

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

AND

IN THE MATTER of an application for the renewal of an
On-licence pursuant to s. 127 in respect
of premises situated at 12 State
Highway 6, Franz Josef and known as
The Blue Ice Cafe by Blue Ice
Investments Limited.

**DECISION OF THE WESTLAND DISTRICT LICENSING COMMITTEE ON AN UNCONTESTED
APPLICATION**

Authority:

Pursuant to section 191(2) of the Sale and Supply of Alcohol Act 2012 and a Council resolution dated 28 November 2013, the functions, powers and duties of the Westland District Licensing Committee are delegated to the committee chairperson where no objection has been filed, and no matters of opposition have been raised by the Police, the Medical Officer of Health or an Inspector. There is no Local Alcohol Policy in place for the District.

Summary of Evidence

The complete file has been made available to me. I should record, however, that the report of the Inspector is mostly unhelpful as it relates to another premises in South Westland. The problem appears to be a poorly executed cut and paste maneuver. I am not too concerned with this point as the application is mostly clear and I am reasonably familiar with the premises and I have known Christopher Rex Brooks who is a principal in the business for many years. I hasten to add that the fact that I know Mr. Brooks does not result in any conflict of interest on my part.

The Police have no issues with the application but have recommended that "the closing hours be reduced from 0400hrs to 0300hrs" and "that a camera system be installed in the top bar so that the Duty Manager can monitor the Lower bar".

The Medical Officer of Health has no opposition to the renewal application and "recommends that the licence hours be reduced to those comparable with other licensed premises in Franz Josef".

Evaluation of Evidence

I have considered the application on the basis of the uncontested reports received. The matter is able to be dealt with on the papers. The application does not seek to change any of the existing conditions.

The applicant is Blue Ice Investments Limited which is a private company and as such may continue to hold an On-Licence. Christopher Rex Brooks is the major shareholder.

I am satisfied that there are no amenity and good order issues to consider. If there were it would be a reasonable assumption that there would be some local objection to the advertised renewal application.

The existing designations will remain.

The existing days and hours, Monday to Sunday from 8.00AM to 4.00AM the following day, of operation are not subject to an application for change by way of renewal. It is appropriate to consider the stance of the Police and The Medical Officer of Health who are both recommending that the hours be reduced from

4.00Am to 3.00AM. The rationale is that the reduction of one hour would bring the Blue Ice Café into conformity with other premises in Franz Josef. The Medical Officer of Health goes a step further and suggests that such a change in hours would prevent any large influx of patrons arriving at the Blue Ice Café after other premises have closed. Such a phenomenon is unobserved and unknown but could be an eventuality, which in my view is an inappropriate basis to effect change to a licence condition. The hours of operation will remain unaltered. I do observe that if there is a widespread desire at Franz Josef within the hospitality sector to have a uniform "closing time" then, the way forward could be a "Local Alcohol Accord". It may be that the Hospitality sector at Franz Josef might wish to consider such a proposal and gain some assistance from the Council, the Police and the Medical Officer of Health in formulating such a proposal.

The Police have also recommended that a condition be imposed requiring the installation of a security camera system that allows the Duty Manager to observe the lower bar area when the Manager is working upstairs. The Act is very clear as to the functions of a Duty Manager. Managers are appointed by a licence holder and there may be several managers at a particular premises. A manager must be on duty at all times when alcohol is being served or supplied and a manager on duty is responsible for the compliance with and enforcement of the provisions of the Act and the conditions under which the licence has been granted. The Act does not prescribe how a manager should exercise particular management functions which in my view is a matter best left to the industry which has the experience and nuance to manage in a manner appropriate to the premises, the circumstances and licence holders' requirements. From what I can gather from the complete file no one has any issues with the way in which the Blue Ice Café is being managed. The only issue that seems to be problematic to the Police is that the Manager who was identified as the Duty Manager was working upstairs and there were patrons downstairs consuming alcohol outside of the direct sight and supervision of the Duty Manager. If the recommendation of the Police became a reality it could readily result in the Duty Manager of a medium to large premises being confined to a room of video monitors akin to something that NASA might have for space expeditions. I think that the recommendation of the Police might result in Pythonesque elements which are best left alone. I have a high degree of confidence that Mr. Brooks would do the best he can for managing his asset and if that, at some time in the future, includes a suite of video cameras then I would think that he would make the changes necessary without helpful prompting by way of a condition to a licence that the applicant has no way of being part of. I am aware that the Police understand that applications for licences and renewals proceed "on the papers" and without a hearing which would preclude the licensee being part of the establishment of such a condition. If the Police seriously have difficulties with the way in which the premises is being managed then it would be appropriate to declare opposition to the application and proceed with a public hearing and test any particular ideas with all the parties, in particular, the applicant involved.

The renewal application includes a copy of the premises Host Responsibility Policy which is a comprehensive document that relates to the premises and proactively addresses those matters that are essential behavioral areas in a place where alcohol is served, sold and consumed.

Decision and Reasons

I am satisfied as to those matters provided for in s.131 of the Act.

The application is granted on the papers pursuant to s.202 (1) of the Act as Decision Number **100-2022** and I direct that renewed on-licence 56/ON/019/2020 be issued pursuant to s.64 of the Act.

The renewal is for a period of three years from the date of expiry and is subject to the following conditions:

On-Licence

- (a) Alcohol may be sold only on the following days and during the following hours:
Monday to Sunday 8.00am to 4.00am the following day.
- (b) except when the licensee also holds a special licence for the premises, no alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person who is not—

- (i) residing or lodging on the premises; or
 - (ii) present on the premises to dine.
- (c) The extent of the licensed area is shown on a plan accompanying the application for renewal dated 4 August 2022
- (d) the following steps must be taken to promote the responsible consumption of alcohol:
- (i) The Principal Entrance is to be described as "The entrance from State Highway Number 6
 - (ii) Pursuant to section 110(2)(c) of the Act, drinking water shall be freely available to all customers at the bar and at all times that the licence is being exercised.
 - (iii) There shall be a *Host Responsibility Policy* similar to that which accompanied the renewal application and dated 4 August 2022, in place at all times.

Dated at Hokitika this 16 day of April 2023



Richard Simpson
Chairman, Westland District Licensing Committee

