

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

**AND**

**IN THE MATTER** of an application for the renewal of an  
Off-licence pursuant to s. 127 in respect  
of premises situated at 56 to 60 Tancred  
Street, Hokitika and known as The  
Bottle O by S & P Private 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. The application is made with conviction and requests hours of 8.00am to 10.00pm on Monday to Sunday. These are the current hours for sale and supply.

A comprehensive report from the Inspector concludes that the applicant is suitable to continue to hold a licence.

The Police advise that there are no objections to the renewal application.

The Medical Officer of Health (MOH) has no opposition to the renewal 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.

Although the MOH has no opposition to this application that was not the officer's initial response. In the first instance the section 103 report opposed the renewal application and made reference to two Recent offences relating to a sale being made that resulted in supply to minors that were waiting outside the Bottle O premises and a separate incident where a sale was made to an intoxicated male who shortly after purchasing alcohol went on to commit offences involving violence. The opposition of the MOH covered three separate provisions of section 105. Prima Facie, I share her concerns.

Subsequently the officer withdrew the opposition after discovering that the police had not opposed the renewal application as it was expected that the Police would be opposed. The MOH noted that the evidence to support the officer's opposition could not be presented at a hearing.

I am surprised at the turn of events. All parties to the application and the public are entitled to rely on the contents of the MOH section 103 report. I think that the initial opposition covered two quite serious issues that go to the heart of the legislative environment relating to the sale and supply of alcohol. And then, next minute, nothing happened; the evidence didn't exist, no one had a case to answer and the initial opposition was withdrawn.

I make reference to this matter because of the background to the Bottle O premises which is an application from S & P Private Ltd that was considered in March 2018 when two "philosophical" objections were considered from groups referred to as Active West Coast and Alcohol Action West Coast. Both objections at that time were thinly veiled philosophical objections to additional retail outlets in Hokitika which offered no reasonable evidence to support their stance. When I read the MOH section 103 report I had a moment of deja vue linked to the initial application philosophical objectors. Charitably, I rather hope that I am wrong and that my deja Vue moment is ill-founded, but I am surprised that such opposition could result without a shred of supporting evidence. I am left wondering as to how such a set of circumstances could occur. Additionally, I am left wondering as to the cost to the applicant of opposition being entered on serious grounds and then being completely withdrawn. I imagine that the applicant would have engaged legal assistance with a view to having to defend a renewal position at a hearing. If the MOH opposition was the first that S & P Private knew of any incident, then I suspect that the applicants had a very bad day on receipt of the MOH report.

I am left with two doubts. Firstly, how could such serious allegations vanish into the ether and secondly, if there is a matter to be addressed what are the options at my disposal? I do note that the Inspector has also considered the allegations and the lack of substance to support a prosecution. The Inspector as a result of the police taking no action on the allegations, offers no objection to the licence renewal. This seems to me to be a reasonable approach which is a characteristic of the Act to be endorsed.

However, something happened at the Hokitika Bottle O; but what? And is it important?

I could refuse to deal with this application on the papers and require that the application to be considered by the whole Committee subsequent to a hearing, but I have dismissed this as procedurally unreasonable.

The way is open for the police or the Inspector to have the licence Varied, suspended or cancelled if further information comes to light and such a step is warranted. I have also considered reducing the period of this renewal, but I have dismissed that approach as being procedurally unreasonable without having the benefit of submissions from the parties involved.

I think that a supervised designation is warranted over the entire premises.

I have not identified any good order or amenity issues.

### **Decision and Reasons**

I am legislatively 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 **066-2019** and I direct that renewed licence 56/OFF/019/2018 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 existing terms and conditions with the exception of the following:

(a) Alcohol may be sold or delivered only on the following days and during the following hours:

Monday to Sunday 8.00am to 10.00pm the same day.

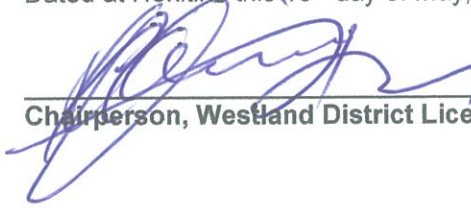
except when the licensee also holds a special licence for the premises, no alcohol is to be sold or delivered from the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.

(b) Pursuant to section 116(2)(c) of the Act, drinking water shall be freely available to all customers at each point of consumption while alcohol is being supplied free as a sample at all times that the licence is being exercised.

(c) The principal entrance is to be described as "the entrance off Tancred Street".

(d) The entire premises is to be designated as a supervised area.

Dated at Hokitika this 13<sup>th</sup> day of May, 2019

  
\_\_\_\_\_  
Chairperson, Westland District Licensing Committee

