

Decision to issue a Special Licence



Licence number: SP17134

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

AND

IN THE MATTER of an application by **Bikers Rights Organisation of NZ (Otago) Inc.** for a special licence pursuant to section 138 of the Act in respect of premises situated at 211 Fisher Lane, Galloway for the 2018 BRONZ Otago Vincent County Rally.

BEFORE THE CENTRAL OTAGO DISTRICT LICENSING COMMITTEE

Chairperson Robert B McNeil
Members Neil Gillespie
 Dr Michael MacAvoy

Hearing held at Alexandra on 19 December 2017

Appearances

Applicant representatives – Phil Scorringe, Colin Gillespie
NZ Police – Sergeant Derek Ealson
Medical Officer of Health representative – Stephanie Bekhuis-Pay
Licensing Inspector – Ray Applegarth

Background

An application has been received from **Bikers Rights Organisation of NZ (Otago) Inc.** for a special licence pursuant to section 138 of the Act in respect of premises situated at 211 Fisher Lane, Galloway for the 2018 BRONZ Otago Vincent County Rally. This is an annual event which has been held for the last 34 years and attracts a crowd of over 1200 people.

The Police opposed the application on the grounds that the hours during which the applicant proposes to sell alcohol did not meet the object of the Act, and there was insufficient evidence to establish that the applicant had appropriate systems, staff, and training to comply with the requirements of the Act. They also referred to two callout incidents that they responded to at the previous rally.

Submissions

The applicant

The applicant responded to the police notice of opposition:

- The police callouts last year were for matters which should have been dealt with by security officers. The first was a domestic issue, and the second was for a small scuffle between two males. The inexperienced security officers overreacted and overstated the issue when they called the Police.
- An inadequate Event Management Plan. A new Event Management Plan was tabled at the hearing in response to the concern that the original plan did not contain enough information and controls. The new plan proposes confiscation of BYO alcohol and the provision of certified security guards, including details of their duties.
- Uncertified Manager. The proposed manager has the right qualifications and experience and is considered to be the best person for the job. He does not hold a Manager's Certificate as he doesn't work in the industry but does have a Licence Controllers Qualification and host responsibility training.

NZ Police (opposition)

Sergeant Ealson read a statement prepared by Police Constable Andrea Magill who attended the event on 4 February 2017.

He commented that although the applicant had agreed to a 1 hour break from serving alcohol at the 2017 event this was not promoted by the applicant for the 2018 event. He stated that, the time period of 12 hours of continuous trading promotes a higher level of intoxication which even with the agreed break in trading last year, resulted in police receiving calls for service to the event due to intoxication.

He believed that requiring the de-pressurising of half of the four beers which could be purchased in any one transaction would assist in control of drinking. Police had concerns that allowing four beers to be purchased in unopened cans as promoted in the application would result in the stockpiling of drinks.

With respect to no certified manager being appointed for the event, he raised concerns as to who would be prosecuted in the event of things going wrong. Because of the numbers attending the event he considered that it should be identified as a large scale event.

Sergeant Ealson raised concerns regarding the potential for BYO alcohol at the event and he believed there were inadequate measures in place to counter this.

Medical Officer of Health (no opposition)

Stephanie Bekhuis-Pay read a submission from Lynette Grace on behalf of the Southern District Health Board.

Ms Grace noted that the hours sought for this event were comparative to other similar events held in the Otago/Southland region. She stated that; *"Health however do support initiatives that reduce any harm caused by the sale and supply of alcohol and the reduction of continuous trading does have merit"*.

She said with respect to the proposal to have no cans opened at the point of sale; *"I believe if you are to depressurise the cans the serve size per person needs to be reduced also. Retaining the maximum proposed serve size of 4 and depressurising is likely to lead to faster consumption"*.

Ms Grace highly recommended no BYO and noted the applicant, organisers and security need to pay particular attention to this aspect at the event.

With respect to the manager's qualification she was satisfied the proposed manager had adequate experience in managing such events.

Licensing Inspector (no opposition)

The Licensing Inspector commented that he had reviewed the hours of operation for the event for the last five years prior to 2016, and in every case the duration was 11 to 12 hours. The more recent initiative of requiring a break in trading results from police opposition to special licences where hours in excess of 6 hours are sought.

He confirmed that de-pressurising or opening drinks can encourage faster drinking. The committee was currently trialling a condition whereby only two cans may remain unopened at the point of sale. He commented that opening the cans at the point of sale did not serve the purpose initially anticipated.

Discussion

The applicant clarified the number and role of security guards. Their own staff manage the gate with assistance from security guards. He said there is only one gate in, and people

generally don't' move in and out of the event. There are checks at the gate for BYO and signs advising of the checks. Mr Scoringe reiterated that the security staff at the 2017 event appeared inexperienced, and the organisers have changed security providers and systems.

The applicant confirmed St John are happy to provide a service in the time-out tent to provide a potentially safe place for intoxicated people to sober up and to consider ways to get them home or to another safe place.

The applicant requested that due to the size of the venue and there being only one bar area, that all cans remain unopened. He believes opening cans encourages alcohol consumption and was a hassle for bar staff.

The break in alcohol sales creates a level of annoyance and may not work to the level intended. It creates more problems than solutions because of the varying arrival times of the participants a break would not achieve its intention. Their preference is to monitor patrons and not sell to intoxicated persons.

In response to a question from police about training for identifying intoxication and de-escalating tension, Mr Scoringe confirmed they rely on security guards. He said staff are not trained in this and they are purely a back-up. He agreed to use the SCAB assessment tool for intoxication.

Sergeant Ealson commented that a break in selling alcohol provides an opportunity to promote non-alcohol related activities. He questioned whether four security staff is sufficient late at night.

The chairman noted that the advertising material does not make reference to BYO. The applicant agreed to update advertising material and social media messaging to state "No BYO". Mr Scoringe confirmed that security guards and staff monitor inside the event and confiscate any BYO observed. Although goods conveyed to the site from the car park area are searched as they enter the site, bikes and individuals are not as that would be too difficult and a breach of their privacy.

The Liquor Licensing Inspector advised that under the Sale and Supply of Alcohol Act (the Act) the District Licensing Committee can waive the requirement for a qualified manager. He also advised that under the Act, BYO is not permitted in a licensed area. He confirmed that as the entire site is licensed, "No BYO" notification should be included on all advertising material.

The police reiterated their preference that the licence not exceed six hours. Sergeant Ealson stated this is not police policy applied to all events, but dependent on the type and scale of event. The police also request that a person with a Manager's Certificate be appointed to manage the event, and BYO alcohol be confiscated at the gate.

The applicant responded stating that they have the most suitable person appointed to manage the event. He stated that he doesn't believe searching people at the gate is feasible, and pointed out that all cars are searched and BYO alcohol would be confiscated where it was detected.

Reason for decision

The decision of the District Licensing Committee is to grant the licence. In arriving at this decision the committee took into particular consideration the following matters raised in the application and during the hearing.

Security

The committee noted that the applicant had learnt some lessons and made some changes after last year's event. They had accepted that the security provided for that event were inexperienced and addressed this by engaging a different security firm. The committee did not consider further security measures were required for this event.

Food

Although there appears to be adequate provision of food from Friday morning through to Sunday morning, the committee require a condition be applied requiring that food be available during bar opening hours and for one hour after the bar closes.

Number of drinks

With respect to de-pressurisation of cans, the committee accepted that opening cans can encourage faster consumption. They noted the letter tabled by the MOH which stated that depressurisation is likely to lead to faster consumption and there was a general acceptance that de-pressurisation hasn't worked in the way it was intended.

The Event

The Committee noted that the Sale and Supply of Alcohol (Fees) Regulations define a large event is where more than 400 patrons are present. Given that BYO is not permitted, and it is likely that many attendees will patronise the bar, the committee consider this event to be a large event. The committee expects the event to be managed in accordance with the "Guidelines for Managing Alcohol at Large Events".

Management

The Committee was satisfied that the Act enables the person nominated in the application to apply for a Manager's Certificate with the Central Otago District provided they have the necessary experience and qualifications. They recommended that Council staff advise the applicant accordingly so that an application can be processed before the event. A condition is to be applied requiring the manager to hold a Manager's Certificate.

The Committee acknowledged the Risk Management Plan and Event Management Plan 2018 attached to the application, and stressed that compliance with these plans is essential. The Risk Management Plan identifies the risk of attendees arriving intoxicated and patrons drinking excessively as "high".

The committee requires that a condition be applied requiring the applicant take all responsible steps to ensure no alcohol is brought into the event and all advertising actively promote "No BYO".

The committee recognises that the applicant proposes to engage four security guards, two at any one time, plus 30 club members will be available to support the security guards.

A pre-event briefing should occur to ensure that all volunteers are versed on the signs of intoxication using the SCAB assessment tool contained in the Guideline for Safe Zones at Large Events.

It was acknowledged that the police reported two intoxicated females at the 2017 event, and that the applicant admitted the females were intoxicated. The committee records the expectation of better management of alcohol consumption at the 2018 event.

Decision

We are satisfied as to the matters to which we must have regard as set out in Section 147 of the Act and approve the issue of a Special Licence.

This licence is subject to the following conditions:

- (a) 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 and low-alcohol beverages.
- (b) Free drinking water must be visibly available and promoted with signage.
- (c) Alcohol may be sold under the licence only on the following days and during the following hours:
 - Friday 2 February 2018 from 12.00noon - 12.00midnight
 - Saturday 3 February 2018 from 12.00noon - 12.00midnight

- (d) Food shall be available as identified in the application and shall remain available until one hour after the bar closes.
- (e) Alternative transport shall be available and advertised accordingly for those requiring assistance with transportation from the venue.
- (f) The bar tent is designated as a supervised area.
- (g) Security must be provided by a registered provider in accordance with the event management plan tabled at the hearing.
- (h) No BYO alcohol is permitted within the licensed area.
- (i) A limit of four beers or two wines or RTDs is permitted to be sold in any one transaction.
- (j) Alcohol must be served in cans or plastic containers only.
- (k) The certified duty manager shall be appointed and instruct or otherwise provide information to bar assistants and servers to ensure that the object of the Act is upheld and must ensure that there are no alcohol sales to prohibited persons.
- (l) 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 requirement of the Act.

Right of Appeal

In accordance with section 154 of the Sale and Supply of Alcohol Act 2012 the applicant or any party to these proceedings may give notice of appeal to the Alcohol Regulatory and Licensing Authority against the decision or any part of the decision. Any appeal must be within 10 working days after the date on which notice of the decision is given to the appellant. The appeal must be in writing; and be accompanied by the prescribed fee; and sent to:

The Secretary
Alcohol Regulatory and Licensing Authority
Private Bag 32001
Featherston Street
Wellington 6146.

A copy of the notice of appeal must be served on each of the other parties to the proceedings and with the Secretary of the Central Otago District Licensing Committee.

Dated at Alexandra this 10th day of January 2018



Robert B McNeil
Chairman
Central Otago District Licensing Committee