

Application	SP1218
<u>IN THE MATTER</u>	of the Sale and Supply of Alcohol Act 2012
<u>AND</u>	
<u>IN THE MATTER</u>	of an application by New Zealand Shearing Championships Inc for a special licence pursuant to section 138 of the Act

HEARING at the Te Awamutu Fire Station Hall on 10 March 2017

WAITOMO DISTRICT LICENSING COMMITTEE

Chairperson: Ms S Brown
Members: Ms P Davies, Mr R Murphy

APPEARANCES

Mr P Lange - President New Zealand Shearing Championships Inc - Applicant
Mrs J Barnett - Applicant
Mrs S Hoare - Applicant
Mr K Tutty - Licensing Inspector - to assist
Miss N Petersen - Medical Officer of Health - to assist

DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE

1. The application for a special licence is granted. The special licence may issue immediately.
2. New Zealand Shearing Championships Inc is authorised to sell and supply alcohol, on the premises situated at the Les Munro Centre, King Street East, Te Kuiti to any person attending the New Zealand Shearing Championships.
3. This licence is subject to the following conditions:
 - (a) A copy of this licence with all the conditions must be displayed in a prominent place so all persons can read it and all staff must be familiar with the conditions.
 - (b) Alcohol may be sold under the licence only on the following days and during the following hours:

Friday 31 March 2017, from 5.30pm to 11.00pm
Saturday 1 April 2017, from 6.30pm to 2.00am the following day

- (c) Alcohol may be sold or supplied to people present participating in the event for which this licence is issued.
- (d) The licensee must comply with the Alcohol Management Plan dated 14 March 2017 and must ensure all staff receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.
- (e) The area where alcohol is to be sold and consumed is described in the plan date stamped as received by the Waitomo District Licensing Committee on 17 March 2017 and no alcohol is to be taken out of this area.
- (f) A one-way door policy applies at the conclusion of the prize-giving. Patrons who leave after the prize-giving will not be readmitted unless they have a pass issued by security.
- (g) The holder of a manager's certificate or a properly notified manager shall be on duty and on the premises at all times alcohol is sold.
- (h) There must be no sale or supply of alcohol to minors or intoxicated persons and there must be appropriate signs detailing these restrictions displayed at every point of sale.
- (i) Drinking water must be freely available from the bar and the six water cooler dispensers as marked on the plan dated 17 March 2017. The availability of water must be clear to customers while the premises is open for the sale and supply of alcohol.
- (j) Food must be available for consumption on the premises at all times the premises is open for the sale of alcohol. A minimum of four types of food choice must be available at all times. The choices do not include nuts, crisps and the like. Menus and the availability of food must be clear to customers and food needs to be actively promoted.
- (k) A range of low-alcohol and non-alcoholic drinks must be available at all times that the premises is open for the sale of alcohol.
- (l) Two courtesy vans are to be provided to transport patrons home from the venue and the availability of the courtesy vans is to be actively promoted by public announcements throughout the evening.
- (m) The entire premises is undesignated (persons under 18 are permitted at the venue).

REASONS

1. This is an application by New Zealand Shearing Championships Inc for a special licence for the New Zealand Shearing Championships to be held at the Les Munro Centre, Te Kuiti on Friday 31 March and Saturday 1 April 2017. This application was received more than 20 working days prior to the event as required by section 137 of the Act.

2. The Licensing Inspector, Police and Medical Officer of Health have no objection to this application for a special licence (s 141). However, the licensed hours sought for Saturday 1 April, are beyond the maximum closing time of 1.00am specified in the Waitomo District Council Local Alcohol Policy (LAP). This is the first application for a special licence that extends beyond 1.00am that has come before the Waitomo District Licensing Committee. It requires a determination of what constitutes exceptional circumstances. The licensing committee considers that given the importance of the decision, it is appropriate to decide the application at a public hearing.

3. The purpose of the Sale and Supply of Alcohol Act 2012 (the Act) is to put in place a new system of control over the sale and supply of alcohol (s 3). The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly and the harm caused by excessive or inappropriate consumption of alcohol is minimised (s 4).

4. In deciding whether to grant a special licence, the District Licensing Committee must have regard to the criteria in s 142 of the Act. Therefore this committee must have regard the following questions within the framework of the purpose and object of the Act:
 - a) What is the nature of the event? Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
 - b) Is the applicant suitable?
 - c) Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of the licence?
 - d) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
 - e) Is the design and layout of the premises suitable? Are any areas of the premises designated restricted or supervised areas?
 - f) Does the applicant have appropriate systems, staff and training to comply with the law? What steps will the applicant take to ensure that alcohol is not sold to prohibited persons?
 - g) What proposals does the applicant have in relation to the sale and supply of non-alcoholic drinks and food, low-alcohol drinks and the provision of help with or information about alternative forms of transport from the premises?
 - h) Have the Inspector, Police and Medical Officer of Health raised any relevant considerations?
 - i) Does the application comply with the Waitomo District Local Alcohol Policy?

5. The licensing committee may refuse a special licence even if there is no objection to the application (s 144). Sections 146 – 149 of the Act outline the compulsory and discretionary conditions for a special licence.

6. This event has a track record for being well managed and the licensing committee does not have any concerns about the suitability of New Zealand Shearing Championships Inc to run the event in a safe and responsible manner that minimises alcohol related harm. In addition, there are no concerns regarding a negative impact on the local community. However, the issue that needs to be determined is whether there are exceptional circumstances that would justify extending the maximum trading hours beyond 1.00am.

Are there exceptional circumstances that would justify extending the maximum trading hours beyond 1.00am?

7. The LAP came into force on 1 June 2016. Clause 6(b)(i) states:

Special licences for premises that are not otherwise licensed will not be issued beyond 1.00am except in exceptional circumstances as determined by the District Licensing Committee.

8. Section 142(1)(d) of the Act states that when deciding whether to issue a special licence the DLC must have regard to any relevant local alcohol policy. It is a well-established legal principle that the expression 'have regard to' requires the decision maker *to give genuine attention and thought to the required matters* (Christchurch Medical Officer of Health v J & G Vaudrey Ltd [2015] NZHC 2749).
9. The Sale and Supply of Alcohol Act 2012 gives local communities the power to formulate a local alcohol policy to meet their specific requirements. Clause 1.0(1)(v) of the LAP states that it is intended to *set a clear framework which will be applied to all applications for on, off, club and special licences ... within the Waitomo District*. The objective of the LAP is to *balance the reasonable needs of the residents of Waitomo District regarding the sale, supply and consumption of alcohol, while addressing the statutory requirements of the Sale and Supply of Alcohol Act 2012, including the object of the Act to minimise the harm caused by excessive or inappropriate consumption of alcohol* (clause 2.0).
10. The licensing committee considers that the clause 6(b)(i) of the LAP gives the licensing committee the jurisdiction to consider what might constitute "exceptional circumstances" on a case by case basis.
11. The LAP does not define exceptional circumstances.
12. The Licensing Inspector Mr Tutty, who is also the delegated secretary of the Waipa DLC under a shared services agreement, gave some useful insight to the development of the LAP. Due to the shared service agreement, the same base document became the template for the Waipa, Otorohanga and Waitomo LAP's. As a result, the three LAP's contain a high level of consistency and commonality, despite having separate consultation and hearings processes. Mr Tutty reports that the public consultation process was over-shadowed by off-licence issues, with no submissions or amendments recommended to the special licence clauses.
13. Mr Tutty provided evidence of his handwritten notes which he said were made at the start of the LAP process. These notes record the special licences issues that staff discussed. However, the licensing committee is unable to place any weight on these notes; as the details regarding the time, date and context in which they were made are not certain. As such, the licensing committee does not consider that they assist with the matter at hand.
14. Mr Tutty submits that the DLC must assess whether the circumstances around the event are "exceptional" in their own right, and in the context of the Waitomo District. The licensing committee agrees with this approach. We must also be assured that alcohol related harm will be mitigated.
15. Exceptional is defined as an adjective meaning: *forming an exception, or rare instance; unusual; extraordinary* (www.dictionary.com).

16. Turning our mind to the NZ Shearing Championships, Mrs Hoare gave evidence that the competition is a one of a kind, annual, national event in the Waitomo District, and is held over a period of three days. It is very significant for Te Kuiti and for New Zealand. Local and international competitors attend, and it is the supreme event of this kind for competitors who have qualified to enter from other competitions throughout the year.
17. Mrs Barnett gave evidence that the event has always been run to 2.00am and this has worked well in the past. Competitions on the Saturday start at 8.30am and the last event starts at around 9.30pm. The bar does not open on the Saturday until 6.30pm and it closes for the entire duration of the prize giving from approximately, 9.30pm to 10.30pm/11.00pm. The bar closes at this time to encourage the approximately 2000 guests to be quiet during the prize giving. When the prize giving finishes, children are taken home and there is a period of socialising and entertainment. A one-way door operates after the prize giving has ended and if people leave they can only come back in if they have a special pass from security. Competitors shower and change and then socialise. Winners are expected to give their time to the sponsors and the organising committee is focused on securing the sponsors support for the next year. About 200 people are still at the event between 1.00am and 2.00am and the bar usually closes at about 1.00am.
18. In the period between 1.00am and 2.00am the committee is focused on getting the remaining patrons home safely in one of the two courtesy vans and allowing the socialising to wind down. In summary, it is the submission of New Zealand Shearing Championships Inc, that the time between the end of prize-giving and the end of the event at 2.00am is important socialising time for the end of a busy year of competitions and is a welcome catch up for competitors, sponsors and organisers. It is also an important time for ensuring patrons leave the venue with safe transport home.
19. Having regard to all of the submissions made, the licensing committee is of the view that the circumstances of the New Zealand Shearing Championships are exceptional. This is predominantly because the competition is of local and national significance, and this is what sets it apart from other types of special licence event in the community such as a birthday celebration or sports club prize-giving. In addition, on the Saturday the event runs for long hours and this by necessity pushes the start of the socialising time to late in the evening at around 11.00pm. The licensing committee accepts the submission that due to the importance of the event for the competitors, sponsors and the local community, the time between 11.00pm and 2.00am is valuable and should not be shortened.
20. The licensing committee is satisfied that making an exception to extend the event to 2.00am will not increase alcohol related harm. This is because the event is well organised and a considerable amount of thought has been put into ensuring the event complies with the Act. In addition, the Medical Officer of Health raised the concern that if the event were to end at 1.00am, there is a risk that patrons will migrate to the only tavern in town, the Muster Bar that is a short distance away, and is open until 2.00am. The event organisers agree with this concern. The licensing committee accepts that these are real concerns and agrees that it is preferable for patrons to remain at the venue where there are good controls in place.
21. In terms of ensuring that the organisers takes appropriate steps to mitigate alcohol related harm, the licensing committee made some suggestions to the New Zealand Shearing Championships Inc regarding adding more detail into the Alcohol Management Plan (AMP) and amending the site plan. The licensing committee was concerned that the proposed supervised designation in the main area and undesignated area in the large entrance foyer and back stage would be difficult to monitor. After some discussion, the Licensing Inspector and Medical Officer of Health agreed that given that some of the competitors are minors, it

is appropriate that the whole premises be undesignated. The licensing committee agrees with this suggestion and an amended plan has been provided with the designation changed.

22. New Zealand Shearing Championships Inc has supplied an amended AMP that now covers; the one-way door policy, the time the bar will close and details about the pre-event meeting that will take place between event organisers, security staff and the Duty Managers to ensure everyone is familiar with the AMP.

Conclusion

23. The licensing committee is satisfied that the grant of the special licence with the appropriate conditions will ensure the safe and responsible supply of alcohol and the minimisation of harm caused by excessive or inappropriate use of alcohol. Therefore, the application for a special licence is granted.

Dated this 20th day of March 2017



Sara Brown
Commissioner
Waitomo District Licensing Committee