

LICENSING COMMITTEE

Application	018-0173
<u>IN THE MATTER</u>	the Sale and Supply of Alcohol Act 2012
<u>AND</u>	of an application by
<u>IN THE MATTER</u>	Otorohanga Club Incorporated for a special licence pursuant to section 138 of the Act

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The application for a special licence is granted. The special licence may issue immediately.
2. Otorohanga Club Incorporated is authorised to sell and supply alcohol, on the premises situated at 107 Maniapoto Street, Otorohanga to any person attending the 21st Birthday Dinner for Josey or the Pig Dinner.
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:

21st Birthday Dinner for Josey
Saturday 29 June 2019, from 7.00pm to 11.30pm

Year of the Pig Dinner
Saturday 13 July 2019, from 5.30pm to 11.30pm
 - (c) Alcohol may be sold or supplied to people present participating in the event this licence is issued for.
 - (d) The area where alcohol is to be sold and consumed is described in the plan date stamped as received by the Otorohanga District Licensing Committee on 23 May 2019 and no alcohol is to be taken out of this area.
 - (e) 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.
 - (f) There must be no sale or supply of alcohol to minors or intoxicated persons and there must be appropriate signs detailing these restrictions at every point of sale.

- (g) Drinking water must be freely available from the bar and this must be clear to customers while the premises is open for the sale and supply of alcohol.
- (h) Food must be available for consumption on the premises at all times the premises is open for the sale of alcohol in accordance with the menu submitted with the application for this licence, or variations of a similar range and standard. Menus and the availability of food should be clear to customers and food should be actively promoted.
- (i) A range of low-alcohol and non-alcoholic drinks must be available at all times when the premises is open for the sale of alcohol.
- (j) A telephone must be freely available for customers to call for transport and staff must assist if required. Telephone numbers for alternative forms of transport and the availability of a courtesy vehicle, must be displayed and promoted.
- (k) The entire premises is undesignated.

REASONS

The application

1. This is an application by Otorohanga Club Incorporated for a special licence for three events to be held at their premises. This application was received more than 20 working days prior to the event as required by section 137 of the Act.
2. The application was filed on 23 May 2019 and originally included three events; the Annual Farmers Meet and Greet Expo (26 June 2019), a 21st Birthday Party (29 June 2019) and a Year of the Pig Dinner with a band (13 July 2019). The Licensing Inspector took the view that under section 137 these three events did not constitute an event, because the first event was “not relatable to the other two events”. The first event was promoted as a meet and greet with stands and stalls and there would be no entertainment. Therefore, on the Licensing Inspector’s recommendation, the Otorohanga Club Incorporated withdrew the Annual Farmers Meet and Greet Expo from the application and filed a separate application for that event. This application now includes two events; a 21st Birthday Party and a Year of the Pig Dinner with a band.
3. The Licensing Committee agrees that when the application was first filed, the three events did not meet the definition of an event, because they were not a succession of related events.
4. Section 22(2) provides that an on-site special licence permits the licensee to *sell and supply alcohol, for consumption there, to people attending an event described in it*. An event is described in section 5 as *an occasion and a gathering, and any of a series of events*.
5. Section 142(1)(b) requires the licensing committee to consider the nature of the event for which the licence is sought.
6. There is no substantive difference between the definition of an event under the Sale and Supply of Alcohol Act 2012 and the former Sale of Liquor Act 1989, therefore we can rely on case law developed under the previous Act.
7. The Licensing Authority has considered the meaning of a series of events and has found that the occasions or events need to be related. In *Invercargill Workingmen’s Club* LLA PH50/02 at [71] the Licensing Authority considered the Collins Concise Dictionary definition of a series as “... a group or

succession of related things of which each is similar to the preceding”, to be a useful definition.

8. Taking this definition into consideration, the licensing committee considers that if a special licence application is for more than one day, the events must be similar in nature. In addition, the number of people attending, types of people attending and location must be the same. For example, a series of events may include a three day home show, a series of race meetings, a series of monthly service club meetings or a series of theatre productions. In addition, two 21st birthday parties, with similar numbers and types of people attending, and the same type of entertainment could also meet the definition of a series of events under 5 & 22(2).
9. When considering the three events listed in the original application the licensing committee considers that a separate application should have been filed for each event. The 21st birthday is a private family orientated celebration. Whereas, the Year of the Pig Dinner (organised by the Club in conjunction with a local restaurant), appears to be a themed dinner with a band, that is open to the general public. It appears to be an event that could attract much larger numbers than the private 21st birthday event. The original application indicated that the maximum numbers attending these events would be 250, however the numbers expected for each individual event is not specified.
10. In this instance, the licensing committee is prepared to grant this application for the 21st birthday party and the Year of the Pig dinner, because it would be unfair to decline it at this late stage. Especially given that an indication has already been given by the Licensing Inspector that the amended application (with the Exhibition Event removed) would be acceptable. In addition, the licence can be safely granted with the same set of conditions.
11. However, in the future if the application is for more than one day, the licensing committee will need to be satisfied that the events are similar in nature and that the number of people attending, types of people attending, and location are the same.

The reports

12. The Liquor Licensing Inspector, Police and Medical Officer of Health have no objection to this application for a special licence (s 141). Accordingly, this application is decided on the papers (s 202).

The law

13. 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).
14. 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 consider 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 Otorohanga District Local Alcohol Policy?

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

Should a special licence be granted?

16. The licensing committee is satisfied that Otorohanga Club Incorporated is a suitable applicant to hold a special licence. The club currently holds a club licence and has demonstrated compliance with the Sale and Supply of Alcohol Act 2012. The issue of a special licence for these events will allow the applicant to sell alcohol to non-members of the club attending the event. A Duty Manager will be present on the premises for the duration of each event to ensure compliance with the Act. The licensing committee is satisfied that proposed hours are reasonable, and that the application complies with the Otorohanga District Local Alcohol Policy.
17. The licensing committee is satisfied that suitable measures will be taken to ensure that alcohol is sold and supplied responsibly, and that harm caused by inappropriate or excessive consumption of alcohol is minimised.
18. Given the nature of the events and the venue it is not likely that the issue of the special licence will adversely affect neighbouring properties.
19. The licensing committee is satisfied that the design and layout of the premises is suitable given the temporary nature of the licence. The applicant will provide sufficient food, low-alcohol and non-alcoholic refreshments. Free water will be provided.
20. The licensing committee is satisfied that the applicant will provide information about alternative forms of transport including the availability of a courtesy van.

Conclusion

21. 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 at this 21st day of June 2019



Sara Grayson
Commissioner
Otorohanga District Licensing Committee