

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

AND

IN THE MATTER of an application by **ALEXANDRA BLOSSOM FESTIVAL COMMITTEE INCORPORATED** situated at **PIONEER PARK, ALEXANDRA** pursuant to s.137 of the Act for a special licence.

BEFORE THE DISTRICT LICENCING COMMITTEE

Chairman: Mr L A Cocks
Members: Mr J M Mann
Mr R Anderson

HEARING at ALEXANDRA on 11th July 2025

APPEARANCES

Ms TJ Surrey – Lawyer for the Applicant
Mr M McPherson – Applicant witness
Mr J Hughes – Applicant witness
Mr A Whipp – Health New Zealand Te Whatu Ora Southern
Miss AE Smyth – Health New Zealand Te Whatu Ora Southern
Mrs SA Bekhuis-Pay – Health New Zealand Te Whatu Ora Southern
Mr W Boss – Central Otago Licensing Inspector – to assist
Senior Constable D Cowie – Police – to assist

RESERVED DECISION OF THE COMMITTEE

The Application

1. This is an application by Alexandra Blossom Festival (ABF) Committee Incorporated (the Applicant) pursuant to s137 of the Act for a special licence to sell and supply alcohol for consumption to people attending the 'Saturday in the Park' event, which is part of the three-day Blossom Festival. The festival celebrates the beginning of Spring in Central Otago and was first held in 1957. The 'Saturday in the Park' event is to be held in Pioneer Park from 11.00am to 5.30pm on Saturday 27th September 2025.
2. The application was submitted on 20th March 2025 and was dealt with by the District Licensing Committee (DLC) on the papers under s.191(2) of the Act. The DLC determined the application failed to comply with s.22(2) of the Act because the

Applicant was not selling and supplying alcohol and therefore declined the application on 11th April 2025.

3. On the 28th April 2025 the Applicant requested a rehearing under s.201(4) of the Act because it considered there had been a breach of natural justice as it had not been privy to all the information that was used to justify the decision. The DLC accepted this request for a rehearing.
4. The applicant is aware of its obligations under the Act and has provided a Host Responsibility Policy and Alcohol Management Plan, which outline the measures put in place to reduce the risk of inappropriate or excessive consumption of alcohol and alcohol related harm.
5. Ticket sales are open to the general public. Water, non-alcoholic and low-alcohol drinks will be available, and food will always be available from the 38 food stalls. 12 qualified Allied staff will be monitoring patrons during the event. Security staff are available to transport people home if necessary and phones will be available to call taxis.
6. The applicant seeks a licence for **Saturday 27th September 2025** from 11.00am to 5.30pm
7. Pioneer Park is located in central Alexandra. There will be 38 food vendors, two coffee carts, and eight stalls selling alcohol. Entertainment and ceremonies will be held on a stage at the edge of the park and tables and seating will be arranged to focus on the stage.

The Applicant

8. Ms Surrey from MacTodd Lawyers represented the applicant and in summary asserted the application meets the object of the Act and complies with all the criteria at s.142 of the Act. She submitted the DLC has the powers to grant the application on the conditions sought and with any other conditions it saw fit to impose on the basis that s.22 of the Act does not preclude granting a special licence, as the key factor to be considered is the purpose and object of the Act.
9. With regard to s.22 of the Act, Ms Surrey argued that it is not an absolute bar to the issue of a special licence and that it has wider application. It can encompass what has been applied for because the Applicant is receiving revenue from the sale of alcohol via the stall fees and is authorising the sale and supply of alcohol via the stall holders.
10. Ms Surrey surmised that because s.22(5) of the Act for an off-site special licence is very specific ('...for the sale of the licensee's alcohol...') and s.22(2) of the Act for an on-site special licence is not so specific ('...the licensee can sell and supply alcohol...') suggests Parliament anticipated there could be some flexibility in the application of s.22(2) of the Act, especially so when the object of the Act is considered. She submitted that Parliament intended for local committees and communities to have the ability to interpret s.22(2) of the Act widely and to make the decisions in accordance with their local knowledge.

11. Further, Ms Surrey argued it is essential to note the wording in s.22(2) of the Act says, 'can sell' not 'must sell' suggesting it means the licensee can sell but does not have to! She proffered the provision should be interpreted purposively, with the intent that it is the licensee, or any person authorised by the licensee who 'can' sell and supply alcohol. (This is based on s.5 of the Interpretation Act 1999 which states 'The meaning of legislation should be determined from the text of the enactment, in light of its purpose').
12. Based on case law from a decision by the Queenstown Lakes District Licensing Committee (QLDLC) on an application by Greenstone Entertainment Limited and 'Cambridge Raceway Limited v Medical Officer of Health', Ms Surrey submitted that if the object of the Act is being achieved and the criteria in s.142 of the Act have been met, the application should be approved.
13. Further to the original application, Ms Surrey advised the Applicant now seeks to sell and supply alcohol directly at the Speight's Caravan in addition to authorising indirect sales via the stall holder permit system. She added that if we do not accept the application as it stands, a universal eft pos arrangement could be imposed, however this is not preferred by the Applicant.
14. Ms Surrey called Mr Martin McPherson, the Event Manager for the ABF since 2009, and Mr Jamie Hughes, the nominated overall duty manager for the event.
15. Mr McPherson advised us that over 10,000 people attend the festival over the three days, and it is a community and family focused event. He emphasised the event is non alcohol centric and that people don't come to drink and don't wander with alcohol. There are signed controlled points restricting where people can and cannot drink, areas delineated for alcohol consumption with passive enforcement.
16. Mr McPherson explained the application was for an umbrella licence that would include the eight stalls selling and supplying alcohol (beer, wine and cocktails). In 2024 individual stall holders obtained special licences but he considered it was difficult to manage as people wandered into the park with their drinks and it was unclear who was responsible for the customers due to the lack of defined licensed areas. He also told us it was problematic for each stall holder to have a fenced off area requiring people to stay like 'penned sheep' while consuming a drink. For these reasons the Applicant sought to return to the 'umbrella licence' model and believe s.22(2) of the Act is satisfied.
17. Mr Hughes told us he owns and operates Liquid Assets Limited, a company that provides alcohol management services for large public events including supplying bar staff/duty managers, stock management, setting up and building bars, and organising licensing for events.
18. Mr Hughes stated that based on his previous experience as duty manager at the ABF, he considered the 'umbrella' licence model is the best system to responsibly manage the sale and supply of alcohol. He explained he would be the overall assigned manager and would give briefings to stall holders, ensure signage is in place and that they each stall had a designated manager. He would also have

three of his experienced duty managers supporting him, with one of them dedicated to checking stall holder compliance.

19. In response to questions, Mr Hughes advised communications between his staff and stall holders would be via Whatsapp and he also indicated how other events he worked complied with s.22(2) of the Act including having the vendors named as the applicant, individual special licences, vendors being contractors to the applicant, and having a universal eft pos system with money going initially to the licensee and ultimately filtered back to stallholders (eg. Dunedin Craft Beer Festival, Ripe Wanaka Wine Food Festival).

The Medical Officer of Health

20. Mr Aaron Whipp representing the Medical Officer of Health submitted he did not oppose the application and would provide information and evidence from Ms Alannah Smyth (Health Promotion Officer (Compliance)) and Ms Stephanie Bekhuis-Pay (Health Promotion Officer (Compliance)) to assist us. Procedural concerns raised by Mr Whipp will be addressed separately.

21. Mr Whipp reminded us of the legislative framework for a special licence and indicated his view that a single overarching licence with enforceable conditions is preferable and more likely to achieve the object of the Act because it would ensure:

- i. centralized oversight by a designated manager;
- ii. uniform compliance with the licence conditions across the site;
- iii. clarity for enforcement responsibilities for agencies; and
- iv. a clear and direct mechanism to address non-compliant vendor behaviour.

22. By contrast, he considered requiring each vendor to obtain an individual special licence could:

- i. undermine event-wide control and monitoring;
- ii. lead to inadvertent breaches by patrons unaware of restricted movement between separately licensed areas; and
- iii. obscure accountability in the event of non-compliance or harm.

23. Mr Whipp concluded by saying the proposal is consistent with public safety, amenity, and responsible alcohol management, and the event has a demonstrable record of being 'family-friendly' that has low level intoxication and no significant disorder or harm.

24. Ms Smyth provided evidence of her experience monitoring the Clyde Wine and Food Festival where multiple vendors (wineries and breweries) were selling alcohol under individual on-site special licences with their own bar/POS, duty manager, and licensed area. She described her observations as follows:

- i. No delineation of individual licensed areas;
- ii. Patrons leaving licensed premises with drinks;

- iii. No identification of which vendor had sold drinks and therefore who was responsible for any breaches of the Act;
- iv. Apparent abuse of the of the serve limit;
- v. Intoxicated younger patrons gathering and drinking in central area close to stage; and
- vi. Duty Managers not being able to leave their premises to assess and manage the patrons.

25. Ms Smyth concluded that she considered the licensing structure contributed to breaches of the Act and challenges for the Agencies in verifying compliance with licence conditions.

26. Ms Bekhuis-Pay told us she has monitored the ABF over the past 10 years and based on what she experienced she considered that having a single overarching duty manager and one licence holder is a more effective approach to ensuring compliance. Although she did not attend the 2024 ABF, she suggested requiring individual alcohol vendors to have their own special licences at that event created a fragmented oversight structure and enforcement officers had no clear point of contact for addressing compliance concerns. She preferred a centralised approach that she considered provided clear lines of accountability, enabled strong communication with the regulatory agencies, and upheld the safety and integrity of the event.

27. In his closing submission, Mr Whipp addressed the interpretation of s.22(2) of the Act. He questioned should the emphasis be placed on the word '*licensee*' or on the word '*can*'? Placing the emphasis on *licensee* suggests the licensee is the sole party legally permitted to sell and supply alcohol under a special licence which invalidates the overarching model. If instead the emphasis is on *can*, it implies the licensee is one party who *may* sell and supply alcohol, but the provision is permissive, not exclusive and therefore would allow other parties (eg. Individual vendors) to sell on behalf of the licensee. Mr Whipp preferred the latter interpretation.

The Police

28. Senior Constable Cowie spoke in support of his written statement and questioned the practicality of each booth obtaining special licences and then having to enforce it on patrons. He suggested restricting patron's movements will undoubtedly cause the vendor some angst and more than likely, unwittingly, breach their licence. He considered this could cause some difficulty in identifying the responsible licensee if seeking to pursue a prosecution. Having an overarching Duty Manager (DM) with standalone DMs at each point of sale is an option but could be a problem logistically for the organisers.

29. Using the Cromwell Races as a like comparison, Senior Constable Cowie considered the overarching DM works very well. He has worked several Blossom Festivals and advised that the Saturday event is a family-friendly event and is run as such. At the end of the day the crowd disperses without issue back into a liquor ban area of the Alexandra Township which is policed accordingly.

The Licensing Inspector

30. Mr Wayne Boss, the Chief Licensing Inspector, provided a summary of previous special licences for the ABF. He explained that based on the Committee's concern when addressing an application by Old Cromwell Incorporated for a special licence in 2023 over the ability to issue an overarching licence for an event when the applicant was not selling and supplying any alcohol (iaw. S.22(2) of the Act), subsequent special licences for the Clyde Wine and Food Festival 2025 and the ABF 2024 were issued to individual stallholders.
31. In response to the evidence provided by Ms Smyth of her experience when monitoring the Clyde Wine and Food Festival 2025 with the Alcohol Licensing Inspector, Mr Boss advised that she had not raised any of these issues with the Licensee or the Inspector at the time of the event or afterwards. In view of this he provided the Alcohol Licensing Inspector's monitoring notes (under s.207 of the Act) which reflected a positive, well-run event which had individual on-site and off-site special licences with an overarching on-site special licence and was not opposed by Health NZ – Te Whatu Ora.
32. Mr Boss indicated it was difficult to understand the Applicant's concerns following the 2024 ABF, that it had no knowledge of the conditions attached to each vendor's licence, nor any oversight of their compliance and that no copies of the licence were displayed, as the event organizer could have required all this as part of their agreements allowing vendors at the event. He understood the event was well run as confirmed by the Police and no known alcohol issues were reported.
33. Mr Boss addressed the statutory criteria and highlighted the 2016 amendment to s.22(2) of the Act wording from 'sell or supply' to 'sell and supply', and provided Thomson Reuters Westlaw NZ commentary as follows:

'The effect of the amendments is to ensure that on-site special licences can only be issued where the licensees will sell and supply the licensee's own alcohol. An on-site special will not legitimize BYO alcohol consumption nor the consumption of alcohol the licence holder has not sold as well as supplied, in order to avoid the consequences of on otherwise unlicensed premises contrary to s.235 of the Act.'
34. Based on this, Mr Boss considered the original application for a single over-arching on-site special licence for the ABF did not appear to meet the requirements of s.22(2) of the Act. He acknowledged that 'workarounds' or 'makeshift solutions' are sometimes proposed for special licences, but he did not consider the \$10 admission fee to the ABF event constituted the sale and supply of alcohol.
35. Mr Boss acknowledged the Applicant's supplementary evidence advising the ABF would now be selling and supplying alcohol from the Speights Caravan was a significant change, but was still of the opinion that all other stalls selling and supplying alcohol would either require their own individual special licence or come under an overarching licence with all sales via the eftpos system going to the Applicant.

36. Mr Boss believed the ABF could engage Mr Hughes and his alcohol management team to oversee sale of alcohol management and control at the event regardless of an individual or single overarching licence.

The Committee's Decision and Reasons

37. The criteria to which we must have regard when considering an application for a special licence are set out in s.22, s.142, and s.143 of the Act. In our view, the relevant criteria are as follows:

- a. **The object of the Act:** We agree with Ms Surrey that the object of the Act will not be compromised by the issue of this Special Licence.
- b. **The nature of the particular event for which the licence is sought:** The event is a 'community and family focussed' event which is part of a festival that has been running since 1957.
- c. **The suitability of the applicant:** We are satisfied the applicant is suitable entity to hold a special licence.
- d. **Whether (in our opinion) 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:** There were no reported complaints from neighbours and no evidence to directly link any reduction in the amenity and good order of the locality to this festival.
- e. **The day and the hours during which the applicant proposes to sell alcohol:** The hours sought are consistent with those granted in previous years and therefore we are satisfied the hours are appropriate for this event.
- f. **The design and layout of any proposed premises:** The layout is similar to previous festivals and has not been challenged.
- g. **Whether the applicant has appropriate systems, staff, and training to comply with the law:** By engaging Mr Hughes and his team plus 12 qualified security staff, we are confident the Applicant will comply with the law.
- h. **Any areas of the premises that the applicant proposes should be designated as restricted areas or supervised areas:** As this is a general public event, we accept that all the licensed area will be undesignated.
- i. **Steps taken to ensure the requirements of the Act in relation to prohibited persons, non-alcoholic drinks, food, low-alcoholic drinks, and help with Transport:** The Applicant has provided comprehensive management plans showing how the requirement of the Act will be met, and will appoint a very experienced duty Manager to oversee and enforce these requirements.
- j. **Any matters dealt with in any report from the Police, the Medical Officer of Health, or an inspector made under s.141:** The agencies supported the application and indicated a preference for one overarching special licence for the event. The Inspector supported the application when considering the criteria specified

in s.142 of the Act but did not believe it meets the requirements of s.22(2) of the Act to enable a singular overarching licence.

38. We acknowledge and thank the respective parties for their contribution of evidence and submissions and are satisfied this application meets all relevant criteria except s.22(2) of the Act which states:

‘On the premises a special licence designated as an on-site special licence is held for, the licensee can sell and supply alcohol, for consumption there, to people attending an event described in it.’

39. We accept the section is open for interpretation/commentary as there is no specific case law to rely on as yet. In the absence of case law, we put weight on the Westlaw NZ commentary highlighted by Mr Boss, but do note as Ms Surrey and Mr Whipp contended, this is only one opinion. However, Westlaw NZ is a comprehensive online legal research platform designed for the New Zealand legal market. It provides access to expert commentary, and practical guidance, tailored to the New Zealand legal landscape.
40. We have considered the assertion by Ms Surrey and Mr Whipp that the word ‘can’ in s.22(2) of the Act indicates the licensee can sell but does not have to be the seller. We do not agree with this interpretation. There is nothing in s.22(2) of the Act that suggests anyone other than the licensee can sell alcohol. The definition of ‘sell’ is the transfer of goods to another in exchange for money, which brings us to the issue of who is selling under an ‘umbrella’ licence.
41. The ABF as applicant for an ‘umbrella’ licence would be the legitimate seller and therefore needs to be the recipient of the money that has been exchanged for alcohol on the licensed premises, to comply with s.22(2) of the Act. It was suggested by Mr McPherson that the fee paid by stallholders for a site at the event could be construed as revenue from the sale of alcohol. This was countered by Ms Surrey who submitted that ‘workarounds’ such as this cannot be the intention of Parliament, and it is not appropriate to allow a ‘smoke and mirrors’ form of compliance. We agree.
42. We are satisfied that having a universal eft pos system for all alcohol stallholders with the money initially going to the licensee (ABF) and ultimately filtered back to stallholders, will achieve the intention of s.22(2) of the Act. As Mr Hughes told us, this system was used at the Dunedin Craft Beer Festival and also at the Ripe Wanaka Wine Food Festival.
43. We heard evidence promoting an ‘umbrella’ licence, saying it is deemed to enable better management, control and accountability, and examples were given of noncompliance and enforcement jurisdiction issues when individual licences are issued. We do not put too much weight on this evidence as we expect organisers, licensees and duty managers to comply with the licences issued, and the monitoring agencies to address any issues at the time or in reports to the Secretary immediately after the event.
44. We are of the view that granting this application will not be contrary to s.22(2) of the Act if the Applicant, in its agreements with alcohol vendors, implements an arrangement whereby all sales via the eftpos system go initially to the Applicant.

45. This application by the Alexandra Blossom Festival Committee Incorporated for a special licence is therefore approved, subject to the following conditions:

- a. *The licensee must ensure there is available for consumption on the premises, at all times when alcohol may be sold under the licence, a reasonable range of substantial food, non-alcoholic beverages, and a low-alcohol beverage.*
- b. *Drinking water must be freely available at all times from dedicated water stations and from each wine vendor.*
- c. *Steps must be taken by the licensee to provide assistance with, or information about, alternative forms of transport from the licensed premises.*
- d. *The licensed area is as per the plan submitted.*
- e. *Revenue from sales of alcohol must go to the Applicant via a singular eftpos system.*
- f. *A copy of the special licence must be displayed at each (on-site) point of sale.*
- g. *No alcohol may be sold to minors or intoxicated persons.*
- h. *Appropriate signage must be displayed at each point of sale regarding minors and intoxicated persons.*
- i. *No BYO alcohol is to be brought into the licensed area.*
- j. *Bag searches are to be completed prior to entry.*
- k. *A maximum of four individual serves of alcohol may be sold per person, per transaction throughout.*
- l. *The whole of the licensed area will be undesignated.*
- m. *All sale and supply of alcohol under this licence is to cease by 5.00pm.*
- n. *All guests must have vacated the licensed area by 6.00pm.*
- o. *A certified duty manager must be on duty at all times at each (on site) point of sale within the licensed area, when the premises are open for the sale and supply of alcohol and their full names must be prominently displayed.*
- p. *The duty manager pursuant to the Sale and Supply of Alcohol Act 2012 for the duration of the event will be Jamie Hughes who must be present at all times and whose name must be displayed.*
- q. *The applicant is to organise a formal debrief with the agencies within two months of the event, to enable agencies to provide feedback, and a detailed report of this debrief is to be submitted to the Committee.*

DATED at QUEENSTOWN this 30th day of July 2025



Mr L A Cocks, Chairman

