

**Decision**

19/049/2024

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012

**AND**  
**IN THE MATTER**

of an application by  
Brothers 2022 Limited for an on-licence in  
respect to the premises at 1 Riverside  
Lane, Te Kuiti known as Riverside Lodge

HEARING at the Les Munro Centre, Te Kuiti on 11 and 12 February 2025

WAITOMO DISTRICT LICENSING COMMITTEE

Chairperson: Ms T McIntyre  
Members: Dr P Davies, Cllr R Johnson

APPEARANCES

Mr B Singh - Director, Brothers 2022 Limited  
Ms L Adams - Accommodation manager, Brothers 2022 Limited  
Mrs P Davies - Counsel for the applicant  
Ms M Berry - Licensing Inspector (in opposition)  
Senior Sergeant D Hall - Police (in opposition)  
Mrs D Meertens - Medical Officer of Health delegate (in opposition)  
Mr M Keehan - Senior data Analyst, Te Whatu Ora  
Mrs Vicki Coll - Objector  
Mrs Cloudy Ngatai - Objector

**DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE**

1. The application for an on-licence is declined.

**REASONS**

**Introduction**

1. Brothers 2022 Limited has applied for a new on-licence to operate the premises located at 1 Riverside Lane, Te Kuiti, trading as Riverside Lodge.

2. The application faces opposition from all three reporting agencies, who cited Te Kuiti's socio-economic deprivation and community vulnerability to alcohol-related harm, concerns about the applicant's suitability, and potential negative impacts on local amenity and good order. Two members of the public, Mrs V Coll and Mrs C Ngatai, also objected. Mrs Coll focused on litter and amenity concerns, while Mrs Ngatai raised additional concerns about alcohol-related harm based on her own experiences hiring the venue and its impact on the community.
3. Accordingly, the application was scheduled for a public hearing by the District Licensing Committee<sup>1</sup> on 11 February 2025 with the 12 February 2025 allocated as a back-up day.
4. The Committee undertook a site visit prior to the hearing on Tuesday 11 February 2025.
5. Local kaumatua and resident, Mrs Tewaina Pou, opened our hearing with a karakia. The karakia grounded us in the purpose of the hearing and set the tone for respectful listening and open communication.
6. As a result of discussion arising at the hearing, Brothers 2022 Limited was requested to provide financial statements distinguishing income from the tavern/restaurant and accommodation for the 2023/2024 financial year. They were unable to provide a full statement for that period due to the tavern operating for only part of the year, making income comparison difficult. This was further complicated by the fact that this period did not align with the income stream from renting the new accommodation units built in May 2023. To help determine whether the business qualifies as a 'tavern', the Licensing Committee conducted a further site visit on 18 March 2025 and reassessed relevant factors outlined in the Authority's decision in LNDLU Co Ltd. The site visit was undertaken in person by Councillor Johnson who was supported by Mrs Owen, Waitomo District Council Compliance Administrator. Commissioner McIntyre and Dr Davies attended virtually.
7. We acknowledge that this application has a complex history. Brothers 2022 Limited initially applied for an on-licence for the premises on 26 October 2022. That application was opposed by both the Medical Officer of Health and the Licensing Inspector. A public hearing was scheduled for 28 July 2023; however, on 20 July 2023, Senior Sergeant Hall of the New Zealand Police submitted a supplementary report opposing the application based on new information. As a result, the hearing was adjourned to 13 September 2023. Brothers 2022 Limited subsequently withdrew their application nine days before the rescheduled hearing.
8. The tavern and restaurant operations remain closed while the application is being determined and the accommodation component of the business has continued to operate as normal.

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<sup>1</sup> Section 202(1) Sale and Supply of Alcohol Act 2012

## Relevant Law and Approach

9. In deciding whether to issue a licence the licensing committee must have regard to the criteria in s 105 of the Act. Therefore, the committee must consider the following questions within the framework of the purpose and object of the Act:
  - a) Is Brothers 2022 Limited suitable?
  - b) Is Te Kuiti a vulnerable community? If so, does Brothers 2022 Limited meet the raised threshold to meet the test of suitability?
  - c) Are the days and hours during which Brothers 2022 Limited proposes to sell alcohol reasonable?
  - d) Is the design and layout of the premises suitable?
  - e) Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
  - f) Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of licence? Is the amenity and good order of the locality already so badly affected by the effects of the existing licenses that it is unlikely to be reduced further by the effects of the issue of the licence or is it desirable not to issue any further licenses?
  - g) Does the applicant have appropriate systems, staff and training to comply with the law?
  - h) Have the Police, Inspector and Medical Officer of Health raised any relevant considerations?
  - i) Does the application comply with the Waitomo District Local Alcohol Policy?
  - j) Would granting the application be consistent with the object of the Act?
10. The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol is minimised.<sup>2</sup>
11. Having regard to these criteria is not a box ticking exercise. As Heath J explained in *Re Venus NZ Ltd*<sup>3</sup> the factors stand to be assessed in terms of their potential impact upon the prospective risk of alcohol-related harm. What is required is an evaluative exercise, with the statutory object and purpose the overarching consideration.
12. Clark J in *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited*<sup>4</sup> also affirmed that:
  - a) There is no presumption that a licence will be issued;
  - b) After considering the section 105 criteria, the Committee must step back and cross check whether any evidence indicates granting the licence will be inconsistent with the object of the Act; and

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<sup>2</sup> Section 4 of the Act.

<sup>3</sup> *Re Venus* [2015] NZHC 1377.

<sup>4</sup> *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited* [2018] NZHC 1123.

- c) While a casual link is required between evidence and relevant risk, qualifying this nexus by requiring an effect to be powerful or direct would be inconsistent with the Act's precautionary approach.

**Is Brothers 2022 Limited suitable?**

13. The object of the Act is of paramount importance when determining suitability. Suitability includes whether the licensee ensures that the sale, supply, and consumption of alcohol in its premises will be undertaken safely and responsibly. High Court and the Licensing Authority decisions indicate suitability is a broad concept and that an assessment of suitability will include previous convictions, character, reputation, experience in the hospitality industry, proposals as to how the premises will operate, management ability and personal integrity.<sup>5</sup> In essence, we must consider whether Mr Singh is likely to properly carry out the responsibilities associated with the holding of a licence.<sup>6</sup>
14. First we address suitability as set out in the *Nishchays* and *Casino Bar* decisions.<sup>7</sup>

Previous Experience (Knowledge of Alcohol Management, Character and Reputation)

15. Mr Singh is the director and co-shareholder of Brothers 2022 Limited, with Mr Avneet Chadha being the other shareholder. Mr Chadha was not present at the hearing. Mr Singh arrived in New Zealand in 2016 as an international student and pursued a Level 5 Diploma in Cookery at the NZMA Sylvia Park Campus in Auckland, completing the program over two years. During his studies, he interned at Cork and Keg in Blenheim from 2017 to 2018. Upon graduation, he began working at The Local Te Rapa in Hamilton, where he was employed from 2019 to mid-2022. Mr Singh recently married, has a Permanent Resident Visa, has held a Manager's Certificate since 2020 and does not have any convictions. He operated the Riverside Lodge under a series of temporary authorities from September 2022 to September 2023. Mr Singh told us that, as director, he would be responsible for all aspects of the business and aimed to be on-site 3-4 days per week. Mr Singh currently resides in Dargaville where he works as a duty manager for the Northern Wairoa Hotel. He told us that if the on-licence was granted he would move to Auckland where his wife is currently studying and would commute to Te Kuiti.
16. In his submission, Mr Singh stated that Mr Chadha and he had a combined total of 14 years of experience in the hospitality industry and that this would ensure they were well versed in the requirements of the Act and would comply with them. However, through questioning, it became clear that Mr. Singh's actual experience was considerably less. His placement at the Cork and Keg involved 600 hours (25 days), and his subsequent employment there was mostly in the kitchen as a chef. His role at the Local included 4 days a week as a duty manager, with the remainder of the time spent working in the

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<sup>5</sup> *Nishchay's Enterprises Limited* [2013] NZARLA PH 387 at [53]-[54].

<sup>6</sup> *Re Sheard* [1996] NZAR 61

<sup>7</sup> *Nishchay's Enterprises Limited* [2013] NZARLA PH 387 at [53]-[54] and *Police v Casino Bar (No 3) Ltd* [2013] NZAR 267 (HC)

kitchen. Mr. Singh began working at the Dargaville Hotel in February 2024 and currently works full-time as a duty manager at that location. Breaking down the time in each premises, Mr Singh has more like 2.5 – 3 years relevant experience as a duty manager but little experience as a director.

17. Senior Sergeant Hall raised concerns about the amount of time Mr Singh would likely be on site noting that travelling Auckland to Te Kuiti and return amounted to approximately 5 hours of travel time per day. While a director is not required to live in the same town as their premises, even with a capable and experienced bar manager in place, effectively overseeing a premises in a higher-risk location would reasonably require Mr Singh to maintain a higher level of personal presence and availability.
18. During cross-examination, Mr Singh explained the SCAB intoxication tool but his description focused only on behaviours. He was unclear whether an intoxicated person could remain on site. Despite being asked this question multiple times in different ways to ensure his understanding, he consistently responded that he would offer food and water to any intoxicated person identified on site. Allowing for potential nervousness, the responses given by Mr Singh revealed concerning gaps in understanding of basic licensing requirements.
19. The Medical Officer of Health questioned Mr Singh about the availability of shots and how this aligned with his Alcohol Management Plan, which states that “no promotions encouraging the rapid consumption of alcohol or an excessive volume of alcohol will be either initiated or conducted on the premises”. Mr Singh explained that, in his view, offering shots did not in itself promote rapid or excessive alcohol consumption. He believed consuming more than four rounds could lead to intoxication but suggested that a round of shots alongside food would be appropriate. However, this distinction may not be realistic in practice, as shots by their very nature are designed for quick consumption and are often associated with rounds and celebratory drinking. Even when paired with food, it can be difficult for staff to monitor and manage how many rounds are ultimately consumed, particularly in a busy or high-risk environment. We noted that Mr Singh was not clear about what constituted a low alcohol beverage. This is concerning when he is required to have a range of low alcoholic options to comply with his licence conditions. An understanding of the basics is expected for a licensee.
20. Over the course of this application, concerns have been raised regarding Mr Singh’s integrity. Prior to interviewing Mr Singh, Ms Berry had requested specific documentation. During the interview in July 2024, Mr Singh sat opposite Ms Berry with his laptop positioned facing him. When asked about the requested documents, Mr Singh stated that he had just sent them but was experiencing internet issues. Throughout the interview, he repeatedly assured Ms Berry that the documents were in the process of sending, attributing delays to slow Wi-Fi. However, according to Ms Berry’s report, the documents were not actually received until 30 August 2024, approximately one month after the interview. When questioned by the Committee, Mr Singh admitted that he hadn’t sent them. This casts a shadow of uncertainty over his honesty and integrity.

21. The committee received no evidence that Mr Singh has breached an undertaking or that Mr Chanda, the other director, had previous convictions or had unlawfully operated a premises.
22. We also noted the reporting agencies concerns that Mr Singh's initial application had many questions unanswered, mostly those of importance relating to training and the additional steps he would put in place to minimise harm.
23. Police remained firmly of the view that Mr Singh lacked the knowledge, skills, and experience required to operate a licensed premises in a high-risk area for alcohol-related and social harm. They also noted that Mr Singh himself had admitted to errors in how he had previously managed the premises.

Proposals as to how the premises will operate

24. Mr Singh told the committee that the premises had three forms of income; the bar, the kitchen, and the accommodation so he did not need to just rely on the sale of alcohol. Mr Singh confirmed he was applying with the Department of Internal Affairs to operate class 4 gaming machines on-site. This would represent a fourth income stream if the application is successful. He told us of his desire to focus on the promotion of good food.
25. Mr Singh talked about the historical issues with rubbish collection on site and that they were as a result of the transition period and had been managed effectively with more frequent collections once the business was up and running. Luanna Adams also verified that more frequent collections were organised and successful in reducing overflowing bins. He then explained some of the measures he intended to put in place to minimise alcohol related harm at the premises. These included:
  - No live bands or DJs
  - Increasing his security team to 3-4 staff for an event (and 1 for a normal trading night)
  - No special promotions e.g., two for one and no slushies
  - No shots 15 mins before the bar closes
  - Reducing the licensed hours to Sunday to Thursday 11.00am to 10.00pm and Friday and Saturday 11.00am to 12 midnight
  - Removing the rear deck (close to the accommodation cottage) from the licensed area
  - No drinking will be allowed in outdoor areas (including deck) after 10 pm on Fridays and Saturdays.
  - Increased lighting in the car park area
  - A daily clean-up of any litter outside the premises.
26. Following the hearing, Brothers 2022 Limited provided the following updated documents, which formally confirmed the commitments outlined above.
  - Host Responsibility Policy
  - Staff Training Plan
  - Alcohol Management Plan
  - Venue Hire Terms and Conditions, and
  - Floor plan showing the extent of the licensed area.

27. The measures outlined in paragraph 25 are considered in light of the evidence provided by objector, Mrs Ngatai, drawn from her first-hand experience hiring the premises for a birthday function in March 2023, as well as from attending another function in May 2024. She raised several concerns, including uncertainty about the venue's occupant capacity, the event being advertised to the general public despite her repeated instructions that it was to be a private function, and insufficient staffing. She noted that only one security staff member was present, a kitchen worker was brought out to assist behind the bar, and bar staff were so overwhelmed with orders that they were unable to clear tables, clean up, or properly store alcohol packaging.
28. Mrs Ngatai further alleged that Mr Singh prioritised the sale of alcohol over the provision of food, based on her observations of the food provided at her function compared to others. We have no evidence to support this allegation. While she considered the event generally acceptable, she felt that an appropriate level of manaakitanga (care and respect) was not demonstrated. In support of this view, she referred to poor venue cleanliness prior to the event, vomit in the toilets during the evening, and being unable to locate Mr Singh who was also a duty manager on the night. Mr Singh responded that he did not leave the premises. It was very busy, and he was circulating.
29. As part of her submissions, Mrs Ngatai also described an experience her son had at the Riverside Lodge. She told us that her son and daughter attended a 21st birthday for a mutual friend. When she picked up her daughter at 9.30pm, she was informed of a promotional event taking place in the bar, where sales representatives were offering free drinks in exchange for attendees signing up to a car dealership database by providing their personal contact details. Her son had signed up, and the salesmen had photographed his driver's licence.
30. While we are aware that Mrs Ngatai was not present at this event, Mr Singh did not deny that this promotional activity occurred on his premises. His account largely matched that of Mrs Ngatai's. He admitted it was a mistake, noting that while the salesmen were known to him, the free drinks were provided by them and not by Brothers 2022 Limited. Mr Singh acknowledged it was inappropriate, particularly at a private event. This incident raises concerns about Mr Singh's host responsibility and judgment, and it reflects poorly on his overall suitability.
31. We acknowledge that Mr Singh has recognised previous operational shortcomings and has taken steps to address them. Rather than disregarding past mistakes, he appears to be willing to learn and make improvements. However, we share the view of the reporting agencies that Mr Singh's approach has been largely reactive rather than proactive. The measures outlined in paragraph 25 were all presented at the hearing as opposed to forming part of the original application. Ms Berry highlighted that his application was incomplete and required considerable guidance to finalise. She noted that operating under a temporary authority is an opportunity for an applicant to demonstrate their capability and reliability, yet Mr Singh did not present as a suitable or dependable operator of a high-risk premises. In his brief of evidence, Mr Singh stated, "given the

uncertainty, we were hesitant to invest further funds into the premises,” which suggests that cost considerations were a primary concern. This mindset does not align well with the level of commitment and responsibility required to operate a business in a higher-risk environment.

32. In the Committee’s view, the applicant has not satisfied all the relevant elements in the checklist in *New Zealand Police v Casino Bar No 3 Ltd*<sup>8</sup> and does not have the experience to operate a licence of this type.

### **Extended suitability**

33. We also recognise that a licence is not granted in a vacuum. We need to consider the local community in which the licensee operates. In *Shady Lady*, the High Court confirmed that a more vulnerable community raises the threshold for assessing suitability. In a community like Te Kuiti, particular care is needed to ensure the applicant has the experience and systems required to minimise alcohol-related harm. A higher standard of suitability must be met before an on-licence can be granted.<sup>9</sup>

### Is there evidence of a vulnerable locality?

34. It is common grounds between the reporting agencies that Riverside Lodge is situated in a community considered vulnerable, marked by high levels of socio-economic hardship and a statistically elevated risk of alcohol-related harm. For the purposes of health mapping, the domicile “Te Kūiti” comprises two statistical areas: Te Kūiti West and Te Kūiti East. The township of Te Kuiti is split evenly with half being in the Te Kuiti West and Half in Te Kuiti East. The vast majority of the actual Te Kūiti township lies within a 2 km radius of Riverside Lodge and, notably, most of this area carries the maximum deprivation index score of 10<sup>10</sup>. Senior data analyst for Te Whatu Ora, Mr Michael Keehan, emphasised that the deprivation index is a significant predictor of alcohol-related harm. That is, alcohol harm is disproportionately experienced by people living in communities with higher socioeconomic deprivation. In his brief of evidence (table two) Mr Keehan highlighted that the Te Kūiti domicile experienced 2.14 times the per person rate of Emergency Department (ED) alcohol harm when compared to the whole of New Zealand for the period 2022 to 2023. When compared to the Waikato Health District (i.e., former DHB) area, the Te Kūiti domicile experienced 1.78 times the average Waikato rate of harm.
35. Mr Keehan put this into context for the Committee, explaining that previous analyses of suburbs within Hamilton City, using rate ratio comparisons with the broader Waikato Health District, indicate the following typical results: approximately 0.5 for low-harm suburbs, 1.0 for average-harm suburbs, and 1.5 for high-harm suburbs. In comparison, the rate ratio for Te Kūiti ranges from 1.78 to 2.14, depending on the baseline used. It was

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<sup>8</sup> *Casino Bar (No 3) Ltd* [2013] NZAR 267 (HC)

<sup>9</sup> *Lower Hutt Liquormart Limited v Shady Lady Lighting Limited* [2018] NZHC 3100

<sup>10</sup> NZDep2023



his view that these results provide clear evidence of significantly elevated levels of alcohol-related harm within the Te Kūiti area.

36. When questioned on the community, Mr Singh agreed it was a vulnerable area. He described the area as being “not economically strong and many people don’t have much money to spend”.
37. Overlaid on this deprivation mapping, Mr Keehan noted that, according to the 2023 Census, Te Kūiti has a total population of 4659, with 2523 of those residents identifying as Māori (54% of the population).<sup>11</sup> The data in Mr Keehan’s Table 1 indicates the average age of the Maori population is 32.7 years compared to the European population (48.9 years). This demographic profile adds another layer of vulnerability that must be considered in our assessment. Given the high proportion of Māori residents in Te Kūiti, and the established correlation between socio-economic deprivation and alcohol-related harm, young Māori in the area face a disproportionately high level of risk.
38. Senior Sergeant Hall, in his initial report dated 26 June 2024 opposing the application, states that while the premises was previously operated by Brothers 2022 Limited, Police were called to multiple incidents where alcohol was a contributing factor in cases involving individual harm through assault and violent offending.
39. Further Police evidence, outlined in a report dated 12 February 2025, includes a table showing 30 calls for service to 1 Riverside Lane in 2023, relating to family harm, assaults, and other violence-related incidents. Senior Sergeant Hall noted that, as both the tavern and the adjoining accommodation share the same address, it is not always possible to attribute incidents to one or the other. However, the evidence presented shows a marked difference in callout volume between years. In 2023, when the premises was operating, there were significantly more Police callouts. In contrast, in 2024—when the tavern was closed—there was an almost 50% reduction in callouts. Notably, violent offences dropped from 11 incidents in 2023 to none in 2024, a striking and significant decline. National Intelligence Application (NIA) data further reveals that in 2024, none of the 14 calls for service involved alcohol as a contributing factor. By comparison, of the 30 incidents Police attended at the address in 2023, at least 7 recorded alcohol involvement.
40. In the Committee’s view, the Police evidence highlights the underlying vulnerability of the community and the role that alcohol-related harm has played when the tavern was operating.
41. We also heard evidence from Mrs Ngatai, who has whakapapa to the local hapū and is a long term resident, about the real-world impacts of alcohol availability in the community. She described a place rich in cultural strength, with an active marae and open paepae, but also highlighted the community’s high levels of vulnerability, particularly among young people facing challenges related to drugs, alcohol, and family violence. Her evidence of her experiences reinforced the view that the community is at risk.

42. On questioning, we came to understand that Brothers 2022 Limited also rents out accommodation on the site as an additional income stream. There are seven rooms and a small cottage located directly behind the licensed premises. We heard from Luanna Adams, the accommodation manager for Brothers 2022 Limited, that these are "rooms only" and rely on shared kitchen and bathroom facilities. At the time of the hearing, all were occupied, and Ms Adams stated her policy was to rent only to single, working males. Further back on the site, Brothers 2022 Limited rents out an additional nine units, each with its own kitchen and bathroom, typically rented to small families or single parents. Ms Adams clarified that these are more recently built, are not used for emergency housing and there is no contract in place with the Ministry of Social Development. We heard that many of the units were rented to individuals reliant on WINZ payments. We also heard that the single room accommodation was not currently healthy home compliant, which will be a legal requirement as of 1 July 2025.
43. While not formally designated as emergency or transitional housing, the nature of the accommodation and close proximity to a licensed premises, raises concerns. Senior Sergeant Hall states that the temptation of having such a premises on the doorstep of persons in short term or emergency accommodation is grievous in its very nature. That is, the co-location of low income residential tenancies and the provision of alcohol may increase vulnerability for residents and the wider community.
44. In relation to this licence application, the committee concludes that this community is vulnerable and is high risk from inappropriate alcohol consumption.
45. The Licensing Inspector reports that the application does comply with the Waitomo District Local Alcohol Policy.

Mr Singh's knowledge of the locality

46. We now consider the extended suitability test in Shady Lady.<sup>12</sup> When asked about his understanding of the local community, Mr Singh explained that he had visited Te Kuiti three or four times prior to purchasing the business. He described it as a tourist destination, located near other key attractions nearby. Mr Singh was aware of the town's reputation as a shearing hub and a rural community. He also acknowledged the high rates of alcohol-related harm in Te Kuiti, which he had learned about through local newspaper articles. Additionally, he was aware that the town lacked a taxi service and that there was a gap in the market for an event space, with the only options being restaurants and a club selling alcohol. He was able to tell us of four other licensed premises in the area. He described the population demographics as "mixed" in age and mixed in ethnicity although he did talk about the Māori population.
47. Mr Singh accepted that his premises is in a vulnerable area, however when applying for the on-licence, he did not take steps to understand the community in advance. The application was submitted in May 2024 and his first attempts to contact any neighbouring sites only occurred just prior to the hearing. It is likely that this occurred as a result of the

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<sup>12</sup>

Lower Hutt Liquormart Limited v Shady Lady Lighting Limited [2018] NZHC 3100

direction from the District Licensing Committee, dated 25 November 2024. This direction requested any evidence from Brothers 2022 Limited outlining what consultation, if any, has taken place to date, with whom and how this information has been used. The Alcohol Regulatory and Licensing Authority (ARLA) has accepted that, where a locality is considered vulnerable, the applicant is required to engage with the community to understand the issues raised by the availability of alcohol and then demonstrate what measures it might put in place to address those issues and concerns.<sup>13</sup>

48. Mr Singh submits that one of his staff spoke to neighbours around the premises, namely Tiroa E Trust and the Te Pukeiti Early Childhood Centre. According to Mr Singh, neither of these organisations raised any concerns. However, as the director, it is our expectation that Mr Singh would have undertaken this consultation and provided the committee with written evidence. For completeness, the committee cross-checked whether Mr Singh had contacted the Te Kūitī Māori Wardens, the local pharmacy, the local business association, or met with the Police. He confirmed that no such engagement had taken place. In the committee's view, these organisations would have been appropriate and relevant stakeholders to consult in order to gauge broader community views and concerns. The Tiroa E Trust, located beside the childcare centre, is a separate entity from the Ngāti Maniapoto Marae Trust, which operates from a building behind the newer accommodation units and provides community services such as health, education, and social support for whānau in the Maniapoto region. Further, the Committee considers it would have been appropriate for Mr Singh to engage with the tenants in his accommodation facilities which are located next to the premises. No evidence was present to this effect.

49. We are concerned about these circumstances, as Mr Singh has not undertaken a meaningful consultation process to identify any community concerns regarding alcohol-related harm. Without such a process, he has missed the opportunity to consider and address concerns with the community and in his application.<sup>14</sup>

50. The Applicant in closing submissions at paragraph 54.5 states

*For completeness, a lot of reliance generally is placed on the High Court's decision in Shady Lady regarding the need to carry out community engagement. However, it is respectfully submitted that the Court's views on community engagement in that case were specifically relevant to the public objectors who had opposed the application. In that instance, the applicant had failed to engage with those objectors. Accordingly, the Court's observations should not be interpreted as a general requirement for wide-ranging community engagement.*

51. While it is acknowledged that Shady Lady involved specific public objectors and the applicant's failure to engage with them, the committee considers that the Court's

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<sup>13</sup> Nishchay's Enterprises Limited [2013] NZARLA PH 837 AND Patels Superette 2000 Ltd [2019] NZARLA 75

<sup>14</sup> Lower Hutt Liquormart – Blackbull Liquor v Shady Lady Lightning Limited [2018] NZHC, 3100; Nischays Enterprises Limited [2013] NZARLA PH 837

criticism about the lack of engagement reflects a more general expectation that applicants must engage meaningfully with those who may be affected by a proposal. In our view, those affected are likely to be wider than objectors and can include 'other persons in the community'.<sup>15</sup>

52. Given that Brothers 2022 has previously operated from this premises, we would have expected a better awareness that community vulnerability and engagement would be key factors in demonstrating suitability. Mr Singh shared his goal as offering an affordable entertainment experience for a lower socio-economic community and "a place for people to have a good time". We do not believe this adequately addresses the responsibility to minimise alcohol-related harm.
53. This leads us to conclude that, when assessed against the elevated threshold required for this vulnerable community, the evidence does not demonstrate that Mr Singh possesses the experience or understanding necessary to meet the object of the Sale and Supply of Alcohol Act 2012, specifically to ensure alcohol-related harm is minimised. We are not satisfied that Brothers 2022 Limited has engaged with the community to understand the issues raised by the availability of alcohol or demonstrated what measures he might put in place to address those issues and concerns. As a result Brothers 2022 Limited does not meet the heightened standard of suitability required in this locality. Overall, the Committee is not satisfied that the applicant is suitable to hold this off-licence.

**Are the days and hours during which Brothers 2022 Limited proposes to sell alcohol reasonable?**

54. Brothers 2022 Limited's proposed hours have shifted throughout the application process. Initially, hours of 9:00 am to 12:00 midnight, Monday to Sunday, were sought. After a meeting with the Licensing Inspector on 30 July 2024, Mr Singh agreed to hours of 11:00 am to 12:00 midnight, Monday to Sunday. During the hearing, in response to Committee concerns, Mr Singh proposed further reducing alcohol service hours to Tuesday to Thursday and Sunday, 11:00 am to 10:00 pm, and Friday and Saturday, 11:00 am to 12:00 midnight, as well as ceasing alcohol service on the outside deck after 10:00 pm on Fridays and Saturdays. The premises will be closed for business on Mondays.
55. These changes demonstrate Mr Singh's willingness to respond to concerns raised during the hearing. However, we observe that his moderation of the hours has been reactive rather than proactive. Further, based on our findings regarding the vulnerability of this community and concerns about the applicant's suitability, we do not need to make a conclusive determination regarding the appropriate hours.

**Is the design and layout of the premises suitable?**

56. The main entrance to the building is accessed via a small ramp from the car park. The licensed area encompasses an open bar, a dining area, a function room, a gaming area, a

side deck, and a rear deck. Additionally, there is private accommodation located very close to the back of the building. A door connects this accommodation to the licensed premises.

57. Mr. Singh maintains that this door is intended solely as an exit, and that residents or others cannot enter the premises through it — entry is only permitted through the main entrance. However, during our site visit, we observed that the door can, in fact, be opened from both sides. When questioned about this at the hearing, Mr. Singh stated that CCTV cameras provide direct coverage into the bar and that bar staff and security monitor this exit point. While we understand that the door cannot be locked for FENZ (Fire and Emergency New Zealand) compliance reasons, we remain concerned about the potential for people to enter the premises through this access without being noticed by staff, particularly during busy periods or events.
58. We received an updated site plan by email on 21 February 2025, accurately reflecting the licensed area and incorporating the agreement reached at the hearing to remove the small rear deck from the licensed area due to its proximity to the cottage accommodation and the potential for noise, smoke, or any other potential disturbances.
59. We note for completeness that, at the time of the hearing, the application still has FENZ opposition. On this basis, the committee is not satisfied that the design and layout of the premises is appropriate.

**Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?**

60. Sections 105(1)(f) and (g) require us to consider 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 the provision of other services.
61. When the committee sought confirmation that the premises has not been operating, Mr Singh noted that the tavern had been closed since the previous temporary authority expired but that the on-site accommodation continued to operate. This led to us to question whether the principal purpose of the premises is the consumption of alcohol and food. Therefore, Brothers 2022 Limited was requested to provide financial statements distinguishing income from the tavern/restaurant and accommodation for the 2023/2024 financial year. The results were inconclusive for that period due to the tavern operating for only part of the year, making income comparison difficult. This was further complicated by the fact that this period also did not align with the income stream from renting the new accommodation units built in May 2023.
62. To help determine whether the business qualifies as a ‘tavern’, the Licensing Committee conducted a further site visit on 18 March 2025 to reassess relevant factors outlined in the Authority’s decision in LNDLU Co Ltd<sup>16</sup>. The key characteristics of a tavern as

described by ARLA were found at the Riverside Lodge. The premises had a separate bar, there were several bar leaners and barrels with stools. Some of the bar leaners were inside the premises and some on the outdoor deck. We saw a total of six wall mounted televisions: four in the rear functions room and an additional two in the main bar area. Mr Singh advised they were for viewing Sky Sports and were sometimes used for functions. There was a pool table in the rear functions room and another one on the outside deck, and a gaming room in a separate room and not visible. The trading hours promoted on the front door were that consistent with tavern hours and the outdoor signage referred to the name of the premises, as well as 'gaming' and master beer logo. On the basis of these observations, we were satisfied that the premises is a tavern. The Committee would have appreciated income data that separated the various sources and notes that reporting from separate entities would have provided greater clarity.

63. The Committee is satisfied with the evidence Brothers 2022 Limited provided that they will have a range of low-alcohol refreshments, non-alcoholic refreshments, and a substantial food offering from menus viewed on-site and provided as evidence.

**Does Brothers 2022 have appropriate systems, staff and training to comply with the law?**

64. Under cross examination, Mr Singh indicated that staff training would occur every month and covered the types of the training this would involve including ServeWise, external hospitality training and meetings to discuss incident report logs. There would be a focus on appropriate identification. Mr Singh would manage the training schedule and it would be given to all bar staff, duty managers and security so "everyone is on the same page". The monthly training was more frequent than the bi-monthly training indicated in the original application. Mr Singh confirmed that Omega Hospitality had prepared the Host Responsibility Plan for him as part of the original application but showed a good awareness and understanding of the content. An updated training plan was provided after the hearing, confirming these details.
65. Mr Singh stated that going forward, there would be an increased security presence. He confirmed there would be at least two security staff on duty on Fridays and Saturdays from 7:00 p.m. onwards, or earlier if there was a booking. For booked events, additional security would likely be arranged to ensure one staff member could manage entry while others circulated inside. The number of security staff would depend on the number of guests, which would be known in advance and planned for. On regular nights without bookings, there would typically be a single security staff member present.
66. Mr Singh explained that the three certified duty managers are available to work depending on the outcome of the licence. Mr Singh is a certified duty manager but plans to work only two to three days per week. In addition, Mr Singh plans to hire other staff, such as a chef and wait staff once he knows the outcome of the licence.
67. Overall, the Committee is satisfied that the applicant has appropriate systems, staff and training in place to comply with the law.

**Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of licence? Is the amenity and good order of the locality already so badly affected by the effects of the existing licenses that it is unlikely to be reduced further by the effects of the issue of the licence or is it desirable not to issue any further licenses?**

68. Section 105(1)(h) and (i) require us to consider whether the amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of the licence. Section 5 of the Act defines “amenity and good order of the locality” as the extent to which, and ways in which, the locality in which the premises concerned are situated is pleasant and agreeable.
69. In forming this opinion, section 106(1) directs that we must have regard to current and possible future noise levels, nuisance, and vandalism in the locality, as well as the number of premises already holding licenses of the kind concerned. We must also consider whether the purposes for which nearby land is used are compatible with how the premises would be used if licensed. This is a forward-looking assessment that requires careful consideration of all evidence about current and potential future impacts.
70. Our assessment begins with the current state of the locality. The premises is in a business zone under the Waitomo District Council District Plan, in close proximity to several sensitive sites. Specifically we refer to the Te Pukeiti Early Childhood Centre which backs directly onto the Riverside Lodge car park, the Ngati Maniapoto Marae Trust, and the accommodation units onsite. The Licensing Inspector notes that the Te Kuiti Community Childcare Centre is located approximately 250 metres from the premises, and the town’s Work and Income office is about 350 metres away. This concentration of facilities, particularly those serving young and potentially vulnerable members of the community, requires careful consideration when assessing the potential impact on the pleasant and agreeable nature of the locality. We note that none of these organisations raised concerns or lodged objections regarding the application.
71. The Licensing Inspector reported that nuisance complaints about rubbish accumulation were made about the premises on 30 May 2022 and 29 November 2022. Brothers 2022 Limited did not start operating until September 2022 so the first complaint is not relevant to this application.
72. Issues related to litter and its impact on the amenity and good order of the area were raised by Mrs Coll in her objection submitted on 12 July 2024. Mrs Coll, a long-time Te Kuiti resident, described herself as a regular user of the riverside pathway that follows the Mangaokewa Stream and runs alongside the premises. This pathway, which has recently been upgraded, comes as close as 2–3 metres to the premises and is frequently used by local residents for walking, fitness, and dog exercise. In her objection, Mrs Coll expressed concerns about a large skip bin located at the rear of the premises, noting that it was often overflowing with rubbish, including food scraps, which created a strong and unpleasant odour. She also referred to the presence of discarded empty bottles along the

track, in the adjacent grass area, and near the driveway when the tavern was operational. Additionally, she observed instances of vomit along the pathways.

73. In addition to submitting a formal objection, Mrs Coll also contacted the Waitomo District Council and was accompanied by the Council's Enforcement Officer, Charlene Longden, to investigate the concerns on site. Photographs were taken during this visit and included in the Licensing Inspector's report (pages 98–108). These images documented waste spilling out of the skip bin on 29 November 2022 (photos 1–4), as well as discarded bottles on 5 August 2022 (photos 7–10) and discarded “nangs”- small silver gas canisters containing nitrous oxide (N<sub>2</sub>O) when inhaled cause dizziness and a high feeling (photo 11). Upon further analysis, it was confirmed that only the photos showing the overflowing skip bin were taken during the period when Mr Singh was operating the tavern. Our observation is that the photos of the discarded bottles reflected a minimal issue and appeared unrelated to the period when the premises was operational. Mr Singh acknowledged there had been issues with the skip bin, which he attributed to initial teething problems. Once the issue was identified, he took prompt action to address it, including arranging a more frequent rubbish collection to prevent further problems with waste and odour. Accordingly, in assessing the amenity and good order of the locality, we find there is insufficient evidence to support a conclusion that granting the application would result in any significant increase in litter-related nuisance.
74. Police raised several questions regarding the potential for noise associated with the premises. Mr Singh advised that, after considering the risks, he had decided not to permit DJs, live bands, or karaoke, including at private functions. He also confirmed that no speakers would be installed on the outdoor decks. Senior Sergeant Hall questioned how noise levels would be effectively managed in the absence of a formal monitoring plan or any dedicated noise management equipment. Mr Singh's approach would appear to reduce or negate the need for a formal noise management plan; however, concerns remain about how internal noise will be effectively monitored and addressed without dedicated systems in place.
75. Having considered all the matters required under section 106(1) of the Act, the Committee concludes that granting the licence would not reduce the amenity and good order of the locality by more than a minor extent.

### **Object of the Act**

76. Having assessed all relevant criteria under section 105, we must now stand back and consider whether granting this licence would be consistent with the object of the Act - 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.
77. As outlined earlier in the decision, the Committee has determined that Brothers 2022 Limited does not satisfy all the section 105 criteria. We believe that Brothers 2022 Limited is not suitable to hold this licence.



78. While Mr Singh’s willingness to make changes to how the premises intends to operate is commendable, we acknowledge this also reflects a desire to ensure the application’s approval. Furthermore, our analysis has identified several fundamental concerns that these measures cannot address at this time.

79. The vulnerability of the Te Kuiti community must be a primary consideration in determining whether granting a licence aligns with the objective of minimising alcohol-related harm. Evidence shows that a significant proportion of residents live in areas of the highest deprivation, and the community includes a high percentage of Māori—who are disproportionately impacted by alcohol-related harm. Furthermore, data indicates an increasing trend in the relative risk ratios for such harm within the area. Notably, Police data reveals a decline in calls for service at the Riverside Lodge address since its closure, suggesting that reduced alcohol availability has contributed to improved community outcomes.

80. An assessment of the risk of alcohol-related harm does not require a direct link between a specific harm and a particular on-licence to be demonstrated. As Justice Clark stated in *Lion Liquor*, it is not necessary for the premises to be “at the centre of harm”. At paragraph 67 of this High Court decision, Clark J elaborated:

*It is not necessary to establish that the proposed operation would likely lead to alcohol-related harm. To require demonstration of a link with that level of specificity is little different from requiring proof. Requiring proof of a causative link is not only unrealistic but is contrary to the correct legal position.”*<sup>17</sup>

81. Furthermore, the Supreme Court’s decision<sup>18</sup> provides for a precautionary approach to be taken. Taken together, these judgments affirm that licensing bodies may act on the potential for harm, applying a precautionary approach without needing to establish a direct causative link between a specific premises and alcohol-related harm.

82. Secondly, although Mr Singh has sufficient experience as a duty manager, the evidence indicates Mr Singh has no prior experience as a director of a licensed premises and no prior experience as a licensee in a high risk locality. We found Mr Singh’s approach largely reactive, offering up changes to the premises management in response to agency questioning. Crucially, Mr Singh did not engage in meaningful consultation with his local community as part of his application; instead, this was done at the last minute, limited to two neighbouring properties and delegated to a member of his staff. This does not demonstrate the level of preparation and understanding required for safe operation in this challenging environment. It is now well accepted that where a locality is considered vulnerable, the applicant is required to engage with the community to understand the issues raised by the availability of alcohol and then demonstrate what measures it might put in place to address those issues and concerns.<sup>19</sup>

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<sup>17</sup> Medical Officer of Health (Wellington Region) v Lion Liquor Retail Ltd, [2018] NZHC 1123

<sup>18</sup> Woolworths New Zealand Ltd v Auckland Council [2023] NZSC 45

<sup>19</sup> Nishchay’s Enterprises Limited [2013] NZARLA PH 837 AND Patels Superette 2000

83. Accordingly, Brothers 2022 Limited has not met the higher threshold required for operating in a vulnerable community. Mr Singh's lack of licensee experience and his lack of understanding and engagement with the local community suggests that granting this licence would not be consistent with ensuring the safe and responsible sale of alcohol. Additionally, FENZ has raised concerns about fire safety compliance. Therefore until the FENZ issues are resolved, we are not satisfied that the premises meets the legal safety standards.


### **Conclusion**

84. We conclude that there is evidence that the applicant is not suitable to hold this licence. Granting this licence would be inconsistent with the Object of the Act, as the harm caused by excessive or inappropriate alcohol consumption would not be minimised.

85. The Committee acknowledges Mr Singh's determination to provide for himself and his wife financially by having a business and his willingness to learn is evident. However, our primary obligation is to ensure that alcohol is sold safely and responsibly, and alcohol related harm minimised.

86. In summary, the application for the on-licence is declined.

Dated this 22<sup>nd</sup> day of May 2025



Tegan McIntyre  
Commissioner  
Waitomo District Licensing Committee