

Notice of Meeting:

I hereby give notice that an ordinary meeting of the District Licensing Committee will be held on:

Date: Friday 27 January 2023
Time: 10.00 am
Venue: Plaza Conference Room, Civic Centre, the Octagon, Dunedin

Sandy Graham
Chief Executive Officer

District Licensing Committee**Extension of Temporary Authority – Tokyo Garden****PUBLIC AGENDA**

MEMBERSHIP

Chairperson	Colin Weatherall
Deputy Chairperson	
Members	Rakei Amohau Katie Lane
Senior Officer	Kevin Mechen, Secretary, District Licensing Committee
Governance Support Officer	Lauren Riddle

Lauren Riddle
Governance Support Officer

Telephone: 03 477 4000
Lauren.Riddle@dcc.govt.nz
www.dunedin.govt.nz

Note: Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

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1 APOLOGIES

At the close of the agenda no apologies had been received.

PART A REPORTS

REPORT FOR CONTINUATION OF TEMPORARY AUTHORITY, 343 GEORGE STREET, DUNEDIN – FROM SECRETARY, DISTRICT LICENSING COMMITTEE

Department: Civic

APPLICATION DESCRIPTION

Applicant's Name:	Tokyo Garden Food Limited
Site Address	343 George Street, Dunedin
Trading Name:	Tokyo Garden
Style of Licence	Restaurant
Application Number	TA-01-2023
Date received by Council	05/12/2022

EXECUTIVE SUMMARY

- 1 This is a report for the extension of a Temporary Authority of the premises situated at 343 George Street, Dunedin, and known as "Tokyo Garden".
- 2 The original application was opposed by the Licensing Inspector and Police but, because of the time of year, the Committee decided to issue the temporary authority until 27 January 2023 at which time a hearing for the substantive licence application would be heard, assuming the applicant had submitted it on time.
- 3 An application was received but, due to a technical issue only resolved on 18 January, the detail in the main application was unreadable and supporting documents were not attached.
- 4 This hearing is to rehear the original temporary authority application and to consider the information in the reports of the Police and Licensing Inspector.

APPLICANT AND APPLICATION

Applicant

- 5 The applicant company has two directors, Leonard CHENG and Chengyu ZHANG (also known as Chris ZHANG) with the latter being the sole shareholder. There was a change in the company structure with a former director and sole shareholder, Ms Yingjie GAO, was replaced by Mr

ZHANG. The change in company structure was not notified to the Alcohol Regulatory and Licensing Authority as required by section 69 of the Sale and Supply of Alcohol Act 2012.

- 6 The Committee asked for a temporary authority application to be submitted as soon as possible after the breach was identified in November 2022. This was subsequently received, and both the Police and Licensing Inspector opposed the grant of the authority. It was decided to issue the authority with the applicant being advised to apply for the substantive licence as soon as possible so a hearing could be convened on 27 January 2023.
- 7 An application was received by Council prior to the Christmas/New Year closure period however, it was not 'readable' by the computer system being used, despite the form being used was editable .pdf documented accessed on the Council website. The application was returned advising it was incomplete and that supporting documentation was required.
- 8 A 'work-around' has now enabled the missing form data to be read but the supporting data has still not been received.
- 9 The hearing for the full licence cannot be convened however, because the temporary authority will need to be extended, a short-notice hearing to rehear the original application has been called for the same date, 27 January 2023, so the original opposition by the Police and Licensing Inspector can be considered before an extension of the temporary authority is determined. The ability for the Committee to rehear this matter, at short notice, is found at sections 136(3) and 201(4) of the Act.

OBJECTIONS

- 10 Temporary authority applications are not required to be publicly advertised but they are circulated to the Police and Licensing Inspector.

Objections

- 11 Police: The Police opposition relates the suitability of Mr ZHANG. On 29 July 2022 Mr ZHANG, 26 years of age, was convicted for unlawfully carrying an imitation firearm during an incident in a licensed premises in Dunedin's George Street in the early hours of 4 June 2022. He was intoxicated at the time of the incident. Another charge of presenting that imitation firearm was withdrawn by Police.
- 12 Mr ZHANG is essentially the operator of Tokyo Garden, but this incident raises questions as to his suitability to be operating a licensed premises.
- 13 Licensing Inspector: The Licensing Inspector identified the change in company structure while at the premises for a Food Licence check. The second director, Mr CHENG, has been involved with licensed restaurants for a number of years but in this instance, did not notify the Authority of the change in directorship and shareholding.
- 14 Tokyo Garden has continued to sell alcohol since the change in February 2022 when they should have notified the Authority and, because of the shareholding change, should have applied for a new licence.
- 15 The Licensing Inspector raises questions as to the suitability of the applicant company to have an alcohol licence.

CONCLUSION

- 16 This original hearing for the substantive on-licence application is not able to take place. The application was not able to be read at the time it was received and was not accompanied by the required supporting documents. While the application can now be 'read', the other documents are not available so public notification cannot take place nor the application circulated to the reporting agencies.
- 17 The temporary authority was issued for a very short period to allow the substantive application to be received, circulated and reported on so it could be determined at this hearing.
- 18 To continue with the current temporary authority the Committee has decided to rehear the matter to hear the positions of the Police and Licensing Inspector and then decide whether to extend it's expiry date.

Signatories

Author:	Kevin Mechen - Secretary, District Licensing Committee
Authoriser:	

Attachments

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Application for Temporary Authority

Incomplete applications will not be processed

- The application must be considered by the District Licensing Committee therefore **10 working days' notice is required to process the application**
- This application must be accompanied by the prescribed fee (*note fees are non-refundable*)
- There must be a current licence for the premises before a Temporary Authority can be granted. To be considered 'current' the annual fee must be paid
- If you have any queries while completing this form please contact Administration on 03 474 3481 or email dla@dcc.govt.nz

Please read and complete the following checklist before submitting the application

- | | |
|---|--------------------------|
| • The prescribed fee of \$296.70 | <input type="checkbox"/> |
| • Written statement from the owner of the building or property giving you approval to sell and supply alcohol on/from the premises
<i>An email is acceptable, this can be sent to dla@dcc.govt.nz with the name of the premises and applicant included as a reference</i> | <input type="checkbox"/> |
| • Certificate of Incorporation (<i>or equivalent document</i>) | <input type="checkbox"/> |
| • Application & fee for Planning Certificate | <input type="checkbox"/> |
| • Application & fee for Building Compliance Certificate | <input type="checkbox"/> |
| • A letter of authorisation for consultant if they are completing the form | <input type="checkbox"/> |

Application for Temporary Authority

Section 136, Sale and Supply of Alcohol Act 2012

TO the Secretary

Dunedin District Licensing Committee

Application for a Temporary Authority to carry on the sale and supply (or delivery) of alcohol is made in accordance with the particulars set out below:

Type of Licence

On-licence ☒

Off-licence ☐

Current licence number: 069/ON/13/2017 Expiry Date: 13th April 2024

Reason for Application:

Owner changed, but didn't give notice, gonna need to apply for a new one, so will need a temporary license during Christmas and new year.

What date do you intend to commence trading?

(Please allow at least 10 working days to process your application)

ASAP please

Details of the Contact Person

Full Name: Chengyu Zhang (Chris)

Phone No.:

Mobile No.: 027 342 9405

Email address: tokyogarden11@gmail.com

Details of the Applicant

Full legal name or names to be on licence:

(Full legal name or the exact company name as shown on the certificate of incorporation)

Tokyo Garden Food LTD

Any alias/maiden name/other name:

Usual residential address: 345 George Street

..... Post Code: 9016

Postal address for service of documents: 345 George Street

..... Post Code: 9016

Occupation:

Phone No: 034745993 Mobile No:

Email address: tokyogarden11@gmail.com

Does the applicant intend to carry on the sale and supply (or delivery) of alcohol personally?

Yes ☒ No ☐

If no, what is the full legal name, residential address and occupation of the person through whom the applicant intends to carry on the sale and supply (or delivery) of alcohol?

Full legal name:

Usual address:

..... Post Code:

Occupation:

Manager Details			
Provide the below details for each manager or proposed manager			
Full Name	Date of Birth	Managers Certificate Number	Expiry Date
Yingjie Gao	22/02/1978	069/CERT/105/2017	17/05/2024
(Use a separate sheet if necessary)			

Details of Premises or Conveyance

For a Premise:

Current trading name: Tokyo Garden Food LTD

Proposed trading name: Tokyo Garden Food LTD

Address of premises: 345 George Street

For a Conveyance:

Type of conveyance (e.g.: ship, bus, carriage etc.):

Trading name of conveyance:

Address of home base:

Does the applicant own the premises/conveyance? ☐ Yes ☒ No

If "no", full legal name and address of the owner:

..... Hugh Chin

..... 200 King Edward Street

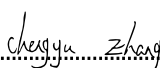
A written statement is required from the owner of the building or property giving you approval to sell and supply alcohol on/from the premises. This can be sent to dla@dcc.govt.nz with the name of the premises and applicant included as a reference

What right, title, estate or interest does the applicant have in relation to:

The premises or conveyance? No

In any business conducted in the premises or conveyance to which the application relates?

..... No

Signed  Date 2/12/2022 Place



Certificate of Incorporation

TOKYO GARDEN FOOD LIMITED

6058188

NZBN: 9429042472605

This is to certify that TOKYO GARDEN FOOD LIMITED was incorporated under the Companies Act 1993 on the 20th day of July 2016.

A stylized, abstract signature in black ink.

Registrar of Companies
5th day of December 2022



Certificate generated 05 December 2022 09:50 AM NZDT



NANKING INVESTMENT GROUP

198-204 King Edward Street, Dunedin 9012, New Zealand
Ph (03) 467 5580 • Mobile +64 21 0222 6333 • Email nankinginvestments@gmail.com

5th December 2022

Directors
Tokyo Garden Food Limited
345 George Street
DUNEDIN

345 GEORGE STREET, DUNEDIN

I, Hugh Chin at Dunedin have no objection to Tokyo Garden Food Limited being granted an On Licence for the premises situated at 345 George Street, Dunedin, subject that they abide to all statute and regulations.

Executed by

Neville Hall
For HUGH CHIN



PO Box 5045
DUNEDIN 9054

Tokyo Garden Food Limited
345 George Street
Dunedin 9016

Debtor No:	279325
Invoice No:	954790
Payment Ref:	1538419
Invoice Date:	5 December 2022
Licence No:	TA-25-2022

Tax Invoice
GST No: 51-997-891

DESCRIPTION	AMOUNT (incl GST)
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Licensee: Tokyo Garden Food Limited
Location: 343 George Street Dunedin
Tokyo Garden

Temporary Authority or Licence Fee 296.70

Payment due upon receipt of invoice

DIRECT CREDIT DEPOSIT DETAILS - 03 0905 0184000 07
Please include your debtor number in your reference

TOTAL GST:	\$38.70	TOTAL DUE:	\$296.70
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Licence number: TA-25-2022
Licensee name: Tokyo Garden Food Limited
Debtor number: 279325
Payment reference: 1538419

INVOICE NO:	954790
INVOICE DATE:	5 December 2022
TOTAL DUE:	\$296.70



**Tokyo Garden Temporary Authority Alcohol Licence application**

Evidence of: Tanya Jeanette Morrison, Environmental Health Officer & Alcohol Licensing Inspector, Dunedin City Council.

1. My name is Tanya Jeanette Morrison and I am an Environmental Health Officer and Alcohol Licensing Inspector employed by Dunedin City Council since 6 December 2010. I hold a current warrant of appointment (issued by Dunedin City Council) for both above-mentioned roles, and I am also a recognised verifier and warranted Food Safety Officer under The Food Act 2014.
2. I became aware of the change in ownership for Tokyo Garden when I contacted the business on 29 November 2022 to arrange their food verification under the Food Act and was informed that Chengyu Zhang (Chris) was the new owner of the business.
3. Chengyu (Chris) Zhang was appointed a company director and sole shareholder of Tokyo Garden Food Limited on 01/02/2022. At this time, Yingjin (Ivy) Gao ceased being a director and the sole shareholder.
4. Leonard Cheng is the other company director (no shares held), but as confirmed through discussions with Mr Zhang is not actively involved in the day to day running of the business in any capacity.
5. During a food verification revisit to Tokyo Garden on 22 December 2022 at 11am where I was accompanied by Carlo Bell (Team Leader Environmental Health/Chief Licensing Inspector Dunedin City Council), Mr Zhang and I discussed the sale of alcohol within his premises.
6. I asked Mr Zhang if Yingjin Gao (Ivy), the former owner and only listed duty manager for the premises worked every day. Mr Zhang replied that Ms Gao only worked a couple of days a week.
7. I asked Mr Zhang if he sells alcohol every day, even if Ms Gao is not working and Mr Zhang replied yes, he did.
8. I enquired with Mr Zhang if he had employed any other duty managers besides Ms Gao, reminding him that Ms Gao was the only (listed) duty manager to my knowledge for the premises. Mr Zhang told me he had his licence to sell alcohol as well.
9. I asked Mr Zhang what licence he thought he had, as to the best of my knowledge he did not hold a current manager's certificate. Mr Zhang replied he had the LCQ qualification so believed he was licensed to sell alcohol. I clarified that holding a LCQ qualification did not make him a certified duty manager and that alcohol can only be sold when a current certified duty manager is present onsite.
10. I clearly stated to Mr Zhang that no alcohol was to be sold unless a current certified duty manager was onsite and working.
11. Carlo and I left the premises at approximately 11.30am.

12. Immediately upon my return to the office, I made notes of this onsite visit and conversation in my notebook.

This statement is true to the best of knowledge and belief. It has been made by me knowing that it may be used in evidence in court proceedings and I know that I could be prosecuted for making a statement that is known by me to be false and intended by me to mislead.

Signed:



Dated: 13 January 2023

Section 136

Inspector's report on an application for a Temporary Authority

Applicant	<p>Tokyo Garden Food Limited Company number: 6058188 NZBN: 9429042472605 Incorporation date: 20 July 2016 Company Status: Registered</p> <p>Chengyu (Chris) Zhang was appointed a company director and sole shareholder on 01/02/2022. At this time, Yingjin (Ivy) Gao ceased being a director and the sole shareholder.</p> <p>Leonard Cheng is the other Director (no shares held). Leonard Cheng appears to have been a company director since the incorporation of the company on 20 July 2016.</p>
Premises name	Tokyo Garden
Address	345 George Street, Dunedin
Pathway number	TA-25-2022
Reason for application	<p>The applicant, Chengyu (Chris) Zhang took over the business in February 2022. The company name was not changed; however directors/shareholders were. No notification of this change was made to ARLA nor any other relevant agency.</p> <p>During routine contact with the business to schedule their Food Verification (inspection) for their food licence, I discovered the change in company structure when Mr Zhang identified himself as the (new) owner.</p> <p>It was established that a Temporary Authority (and subsequently a new ON-licence application) would be required from the applicant due to the effective change in ownership – hence the reason for this application.</p>
Expiry date of existing licence	13/04/24
Any Annual Fee issues?	None (the base licence has been renewed)
Existing licence hours	Monday to Sunday 11am until 12am (midnight)
Any changes to existing licensed hours required for the TA?	No
Any SOLA or SASA enforcement issues with the applicant	No
Managers listed on the application	Yingjie (Ivy) Gao – Expires 17/05/24
Current BWOF	Yes. BWOF expires 15/03/23
Registered for the sale of food	Under The Food Act 2014, the food registration can continue from the previous owner due to no change in

	company name and otherwise day to day operations. Therefore, a current food registration exists and expires 31/07/23.
TA to be effective from?	ASAP.
Additional Comments	<p>The change in ownership only came to notice when I contacted the business on 29 November 2022 to arrange their food verification under the Food Act and was informed that Chengyu Zhang (Chris) was the new owner of the business.</p> <p>The other company director, Leonard Cheng is well known in Dunedin and has been involved in several companies, some of which have operated several food premises previously.</p> <p>As a director of Tokyo Garden Food Limited which has been operating as a licensed premises since 2016 and being involved with various other companies, Mr Cheng should have been aware of the need to notify any change of director/shareholder or 'ownership' in the broader sense for both Alcohol and Food licences yet failed to do so.</p> <p>It is my understanding that Tokyo Garden has continued to sell alcohol since this company structure change occurred in February 2022. The previous owner Yingjin (Ivy) Gao is the only current duty manager working at the premises.</p> <p>I oppose this application based on suitability, given the unnotified change of ownership that occurred in February 2022 and the probable continuation of alcohol sales that have occurred since that time, along with an insufficient number of duty managers.</p>



Tanya Morrison
Licensing Inspector
16 December 2022



Central Police Station
25 Great King street
Private Bag 1924
DUNEDIN
Telephone (03) 4714800
Fax (03) 479 9363

19th December 2022
The Secretary
Dunedin District Licensing Committee
Dunedin City Council
DUNEDIN 9054

APPLICATION FOR TEMPORARY AUTHORITY – TA-25-2022
: - TOKYO GARDEN FOOD LIMITED

Dear Sir/Madam,

On 5th December 2022 Police received an application from the above-named applicant, for a Temporary authority for the On Licence Premises known as 'Tokyo Garden'. This premises is situated at 345 George Street, Dunedin Central. Current On Licence number is 069/ON/13/2017.

The individual acting on behalf of the applicant is Chengyu (Chris) Zhang. Police have conducted an enquiry through the NZ Companies Register and discovered that Mr ZHANG is one of two company directors, and the sole shareholder for Tokyo Garden Food Ltd, trading as Tokyo Garden.

Police have noted on the 29th July 2022, Mr ZHANG was convicted and sentenced for one charge of *Unlawful Carry Imitation Firearm*. He was also charged by Police with *Present Thing Likely to be Believed to be Prohibited Firearm at Person*, however this charge was withdrawn.

The circumstances in relation to these charges has been taken from the Police Summary of Facts and outlined below:

The victim in this matter is an 18 year old male who is not known to the defendant ZHANG.

At 3.00am on the 4th of June 2022, the defendant was in George Street, Dunedin with an associate. The victim stopped to talk to the defendant and asked him if he knew where any scooters were so they could get home.

The defendant told the victim he knew where scooters were and told him to go over to his vehicle. The defendant reached into the vehicle and pulled a starting pistol out of the driver's side door of the vehicle.

Sgt Steve Jones, QID : SJCT35, Dunedin Central
Email : sjc35@police.govt.nz Phn : 0211912755

The defendant cocked the pistol and pointed it in the direction of the victim. The victim, believing the starting pistol was a working firearm, took off running along George Street, thinking he was about to be shot.

The defendant went on to show the pistol to a number of other passers-by and Police were called.

The defendant walked into Zanzibar at 311 George Street, Dunedin, took the gun out of the waistband of his track pants and placed it on the bar.

As the defendant came out of the bar he was challenged by Police and arrested. The pistol located in the waistband of his trousers.

In explanation the defendant stated that he thought it was okay because it was a blank firing pistol and he had it to protect himself.

The defendant is a 26-year-old male who has not previously appeared before the Court.

Subsequent enquiries with the officer in charge of the investigation have confirmed Mr ZHANG was intoxicated at the time of the offence, the incident has occurred nearby and inside a licenced premises, and the officer has noted alcohol as a contributing factor on the original offence report.

The conviction and associated aggravating factors call into question Mr ZHANG's suitability to be granted any alcohol licence, or even run a licenced premises. Furthermore, Mr ZHANG has failed to notify the authority and agencies of the change of ownership and continued to trade. This shows a lack of candor and further calls into question his knowledge of the Sale and Supply of Alcohol Act 2012.

Police oppose this application under the following section of the Act,

- Section 105(1)(b) the suitability of the applicant

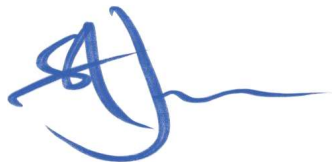
Police submit the committee consider Osborne LLA PH2388/95:

"Without fettering ourselves in this or other applications, it may be helpful if we indicate that we commonly look for a five-year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol or arising in the course of an applicant's duty on licensed premises".

Police further submit the conviction would appear to fall within the language concerning 'serious conviction' as noted above.

Police would expect Mr ZHANG to demonstrate his suitability by remaining free of negative dealings with Police for at least 5 years from the date of the offence that caused the most recent conviction. After which any further application submitted by the applicant would be placed under the same scrutiny as any other licence application.

Should the committee agree with this recommendation, the applicant would be eligible to re-submit his application from 4th June 2027 for further assessment. For your consideration,



Steve Jones
Sgt SJCT35
Dunedin Police

Sgt Steve Jones, QID : SJCT35, Dunedin Central
Email : sjct35@police.govt.nz Phn : 0211912755

3

DN DLC TEMPORARY AUTHORITY CHECKLIST

Application: On Licence **Pathway reference:** TA-25-2022

Approved: 21/12/2022 **Date received:** 05/12/2022
District Licensing Committee

Chair: Commissioner C Weatherall - email **Granted:** Yes ☒ No ☐

Members: _____ **Date considered:** 20/12/2022
_____ **Date determined:** 21/12/2022

DLC Registration Number: 069/TA/25/2022 Decision Number: 2022/25/TA

Applicant	Tokyo Garden Food Limited	
Trading Name	Tokyo Garden	
Premise Address	343 George Street Dunedin	
Underlying Licence Number	069/ON/13/2017	
Premises Style	Restaurant	
Designation(s)	Nil	
Days and hours sought	Monday to Sunday 11.00 am to 12.00 midnight	

Reports:	Received	Recommend Issue	Matters in Opposition
Licensing Inspector	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Building Compliance	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fire Service	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Comments:			

Are the trading hours different to premises current hours? ☐ Yes ☒ No

Does the applicant have previous experience? ☒ Yes ☐ No

Is the applicant suitable? ☒ Yes ☐ No

Are there 'issues' with the premises at present? ☐ Yes ☒ No

Are extra conditions required? ☐ Yes ☒ No

Is a DLC Hearing required? ☐ Yes ☐ No

T/A Order Conditions	
Trading hours: <i>(incl sacrosanct days)</i>	Monday to Sunday 11.00 am to 12.00 midnight
Designation:	Nil
Prohibited people: <i>(intoxicated, minors)</i>	
Comments:	<p>Both the Police and Licensing Inspector oppose this application. The Inspector on the grounds of suitability because the change in directorship and shareholding was not notified to ARLA. The Police for the same reason as well as the sole shareholder has a serious conviction and suggests a five year standdown.</p> <p>The applicant is a company. There are two directors – one of whom was changed in February 2022 while the other has been a director since 2016. The sole shareholder has changed from Yingjin GAO to the current Chengyu ZHANG.</p> <p>GAO remains working at the premises as the only certified manager. ZHANG is not a certified manager and there is no application in the system indicating he is applying for one at this stage.</p> <p>The Police opposition and the suggestion of a five-year standdown is more aligned with a manager's certificate application.</p> <p>The failure to notify the change in directorship and shareholding relates to the applicant company as does the suitability of the sole shareholder.</p> <p>The premises has not come to the attention of the agencies so one must assume it is being operated properly.</p> <p>Due to circumstance and the time of year, there is no ability to convene a short-notice hearing.</p>

Kevin Mechen

From: Colin Weatherall
Sent: Wednesday, 21 December 2022 09:46 a.m.
To: Kevin Mechen
Cc: Colin Weatherall
Subject: RE: Tokyo Garden

Mr Sec

Kev

Confirming the unique nature of this application (incl rats) timing over closed/Act , I support max 30 day T A
we will schedule for late Jan

Regards & thanks for advice on a challenging solution

Colin

From: Kevin Mechen <Kevin.Mechen@dcc.govt.nz>
Sent: Tuesday, 20 December 2022 6:06 pm
To: Colin Weatherall <Colin.Weatherall@dcc.govt.nz>
Subject: Tokyo Garden

Hi Colin

I'll call in the morning.

Tanya said they are closing until next week because of a pest problem in the premises! Exterminators should have moved in tonight...

She said 'Chris' is the owner but the other director's name has stayed there to get the lease – the landlord was concerned at him only being 26 years old. He is the chef and is hands-on during the day. He has been told he will get a 30 day TA. With the closure – he volunteered the closure as soon as the pest problem was identified so it wasn't forced by Tanya – it will leave him about three weeks!

Will talk in the morning...

Cheers – have a great night

Kev

Kevin Mechen
ALCOHOL, PSYCHOACTIVE SUBSTANCES AND GAMBLING ADVISOR
SECRETARY: DISTRICT LICENSING COMMITTEE

P 03 477 4000 | DD 03 474 3426 | M 027 605 6027 | E kevin.mechen@dcc.govt.nz

069/TA/25/2022

TEMPORARY AUTHORITY

(on-licence premises)

Section 136, Sale and Supply of Alcohol Act 2012

PURSUANT to the Sale and Supply of Alcohol Act 2012, the Dunedin District Licensing Committee has granted **Tokyo Garden Food Limited** temporary authority to operate an on-licence in accordance with section 136 of the Act in respect of the premises situated at 343 George Street, Dunedin, and known as "Tokyo Garden", to any person for consumption on the premises and to let people consume alcohol there.

This temporary authority is effective for a period from 21 December 2022 to 27 January 2023, or until the substantive on-licence application lodged by **Tokyo Garden Food Limited** is determined, whichever is the sooner.

In granting this temporary authority to operate an on-licence pursuant to section 136 of the Act, it is recorded that the applicant has purchased the business and requires a temporary authority to operate the business until a full on-licence is granted.

This temporary authority relates to **069/ON/13/2017**.

OBLIGATIONS OF THE HOLDER OF A TEMPORARY AUTHORITY

The holder of this temporary authority shall have the same duties, obligations and liabilities of the on-licence to which it relates.

DISPLAY OF TEMPORARY AUTHORITY

A copy of this temporary authority must be displayed at the principal entrance to the premises.

CONDITIONS

This temporary authority is subject to the following conditions:

- (a) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day to any person who is not present on the premises to dine.
- (b) Alcohol may be sold only on the following days and during the following hours:
Monday to Sunday 11.00 am to 12.00 midnight
- (c) The following steps must be taken to promote the responsible consumption of alcohol:
 - (i) A range of food choices must be readily available at all times that the premises is open. Menus must be visible, and food should be actively promoted. A minimum of three types of food should be available. The range or style of food will be shown on any menu submitted. Alternatively, the range of food should include such items as paninis, pizzas, lasagne, toasted or fresh sandwiches, wedges, pies, filled rolls, and/or salads.
 - (ii) A range of low alcohol and non-alcoholic drinks must be readily available at all times the premises is open.
 - (iii) Water must be freely available at all times that the premises is open.
- (d) 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:
 - (i) The licensee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display 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.
- (e) The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.

DATED at Dunedin this 21st day of December 2022



Kevin Mechen
Kevin Mechen
Secretary
DUNEDIN DISTRICT LICENSING COMMITTEE

Decision No. 2022/25/TA

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Tokyo Garden
Food Limited for a temporary
authority authorising the holder to
carry on the sale and supply of
alcohol pursuant to s.136 of the Act
in respect of premises situated at
343 George Street, Dunedin, and
known as "Tokyo Garden"

DECISION OF THE DUNEDIN DISTRICT LICENSING COMMITTEE

Chairperson: Commissioner C Weatherall

DECISION

This is an application by Tokyo Garden Food Limited an order allowing them to carry on the sale and supply of alcohol pursuant to the underlying licence no. 069/ON/13/2017 in respect of premises situated at 343 George Street, Dunedin, and known as "Tokyo Garden".

The premises continues to trade under this name.

The general nature of the business to be undertaken is that of a restaurant.

The Licensing Inspector advises that there have been no issues of concern with the premises however, the company structure was changed in February 2022 and notification of the changes have not been notified to the Alcohol Regulatory and Licensing Authority as required by section 69 of the Act. Other matters have also been raised regarding to new operator.

However, because of the time of year and the inability to call a hearing at very short notice, the Committee will issue a very short duration order which will expire on 27 January 2023 which is the day a hearing will be convened.

DATED at Dunedin this 21st December 2022



Kevin Mechen
Secretary

DUNEDIN DISTRICT LICENSING COMMITTEE



From: [Dunedin AHPU](#)
To: [Dunedin Licensing Agency](#)
Cc: [Kevin Mechen](#); [Tanya Morrison](#)
Subject: FW: [EXTERNAL] FW: TA-25-2022 - Tokyo Garden Food Limited application temporary authority - Tokyo Garden 343 George Street Dunedin
Date: Thursday, 15 December 2022 02:34:59 p.m.
Attachments: [0.png](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[TA-25-2022 Tokyo Garden cover sheet.doc](#)
[TA-25-2022 - Tokyo Garden Food Limited application temporary authority.pdf](#)
Importance: High

Kia ora,

Police are opposed to the issuing of this Temporary Authority due to suitability of the applicant and previous convictions.

Full report to follow on 16/12/2022.

Nga mihi,

Steve Jones

Sergeant SJCT35
Alcohol Harm Prevention
Dunedin Central

P +64 3 471 4800  M +64 21 191 2755 E sjct35@police.govt.nz



NEW ZEALAND
POLICE
Ngā Pirihimana o Aotearoa



*Kaua e rangiruatia te hā o te hoe;
e kore tō tātou waka e ū ki uta*

From: Karen Tytsma <Karen.Tytsma@dcc.govt.nz>
Sent: Wednesday, 14 December 2022 10:28 AM
To: Dunedin AHPU <Dunedin.AHPU@police.govt.nz>
Subject: [EXTERNAL] FW: TA-25-2022 - Tokyo Garden Food Limited application temporary authority - Tokyo Garden 343 George Street Dunedin
Importance: High

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [White, Nikki](#)
To: [Dunedin Licensing Agency](#)
Subject: FW: TA-25-2022 - Tokyo Garden Food Limited application temporary authority - Tokyo Garden 343 George Street Dunedin
Date: Wednesday, 7 December 2022 2:25:08 PM
Attachments: [0.png](#)
[image001.png](#)
[TA-25-2022 Tokyo Garden cover sheet.doc](#)
[TA-25-2022 - Tokyo Garden Food Limited application temporary authority.pdf](#)
Importance: High

Hi team

No issues with this one.

Ngā mihi / Many thanks

Nikki White
Business Services Coordinator

Otago District – Dunedin
Te Kei Region
Dunedin Central Fire Station
85 Castle Street, Dunedin 9016
PO Box 341, Dunedin 9054
Phone: 03 367 9599
Mobile: 027 559 1825

nikki.white@fireandemergency.nz
www.fireandemergency.nz



From: Karen Tytsma <Karen.Tytsma@dcc.govt.nz>
Sent: Monday, 5 December 2022 2:25 pm
To: Alison Blair <Alison.Blair@dcc.govt.nz>; Kevin Mechen <Kevin.Mechen@dcc.govt.nz>; Otago Risk Reduction <OtagoRiskReduction@fireandemergency.nz>; Steve Jones Police <Dunedin.AHPU@police.govt.nz>; Tanya Morrison <Tanya.Morrison@dcc.govt.nz>; Cory Barnes <Cory.Barnes@dcc.govt.nz>; Amy Barney <Amy.Barney@dcc.govt.nz>
Cc: Health Complaints <kbase.healthcomplaints@dcc.govt.nz>
Subject: TA-25-2022 - Tokyo Garden Food Limited application temporary authority - Tokyo Garden 343 George Street Dunedin
Importance: High

Application received today 5/12/2022

Your message is ready to be sent with the following file or link attachments:

TA-25-2022 Tokyo Garden cover sheet.doc
Invoice - TA-25-2022 - Tokyo Garden Food Limited application temporary authority.pdf

Karen Tytsma
Alcohol Licensing Administrator
Dunedin District Licensing Committee

P 03 477 4000 E Karen.Tytsma@dcc.govt.nz
Dunedin City Council, 50 The Octagon, Dunedin
PO Box 5045 Dunedin 9054
New Zealand
www.dunedin.govt.nz

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2. You must not use, copy or disclose any of the information contained in this email.
There is no warranty that this email is error or virus free.
If this is a private communication, it does not represent the views of the organisation.

From: [Cory Barnes](#)
To: [Karen Tytsma](#); [Alison Blair](#); [Kevin Mechen](#); [Mark Bredenbeck](#); [Steve Jones Police](#); [Tanya Morrison](#); [Amy Barney](#)
Cc: [Health Complaints](#)
Subject: RE: TA-25-2022 - Tokyo Garden Food Limited application temporary authority - Tokyo Garden 343 George Street Dunedin
Date: Monday, 5 December 2022 04:00:53 p.m.

Good afternoon Karen,

There are no issues with this TA from Building Services. The building has a current BWO (WOF-302036) until 15/03/2023.

Regards
Cory Barnes
BUILDING COMPLIANCE OFFICER
BUILDING SERVICES
P 03 477 4000 | E cory.barnes@dcc.govt.nz
Dunedin City Council, 50 The Octagon, Dunedin
PO Box 5045, Dunedin 9054
New Zealand
www.dunedin.govt.nz

-----Original Message-----

From: Karen Tytsma <Karen.Tytsma@dcc.govt.nz>
Sent: Monday, 5 December 2022 2:25 p.m.
To: Alison Blair <Alison.Blair@dcc.govt.nz>; Kevin Mechen <Kevin.Mechen@dcc.govt.nz>; Mark Bredenbeck <OtagoRiskReduction@fireandemergency.nz>; Steve Jones Police <Dunedin.AHPU@police.govt.nz>; Tanya Morrison <Tanya.Morrison@dcc.govt.nz>; Cory Barnes <Cory.Barnes@dcc.govt.nz>; Amy Barney <Amy.Barney@dcc.govt.nz>
Cc: Health Complaints <kbase.healthcomplaints@oa.dcc.govt.nz>
Subject: TA-25-2022 - Tokyo Garden Food Limited application temporary authority - Tokyo Garden 343 George Street Dunedin
Importance: High

Application received today 5/12/2022

Your message is ready to be sent with the following file or link attachments:

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Karen Tytsma
Alcohol Licensing Administrator
Dunedin District Licensing Committee

P 03 477 4000 E Karen.Tytsma@dcc.govt.nz Dunedin City Council, 50 The Octagon, Dunedin PO Box 5045
Dunedin 9054 New Zealand www.dunedin.govt.nz

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From: [Tanya Morrison](#)
To: tokyogarden11@gmail.com
Cc: [Dunedin Licensing Agency](#); [JONES, Stephen \(Steve\)](#); [Aaron Whipp](#); [Kevin Mechen](#)
Subject: Alcohol Licence - Tokyo Garden - POL to be paid?, On application due asap 1/12 KT requested again 14/12
Date: Wednesday, 30 November 2022 01:02:28 p.m.
Importance: High

Hi Chris,

Following our phone conversation yesterday, I have checked with the District Licensing Committee (DLC) secretary and as you purchased the business in February, and all directors/shareholders changed a new licence is required. This is regardless of the company name staying the same.

Section 69 of the Sale and Supply of Alcohol Act 2012 states any change in company directors or shareholders, means ARLA (Alcohol Regulatory & Licensing Authority) must be notified within 10 days.

You failed to comply with this requirement, therefore as new directors/shareholders, your suitability has not been able to be assessed to deem you suitable to hold an alcohol licence.

Given the time that has lapsed, the secretary is proposing you apply for a new licence as soon as possible, and be allowed to continue trading (as you have been since February) until this matter is sorted.

This means you do not have to apply for a temporary authority (temporary licence) as this offers little benefit.

Please see below the link to a new On Licence application form, which you need to return to Council ideally by the end of this week.

<https://www.dunedin.govt.nz/services/licensing/applying-for-licences>

We look forward to receiving your new application as a matter of priority.

Thanks,

Tanya

Tanya Morrison
Environmental Health Officer
Alcohol Licensing Inspector
CUSTOMER & REGULATORY SERVICES

P 03 477 4000 | **E** tanya.morrison@dcc.govt.nz
Dunedin City Council, 50 The Octagon, Dunedin
PO Box 5045, Dunedin 9054
New Zealand



APPLICATION FOR ON LICENCE

Incomplete applications will not be processed

The application must be accompanied by the correct fee (see below).

When a licence has been granted, it will not be issued until the annual fee has been paid.

The District Licensing Committee (DLC) will notify the public of this application via the Dunedin City Council website and the Otago Daily Times (the advertising cost is included in the application fee).

The contact person will be emailed a copy of the public notice to be displayed on the premises.

Please use separate pages to provide extra information where necessary.

If you have any questions while completing this form, please contact Dunedin DLC staff on 03 474 3481 or email dla@dcc.govt.nz.

Please read and complete the following checklist before submitting the application

Written statement from the owner of the building or property giving you approval to sell and supply alcohol and allow its consumption on the premises. An email is acceptable, this can be sent to dla@dcc.govt.nz with the name of the premises and applicant included as a reference.

If a body corporate: certificate of incorporation (or equivalent document)

Planning and building certificates (not required for a conveyance)

A copy of the proposed food and drinks menus

A scale plan of the premises showing the principal entrance and the areas where alcohol is to be sold, supplied and consumed, with an indication of which areas are to be:

- undesignated - anyone of any age allowed
- supervised - minors must be with their parent/guardian
- restricted - R18.

Map showing location of 'sensitive' locations, e.g., schools, early childhood facilities, hospitals and churches

A risk mitigation plan detailing how you will ensure the impact on the community will be minimized, e.g. control of noise and litter, parking and dispersal of patrons

Copy of host responsibility policy – for high risk premises please also include an alcohol management plan explaining how you will implement the points of the policy

Letter of authorisation if a consultant is completing this form on your behalf

Office use only

Date received:

Calculate your application fee

Select your premises type:

Class 1 restaurants – restaurants with a significant separate bar area which, in the opinion of the DLC, operate that bar at least one night a week in the nature of a tavern (such as serving alcohol without meals to tables situated in the bar area)

Class 2 restaurants – restaurants that have a separate bar (including small bar areas) but which, in the opinion of the DLC, do not operate that area in the nature of a tavern at any time

Class 3 restaurants – restaurants that only serve alcohol to tables and do not have a separate bar area

Type of premises	Points
Class 1 restaurant, nightclubs, taverns, adult premises	15
Class 2 restaurant, hotels, function centres, universities, polytechnics	10
Class 3 restaurant, other premises not specified	5
Theatres, cinemas, BYO restaurants, cellar doors	2
Premises points	

Select the latest time you intend to sell alcohol:

Latest alcohol sales time	Points
2am or earlier	0
Between 2.01am and 3am	3
3am onwards	5
Trading hours points	

Add the premises points and trading hours points together to get the total:

Use the table below to work out the fee payable:

Total points	Risk rating	Application fee (GST inc)	Annual fee (GST inc)	Total fee required
0-2	Very low	\$368.00	\$161.00	\$529.00
3-5	Low	\$609.50	\$391.00	\$1000.50
6-15	Medium	\$816.50	\$632.50	\$1449.00
16-25	High	\$1,023.50	\$1,035.00	\$2058.50
26 plus	Very high	\$1,207.50	\$1,437.50	\$2645.00

APPLICATION FOR ON LICENCE

Section 224 of the Sale and Supply of Alcohol Act 2012

To the Secretary, Dunedin District Licensing Committee

Application for an on-licence is made in accordance with the particulars set out below:

Endorsements (tick if applicable)

BYO restaurant – tick if you are a restaurant that does not intend to sell alcohol, i.e. you want to offer BYO only

Caterer's on licence – for off-site catering, instead of, or in addition to, food/alcohol supplied on the premises (please provide menus, website information, bookings etc)

Contact person

Name: Chengyu Zhang
Phone: 027 342 9405
Email: tokyogarden11@gmail.com
Postal address: 345 George Street, Dunedin central
Postcode: 9016

Applicant details

Applicant status (please select from the below options)

Individual	Partnership	Body corporate
Public company	<input checked="" type="checkbox"/> Private company	Club
Trustee	Local authority	Licensing trust
Government department or other instrument of the Crown	Manager under the Protection of Personal Property Rights Act 1988	Board, organisation or other body

Legal name/s of the person/s or organisation that will receive any proceeds from alcohol sales.
Include any other names you may be known by.

Full legal name: Yangjie Gao
Any other names you may be known by: Ivy
Address: 16 Cornwall Street
Postcode: 9013

Occupation: Manager
Phone: 021 295 3572
Email: tokyogarden11@gmail.com
Date of birth: 22/06/1978 Place of birth: China Gender: Female
Is this your principal business? Yes No
Please state any other businesses:

Further details where the applicant is a company or an incorporated society

For a company (whether incorporated under the Companies Act 1993 or equivalent foreign legislation), give full legal names of directors.

Chengyu Zhang

Leonard Cheng

Where the applicant is a **private company**, give full details of each person who holds any shares issued by the company as follows: full name, address, date of birth, place of birth, designation in company and percentage of shares held.

Chengyu Zhang
345 George Street
20/02/1996
China
Owner
100% held

Please also provide:

Authorised capital:

Paid up capital:

Where the applicant is a **public company**, give full details of each person who holds 20% or more of the shares, or any particular class of shares, issued by the company, as follows: full name, address, date of birth, place of birth, designation in company.

Further details where the applicant is a partnership

Full details of each partner as follows: full legal name, address, date of birth, place of birth.

Signature of each partner

If a body corporate, please state the authority under which you are incorporated, e.g. Companies Act 1993, Incorporated Societies Act 1908, Charitable Trusts Act 1957.

Criminal convictions

Please state all criminal convictions against any applicants including Directors or Shareholders (except convictions for offences to which the Criminal Records (Clean Slate) Act 2004 applies).

Full Name	Conviction	Date of conviction
Chengyu Zhang	Unlaw Carry Imitation Firearm	5/2022

(Use a separate sheet if necessary)

Details of premises

Proposed trading name: Tokyo Garden

Current trading name (if applicable):

Name of the building (if applicable):

Address of the premises: 345 George Street, Dunedin central

Postcode: 9016

Does the applicant own the premises? Yes ☒ No

If "no", please provide the full legal name and address of the owner:

Hugh Chin
200 King Edward Street

A written statement is required from the owner of the building or property giving you approval to sell and supply alcohol and allow its consumption on the premises. This can be sent to dla@dcc.govt.nz with the name of the premises and applicant included as a reference.

What type of lease does the applicant have and when does it expire?

Expire on August 2025

Is the licence conditional on completion of building work? Yes ☒ No

If yes, please provide details:

Does the building have a current building warrant of fitness (BWOF)? ☒ Yes No

What is the maximum occupancy of your entire premises including outside areas? 50

Please describe in detail the number and nature of the toilet arrangements, e.g. number of male and female toilets, number of urinals, unisex facilities and accessible facilities:

Altogether 2 toilets which includes 1 accessibility facility (for wheel chair)

Fire Evacuation Declaration – Fire and Emergency Act 2017

Which of the following fire evacuation statements applies to you?

If unsure, check with Fire and Emergency New Zealand

- ☒ The owner of the building in which the premises is situated provides and maintains an evacuation scheme as required by section 76 Fire and Emergency Act 2017
- ☐ Because of the building's current use, the owner is not required to provide and maintain an evacuation scheme
- ☐ Because of the nature of the building, the owner is exempt from the requirement to provide and maintain an evacuation

Signed

Chengyu Zhang

Date

22/12/2022

Details of conveyance (e.g. if this application is for a ship, bus, train etc.)

Type of conveyance (e.g. ship, bus or train):

Trading name of conveyance:

Registration number:

Address where based:

Postcode:

Does the applicant own the conveyance? ☐ Yes ☐ No

If "no", please provide the full legal name and address of the owner:

A written statement is required from the owner of the building or property giving you approval to sell and supply alcohol and allow its consumption on the premises. This can be sent to dla@dcc.govt.nz with the name of the premises and applicant included as a reference.

What type of lease does the applicant have and when does it expire?

Business details

Is there a current alcohol licence for the premises?? ☐ Yes ☒ No Type: ☐ on ☐ off ☐ club

Licence number:

Expiry:

What is the general nature of the business to be conducted under the licence?

☐ Tavern/bar ☒ Café/restaurant ☐ Hotel ☐ Nightclub ☐ Entertainment

☐ Other (specify)

Please select which days, and during which hours, you wish to be licensed to sell alcohol:

Day	Mon	Tues	Weds	Thurs	Fri	Sat	Sun
Start time	12:00am-2:30pm	12:00am-2:30pm	12:00am-2:30pm	12:00am-2:30pm	12:00am-2:30pm	12:00am-2:30pm	12:00am-2:30pm
End time	2:00pm-11:30pm	2:00pm-11:30pm	2:00pm-11:30pm	2:00pm-11:30pm	2:00pm-11:30pm	2:00pm-11:30pm	2:00pm-11:30pm

Is the sale of alcohol intended to be the principal purpose of the business? ☐ Yes ☒ No

If no, what is the principal purpose of the business?

Food

Does the applicant supply or sell, or intend to supply or sell, any goods other than alcohol and food?

☐ Yes ☒ No If yes, provide details:

Does the applicant provide, or intend to provide, any services other than those related to the sale or supply of alcohol or food?

☐ Yes ☒ No If yes, provide details:

What designation(s) are required for the premises?

- ☒ Undesignated (people of any age are permitted)
☐ Supervised (people under 18 years must be accompanied by a parent or legal guardian)
☐ Restricted (people under 18 years not permitted)

If different designations are required for different areas, please describe:

Manager details

Provide the below details for each manager or proposed manager.

Full name	Date of birth	Manager's certificate number	Expiry date
Yingjie Gao	22/02/1978	069/CERT/105/2017	17/05/2024

Conditions

What experience and training does the applicant have in relation to premises licensed to sell and/or supply alcohol?

Used to work in restaurant. Done hospitality course before(cookery lvl3-5)
Have LCQ

What provision does the applicant intend to make for the sale and/or supply of:

i. food (describe type and range and when it will be served, attach menu)

Japanese meal. Sushi, Sashimi.
Also some of basic Korean and Chinese meal

ii. non-alcoholic drinks (describe type and range)

Fizzy Drinks, Juice and some import soft drinks

iii. low-alcohol drinks (2.5% alcohol by volume or less, describe type and range)

Amseted light, DB citrus light, DB export NO alcohol.

To what extent, and where, will drinking water be freely available to patrons?

Water free all time

If no access to mains water supply is available, how will clean drinking water be made available?

Bottled water

What steps will be taken to provide help with, and information about, transport options from the premises?

Taxi card on the counter and our staff can call taxi for them

What steps will be taken to prevent the sale and supply of alcohol to prohibited people (minors and intoxicated people)?

Offer them non-alcohol drinks. Also remind them about our closing time.

What other steps will the applicant take to promote the responsible consumption of alcohol?

Health is the first important things to everyone. We talk to the customer about this, and the serving time is not too long. So we will stop selling them alcohol.

How does the applicant intend to staff the premises to ensure compliance with the Act?
Please provide the number of staff and their experience.

We trained the staff and tell them no meals means no alcohol. For BYO, we follow the rules strictly to avoid risk.

How will the applicant train staff to ensure they comply with the Act?

The restaurant mainly sell meals, and most of the customer prefer to have meals. For the training stuffs, we follow the rules strictly and always serce the meals first.

For high risk premises, what arrangements will be made for security staff?

Signed  Date 22/12/2022 Place

Privacy statement

The information you provide in this application, and any supporting documents, will be used by the Dunedin City Council to process your application under the Sale and Supply of Alcohol Act 2012. The information will be shared with the Dunedin District Licensing Committee (DLC), Dunedin District Licensing Inspectors, Police and the Medical Officer of Health as part of the approval process. If required, the information may form part of a public hearing before the DLC and may be used in any subsequent decision relating to your application. The decision will be publicly available.

If your application is publicly advertised, the associated information will be publicly available.

The DCC is required to keep a statutory register of all alcohol licence applications and anyone can request a copy of that information under the Local Government Official Information and Meetings Act 1987. This information may also be used or shared for other purposes in line with the Privacy Act 2020. If you would like a copy of the personal information we hold about you, or to have the information corrected, please contact us at privacy@dcc.govt.nz or 03 477 4000.