

**Decision Number: 19/020/2015**

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

**AND**

**IN THE MATTER** of an application by **Aria Cosmopolitan Club Incorporated** pursuant to s.100 of the Act for an Off Licence and Club Licence Renewal

**BEFORE THE WAITOMO DISTRICT LICENSING COMMITTEE**

Chairperson: Diane Sharpe

**MEETING** at Te Awamutu / Cambridge on the 16<sup>th</sup> day of October 2015

**INTRODUCTION**

The Waitomo District Licensing Committee has before it an application by **Aria Cosmopolitan Club Incorporated** pursuant to section 100 of the Act for an **Off Licence and Club Licence Renewal**.

Reports have been received from the Police, Medical Officer of Health and a Licensing Inspector. The application has been publically notified in accordance with the Act.

There are no objections to this application by reporting agencies or the public in respect to this application, and it is therefore determined on the papers by the Chairperson alone in accordance with section 191(2) of the Act.

**THE APPLICATION:**

Applications for the renewal of club licence number 019/CL/6/2003 and off licence number 019/OFF/3/2003 was received by the Waitomo District Licensing Committee on 3 August 2015 pursuant to section 127 of the Sale and Supply of Alcohol Act 2012.

The applications were on time, and in the correct form as detailed by section 127 of the Act, and was accompanied by the correct fee. The applications include a statement in regard to fire safety and evacuation schemes as required by section 127(e).

The off licence is eligible to be renewed as it meets the criteria detailed in section 125.

The applications were publicly notified in the Waitomo News on 6 August 2015. The applicant has since requested a change to the alcohol trading hours for the off licence (from 11.00pm to 10.00pm as the latest trading time) so as to avoid the extra fees for a medium risk fees category that an 11.00pm latest trading time incurs. The general rule is that if an incorrect notice is not misleading, then it can be accepted subject to a waiver.

A waiver pursuant to section 208 is therefore required.

***"Section 208 Licensing authority or licensing committee may waive certain omissions***

*Where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by this Act, the licensing authority or (as the case may require) the licensing committee or the chairperson, if satisfied that the neglect or omission was not wilful, may waive the same on such terms as they think equitable."*

  
Waitomo District  
**licensing committee**



## **DECISIONS AND REASONS**

The criteria to which this committee must have regard are detailed in section 105 of the Act.

### **"105 Criteria for issue of licences**

*(1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*

- (a) the object of this Act:*
- (b) the suitability of the applicant:*
- (c) any relevant local alcohol policy:*
- (d) the days on which and the hours during which the applicant proposes to sell alcohol:*
- (e) the design and layout of any proposed premises:*
- (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:*
- (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:*
- (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:*
- (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—*
  - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but*
  - (ii) it is nevertheless desirable not to issue any further licences:*
- (j) whether the applicant has appropriate systems, staff, and training to comply with the law:*
- (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.*

*(2) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence"*

## **SUITABILITY OF THE APPLICANT**

Club Secretary: Joanne Taitoko  
President: Darryl Tucker

There are no matters of concern with respect to the club officials.

## **LOCAL ALCOHOL POLICY**

The provisional Local Alcohol Policy has yet to be adopted by Waitomo District Council. As an application for renewal of a club licence with hours proposed Monday to Sunday from 10.00am until 2.00am the following day it is unlikely to comply were the policy in force. The draft policy states: No club-licence shall be issued or renewed that exceed the following:

*"Monday to Sunday 9:00am to 1:00am the following day (subject to section 46 of the Act)."*

As an application for an off-licence with hours of 10.00am to 10.00pm were the policy in force it is likely to comply were the policy in force. The draft policy states: No off-licence shall be issued or renewed with trading hours that exceed the following:

*"Monday to Sunday 7.00am to 10.00pm (subject to section 48)."*

### **DAYS AND HOURS**

The applicant proposes no changes to the hours of Monday to Sunday 10.00am to 2.00am the following day for the club licence.

The applicant proposes a change to the hours of Monday to Sunday 10.00am to 10.00pm for the off licence. Previously the hours of operation were Monday to Sunday 10.00am to 2.00am the following day.

### **DESIGN AND LAYOUT OF THE PREMISE**

The premises are located on the site at Kie Kie Street, RD 1, Aria. The premises are formed from a large room with seating and a bar area, an outdoor garden area and associated covered smokers area, as illustrated in the plans provided with the original licence application. There are no proposed changes.

### **SALE OF GOODS AND SERVICES OTHER THAN THOSE RELATED TO ALCOHOL**

There are no other goods sold or services provided.

### **REDUCTION OF AMENITY AND GOOD ORDER**

There are sensitive sites within 500 metres of the premises namely one school and one play centre. Four residential dwellings are situated within 50 metres of the applicant's premises. The premises are, however, an established club, having operated at the site for many years. There have not been any issues regarding noise complaints or vandalism, attributed to the premises or from people using, or congregating around the premises. The club has a CCTV system which covers the smoker's area but not the remainder of the outdoor areas.

### **SYSTEMS, STAFF AND TRAINING**

The manager of the club has been employed at the club in this role for four years. The applicant has also provided evidence of the systems, staff and training of those staff that are in place to ensure compliance with the Act. These include membership of Clubs NZ and keeping up to date with legislative changes via their newsletters, use of intoxication assessment tool for bar staff, any new or unknown persons will have their identification checked. The club has a host responsibility policy. The club is also investigating the procurement of a courtesy van to transport patrons.

### **ISSUES RAISED BY REPORTING AGENCIES**

Police reports dated 14 August 2015 present no objections to the applications. Reports from the office of the Medical Officer of Health dated 26 August 2015 present no objections to the applications.

### **THE PUBLIC**

The application was duly advertised in accordance with the Act. No public objections were received.



## **CONCLUSION**

Being satisfied as to the matters to which the Committee must have regard in s.105 of the Act the application is granted. ***Both licences can be renewed and issued immediately for a three year period***, subject to the following conditions:

### **Club Licence conditions**

It is recommended that the **club licence** be renewed with the following standard conditions:

- a) Alcohol may only be sold, for consumption on the premises, to:  
Any member of the club; or  
Any person who is a guest of, and is accompanied by, a member of the club; or  
Any member of any other club with which the holder of the licence has an arrangement for reciprocal visiting rights for members of the clubs.
- b) Alcohol may be sold under the licence only on the following days and during the following hours:  
**Monday to Sunday 10.00am to 2.00am the following day**
- c) Food must be available for consumption on the premises as follows:
  - i. A range of food choices must be readily available at all times that the premises are open. Menus must be visible at the bar and food should be actively promoted. A minimum of four types of food should be available.
- d) The licensee must have available for consumption on the premises, at all times when alcohol may be sold under the licence, a reasonable range of non-alcoholic and low-alcohol beverages.
- e) Drinking water must be freely available at the following places while the premises are open for business: At the bar.
- f) The licensee must take the following steps to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
  - i. Display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons;
  - ii. Request evidence of age documents from any person appearing to be under the age of 25.
- g) The licensee must take the following steps to ensure that the provisions of the Act relating to the management of the premises are observed:
  - i. All staff will be trained in their responsibilities under the Act;
  - ii. A sign shall be prominently displayed inside the premises, which identifies by name the manager on duty.
- h) The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.
- i) The licensee to have a club secretary at all times.
- j) Within 10 working days of the appointment of a new club secretary, the licensee must inform the District Licensing Committee of the name of the new secretary.
- k) All proceeds from the sale of alcohol belong to the licensee.

## Off Licence conditions

It is recommended that the off licence be renewed with the following standard conditions:

- a) The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Subpart 7 of Part 2 of the Act.
- b) No alcohol is to be sold or delivered for consumption off the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.
- c) Alcohol may be sold or delivered only on the following days and during the following hours:  
**Monday to Sunday 10.00am to 10.00pm**
- d) Drinking water must be freely available in the following places to customers while alcohol is being supplied free as a sample on the premises: **At all points of supply**
- e) The licences premises are those detailed in plans date stamped as received by the District Licensing Committee on 28 April 2014.
- f) The following steps must be taken to ensure that the provisions of the Act relating to the sales of alcohol to prohibited persons are observed:
  - i. Signage shall be installed advising that minors and intoxicated persons shall not be served;
  - ii. The applicants host responsibility policy shall be displayed on the premises.
- g) There is no advertising of alcohol on the windows of the premises.
- h) There will be no 'single serve' off sales e.g. individual 'stubbies' or 'RTD' products in one or less than one standard drink portions sold for off the premises consumption.
- i) All off licence sales will be packaged in sealed bags or by similar method.
- j) No party pills, psychoactive substances or any similar substances will be sold from the premises.
- k) The lighting and surveillance equipment installed on the premises must be kept and maintained in good working condition at all times.
- l) The holder of an on-licence or off-licence or a club-licence must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, is displayed:
  - i. attached to the inside of the premises concerned; and
  - ii. so as to be easily read by people entering each principal entrance.

**DATED** at Te Awamutu / Cambridge this 16<sup>th</sup> day of October 2015



Diane Sharpe  
**Chairperson**  
**Waitomo District Licensing Committee**



Waitomo District  
**licensing committee**

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