increase harm, or that that application does not meet the purpose and objectives of the Act.

78. The focus on this application was also heightened due to this commercial proposal being the first for this new sub-division's LSCZ and therefore raised concerns of its prominence. This may be the case initially, but as other commercial businesses become established in this zone, the prominence of a Super Liquor store will diminish.

79. We have evaluated all evidence and submissions impartially and have determined this application will not be contrary to the object of the Act and meets the criteria at s.105 & s.106 of the Act. As such, this application by Keyrouz Holdings Limited for an off licence is approved and the filing of the application without a certificate addressing Building Code requirements as per s.100(f) of the Act is waived under s.208 of the Act.

80. The licence is not to be issued until Certificate of Public Use (CPU) or building Code Compliance Certification (CCC) for the premises has been issued by the QLDC building team with a copy provided to the inspectorate.

81. The renewal period for any new licence is covered under s.122(1)(b) and is '*...12 months after the day it was issued*'.

82. When the licence does issue, and in addition to the standard off licence conditions, the following conditions shall apply:

- a. There are not to be any single sales of mainstream beers and RTDs;
- b. External signage is to be as per the attached diagram submitted with the applicant's closing submission;
- c. The floor to ceiling glazing on the façade facing Cemetery Road is to be frosted to 1.2m;
- d. There are not to be any product or price advertising externally or in the windows.

**DATED** at QUEENSTOWN this 20<sup>th</sup> day of January 2026



Mr C Cooney,  
Chairman

