

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 by
Kitchen Hokitika NZ Limited in respect
of premises situated at 19 Tancred
Street, Hokitika and known as Kitchen
Hokitika NZ.

**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.

The applicant is Kitchen Hokitika NZ Limited which is a private Company. The Company has two Directors who are Kerri Rolleston Lysaght and James Lysaght. The file indicates that Mr. and Mrs. Lysaght also undertake the day to day management of the premises. The nature of the premises is a restaurant and Café and the premises do not operate as a tavern. Alcohol is sold as a complement to the food available from an extensive menu. The application is accompanied by a document titled "Host Responsibility Policy" which covers matters relating to the way in which the applicant will take steps to promote the responsible consumption of alcohol. The alcohol service is a table service and there is no bar.

The application does not seek to change any of the present conditions on the existing licence.

It is proposed that the existing days and hours of trading on Monday to Sunday from 8.00am to 2.00am the following day. The extent of the licensed area includes an area on Tancred Street comprising the full frontage of the building and including the footpath and part of the carriage way. The current hours of operation for this area are Monday to Sunday 8.00am to 11.00pm and the renewal application does not seek to change these days and hours.

A report from the Inspector advises that the applicant is fully complying with the requirements of the Sale and Supply of Alcohol Act 2012.

The Police advise that there is no objection to the renewal application.

The Medical Officer of Health has no opposition to the application.

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.

Kitchen Hokitika NZ Limited is a private company and is entitled to continue to hold a licence. Mr. Lysaght is a holder of a manager's certificate She is also the holder of a manager's certificate, and he has significant experience in the hospitality and food industry. The suitability of the applicant is unquestioned.

The Inspector has noted that the applicant has a host responsibility policy, and a copy accompanies the application. I think that it is appropriate for the type of premises to which it refers.

The question of hours and days of operation is regrettably muddy. The application is dated 14 September 2022 and it clearly states that no changes are sought to the existing conditions. I.e., Monday to Sunday from 8.00am to 2.00am the following day and Monday to Sunday 8.00am to 11.00pm for the outside area on Tancred Street. The Inspector's report confirms this analysis. For me, the problem is found in the report of the Medical Officer of Health dated 5 October 2022 which advises that the officer is under the impression that subsequent to a discussion with Mr. Lysaght the hours have changed from 0200hrs to 0030hrs. The public notice clearly states the hours that are provided for in the renewal application. The issue is cloudy if not muddy but not to the extent that there needs to be terminal confusion.

- The current hours are Monday to Sunday from 8.00am to 2.00am the following day and Monday to Sunday 8.00am to 11.00pm for the outside area on Tancred Street.
- The Inspector has reported on the basis that the hours are those that are currently in force.
- The public notice is clear as to the intention to continue with the current hours.
- Some sort of arrangement was made by an Officer representing the Medical Officer of Health and James Lysaght from the applicant company which does not appear to have followed through to an amendment to the application. The outcome of the arrangement was conveyed to various parties by the Medical Officer of Health on 5 October 2022, but the applicant did not appear to make any contact with the Council concerning an amendment.

I am of the view that the status quo should stand simply on the basis that the public and community expectation is met through the public notice and the application. If I am wrong to ignore a side-arrangement made verbally by two parties, then it is open to the applicant or the Medical Officer of Health to make an application for a variation at any time in the future.

I am completely satisfied that there are no amenity and good order issues to be addressed. The application and the Inspector's report ask that no part of the premises, including the exterior area, should be designated. I think that this approach is satisfactory.

The extent of the licensed area is shown on a plan accompanying the application and it appears to be clear enough for enforcement purposes.

I readily come to the view that there is no need for designations and that there is no concern as to how the premises has been operated. I am certain from the application that the applicant has sufficient systems, staff and training in place to ensure compliance with the Act.

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

Decision

The application is granted on the papers pursuant to s.202 (1) of the Act as Decision Number **107-2022** and I direct that renewed on-licence 56/ON/098/2019 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:


The terms and conditions will be:

- (a) alcohol may be sold only on the following days and during the following hours:

Monday to Sunday from 8.00AM to 2.00am the following day. And, Monday to Sunday 8.00am to 11.00pm for the exterior seating area on Tancred Street.

- (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, 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 following steps must be taken to promote the responsible consumption of alcohol:
- At all times that alcohol is being sold or supplied there shall be a *Host Responsibility Policy* in place similar to that which accompanied the renewal application dated 14 September 2022.
 - The extent of the licensed area is that which is shown on a plan which accompanied the renewal application dated 14 September 2022.
 - Pursuant to section 110(2)(c) of the Act, drinking water shall be freely available to all customers from the counter at all times that the licence is being exercised.
- (d) The Principal Entrance is to be described as “The public entrance from Tancred Street, Hokitika”.

Dated at Hokitika this 18 day of April 2023.



Richard Simpson
Chairman, Westland District Licensing Committee

