

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
Benjamin Graham Monk in respect of
premises situated at 6156 Haast
Highway, Paringa and known as South
Westland Salmon Ltd.

**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 Benjamin Graham Monk who is, apparently, a private company. The premises is in the nature of a café and restaurant. 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 10.00pm the same day remain in place.

A report from the Inspector advises that the applicant is suitable to continue to hold an on licence.

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

The Medical Officer of Health 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.

The renewal application is made mostly with clarity and conviction; although, if I didn't know the parties involved I would require clarification as to the applicant. The applicant is Benjamin Graham Monk and he refers to himself as a private company. This is clearly not the case and is an error. The existing licence is in the name of Benjamin Graham Monk and the application is clearly an application for the renewal of that licence. The complete file includes a copy of the certificate of Incorporation for South Westland Salmon Limited which is a Private company. The applicant is the sole director of the South Westland Salmon limited and he is also the owner and sole shareholder of the company. At some stage there may have been a bit

of confusion as to who the applicant is; either Ben Monk or South Westland Salmon Ltd. It may be a point of semantics, but it is essential that all parties are fully aware of who the licence holder is. For the avoidance of doubt, I am working on the basis that the applicant is Benjamin Graham Monk. This is a very important matter for the purposes of responsibility. It is simply not possible for an individual to be a private company or for South Westland Salmon to be a licence holder where the applicant is obviously a natural person. I am being very particular about this matter as the licensee failed a controlled purchase operation (cpo) in July 2018 when a person aged 17 years purchased alcohol at the South Westland Salmon Farm Café. The Medical Officer of Health has observed that "Whilst the staff members involved in the sale of alcohol on 21 July 2018 are not listed on the current application, the owner of the business then is the same owner today." I want to be sure on that point.

The application is accompanied by a document titled "South Westland Salmon Host Responsibility Policy" which covers matters relating to the way in which the applicant will take steps to promote a comfortable and welcoming environment for the responsible consumption of alcohol. The premises is in the nature of a café and restaurant. The alcohol service is a table service and there is no bar. I think that the Policy is appropriate for the type of premises concerned and notably it includes a policy relating to the sale of alcohol to minors. I do not know if the policy was in place on 21 July 2018. I understand from the file that a Police Officer issued a formal warning for selling alcohol to an underage person on the day of the controlled purchase operation to the manager on duty. It may well be that the Host Responsibility Policy was a direct result of the cpo. But the reality is that a Host Responsibility Policy of any description or detail is of little value unless the license holder has sufficient staff to effectively operate the premises which is a point raised by the Medical Officer of Health who has recommended that there be two qualified duty managers. I do not support the recommendation as I think it misses the point. In my view it is not the number of Qualified Duty Managers that is the issue but it is a question of whether the applicant has appropriate systems, staff and training to comply with the law, as required by section 105(1)(j) of the Sale and supply of Alcohol Act 2012. I note that the application provides for a single manager only and although I am not certain that this is sufficient for an operation the size of the South Westland Salmon Café, I am also not certain that two managers is the optimum number, but I also recognise that Benjamin Graham Monk could become a manager in addition to his company duties. I imagine that finding sufficient staff at Paringa is not an easy ask. I am not prepared to limit management capability to two managers only or treat the number 2 as a magic number to solve any alcohol management issues at the Cafe; this is a matter more appropriately decided by the holder of the on-licence. Ben Monk should very carefully consider his obligations in terms of section 214 of the Act and also seriously address any need for training and retraining of staff at any level so as to ensure the conduct of the premises will contribute to the reduction of alcohol related harm.

I am completely satisfied that there are no amenity and good order issues to be addressed and that there is no need for designations at the premises.

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 **105-2021** and I direct that renewed on-licence 56/ON/066/2018 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 following conditions:

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 8.00am to 10.00pm the same day.
- (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 19 December 2020.
 - The extent of the licensed area is that which is shown on plans which accompanied the renewal application dated 2 June 2021.
- (d) The Principal Entrance is to be described as "The entrance from the main foot ramp into the premises from the carpark".
- (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 11 day of August, 2021.



Chairman, Westland District Licensing Committee

