

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

AND

IN THE MATTER of an application for the renewal of an Club licence pursuant to s. 127 in respect of premises situated at 42 Hamilton Street, Hokitika and known as the Hokitika Chartered Club by the Hokitika Club Incorporated.

AND

IN THE MATTER of an application for the renewal of an Off-licence pursuant to s. 127 in respect of the same premises situated at 42 Hamilton Street, Hokitika and known as the Hokitika Chartered Club by the Hokitika Club Incorporated.

DECISION OF THE WESTLAND DISTRICT LICENSING COMMITTEE ON UNCONTESTED APPLICATIONS

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.

The applications:

The two applications are made separately and form two complete files. As a matter of expediency, a single decision is being made in respect of the two applications.

Summary of Evidence

The complete files have been made available to me.

The applications are well documented with one exception considered below and are made with conviction.

A report from the Inspector concludes that the applicant is currently operating in compliance with the Sale and Supply of Alcohol Act 2012.

The Police advise that there is no objection to the renewal of the Off-licence application.

The Medical Officer of Health has no opposition to the renewal of the Off-Licence application.

The complete file does not provide evidence of the Police and Medical Officer of Health stance in respect of the Club licence renewal although the Inspector in his report does advise that neither the Police nor the Medical Officer of Health have opposition.

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 applicant has requested a change to the hours of operation. Currently the hours for both existing licenses are:

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|---------------------------|-----------------------------|
| Monday to Thursday | 3.00 pm to 11.00 pm |
| Friday | 2.30 pm to 11.00 pm |
| Saturday to Sunday | 11.00 am to 11.00 pm |

And the request for change is to allow trading hours as under:

| | |
|-------------------------|--|
| Monday to Sunday | 9.00 am to 1.30 am the next day |
|-------------------------|--|

I have not identified any Designation issues to deal with outside that which exists. The designation of the casino area will continue to be a restricted one.

I have not identified any amenity and good order issues to be addressed.

The application for the Club Licence renewal notes that the applicant will be updating the list of other clubs with which the applicant has reciprocal visiting rights for members. Apparently, the list will be updated at the applicant's Annual General Meeting in April. This is an important issue for the applicant as there is a specific requirement of the Act that relating to Sale to members only.

60 Sale and supply in clubs to members and guests only

(1) 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—

(a) an authorised customer; or

(b) if the licence issued subject to a condition allowing alcohol to be sold or supplied to people of that kind, a person who is on the premises at the invitation of an authorised visitor who is also on the premises.

(2) If a club licence and an off-licence are held for the same premises, the holder must ensure that no alcohol is sold or supplied to any person for consumption off the premises unless the person is an authorised customer.

The Act goes further to define an authorised customer and an authorised visitor.

The Inspector in his report refers to the applicant's premises including an area upstairs that can be hired out to various community groups. The Inspector advises that this area is not an area that is licensed for the supply, sale or consumption of alcohol. I take it from the complete files that the applicant hires out the area for the use of community groups but because the area is not licensed alcohol is not sold or consumed in that upstairs area set aside for wider community use. The application for the Club Licence renewal includes two documents entitled "Arrangement with the Hokitika RSA Re: Use of Club Facilities for meetings and Functions" and "Arrangement with the Westland Community Center Incorporated Re: Use of Club Facilities for meetings and Functions"; both documents are signed by representatives of the applicant Club, the Westland Community Centre and the Hokitika RSA. The documents have all the hallmarks of a contractual arrangement between the applicant Club and the two parties referred to. The arrangement appears to be that the Westland Community Centre and the RSA members are welcome to use the applicant Club's facilities subject to abiding by the Hokitika Chartered Club "rules and regulation". The application is silent as to this issue as is the Inspector's report and the other reporting agencies. It seems to me that Section 60 of the Act is absolute in that alcohol must not be sold or supplied to any person other than authorised customers or authorised visitors. The "Arrangements" made with the Community Centre and the RSA are not, in my view, able to be used to give the authorisation required to allow people other than members to

purchase or consume alcohol at the Hokitika Chartered Club. It may well be that person's subject to the "arrangements" are not served alcohol while at the premises but I have no way of determining the way that the arrangements that are in place are managed from the complete files in my possession. The Club should be very careful about the way in which visitors to the premises are managed. In addition, because the existing licenses do not have a condition anticipated by Section 60 (1)(b) and there is insufficient information in the application relating to reciprocal visiting rights (because of an impending AGM), this renewal will not have such a condition either.

Decision and Reasons

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

The applications are granted on the papers pursuant to s.202 (1) of the Act as Decision Numbers **054 and 055-2019** and I direct that renewed Club-licence 56/Club/021/2016 and renewed Off-Licence 056/OFF/020/2016 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:

Club Licence:

- (a) 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 or Christmas Day to any person who is not—
 - (i) residing or lodging on the premises; or
 - (ii) present on the premises to dine.
- (b) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday from 9.00AM to 1.30AM the following day.
- (c) the following steps must be taken to promote the responsible consumption of alcohol:
 - (i) There shall be food available, similar to that described in the menu which accompanied the renewal application dated 19 March 2019, at all times that the premises are being used for the sale and supply of alcohol.
- (d) The Principal Entrance is to be described as "The entrance on the southern side of the building leading from Hamilton Street".
- (e) Pursuant to section 110(2)(c) of the Act, drinking water shall be freely available to all customers from the bar at all times that the licence is being exercised.
- (f) The extent of the Licensed premises shall be that area shown on a plan dated July 2010 and submitted with the application.

Off-Licence:

- (a) alcohol may be sold only or delivered on the following days and during the following hours:
Monday to Sunday from 9.00AM to 10.00PM the same day.
- (b) No alcohol is to be sold on or delivered from the premises on Good Friday, Easter Sunday, Christmas Day or before 1.00pm on ANZAC Day
- (c) While alcohol is being supplied free as a sample, drinking water shall be freely available at any tasting location.

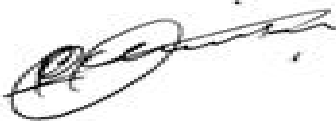
- (d) The Principal Entrance is to be described as “The entrance on the southern side of the building leading from Hamilton Street”.
- (e) The extent of the Licensed premises shall be that area shown on a plan dated July 2010 and submitted with the application.

Duration

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licenses, the licenses continues in force—

- (a) either—
 - (i) until the close of the period for which it was last renewed; or
 - (ii) if it has never been renewed, until the close of the period of 12 months after the day it was issued; but
- (b) if an application for the renewal of the licence is duly made before the licence would otherwise expire, either—
 - (i) until the close of the period of 3 years after the period for which it was last renewed; or
 - (ii) if it has never been renewed, until the close of the period of 4 years after the day it was issued.

Dated at Hokitika this 27th day of April 2019



Chairperson, Westland District Licensing Committee

