

Decision Number: CLUB/59/123/2025

IN THE MATTER OF the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER OF an application by **WINDWHISTLE WINTER SPORT CLUB INCORPORATED** for a variation and renewal of Club Licence pursuant to s.120 and s.127 of the Act in respect of premises situated at **1220 Harper Road, Lake Coleridge** to be known as '**Mount Olympus Ski Club**'

BEFORE THE SELWYN DISTRICT LICENSING COMMITTEE

Hearing: 5 December 2024 (at Selwyn)

Committee

Chairperson: Ms T McIlraith

Members: Mrs M S Redstone
Mr C Purcell

Appearances: Thomas Stephens, representing the Applicant
Benjamin Stephens, representing the Applicant
Penny Coleman, Administrator for the Applicant
Stephanine Kimber, representing the Applicant
Malcolm Johnston, Licensing Inspector, to assist
Snr Const Genevieve Craddock, New Zealand Police, to assist
Dr Cheryl Brunton, Medical Officer of Health,
Briar Gaynor, Medical Officer of Health, representative.
Paula Williams, Medical Officer of Health, to assist.

Decision: 13 May 2025

RESERVED DECISION OF THE COMMITTEE

Introduction

[1] This is an application by **WINDWHISTLE WINTER SPORT CLUB INCORPORATED** (the Applicant) for a renewal and variation of a Club Licence. The premises is situated at 1220 Harper Road, Lake Coleridge, and is as **Mount Olympus Ski Club**. The application was

received on 24 June 2024. The Club has operated for over 80 years and currently has a membership of 585, of which 113 are aged under 18 years.

[2] The Application seeks two variations to their licence conditions.

(a) the Applicant has sought the following trading hours:

Monday to Sunday, between the hours of 8:00am and 1:00am (the following day) This is consistent with the local alcohol policy¹ which specifically allows hours of 7:00am – 1:00am for ski clubs

(b) The Applicant has also sought to extend the licensed area and propose to shift the Clubs hot tub into that area.

[3] The application was publicly notified on the Council's website and remained on the website for a minimum period of 25 working days. A waiver was granted pursuant to Section 101 that did not require the Applicant to display a public notice on site due to the remote nature of the location. No public objections were received within the required timeframe.

[4] The application was not opposed by the District Licensing Inspector²

[5] Both the New Zealand Police³ and the Medical Officer of Health (MOH)⁴ opposed both variations sought.

[6] A hearing took place on of the application took place on 5 December 2024.

Preliminary Matters

[7] No matters were raised by the Applicant or the Agencies. The agencies confirmed that their opposition was not to the renewal application, but the variations sought by the applicant.

Submissions and Evidence

Windwhistle Winter Sports Club Incorporated (the Applicant) Witnesses x 4, (sworn)

[8] Four representatives from the Windwhistle Winter Sports Club committee spoke on behalf of the Applicant. The Applicant's brief of evidence was taken as read, as were the written objections. Collectively the representatives outlined that the request to move the Hot Tub into

¹ Selwyn LAP

² Inspector's report 25/10/2024

³Police report 24/07/2024

⁴ Medical Officer of Health report 24/07/2024

the extended licenced area was to improve the visibility and enable staff to monitor it more appropriately. Currently, the hot tub is located outside the view of staff which creates challenges monitoring safety of patrons using the tub. The request for extension of hours is because a majority of members stay mostly for family ski week. For our members, the day of the week is irrelevant as they are enjoying their holiday and relaxing in a mountain environment.

[9] In response to questions from the Committee:

(a) The current licensed hours are Monday to Thursday 10:00am to 10:30pm, Friday and Saturday 10am to 12:30am (the following day) and Sunday 10:00am to 10:00pm. Our members travel from far and wide to stay at our club field and often for an entire week, so every day is like a Saturday. Given that nobody can leave at night this gives the club some flexibility for staff and patrons.

(b) Mount Olympus is a family focused operation. The club has held an alcohol licence for many years and there have been no alcohol related problems.

(c) The hot tub is a much-loved feature of our facility and has been in place since 2007. The temperature is up to 40degrees Celsius. It is 2.2m in diameter and ten people could stand in the tub without touching. There is no seating, standing only. Most people will spend 30-40mins in the tub. The benefits being for body recovery and to relax.

(d) We will implement robust measures to promote responsible alcohol consumption including adhering to a two drink per hour limit, similar to the conditions at Opuke Thermal Pools. Displaying appropriate signage regarding the sale and supply of alcohol to minors and intoxicated persons and ensuring a certified duty manager in on-site or immediately available to oversee compliance with licensing conditions.

(e) The Club operates 66 days of the year, so we need to generate sufficient income to sustain 365 days of compliance costs.

(f) The hot tub where it is now is difficult to monitor. You can't purchase alcohol and take it outside the lodge, unless they are sneaky. But we can't control it if people come in from outside and bring alcohol with them and it happens on occasions.

(g) Where it is located now is also outside staff rooms where they are sleeping. Some have an early start of 5am to prepare the mountain for the day.

(h) The hot tub has a chemical clean about 8am, so is available from 10am approximately until 10pm.

(i) The lodge can have up to 75 people including staff staying. It is a communal set up, so members do the dishes and have tasks to do. The hot tub is part of the experience at the end of the day with the incredible vista. It is more of a wind down than a ramp up.

[10] There is signage by the hot tub which can be emphasised even more. The whole ski field is about safety and signage. At the start of a ski week the manager will do a briefing and cover off from ski zones to the hot tub. When you book accommodation, you get a written Health & Safety document. It is not just the staff but club members keeping an eye on everyone. We have the responsibility for everyone the whole time they are with us.

[11] There have been no medical events associated with the hot tub only an incident of slipping.

Medical Officer of Health Representative – Briar Gaynor

[12] **Submissions:** These were received by the Committee and outlined the grounds for opposition. Grounds for opposition include the variation to have the hot tub in the licenced area and the subsequent risks involved. Additionally, the Medical Officer of Health (the MOH) raises concerns about the extended hours and if this is necessary for a Sport Club.

Dr Cheryl Brunton – Evidence (sworn)

[13] Dr Brunton is the Medical Officer of Health for the Canterbury and West Coast. A brief of evidence was submitted and taken as read.

[14] Dr Brunton outlined the main concerns with the application is the proposal for the hot tub to be moved from its current location into the licensed area. The club has identified a risk whereby the hot tub is currently being used inappropriately by patrons and agrees that there is a need for the hot tub to be monitored more closely, however, moving it into the licensed area is not the solution.

Dr Brunton also highlighted the following:

[15] If alcohol is being consumed in the Hot Tub in its current locations it would appear that the Clubs own policy of absolutely no BYO or Bring Your Own alcohol, is not being adhered to and/or that alcohol is being purchased at the Clubs own bar and taken outside the licensed area to be consumed in or around the Hot tub.

[16] The risks of combining alcohol and recreational water use are well known. The risks of combining alcohol consumption with hot water immersion, such as in hot tubs, are even greater. The World Health Organisation (WHO) guidelines for safe recreational water environments state that alcohol consumption is one of the most frequently report contributing factors associated with drownings and near drownings for adults.

[17] There are increased risks when water temperature is at 40 degrees Celsius as opposed to 36 degrees, the higher the temperature, higher the risk.

[18] A report published in the American Journal of Public Health identified that alcohol was the single most important risk factor in spa deaths.⁵

[19] It is important to remember drowning is only one of several ways that death can occur when alcohol is consumed during spa/hot tub use.

[20] The physiological effects of alcohol and hot water immersion can be lethal in combination:

(a) Immersion in hot water can cause dehydration. Alcohol can also cause dehydration.

(b) Can significantly lower blood pressure. Alcohol can also lower blood pressure. Both singularly, or in combination these effects make people more susceptible to fainting/passing out.

(c) Can cause an increase in body temperature and if the body is unable to regulate this it can lead to hyperthermia. Symptoms of hyperthermia, such as feeling faint or dizzy, nausea, rapid heart rate, confusion or irritability may be compounded by and/or confused with the effects of alcohol consumption.

[21] The example given by the applicant of the Opuke Thermal Pools and Spa is not a great comparison as they are very different businesses in quite different locations. This premise's pools and spa are not without risks, but the risks are mitigated with stringent procedures in place to ensure they adhere to licence conditions including drink limits per person and time limits that patrons can be in the pools.

[22] Dr Brunton responded to questions from the Committee:

(j) I don't believe in this location that it would be feasible to move the hot tub into the licensed area regardless of conditions.

⁵ *The Health Hazards of Saunas and Spas and How to Minimize Them*, Edward Press MD MPH, American Journal of Public Health 1991, Vol 81, No 8, Table 2, page 1036

(k) The policy is very loose around an appropriate person to monitor the hot tub. It is not likely a Ski Club can provide a lifeguard, someone who can solely focus on water safety. I don't have any confidence the club can manage this. If the variation is granted the responsibility will be on the bar manager.

(l) As this is a Club field there will be a range of abilities and it is not reasonable to assume everyone has a high level of fitness.

(m) The main thing omitted from the Hot Tub guidelines is no suggestion of a limit of alcohol served. We have since heard in disclosure the club has proposed a two drink an hour limit. It should be one drink an hour. Humans can only eliminate one drink an hour from the body. One drink an hour to me is a maximum as most drinks are above the standard serve. Having no drink limit is a recipe for disaster.

Paula Anne Williams – Evidence (sworn)

[23] Ms Williams is the Alcohol Licensing Officer, representing the Medical Officer of Health. Ms Williams submitted a Brief of Evidence to the Committee and this was taken as read.

[24] Ms Williams reported⁶ in opposition to both variations based on application file and further correspondence received EXH PW001⁷

[25] Highlighted where concerns regarding the Mt Olympus Hot Tub Responsibility Police 2025⁸ EXH PW003

Snr Constable Craddock – Evidence (sworn)

[26] Senior Constable Craddock is with the Police Alcohol Harm Prevention Unit. A Brief of Evidence was submitted to the Committee and taken as read. The Senior Constable spoke to the main points of her evidence.

[27] As part of my enquiries I went onto the Club's website. I found a photo of people consuming alcohol in the spa pool and a photo of people dancing on a table and floor in front of the bar with nightclub lighting. EXH GC01 produced⁹

[28] Also on the website was information about 30% discount on bar prices which is a possible breach of Section 237. The club have addressed this, and the discount has been reduced to less than 25%. EXH GC02 produced¹⁰

⁶ MOH report report 24/07/2024

⁷ correspondence from applicant

⁸ Mt Olympus Hot Tub Police

⁹ copy of photo from website EXH GC01

¹⁰ Copy of advert from website EXH GC02

[29] Also on the website was an advertisement of social membership. At the last renewal Police raised a breach of the Act when the club referenced 'temporary membership. **EXH GC03¹¹ & EXH GC04 produced**

[30] I now produce a copy of my opposition report **EXH GC05¹²**

[31] On the 27th of August 2024 both Paula Williams, the MOH representative, Licensing Inspector Malcolm Johnston and I had a meeting with three representatives for the Applicant.

[32] During the meeting we spoke to all the concerns in the Opposition reports.

[33] At the end of the meeting the representatives of the Applicant said they would speak to the Committee and get back to us on whether they wanted to carry on with the addition of the spa pool in the licences area and extension of the hours to 1am.

[34] On the 18th of October we received an email from the Applicant saying they wished to continue with both variations **EXH GC06¹³**

[35] The concern for Police is underlying medical conditions, the remoteness of the premises as well as consumption of alcohol in thermal water. **EXH GC07, EXH GC08, EXH GC09¹⁴**

[36] Senior Constable Craddock responded to questions from the Committee:

- (a) Children are allowed in the area where alcohol is being consumed normalises consumption of alcohol which is against the object of the act.
- (b) I can understand the Club wanting more control of the hot tub and for it to be closer. It sounds like there has been problems with people taking alcohol in and also the noise when people are trying to sleep.
- (c) There is no indication of any lighting, it is winter hours.
- (d) It is a club license, so run by volunteers which also means club members may have been drinking.
- (e) My understanding is in an emergency due to remoteness a chopper would be needed. I cannot recall if transport to the lower hut is possible.

Licensing Inspector Malcolm Johnston

[37] A Licensing Inspector report¹⁵ was received by the Committee and taken as read. The Committee had no further questions for the Inspector

Applicant Right of Reply

[38] Responses to further questions from the Committee:

¹¹ 2021 report EXH GC03
cope of membership rules EXH GC04

¹² Police Opposition report EXH GC05

¹³ copy of email EXH GC06

¹⁴ 2026 Arla decision – EXH GC07
Two newspaper articles – EXH GC08, EXH GC09

¹⁵ Licensing Inspectors report 25/10/2024

- (a) Yes, we accept the report of the Coroner around risks of hot pools. Although, in that situation (Evidence of MOH) the person was left on their own in the hot tub.
- (b) The rule regarding the last people in the hot tub to close the lid on leaving is about keeping it warm. There is always a staff member who checks it is secured.
- (c) We would be prepared to have a lifeguard during hours such as 4pm – 8pm to have active supervision to mitigate risks.
- (d) Yes, if the variation is approved children could be in the hot tub while alcohol is being consumed. Children under a certain age must have a parent with them in the hot tub.
- (e) The temperature starts at 40 degrees Celsius but as soon as the lid is off it starts dropping.
- (f) If we have the rules around limits of drinks in the hot tub and time frames that is setting an example of responsible drinking in front of children.
- (g) It is showing them we can do fun things in our lives but also do it in a responsible way to mitigate risk.
- (h) We deal with real humans in a real environment. We can't kick someone out the door like a Bar in town. We have responsibility to look after people in that environment.
- (i) We would be happy to limit it to one drink per hour.
- (j) If something serious does go wrong, we have very strict procedures and policies in place. The whole club could be in jeopardy if something goes wrong.
- (k) Five of our staff are highly trained first aiders and we also have a number of our club members medically trained and employed as such.
- (l) We don't want anyone going home injured. We have to strike a balance in being up there in a risky environment and people's safety.
- (m) We would consider a restriction of hours you can drink alcohol in the hot tub.
- (n) We are open to changing our host responsibility to make risks better understood.

Closing Submissions received in writing

[39] Advice was given to representatives of the Applicant regarding content of their written closing submissions.

[40] Both Police and the MOH believe that no measures by the club to minimise risk would be feasible or realistic to mitigate risk adequately. It is the inappropriate consumption of alcohol that is the risk. The MOH maintains that both variations should be declined.

[41] The Licensing Inspector outlined the evidence and offered no opinion or indicated any opposition.

[42] The Applicant reiterated that the Clubs staff are highly trained in safety and emergency care, holding First Aid qualifications ranging from Level One First Aid, Pre Hospital Care and Emergency Medical Technicians. They are also equipped with a defibrillator and Trauma Response Kits.

[43] Proposed changes to the Hot Tub responsibility policy specifically focused on the agreed issues:

- (a) Alcohol may only be consumed in the Hot tub if a dedicated staff member or on-duty club member is assigned to constantly monitor.
- (b) Alcohol may be consumed in the Hot Tub between the hours of 3pm and 9pm.
- (c) The Hot Tub will be continually monitored and intoxication assessments undertaken every 15 minutes.
- (d) Hot Tub users are limited to one standard drink per person per hour
- (e) Minimum occupancy of 2 persons
- (f) Maximum occupancy of 15 persons.

[44] The Applicant is happy to accept the hours of 08:00am to 12:30am Monday to Sunday.

EVALUATION AND DECISION

[45] We are dealing with an application for a variation and renewal of a Club licence. The club has been incorporated since 1940. The application is not opposed by the Licensing Inspector.

[46] The Objectors both oppose the two variations sought by the applicant but not the renewal of the Club licence itself. The Objectors acknowledge the club has identified a risk whereby the hot tub is currently being used inappropriately by patrons and agrees that there is a need for the hot tub to be monitored more closely, however, moving it into the licensed area is not the solution. The Objectors also raise concerns about the extended hours requested and if this is necessary for a Sport Club.

[47] The Objectors produced evidence of the associated risks of consuming alcohol whilst immersed in hot water and highlighted concerns about the remote location of the Club's premises.

[48] The Committee accepts there is the potential of alcohol harm related to the consumption of alcohol whilst immersed in hot water.

[49] The Committee is mindful of the report of the Inspector, who found no areas of concern with how the Club is operated.

[50] Our task, after considering all the criteria set out in the Act relating to the variation and renewal of a Club licence, is to step back and consider whether the Object of the Act would be met by the granting of the renewal.

[51] The Object of the Act as set out in s.4(1) is:

(n) *The sale, supply, and consumption of alcohol should be undertaken safely and responsibly, and*

(o) *The harm caused by the excessive or inappropriate consumption of alcohol should be minimised,*

[52] Section 4(2) of the Act goes on to explain:

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).*

[53] We are also mindful that the characteristics of the Act as set out in s3(2) are that-

(c) *It is reasonable; and,*

(d) *Its administration helps to achieve the object of this Act.*

[54] The matters to which we must have regard when deciding whether to renew a licence are set out in s131(1) of the Act as follows:

(e) *the matters set out in paragraphs (a) to (g), (j) and (k) of section 105(1):*

(f) *whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:*

(g) *any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:*

(h) *the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*

[55] We shall deal with these in order:

The object of this Act

As Heath J. said in *Re Venus NZ Ltd CIV 2014-419-420 [2015] NZHC 1377* “having considered all the factors set out in s105(1) (b) to (k) of the 2012 Act, is the Authority satisfied that grant of an off-licence is consistent with the object of the Act?” It follows that we defer this consideration to last.

The suitability of the applicant

[56] The Licensing Inspector was not opposed to the variation and renewal application and presented no evidence that caused any concern to the Committee. The Police and the Medical Officer of Health raised concerns regarding the potential of harm when consuming alcohol whilst immersed in hot water. The Committee accepts the evidence produced that inappropriate consumption of alcohol and/or underlying medical conditions coupled with unsupervised use of a Hot Tub has the potential to cause harm. The systems, procedures and training the applicant is willing to put in place fulfils the requirements to meet the obligations under the Act in this location.

[57] The Committee finds the applicant suitable to hold an alcohol licence.

Any relevant local alcohol policy

[58] The application and variation comply with the current local alcohol policy

The days on which and the hours during which the applicant proposes to sell alcohol

[59] The Applicant initially sought the hours of Monday to Sunday 08:00am to 1:00am (the following morning). During this process they have changed this to Monday to Sunday 08:00am to 12:30 am (the following day) The Committee has no concern with these hours.

The design and layout of any proposed premises

[59] Due to remote location the Committee has not visited the lodge but has relied on maps and photos attached to the application. The Committee has no concerns in this area.

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

[60] The applicant does not intend to engage in the sale of goods other than food, alcohol, low and non-alcoholic refreshments.

Whether the applicant is engaged in, or proposes to engage in, the provision of services other than those directly related to the sale of alcohol, low alcohol refreshment, non-alcoholic refreshments, and food, and if so, which service

[61] The Applicant provides accommodation, skiing, tramping and snowboarding.

Whether the applicant has appropriate systems, staff, and training to comply with the law

[62] The applicant appears to have good systems in place to cover administrative and compliance matters as well as staff training. The staff is made up of permanent staff who live on the mountain and volunteers.

Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under s103

[63] In July 2024 a minor breach of Section 237 of the act was noted by Police, namely advertising a 30% reduction on alcohol on their website. Under the graduated response model used by the Police the applicant received an 'educational' explaining to the Applicant the requirements of Section 237.

Section 131(b) requires us to turn our minds to amenity and good order. We must have regard to: *“whether (in [our] opinion) the amenity and good order of the locality would likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence”*. Section 106(2) of the Act sets out the factors to which we must have regard when considering amenity and good order.

[64] No evidence was produced that caused concern regarding the amenity and good order of the locality. We note the agencies are opposed to the variation and not the renewal of the licence.

[65] We now take the step back as advised by Heath J. in *Re Venus NZ Ltd* and consider the Object of the Act in the light of all the other matters to which we are required to have regard. Can the supply and consumption of alcohol by Windwhistle Winter Sports Club members and their guests, be undertaken safely and responsibly and can the harm caused by the excessive or inappropriate consumption of alcohol be minimized should the licence be renewed and both variations approved? We believe that both requirements can be met for the reasons outlined above. The renewal of the Club-Licence with the variations is granted.

Decision

[66] The decision is that the Club-Licence and variations for the Windwhistle Winter Sport Club will be renewed for a period of **three years**. It will be renewed subject to the following conditions.

The Licensed Premises

This Club licence authorises the sale, supply and consumption of alcohol within the premises identified on the plan dated 24 June 2024 provided with the application and attached to and forming part of this licence. The principal entrance will be the main entry into the licensed area.

Compulsory conditions – section 110(2)

No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1pm on Anzac Day to any person who is not present on the premises to dine.

The holder of a Club Licence must ensure that no alcohol is sold or supplied to any person for consumption on the premises unless the person is an authorised customer being: ~~(b)~~

(p) Any member of the Club: or Any person who is a guest on the premises at the invitation of, and is accompanied by, a member of the Club: or

(q) Any member of another Club with which the Club has an arrangement for reciprocal visiting rights for members (authorised visitors):or

- (r) A person who is on the premises at the invitation of an authorised visitor who is also on the premises.
- (s) A member, in relation to a Club, means a person who:
- (t) Has expressly agreed in writing to comply with the Club's rules: and
- (u) Is recognised as a member of the Club by those rules.

Alcohol may only be sold under the licence only on the following days and during the following hours when the premises are being operated as a Club:

Monday to Sunday 08.00am to 12.30am (the following day)

Water will be freely available to customers on the premises while the premises are open

Discretionary conditions – section 110(1)

The following steps must be taken to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:

- Display of appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons

The following steps must be taken to promote the responsible consumption of alcohol:

- (a) The licensee must implement and maintain the steps proposed in its Host Responsibility Policy aimed at promoting reasonable consumption of alcohol. This Policy must include:
- (b) Alcohol can only be consumed in the Hot tub if a dedicated staff member or on-duty club member is assigned to monitor the hot tub.
- (c) Alcohol may only be consumed in the hot tub between the hours of 3pm and 9pm.
- (d) A limit of one standard alcoholic drink per person per hour is permitted.

Restricted or supervised areas – section 119

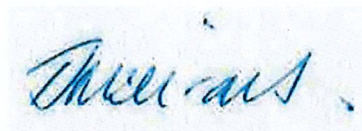
The Top Hut shall be undesignated. The outdoor deck shall be a Supervised area from 3pm until 12.30am (the following day)

Other restrictions and requirements

- Section 51 - Non-alcoholic drinks to be available.
- Section 52 - Low alcoholic drinks to be available.
- Section 53 - Food must be available for consumption on the premises.
- Section 54 - The licensee must provide assistance with or information about transport.
- Section 56 - Display of signs.
- Section 57 - A copy of the licence must be clearly displayed.
- Section 60 - Sale and supply in clubs to members and authorised guests only.
- Section 61 - Administrative requirements for club licences.
- Section 62 - No bring your own alcohol allowed.
- Section 214 - Manager to be on duty and responsible for compliance.
- Section 215 - Circumstances where Section 214 does not apply (for Club licences)

The Applicant's attention is drawn to section 259 of the Act which makes it an offence not to comply with certain requirements and restrictions imposed by or under the Act. Specifically, sections 46 to 63 and 231(1). The Applicant must comply with all conditions specified on a licence.

DATED at SELWYN this 19th day of May 2025



Tracy McIlraith
Chairperson
Selwyn District Licensing Committee

