

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

AND

IN THE MATTER of an application for the renewal of a Club licence pursuant to s. 127 in respect of premises situated at 42 Hamilton Street, Hokitika and known as the Hokitika Club Incorporated by Hokitika Club Incorporated.

AND

IN THE MATTER of an application for the renewal of an **Off-licence** pursuant to s. 127 in respect of the same premises situated at 42 Hamilton Street, Hokitika and known as the Hokitika Club Incorporated by Hokitika Club Incorporated.

DECISION OF THE WESTLAND DISTRICT LICENSING COMMITTEE ON UNCONTESTED APPLICATIONS

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.

The applications:

The two applications are made separately and form two complete files. As a matter of expediency, a single decision is being made in respect of the two applications.

Summary of Evidence

The complete files have been made available to me.

The applications are well documented and are accompanied by a host Responsibility Policy.

A report from the Inspector concludes that the applicant is currently operating in compliance with the Sale and Supply of Alcohol Act 2012.

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

The Medical Officer of Health has no opposition to the renewal of the applications.

Evaluation of Evidence

I have considered the applications on the basis of the uncontested reports received. The matter is able to be dealt with on the papers.

The applicant has not requested any changes to existing conditions.

I have not identified any Designation issues to deal with outside that which exists. The designation of the casino area will continue to be a restricted one.

I have not identified any amenity and good order issues to be addressed.

The Club's Host Responsibility Policy is adequate, clear and appropriate.

The application for the Club Licence renewal includes a document that addresses reciprocal visiting rights. This is an important issue for the applicant as there is a specific requirement of the Act that relating to Sale to members only.

60 Sale and supply in clubs to members and guests only

(1) The holder of a club licence must ensure that no alcohol is sold or supplied to any person for consumption on the premises unless the person is—

(a) an authorised customer; or

(b) if the licence issued subject to a condition allowing alcohol to be sold or supplied to people of that kind, a person who is on the premises at the invitation of an authorised visitor who is also on the premises.

(2) If a club licence and an off-licence are held for the same premises, the holder must ensure that no alcohol is sold or supplied to any person for consumption off the premises unless the person is an authorised customer.

The Act goes further to define an authorised customer and an authorised visitor.

The restriction of sales at the Club to authorised customers and authorised visitors has not been subject to conditions previously as the Club took some time to determine who reciprocal visiting rights would be granted to. The Club has now advised that reciprocal visiting rights apply to "All Clubs NZ affiliate Clubs" and the "Westland Community Centre Incorporated". I am not at all clear what this means. "All Clubs NZ affiliate Clubs" is a vague phrase that seems to indicate that reciprocal visiting rights are available to every member of every club in New Zealand. This could include every rugby Club and every bowls Club along with Chartered and Cosmopolitan Clubs and RSA Clubs that hold Club Licenses. The Westland Community Center Incorporated is, I presume, listed to allow the WCCI monthly fundraising quiz participants to use the bar facilities at Hokitika Club Incorporated. I do not know how many members the WCCI has; it could be significant or may be only a few, but whatever it is it seems to me that Hokitika Club Incorporated is simply finding a way around the requirement that patrons are to be restricted to authorised customers and authorised visitors. I am all for an innovative approach to the question of reciprocal visiting rights but the approach taken by the applicant is, in my view, so broad so as to bring the statute into disrepute. The Sale and Supply of Alcohol Act 2012 treats clubs very differently to entities that hold on-licenses. Clubs are groups of like-minded individuals who meet together with a common purpose and there are significant tax advantages in operating a Club which can be reflected in the prices paid for alcoholic drinks. It seems to me that Hokitika Club Incorporated is wanting the advantages of a Club but acting as if it holds an On - licence. I think that the applicant Club needs to be somewhat more specific as to who can visit and enjoy the financial advantages of the Club. I have chosen to not include a condition relating to reciprocal visiting which means that the Club may not supply alcohol to any person who is not a member. When the Club is able to take the issue of authorised Visitors seriously it can apply for a variation to its licence conditions. In the meantime, Section 60 of the Act is absolute in that alcohol must not be sold or supplied to any person other than authorised customers or authorised visitors. The Off-licence is a different matter and regardless of affiliate issues no off sales may be made to any person other than members. I am surprised that tri-agency reports have not identified this matter for comment.

Decision and Reasons

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

The applications are granted on the papers pursuant to s.202 (1) of the Act as Decision Numbers **066 and 067-2022** and I direct that renewed Club-licence 56/CLUB/050/2019 and renewed Off-Licence 56/OFF/030/2019 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:

Club Licence:

- (a) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday from 9.00AM to 1.30AM the following 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 or Christmas Day to any person who is not—
 - (i) residing or lodging on the premises; or
 - (ii) present on the premises to dine.
- (c) the following steps must be taken to promote the responsible consumption of alcohol:
 - (i) There shall be food available, similar to that described in the menu which accompanied the renewal application dated 19 March 2019, at all times that the premises are being used for the sale and supply of alcohol.
 - (ii) There shall be at all times a Host Responsibility Policy similar to that which accompanied the renewal application dated 3 February 2022.
- (d) The Principal Entrance is to be described as “The entrance on the southern side of the building leading from Hamilton Street”.
- (e) 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.
- (f) The extent of the Licensed premises shall be that area shown on two plans accompanying the application dated 3 February 2022.
- (g) The casino area of the premises is designated as a restricted area.

Off-Licence:

- (a) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday from 9.00AM to 10.00PM the same day.
- (b) No alcohol is to be sold on or delivered from the premises on Good Friday, Easter Sunday, Christmas Day or before 1.00pm on ANZAC Day

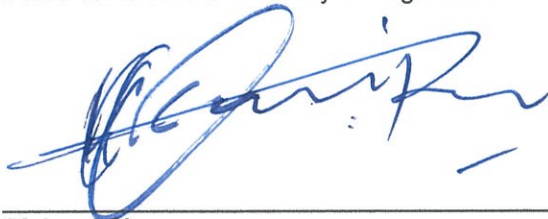
- (c) While alcohol is being supplied free as a sample, drinking water shall be freely available at any tasting location.
- (d) The Principal Entrance is to be described as "The entrance on the southern side of the building leading from Hamilton Street".
- (e) There shall be at all times a Host Responsibility Policy similar to that which accompanied the renewal application dated 3 February 2022.
- (f) The extent of the Licensed premises shall be that area shown on two plans accompanying the application dated 3 February 2022.
- (g) The casino area of the premises is designated as a restricted area.

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 licenses, the licenses 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 18 day of August 2022



Richard Simpson
Chairman, Westland District Licensing Committee

