

IN THE MATTER

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

A N D

IN THE MATTER

Of an application from **Jason
Mark Kauri** pursuant to s219 of
the Act for a Manager's
Certificate.

Decision : 175/2022

BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE

Commissioner: Ross Brannigan
Members: Mike Lepper
Philip Comber

HEARING at Levin on 28 October 2022

RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE

1 Introduction

- 1.1 This decision relates to an application by Jason Mark Kauri for a Manager's Certificate. The application was filed on 8 July 2022 and was sent to the NZ Police and Alcohol Licensing Inspector to inquire into, and to file a report on the application under section 220 of the Act.

NZ Police opposed the application on the basis of the applicants suitability.

2 Reporting Agencies

- 2.1 The NZ Police opposed the application on the grounds of the applicants' suitability. Constable Simon Carter, Alcohol Harm Prevention Officer for the wider Foxton area, represented NZ Police at the hearing.

Constable Simon Carter came well prepared to the hearing, and read aloud the statement of evidence provided with his written report. In his evidence, Constable Carter reminded the Committee of the section 280 application before ARLA, and that the licensee for this premises being Mr Kauri. Constable Carter spoke to the Committee about Police concerns that the licensee had knowingly allowed the premises to operate outside the licensed hours and had allowed patrons to remain on-site on three (3) separate occasions.

Constable Carter told the Committee of the Police concern that as the licensee for a premise, the applicant had failed to comply with the licence conditions for several months, and further concern that the applicant as a licensee failed to keep accurate records such as staff training registers, training plans and staff rostering plans. Constable Carter cited 'trust that the applicant will actually comply with the Act' as a concern.

- 2.2 The Alcohol Licensing Inspector provided a report on the application and did not raise any matters of opposition to the application.

At the hearing Mr Gimpel provided evidence to the Committee that in the six (6) months he had been working with Mr Kauri and staff, that he had seen improvement. He told the Committee that at a recent un-announced compliance visit made to the Loop Restaurant and Bar, he had observed no signs of intoxication while he was there.

Furthermore, Mr Gimpel submitted to the Committee that issuing a new managers certificate is for a one (1) year period, which in his opinion would give Mr Kauri the opportunity to prove his suitability to hold the certificate.

3 Considerations of Section 222 matters

a. The applicant's suitability to be a manager;

The main content for the objection to this application is the suitability of the applicant. The evidence provided by Police being the basis of the opposition, due to the Mr Kauri's conduct as the licensee for the Loop Restaurant and Bar.

In his evidence, Mr Kauri acknowledged the allegations against him as licensee for the Loop Restaurant and Bar, and emphasized to the Committee that the events relating to the allegations had taken place over 12 months ago. Mr Kauri submitted that for nearly a year there had been no contraventions of the Act and no violence at the Loop Restaurant and Bar. He went on to further submit that he had run several successful events in the last 12 months, including the premises holding a special licence for tangi/funerals where a recent tangi had over 400 people in attendance with no concern for host responsibility.

Mr Kauri expressed his desire for the Committee to focus on the events of the last 12 months, stating that and his behaviour and management of the premises in recent times where he had proven his suitability to hold a Managers Certificate.

b. Any convictions recorded against the applicant;

The applicant has not been convicted of any offences, and therefore the Committee had no concern in this regard.

c. Any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force;

The Committee were satisfied in the applicant's relevant experience working in the industry. Mr Kauri is the licensee for the Loop Restaurant and Bar in Foxton, and has been working in the premises since May 2021.

d. Any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under Section 218;

Mr Kauri completed a Licence Controller Qualification (LCQ), on 19 July 2022.

e. Any matters dealt with in any report made under Section 220;

As noted, the Police have opposed the issuing of a Managers Certificate to Mr Kauri based on the applicant's suitability.

The Alcohol Licensing Inspector, Mr Gimpel, did not oppose the application.

4. Decision

4.1 The Committee considered the evidence provided by the applicant and the reporting agencies during the hearing. It acknowledged that suitability was the main content for the opposition to both Mr Kauri's application for a Managers Certificate, and the Section 280 application before ARLA for the premises at the Loop Restaurant and Bar, the latter of which is not subject to this decision.

4.2 The Committee took into account the evidence provided by the Police that there had been no further breaches of the Act since the matters that now sit before ARLA. The Committee

were heartened by this, and concede that in effect, Mr Kauri appears to have learnt from his mistakes and is running good premises, which is shown and demonstrated by no further breaches nor matters of concerns being brought to Police since these alleged transgressions.

- 4.3 While aware of the previous matters outlined above, the Committee took some comfort from the comments from the Alcohol licensing Inspector, and the NZ Police outlining the progress Mr Kauri had made in learning and developing his skills to be someone who is suitable to hold a Managers Certificate, and acknowledged he had passed the LCQ requirements recently.
- 4.4 The Committee referred to section 214 of the Act in considering the responsibilities of a Manager on duty. This was touched on by Police in their evidence. The Committee holds the view that there are different levels of duties and responsibilities for someone holding a Managers Certificate and that of a licensee. Acknowledging the evidence provided by Police in relation to record keeping being an example of the duties of a licensee opposed to a duty manager.
- 4.5 The Committee acknowledge that granting a new Managers Certificate is for one year. That with the support Mr Kauri now has and the favourable comments from the Alcohol Licensing Inspector and from Mr Kauri himself, the duration of the certificate would give the Committee the opportunity to review the decision in one (1) year if compliance with the Act was not achieved.
- 4.6 Based on the evidence provided at the hearing and the considerations as recorded above, it is therefore the decision of this Committee is to approve the issue of a Managers Certificate to Jason Mark Kauri for the period of 12 months as per Section 223(1)(b).

DATED at LEVIN this 10th day of November 2022.


R J Brannigan
Commissioner



