

Notice of Meeting:

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

Date: Friday 17 February 2023
Time: 10.30 am
Venue: Council Chamber, top floor, Dunedin Public Art Gallery, the Octagon, Dunedin

Sandy Graham
Chief Executive Officer

District Licensing Committee
On-Licence Renewal – Eleven Bar
PUBLIC AGENDA

MEMBERSHIP

| | |
|-----------------------------------|---|
| Chairperson | Colin Weatherall |
| Members | Rakei Amohau Katie Lane |
| Senior Officer | Kevin Mechen, Secretary, District Licensing Committee |
| Governance Support Officer | Lynne Adamson |

Lynne Adamson
Governance Support Officer

Telephone: 03 477 4000
Lynne.Adamson@dcc.govt.nz
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Note: Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

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1 APOLOGIES

There are no apologies.

PART A REPORTS

REPORT FOR ON-LICENCE RENEWAL, "ELEVEN BAR AND CLUB", 11 THE OCTAGON, DUNEDIN – FROM SECRETARY, DISTRICT LICENSING COMMITTEE

Department: Civic

APPLICATION DESCRIPTION

| | |
|--------------------------|-------------------------|
| Applicant's Name: | Eleven 2021 Limited |
| Site Address | 11 The Octagon, Dunedin |
| Trading Name: | Eleven Bar & Club |
| Style of Licence | Tavern |
| Application Number | ON-20-2021 |
| Date received by Council | 14 November 2022 |

EXECUTIVE SUMMARY

- 1 This is a report for an application for a renewal of an on-licence for the premises situated at 11 The Octagon, Dunedin, and known as "Eleven Bar & Club". The criteria found at section 131 of the Sale and Supply of Alcohol Act 2012 (the Act) apply to this application.
- 2 The application seeks to change the licensed times for Wednesday to Sunday to 9.00 am to 4.00 am the following day and 9.00 am to 12.00 midnight on Mondays and Tuesdays. However, once it was pointed out that the Local Alcohol Policy (LAP) has a maximum closing time of 3.00 am they decided to stay with the current 8.00 am to 3.00 am the following day on each day.
- 3 One public objection has been received and both reporting agencies (Police and Medical Officer of Health) have opposed this application. The Licensing Inspector has also opposed the application.
- 4 The Licensing Inspector would also like to see condition added to the licence relating to the management of the two levels of the premises. Currently there is only a requirement to have a duty manager present on the premises however, they operate on both the ground floor and first floor of the premises. The Inspector would like a condition requiring a duty manager to be present for each of the two areas.

APPLICANT AND APPLICATION

Applicant

- 5 The applicant company, Eleven 2021 Limited, initially had two directors and equal shareholders, Ravinder MOHAN and Prakash KHATTRI. On 1 August 2021 Mr KHATTRI was removed leaving Mr MOHAN the sole director/shareholder for the company, the same as when the company was first registered. When the original on-licence application was made on 3 August 2021, both Mr MOHAN and Mr KHATTRI were recorded as directors/shareholder.
- 6 Mr KHATTRI was reinstated as director/shareholder on 1 December 2021, two days before the on-licence was issued.
- 7 On 2 May 2022 Mr MOHAN was removed as director/shareholder and Mr Naveen MALHOTRA and Mr Nikesh SINGH were appointed as directors and 25% shareholders each. The Alcohol Regulatory and Licensing Authority (ARLA) was not advised of this change in company structure as required by section 69 of the Act.
- 8 At the meeting regarding the renewal of the licence on 5 December 2022, My KHATTRI advised that from 20 December 2022 he would be the sole director and shareholder with the removal of Mr SINGH and Mr MALHOTRA.
- 9 Mr KHATTRI listed himself as a duty manager for the premises however he allowed his manager's certificate to expire. An application for a new certificate is with the Committee.

PUBLIC NOTICE

- 10 Public Notice of the renewal application attracted one public objection and the three reporting agencies have opposed the renewal.

Objections/Opposition

- 11 **Objection:** The objection was submitted by the Students for Sensible Drug Policy Dunedin. this group is affiliated with the Otago University Students' Association (OUSA) and has the goal of reducing drug related harm, and advocate for drug policy change, in Dunedin and Aotearoa. Alcohol is considered the most commonly used drug in New Zealand. This premises is a venue patronised by Dunedin's student population therefore they believe they do have an interest greater than the public generally.
- 12 The grounds of the objection include:
 - Object of the Act – s.105(1)(a): the application is incomplete and does not include some of the prescribed attachments. The objector believes this makes it difficult to assess whether the object of the act is being met.
 - Suitability – s.105(1)(b): the applicant has not completed the form accurately and have failed to include some relevant information, for example, the change in company structure. They believe this indicates the applicant is not aware of their obligations under the Act and is therefore unsuitable.

- Design and layout – s.105(1)(d): the application indicates the entire premises is a supervised area. at night part of the premises operates as a nightclub and should have a ‘restricted’ designation.
- Systems, staff and training – s.105(1)(j): the incomplete application and missing supporting documentation in relation to a high-risk premises indicates the likelihood of insufficient systems and training within the business to comply with the legislation.

13 **Police opposition:** The Police opposition is based on the object of the Act, the suitability of the applicant, the systems, staff and training at the premises and the amenity and good order of the location. The reasons include:

- Police currently have five applications before the Authority seeking the cancellation of this licence. They relate to breaching the conditions on the licence, intoxicated patrons at the premises, disregarding Covid regulations regarding gatherings of people and a disregard to Food Safety regulations.
- Three of the premises duty managers are subject to matters before the Authority therefore questions the systems and training that takes place within the premises.
- The amenity and good order is affected in the this area and the Police believe this premises is responsible for a lot of the noise, litter and disorder reported to Police.

14 **Medical Officer of Health:** The Medical Officer of Health has similar grounds to the Police:

- Object of the Act: the premises is not being operated in a manner that upholds the object of the Act. Their business operation does not constitute safe and responsible supply of Alcohol.
- Suitability of the applicant: despite being subject of the graduated response interventions by the Police, there are ongoing issues with a lack of active management, intoxication on the premises and a general lack of knowledge of the alcohol legislation.
- Systems, staff and training: there have been incidents where Police have had to eject intoxicated people from the premises. This raises questions as to the training of staff, compliance with their policies and daily management of the premises.

15 **Licensing Inspector:** The Licensing Inspector has raised several matters similar to the other agencies:

- Object of the Act: the premises is not selling/supplying alcohol in a responsible manner. People are becoming intoxicated and allowed to remain on the premises.
- Suitability: the applicant has not completed the application form correctly. They have indicated there have been no changes to the licensee status when the company structure has changed, and this has not been advised to the Authority. The licensing hours sought are beyond the provisions of the LAP. One of the managers listed has an expired manager’s certificate. The supporting documents did not match those in the premises.
- Relevant local alcohol policy: the hours sought were outside the maximum stated in the LAP.

- Systems, staff and training: there is no documented training system in place at the premises nor is there a register of duty managers. An on-licence toolkit was supplied when the agencies visited for the initial licensing visit however, this has not been completed or utilised in any way. The applicant has only recently been made aware of the free, online ServeWise training.

CONCLUSION

- 16 This is the first renewal of the licence. It has attracted a public objection and the three reporting agencies have opposed the renewal of the licence.
- 17 There are several areas of concern identified, some of which are the subject of applications to ARLA for the cancellation of the licence. Three of the duty managers also have applications before the Authority. The ARLA hearings are to take place on 9 March 2023.
- 18 The matters for the Committee to consider will relate to the object of the Act, the applicant’s suitability to hold a licence, the systems, staff and training utilised by the applicant, and the impact of this premises on the amenity and good order of the central city.

Signatories

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

Attachments

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APPLICATION FOR ON-LICENCE RENEWAL

Incomplete applications will not be processed

The application must be accompanied by the correct fee (see page 2).

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.

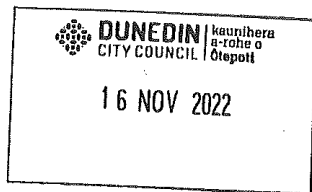
Please read and complete the following checklist before submitting the application

A copy of both the food and drinks menus

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

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

- **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

Select your premises type:

| 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:

Select the number of enforcement findings:

| Number of enforcement findings in the last 18 months | Points |
|--|--------|
| None | 0 |
| One | 10 |
| Two or more | 20 |

Enforcement points:

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

Premises points: Trading hours points: Enforcement points: Total points:

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 RENEWAL

Section 127 (2), Sale and Supply of Alcohol Act 2012

TO the Secretary, Dunedin District Licensing Committee

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

Contact person

Name: **Prakash Khattri**
Phone: **0212035944**
Email: **prakashkhattri@hotmail.com**
Postal address for service: **11 Octagon Dunedin**
Postcode:

Applicant details

Applicant status (please select from the below options)

Individual Partnership Body corporate Public company 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

Full legal name or names to be on the licence: **ELEVEN 2021 LTD**

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:

Address: **11 The Octagon**

Occupation: **Chef**

Phone: **0212035944**

Email: **prakashkhattri@hotmail.com**

Applicant's place and date of birth (if an individual):

Gender (if an individual): **male**

Have there been any changes to the licensee status? Yes No

A change would include a change of any shareholders, directors or partners.

If yes, please outline the changes:

Is this your principal business? Yes No

Please state any other businesses:

Criminal convictions

Has the applicant or any director or shareholder been convicted of an offence? Yes No

Please state all criminal convictions other than convictions for offences against provisions of the Land Transport Act 1998 not contained in part 6, and convictions for offences to which the Criminal Records (Clean Slate) Act 2004 applies.

| Full Name | Conviction | Date of Conviction |
|-----------|------------|--------------------|
|-----------|------------|--------------------|

Details of premises

Trading name: 11 Bar and Club

Name of the building (if applicable): 11 Octagon

Address of the premises:

Dunedin

Postcode: 9016

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

What is the maximum occupancy of your premises including outside areas? 220

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:

3 male 3 female upstairs
1 unisex and 1 accessible on ground floor
1 staff Basement

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 scheme

Signed:



Date: 14/11/22

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Details of conveyance

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

Trading name of conveyance:

Registration number:

N/A

Address where based:

Postcode:

Business details

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

Tavern/bar Café/restaurant Hotel Nightclub Entertainment Other (specify)

On which days and during which hours do you sell alcohol:

| Day | <input checked="" type="checkbox"/> Mon | <input checked="" type="checkbox"/> Tues | <input checked="" type="checkbox"/> Wed | <input checked="" type="checkbox"/> Thurs | <input checked="" type="checkbox"/> Fri | <input checked="" type="checkbox"/> Sat | <input checked="" type="checkbox"/> Sun |
|------------|---|--|---|---|---|---|---|
| Start time | 9am | 9am | 9am | 9am | 9am | 9am | 9am |
| End time | 12pm | 12pm | 4pm | 4pm | 4pm | 4am | 4am |

Are there any changes to the current licensed hours? Yes No

An extension to the existing hours may require resource consent, check with City Planning staff.

If yes, describe changes:

What designations apply to 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)

Is the applicant seeking any changes to the current licensed areas or designations?

Yes No If yes, provide details:

Is accommodation provided? Yes No

Is the sale of alcohol the principal purpose of the business? Yes No

If no, provide details:

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

Yes No If yes, provide details:

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

Yes No If yes, provide details:

Manager details

Provide the below details for each manager or proposed manager.

| Full name | Date of birth | Manager's certificate number | Expiry date |
|-----------------------|---------------|------------------------------|--------------|
| BRANKASH Khatin | 1/1/1978 | 069/CERT/297/2016 | 17/July/2022 |
| NIKESH SINGH | | 069/CERT/145/2020 | |
| ISOBELLE-ROSE CECELIA | 18/8/1999 | 069/CERT/086/2021 | |
| STEVEN LESLIE | | 069/CERT/051/2022 | |

Conditions

1) What provision does the applicant make for the sale and/or supply of:

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

ATTACHED

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

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Soft drink, coffee, juice Heineken zero

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

Heineken Light 2.5%

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

All the time

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

Bottled water from the supermarket

4) What steps are taken to provide help with, and information about, transport options from the premises?

Notice information near front desk
Through front staff

- 5) What steps are taken to prevent the sale and supply of alcohol to prohibited people? (minors and intoxicated people)

Training the front staffs using intoxication Assessment Tool (SCAB), checking ID's

- 6) What other steps does the applicant take to promote the responsible consumption of alcohol?

Promoting moderate drinking or no drinking at all if possible
Try to sell foods more than alcohol. offering non or low alcoholic beverage. Staff training plan, following those best Responsible

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

Teach them about best responsibility policy, tell them to ask duty managers if any issue arise. provide training during quite time, tell them about intoxication, minors, designations of

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

the restaurant and best availability
manager on duty on floor keeping eyes on customers, ID check by door security staff, making sure that customers are not intoxicated, violence, security agency provide security.

- 9) How does the applicant train staff to ensure compliance with the Act?

provide training to front staff about best responsibility policy
duty managers monitoring the staff all the time

Signed:



Date:

14/11/2022

Place:

Dunedin

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.

