

DECISION FOR SPECIAL LICENCE

Licence Number: SP15114

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

AND

IN THE MATTER of an application by the **Great Open Ladies Fund** for a Special Licence pursuant to section 138 of the Act in respect of the Central Otago Trotting Club meeting to be held at the Omakau racecourse on 2 January 2016.

BEFORE THE CENTRAL OTAGO DISTRICT LICENSING COMMITTEE

Robert B McNeil (Chairman)
Neil Gillespie
Dr Michael MacAvoy

HEARING at Alexandra on 2 December 2015

APPEARANCES

Graham Sinnamon – representing applicant
Vivienne Ferguson – in support of applicant
Carolyn Brown - applicant
Bill Bain – President Roxburgh Trotting Club - in support of applicant
John Hamilton – Past President Central Otago Trotting Club - in support of applicant
Sergeant Derek Ealson – NZ Police – in opposition
Ray Applegarth – Licensing Inspector CODC – to assist the committee

DECISION

Background

This application is sought to allow the sale and supply of alcohol from the on-course bars at the Omakau Race Course and allow consumption of alcohol within those bars during an event organised by the Central Otago Trotting Club on the 2nd January 2016. As the licence is limited to the bar areas noted in the application, the event organisers are allowing BYO alcohol within the balance of the racecourse area.

NZ Police are concerned that by allowing a mix of on-site sales and BYO there will not be adequate measures in place to meet the object of the Act or the criteria specified in section 142 of the Act. As a result a report opposing the application has been received from the NZ Police.

The Applicants Submission

Mr Sinnamon tabled a number of letters of support from the community, other organizations and agencies as follows:

Centennial Health – Karla Stiles, Practice Manager
Harness Racing NZ
Invercargill Harness Racing Club – Peter Kett, Vice President
Winton Harness Racing Club Inc – Neville Skinner – President
Wyndham Harness Racing Club – Greg Hunter, President

Gore Harness Racing Club Inc – Kenny Baynes, President
Roxburgh Trotting Club – WE Bain, President
Jimmy's Pies Ltd – Dennis Kirkpatrick, Managing Director
Roxburgh & Districts Lions Club – Noel Barrett, President
Roxburgh Volunteer Fire Brigade – David Rooney, Chief Fire Officer
A J Reed – ex NZ Police Officer
Lions Club of Alexandra Inc – Dave Ramsay, Secretary
Carolyn Brown, Omakau Lady Golfers
Upper Manuherikia Young Farmers – Ben Naylor, Treasurer

Also tabled:

- NZ Racing New Zealand Annual Conference 2015 documents
- Newspaper article "Women more at risk on race day"
- 2013/14 statistics and risk analysis
- Central Otago Trotting Club 2016 Budget

Mr Sinnamon noted that those race meetings that do not allow BYO had significant issues and cited events such as Cromwell Races; Wingatui Races; NZ Cup at Addington and Riccarton and the Invercargill Races.

Mr Sinnamon said he wanted to work productively with the Police and the Club had extended invitations to the Police to have discussions over any issues for the last 5 years. He stated that Omakau Races had an enviable record and that compulsory breath testing by the police as patrons departed had been in place since 2011. In that time there had not been a single incident of excess breath alcohol, nor had he any awareness of any alcohol related incidents in that time. Mr Sinnamon made comparisons to events where there was no BYO and suggested the incidents that occurred may be related to preloading. He quoted statistics from alcohol.org.nz including road deaths, failed breath tests and admissions to women refuge and reinforced that no such incident had occurred after the Omakau races.

Mr Sinnamon stated that the event had strong community support and that the race days had many positives including profits to volunteer community groups and sports club in excess of \$20,000. Mr Sinnamon contrasted the picnic style races to corporate events where in some cases the local pubs closed after the event to avoid having to deal with the intoxicated people. He gave an example of a fellow member of the Trotting Club who as a bus driver had witnessed recent examples of significant preloading on buses prior to corporate events and commented that on course alcohol prices may promote such behavior.

Mr Sinnamon explained that unlike clubs who make 80% of their profits from alcohol race meetings like Omakau were at risk financially. He said Omakau wanted to run a responsible event with positive outcomes for the community and sporting groups. He said they did not want a corporate model and also did not want a model with no licence at all, ie, total BYO. He gave an example of a recent BYO only event of the Southern Drag Racing Club at the Alexandra Airport where many alcohol related issues occurred.

Mr Sinnamon emphasised they wanted a family style event without pre-loading where one could picnic under the trees with friends and family. He urged the committee to consider the community views, referring to the letters of support tabled and said that anything that detrimentally affects race day detrimentally affects the finances of the community groups.

Mr Sinnamon drew the committee's attention to a letter from Centennial Health, the duty doctor on race day, who advised that only one person had presented throughout the day and that was for a non-alcohol related issue. He compared this to media

correspondence about alcohol related injuries at events such as Melbourne Cup Day at Wingatui.

Mr Sinnamon discussed the financial situation at the club stating that an event without BYO will result in a financial loss to the club and to the community groups because of family picnic groups who would not attend. He advised that the bar is managed by the golf ladies who are able to fund golf trips from the proceeds. Mr Sinnamon emphasised they do not want a BYO only event and that the Omakau Races had been running for many years without incident so there was no need to make changes.

When questioned by the committee Mr Sinnamon clarified that the ownership of the race course is 50% each by the Central Otago Trotting Club and Central Otago Racing Club. He confirmed the application covers all bars, ie, the members bar, the public bar and the presidents bar. In response to a question about how the committee will deal with any alcohol related incidents Mr Sinnamon stated that members are regularly in the crowd encouraging patrons to participate in activities, and whilst they don't anticipate any incidents, from previous experience of events they will have a presence and do their best to deal with any issues that may arise. They will also encourage a police presence on the day.

Licensing Inspector

The Licensing Inspector, Mr Applegarth, advised the committee that the proposed duty manager has 16 years' experience and was suitably qualified to manage this event. He suggested that as the bar would operate much like a hotel bar he recommended the bar area be designated a supervised area. Mr Applegarth noted the application was identical to the previous year and as no issues had been identified from the previous event he did not raise any matters in opposition to the issue of the special licence.

The Police Submission

Sergeant Ealson advised that Police work with community groups to achieve the purpose of the Act. He stated he wanted the entire area licensed to enable the area to be better managed. He advised that there is a consensus among Police that special licences should cover the entire area of an event to enable controls to be put in place to monitor, engage and deal with levels of intoxication. He emphasised that Police have no powers to deal with intoxication if the area is not covered under a licence and no ability to deal with issues unless an offence is being committed under other legislation. Sergeant Ealson referred to the Cromwell Races and the problems and issues at that event. When questioned Sergeant Ealson said he did not disagree that the events were not of a similar nature. He considered a BYO to be self-regulating and that such lack of control does not meet the object of the Act.

Sergeant Ealson tabled a written submission.

Discussions

Mr Sinnamon responded to questions about licensing the entire area stating they do not have the resource to run a bar to service the whole crowd, and he also felt that removing the BYO would encourage preloading.

When asked about the change in stance by Police on the event, Sergeant Ealson advised that the change was knowledge based, and that Police want to apply a consistent approach to all events. He confirmed there was no evidence of any crime or offences at this event in the past, but that Police had identified a risk and therefore opposed the application as a matter of course.

Mr Sinnamon noted that the larger corporate style race meetings were completely different to the Omakau event resulting in different behaviours. He also advised that the bar manager does not only manage the golf club bar but also works in hotels so she has more than adequate experience to run the bar.

Mr Applegarth clarified that the Sale and Supply of Alcohol Act does not prohibit BYO in a special licence area and suggested it would be appropriate to apply a condition to prevent BYO consumption in the bar area. He also reminded the committee that the draft LAP has no status. Mr Applegarth also pointed out that Police can use the Trespass Act to remove people from the area for any matter including intoxication if approval has been granted to them by the property owner or at the request of the owner.

Mr Sinnamon advised that the cost of security would be \$1,000/day for each security guard and because of the marginal nature of the event that was not affordable, and was only necessary in the area of the totalisator.

Sergeant Ealson commented that if the licence was granted the Police recommend the hours of operation should be more in line with the event.

The Medical Officer of Health (MOH) Report

The committee noted that the MOH did not oppose the application and took into consideration the matters raised in the MOH's report noting that the same issues have been addressed in the Police opposition and by Sergeant Ealson.

Reasons for Decision

The committee noted that there was no evidence of any issues occurring at past Omakau trotting club meetings and that there was no change to the format of this event from last year. The committee recognised the importance of the picnic day to the community and those attending the races, and also the financial benefits to the wider community of the event.

The committee recognised the financial situation of the club and accepted that they did not have the necessary infrastructure to run a bar for the entire crowd. It is noted that establishing the infrastructure and changing the format to exclude BYO and potentially reducing numbers attending the races could have a negative impact on the viability of the event.

The committee considered that in the absence of a licence over the entire area both the Police and the licensee could evict intoxicated people from the grounds under the Trespass Act. They considered the appropriate way to deal with this would be an agreement between the licensee and the Police prior to the event to trespass intoxicated people should that situation arise.

The committee considered that the Trotting Club committee should be taking all possible steps to ensure that responsible drinking occurred and that included preventing any alcohol consumption in the children's entertainment area or in sight of that area. This could be achieved by appropriate management and/or signage.

The committee noted the absence of any evidence of alcohol related harm at previous race meetings and concluded it would be helpful to understand better how the event runs. The committee therefore recommends the Police and the race committee have a debrief meeting following the event to discuss any issues arising. A report of the meeting is expected to accompany any future application for special licence for a race meeting for the information of the committee.

Decision

The District Licensing Committee being satisfied as to the matters to which it must have regard as set out in section 142 of the Act, approve the issue of a special licence to the Great Open Ladies Fund subject to the following conditions:

1. 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 refreshments low alcohol beverages.
2. Free drinking water must be visibly available and promoted with signage.
3. Alcohol may be sold under the licence only on the following days and during the following hours: **Saturday 2nd January 2016 from 12 noon until half an hour before the commencement of the last race.**
4. A range of substantial food shall be available at all times alcohol is available for sale.
5. A courtesy coach service shall be available and advertised accordingly.
6. A copy of the licence shall be prominently displayed within the licensed premises, as well as the name of the manager on duty, in accordance with the Act.
7. No BYO alcohol is permitted within the licensed area.
8. All drink containers are to be opened at the point of sale.
9. A limit of two beers or two wines or other alcohol is permitted to be sold in any one transaction.
10. No off-site sales are permitted.
11. All bars are designated as supervised areas.
12. The Duty Manager (Colleen Cockburn) must ensure compliance with the Alcohol Management Plan submitted with the application and must ensure all staff receives training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.

Dated at Alexandra this 4th day of December 2015.



Robert B McNeil
Chairman
Central Otago District Licensing Committee