

Notice of Decision



Decision No. 57/OFF/478/2020

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Townill Limited for an off-licence pursuant to s.99 of the Act in respect of premises situated at 86 Carters Road, Amberley, to be known as “Thirsty Liquor Amberley”

BEFORE THE Hurunui District Licensing Committee

Chairperson: Mayor Marie Black
Members: Councillor Michael Ward
Mr Winton Dalley

HEARING at Amberley on Monday 14, Tuesday 15 and Wednesday 16 September 2020.

APPEARANCES

Mr Michael Brown – Director of the applicant company
Mr Peter Egden – Counsel for the applicant
Ms Dianne Morrison – Chief Licensing Inspector – to assist
Constable Genevieve Craddock – New Zealand Police – to assist
Ms Paula Williams – Representative for the Medical Officer of Health – in opposition
Mr Thomas Guy Porter – in opposition
Mr Simon Green for Amberley School – in opposition
Mr Roy Myers for Amberley District Residents Association – in opposition
Ms Sally McKenzie – in opposition
Ms Helen Barbour – in opposition
Mr Warren Healey for Alcohol Wise Hurunui Incorporated – in opposition
Witness A – Witness called by Alcohol Wise Hurunui Incorporated
Professor Joseph Boden – Expert Witness called by Alcohol Wise Hurunui Incorporated
Ms Anna Thorpe – Expert Witness called by Alcohol Wise Hurunui Incorporated
Mr Allan Knowles and Mrs Christine Knowles – in opposition
Ms Nicola Drake – in opposition
Ms Susan Mackenzie – in opposition
Mr Noel McGirr – in opposition
Ms Yolanda Turnbull – in opposition
Reverend Doctor Alan Missen for Kowai Parish - St Andrews Church – in opposition
Ms Pamela Welch – in opposition
Ms Belinda Gould – in opposition
Ms Kylie Walker-Clarke – in opposition

DECISION OF THE COMMITTEE

DECISION

1. The application for a new off-licence is declined.

SUMMARY

2. The Hurunui District Licensing Committee received an application by Townill Limited for a new off-licence, to trade as a bottle store at the premises situated at 86 Carters Road, Amberley, and to be known as “Thirsty Liquor Amberley”.
3. The application is not opposed by the Licensing Inspector and Police. Opposition was received from the Representative for the Medical Officer of Health. Public notification of the application attracted 93 objections from members of the public, where the Committee recognised 56 of these objectors as having both status and validity to object.
4. The primary concern presented by the objectors, related to amenity and good order concerns that the premises would present to the Amberley township, the proliferation of alcohol outlets within Amberley and the alcohol-related harm in the community.
5. For the reasons we will set out below, we conclude that this new off-licence should not be granted. We have formed the opinion that if this new off-licence was granted, there would be more than a minor impact (reduction) on the amenity and good order of the locality and, that contrary to the object of the Act, alcohol-related harm would not be minimised.

BACKGROUND

6. An application was filed with the Committee on 16 January 2020 by Townill Limited, for a new off-licence, to trade as a bottle store, for the premises situated at 86 Carters Road Amberley and to be known as “Thirsty Liquor Amberley”.
7. During the notification period for the application, substantial public opposition to the application was received.
8. The Police submitted a report in opposition to the application due to concerns around the management of the proposed premises and the basic and incomplete application.
9. Due to the significant deficiencies in the information included in the initial application, the applicant withdrew this application. On 10 February 2020, the applicant lodged an amended application with more complete information and attachments.
10. As both applications relate to the same proposed bottle store, the Committee have honoured the public objections received in relation to the initial application.
11. Given the opposition by the Medical Officer of Health and the public objections received, the application is required to be heard before the District Licensing Committee by way of public hearing, in accordance with s. 202(3) of the Act. A hearing was scheduled and

convened in Amberley over a three-day period between Monday 14 and Wednesday 16 September 2020.

EVIDENCE AND SUBMISSIONS

PUBLIC OBJECTIONS

12. The Committee has, as noted, received 93 notices of public objection during the notification period of the application. Of these, 56 were considered to have both standing and validity by the Committee, meeting the requirements set out in s. 102 of the Act.
13. Given the volume of objections, the Committee will proceed by summarising the key areas of objection raised by objectors. We have set out at Appendix 1 to this decision, a summary of the evidence provided by the public objectors at the hearing. All objectors who were heard were available for cross-examination by the applicant, the Committee, the Medical Officer of Health, the Licensing Inspector, the Police and the other public objectors. Although we have not discussed every witness's evidence in the main body of our decision, our decision was informed by and influenced by all the evidence we heard.
14. That said, we were particularly impressed with the evidence we heard from Ms Anna Thorpe, Mr Warren Healey, Professor Joseph Boden, Mr Simon Green, Ms Helen Barbour, and Dr McCubbin (whose evidence was taken as read, by consent, as he was not available to attend on our last hearing day). Where the evidence of Mr Brown conflicted with the evidence of those witnesses who have mentioned, we preferred the evidence of the objectors because their evidence was based on personal experience and knowledge of the locality whereas Mr Brown told us that his evidence was based on "*looking around the area*", he "*talked to his friends in Amberley and also to the Paris Bakery staff*", and "*a month ago he did a drive around to look at the area*". Apart from that we understood from his evidence that Mr Brown had not engaged with the community in Amberley prior to or after submitting his application.
15. As well as hearing from individual public objectors, the Committee heard from persons representing the view of various groups and organisations within the Amberley township, namely:
 - Mr Roy Myers, representing Amberley District Residents Association;
 - Mr Warren Healey, representing Alcohol Wise Hurunui Incorporated;
 - Mr Simon Green, representing Amberley School and Board of Trustees; and
 - Reverend Doctor Alan Missen, representing Kowai Parish - St Andrews Presbyterian Church.
16. The Committee considers that although 56 notices of public objection have been accepted for standing and validity, in reality, the members of the respective groups and organisations above have also been represented. The Committee does not believe it is appropriate to consider the public objections on the number accepted for standing and validity alone, as this is not a true representation of the public interest in the application.

17. As is normally the case, the Committee applies more weight to the evidence and submissions for objectors who attend the hearing and provided evidence personally, than those who do not attend. This is simply because the objector can explain their evidence and/or submission and make themselves available for cross-examination at the same time.
18. The Committee would like to highlight one significant objector, Doctor Richard McCubbin, whom was scheduled to appear to give evidence at the hearing however due to conflicting commitments, was unable to attend on the third day of the hearing.
19. We consider that his non-appearance was outside of his control and want to proceed to summarise the nature of his objection here. Doctor McCubbin is a local general practitioner that has had first-hand experience in the damage done by alcohol to the community. This included attending motor vehicle accidents in which alcohol has been a major cause or dealing with the psychological and physical damage of excess alcohol consumption. In this objection, he said that there can be no justification whatsoever for opening yet another liquor outlet in Amberley when they are already numerous outlets where liquor can be bought. He said that the site of another liquor store on the main street of Amberley would only encourage higher alcohol consumption with consequent risk to the health of consumers and their families.
20. Many of the objectors' concerns were centred around the adverse impact this bottle store would have on the amenity and good order of the township locality, and the level of alcohol-related harm already present in the community. Concerns around the proposed days and hours of operation, and the design and layout of the proposed premises were also raised by several objectors.
21. Many of the objectors confirmed to the Committee that they view Amberley as a pleasant and peaceful town. Put simply, the objectors do not want another bottle store in their community.
22. A common theme of the evidence we heard was that many community-based activities and services are conducted in and around the township, being a gathering place for locals and forming a 'hub' for the community. Activities and amenities include, for example, the parks, the library, the school and preschools, the retail stores, the cafes, the sports clubs and community groups, the churches and the farmers market.
23. The proximity of the proposed premises to a number of sensitive sites and to the other licensed outlets was concerning to many objectors.
24. Some considered that the members of the existing community were best placed to comment on the current amenity and good order of their community.
25. A large number of objectors consider that another bottle store is not compatible with the pleasantness and character of the township, and there is no need for a second outlet and a further off-licence. The objectors believe their community should reflect who they are, and what they want to be.

26. Many objectors believe that alcohol undeniably has the potential to cause harm. Many noted that the community has relatively low levels of alcohol-related trouble (i.e. crime, vandalism, noise). However, other objectors gave specific evidence of alcohol-related harm they had experienced or encountered, whether directly or indirectly. This included rubbish, nuisance, alcoholism, damage and vandalism, motor vehicle incidents involving alcohol, drinking of alcohol in the parks and public places, and alcohol-related incidents at the local school.
27. Some objectors were concerned that a Thirsty Liquor store selling spirits and RTDs would have a negative impact on minors. The increased availability of a full range of alcohol product that appeals to the youth was concerning. Others expressed concern that the bottle store would expose young children to alcohol and would normalise alcohol consumption in the community.
28. A large number of objectors believed Amberley already had enough retail alcohol outlets, because there is already a bottle store should the community wish to obtain alcohol, specifically the fuller range of alcohol products.
29. A number of the objectors told us they did not believe that the store would be a “high-end” store as suggested by the applicant, but rather would be an ordinary discount chain liquor store. In some instances this evidence was based on personal visits to other off-licences operated by Mr Brown elsewhere.

MR MICHAEL BROWN’S EVIDENCE

30. Mr Brown provided a written brief of evidence dated 24 August 2020. He presented the brief orally at the hearing.
31. Mr Brown confirmed that he is a resident of Kaiapoi, in the Waimakariri district.
32. Mr Brown is the sole director of Townill Limited. The major shareholder is a trust, Ms Michelle Robb and Mr Brown are the trustees. Mr Brown and his wife, Jillian each hold one share.
33. Mr Brown spoke of his involvement and experience in the industry over the last 20 years and has held a Manager’s Certificate since 2001. Mr Brown advised that he currently owns and operates three other bottle stores [Thirsty Liquor Darfield, Waimak and Rakaia] in the Selwyn, Christchurch and Ashburton districts, as well as a tavern in the Christchurch district [The Waimakariri Tavern].
34. Mr Brown gave the reasons for choosing to operate under the Thirsty Liquor franchise. He said this brand best suits his needs as he is not required to fix minimum or recommended prices for alcohol, and he is not obliged to necessarily stock the specials they have on offer from time to time. He continued that the brand provides more flexibility than the other available franchises.
35. Mr Brown talked of his other bottle stores, stating that they are reliant for its trade on passing traffic and those living some distance to the stores.

36. Mr Brown advised that his other bottle stores are operated along the same lines and stock the same high-end products and provide the same high-quality service. He said they are well run and profitable.
37. He said he has not had any issues with the reporting agencies since setting up these businesses, and to the best of his knowledge, there has been no increase in alcohol related harm in the general area since opening these stores.
38. In relation to Amberley, he said that he is very familiar with the Hurunui District having played rugby throughout the District and later as a rugby coach. He currently owns a property at Motunau, which he frequently visits.
39. Mr Brown advised that there are four off-licensed premises in Amberley - a supermarket, tavern, hotel and standalone bottle store. He acknowledged that there are also a number of club or on-licensed only premises. He said that Super Liquor Amberley is currently the only standalone off-licence in Amberley and explained that the supermarket is limited to the sale of wine and beer. The hotel holds an off-licence but offers a limited product range.
40. Mr Brown said that he firmly believes that there is an opportunity in Amberley for another standalone bottle store and that the amenity and good order of the locality would not be detrimentally affected by the opening of a second standalone bottle store.
41. He said Amberley is a service town and caters for a large rural community. He sees the general Amberley area as being progressive and go ahead. Mr Brown said it is not a deprived area in the socio-economic sense. He said the 2018 Census shows that Amberley's population was 2067 and had increased from 1,500 or so since the 2012 Census.
42. Mr Brown said Amberley has many similarities with both Rakaia and Darfield. All are service towns for the rural community. He said he has found in his other establishments, that over 50% of his customers live outside 10km radius of the premises. He said, while it is not possible to obtain an accurate count of the population within a 15km radius of Amberley he would estimate it would not be less than 3000 to 4000.
43. He said he has also taken into account that Amberley is on the Main Road and has a traffic count of 11,000 vehicles passing through each day. Many of these vehicles are driven by tourists, people living in the area and travelling to get supplies or people passing through Amberley. Mr Brown said that his experience with his other off-licence premises is that a significant number of customers are passing through the towns.
44. Mr Brown said that he has researched this project carefully and he firmly believes that the business will be successful and at the same time will not have a negative impact on the town.

45. On the topic of suitability, Mr Brown said that he has detailed knowledge of the industry. He considers himself to be a responsible licensee and he takes his obligations under the Act seriously.
46. Mr Brown recognises the harm that may be caused by alcohol, but at the same time, he considers that the vast majority of people are responsible drinkers. He said these are the people he attracts in his other stores and hopes to attract in Amberley.
47. He said his intention is to operate the Amberley bottle store along the same lines as the other three off-licences, stocking the same high-end products and providing the same high-quality service.
48. In relation to the hours of trade, Mr Brown said he intends to sell alcohol between the hours of 9.00am to 10.00pm Monday to Sunday. These are permitted by the Local Alcohol Policy. Mr Brown said that he does not intend that the bottle store will be open for these hours every day, but the hours he has sought allows flexibility on how the business would operate.
49. In relation to the design and layout of the premises, Mr Brown said he intends to layout the premises in accordance with the plan attached to his application. Mr Brown advised that if the Committee or reporting agencies raise any issue with the layout, he is prepared to make any reasonable changes.
50. He advised that he intends to restrict signage outside the store to signs describing the nature of the business. He said that apart from an A3 sheet with current specials, he does not intend to have any liquor advertising in the windows facing outwards. The premises will be fitted with security cameras, both internal and external.
51. In terms of the aesthetics of the building, Mr Brown said the exterior of the building will be painted black with the Thirsty Liquor logos and trading name over the top.
52. In relation to the sale of goods and services, Mr Brown said the goods that he proposes to sell chips, chocolate, nibbles (jerky, peanuts etc), soft drinks and cigarettes.
53. Mr Brown said that he is aware that under s. 32(1)(b) of the Act, that at least 85% of the annual sales revenue from retail premises is expected to be earned from the sale of alcohol for consumption somewhere else. He advised that he meets this criterion at this other bottle stores and will ensure that he does so in Amberley.
54. In relation to amenity and good order, Mr Brown said he is familiar with the provisions of the Act relating to amenity and good order and that this Committee must consider whether the amenity and good order is likely to be reduced by more than a minor degree if a licence were to be granted.
55. Mr Brown said from his enquiries, he understands there are no significant issues with Amberley from noise levels, nuisance or vandalism and he does not expect the situation to change if this application were granted.

56. On the topic of the object of the Act, Mr Brown said his understanding is that alcohol related harm is not prevalent in the locality and he does not expect that this is likely to change if the application is granted. He maintained that none of the existing stores have related adverse effects in their communities.
57. Mr Brown said the proposed premises is located in a commercial zone. There are no schools or pre-schools in the immediate vicinity that are likely to be affected by the bottle store.
58. In relation to staff, systems and training, Mr Brown said he intends to use similar systems and training regime at Amberley that have proved successful in his other stores. He said, once he knows the outcome of this application, his intention is to find a qualified and experienced manager who either lives or will live in the district to run the business on a day-to-day basis, with assistance from two of the part-time staff from [Thirsty Liquor] Waimak, both of whom hold Manager's Certificates. Mr Brown advised that he has a very hands-on approach to the management of his businesses and will be very much involved with the Amberley store. He said the person he employs to manage the business will have to have had considerable experience and be someone in whom he has complete trust in that he/she will meet his high standards and uphold the requirements of the Act.
59. Mr Brown concluded by asking the Committee to accept that he is an experienced and responsible licensee who takes his responsibilities under the Act seriously. He said that he has a good track record and he regards himself as a suitable person to be involved in a company operating an off-licence in Amberley.
60. Under cross-examination, Ms Williams asked why the first application was submitted incomplete. Mr Brown answered that the application was submitted on the understanding that it was correct by Alison, the office lady.
61. When asked about how the statistics on customers that live outside the area were collected, Mr Brown said he asked his customers and got to know them. It's often the same people in the stores. He confirmed he has done this analysis at all his stores.
62. Ms Williams asked what his comment 'to the best of my knowledge there has been no increase in alcohol-related harm in the general area' was based on. Mr Brown answered it was based on communication with licensing agents who he speaks with every couple of months. He said there were several good meetings during COVID-19 lockdown. He also bases it on feedback from locals.
63. When asked what he considers to be high-end, Mr Brown said single malt whiskey priced from \$70 to \$100, and high-end gins priced from \$40 to \$100 per bottle. Ms Williams asked whether he considered over \$40 high-end? Mr Brown answered more like over \$60.
64. Ms Williams said that it appears that you consider a stand-alone off-licence to be different to any other off-licence, and asked why is it different? Mr Brown said that a stand-alone off-licence has a greater variety, and pubs target a different market.

65. Ms Williams asked about his knowledge of Amberley and his comment that Amberley is not a deprived area. Mr Brown said he knows this by looking around the area, the new subdivisions going in, the clientele of the Mackenzie's Hotel business is different.
66. Ms Williams referred to the deprivation map from the Inspector's Report and said the areas around the proposed store are rated 7 and 8 (out of 10). When asked whether he considers 7 or 8 high on the deprivation index, Mr Brown said yes, it is, but his customer base is the surrounding wider area and includes through-traffic, farmers and tourists. He said that he believes they [nearby residents] will not be the majority of his customers.
67. In reference to the comment about 11,000 passing traffic count, Ms Williams asked how does he know that the majority of his customers are passing through? Mr Brown answered he gets feedback from his customers and talks to people a lot to find out this information.
68. In relation to his comment about responsible drinkers, Ms Williams asked what his comment that 'the vast majority of people are responsible drinkers' is based on. Mr Brown answered through research and statistics. An irresponsible person is drunk and they get feedback from the community about problem drinkers. These matters are brought up at staff meetings.
69. In relation to the floor plans, Ms Williams asked whether the retail store area will fill the entire space. Mr Brown answered there is also a chiller, which will be half of the retail area (50m² to 60 m²). The entire retail area will be 210m² and storage will be separate so it will be more secure.
70. In relation to the sale of cigarettes, Ms Williams asked how he intends to reduce the risk of robbery and smash and grab. Mr Brown said he intends to install pull-down screens at the main entrance and windows blocked out with MDF which makes it harder to break in. Cigarettes will be stored in a locked cabinet bolted to the wall.
71. When asked whether the level of objection made him think that this town does not want your bottle store and he should withdraw the application, Mr Brown answered no, he feels that he is a good character and suitable for the area once they get to know him.
72. Mr Brown was asked about his community engagement prior to and after submitting the application. He answered that he talked to his friends in Amberley and staff at Paris Bakery about foot traffic. When asked if he has visited and walked around Chamberlain Park, Mr Brown said he hasn't walked it, but a month ago he did a drive around to look at the different areas.
73. In relation to the Alcohol Management Plan submitted with the application, Ms Williams asked whether there is enough consideration to off-licences within the plan. Mr Brown said he wants his staff to be aware of the requirements of both because they work across different licences. '

74. In relation to an incident at The Waimakariri Tavern, Ms Williams asked whether he recalls any issues more recently with party busses. Mr Brown confirmed he does. Ms Williams said that he was very cooperative at the time.
75. On the topic of amenity and good order of the locality, Ms Morrison asked what his impressions of Amberley are, in terms of being pleasant and agreeable. Mr Brown said that the people are pleasant and it's a nice community. He continued that it is the good sports and good businesses that make it nice.
76. In relation to noise, nuisance, vandalism and alcohol-related harm, Ms Morrison asked how he established these things or the lack of? Mr Brown said he read the papers and did not see negative things here.
77. In relation to the issues raised by objectors relating to the proximity to other businesses that sell alcohol, Ms Morrison asked if Mr Brown has any comments? Mr Brown said they are catering for a different type of market. The only one he thinks is relevant is the Super Liquor, and it is hard to turn in and out of the Super Liquor shop due to the traffic flow the other stores are not stand-alone bottle stores.
78. Ms Morrison asked whether he sees a difference between himself and The Brew Moon? Mr Brown answered yes because they are a craft beer place mainly whereas he does single malts and gins for example.
79. In relation to price competition, Ms Morrison asked what he would do if a competitor starting reduced pricing. Mr Brown answered his business is more to do with service. He does not do a loyalty card. He likes higher margins with less turnover.
80. In relation to the design and layout of the premises, Mr Brown confirmed the following:
- He has proposed to licence the storage area now because if he wants to expand in the future, he is able to change the chiller wall without putting in an application;
 - The shelving on the walls are 2.4 metres and lower shelves will be used in the centre of the store and in the chiller to allow better vision;
 - The exterior of the building will be black with a sign saying 'Thirsty Liquor Amberley' in orange writing. The logo will be on the window of the front entrance;
 - The front door will be changed, and a buzzer added for security;
 - An A3 flyer advertising specials will be situated on the front door to the premises. This will be 3-4 metres away from the footpath; and
 - The windows will be frosted, and other windows are blocked out.
81. In relation to the issues raised by objectors about the Thirsty Liquor franchise advertising and online sales, Mr Brown confirmed that customers cannot buy online or get deliveries from his store.
82. When questioned about staffing and employing a local duty manager quickly, Mr Brown said that he has a staff member who lives in Amberley currently. He intends to employ

her part-time in Amberley, as well as another full-time manager. Mr Brown said he will work at the store as well.

83. Constable Craddock asked whether he would be prepared to employ three staff for the Amberley store. Mr Brown confirmed that he would.
84. In relation to Point 6 of the application, Constable Craddock noted that he stated there will be no increase in alcohol-related harm, and he referred to the information gathered from licensing agents. Constable Craddock asked who were the licensing agents that you referred to here. Mr Brown confirmed that he means Malcolm Johnston (Selwyn District Licensing Inspector), and the licensing inspectors who he is in communication with. They are happy, but if they were they were not, then at that point he would go further with his enquiries.
85. Constable Craddock asked whether he thought to talk to other reporting agencies such as Police or the Medical Officer of Health? Mr Brown confirmed he did not ask the police in general.
86. In relation to his comments that the Thirsty Liquor franchise gives you more flexibility than other franchises, Ms Barbour asked to expand on what flexibility is permitted. Mr Brown answered that other franchises makes you do dump stack displays, where Thirsty Liquor does not. He said that you don't have to sell their specials, and he has freewill to layout the store as he likes. He does not get a rebate if he does dump stack displays so there is no incentive to do it.
87. Referring to his comments in paragraph 7 of his brief of evidence "to the best of knowledge there has been no increase in the incidents of alcohol-related harm", Ms Barbour asked how he tests for alcohol-related harm to know its not increasing. Mr Brown said he has asked the licensing inspectors to gather impressions of this.
88. Ms Barbour asked Mr Brown to tell the Committee about his experience in Amberley. Mr Brown answered that we played rugby in Amberley, I have close friends in Amberley, and I have spoken the staff at the Paris Bakery. Mr Brown confirmed that he considers the amenity and good order in Amberley is pleasant and agreeable.
89. When asked about what low-end products he would stock, Mr Brown said low-end wine from \$12.99, low-end spirits at \$38.99, RTD's will be in packs ranging from 4 to 18. No single RTD's will be sold unless broken. Ms Barbour further asked whether he would sell a lower-end product if a customer specially asked for it. Mr Brown said no as he makes more margin on more expensive products.
90. Mr Brown confirmed there will be a Facebook page set up for Thirsty Liquor Amberley, which will possible advertise a single-malt whiskey of the month.
91. When asked how he will mitigate the risk of nuisance, specifically vandalism, and what steps are in place, Mr Brown answered they have an incident book which is important for this, for example: if someone smashed a bottle outside, it is cleaned up. We have systems in place to manage it.

92. In relation to his comments about sponsoring a local sports club, Mr Brown said he will sponsor a local rugby team possibly to put money back into the community. This will possibly be logos on shirts. In Darfield, they have printed the Thirsty Liquor logo on the sleeve. Ms Barbour asked whether children should be exposed to alcohol branding at sports events. Mr Brown answered, no they should not be.
93. In relation to his comments that staff will check for litter, Mr Brown answered that they will cover a 100-metre radius, once or twice-a-week.
94. Mr Healey said that the Thirsty Liquor brand allows you to drop your prices which means lower income people will be able to buy cheap liquor if you choose to drop prices. Mr Brown answered that he prefers not to drop prices because he loses margin. He would probably be a bit dearer than Super Liquor, but he is looking at service not prices.
95. In relation to the days and hours, the Committee asked how he will determine that opening to 10.00pm may not be a regular event. Mr Brown answered that he closes at 8.00pm most nights in his other stores. On Friday, Saturday and Sunday, he closes at 9.00pm. He said applying for a closing time of 10.00pm gives him flexibility around closing times for public holidays.
96. In relation to density of outlets, the Committee said there has been much dispute about the statistics and number of outlets however it suspects there is still a large ratio of outlets to population and asked whether he agrees with this. Mr Brown answered, yes for the community. But this store will service the wider district, and this should take into account the wider Hurunui District population of 12,000 persons.
97. The Committee referred to the comments about high-end products with high margins, however said with the competition being what it is, what will the pressure of competition have on prices? and how will you resist the pressure given the low income people in the community? Mr Brown answered that he does not rely on this store to keep him afloat, he has other stores that can offset the risk. He said he can get more variety in and work on the service. Mr Brown confirmed he is not targeting the low decile market, as he attracts farmers and the wider market.
98. In relation to his comment about the business being successful, the Committee asked what this means to you in the context of this community and the wider community. Mr Brown said that the community is happy with it [the store], there are no negative vibes about it and its running at a profit as well.
99. The Committee asked if you were weighting, is the success more about community value? or profit? Mr Brown said a community, he likes to have a good hub.

MEDICAL OFFICER OF HEALTH EVIDENCE

100. Ms Paula Williams, Alcohol Licensing Officer, representing the Medical Officer of Health, gave evidence. She has been employed by the Canterbury District Health Board in this

role since April 2015 and holds a section 151 delegation issued by the Medical Officer of Health.

101. She told us that a major part of her role is to enquire into applications for new and the renewal of, on, off, club and special licences made to the Chatham Islands, Kaikoura, Hurunui, Waimakariri, Christchurch and Selwyn District Licensing Committees. Following these enquiries, Ms Williams prepares reports for those Committees on behalf of the Medical Officer of Health.
102. Ms Williams, together with Licensing Inspectors and Police, carry out monitoring of licensed premises throughout those areas. She explained that the key areas of focus are staff, systems and training, and the host responsibility strategies used by the premises to reduce alcohol-related harm.
103. Ms Williams said her grounds for objection to this application include:
 - Density or the number of premises in the area, and increased availability of alcohol;
 - Concerns regarding staff, systems and training; and
 - The issues arising from the public objections.
104. She said that there is consistent local and international evidence that supports the contention that increased alcohol availability through proliferation of outlets increases alcohol-related harm. She acknowledged that the best opportunity to limit outlet numbers is through a local alcohol policy, however the Hurunui Local Alcohol Policy is silent on this topic. Therefore, individual opposition represents an opportunity for agencies to oppose licence applications and for the public to object to applications to reduce alcohol-related harm.
105. Ms Williams advised that the Medical Officer of Health has made submissions on a number of local alcohol policies, including the Hurunui Local Alcohol Policy. The nature of these submissions supported the view that the more alcohol is made available to a population, then the more excess (i.e. hazardous levels of) alcohol will be consumed and the more harm will be experienced.
106. Ms Williams referenced a study by Connor et al. (2011) which said:

“The positive associations seen between alcohol outlet density and both individual binge drinking and alcohol-related problems appear to be independent of individual and neighbouring socioeconomic status. Reducing density of alcohol outlets may reduce alcohol related harm among those who live nearby.”
107. She said that the Medical Officer of Health is concerned about the alcohol outlet/population ratio in Amberley. Ms Williams said that the national average referred to in the *Masterton Liquor [2014] NZARLA PH881* decision, which is one off-licence for every 1000 people.

108. According to her report dated 24 February 2020, the 2018 New Zealand Census shows the usual resident population of Amberley is 2067 persons. Ms Williams advised that there are currently 4 off-licensed premises, therefore one off-licence per 517 people.
109. She said, should this licence be granted, there would be 5 off-licence premises, therefore one off-licence premises for every 413 people. Ms Williams said this far above the national average, which is not itself necessarily desirable, of one for every 1000 people.
110. Ms Williams emphasised her point that research clearly indicates that the higher the alcohol outlet/population density ratio, the greater risk of alcohol-related harm.
111. Ms Williams informed the Committee that she has previously enquired into applications by Mr Brown, the director of the applicant company. She said that Mr Brown has previously had some difficulties in the operation of The Waimakariri Tavern which came to the notice of the reporting agencies. She advised us that Mr Brown promptly dealt with the issues following discussions with the agencies. Ms Williams is not aware of any major operational issue with any of his premises currently.
112. Ms Williams said that as a representative of the Medical Officer of Health, she has no issue with the suitability of Mr Brown, however, is concerned that he may be spreading himself too thin in trying to run premises which are distant geographically. She acknowledged that in his evidence, Mr Brown said he will appoint a suitably qualified manager for the Amberley store.
113. Ms Williams also highlighted that the alcohol management plan provided with the application relates to an on-licensed premises. She is concerned that the plan does not reflect the staff systems and training required for an off-licence premises.
114. Under cross-examination, Ms Morrison asked why there was no opposition to other off-licences setting up in Amberley. Ms Williams answered that work practices have changed; public input and community engagement has changed, and this determines how we deal with it now.
115. Ms Barbour asked Ms Williams to expand on her comment about the applicant spreading himself too thin. Ms Williams answered that based on the applications across his stores, there are the same Duty Managers named at those stores. She said, while the applicant has explained where he works across the different stores and for how long, her concern is over the distance between premises. Ms Williams also talked again of the alcohol management plan and said it did not satisfy her regarding this staff, systems and training.
116. When asked about the concern with the single sale of RTD's and beers highlighted in the Inspectors Report, Ms Williams said that from a public health perspective if you can buy a beer or RTD's for a few dollars, but you can't afford to buy at \$25 pack, then the \$5 is pocket change. So, a person who only has \$5 can go and buy a drink – they haven't got \$25.

117. On the topic of the use of dump-stacks of RTD's at the end of the wine racks described by the applicant, Ms Williams said she likened them to end-of-aisle displays at supermarkets and described them as easy pickings.

LICENSING INSPECTORS EVIDENCE

118. Ms Dianne Morrison, Chief Licensing Inspector appointed by the Hurunui District Council, was the Inspector assigned to inquire into this application. Ms Morrison has been employed by the Council as a Licensing Inspector, before moving to Chief Licensing Inspector, and has held these roles for 12 years.
119. Ms Morrison explained that she has historical knowledge of the number and types of licensed premises operating within the Hurunui District, which has provided her with context during her inquiries into the application.
120. Ms Morrison advised in her role as a Licensing Inspector, she attempts to establish good working relationships with the licensees, ensuring they are well informed, with makes compliance easier. Ms Morrison said she encourages licensees to be proactive with their questions and communication, which helps to ensure food compliance and that the object of the Act is met.
121. As is normally the case, Ms Morrison submitted a detailed report to the Committee, dated 14 May 2020. The Inspector's Report sets out wide-ranging information concerning the application, the proposed premises and the statutory considerations under the Act.
122. Ms Morrison advised that she does not oppose the application by Townill Limited for an off-licence bottle store at the proposed premises, 86 Carters Road Amberley.
123. In her oral evidence at the hearing, the Inspector emphasised certain sections of her report. We have summarised these points in the following paragraphs.
124. Ms Morrison provided a profile of the Amberley township, specifically:

Amberley township is a residential township with businesses servicing the wider rural Hurunui District. This includes nearby smaller residential communities, including Leithfield Village, Leithfield Beach, Amberley Beach and Waipara Township. Amberley has a resident population of 2067 (2018 Census data).

Amberley is situated on State Highway 1, approximately 40 minutes north of Christchurch. SH1 is the main route north to Kaikoura, Blenheim and Picton. It also directs traffic from the Waipara turn-off to the West Coast and the Nelson area. This is also the route to the Hurunui District's major tourist destination of Hanmer Springs.

125. In reference to the Amberley Deprivation Index Map, Ms Morrison said that the Amberley community is comprised of a range of census mesh blocks with differing deprivation indexes, which does not include the two most deprived categories. She said

the older established areas of town have higher deprivation indexes than the more recently developed areas.

126. Ms Morrison advised that Amberley School has a decile rating of 7 out of 10, which indicated that students are from a higher than average socio-economic community.
127. In the Inspector's report, Ms Morrison noted that Mr Brown is the current licensee for several premises, namely:
 - The Waimakariri Tavern; and
 - Thirsty Liquor Darfield; and
 - Thirsty Liquor Waimak; and
 - Thirsty Liquor Rakaia.
128. In regard to the suitability of the applicant, Ms Morrison said she is not aware of any issues from Police or the Medical Officer of Health in relation to the sale and supply of alcohol the applicant's other premises.
129. Based on the further information supplied in the second application and through discussions with the applicant, Ms Morrison has been satisfied that the applicant is suitable to hold an off-licence for the Amberley premises.
130. In relation to the local alcohol policy, Ms Morrison has not raised any matters. She considers that the application meets the criteria of the Hurunui Local Alcohol Policy.
131. In relation to the days and hours proposed for the sale of alcohol, Ms Morrison said that the hours sought are similar to those held by other retail off-licensed premises in Amberley. She considers that the hours sought by the applicant are appropriate for these types of premises.
132. In relation to the design and layout of the proposed premises and the public objections received, Ms Morrison talked of the undertakings Mr Brown made with the Ashburton District Licensing Committee in regard to his Thirsty Liquor Rakaia store, including one-way window coverings, open sign only on the footpath, monthly specials limited to an A4 sheet only and restrictions on use of exterior logos. She said that Mr Brown has worked with agencies previously to find a satisfactory solution for all parties and has said he is amenable to find a solution that works for all.
133. Ms Morrison considered that if the Committee decided to grant the application, that it may be appropriate to impose conditions on the licence, in relation to design and layout of the premises, and external advertising and signage.
134. In relation to the amenity and good order of the locality, Ms Morrison does not consider that s. 105(1)(i) applies as Amberley does not have the problems faced by some communities that have been associated with licensed premises. Ms Morrison talked of the general appearance of Amberley and said there is not substantive evidence that the amenity and good order of the locality is already badly affected by the effects of the issue of the existing licences.

135. During her inquiries, Ms Morrison spoke with the local Police. She was advised that the effects of alcohol-related incidents in Amberley and the wider District relate to domestic/family violence and drink driving. She continued that there are periodic incidents of nuisance and vandalism, although this is not considered a major concern in Amberley. Incidents of crime include break-ins, with these considered to be often perpetrated by people outside of the local community.
136. In relation to objections, Ms Morrison highlighted that some objectors mentioned positive amenity and good order in Amberley. She said they used phrases such as: wonderful; pleasant and agreeable; free and easy community feel; distinctly village feel to the town; attract people from around Canterbury to shop, eat, drink and explore what we have to offer.
137. Ms Morrison acknowledged that not all objectors feel this way. Other objectors used words and phrases such as anti-social and bad behaviours, increased noise, crimes, loitering, littering, vandalism, and attracting congregations around premises.
138. In relation to the concerns raised by objectors about traffic and road safety concerns, Ms Morrison said that these issues apply to the wider Amberley Township and community. She considers that these are not matters the Committee can address through the consideration of this application.
139. In relation to staff, systems and training, Ms Morrison did not raise any concerns at the hearing. We note, for completeness, that these criteria were addressed in full in her report, to which we had regard.
140. In relation to the concerns raised by the Representative for the Medical Officer of Health and public objectors in regard to the density of licensed premises, Ms Morrison said she considers this is one of the most significant concerns that the Committee need to consider at the hearing.
141. Ms Morrison gave an account of the expansiveness of the geographic area of the District and said that, although it has a relatively small population (13107 persons, 2018 Census), there are a large volume of licensed premises available to service the local community and visitors.
142. Ms Morrison confirmed that with the closure of Pam's Pantry, there are currently 4 off-licensed premises in Amberley and 10 licensed premises (all kinds) total.
143. She referred to the *New Zealand Alcohol Supply and Demand Structures* study, in which the Executive Study states:

Overall the research estimated there were 12,390 licenses (June 2014), or about one licence per 390 persons, nationally. Of these 6911 or 56% are on-licences (about one licence per 640 persons) while 3442 (28%) are off licences (one per 1300 persons).

144. Ms Morrison said when you look at this national average of 1 licence per 390 people it still shows that Amberley has larger number of premises for its small population. She considers that case law and national averages need to be looked at carefully by the Committee.
145. On the topic of density ratios, Ms Morrison has the opinion that these ratios are not apples to apples. She said they are specific to the towns and communities and the nature of those are different in terms of how the communities work and the issues they face.
146. In relation to proximity to the proposed premises to sensitive sites, Ms Morrison advised that Amberley has a number of facilities/ locations that fall into this category, including:
- parks (2);
 - medical centre;
 - pharmacy;
 - school;
 - preschools (3);
 - rest-home (2);
 - social housing; and
 - churches (3).
147. Ms Morrison correctly advised in her report, that objections were received from the following sensitive sites: Amberley School, Amberley Community Preschool and Kowai Parish – St Andrew’s Presbyterian Church.
148. She said that the objection for the Kowai Parish – St Andrew’s Presbyterian Church, situated on Pound Street, raised concerns about the potential for vandalism, as it has done so in the past.
149. She advised that the main issues raised in relation to sensitive sites were children and the elderly walking past the premises; litter and broken glass observed when people are out walking and using Chamberlain Park and the Amberley Domain; and concerns around the exterior design and layout of the premises, including advertising.
150. Ms Morrison spoke of the limited public objections received in the past to application for new licences; and has raised questions as to the number of objections to this application.
151. She requested that the Committee use caution when referring case law cited by other parties. She said that the *Tony’s Liquor* decision has a very different local context – in that case there were liquor ban issues, crime issues, high deprivation and young people congregating. Likewise, the *Masterton Liquor* decision was for a premises based in a liquor ban area, where there were issues of bad behaviour, police callouts and high deprivation.
152. Ms Morrison said that Mr Brown’s Thirty Liquor Darfield and Thirsty Liquor Rakaia stores have been through similar hearing processes with the respective District Licensing

Committees due to similar concerns raised by objectors to this application. She said, both of those applications were granted by the relevant Committees.

153. While the Inspector has not opposed this application for a new off-licence, she raised several questions and issues that she considers need to be explored further by the Committee. These include:
- (a) the density of licensed premises and the proximity to the proposed bottle store;
 - (b) in relation to s. 106(1)(a)(iii), establish what it considers 'licences of the kind already held' means;
 - (c) why has this level of objections been received to the Townill Limited application?
 - (i) is it that there is a genuine concern at the number of licensed premises in Amberley? or
 - (ii) is it that this is a franchised bottle store operation and it will be in a prominent position on the main street of Amberley?
154. Rather than attempt to answer these now, the Committee will attempt to address the above questions and concerns raised by the Inspector throughout our evaluation of the evidence.
155. Under cross-examination, Mr Egden said given the granting of this licence would maintain the status quo, he asked do you expect that there would be an increase in alcohol-related harm if granted. Ms Morrison said there is no reason to think that it would, possibly the only difference that sets it apart is that it is another standalone bottle store that sells a different range of products than Pam's Pantry.
156. Ms Morrison confirmed that she was surprised by the number of objections and references to alcohol-related harm that have been presented, when asked by Ms Williams. She said that all communities have a degree of alcohol-related harm through individuals, it's a question of degree and where does that alcohol-related harm stem from.
157. In relation to her comment about Thirsty Liquor franchise advertising in section 5.9 of the Inspector's Report, Mr Healey asked why she considers this to be outside of the scope of the Committee. Ms Morrison said that the advertising is done under the licence held by the Thirsty Liquor Group (franchise company). It is not a licence held in this district and well outside of the scope.
158. The Committee asked why we should give weight to the Inspector's firm view that existing licences do not and will not significantly contribute to alcohol-related harm, and what inquiries she has made with local services. Ms Morrison said she has made inquiries with local Police however other agencies are not readily available in the town.
159. The Committee asked whether it is her opinion, that for an applicant who has such a long history in the alcohol industry, is it unusual for the original application to be short of information. Ms Morrison answered that there is an expectation that applications are

fully completed with good information, however the reality is that this is not always the case. Ms Morrison said, in this case, the initial application was sorely lacking and if it was not withdrawn, the Inspector would have opposed it.

POLICE EVIDENCE

160. Constable Genevieve Craddock, representing the New Zealand Police, was present at the hearing to assist the Committee. She did not choose to give evidence during the hearing, however, was available to cross-examine any other parties to the hearing.
161. We note for completeness, when the Police were notified of the initial application for a new off-licence, Constable Craddock filed a report on 11 February 2020 in opposition of the application based on the design and layout of the proposed premises; staff systems and training; and other matters.
162. Following her assessment of the amended application with more complete information, the Constable filed a subsequent report on 20 February 2020 which concluded, “based on the updated application, Police wish to withdraw the opposition.”

PROFESSOR JOSEPH BODEN’S EVIDENCE

163. Professor Boden was called as an expert witness engaged by Alcohol Wise Hurunui Incorporated. Professor Boden had provided a brief of evidence in advance, dated 31 August 2020.
164. Mr Egden, counsel for the applicant, challenged the expert status of Professor Boden.
165. The Committee’s Legal Advisor, Mr Alastair Sherriff, applied the *Code of Conduct for Expert Witnesses* as specified in the Schedule 4 of the High Court Rules 2016. As a result of questioning Professor Boden, Mr Sherriff elicited that:
 - Professor Boden confirmed he has not provided evidence in any court before.
 - Professor Boden confirmed that he did not know there was a Code before today.
 - Professor Boden confirmed that he has now read the Code. His understanding is that he is here to serve the Committee on matters on which he is an expert and that he is not on behalf of the group. He understands he needs to answer all questions impartially.
 - Professor Boden confirmed he has a BA and MA in Psychology; he is the Director of the Christchurch Health and Development Study, Department of Psychological Medicine, University of Otago, Christchurch; and has been involved in a number of relevant academic publications. He confirmed that the majority of his writings have been peer reviewed and published.
166. Mr Egden then confirmed his satisfaction that Professor Boden could be considered an expert witness.

167. Professor Boden read from his brief of evidence. He told us that in his opinion the granting of the licence in this case would increase the density of licensed premises in the town of Amberley. He explained the density of locations with a licence to sell alcohol plays an important role in the extent to which alcohol caused harm in society.

168. Professor Boden referred to publications in support of this statement:

- In Barbor et al. (2010), it is reported that *“density reduction has been shown to be a key strategy in the reduction of alcohol-related harm.”*
- A series of studies in Finland by Poikolainen (1980) showed that increases in both off and on-licences due to the loosening of restrictions was associated with a 46% increase in alcohol consumption, followed by large increases in mortality due to liver cirrhosis, hospital admissions for alcoholic psychosis, and a dramatic increase in arrests for drunkenness. A Swedish study by Hibell (1984) further suggests that this effect was strongest among young people.
- A US study by Gruenwald et al. (1993) showed that increasing restrictions, including reducing the density of licences, was associated with both reduced levels of alcohol consumption and lower levels of alcohol-related morbidity and mortality.

169. Professor Boden presented evidence to the hearing that the granting of the licence would also increase the overall level of alcohol advertising in the town of Amberley. He explained that like density, alcohol advertising plays a role in increasing alcohol-related harm by both helping to initiate young people into the practice of drinking alcohol and reinforcing the idea that alcohol is an important component in socialising.

170. Again, Professor Boden referred to publications in support of this statement:

- A study by Snyder and Blood (1992) showed that adolescents rated alcohol as being more beneficial and less harmful after repeated exposure to advertising.
- A New Zealand study by Wyllie (1997) reported a link between (social) group acceptance and drinking alcohol.
- A study by Gius (1995) showed that alcohol advertising has been shown to be associated with increased consumption of alcohol content such as spirits.
- A study by Saffer (1991) showed that countries with a ban on spirits advertising has 16% lower alcohol consumption levels and 10% fewer motor vehicle fatalities, as compared with those without bans. These effects were stronger for those countries where alcohol advertising was banned completely.

171. Under cross-examination by Mr Egden and Ms Williams, Professor Boden confirmed that while an A4 flyer attached to the front window was not stated by the experts specifically, it is still considered advertising.

172. In relation to the density of licensed premises, Ms Williams put to the Professor that as there are currently 4 off-licences in Amberley, with the closure of Pam’s Pantry, whether the density would increase if this licence was granted? Professor Boden confirmed that it would as the number of off-licences would increase to 5.

173. When questioned about the relevance of international studies cited and their date of publication, Professor Boden recognised this fact and explained there is a lack of data that has been gathered in New Zealand. The most recent is the Barbor (2010) publication, which is a book that summaries a lot of work. It is sold around the world and deals with conditions worldwide.

MS ANNA THORPE'S EVIDENCE

174. Ms Thorpe was called as an expert witness engaged by Alcohol Wise Hurunui Incorporated. She provided a written brief of evidence in advance, dated 31 August 2020.

175. Ms Thorpe has a PhD in Psychological Medicine from the University of Otago Christchurch, a Master's in Social Work from Massey University and a Bachelor's in Social Work from Massey University.

176. Ms Thorpe has been employed by the Canterbury District Health Board since 2014 as an Alcohol Health Promoter, and she also coordinates the Shared Alcohol Programme at Community and Public Health. This includes involvement with the Fetal Alcohol Spectrum Disorder Professionals Network. There was no challenge to her as an expert witness and we accepted her evidence on that basis.

177. Ms Thorpe outlined the object of the Act and types of harm. She explained that Fetal Alcohol Spectrum Disorder (FASD) is the term used to describe the range of effects caused by drinking alcohol in pregnancy and gave examples of the types of conditions and effects.

178. She stated that it is estimated that between 600 and 3000 New Zealand babies are born every year with FASD.

179. Ms Thorpe stated that FASD is wholly preventable, by totally avoiding the consumption of alcohol during pregnancy. The study by Sellman and Connor (2009) states:

"There is no safe level of alcohol consumption during pregnancy the level of harm is related to the amount of alcohol consumed, the frequency of consumption and the timing of exposure."

180. Ms Thorpe referenced a study by Connor et al. (2011), which states:

"Increasing the density of licensed premises in an area is likely to lead to an increased risk of second-hand alcohol-related harms."

181. She continued to state that FASD is one such harm, amongst family violence and road accidents.

182. Ms Thorpe concluded her evidence by saying that it is safer for a small close-knit community, such as Amberley, to minimise the risk of alcohol-related harm by reducing the availability of alcohol for purchase in the community.

WITNESS A - EVIDENCE

183. Mr Healey, representative for Alcohol Wise Hurunui Incorporated, asked the Committee to consider a non-publication order under s. 203(5) of the Act due to the sensitive and personal information his next witness will speak to.
184. The Committee agreed to make an order prohibiting the publication of the names and descriptions of parties under that section. The Chairperson stated that the witness called by Alcohol Wise Hurunui Incorporated will be referred to as “*Witness A*”.
185. Witness A appeared as a witness and provided his story about his personal experience with alcohol addiction, including:
- The effect of alcohol had on him, his apprenticeship and relationships;
 - How he did not know he had a problem with alcohol;
 - How he couldn’t relate to the normal drinker;
 - His experience going through the treatment centre and the ongoing recovery.
186. Witness A concluded by saying that for the sake of the lives of the people who suffer from alcohol addictions and their families, please do not grant this Thirsty Liquor store a licence. Please be a voice for the addicts who do not have a voice. Please make it better and not worse for them. Witness A was not questioned by anyone.

SUBMISSIONS

Applicant’s submissions

187. Mr Egden, counsel for the applicant, provided an oral closing submission at the hearing.
188. Mr Egden said that he intends to make some comments as to the objections generally and then to deal with a number of specific matters that will probably ultimately be the Committee’s focus when you go make your decision.
189. Mr Egden asked the Committee not to fall into the trap of assuming that because a number of residents have opposed the application that they are the representative view of the community. He said:
- “... the 50 odd objectors who were accepted as being persons with a genuine interest being more specific than those of the general public amount to 2.5% of the total township population. The 20 or so who have chosen to give evidence represent 1% of the population. The remaining 97% their views are unknown. He said, however it’s reasonable to assume that they fall into one of three possible categories: one that they support the application, two that they don’t have a view one way or the other, or three that they don’t necessarily agree with the granting of the licence but don’t feel strongly enough to object.”
190. Mr Egden outlined the key issues for the Committee:

- (a) will the grant of the licence reduce by more than a more extent, the amenity and good order of the locality;
- (b) will the Object of the Act be met if the licence was granted?

191. He continued, that this is limited to the proliferation or density of licences permitted within the locality. As a far as amenity and good order is concerned, the Inspector and Police and many of the objectors take the view that the amenity and good order would not reduce by more than a minor extent if the licence were granted. In assessing this, can it be reasonably said the amenity and good order will be reduced by more than a minor extent?
192. Mr Egden referred to s. 106 of the Act and said these factors (current and future noise, nuisance and vandalism, and the number of premises with a licence of the kind are already held) must be taken into account.
193. He considers that no one has raised any matters about noise, and there was no evidence of vandalism. On the matter of nuisance, the closest we heard was the litter that is spread around the area, and of course that cannot emanate from these premises.
194. Mr Egden said that none of the reporting agencies have raised any issues in relation to amenity and good order of the locality and believes that there is nothing that prevents the Committee from granting a licence based on the amenity and good order.
195. In relation to the number of licences in the area, Mr Egden said the Act is quite clear. Section 106 states that you must take into account the number of premises to which licences of the kind are already held, and s. 42 sets out the kinds of premises to which off-licenses may be issued. Mr Egden said there are six [kinds of premises], and one of which is a standalone bottle store. He said the Committee are required to take into consideration the issue of the number of premises of which 'like licences' are held. There is only one, which of course is Super Liquor Amberley.
196. Mr Egden talked of the issue of proliferation and density, he said that Amberley is not a city, it is a rural catchment and you cannot look at this simplistically by population alone. Mr Egden said the surrounding locality and passing traffic need to be taken into account.
197. In relation to the Ms Williams reference to the *Masterton* decision, he said that Masterton was an outlying case which had 12 premises within a 1.2km radius which meant that the density was considerable.
198. Mr Egden referred back to the *Kiwano Limited* decision, at para 6.4 states:

Although there was some statistical material put forward in the submission on behalf of Mr Bishop suggesting that there was some sort of test as to the number of licenses appropriate to the population of an area, the Committee has considerable reservations about the methodology of such a submission. It does not appear to take into account the population of the surrounding areas and how closely settled they are. While such statistics may be useful, they cannot, in the

Committee's view, be determinative. To do so would be too simplistic a view. These matters cannot be determined on basis of a formula.

199. He considers that it was clear from this decision, that the Masterton figures did not take into account the population of the surrounding areas, which meant that the reasoning was flawed. Mr Egden said that the Committee must take into account the surrounding area as the catchment for all the licensed premises in Amberley.
200. Mr Egden said that this is not an easy task for the Committee to undertake as the statistics are not easily available for the population of the surrounding areas of the service town - Amberley. However, his point is that you cannot say there is already one standalone bottle store in Amberley with a population of 2000, so if another licence is granted, the national average is exceeded.
201. Mr Egden said that the current number of off-licences is four and submits that if this licence is granted, then the number of licences back to the status quo for Amberley (based on number of licences held in 2014).
202. He referred back to the Masterton decision and talked of the Authority's decision on the appeal was that there was just enough evidence for the DLC to conclude that the Masterton west community was an area in which alcohol related harm prevails, and it is not a quantum leap to decide that with so many off-licences in the district that another off-licence located in a socially deprived area where alcohol harm exists, that increased alcohol harm might occur.
203. Mr Egden submits that this is vastly different from the situation in Amberley. From the information heard, he considers that there is very little evidence of alcohol-related harm in this community.
204. He referred to the evidence given by Mr Green about families affected by family violence, Oranga Tamariki being involved due to alcoholic parents and parents in rehabilitation programmes. Mr Egden submits that this is no strong evidence of alcohol-related harm that would lead the Committee to make a finding that the object of the Act would not be met, should the licence be granted.
205. Mr Egden said it cannot be disputed that Amberley, along with every other community in the country, experiences the negative effects of alcohol from time-to-time but that is not a reason to decline an application for a further licence. He said there is no evidence that the effects in Amberley are any worse than any other part of the country. He went on to suggest that they are probably less.
206. Mr Egden said that the reporting agencies would have a greater appreciation of any alcohol-related harm in the area and would have raised it if they had any serious concerns. He emphasised that none of the reporting agencies raised any issues relating to alcohol-related harm.
207. Mr Egden finished his submission by saying to the Committee, that when you sit back and look at the criteria in s. 105, you will find that Mr Brown meets all these

requirements. Then if you look at the criteria under s. 106 and take that package and look carefully at the object of the Act, it is his submission that the application must be granted.

Closing statements – in rebuttal to closing submissions from other parties

208. In rebuttal to the closing submissions from Constable Craddock, Mr Egden referred to her comment that there is alcohol-related harm in the area and on that basis, they now change their stance and oppose the application.
209. Mr Egden submits that there is alcohol-related harm in every community in New Zealand, and the evidence we have heard is relatively limited.
210. Mr Egden said the fact there is alcohol-related harm in Amberley does not mean that this application should be declined. The real issue for the Committee is that, should the applicant be granted a licence, is the alcohol-related harm of such a degree and intensity that it would breach the object of the Act?
211. Mr Egden said the purpose of the Act is for the benefit of the whole community, this is not just the objectors. He said the views of the rest of the community must also be taken into account.
212. Mr Egden said that “once the Committee analyses the whole situation you will be satisfied that if the application was granted, Mr Brown will sell it safely and responsibly, as he has done in his other stores, and in doing so there is nothing on which you could conclude firmly, that if granted there would be a significant increase in alcohol-related harm. The harm in the community is most likely less than in other areas.”

Submissions for the Medical Officer of Health

213. Ms Williams provided written submissions at the hearing, which were presented orally.
214. Ms Williams submits that the community has strongly voiced their objection to this application and that their evidence must be considered carefully by the Committee. She continued, “*those who live and work in the community are best placed to advise the Committee on alcohol related harm in the community.*”
215. Ms Williams referred to *Malkit Singh [2011] NZLLA PH1328*, in which the Authority stated:

[30] It is when considering the over-arching requirement that the object of the Act to be taken into account, that matters previously deemed irrelevant become relevant. The objectors’ evidence, relating to the proliferation of liquor outlet in a low socio-economic area, the consequential increase in availability of liquor leading to its abuse and criminal activity, are s4 issues as they relate to the object of reducing liquor abuse...

216. She said, although the reporting agencies have their role in enquiring into and reporting on applications, she further submits that the evidence of the community is first-hand and therefore carries greater weight in this particular application.
217. In relation to the evidence from Amberley School, Ms Williams submitted that Mr Green had provided the Committee with evidence of alcohol related harm that is a reality for the school, students and families far more vividly than any Police or Emergency Department statistics could.
218. She referred to the evidence from the Amberley District Residents Association and their concerns about the impact of a prominent main road store may bring, including people congregating and consuming alcohol in the vicinity of the store and potential rubbish. She said the Association have clearly voiced that a main road liquor store does not fit the aspirations of Amberley. Ms Morrison submits that this is a point that the Committee must consider carefully.
219. Ms Williams referred to Alcohol Wise Hurunui Incorporated's point, in their original objection, that no one can attribute alcohol-related harm to this application because it does not yet exist.
220. She submits that this creates a huge difficulty for both objectors and decision makers when considering s. 105 and s. 106 criteria.
221. In relation to the precautionary principle described by an objector, she submits that this aligns with how the Committee must consider s. 105(1)(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 licence.
222. She referred to the two expert witnesses called by Alcohol Wise Hurunui Incorporated and submits that this expert evidence carries significant weight in the Committee's consideration of this application.
223. In relation to Ms Mackenzie's citation of Alcohol in our Lives: Curbing the Harm, Ms Williams submits that the objector accurately stated that the key to reducing alcohol-related harm is reducing access by such means as location, density the time alcohol is available for sale and pricing.
224. Ms Williams said the granting of this application would contradict these measures and whilst the objector has provided a range of conditions to assist the Committee if they are of a mind to grant the application. She submitted that if the application cannot meet the object of the Act, then it has failed at that point and must be refused. This is a matter for the Committee to determine.
225. She referred to the evidence of antisocial behaviour and alcohol consumption in Chamberlain Park given by Ms Turnbull. Ms Williams submits that the Committee when forming an opinion for the purposes of s. 105(1)(h) of the Act, must have regard to s. 106 matters as they relate to locality. She considers that Chamberlain Park is likely to

suffer a reduction in the amenity and good order to more than a minor extent should this licence be issued.

226. Ms Williams made reference to the *Tony's Liquor Upper Hutt Limited* [2014] NZARLA 253428 decision:

"... sections 105 and 106 of the Act apply. In this case the significant criteria are the object of the Act, the applicant's suitability, and whether the amenity and good order of the locality would be likely to be reduced by more than a minor extent. In this latter regard s. 106(1)(a)(iii) and s. 106(1)(b) are of concern. Thus we must consider whether a new entrant into the marketplace will create an unacceptable proliferation of off licences in the area."

227. She submits that this is an area for the Committee to give considerable attention to, despite the fact that one off-licence has closed since the opposition report was made. She further submits that the fact remains, the Amberley statistical area is already well served by off-licence premises, despite, as Counsel for the applicant has stated, the status quo is maintained with the loss of Pam's Pantry and the addition of Thirsty Liquor Amberley. Ms Williams pointed out that under cross-examination, Professor Boden confirmed that with Pam's Pantry no longer counted, 4 off-licences being the total at this moment in time, adding this one licence for Thirsty Liquor would still in fact be adding to the current density.
228. Ms Williams referred to the comments made by Counsel for the applicant about the different "kinds" of licences, and said her submission is clear. She stated that s. 13 of the Act outlines that there are 4 kinds of licences: on licences, off licences, club licences and special licences. Where s. 32 of the Act refers to the "kinds of premises" for which off-licences may be issued.
229. She submits that an off-licence, regardless of whether it is one of the following kinds of premises (grocery, stand-alone bottle store, tavern or supermarket), they are all off licensed under the Act, and that is what the s. 106 consideration is, the number of premises for which licences of the kind concerned are already held in this case, an off-licence.
230. Ms Williams talked of the evidence given by objectors and said that they clearly painted a picture of a town that experiences alcohol related harm and provided a strong voice against a further off-licence premises. She said they outlined concerns with that the land around the premises may be use for, and increase in litter, with photograph evidence of bottles and cans collected around the township, intoxication, disorderly or intimidating behaviours, and the lack of the benefit to the community from the proposed premises.
231. Ms Williams submits that, whilst the alcohol-related harm cannot be laid at an off-licence that does not yet exist the Committee should be in no doubt from the evidence provided of the very real alcohol-related already in this community.
232. She noted that counsel for the applicant has raised the point that if the licence is issued for a probationary year, and this year represents the best way to determine alcohol-

related harm from the premises, and the public can object to when the applicant applies for a renewal.

233. Ms Williams submits that the risk of a probationary year based on the already evident alcohol-related harm is a risk that the community of Amberley cannot afford to take. The community are objecting now and should be regarded. She further submits that the Committee should not entertain the grant of this licence for a probationary year.
234. She referred to the High Court decision, *Re Venus NZ Limited [2015] NZHC 1377*, where Health J found:

[53] ... it seems to me that the question whether amenity and good order will not be materially reduced is one on which a judgement 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.

235. Ms Williams said the High Court take the view that no onus exists for whether the amenity and good order of a locality would be reduced by more than a minor extent. The wording of the section requires the Committee to form an 'opinion' and there is an underlying assumption that the Committee will exercise an inquisitorial role. The Committee is required to inquire into the consideration and form its own opinion and this must be done, in our submission, on the basis of the evidence adduced.
236. It was noted that many of the objector's evidence highlighted that the direct cause of these harms is the inappropriate or excessive consumption of alcohol.
237. Ms Williams submits that the Committee must ensure in their deliberations that s. 105 criteria, including the object of the Act, are met.
238. She referred to *Linwood Food Bar Limited v Davison and Ors CIV-2014-409-00062 [2014] NZHC 2980*, in which Dunningham J stated:

[18] Importantly, as was emphasised in Venus NZ Limited, the object in s. 4 of the 2012 Act differs from that contained in the 1989 Act in that the aim is now the minimisation of alcohol related harm, not merely its reduction. That means both the Authority and this Court, must have regard to reducing alcohol related harm to the smallest amount, extent or degree, when making decisions on the grant of renewal of a licence.

239. Ms Williams said it is her submission this also must apply to the granting of new licences. The Committee should consider whether or not they have heard any evidence that convinces them that the harm caused by excessive or inappropriate consumption of alcohol will be minimised by the applicant to the smallest degree by having this licence establish in this location. She continued that the objectors have given the Committee evidence that nothing but harm will continue to be caused to the community and the applicant has not, in her submission, given sufficient evidence to the Committee as to how it will minimise this harm.

240. She respectfully submitted that this application should be declined.

Licensing Inspector's submissions

241. Ms Morrison provided written submissions at the hearing, which were presented orally.
242. Ms Morrison confirmed that she has inquired into the application and has no opposition to the granting of the off-licence. She considered there are matters that require further clarification by way of undertakings or conditions on the licence through agreement between the applicant and the Committee.
243. In her submission, Ms Morrison did not raise any matters in relation to the suitability of the applicant; days and hours sought; systems, staff and training; sale and goods and services other than alcohol and food; and the local alcohol policy.
244. In relation to the design and layout of the premises, Ms Morrison talked of the matters raised by many objectors with regards to the use of logos and the type of alcohol advertising visible from the outside of the building. She considers it appropriate for the Committee to set conditions that could be imposed on the licence to address these matters. She further submits that the inclusion of the storage area in the licensed area is inappropriate at this time.
245. In relation to the amenity and good order of the locality, Ms Morrison talked of the density of licensed premises and said that Amberley has consistently had a maximum of 5 off-licence premises between 2010 to September 2020. She talked of the trends in numbers of off-licences in surrounding areas and stated that overall, there are less off-licence premises in Amberley and the surrounding areas.
246. Ms Morrison talked of the varying opinions of the current amenity and good order in Amberley and submits that the Committee needs to carefully consider the objectors perceptions against the factual data on the number and types of premises serving Amberley and the wider community.
247. She further submitted that the Committee needs to be careful when considering the relevance of case law cited by parties to the hearing. She submitted that the specifics of each community need to be taken into account in respect of those decisions, versus the amenity and good order of Amberley, the current number of premises and the impact an additional premises may have.
248. In relation to the object of the Act, she submits that the applicant has provided sufficient information to conclude the s. 105 criteria and the object of the Act can be met.
249. Ms Morrison concluded her submission by stating, "the application to be granted subject to conditions to ensure clarity relating to the licensed areas, the exterior appearance of the building, the use of logos and externally visible advertising of alcohol products."

Police submissions

250. Constable Craddock provided oral submissions at the hearing. She confirmed that the Police did not oppose this application.
251. She submitted that, *'given the evidence submitted by community objectors, Police agree that there is harm in the community.'*
252. Constable Craddock referred to evidence of alcohol-related harm from several public objectors, including:
- (a) Mr Green, on behalf of Amberley School, spoke of the increase in incidents of parents who are under the influence of alcohol when picking up and collecting children; incidents of parents under the influence fighting outside school; and parents battling alcoholism.
 - (b) Ms Welch provided evidence of alcohol-related rubbish collected. A high percentage of this was RTD packaging.
 - (c) Ms Gould provided evidence of people drinking in Chamberlain Park and the Countdown Amberley carpark. This was described as unpleasant.
 - (d) Professor Boden talked of the density of locations with a licence to sell alcohol plays an important role to the extent to which alcohol causes harm in society.
 - (e) Mr Healey on behalf of Alcohol Wise Hurunui Incorporated said that "this is a case of out of sight out of mind and it does not reflect the reality of alcohol stigma or the harm alcohol causes in our homes and community. He concluded that increased availability and increased accessibility in a highly visible location is a concern.
 - (f) Ms Walker-Clarke provided evidence that there are problem drinkers in the community. This which is getting worse, probably from COVID-19. These drinkers drink RTD's.
253. Police submitted that there are a number of issues within the community that are not brought to the local police attention. Because the Police did not oppose this application does not reflect that there are no issues within the community regarding harm related to alcohol.
254. Police submitted the questions that the Committee must consider are:
- (a) Will this application help to achieve the safe and responsible sale, supply and consumption of alcohol in accordance with the object of the Act? AND
 - (b) Put simply, should the Committee find that the applicant does not satisfy one criteria, it should not be able to find the applicant to be consistent with the object of the Act and this application must be refused.
255. It was quite rightly noted by Constable Craddock, the Sale and Supply of Alcohol Act 2012 is framed to ensure local communities can have a strong voice about where and when alcohol can be sold.

256. She said that, in this instance we have heard evidence of apparent harm from this community.
257. Constable Craddock confirmed Police did not oppose the application. She submits that had Police been aware of this alcohol-related harm in the community it is highly likely this application would have been opposed.
258. She submits that the Committee should carefully consider the strong community voice in this instance.

Objector's submissions

259. While many of the objectors who spoke in person at the hearing provided combined submission and evidence throughout the hearing, the Committee also invited the objectors to present any final submission on the closing day of the hearing.

Mr Thomas Guy Porter

260. Mr Porter commenced his submission by saying, you have heard I am a parent with children at Amberley School, that I took time to visit three of the applicant's other licensed premises, and the view I formed of that being that the applicant would not pursue a high-end business. I spoke about my area around the proposed premises as a pleasant location with high amenity value for the community. I described the area as a 'hub' for the community, the value of which should not be reduced.
261. Mr Porter said that he objected to the alcohol licence application on the following grounds:
- (a) The object of the Act – I contend, that given the high number of existing licences, that issuing a further licence within Amberley township will lead to promotion and competition on price that in turn leads to excessive or inappropriate consumption of alcohol, and consequent harm; and
 - (b) Amenity and good order – I stated, there may be an increase in rubbish, noise and other disturbance in the community. The existing good order of the locality would likely to be reduced to more than a minor extent if this licence is issued.
262. Mr Porter said that he is concerned about the counsel for the applicant's interpretation of kinds of licences being confused for kinds of premises. He considers that the failure to accurately distinguish the difference means there are more premises with off-licences that the Committee should have regard to, when considering s. 105(1)(h) and s. 106 of the Act.
263. Mr Porter also raised concerns with the counsel for the applicant's use of the phrase "the licensee will take over from Pam's Pantry", and "status quo of licences". He asked the Committee to view the application on its own merits rather than perhaps that the applicant is somehow filling a 'vacant slot.'

264. Mr Porter concluded his submission by respectfully asking the Committee to put itself in the position of a child passing the proposed premises at the time of some disturbance or antisocial behaviour. Would the child feel safe? Would the child experience a significant loss of amenity?

Mr Simon Green for Amberley School

265. Mr Green said that his area of expertise is not law or legal process, it is children and communities. He is in a privileged position where he has a good window into the Amberley community.
266. Mr Green said as the Principal of Amberley School he has a role of 240 students and a wider community of 700-800 people, if you include parents and extended family. This equates to about one-third of the Amberley population.
267. He said that he has shared evidence about some of the harm he is seeing. He is concerned because he feels that Amberley is a vulnerable community – Amberley is a decile 7 school. He continued that he is seeing clear signs that alcohol is impacting on our families and it is at a time when we are most vulnerable, where mental health and wellbeing issues are affecting our communities, and many are turning to alcohol. Mr Green said that he sees that day-to-day in the pastoral needs for the children I deal with.
268. Mr Green said that he was asked how many schools he has taught at in North Canterbury. I've taught at 5 schools and when asked if I have seen the levels of harm caused by alcohol at any of those other schools, I answered 'no I have not'.
269. Mr Green said that I am seeing an increasing level of harm done as an expert on children and families. I can see the harm this is causing.
270. Mr Green closed his submission by saying that the specific question asked by the Committee is whether the amenity and good order would likely to be reduced by more than a minor extent. I have provided evidence to show that it would be harmed and in my opinion to a great extent.

Mr Roy Myers for Amberley District Residents Association

271. Mr Myers said that the objection of the Amberley District Residents Association is based on section 105(1)(h) of the Act which related to the amenity and good order.
272. Mr Myers said we believe that an additional store in Amberley in this location will affect negatively on the town which has little resources to deal with it.
273. Mr Myers said this town is described as a service town and that the clientele will be transient without connection or responsibility to it, this is the problem.
274. Mr Myers said this store should not be seen as a replacement for Pam's Pantry, it's a full liquor store that sells spirits and RTD's and is a larger space.

275. Mr Myers said that we need to consider that there is significant public opposition to this and that it takes a lot from the people to step up and make these submissions. He said he hopes the Committee will respond to these concerns and decline the licence.

Ms Helen Barbour

276. Ms Barbour provided a written submission at the hearing which was traversed orally.

277. Ms Barbour said she considers the amenity and good order of the locality is likely to be reduced by more than a minor extent, by the effects of the issue of the licence.

278. Ms Barbour referred to s. 3 of the Act – the Purpose of the Act. She considers that the counsel for the applicant has failed to mention the crux of this section that is: for the benefit of the community as a whole. She said that while the purpose is not a mandatory consideration for the purposes of s. 105, the evaluation of s. 105 must reflect the purpose of the Act.

279. She submits that evidence is presented in many forms and that it is for the Committee alone to decide the weight placed on that evidence, whoever is in the witness box.

280. Ms Barbour said she strongly agrees with the points raised by Ms Williams regarding the community being best place to advise the Committee on the alcohol-related harm in this community and that their evidence must be carefully considered by the Committee.

281. Ms Barbour spoke about the point made throughout the hearing by the Inspector and counsel for the applicant, that with the closure of Pam's Pantry, this application is just keeping things at 'status quo.' She submits that the Committee consider each application on its own merits and further submits a substitution of one licence for the other is no reason nor test in deciding whether to grant a licence.

282. She said that the applicant expects that 50% or more of his customers will be from a wider catchment area and submits that if the applicant wishes to capture the wider community, then the wider community should have been given standing at this hearing.

283. Ms Barbour said that the applicant agreed with the Inspectors report that a deprivation score of 8 in the immediate locality indicates the area is deprived but stated that while these people will come to his store, it won't be a high percentage. She submits that the applicant has no control over this.

284. She referred to Mr Brown's comment that the vast majority of people are responsible drinkers and he plans to identify problem drinkers through feedback from the community. She said this approach concerns her as he may be led to believe that if he hears nothing from his customers, then everything is ok, and no harm is being caused.

285. She submits that the applicant has not considered the locality or our community in his application and considers that carrying out an assessment of the town including its deprivation assessment simply by driving around and visiting the bakery is inadequate.

286. She submits that the Committee place conditions on the licence regarding advertising of the store.
287. Ms Barbour referred to the definition of alcohol-related harm in the Act, being s. 4(2) and s. 5 of the Act. The applicant considers this to be family violence and vandalism.
288. She said over the last two days, the Committee has heard compelling evidence from objectors and their witnesses as to the ways that alcohol-related harm directly and indirectly affects this community.
289. She continued, despite the concerns that objectors had around price wars and franchises having low-end products at affordable prices, the applicant maintained there was no profit from price reduction and that he aimed to be higher priced than Super Liquor and hoped better service would attract customers.
290. Ms Barbour stated that no evidence was produced to demonstrate the ratio of sale of high-end products versus the number of low-end products sold from any of his established stores.
291. In regards to the design and layout of the store, Ms Barbour said the applicants plan has changed yet again to include dump stacks of beer, wine specials and RTD's at the front of the store. She referred to Ms Williams comment that these are "easy pickings" and said that her concern in her objection that the layout of the store could change should the licence be granted has already been proven.
292. Ms Barbour expressed her concern about the Inspectors suggestion that the applicant consider lessening the footprint of the licensed area for the probationary first year and then, based on "good behaviour" he can apply to license the full area.
293. Ms Barbour recognised that while road safety is not a criteria under s. 105 of the Act, she submits that the Committee should have consideration to it based on the fact that this type of business would be different to a different business in the same premises.
294. Ms Barbour referred to *PKNG Ltd v Flucker* [2019] NZARLA 38 which applied Fisher J in *WALKER v Police* (HC), which states:

[65] In light of Walker v Police there can be no doubt that road safety is a relevant consideration.

295. Quite relevantly, Ms Barbour also referred to the Authority in *Kiwano* at [para 38] to Health J's decision in *Venus NZ Limited* [2-15] NZHC 1377 which provided as follows:

Although the object of the 2012 Act is stated as one of the 11 criteria to be considered on an application for an off licence, it is difficult to see how the remaining factors can be weighed, other than against the 'object' of the legislation. It seems to me that the test may be articulated as follows: *Is the Authority satisfied having considered all relevant factors set out in section*

105(1)(b)-(k) of the 2012 Act that the grant of an off licence is consistent with the object of the Act?

296. Ms Barbour directed the Committee to refer to the *Harewood Bottle Store, decision No. 60C [2017] 1766*, in which 86 public objectors won the case against no opposition from the three reporting agencies. In its conclusion, the Committee states:

[63] Having considered all the criteria to which we must have regard to as detailed in s. 105 and s. 106 we now step back and consider the view we have formed against the object of the Act as set out in s. 4.

... We are mindful that as the High Court said in *Joban* referred to above, when a causal nexus is established between evidence and relevant risk, it is not necessary to qualify the nature of the link by reference to such words as “powerful” or “direct”. We accept that there is a nexus between the evidence given by the objectors about the amenity and good order and other matters and the risk of unfavourable consequences for the neighbourhood if the licence is granted. The link may not be great but it does not need to be. We are required to form an opinion as to whether the amenity and good order of the locality would be reduced, by more than a minor extent, if the licence were to be granted. It is a particular neighbourhood to which we must have regard. One of which has been characterised in evidence as a very pleasant and agreeable place where live in harmony and mutual support a broad cross section of society from young to old. We have formed the opinion that amenity and good order would be reduced by more than a minor extent. The foreseen reduction may not be great but it is likely to impact on the people who live in the vicinity. Returning now to the object of the Act we do not think that the granting of the licence would be consistent with the stated object and on that basis and on the evidence, we have heard it is our decision to refuse it.

297. Ms Barbour concluded her submission by asking the Committee to decline this application.

Ms Yolanda Turnbull

298. Ms Turnbull said that her submission has addressed: section 105(1)(h) of the Act – whether the amenity and good order of the locality would likely to be reduced, to more than a minor extent, by the effects of the issue of the licence.
299. Ms Turnbull said there were 94 objections to Thirsty Liquor Amberley application, and this must be an indication that there is very little community support in Amberley for the licence to be granted.
300. She said that she is still very concerned that antisocial behaviour in Amberley may be exacerbated with the readily available sale and supply of alcohol from such a prominent location. She said do our residents and council workers need to have to deal with graffiti, vomit and crime in Amberley before we decide we have enough licensed premises.

301. Ms Turnbull said she is concerned about the selling of single RTD's and the hours of trade. She said that she is not convinced by the applicant that he will not be maximising the hours of trade and not sell single RTD's.
302. Ms Turnbull said with a liquor store in such a prominent location on State Highway One, the area may become associated with a negative environment.
303. Ms Turnbull closed her submission by requesting that the Committee considers her evidence along with all other evidence and refuse this application for another standalone bottle store in Amberley.

Reverend Doctor Alan Missen for Kowai Parish - St Andrews Presbyterian Church

304. Reverend Doctor Missen was not present at the time of closing submissions, however had provided a written submission in advance. This was read aloud by a Council Officer at the hearing.
305. Reverend Doctor Missen wrote this closing submission addresses section 4(1)(b) of the Act: "The object of this Act is that – the harm caused by the excessive or inappropriate consumption of alcohol should be minimised."
306. Reverend Doctor Missen wrote that our church in its original submission drew attention to two studies that highlighted harm from excessive or inappropriate consumption of alcohol.
307. He continued, furthermore, I provided evidence as to my former career for almost ten years as a government scientist analysing and researching the role of alcohol and drugs in road safety. It was the case back in the 1970s and is still the case now that a significant proportion of injury road accidents and road fatalities involve unsafe levels of alcohol in the driver.
308. Reverend Doctor Missen submitted that Counsel for the Applicant has earlier made a point that the proposed outlet would also provide for thousands of drivers who drive through Amberley on their way to other Hurunui locations. He said, that is a real concern.
309. Reverend Doctor submitted that our church, along with many other objectors, noted the number of outlets already in the Amberley community. The suggestion that a Thirsty Liquor outlet is simply replacing Pam's Pantry is a bit like suggesting no difference between a Chihuahua and a German Shepherd. The Reverend Doctor continued that Thirsty Liquor would stock RTD's popular with youth and also spirits that have a much higher alcohol content than alcoholic beverages available in a supermarket.
310. Reverend Doctor concluded his written submission by stating:

"it is the view of our church that granting a liquor licence to Townill Limited would not only endanger the wellbeing of Amberley residents through increased

availability of alcoholic drinks but would also potentially adversely impact road safety in the Hurunui District.”

Ms Susan Mackenzie

311. Ms Mackenzie was not present at the time of closing submissions, however had provided a written submission in advance. This was read aloud by a Council Officer at the hearing.

312. Ms Mackenzie's submission addressed:

- Section 105(1)(d) of the Act – the days and hours during which the applicant proposes to sell alcohol. Ms Mackenzie said that the days and hours of sale are too long as there are already ample outlets for the sale of alcohol. She continued that the more the visibility and availability, the more harm comes from alcohol sales.
- Section 105(1)(e) of the Act – the design and layout of the proposed premises. Ms Mackenzie said that she objects to the design and layout of the premises if there is to be the use of the Thirsty Liquor Orange on the exterior.
- Section 105(1)(h) of the Act – whether the amenity and good order of the locality would be reduced, to more than a minor extent, by the issue of the licence. Ms Mackenzie included the following points:
 - (a) The usual high-viz look of the Thirsty Liquor brand does not fit with our town;
 - (b) Litter on roadsides is often cheap alcohol containers, fast food packaging and RTD containers. The Thirsty Liquor store will increase this issue;
 - (c) Alcohol-related harm is well documented. A Thirsty Liquor store on State Highway One in the middle of our town contradicts any mitigations; and
 - (d) Amberley has a balanced selection of alcohol outlets, which are well managed and do not detract from the peaceful and pleasant town. A Thirsty Liquor store will substantially reduce the amenity and good order of this area.

313. Ms Mackenzie wrote her proposed possible conditions, should the Committee decide to grant the applicant an off-licence:

- Reduced hours;
- Minimal signage and advertising on the building, no orange panels or paint on the building and no pavement signage;
- Packaging to be clearly labelled as Amberley Thirsty Liquor so that if littering does take place, it can be identified; and
- No single sales of RTD's and cans of beer so that a price barrier of some sort is established.

314. Ms Mackenzie said that the high level of objection received is due to a genuine concern in our community over a discount liquor store opening on State Highway One in the

middle of our town. She continued, it is sure to lead to alcohol-related problems and we don't want it.

315. Ms Mackenzie concluded her closing submission by requesting that the Committee considers her evidence along with all other evidence and refuse this application for another standalone bottle store in Amberley.

Ms Pamela Welch

316. Ms Welch said she submits that the Amberley community is already experiencing alcohol-related harm and a gradual deterioration in the amenity and good order.
317. Ms Welch said she had seen evidence of vandalism, including Chamberlain Park. She believes that this deterioration can be attributed to an increased level of drinking.
318. Ms Welch said the evidence of irresponsible drinking and drinking and driving, especially by the youth, in both Amberley township and wider area is incontrovertible.
319. She said that the Committee must consider this evidence today along with the evidence of litter. 80% of the litter I have collected is alcohol-related litter. 47% is RTD containers, which indicated that it is young people drinking.
320. Ms Welch concluded her submission by respectfully asking the Committee not to grant this application. She said greater access to alcohol, especially inexpensive alcohol, would only make matters worse.

Ms Kylie Walker-Clarke

321. Ms Walker-Clarke asked the Committee in her closing to consider her evidence and the rest of the evidence that we have heard from the other objectors, which demonstrates that the community does not want this premises in Amberley.
322. Ms Walker-Clarke said in her evidence and others, the community has expressed genuine concern about another off-licence affecting the amenity and good order of Amberley to more than a minor extent. *"We ask that you please decline this application."*
323. Ms Walker-Clarke finished her submission by saying that it has been an emotional journey. She said that she is in the industry; but she is also a mum, a wife, a friend and a member of the community. She has seen alcohol-related harm that already exists in Amberley.

POST HEARING MATTERS

324. On 17 September 2020, Mr Egden, counsel for the applicant, filed a Memorandum with the Committee. In summary, Mr Egden asked the Committee to *"defer its deliberations"* pending his receipt of disclosure of further information from the Police. This arose because, as Mr Egden submitted, whereas the Police has originally reported *"no*

opposition” to the application, at the hearing, in her closing submissions, Constable Craddock had submitted:

“that the Police agree there is harm in the area and that, had she been aware of Mr Green’s evidence in particular, she would have opposed the application from the outset.”

325. On 2 October 2020, Constable Craddock filed a Memorandum to the Committee. In this Memorandum, Constable Craddock has made it clear to the Committee that:

- (a) *the Police have not changed their position; and*
- (b) *the Police continue not to oppose the application.*

326. Constable Craddock explained, by reference to statutory reporting time constraints, how the original report came to be filed.

327. We were also informed by Constable Craddock in her Memorandum that the Police have disclosed such information as they have to the applicant in response to Mr Egden’s request. The Constable has emphasised that the Police position of *“no opposition”* remains unchanged as a result of her review of that data.

328. On 9 October 2020, the Committee issued a Minute to address the following post-hearing matters:

- (a) the position of the Police towards the application; and
- (b) Mr McGirr's second/late brief of evidence; and
- (c) the position of the Medical Officer of Health towards the application.

329. At paragraph 10 of that Minute, the Committee set a timetable to allow any party to the hearing to respond to the Committee’s provisional view of the position of the Police towards the application.

330. The Committee received one response from Alcohol Wise Hurunui Incorporated in relation to that paragraph. Alcohol Wise Hurunui Incorporated suggested that the Committee explore the reasons why the local Police’s intention to object to the Thirsty Liquor application was not carried out.

331. Having considered the response, the Committee does not believe any evidence from local Police is necessary for their decision-making process. We consider that the Police have been sufficiently represented during proceedings and that it would be against the rules of natural justice to allow this new evidence to be permitted at this time.

332. In relation to Point B of the Minute, the Committee, at paragraph 19, invited Mr Egden to advise us of the position of the applicant in light of his initial agreement to accept Mr McGirr’s late evidence.

333. On 27 October 2020, Mr Egden confirmed that he does not require Mr McGirr to be recalled and that his amended brief of evidence may be taken as read.

334. In relation to Point C of the Minute, Mr Egden filed a second Memorandum to the Committee on 6 October 2020. In that he has complained about the Medical Officer of Health for:

- (a) not sharing data which was requested after the hearing by the applicant; and
- (b) taking a different position in closing submissions from the position in the report dated 24 February 2020.

335. The Committee advised, at paragraph 23 of the Minute, that it does not accept Mr Egden's characterisation of the report from the Medical Officer of Health dated 24 February 2020 as opposing the application "only" on the basis of "density of licences."

336. The Committee confirmed that it did not require any response from the Medical Officer of Health to Mr Egden's two Memoranda.

RELEVANT LEGAL CONSIDERATIONS

337. The Committee must determine whether a new licence to sell and supply alcohol can be granted, and if so, the conditions that would apply. The criteria for issue of a licence is found at ss. 105 and 106 of the Act.

338. It is necessary to first discuss the overarching purpose of the Act. Any interpretation of the Act must be ascertained from its text and in light of its purpose.

Purpose of the Act

339. The purpose of the Act is found at s. 3 and provides:

3 Purpose

- (1) *The purpose of Parts 1 to 3 and the schedules of this Act is, for the benefit of the community as a whole, —*
 - (a) *to put in place a new system of control over the sale and supply of alcohol, with the characteristics stated in subsection (2); and*
 - (b) *to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.*
- (2) *The characteristics of the new system are that—*
 - (a) *it is reasonable; and*
 - (b) *its administration helps to achieve the object of this Act.*

340. In summary, the purpose of the Act is intended to *benefit the community as a whole*. Any outcome achieved must be reasonable, and directed toward achieving the object of the Act, which is found at s. 4, being:

4 Object

- (1) *The object of this Act is that—*
- (a) *the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and*
 - (b) *the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.*
- (2) *For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—*
- (a) *any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
 - (b) *any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).*

341. The Act provides two overarching objects. Firstly, that when alcohol is sold, supplied or consumed, it is undertaken safely and responsibly. It is important to emphasise that the object of the Act is not only around how alcohol is sold and supplied by licensees, but how its customers consume it. In the case of an off-licence, consumption occurs away from the premises.

342. The second overarching object is to minimise harm which occurs from excessive or inappropriate consumption of alcohol.

343. The term ‘harm’ is defined in the object of the Act, s. 4(2), as shown above.

344. The definition of ‘harm’ is very wide and includes any crime, property, damage, health effects, or disorderly behaviour. ‘Harm’ includes both the direct and indirect effects of those circumstances.

Minimisation of alcohol-related harm

345. The object of the Act looks toward the minimisation of harm caused by excessive or inappropriate consumption of alcohol. As noted by the High Court in *Linwood Food Bar Ltd v Davison* [2014] NZHC 2980:

... both the Authority, and this Court, must have regard to reducing alcohol-related harm to the smallest amount, extent or degree, when making decisions on the grant or renewal of licences.

Approach to be taken by the Committee on consideration of this application

346. The Committee must undertake an evaluative approach and adopt a merits-based assessment of the application. At paragraph 55 of *Christchurch Medical Officer of Health v J & G Vaudrey Ltd* [2015] NZHC 2749, there is no presumption that a new licence or renewal of an existing licence will be granted:

Thus, when the relevant body receives an application, they must consider it against s. 105 in deciding “whether to issue a licence”. There is no presumptive position, and certainly no forgone conclusion. I think the reality of the position is that if the object of the Act cannot be achieved by the application, then it cannot succeed.

347. The Committee must consider whether a causal nexus would exist between the effects of granting the application, and the harm which the object of the Act seeks to minimise. As stated in the *Birthcare* case [2016] NZAR487 at [50]:

... the Authority is required to have regard to s. 105 criteria (or in the case of a renewal the s. 105 criteria as modified by s. 131) and then step back and consider whether there is any evidence to suggest the granting of the application will be contrary to the object of the Act contained in s. 4(1), namely that 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.

Onus of proof

348. As noted above, it is for the Committee to undertake an evaluative approach to the application. In *Re Venus NZ Ltd*, Health J at [52]-[60] confirmed that the traditional civil approach to the applicant carrying an onus may not be appropriate in alcohol licensing applications. However, in relation to suitability, the High Court has confirmed that there remains an onus on the applicant to establish that criteria.

349. That approach was cited with approval in *Birthcare*, at [52] where the Court confirmed, when referring to *Re Venus NZ Ltd*:

.. the Authority’s role is essentially an inquisitive one where notions of onus of proof may not be helpful or appropriate

350. The High Court in *Re Venus NZ Ltd* at [20] confirmed that the touchstone for consideration of the s. 105 criteria, must be the object of the Act:

Although the ‘object’ of the 2012 Act is stated as one of the 11 criteria to be considered on an application for an off-licence, it is difficult to see how the remaining factors can be weighted other than against the object of the new legislation. It seems to be that the test may be articulated as follows:

Is the Authority satisfied, having regard to all the relevant factors in s. 105(1)(b)-(k) of the 2012 Act, that the grant of an off-licence is consistent with the object of the Act?

Statutory criteria to be applied

351. In deciding whether to grant the licence, the Committee must have regard to the criteria set out in s. 105 of the Act, being:

105 Criteria for issue of licences

(1) *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 licence:*
- (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 licences 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.*

(2) *The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.*

352. When considering and forming an opinion on the amenity and good order of the locality, the Committee must take into consideration s. 106 of the Act, being:

106 Considering effects of issue or renewal of licence on amenity and good order of locality

(1) *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.*

353. To summarise what we have said we understand these are the guiding principles for us:

- (a) Our role is an evaluative one, in an inquisitorial sense. That is to say we are required to evaluate all the evidence before us, both in support of the application and in the opposition to the application.
- (b) After evaluating the evidence we must make a merits-based determination as to whether or not the application should be granted.
- (c) We must have regard to the matters in sections 105 and 106(1) of the Act.
- (d) To "*have regard to*" as a requirement means what it says. We do not have to give effect to anything and if, after having regard to a criterion, we conclude nevertheless to grant or refuse the applications that is permissible.
- (e) The weight we give to evidence is a matter for us realising that no party has any onus of proving anything.
- (f) Whilst we must have regard to all criteria there will be some cases where some matters are so fundamental, they assume an elevated mantle – here we think the following matters have assumed a fundamental significance:
 - i. the object of the Act; and
 - ii. the amenity and good order of the locality.
- (g) Whilst we do not have to consider section 3 separately, so long as we are reasonable in our evaluations, we likely will achieve the two aspects of the section 4 object. We approach section 4 on the basis that our decision must be consistent with both aspects in subsections (1)(a) and (1)(b).
- (h) We must stand back at the end and reassess our earlier conclusions against attainment of the section 4 object. These two elements – the safe and responsible sale and supply and consumption of alcohol, and the minimisation of alcohol related harm – are equally important, are not to be balanced, and have precedence over the economic/commercial interests of a licensee or an applicant.
- (i) There is no presumption of a licence being granted under this 2012 legislation which, in that sense, is different from the old 1989 Act.
- (j) We are required to form opinions on whether or not we consider the amenity and good order of the Amberley locality would be likely to be reduced by more than a minor extent if we granted the licence – in doing so we are guided by having regard to the matters in s.106(1).
- (k) For a private company licensee, as here, we are entitled to lift the corporate veil and consider how its director behaves in relation to the business.
- (l) In relation to conditions, we have a wide discretion (s. 117) which is constrained by the need for any conditions we consider to be reasonable,

proportionate, and likely to ameliorate a risk we might identify and achieve an identifiable benefit.

- (m) If we conclude that granting the application would not be consistent with section 4 – the object of the Act – we cannot attempt to remediate that by the imposition of conditions. We may impose conditions if we consider granting the application is consistent with the object of the Act and imposition of conditions will enhance that consistency. What we think that means in this case is that before we consider any conditions, we must first have come to a conclusion that the applicant is eligible to have its application granted consistent with section 4 (and the other criteria). If we do not reach that positive position, we need not consider conditions at all.

ANALYSIS

354. We will proceed to consider the application on the basis of the above criteria. The object of the Act will be addressed last.

Suitability of the applicant

355. The Committee must have regard to the suitability of the applicant to be granted a new off-licence.
356. The term ‘suitability’ is not defined in the Act. It is however well settled in this jurisdiction, that suitability is measure against the general dictionary definition of that word, meaning “well fitted for the purpose, appropriate”.
357. Wide ranging factors may be relevant for an evaluation of suitability, but when considering any matters, there must always be a causal nexus between any matters identified and the object of the Act. For example, as confirmed by the Authority in *Re Nishchays’ Enterprises Ltd* [2013] NZARLA 837:

“... suitability is a broad concept and the assessment of it included the character and reputation of the applicant, its previous operation of premises, its proposals as to how the premises will operate, its honesty, its previous convictions and other matters. It also included matters raised pertaining to the object of the Act as set out in s. 4.”

358. We also note that in order to find the applicant suitable, we must make a positive finding of suitability. The applicant carries an onus to establish suitability.
359. The applicant in this case is a limited liability company, which currently operates three other bottle stores and one tavern on-licence. The reality of applications made by companies, is that the Committee must look to the shareholders and directors and how the company would likely manage the premises.
360. Mr Brown is the sole director of the applicant company. The major shareholder is a trust, which Mr Brown and Ms Michelle Robb, are the trustees. Mr Brown and his wife, Mrs

Jillian Brown each hold one share. We are not aware of any unfavourable reports relating to the director or shareholders of this company.

361. We heard that Mr Brown intends to operate his stores in the same manner as his other stores. He has confirmed that there have been no issues with the Police, Medical Officer of Health and District Licensing Committee's since setting up these businesses. We consider this has been supported by the reporting agencies, as no matters of non-compliance in relation to his other premises were raised as evidence.
362. Throughout the hearing, many of the objectors said that their objection does not relate to the suitability of the applicant, while others were concerned that he will be spreading himself too thin. We will deal with the latter concern in the systems, staff and training section later in this decision.
363. We heard Ms Williams' concerns about Mr Brown's initial application; namely that it was incomplete and written by his office administrator. Questions have been raised about how much input Mr Brown had into completion of the application and his knowledge of it. We have been satisfied, after hearing from Mr Brown, that the applicant has good knowledge of the content of the application and was directly involved in the completion of the second application.
364. Having evaluated the evidence, including from hearing from Mr Brown in-person at the hearing, our conclusion is that the applicant has established itself as being suitable to hold a licence. The Committee consider that this hearing has not been to question the company or Mr Brown's suitability as an applicant.
365. The Committee would, however, like to express their disappointment with the applicant with regards to incomplete and inaccurate initial application. As the applicant company is a licensee for other licensed premises and Mr Brown has many years of experience working in the industry, the Committee would have expected the applicant to lodge an application of a higher quality and completeness.

Local Alcohol Policy

366. The Hurunui Local Alcohol Policy (LAP) came into effect on 1 December 2017. It sets out the maximum hours of operation for the four kinds of licences imposed within the Hurunui District and outlines certain discretionary conditions that the Committee may apply on issue of a licence.
367. The Hurunui LAP imposes the following maximum trading hours for off-licences (all types) of *Monday to Sunday from 7.00am to 10.00pm*.
368. We consider that the hours of operation proposed in the application are not inconsistent with the Hurunui LAP.
369. We are satisfied that the supervised designation proposed in the application is suitable for a stand-alone bottle store. It is not inconsistent with discretionary condition for designations in the Hurunui LAP for an off-licence of this type.

370. Again, the Committee would like to note their disappointment that the applicant was not aware of the Hurunui Local Alcohol Policy at the time of application, and that the Alcohol Management Plan submitted did not reflect this.

Days and hours proposed for the sale and supply of alcohol

371. The days and hours proposed in the application for a new off-licence for the sale and supply of alcohol are Monday to Sunday from 9.00am to 10.00pm.

372. Having considered the hours, we are satisfied that the days and hours proposed would be acceptable for a stand-alone bottle store, in this location.

373. We note for completeness, that the days and hours proposed are not inconsistent with the hours of trade of the existing bottle-store in Amberley, Super Liquor Amberley.

374. We also recognise, if the licence is granted, that the applicant does not anticipate operating the bottle store for the full licensed period, where actual trading hours of the bottle store would generally be shorter than the licensed hours.

Design and layout of the proposed premises

375. The design and layout of the proposed premises was discussed in detail during the hearing.

376. The Committee were not clear from the evidence provided in relation to the layout of the proposed premises, exactly what was proposed. This included some residual uncertainty as to the use of dump stacks at the end of aisles for display of RTD's and other alcoholic beverages.

377. We consider, that should the Committee have considered granting the licence, the final design and layout of the proposed premises would need to have been discussed and agreed with the Committee and reporting agencies prior to issuing of the licence. The agreed layout would then become a condition of the licence.

378. Should the Committee have decided to grant the issue of an off-licence to the applicant, in addition to any agreement made for the purposes of the paragraph above, we consider the following conditions would have been appropriate:

- No dump stacks of RTD's are permitted at the wine display end-of-aisles at the front of the store;
- Advertising and promotion of alcohol is limited (including Facebook);
- No single sales of RTD's or beer from broken packaging is permitted; and
- Containers from broken packaging is permitted to be repackaged into quantities of 4+ packs.

Sale of goods and services other than alcohol and food

379. There are two separate sub-sections relating to the sale of goods (s 105(1)(f)) and services (s 105(1)(g)) other than alcohol from the premises. In this case, the application states that, other than food, cigarettes are intended to be sold from the premises. No sale of services has been proposed by the applicant.
380. While the sale of cigarettes is not an uncommon practice for licensed bottle stores, we are concerned about the increased risk of crime and theft in the locality due to their availability.
381. We acknowledge that the applicant has proposed steps to mitigate the risk, including, installing pull-down screens at the main entrance and windows blocked out with MDF which makes it harder to break in, and the fact that cigarettes will be stored in a locked cabinet bolted to the wall. These two criteria (f) and (g) were not a barrier to the grant of the licence.

Amenity and good order of the locality

382. There are two sub-sections in relation to the amenity and good order consideration, and we will consider those together. Section 105(1)(h) and (i) of the Act defines the *amenity and good order of the locality* considerations as follows:

(h) [The Committee must decide] whether (in its opinion) the amenity and good order of the locality would like to be reduced, to more than a minor extent, by the effects of the issue of a licence:

(i) [The Committee must decide] 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 licences 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.

383. The Committee states at the outset, that we find s. 105(1)(i) is not relevant in this case. As we have heard, Amberley is not a location significantly impacted by other local licensed premises. We will therefore proceed to focus our consideration on s. 105(1)(h).

384. The term '*amenity and good order of the locality*' is defined in s. 5 of the Act, the interpretation section, as follows:

amenity and good order of the locality, in relation to an application for or for the renewal of a licence, means the extent to which, and ways in which, the locality in which the premises concerned are situated is (or, in the case of a conveyance, the localities where the conveyance is likely to travel are) pleasant and agreeable.

385. Helpfully, the Act also sets out a range of considerations at s. 106, to aid in evaluating the *amenity and good order in a locality* considerations. We have included that section of the Act in the statutory criteria section above. We will further discuss s. 106 as we continue this discussion below.
386. The Committee must form an opinion as to whether the amenity and good order of the locality would likely be reduced by more than a minor extent by the grant of the licence. There is no obligation on the applicant to establish this criterion.
387. The Committee as applied the interpretation of 'likely' to mean more than a mere possibility, but not so high as to be expressed as a real and substantial risk that the considered consequence would happen.
388. The assessment of whether any impact on the locality would likely be 'more than minor' must involve an assessment, taking into consideration the receiving environment. For example, where the proposed premises were to be located in a busy inner-city area, the factors to be balanced may be different to a quiet residential area.
389. The proposition in this case, is to place a standalone bottle store on the main road of the Amberley township. Many parties talked of the high amenity and pleasantness of the Amberley township locality. We think the "locality" in this case is the Amberley township itself.
390. While the Committee do not dispute the fact that Amberley is, in fact, a service town, we recognise that a robust community has been established by the residents and businesses of this town.
391. The fact of this existing level of amenity (pleasantness and agreeableness) is no accident. It is a result of ongoing work from the residents of Amberley, building it to become a community that they want to live in. As can be seen with the level of opposition to this application, the community has spoken decisively that they do not consider another standalone bottle store is a consistent activity with how they view their community and the *amenity and good order* of their township's locality. The opposition could be viewed as the continuation of the work that has occurred over the years, in building and maintaining the community or 'hub' as they want it to be in Amberley.
392. Put into the words of the s. 5 definition of *amenity and good order of the locality*, the resounding voice of the community, is that if a bottle store was opened, that it would lessen and reduce the degree to which their community is pleasant and agreeable by more than a minor extent. In our view significant weight must be placed on this evidence, from local folk, which we have accepted. We have summarised the evidence in Appendix 1 but relevant here, particularly, is the evidence of Mr Porter, Mr Green, Ms McKenzie, Ms Barbour, Ms Mackenzie, Mr McGirr, Ms Turnbull, Ms Welch and Ms Gould.
393. Having done so we have unanimously formed the opinion that if we were to grant the licence, there would be a likely impact on the amenity and good order of the locality by

way of reduction by more than a minor extent. We reach this view for the following reasons:

Introduction of another off-licence outlet

394. We begin by noting that we do not agree with Mr Brown's view that if his premises were to open, it would not increase competition and lower prices between competitors. It is not consistent with the Committee's understanding of the prevailing approach with alcohol-related harm internationally this is that an increase in alcohol outlets has the effect of lowering prices and introducing into the receiving community higher (additional) volumes of alcohol. For example, as noted by Dr Menabde, the Deputy regional Doctor of the World Health Organisation Regional Office for Europe:

There is indisputable evidence that the price of alcohol matters. If the price of alcohol goes up, alcohol-related harm goes down. Young drinkers are affected by price, and heavy drinkers are more affected than light drinkers. In fact, if a minimum price were established per gram of alcohol, light drinkers would hardly be affected at all. There is also indisputable evidence that the more readily available alcohol become, the greater the harm, and the strong evidence that the more alcohol is marketed, the greater the risk of harm.

Mr Porter gave evidence to us, which we accept, about this. He told us that there would likely be "aggressive promotion and competition on price" if we granted this application (paragraph 6 of his statement). He told us of his personal visits to other outlets operated by Mr Brown (paragraphs 4, 12, and 13) and interpolated orally of seeing discounted Jack Daniel's from \$17.00 to \$12.00.

395. Similarly, the World Health Organisation report, at page 66, also states:

In general, the number of alcohol outlets is related to the level of alcohol-related harm, which is strongest when there are major changes in the numbers or types of such outlets. An increased density of alcohol outlets is associated with reduced social capital [referenced] and increased levels of alcohol consumption among young people, with increased levels of assault and other harms such as homicide, child abuse and neglect, self-inflicted injury and, with the less consistent evidence, road traffic incidents [referenced].

Ms Barbour's evidence was relevant to this, at paragraph 32 of her brief, where she referred to a New Zealand Health Promotion Agency research report and accepted by us.

396. It was proposed by the applicant that the premises would sell 'high-end products', including single-malt whiskeys and high-end gins. We do not accept that the premises would trade in that way, for several reasons, including:

- (a) The price of high-end products will start from \$40 for gin; and from \$70 for single-malt whiskey.

- (b) The range of low-end products include wine priced from \$12.99; low-end spirits at \$38.99; and RTD's (pack-size ranged from 4 to 18 per pack).
- (c) Mr Brown said he will stock the same products as his other stores. Many of these products can be considered as simply mainstream products, not high-end products.

397. We consider that it is Mr Brown's opinion that the business will be successful and at the same time will not have a negative impact on the town. We do not agree with this opinion, as we have not been presented with sufficient evidence to be satisfied that this opinion is based on anything substantive particularly in view of Mr Brown's acknowledgement he made very few local enquiries and had a limited knowledge and awareness of the locality in comparison with the evidence of local residents.
398. Throughout the hearing there were many discussions from different parties about the definition of 'kinds of licences' as it related to s. 106(1)(a)(iii) of the Act. To eliminate any confusion, the Committee has referred to the Act, namely s. 13:

13 Kinds of licence

There are 4 kinds of licence: on-licences, off-licences, club licences, and special licences.

399. The Committee consider that this is the correct interpretation of the Act and will be used going forward when considering the density of licences under s. 106(1)(a)(iii).
400. We confirm, there are currently five premises that hold an off-licence within Amberley, one of which is endorsed for remote sales of alcohol only and for this reason, it will not be included within the density ratio calculations. The four retail off-licensed premises within the Amberley Township trade as: Super Liquor Amberley, Countdown Amberley, Amberley Hotel and The Brew Moon Brewing Company.
401. The 2018 New Zealand Census results showed the usual resident population for Amberley is 2067. This gives a current density of one off-licence premises per 516.75 persons. If the Committee granted the issue of a licence to the applicant, the density of off-licence premises would increase one per 413.4 persons.
402. For comparison, the national average of off-licences per capita is one per 1000 persons.
403. We disagree with the argument of Mr Egden and the Inspector that, with the closure of Pam's Pantry, the granting of this application will simply maintain the "status quo" of off-licences held in Amberley. As we have explained above, there are currently 4 off-licences situated in Amberley. We do not consider that this argument is good reasoning towards granting the issue of a new bottle store style licence. A grocery store off-licence is not comparable to a second stand-alone bottle store, nor is it comparable to the limited range of product sold by the Brew Moon Brewing Company. It will double the number of bottle stores under s. 32(1)(b) and increase by 50% (from 2-3) the number of outlets selling a full range of spirits and RTDs. If there is twice as many bottle stores in Amberley, we are of the opinion that it is reasonable to consider it likely that the level

of nuisance and alcohol-related harm in the locality to increase by the granting of this licence.

404. It was submitted that there is already a bottle store in Amberley and they do not need another. If this licence was to be granted, that would mean the increased availability of spirits and RTD's. Concern was raised by the objectors that RTD's in particular are an attractive product, popular with young people. The Authority has also accepted this concern, in *Re Blackbull Liquor Hastings Limited* [2013] NZARLA 579.
405. We are entitled to take a precautionary approach, and to apply a forward-looking risk assessment when evaluating evidence and forming our opinion on the *amenity and good order of the locality*. We heard from witnesses such as Ms McKenzie, Ms Gould, Ms Welch, and Ms Mackenzie of the existing effects on the *amenity and good order of the locality* due to discarded packaging, rubbish comprising alcohol containers, including bottles and cans from the existing take away sellers. Ms Welch produced a box **[Exhibit 3, see Appendix 2]** of these. In our opinion this effect on the existing *amenity and good order* would be more likely than not to be exacerbated by the issue of a further bottle store licence at this site in Amberley. By exacerbated, we mean worsened or reduced by much more than a minor extent.
406. Our interpretation is that if this bottle store was to open, there would be more than a minor impact on the amenity and good order of the locality. We accept that evidence, however, make the observation that Mr Brown may in fact have underestimated the impact on Amberley township, given it was made on the basis on limited enquiries within the community.
407. For the above reasons, we conclude that the evaluation of amenity and good order of the locality considerations, does not fall in favour of the grant of a new licence.

Appropriate staff, systems and training to comply with the law

408. From the application, Mr Brown has listed three certified managers for the proposed premises; Alison Aldridge, Michael Brown and Jaspal Singh. These persons are currently listed as Duty Managers at his other stores.
409. We acknowledge that during evidence, Mr Brown told us that, if the application is granted, he intends to find a qualified and experienced manager who either lives or will live in the district to run the business on a day-to-day basis, with assistance from two of the part-time staff from his other stores.
410. The concerns of the Medical Officer of Health Representative and Ms Barbour that Mr Brown will be spreading himself too thin are shared by the Committee. It is imperative that, if a licence were granted, Mr Brown had enough staff resourcing in place. It is the Committee's view that this should be at least three persons (including the part-time staff).
411. The Committee are concerned that the Alcohol Management Plan submitted with the application is for an on-licence and not necessarily tailored to the management of an

off-licence. This has been supported by concerns from the Medical Officer of Health Representative and public objectors. The Committee considers it more appropriate to create an Alcohol Management Plan specific to the off-licence premises. If the Committee were of the mind to grant the licence, we consider that before any licence is issued, that the applicant would be required to submit an Alcohol Management Plan specific to off-licensed premises and the Thirsty Liquor Amberley store to the Committee for approval.

Any matters dealt with in any report from the reporting agencies

412. The Licensing Inspector has raised various matters for the Committee to consider, while not opposing the application. Those matters relate to the density of licensed premises and proximity to the proposed premises; and the design and layout of the premises (including external advertising). We have discussed those matters in other sections of our decision and will not address them further in this section.
413. The Medical Officer of Health has opposed the application on the grounds of density and proliferation of alcohol outlets in the locality. Again, these matters have been discussed in the sections above and will not be addressed further.
414. Constable Craddock did not oppose the application for a new off-licence in her report. She has acknowledged the concerns about the alcohol-related harm present within the Amberley community, which has been addressed by the Committee in the Post-Hearing section of this decision above.

Object of the Act

415. The object of the Act is to reduce alcohol-related harm. Harm is defined broadly in the Act, as we have stated in the above sections.
416. We have heard first-hand evidence of alcohol-related harm in this community from public objectors and witnesses including Mr Green, Mr Healey, Witness A, Reverend Doctor Missen, Ms Thorpe and Professor Boden. We found this evidence cogent and persuasive and locally based empirical and experiential evidence. A written objection from a local general practitioner provided an account of his experience of the damage by alcohol to the community, including motor vehicle accidents, and the psychological and physical damage of excess alcohol consumption.
417. In his closing statement, Mr Egden said that *'the harm in this community is most likely less than other areas.'* We disagree with his opinion as there is no definitive evidence to suggest this is true. We have listened to the community and formed our conclusion based on our evaluation on the totality of the evidence we have heard from the community.
418. The granting of a new off-licence will result in additional alcohol-related harm in the Amberley township and surrounding areas. It will increase exposure of alcohol to more vulnerable members of the community and make some forms of alcohol more accessible and available (RTDs and spirits). We recall Mr Healey's evidence to us:

"please remember these: we can't un-crash a car, we can't un-kill someone, we can't un-hit a partner or child, we can't un-damage a damaged brain, we can't un-damage a unborn child, we can't un-drop a bomb."

In making our forward-facing risk assessment of whether or not granting this new off-licence would be consistent with section 4 we are entitled to take a precautionary approach for Amberley. With the number and range of existing off-licences, we concluded that to grant this application would not be consistent with the object of the Act – we agree with the evidence of Mr Healey and Rev Doctor Missen and conclude that refusing to grant this application is consistent with our desire to minimise alcohol related harm in our community as much as we can

419. The Act does not look to only consider serious offending, alcohol-related harm can include much less serious disorder, it also includes health effects.
420. All we can do, after evaluating the evidence against the statutory criteria, is to step back and ask ourselves whether granting the application would be consistent with the Act. Operating a stand-alone bottle store from this location would, in our opinion, result in a level of alcohol-related harm, whether direct or indirect, that would go beyond that level viewed as tolerable within this locality within the statutory scheme, and would be contrary to, and inconsistent with, the object of the Act set out in section 4.

Absence of reporting agency opposition

421. Mr Egden, Counsel for the Applicant, fairly submitted that in this case, two of the three reporting agencies did not oppose the application. Reference was made to various decisions of the Authority, to the extent that it would be difficult to find that an application should not be granted, when the reporting agencies did not take issue with it.
422. We agree with Mr Egden's assessment of the law. In *Smith v Kiwano Ltd*, the Authority repeated the long-standing approach from *Re British Isles Inn Ltd*, that:

"Although the onus is on the company to establish its suitability, there is a reasonable high threshold to be met by the objectors in order to displace the absence of concerns by the reporting agencies We are on record as stating that in the absence of unfavourable comments from the reporting agencies, we are unlikely to be persuaded that an applicant is unsuitable."

423. In our view, it would be wrong to interpret the Authority as saying that in the absence of, or in this case the limited, reporting agency opposition, that the licence should be granted. In fact, Parliament has confirmed that the opposite is the case. Section 107 of the Act confirms that:

107 Authority or committee may refuse licence even if application not opposed

The licensing authority or licensing committee concerned may, having regard to any matter stated in section 105, refuse to issue a licence, even if no objection was filed against the application for it under section 102 and no report was filed under section 103 opposing that application.

424. In this case, we recognise that the Medical Officer of Health has raised matters in opposition to this application. Therefore, there is not a complete absence of opposition from the reporting agencies. Moreover, our overall conclusion to refuse the licence is not based on any adverse finding of the applicant's suitability. Rather for the reasons we have expressed our conclusions are based on the criteria in s.105(1)(a) and (h), not (1)(b).
425. We consider that the 'limited opposition from the reporting agencies' argument as a factor to take into account, but it is not determinative. It is also relevant to consider why there was no opposition, and the answer to that (at least as far as the Police are concerned) may simply be due to the existing amenity of the Amberley area; or the fact that the area does not feature on adverse statistics either in relation to crime or health; or as we have been made aware of throughout proceedings, the lack of reporting of local incidents of alcohol-related harm in the community to Police; and the statutory reporting time constraints experienced by the agencies.
426. Ultimately, this is a case where the evidence of the community witnesses whom we have referred to throughout our decision, and whose evidence we have summarised also in Appendix 1 to our decision has established genuine concerns as it relates to the amenity and good order effects on the locality and alcohol-related harm, and we consider that has been established by them to us by a significant margin. We were left in no doubt that granting this application would not achieve the object of the Act and would reduce by much more than a minor extent the *amenity and good order of the locality*.

CONCLUSION

427. The conclusion of the Committee is that the considerations found in the Act do not favour a new off-licence for the proposed premises being granted. Therefore, the decision of the Committee is that the application is declined.

DATED at Amberley this 27th day of November 2020

Mani A. Black.

Chairperson
Hurunui District Licensing Committee

APPENDIX 1

PUBLIC OBJECTORS' EVIDENCE (Summaries)

Mr Thomas Guy Porter

1. Mr Porter has two children that attend Amberley School, and is considered to have standing as an objector.
2. Mr Porter stated that he is a director of Ripresa Limited t/a Bellbird Springs, which holds an off-licence endorsed for remote sales. He confirmed that the grounds for his objection are not based on any prejudicial effect referred to in section 105(2) of the Act.
3. Mr Porter said that his first ground for objection relates to the object of the Act. He is concerned that there is already a high number of existing licences in Amberley and another licence will lead to aggressive promotion and competitive pricing, which in turn leads to excessive or inappropriate consumption of alcohol.
4. Mr Porter said that there are already many places in Amberley, including Super Liquor Amberley, Countdown Amberley, Brew Moon and Amberley Hotel, which are licensed to sell alcohol with a choice of off-licence premises providing a broad range of alcoholic products (including wines, beer, spirits, liqueurs and RTD's).
5. He continued, if successful there would be three off-licences able to sell a full range, plus a supermarket with a large range and a brewery. Based on the 2018 Census population data, this gives an average of 1 off-licence per 413.4 persons. He considers that the area surrounding Amberley is lightly populated and would not significantly affect the average. He continued that a large number of off-licences in a small market would be considered saturated.
6. Mr Porter said that his second ground for objection related to the amenity and good order of the locality. He considers that there may be an increase in rubbish, noise and other disturbance to the community and that the existing amenity and good order would likely to be reduced.
7. Mr Porter talked about his impressions of the area, describing it as a pleasant location with high amenity value for the community although divided by a highway. He said the area around the proposed premises includes three early childhood facilities, a primary school, two small parks, a library, shops and cafes and restaurants. He explained that these form a 'hub' for the community and it is important that their value is not reduced.
8. Mr Porter talked about how his family enjoy the environment of the hub. He said that *"we use its green spaces, my children play in Chamberlin Park, and we visit the Farmers Market. We use its cafes, and regularly visit the library. I want my children to be able to walk safely within this area. The area should not be threatening for the community."*

9. Mr Porter concluded his evidence by saying “I am concerned that our safe enjoyment of the hub will be reduced by rubbish, noise, and other disturbance if this application is granted.”

Mr Simon Green

10. Mr Green is the Principal of Amberley School and gave evidence at the hearing on behalf of the wider Amberley School community and Amberley School Board of Trustees, to object to the application.
11. Mr Green read the objection dated 5 February 2020.
12. Mr Green said that the first grounds for objection related to section 105(1)(h) of the Act: amenity and good order of the locality.
13. He explained that the word amenity means a “desirable or useful feature or facility of a place.” He said we do not believe another outlet to supply liquor is desirable or useful.
14. Mr Green listed the outlets currently operating in Amberley – Super Liquor, Countdown as well as the numerous pubs and restaurants. Mr Green said from a school perspective, they can see the effects of alcohol on our community from a very real perspective.
15. Mr Green said as alcohol becomes more widely accessible and convenient to the community, it impacts more heavily on our children.
16. Mr Green gave examples of situations where many families have been adversely affected by the effects of alcohol. These examples included:
 - *We have increasing instances of parents who are under the influence of alcohol when they drop off and collect their children from school;*
 - *We have had drunk parents fighting and verbally abusing each other outside the school gate;*
 - *We have children affected by family violence, where alcohol is a strong presence in their home;*
 - *We have had children that have been taken from their home by Oranga Tamariki because parents are battling alcoholism;*
 - *We have parents in rehabilitation programmes right now.*
17. Mr Green said that he understands that this is a societal problem, not just an Amberley problem, however making alcohol more accessible to our community will only heighten the issue. He considers that having competing alcohol retail suppliers will only make it more affordable to our most vulnerable families.
18. Mr Green said that the next grounds for objection relate to section 105(1)(i) of the Act.
19. Mr Green said that we have provided evidence that Amberley is already badly affected by the presence of existing licences. He continued; therefore, we strongly believe that an additional licence will not reduce this problem.

20. Mr Green highlighted that the last sentence of this part of the act is key: *“it is nevertheless desirable not to issue any further licences.”* He said that he has touched on how alcohol is currently impacting on our school community and children.
21. Mr Green said that clearly an increase in alcohol availability will exacerbate the existing problems. Mr Green expressed:
- We do not want to see these issued become more prevalent in our community. We do not want to see more children being picked up by intoxicated parents. We do not want to see more children affected by family violence that has resulted from alcoholism. We do not want to see more children taken from their alcohol abusive parents.*
22. Mr Green concluded his evidence by saying that our young people need opportunities in our community. We urge the Council to work hard to make the Amberley township a vibrant, inclusive and positive place for our families. Not a ‘drive through town’ with a surplus of fuel and alcohol suppliers.
23. Under cross-examination, Constable Craddock asked Mr Green whether any of the situations described at school had been reported to the Police. Mr Green answered that pastoral notes will be made on the school record. The Police are not called because nothing illegal has happened. Mr Green said that he speaks with the local Police informally.
24. Mr Egden asked whether alcohol-related harm would be prevalent in any school. Mr Green answered that in his 25 years teaching at numerous schools within North Canterbury, Amberley is the first school that he has come across that alcohol harm is a prevalent issue.
25. When questioned further by the Committee about the contrast between his comments from the agencies evidence, Mr Green noted that Amberley School is a decile 7 school, which holds one of the lower ratings in North Canterbury. He said you would expect these issues in a lower-decile school. Mr Green said that he has not felt that he needed to take the matter further, with exception to one incident involving a 5-year old student drinking an RTD on social media which was recorded by the mother. In this case, he passed this on to Oranga Tamariki for action – it is not his place to intervene further.
26. Ms Barbour asked whether there are any effects on the staff’s ability to do their jobs when alcohol-related harm presents itself at the school gate. Mr Green said that it affects them greatly the ability to be able to teach them. A lack of warm clothing, hungry, can’t get to school so therefore cannot teach the children.
27. Ms Morrison referred to Mr Green’s statement that Amberley is already badly affected by the presence of existing licences and asked how it has affected the wider issues around Amberley. Mr Green answered that staff will complete a playground safety check on a Monday morning and there is often alcohol-related litter and waste. He explained that vandalism has increased in the school and they now have cameras.

Mr Roy Myers

28. Mr Myers is the Chairperson of the Amberley District Residents Association.
29. He began by stating that the ADRA considers Thirsty Liquor would not be a welcome addition to this community because we believe it would have the effect of reducing amenity and good order in the town.
30. Mr Myers explained the reasons for this are that the location of a liquor store on the state highway through the town would give a poor impression of the town and could attract casual drinkers to congregate around the town.
31. He further explained that drawing on the passing trade could lead to some stopping to drink their purchases on the street or around the town. Any public drinking could result in rowdiness and the disposal of bottles or other waste irresponsibly. He expressed his concerns for a small community, with limited resources to deal with any poor behaviour resulting from alcohol consumption.
32. Mr Myers stated that Amberley is a town with a rural character and its community has a vision for our town as a place that residents can enjoy, socially and peacefully.
33. Mr Myers concluded by saying that a main road liquor store does not fit with those aspirations and it is therefore strongly opposed.

Ms Sally McKenzie

34. Ms McKenzie retired from working on a local farm 18-months ago and moved to a property situated in Amberley nearby the proposed bottle store.
35. Ms McKenzie's main concern is that the area already has a bottle store, and the town is also serviced by a supermarket, two hotels, a brewery and the many wineries nearby. Ms McKenzie stated that is her opinion that this is more than adequate for a small town.
36. She expressed her concerns about the location of the proposed premises being unsuitable, with the potential of traffic and road-movement from patrons becoming more hazardous for persons walking and driving around the town.
37. Ms McKenzie also spoke about the alcohol-related litter discarded around the town which she often pick-up, and she is aware of damage to letter boxes and road signs from road incidents. She feels threatened by cars speeding and driving dangerously in the urban area and considers that another alcohol outlet will add to the situation.
38. Ms McKenzie concluded by saying that the proposed outlet can do nothing to enhance the ambience of what has been her hometown for a very long time, and therefore she strongly opposes the granting of a licence.

Ms Helen Barbour

39. Ms Barbour and her husband relocated from Australia to Amberley in 2014.
40. Ms Barbour has worked as an Alcohol Licensing Inspector at Community and Public Health for almost 6 years. She declared that while Ms Williams (Representing the Medical Officer of Health) is her colleague, she has not been party to any discussions regarding this application and she has not had access to the file.
41. Ms Barbour said that her first concern is that the amenity and good order of the locality is likely to be reduce by more than a minor extent by the effects of the issue of the licence.
42. Ms Barbour gave an account of her perception of Amberley – the town that welcomed her and the town she calls home.
43. Ms Barbour considers Amberley a peaceful town with a wonderful calmness. She said that she regularly walks to the Amberley Domain and had not seen evidence of alcohol-related harm in the form of wilful damage, vandalism or alcohol packaging littered around.
44. She talked about the amenities available within the Domain including the school and preschools, the tennis and netball courts, the bowling club, the squash club, the tin shed. She also talked about the services and amenities available locally, including the Amberley Farmers Market, the local retail stores, the Amberley MeNZshed, Churches, Amberley Beach and the Amberley Golf Club. Ms Barbour said we are a community.
45. Ms Barbour said that the applicant has demonstrated the extent of his knowledge of the area – he visited the bakery, drove around the area, played sport and has two friends that live here. She said that she is not satisfied that Mr Brown has considered the community or the services that are provided in Amberley and the surrounding areas that are served.
46. Ms Barbour talked of her relevant experience working in the hospitality industry and most recently her role as an Alcohol Licensing Inspector for Community and Public Health. She said that when she found out that this application was for a prominent building on the main road of our town, her heart sank. She has seen bottle store franchises plan and set up in the past and heard applicant give evidence about what they will do but who have little or no regard to the townsfolk and community, as they tend to focus on who else is passing through.
47. She said that while she is not saying that Mr Brown is not a suitable person, she is concerned that his sprawling empire could be spreading himself too thin. Ms Barbour said it is her experience that licensees who spread themselves too thin either cut corners, slip up with inexperienced staff or experience financial hardship which leads to long hours being worked fatigue or poor judgement.

48. Ms Barbour said that her next concern relates to the density of licensed premises. She referred to the 2018 Health Promotion Agency research report called *“New Zealand Alcohol Supply and Demand Structures”* which provides the national average of licenses issued per capita. In this report, the national average for off-licences is one per 1300 persons.
49. Ms Barbour said that she is aware there are currently 4 off-licences in Amberley:
 - (a) Countdown
 - (b) Super Liquor Amberley
 - (c) The Amberley Hotel
 - (d) Brew Moon
50. She said that the granting of a 5th off-licence for a population of 2067 is absurd (one off-licence per 413.4 persons).
51. Ms Barbour said that her next concerns relate to the design and layout of the proposed premises, more specifically the size.
52. Ms Barbour is aware of the size of the store having visited it previously. She said that the plan submitted with the application indicates that wine will fill the free-standing racking in the front of the store, spirits will line the front walls and a chiller takes up part of the warehouse out the back. She notes that there are no RTD’s or beer at the front of the store. From the plan, there is no scale whatsoever relating to the product placement. She is concerned that if the licence is granted, Mr Brown can layout the store however he sees fit.
53. Ms Barbour said that she doubts Mr Brown knows what alcohol-related harms occur past the front door of any of his stores. She said that his idea that a bottle store of the main road in Amberley will be both successful and have no increase on the harm caused in the community is a farcical.
54. Ms Barbour said that the applicant may describe Amberley as a service town, but it is so much more than that, it is my home and I am proud to be a part of the community.
55. She concluded her evidence by respectfully asking the Committee to decline this application, saying “we do not need more alcohol outlets of this kind in our community”.

Mr Warren Healey

56. Mr Healey has lived in Amberley for 14 years and in the Hurunui District for 22 years. He is a member of Alcohol Wise Hurunui Incorporated and was authorised to speak on their behalf.
57. Mr Healey stated that Alcohol Wise Hurunui Incorporated was established in 2011 as a non-profit community organisation which:

- Advocates for a healthy, safe and well-connected community across the district; and
 - Raises awareness to prevent the harm caused by the inappropriate and excessive consumption of alcohol.
58. Examples of work includes staged safe drinking displays in libraries and at Agricultural and Pastoral Shows, health seminars, wellbeing and resilience days for men, and a fetal alcohol spectrum disorder symposium.
59. Mr Healey spoke of the Precautionary Approach and said it has been adopted by our government as a public health measure to protect the health and wellbeing of New Zealand. He recommended to the Committee to adopt this 'better-safe-than-sorry' measure when deciding this application.
60. Mr Healey expressed concerns about the potential harm from another alcohol outlet in Amberley and the organisation's view that it would further normalise alcohol, while ignoring the risks from excessive and inappropriate drinking. They consider this normalisation of alcohol would further compromise important 'raising-awareness' efforts to minimise alcohol harm.
61. Mr Healey said that the harm caused by alcohol bought at this bottle store will generally not be seen by the applicant. He said Mr Brown, in his evidence stated "My understanding is that alcohol-related harm is not prevalent in the locality and I would not expect the situation to change if this application is granted. None of the existing stores have created adverse effects in their community." Mr Healey said that this is a convenient case of 'out-of-sight, out-of-mind' and it does not reflect the reality of alcohol stigma or the harm causes in our homes and community.
62. Mr Healey talked about the concerns around the increased availability of alcohol in the community should the licence be granted. Mr Healey stated that the Thirsty Liquor franchise has the scale of economy to undercut competitors and set lower prices. He presented that cheaper alcohol disadvantages vulnerable families, especially those with alcohol dependency and alcohol abuse problems. In these situations, alcohol becomes more affordable which can lead to the prioritisation of alcohol over food.
63. Mr Healey addressed the concerns of increased availability of RTD's in the community. He said that RTD's are designed to make drinking spirits an appealing option for the next generation of customers – something that is not available from the supermarket.
64. Mr Healey also spoke to concerns over the density of licensed premises. If the licence were to be granted, Amberley has an off-licence premises density 3 times the national average and if on-licences were to be included Amberley would have a density about 7 times the national average.
65. Mr Healey stated that there is no evidence that the grant of a licence will minimise harm from the excessive or inappropriate consumption of alcohol. On balance, there is potential that this Thirsty Liquor store will increase alcohol harm in our homes and

community. He emphasised this may be through further normalisation of alcohol, increased availability, increased accessibility and cheaper prices.

66. He stated that the country roads of the district have proven to be high-risk for drink-driving accidents, and he considers the application should be declined in order to minimise future drink-driving accidents, fatalities, domestic harm and crime. Mr Healey concluded his statement by saying “please remember these: we can’t un-crash a car, we can’t un-kill someone, we can’t un-hit a partner or child, we can’t un-damage a damaged brain, we can’t un-damage a unborn child, we can’t un-drop a bomb.”

Mr Allan and Mrs Christine Knowles

67. Mr and Mrs Knowles live within the Amberley township, therefore have standing as an objector.
68. Mrs Knowles read from their objection dated 11 February 2020.
69. Mr and Mrs Knowles main concern is that there are already enough outlets in the town, all within close proximity to each other. They believe the addition of another store on the Main Road would be a complete eyesore and could be considered a hazard for people driving through who might purchase alcohol and subsequently have a road accident. They also outlined concerns with increased traffic in the vicinity and increased danger.
70. Mrs Knowles concluded by asking the Committee “please do not agree to this totally unnecessary outlet that has the potential to influence improper behaviour. Additional noise, vandalism and the shattering of our currently peaceful main street is not desired.”

Ms Nicola Drake

71. Ms Drake has lived in Amberley for the past 4 years and is part of the community.
72. Ms Drake described Amberley as a town with a distinctly village feel to the town, even though it is based on State Highway 1. She talked of the markets, stores, eateries, events and other amenities that Amberley has to offer, and that attract persons from around Canterbury.
73. Ms Drake said that she does not want this store here and objects to the licence. She said that we already have a number of licensed premises in the area available to sell alcohol. Ms Drake said it will encourage just what we don’t need in the community, including increased litter.
74. She said that the main reason for objecting is that she feels this is not the type of premises we need in Amberley. Another alcohol outlet in this space will encourage people to just stop en-route to somewhere else. She said she is concerned about the related hazards including increased traffic; where persons will drink the alcohol; drink driving in the area; people hanging around late at night drinking; and possible increased crime in the area.

75. Ms Drake concluded by saying that she appreciates that its preferable for the building owner to lease this property again as soon as possible but as a town, we really must be responsible for what business we accept.

Ms Susan Mackenzie

76. Ms Mackenzie lives and works in Amberley.

77. Ms Mackenzie explained that her grounds for objection relate to:

- The design and layout of the premises;
- The amenity and good order of the locality; and
- Alcohol-related harm.

78. Ms Mackenzie outlined her reasons for objecting on the grounds of design and layout. She explained that the Thirsty Liquor branding is garnished by bright orange image that ensures your store will stand out from the rest. During her evidence, she acknowledged that she now knows the applicant will not be painting the outside of the building orange.

79. Ms Mackenzie said that the franchise branding prides itself on strong marketing and advertising including radio, newspaper, social media, and considers this type of marketing targets the culture of pre-loading before parties, social outings and road-trips to events. She said that the location on the main road of Amberley, opposite one of the petrol stations, will facilitate this.

80. Ms Mackenzie then outlined her reasons for objecting on the grounds of amenity and good order of the locality. She talked about the usual high-viz look of the brand and said that it does not fit with our town.

81. Ms Mackenzie said that she regularly picks up discarded packaging and rubbish on the roadside while biking home. The composition of the litter is often cheap alcohol containers and fast-food packaging. She said she believes that the store will only increase this problem. She is aware that litter is already a problem on the roads leading out of Amberley towards Mt Grey down Double Corner Road to the Waipara River and down Beach Road to the beach.

82. Ms Mackenzie talked about alcohol-related harm and said that it is well documented. She said that the key to reducing harm is by reducing the accessibility and visibility, for example the location and density of outlets, licensed hours and higher prices.

83. Ms Mackenzie referenced a statement by Professor Doug Sellman of the National Addiction Centre, University of Otago Christchurch:

"Apart from various emotional and mental health sequelae of injury, violence and chronic disease including carcinogenicity, alcohol can directly cause clinical depression, is associated with a number of anxiety syndromes and is a significant factor in causing about a third of completed suicides."

84. She continued by referring some new research from Professor Emerita Jennie Connor from the University of Otago, which shows “the number of people hospitalised in New Zealand because of assaults over the weekend has reduced significantly following the 2013 restrictions on late-night alcohol sales, which saw all bars and clubs close at 4.00am and no takeaway alcohol sales after 11.00pm
85. Ms Mackenzie said that this application contradicts all these mitigations. She considers that Amberley has a balanced selection of alcohol outlets to suit a range of tastes, which are well managed and do not detract from the relatively peaceful town. She believes that a Thirsty Liquor store will substantially reduce the amenity and good order of the area.
86. She suggested some possible conditions, should the Committee decide to grant the application, namely:
- Reduced hours;
 - Minimal signage and advertising on the building with no pavement signage;
 - Packaging to be clearly labelled as Amberley Thirsty Liquor so that if littering does take place, it can be identified; and
 - No single sales of RTD’s and cans of beer so that a price barrier of some sort is established.
87. Referring to the Licensing Inspectors comment on the high number of objections, Ms Mackenzie said that this is because there is a genuine concern with a discount liquor store opening on the main highway in our town. She said it will lead to alcohol-related problems and we don’t want that.
88. Ms Mackenzie concluded her statement by adding that the applicant appears to see Amberley as a service town. We are here in opposition in numbers because we see it as our hometown and we can see the potential harm.
89. During cross-examination by the Representative for the Medical Officer of Health, she was asked why it is important for you to have a condition on the licence about no single sale or RTD’s and beer. Ms Mackenzie answered that “for young people, spontaneous purchases are more likely when they only have a few dollars in their pockets. Cheaper is easier for youngsters. Of course, if young people start drinking, it causes more harm the younger people start.”

Mr Noel McGirr

90. Mr McGirr has lived in the Amberley district for over 40 years. He is the current co-owner of the Amberley Veterinary Clinic, located in Osborne Road in Amberley.
91. From his brief of evidence dated 14 September 2020, Mr McGirr said that he is concerned about the amenity and good order of the locality. He said that this development will do nothing to enhance the character of Amberley and could harm the attraction of the town. He said that Amberley is a gateway to the Hurunui District, which

has a growing population and tourist enterprise. Maintaining a safe and appealing township is vital if Amberley is to be promoted as a place to visit and enjoy. Such an outlet will rely heavily on patronage from passers through and offer little but harm for local residents.

92. Mr McGirr wrote about his concerns about the density of outlets and alcohol-related harm. He said that Amberley is currently served by a number of outlets in Amberley, where another outlet would reduce the ratio to approximately one outlet per 400 residents. Mr McGirr made reference to a study by Connor et al. (2010) named '*Alcohol outlet Density, levels of drinking and alcohol-related harm in New Zealand.*' This study showed an increase in alcohol-related harms as density of outlets increases.
93. Mr McGirr wrote about his concerns about the levels of nuisance and vandalism. He considers that there is not enough infrastructure operating over the proposed hours and mentioned that Amberley Police Station is only intermittently manned. He is concerned that the store may be a target for criminal activity, including robberies.
94. Mr McGirr also wrote about his concerns about the proposed days and hours of operation, being excessive. He considers that these hours will only exacerbate the adverse effects.

Ms Yolanda Turnbull

95. Ms Turnbull works as a Librarian at the Hurunui District Library, which is situated in close proximity to the proposed premises.
96. Ms Turnbull spoke of the number of persons that have taken the time to object and said she believes it is an indication that there is very little community support in Amberley for Thirsty Liquor Amberley to be granted a licence.
97. Ms Turnbull said that she is concerned that the current litter and antisocial behaviour will be exacerbated with the readily available alcohol available from such a prominent location. This is close by to Chamberlain Park where people are known to congregate and consume alcohol in public.
98. She said that the hours of trade for Thirsty Liquor Amberley are of concern, as staying open late will only encourage the antisocial behaviour. She proposes, if the licence is granted, that trading hours are limited to the hours of 11.00am to 7.00pm; and the selling of single RTD's should not be permitted even if the box has broken.
99. Ms Turnbull said that three alcohol outlets within 100 metres to service Amberley is overkill. She believes another outlet on the Main Road in Amberley will create connotations of a negative environment. She said that her main concern is that the Thirsty Liquor store may attract vulnerable people which may make our elderly pedestrians uncomfortable when walking past the proposed store.
100. She considers that if the Committee were to grant a licence to Thirsty Liquor Amberley, that they would be failing the Amberley residents by 'not balancing the cultural,

environmental and economic interests of Hurunui and it will not be such a great place to be living and working in.'

101. When cross-examined by Ms Williams in regard to the comments in her original objection about not feeling safe walking to her car after work, Ms Turnbull said that she feels very unsafe.
102. Ms Morrison asked Ms Turnbull to expand on her comment from her original objection about the risk to amenity and good order of the locality. Ms Turnbull said Amberley is a great place to be, it has become a real community where elderly people talk to you. She said that Amberley is a great town and the image will change with a liquor store in a prominent position.
103. Ms Morrison asked about her comments about the increase in antisocial behaviour, Ms Turnbull said when kids are drinking, they get out of control, they climb on play equipment, change the swings around, leave broken glass. They are young adults and need somewhere to be. She said that while she hasn't witnessed this, she has seen the aftereffects in the park.
104. The Committee asked whether Ms Turnbull has a view of the free availability of alcohol currently in relation to the other outlets and the extent of the increase of this antisocial activity. Ms Turnbull answered that she is concerned that young people are drinking far too much, and another liquor outlet will exacerbate this. We have enough stores in Amberley.

Reverend Doctor Alan Missen

105. Reverend Doctor Alan Missen is the Reverend at the Kowai Parish – St Andrews Presbyterian Church in Amberley.
106. Reverend Doctor Missen previously worked as a government scientist, which involved analysis of driver's blood alcohol levels and extensive research on the subject. He provided the hearing with a copy of his relevant work experience, duties and publications.
107. Reverend Doctor Missen started off his brief of evidence by quoting the object of the Act. He said that the object first with the Parish's vision of a safe community where children can mature into responsible, resilient adults who are not blighted by childhood alcohol-related trauma.
108. He referred to two evidence-based research reports, which expand the understanding of the prevention of alcohol harm and offer new insights into public health recommendations:
 - Boden, J (2018) *Regular teen drinking leads to adult alcohol problems; and*
 - Towers, A (2018) *Hidden harm: up to 40% of older Kiwis drink haphazardly.*

109. Reverend Doctor Missen said that they have concerns over the Thirsty Liquor advertising on the internet. He explained that the messaging such as 'real kiwis are thirsty kiwis' along with loyalty cards and specials targeted at getting shoppers to full their baskets with more alcohol each time they shop.
110. In his brief of evidence, Reverend Doctor Missen included information from the Thirsty Liquor Franchise. A quote from Tina Govan, Managing Director of Thirsty Liquor was underlined. It read: *"It's fantastic to see our store owners expanding their store numbers each year and growing with us. It's not just about increasing profitability, it's about adding value to the retailers business and there is a lot of satisfaction in watching a store's turnover increase, their customer base grow and average basket size spend improve in the months after joining us."*
111. Reverend Doctor Missen said that alcoholics anonymous meet at our church every Thursday. He explained that sadly, the members are very aware of the damage alcohol has caused their families, businesses and their lives. They all need help to mitigate the ongoing effects of alcohol.
112. Reverend Doctor Missen talked about the cost of alcohol-related harm, saying that it costs our country financially, socially, legally and physically. He said that alcohol is already available in Amberley at the supermarket, hotels, liquor outlets, breweries, bottle store, wineries and catering companies. He said that the Parish is concerned that 86 Carters Road, Amberley is the wrong location for another alcohol outlet. It is in central Amberley and in a community that already has many other liquor outlets. In conclusion, the Parish opposes the application.

Ms Pamela Welch

113. Ms Welch lives in Amberley, opposite Chamberlain Park and close to the proposed premises.
114. Ms Welch talked about her regular walks around Amberley, past the school and through the Amberley Domain. She said that she picks up litter during almost every walk and takes it home to recycle. Ms Welch said that most of the bottles and cans she collects have contained alcoholic drinks. She added, what is worrying is that more than half of the containers collected are RTD's, and many of which are Woodstock Bourbon and Cola cans.
115. Since she submitted her brief of evidence, Ms Welch has collected a box of alcoholic containers (approximately 20 items). She presented this box at the hearing, which is known as EXHIBIT 3.
116. In her brief of evidence, Ms Welch included photographs of litter collected from various locations, including Amberley township (streets, footpaths and grass verges), Amberley Beach Road, State Highway One heading north and Amberley Domain.
117. Ms Welch said that the litter she has collected in the district shows that the problem we have here is not just drinking but drinking and driving. She talked of regularly hearing

the sirens of the fire station, police cars and the ambulance, and witnessing crashed cars behind the fire station.

118. Ms Welch said that Amberley already has a drinking problem, which has been getting worse of late. She is concerned that the amenity and good order of the locality are already threatened, and another liquor store would only exacerbate matters.
119. She said that there are a lot of public minded people who work to maintain the beauty of this town. Ms Welch concluded by saying that there is already drinking and driving issues and urged the Committee 'don't make it worse by readily supplying alcohol.'

Ms Belinda Gould

120. Ms Gould has lived in the Hurunui District for most of her life and since 2018 has lived in Amberley, in very close proximity to the proposed premises and Chamberlain Park.
121. Ms Gould said that she objects to the application on the following grounds: object of the act and amenity and good order.
122. Ms Gould said that the object of the Act is to reduce the harm alcohol causes within the community. She said that if approved, there will be a total of 8 alcohol outlets available to sell and supply alcohol to our community, which she considers to be excessive not only for our Amberley community but also to the wider Hurunui community.
123. Ms Gould said that there are also sensitive sites close to this application, including the Amberley Community Preschool on Douglas Road which is situated within 150 metres. She said that the children regularly walk around the Douglas Road/Markham Street/Carters Road 'block'. She continued that students of the nearby Amberley School and Amberley Prep School regularly walk past the proposed site on their way to and from school.
124. Ms Gould said that the amenity and good order of the locality will be reduced to more than a minor extent with the issue of a licence in this location, due to an increase in rubbish, cigarette butts, noise and other disturbances. She said that another outlet in such a prominent position in town would affect the growing reputation of the region.
125. She asked the Committee not to issue another licence to one that aims at the bottom of the market and the most vulnerable people in our community.
126. Ms Gould concluded her evidence saying that she has had a couple of encounters with people drinking at the park and now avoids the walking through Chamberlain Park after dark. She considers that this problem will increase if there's another off-licence selling cheap alcohol just up the road.

Ms Kylie Walker-Clarke

127. Ms Walker-Clarke has lived in Amberley for 21 years. Her two daughters currently attend Amberley Primary School.

128. Ms Walker-Clarke has worked in the hospitality industry for 27 years and she has held a Manager's Certificate since 2001. She currently is employed as a duty manager of Super Liquor Amberley.
129. Ms Walker-Clarke said that with her experience in both hospitality and liquor industries, and with the extensive knowledge she has of her community, she believes that issuing another off-licence will affect the amenity and good order of the Amberley community.
130. Ms Walker-Clarke referred to the New Zealand Study by Connor et al. (2010), '*Alcohol outlet density, levels of drinking and alcohol-related harm in New Zealand: a national study.*' She said that:

"this study confirmed that the density of outlets is a legitimate public health concern. There has been a major increase in outlets over the past two decades and a disproportionate growth of off-licences, which appear to be associated with the most harm. The study adds that the number of off-licence outlets within 1km was also associated with increased odds of binge-drinking."

131. Ms Walker-Clarke said to Mr Brown, we may be a service town to others 'passing through', however he has a greater responsibility to my community. She continued by asking whether 4 off-licences to a population of 2067 is responsible? Ms Walker-Clarke further said that two banners competing in a community of 2067 with the potential of price wars – is this responsible? She said compassion is needed for our community at this time.
132. Ms Walker-Clarke talked about situations that she has dealt with as a duty manager of a licensed premises. She said there have been incidents where she has needed to intervene and refuse service due to intoxication. Ms Walker-Clarke talked about her strong working relationship with staff at the neighbouring business, Countdown. If either herself or the Countdown Duty Manager are concerned with a member of the public who may be intoxicated and trying to purchase alcohol, they will phone and warn each other. She said that this is the responsibility that she has to her community.
133. Ms Walker-Clarke referred to the Hurunui District Local Alcohol Policy which states that one of the main aims of the Sale and Supply of Alcohol Act 2012 is to give communities more control over the sale and supply of alcohol in their area. Hear us.
134. She said the Local Alcohol Policy enables communities to set the direction on some of the following matters including:
- the density of licensed premises by specifying whether further licenses or types of licenses should be issued; and
 - the location of licensed premises near certain types of facilities, such as in specific neighbourhoods or near schools (i.e. Amberley Preschool, Amberley Prep School and Amberley Primary School) or churches.

135. She concluded her evidence by saying that there were 93 objections, with 56 being accepted to have standing as an objector of the application for new off-licence. Ms Walker-Clarke said 16 of these will be speaking at the hearing. Hear us.
136. Under cross-examination, both Mr Egden and Ms Morrison spoke of her comments regarding the strong relationship with Countdown Duty Managers and whether this communication would extend to Mr Brown. Ms Walker-Clarke answered both times that she would hope so.
137. Ms Morrison asked whether she knows how many problem drinkers there are currently and how often they come into the store. Ms Walker-Clarke answered there are a few currently, lately it has got worse – possibly due to COVID-19. When asked whether she has a policy, Ms Walker-Clarke replied that they know their names and write down in an incident book. If it is a real issue, we have approached the police, especially regarding driving to the store.
138. Constable Craddock asked what types of drinks the problem drinkers try to purchase. Ms Walker-Clarke answered RTD's.
139. When asked by Constable Craddock whether the persons refused are locals, Ms Walker-Clarke replied some are, yes.

APPENDIX 2

EXHIBIT 3 – Box of alcohol-related litter produced by Ms Pamela Welch

