

**IN THE MATTER**

of the Sale and Supply of Alcohol Act 2012  
("the Act")

**A N D**

**IN THE MATTER**

of an application from **The Loop Foxton  
Charitable Trust** pursuant to s138 of the  
Act for the **Brenda Pratt Wedding**  
Decision 028/2022

**BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE**

Chairperson: Cr Ross Brannigan  
Members: Mr Mike Lepper  
Mr Philip Comber

**HEARING** at Levin on 14 April 2022.

**APPEARANCES**

- (a) Mr Jason Kauri – Applicant
- (b) Mr Bruce Parrant – for the applicant
- (c) Senior Constable Simon Carter – NZ Police, in opposition
- (d) Constable Lance Moretto – NZ Police, in opposition
- (e) Mr Bharat Mekkanagadde – Alcohol Licensing Inspector, in opposition
- (f) Mr Gary Hills – Fire and Emergency NZ, to assist

**RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE**

**Introduction**

This decision relates to an application by Jason Mark Kauri, as trustee for Loop Foxton Charitable Trust, for a special licence to sell and supply alcohol for onsite consumption at the Loop Restaurant and Bar situated at 1 Easton Street Foxton, between the hours of 4.30pm to 11.30pm on Saturday 16 April 2022 for the wedding of Brenda Pratt.

The application was filed on 23 February 2022, with the hearing held on 14 April 2022.

**Background**

The licensee for the Loop Restaurant and Bar Foxton holds an on-licence for the premises situated at 1 Easton Street Foxton, issued under section 100 of the Act.

The current on-licence hours for the Loop Restaurant and Bar is Wednesday to Sunday from 4.30pm to 9.30pm.

The special licence application for the Brenda Pratt wedding event is to operate outside the licensed hours from 9.30pm to 11.30pm.

## Reporting agencies

The Alcohol Licencing Inspector opposed the application based on concerns regarding the suitability of the applicant.

NZ Police opposed the application based on concerns based on applicant suitability and the object of the Act.

The Medical Officer of Health provided written submission in support of the NZ Police and their objections.

## Evidence

1. Mr Kauri introduced himself and introduced Mr Bruce Parrant as his business mentor.
2. Mr Parrant told the Committee that he has 50 years' experience as a mentor and 45 years experience in Health and Safety consultant familiar in working with process. Mr Parrant informed that he was brought to make sure that things that happened in the past do not happen in the future.
3. Mr Parrant told the Committee that the licensee was under the misunderstanding that caterers endorsement on their on-licence allowed for the premises to be open outside the licensed hours but not for sale of alcohol.
4. Mr Kauri told the Committee that he was of the understanding that so long as he did not sell alcohol that the premises could be open to sell food.
5. Mr Parrant submitted to the Committee that other than the instances provided in the evidence submitted by Police, for which the applicant did not wish to respond to, that there has been no other instances of concern since.
6. Mr Parrant informed that since his involvement with the Loop Restaurant and Bar it has changed its direction in relation to events. Focusing on weddings and birthday celebrations, tangi and funerals.
7. The applicant urged the Committee to consider the benefit the facility provides to the community, submitting that the premises is the only one in Foxton that provides food and beverage, and without the Loop Restaurant and Bar there would be only two pub venues focused on alcohol rather than food.
8. Mr Parrant told the Committee that the applicant is working towards the addition of a further licensed Manager to be in place at the premises within the next 3 months.

## The Police Submission

9. Senior Constable Simon Carter spoke to his written submission, which was provided to the Committee and attendees prior to the hearing.
10. Police submit that the applicant does not adhere to the current conditions of his on-licence and despite being warned continues to act with disregard. The continuation of his behaviour giving rise to concerns that Mr Kauri is not likely to properly carry out the responsibilities of a



licensee, nor comply with the Act. Therefore submitting concerns for the applicant not meeting the object of the Act.

11. Senior Constable Simon Carter told the Committee that in November 2021, Police conducted several compliance checks at 1-3 Easton Street Foxton where the applicant and licensee was in attendance and spoken to on both occasions.
12. In support of the evidence given, Police provided a written copy of the graduated response warning letter dated 08 November 2021 which informed the licensee to have taken full responsibility for serving alcohol outside the licensed hours and the locking of the door.
13. Senior Constable Carter told the Committee that further compliance checks were carried out in December 2021 where the applicant and licensee was in attendance and spoken to, and as a result of those visits, Police filed an application to the Alcohol Regulatory Licensing Authority (ARLA) under section 280 of the Act in February 2022. These matters are currently before ARLA where no hearing date has yet been advised for the matter.
14. Police referred the Committee to an earlier special licence application that was made by the applicant in December 2021 for multiple events to be held at the Loop Restaurant and Bar. Police informed the DLC of their opposition to this application at the time and the applicant later withdrew the application.
15. Senior Constable Carter, continued to speak to his written submission telling the Committee of the discussions between Police and the licensee where the licensee had told Police of the difficulties and hardships he had experienced. Specifically, the lease arrangements, the current licenced hours and days, the financial viability of the Loop Restaurant and Bar, and Covid-19 restrictions for the hospitality industry. Police told the Committee of an email received from the applicant where they expressed concerns for operation of the premises and the applicants intended actions in response to their concerns.
16. Police told the Committee that applicant and licensee had mentioned that they had considered in closing the premises when the renewal was up in May 2022.
17. Senior Constable Carter expressed Police concerns with regards to the applicants advertising on Facebook, and the large social media following. Concern that the licensed premises was being used outside the licensed trading hours permitted in the on-licence held for the premises. Police provided screenshots of the social media posts in support of this submission.
18. Police referred to Two Brothers Wholesale Limited [2021] NZARLA 32 in being a leading case on suitability with regard to *"there is no statutory definition of the word "suitability"*.
19. With regard to suitability, Police also referred to the decision *Hayford v Christchurch DLA 3/12/93 Christchurch A201/92* which states:

*"A holder of a liquor licence under the Sale of Liquor Act 1989 is granted a privilege, It permits him to sell liquor when others are not permitted to do so. Deliberate failure to carry out conditions attached to the licence must be a strong factor justifying a conclusion that the holder of the license is not a suitable person to hold the licence."...*

20. Further case law referred to by Police included:

*Re Jays LLA 994/94, 15 July 1994, "differing aspects of suitability will be given different weight by decision makers under the Act"*

Sheard [1996] 1 NZLR 751 where in appeal against a decision of the authority, Holland J commented: *"The real test is whether the character of the applicant has been shown to be such that he is not likely to carry out properly the responsibilities that are to go with holding of a licence"*.

Deejay Enterprises Ltd [1997] NZARLA 837 decision.

Hooper v Clark – Bar Navajo [1999] NZLLA 1170 (1 July 1999) *"A liquor licence is a privilege."*

Nishchay's Enterprises Limited [2013] NZARLA PH837 with regards to suitability.

#### Alcohol Licensing Inspector

21. Mr Mekkanagadde informed the Committee of his concerns for the applicant's knowledge of the Act. Mr Mekkanagadde told the DLC that almost all applications submitted by the applicant to be of a very poor standard, and of needing to guide the applicant through the application process despite being in operation for over a year.

#### Fire and Emergency NZ

22. Mr Gary Hills told the Committee of non-compliance relating to the premises having not carried out a trial evacuation. Mr Hills confirmed that special allowances had been made in response to Covid-19

#### Legal framework

23. The criteria the Committee must use in considering whether to issue this licence is set out in section 142 of the Act.

(a) the object of this Act:

(b) the nature of the particular event for which the licence is sought and, in particular, —  
(i) whether the applicant is engaged in, or proposes at the event to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods; and  
(ii) whether the applicant is engaged in, or proposes at the event 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:

(c) the suitability of the applicant:

(d) any relevant local alcohol policy:

(e) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of the licence: 10

(f) the days on which and the hours during which the applicant proposes to sell alcohol:

(g) the design and layout of the premises concerned:

(h) whether the applicant has appropriate systems, staff and training to comply with the law:

(i) any areas of the premises that the applicant proposes should be designated as restricted areas or supervised areas:

(j) any steps the applicant proposes to take to ensure that the requirements of this Act in relation to the sale and supply of alcohol to prohibited persons are observed:

(k) the applicant's proposals relating to—

- (i) the sale and supply of non-alcoholic drinks and food; and  
(ii) the sale and supply of low-alcohol drinks; and



(iii) the provision of help with or information about alternative forms of transport from the premises:

(l) any matters dealt with in any report from the Police, the Medical Officer of Health, or an inspector made under section 141.

## **Committee's decision**

### Section 142 matters

#### **24. The object of the Act**

The Committee has considered the object of the Act in reaching its decision on the application and is satisfied that the sale, supply and consumption of alcohol will be undertaken safely and responsibly, with harm caused by excessive or inappropriate alcohol consumption minimised.

#### **25. The nature of the particular event for which the licence is sought...**

The Committee agrees that a special licence is required for this event to extend past the premises licensed hours of 9.30pm.

#### **26. The suitability of the applicant**

The Committee agrees that this was the lead objection by the agencies to this application. The Committee heard from NZ Police and the Inspector and have taken all evidence into account in coming to the decision.

#### **27. Any relevant local alcohol policy**

The Committee has considered the application of the local alcohol policy, and agree that there are no matters to the contrary.

#### **28. The amenity and good order of the locality**

The Committee considered that the granting of this special licence would have no further impact on the amenity and good order of the locality from which the current substantive on-licence application is in force.

#### **29. The days on which and the hours during which the applicant proposes to sell alcohol:**

The Committee acknowledge that with the exception of the 11.30pm closing time, this application is substantially similar to the on-licence currently held by the premises.

#### **30. The design and layout of the premises concerned:**

The Committee considered the design and layout of the premises and agree there is no concern in relation to this requirement.

#### **31. Whether the applicant has appropriate systems, staff and training to comply with the law;**

The Committee expressed some concern that the licensee employs only one person with a Managers certificate for the premises, however took some reassurance from Mr Parrant that another person is undergoing training to achieve a Managers certificate within the next 3 months.

32. ***Any steps the applicant proposes to take to ensure that the requirements of this Act in relation to the sale and supply of alcohol to prohibited persons are observed.***

The Committee had no concerns in relation to this matter, referring to the on-licence currently operating at the premises.

33. ***The applicant's proposals relating to—***

- (i) the sale and supply of non-alcoholic drinks and food; and***
- (ii) the sale and supply of low-alcohol drinks; and***
- (iii) the provision of help with or information about alternative forms of transport from the premises:***

The Committee had no concerns in relation to this matter, referring to the on-licence currently operating at the premises.

#### **Conclusion – Issue of licence**

20. The Committee expressed their sympathy for the people who are due to have their wedding in just 2 days' time. Giving due consideration to the evidence provided to the Committee during the hearing, and on balance that the application is for an additional 2 hours extended past the already licensed premises hours, the decision of the Committee is to issue the special licence application for the Brenda Pratt wedding on 16 April 2022, subject to the standard conditions required by the Act, and further discretionary conditions being:

- The premises is closed to the public during the event and appropriate signage is erected on the premises alerting the public to the private function.
- A person holding a Managers Certificate must be present at all times.

**DATED** at LEVIN this 14<sup>th</sup> Day of April 2022.



R Brannigan  
Chairperson

