

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 State Highway
73, Kumara and known as Kumara Race
Course by Kumara Racing Club
Incorporated.

**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.

A report from the Inspector advises that the applicant is suitable to continue holding the license.

The Police have no objection to the renewal applications.

The Medical Officer of Health has no opposition to the renewal applications and recommends that at least three General Managers be on duty on race day.

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 Kumara Racing Club is an incorporated Society and is accordingly permitted to continue holding an On-licence.

I am satisfied that there are no amenity and good order issues to consider.

The renewal application does not make a case to change or vary any of the existing conditions. However there does seem to be a minor change contemplated to the existing designations. Currently the designations are:

Restricted area: The bar under the Grandstand (Kumara Race day)

Supervised area: The bar under the Grandstand (all other days).

It seems to me from the file that a change is requested for a fenced off area adjacent to the grandstand and outlined on a plan accompanying the application to be designated a restricted area on Kumara Race day only. There are three rather sloppy plans accompanying the application and it is not clear to me what is intended because whoever drew the plans probably doesn't have a clue as to what Supervised and Restricted areas actually are. This is an important issue because designated areas are very useful

management tools that allow a licence holder to adequately meet the objectives of the Act relating to the sale, supply and consumption of alcohol being undertaken safely and responsibly.

Although the Inspector has made a clear recommendation as to designations and unlicensed areas, I have not identified any reason to not adopt his recommendation except as to clarity. I will require the submission of a clear and legible plan to the District Licensing Committee Secretary prior to the renewed licence being Granted.

The existing days and hours of 10.00am to 7.00pm on the annual race day (second Sunday in January) and Monday to Sunday from 9.00am to 12.00 midnight the same day, of operation will continue.

I am surprised that the renewal application is not accompanied by a Host Responsibility Policy which I think is essential for the nature of the premises. Such a policy statement would be a clear statement of how the Club would deal with the safe and responsible sale, supply and consumption of alcohol particularly on race day. This is a matter that the club should address with urgency using the expertise of the Inspector and the police and the Medical Officer of Health; all who I suspect would be willing to assist in such an undertaking.

The inspector's report has been most helpful to me with his analysis of some people's behaviour on the day. The Kumara Race Day has traditionally been a big drinking day and we all need to accept that such an approach is no longer acceptable. The Act is clear as to its objective and the Westland District Licensing Committee and the agencies that report on applications have a strong legislative mandate to ensure that the folklore days of extreme consumption do not occur. The intoxication incidents referred to in the Inspector's report that came out of the last race day are simply not acceptable and the Club needs to accept that fact or get out of the alcohol game.

The incident referred to in the Inspector's report of a young man seated on a chair on the part of the Course adjoining State Highway 73 spewing his little heart out is perhaps mildly amusing to his mates but has no place on premises that are covered by an On-licence. The Kumara Racing Club has a tough role to play in ending the excesses of previous years and changing the culture of the Race Day behaviour. It matters not that the alcohol is brought to the Racecourse by individuals or if it is sold at the bar on the day by virtue of the authority conferred by the holding of an On-licence; the club is responsible for the safe sale, supply and consumption of alcohol on the premises. This leads me to the recommendation made by the Medical Officer of Health that the On-licence renewal include a condition that there be at least three qualified General Managers on duty on Race Day. I have two problems with this approach. Firstly, the matter is being dealt with on the papers on the basis that no party has any opposition to the application. I am not of the view that conditions should be attached to a licence where an applicant has no ability to be part of the consideration as to the efficacy of a measure. Such a condition should be tested by cross examination and the applicant does not have this ability with a decision being made on the papers. The Medical Officer of Health knows or should know that where an application is being dealt with on the basis of no opposition then an on-the-papers decision is made. If particular matters are of concern, then opposition should be registered so that a hearing can be held with all parties in attendance so that progress can be made with proper consideration and careful testing of ideas and approaches by all the parties together. My second problem with adopting the recommendation is one of efficacy; who is to say that three managers is the optimum number? Maybe one is satisfactory but maybe five would be best. This is a matter to be decided by the Club in its capacity of Licence-holder. It is not necessarily a matter of how many managers are available on the day but how many staff are available to assist a manager in their duties. It is quite appropriate for staff to act on the instructions of a manager. If a manager becomes aware of any issues relating to the safe and responsible sale, supply and consumption of alcohol then a staff member could deal with the issue on instruction. This is a procedure that would comfortably fit into a Host Responsibility Policy and the Club can tailor its procedures as it wants to and needs to.

I refer to the report of the Inspector who has detailed the events around a group of people with their own alcohol who were clearly intoxicated. It seems to me that there was a reluctance of the duty Manager and/or Club officials to intervene. This aspect is worrying because the On-licence holder is responsible for all the consumption, sale and supply of alcohol on the Racecourse. This is also a matter that could be readily dealt with in a properly thought-out Host responsibility Policy. As an aside, it may be that the time has come for

the Club to seriously consider if BYO drinks have a place at the annual Race day. Maybe this is also a matter for the Club's consideration as it goes about the compilation of a Host Responsibility Policy. I can already hear the groans of committee members, but I would invite them to take professional advice. My expectation is that there will be a Host Responsibility Policy adopted very soon and that a tried and tested model will accompany the next renewal application.

Decision and Reasons

I am 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 **075-2021** and I direct that renewed on-licence 56/ON/016/2018 be issued pursuant to s.64 of the Act when condition (c) below has been complied with.

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:

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| On the annual race day | 10.00am to 7.00pm the same day. |
| Monday to Sunday | 9.00am to 12.00 midnight the same day (excluding the annual race day). |

- (b) 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.
- (c) The extent of the licensed area and the designations are to be delineated on a plan to be lodged with the District Licensing Committee Secretary within 10 days of the release of this decision.
- (d) the following steps must be taken to promote the responsible consumption of alcohol:
- (i) The Principal Entrance is to be described as "The entrance on the northern wall of the grandstand".
 - (ii) Pursuant to section 110(2)(c) of the Act, drinking water shall be freely available to all customers at the café and at the bar at all times that the licence is being exercised.
 - (iii) Each of the following parts of the premises are designated as:
 - (i) Restricted Area: The bar under the Grandstand (Kumara Race Day)
 - (ii) Restricted area: The fenced area adjacent to the Birdcage (Kumara Race Day)
 - (iii) Supervised Area: The Bar under the Grandstand (all other days)

Dated at Hokitika this 4 day of July 2021



Chairman Westland District Licensing Committee

