

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

AND

IN THE MATTER of an application for an on-licence
pursuant to s. 99 in respect of premises
situated at The Esplanade, Haast-
Jackson Bay Road, Jackson Bay and
known as The Craypot by The Craypot
Jackson Bay 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 Cray Pot has been a feature at Jackson Bay for many Years. It first operated as a Mobile Shop selling Take-Away food in the nature of Fish and Chips But it soon consolidated its unique position and operation as a permanent fixture in the nature of a café. The consolidation would appear to be continuing with this application for an On-licence.

The Inspector has reported and has concluded that the applicant is suitable to hold a licence, that the hours proposed (Monday to Friday from 11.00AM until 9.00PM) are satisfactory and that the nature of the premises is satisfactory.

The Police have a conditional no objection to the grant of this new on-licence.

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

I note that the premises is principally a cafe and that the applicant is offering alcohol as an accompaniment to food being consumed.

Evaluation of Evidence and Reasons

I have considered the application on the basis of the uncontested reports received and I have noted that there have also been no public objections. The matter can, therefore, be dealt with on the papers.

The applicant is a registered Company with at least one of the Directors having had extensive experience in the hospitality industry.

The application appears to be made with conviction and the application is supported by the Inspector.

The application is accompanied by a Host Responsibility Policy which is very generic but none-the-less tells me that the applicant is attempting to take the responsibilities of a licence holder seriously. My expectation is that the Policy will remain in place for the duration of the licence but that it will look somewhat different when it comes to any renewal.

The Police approach to this application is marginally difficult in that the report from the police advises that "police would have no objection to issuing the new licence" but only if the licensee is required to display signage at the outdoor area advising that patrons must not remove alcohol from the outside area. This seems to me to be a conditional support of the application which is not a correct approach. The role of the Police is to either oppose the application or to not oppose the application. It is not appropriate to ask the Westland District Licensing Committee to impose conditions for controls not provided for in the application

by the applicant. If the Police want a specific condition to be added to a licence, then the correct procedure is to oppose the application and deal with the matter at a hearing where the facts can be tested and examined by all parties. Given that the applicant has adopted a Host responsibility Policy it does seem to me that the issue raised by the police could be readily addressed by the applicant through amendment to the policy. In the meantime, the condition suggested by the police will not appear on the licence.

I also note that the inspector has suggested that the outside area should be defined by "bollards or similar structures". I am not quite sure why this suggestion is made as the photograph of the outside area accompanying the application seems to be very clear in that definition is by strategic landscaping including the foreshore of the Tasman Sea. Subsequent to surveillance this may be an issue that can be dealt with in 12 months' time (renewal) if found to be necessary to do so,

No party has identified any designation issues for consideration; accordingly, there will not be any designations imposed.

I also note that the Inspector has drawn my attention to the water supply, and he states that it will be important undertake regular water testing to ensure that the water is of a potable nature. I agree that regular testing would be wise, but I do not see that this should be a condition of an On-Licence or that such a condition is supported by sections 3 or 4 of the Act. My anticipation is that the underlying use of the premises will demand an assurance of water potability and that the Council will in the ordinary course of events ensure that appropriate standards are met.

I am satisfied as to those matters provided for in s.105 of the Act.

Decision

The application is granted on the papers pursuant to s.202 (1) of the Act as Decision Number 238-2018 and I direct that a licence be issued pursuant to s.64 of the Act.

The terms and conditions will be:

- (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, 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.
- (b) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday from 11.00AM to 9.00PM.
- (c) the following steps must be taken to promote the responsible consumption of alcohol:
 - There shall be food available, similar to that described in the menu which accompanied the application dated 3 September 2018, at all times that the premises are being used for the sale and supply 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 application dated 3 September 2018.
- (d) The Principal Entrance is to be described as "The sole point of entry to the diner".
- (e) 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.

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 licences, this licence continues in force—

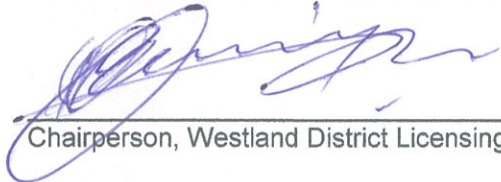
(a) either—

- (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 10th day of January, 2019.



Chairperson, Westland District Licensing Committee

