

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 in respect
of premises situated at 962 Ruatapu
Road, Hokitika and known as Lake
Mahinapua Hotel by Lake Mahinapua
Hotel 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 renewal application is made mostly with clarity and conviction. The application is accompanied by a document titled "Lake Mahinapua Hotel-Host Responsibility Policy" which covers matters relating to the way in which the applicant will take steps to ensure that alcohol is served in a friendly, responsible and professional manner.

The application does not seek any changes to the existing conditions. However at some stage after the application was advertised to the public a meeting between the inspector and the applicant resolved that although a change to the hours was proposed the change was of little consequence because the premises was essentially closed because of the Covid pandemic.

It is proposed that the existing days and hours of trading on Monday to Sunday from 8.00am to 3.00am the following day are to be reduced to 8.00am to 2.00am the following day.

A report from the Inspector advises that the applicant is suitable to continue to hold a licence and that there are no amenity and good order issues to consider.

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.

Lake Mahinapua Hotel Limited is a private company and is entitled to continue to hold a licence. The sole Director and Shareholder is Michael Harry Warren who has wide experience in the tourist and hospitality industry nationally. The Lake Mahinapua Hotel offers accommodation, a bar service and dining.

The Inspector has made reference to the Applicant's host responsibility plan. The application includes a copy of the Plan which I think is suitable for the nature of the premises. This is an important issue as I made reference to the licence holder's responsibilities when I considered a manager's certificate application some months ago relating to the Lake Mahinapua Hotel.

There is a plan accompanying the application titled "Site Plan Lake Mahinapua Hotel" and dated as having been received by the Council on 23 December 2021. The plan adequately shows the extent of the licensed premises and identifies the areas to be designated as supervised areas; being the bar and the outside dining areas. It seems to me that the designations are appropriate. The plan shows all the accommodation units being licensed from 3.00pm to 10.30pm. on the face of it that would appear to be satisfactory although I have little understanding as to how the timeframe will be enforced or at the very least, monitored.

I am completely satisfied that there are no amenity and good order issues to be addressed.

I do observe that the Medical Officer of Health and the Police made negative assessments of the renewal application when it was first notified. These were subsequently changed to non-opposition after meeting at the premises with the Inspector and Mark Nicholson who is an agent of the applicant. The purpose of the meeting and what transpired is not very clear from the file that I have but I think that there was some concern at the hours of operation being Two-fold and having different times for general bar patrons (9.00am to 3.00am the following day) and guests staying at the hotel with the Kiwi Experience tours (9.00am to 2.00am the following day). It is commendable that all parties were able to accommodate an agreement on the hours of operation but the important point is that the application is clear that no changes to the existing conditions were proposed and it was on this basis that the public notification process was dealt with. Any interested member of the public would be entitled to accept that no changes were proposed but in fact a change has been proposed as a consequence of a meeting of the tri-agencies and the applicant. I accept that it is not a major change and the change proceeds for the purposes of assisting in the overall management of the premises. There are other changes proposed in relation to designations and parts of the premises that are identified as places where the supply and consumption of alcohol can lawfully occur. The Act does not envisage that the tri-agencies and the applicant should be decision makers for changes, material or otherwise, to applications. In this case the premises is not operating and may not do so until the current pandemic is over and the changes are such that positive outcomes may result in terms of effective and efficient management. I think that it is appropriate to grant a waiver using the provisions of Section 208 of the Act to acknowledge the inadvertent neglect in proceeding with an application that does not reflect that which was advertised.

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

Although no changes to the existing terms and conditions are proposed, the opening days and hours can be Monday to Sunday from 9.00am to 2.00am the following day.

I have noted that the tri-agencies and the applicant's agent have reviewed the designations and the situation now is that some places are undesignated for some hours and designated as Supervised Areas for other hours. Apparently, the existing situation was confusing notwithstanding that at the time of the granting of the initial licence I observed that *"I have noted that the applicant and the statutory agencies have met together and considered the issues relating to designations and hours. At first glance the outcome seems to be somewhat cumbersome but with all parties being in agreement I have no doubt that the different approaches to different parts of the premises at times will assist in the safe management of the Hotel and will assist in ensuring that people attending the premises will enjoy themselves."*

All parties should note that "undesignated" is not a designation. There are only two types of designation: "supervised" and "restricted" Undesignated is not a *designation*.

Overall I am accepting that the way the premises are managed and the tools available for effective management have been carefully scrutinised by the people who understand the need for proper control. I will accept the suggestions of the tri-agencies and the applicant as being appropriate.

Decision


A waiver pursuant to the provisions of section 208 of the Act is granted providing for the addition of changed hours, designations and the extent of the licensed area to the application subsequent to the application's public notice being given.

The application is granted on the papers pursuant to s.202 (1) of the Act as Decision Number **008-2022** and I direct that renewed on-licence 56/ON/034/2021 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:

- (a) Alcohol may be sold only on the following days and during the following hours:
Monday to Sunday from 9.00am until 2.00am the following day
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, 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) 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.
- (c) The principal entrance is to be described as “the Eastern entrance into the Public bar area” and/or “the Southern entrance to the public bar area”.
- (d) The following steps must be taken to promote the responsible consumption of alcohol:
There shall be a “Host Responsibility Policy”, similar to that which accompanied the application dated 29 June 2021, in place at all times.
- (e) The following designations shall apply:
 - (i) The outside rear courtyard area shall be a supervised area from 10.30pm to 2.00am the following day.
 - (ii) The interior dining area shall be a supervised area between 10.30pm and 2.00am the following day.
 - (iii) The bar area shall be a supervised area at all times that the premises are open for the sale and consumption of alcohol.
- (f) The extent of the licensed area is that area shown on a plan received by the Council on 23/12/21 and titled “Site Plan Lake Mahinapua Hotel.

Dated at Hokitika this 7 day of February 2022.



Richard Simpson
Chairman, Westland District Licensing Committee

