

Reference Number: 2023/930

23 February 2023

Email: [REDACTED]

Dear [REDACTED]

Response - Official Information Request

I refer to your request for information received on 27 January 2023. Your request has been considered under the Local Government Official Information and Meetings Act 1987 (LGOIMA) and I provide the following information.

Information relating to the decision making for “the Loop”

The following information is attached:

1. A copy of the decision of the District Licensing Committee relating to the Loop restaurant and bar. A copy of the decision is also available on Council’s website using the following link:
<https://www.horowhenua.govt.nz/Services/Business-Services/Alcohol-Licensing/District-Licensing-Decisions/Contested-Decisions>
2. A copy of the complete application file relating to the application for renewal and variation submitted by the applicant in relation to the premises. Information has been withheld in accordance with section 7(2)(a) of LGOIMA, to protect individual privacy.

You are entitled to seek an investigation and review by the Office of the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or free phone 0800 802 602.

Horowhenua District Council publishes responses to Local Government Official Information and Meetings Act 1987 (LGOIMA) requests that we consider to be of wider public interest, or which relate to a subject that has been widely requested. To protect your privacy, we will not generally publish personal information about you, or information that identifies you. We will publish the LGOIMA response along with a summary of the request on our website. Requests and responses may be paraphrased.

If you have any queries regarding this information, please contact the LGOIMA Officer on LGOIMAOfficer@horowhenua.govt.nz

Yours sincerely



Steve McTaylor-Biggs
Executive Sponsor

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** for the renewal of an **on-licence** pursuant to s127 of the Act in respect of the premises situated at 1 Easton Street, Foxton and known as The Loop Restaurant and Bar.

Decision 162/2022

BEFORE THE HOROWHENUA DISTRICT LICENSING COMMITTEE

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

HEARING at Levin on 15 September 2022.

APPEARANCES

- (a) Mr Jason Kauri - Applicant
- (b) Mr Bruce Parrant – for the applicant
- (c) Mr Martin Macmaster – Mid Central Public Health – in opposition
- (d) Ms Jill Job – Mid Central Public Health – to assist
- (e) Ms Kathryn Knightbridge – Mid Central Public Health – to assist
- (f) Senior Sergeant (S/Sgt) Simon Carter – NZ Police – in opposition
- (g) Community Constable and Alcohol Harm Prevention (Cst/AHP) Lance Moretto – NZ Police – to assist
- (h) Mr Eric Gimpel – Alcohol Licensing Inspector – to assist

RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE

Introduction

1. This is an application by Jason Mark Kauri, as trustee for the Loop Foxton Charitable Trust for the renewal of the On-Licence for the premises situated at 1 Easton Street Foxton, trading as the Loop Restaurant and Bar.
2. The application was filed on 21 April 2022 and was advertised on the Council website between 27 April 2022 and 17 May 2022. No public objections were received.
3. The days and hours of operation set out in the application are:

Monday to Sunday from 9.00 am to 1.00 am the following day

These days and hours differ from the existing licensed hours and therefore the application includes the request for variation to the existing licence. The existing days and hours of operation are five days a week, Wednesday to Sunday from 4.30pm to 9.30pm.

4. The proposed days and hours comply within operative Horowhenua Local Alcohol Policy ("the LAP") as it applies to this type of premises, but the location does not.
5. The Loop Foxton Charitable Trust has two trustees, Jason Mark Kauri (the applicant) and Renae Leah Christensen. The deed of trust for the Loop Foxton Charitable Trust was signed on 15 January 2021 and a copy was provided with the application.
6. The Loop Foxton Charitable Trust leases the building at 1 Easton Street Foxton, from the owner, the Foxton RSA. Following a hearing held in May 2021 an On-Licence was issued for the premises; 40/ON/003/021.
7. The premises for which the application relates is situated immediately adjacent to Te Waioira Community Health Services at 10 Ladys Mile Foxton, and shares a common boundary with Manawatu College at the rear of the site. The premises is also within 100 metres of the legal site boundary for Foxton Primary School.
8. The NZ Police and the Medical Officer of Health from Te Whatu Ora Health New Zealand's Te Pae Hauora o Ruahine o Tararua National Public Health Service Central Region, opposed the application and provided evidence during the hearing.

Applicant's evidence

9. Jason Kauri told the Committee about the struggle with the premises remaining a viable operation working within the current licenced hours.
10. Speaking on behalf of the applicant, Mr Parrant told the Committee that the restaurant is the predominant income earner for the premises based around events that have required a special licence to extend past the current licensed hours.
11. Mr Kauri expressed to the committee that there are many people in his community of Foxton who don't understand the special licence application requirements in the Act, and that the need for him to apply for special licences is not achievable when the requests he receives are only two to three weeks in advance.
12. Mr Kauri told the Committee that the request to vary the licensed hours was so that special licence applications were not needed to hold events at the premises, and to support the operations viability.
13. The applicant informed the Committee that during the last 12 months there was only one staff member with a Managers certificate but that at least one other staff member has recently received their Managers certificate and another application has been submitted but awaiting confirmation.
14. Mr Kauri acknowledged that there is a matter before the Alcohol Regulatory Licensing Authority with regards to this premises, and that the admission of facts included in the written evidence provided by Police prior to the hearing, was confirmed by him.

NZ Police

15. Prior to the hearing, Senior Constable Simon Carter (S/Sgt) provided a written brief of evidence to the District Licensing Committee via the DLC Secretary. The brief of evidence was provided to the applicant and the reporting agencies ahead of hearing.
16. S/Sgt Carter read this aloud for the Committee at the hearing and presented the evidence on behalf of NZ Police.

17. S/Sgt Carter told the Committee that Police object to the application on the grounds centred around the criteria set out in sections 105 and 106 of the Act, and that Police would not be calling on any witnesses to the hearing.
18. S/Sgt Carter mentioned the proximity of the premises in relation to Manawatu College, Te Waiora Medical Centre, Foxton Primary School and the Park Street Assembly. He mentioned the numerous residential properties and large industrial area in the locality. S/Sgt Carter referred to the Local Alcohol Policy and the location of the premises being inconsistent with it. He also provided the Committee with a list showing the licensed premises within the Horowhenua area, pointing out where people in the area can go to have a drink and something to eat.
19. S/Sgt Carter presented evidence that referred to the previous decision of the DLC relating to the original application and hearing held in May 2021, and the reasons stated within the decision with regards to the renewal. He acknowledged the previous DLC decision to grant the original licence, but had concerns to whether the garden bar was screened as per the conditions on the licence and with the evidence provided by the applicant at the time relating to business support being provided by the Get Group.
20. S/Sgt Carter also reminded the Committee that the applicant had attended a recent hearing held on 14 April 2022 relating to the special licence application for Tangi and funerals, and referred to the content within the resulting reserved decision of the DLC.
21. S/Sgt Carter confirmed that Committees awareness of their section 280 application and content submitted to ARLA concerning the applicant with regards to suitability. He told the Committee that a date was set before ARLA for 08 September 2022 however; the matter had needed to be re-scheduled by ARLA due to the applicant being sick in the days leading up to the previously arranged time.
22. S/Sgt Carter expressed concern regarding the appropriateness of the applicant being The Loop Restaurant and Bar Charitable trust. He told the Committee that research and enquiries were undertaken by Police through the form of advice from the Ministry of Business Innovation and Employment and through a search of the Charitable Trusts Register. The search of the register failed to find the recorded name, The Loop Restaurant and Bar Charitable trust.

In the brief of evidence provided the Police submitted:

71. *It was confirmed that The Loop Foxton Charitable Trust is registered and has the trust# 235614.*
72. *On 03 November 2009, The Charitable Trusts Register received an application by trustees for incorporation as a charitable trust board. This was under the Eagles Academy Charitable Trust.*
73. *On 15 January 2021, the Charitable Trusts Register received notification to a change of address from a Tauranga address to the Loop Restaurant and Bar, 1 Easton Street, Foxton by the signatory and trustee, Noeline Cook.*
74. *On the 28 January 2021, the Charitable Trusts Registered received notification to a change of name to the Loop Foxton Charitable Trust by the same named signatory.*
78. *On the 19 May 2022, Police performed a further search of the Companies register website for the Loop (2020) Foxton Limited.*
79. *This is a registered company which was incorporated on the 20 October 2020.*
80. *The sole director is the applicant, Jason Kauri, but both he and his partner / wife Renae Christiansen maintain a 50% shareholding each of the company.*
81. *This company has an industry classification of: Restaurant operation.*
86. *On the 08 June 2022, Police performed a search on the Charitable Trusts register under the Foxton RSA Trust Board.*

87. It was found that in 09 January 2007 an application for incorporation was filed which included its Deed of Trust.
89. Police wish to note that this trust in part of the continued filing of amendments, included in the winding up submission in 2009.

23. S/Sgt Carter told the Committee that Police have a number of concerns regarding the filing of two section 231 notice of management change forms that were submitted by the applicant in June 2022. S/Sgt Carter was concerned specifically with the incompleteness of the forms, the duration of the period requested and the reason for the applications. Both applications submitted by the applicant had no named person to be acting as temporary manager, were for a period of 1 year from 25/05/2022 to 25/05/2023 and both signed by the applicant/licensee Jason Kauri. Furthermore, both applications showed the reasons for application being "Have completed my own manager's certificate and passed". S/Sgt Carter submitted that this reason is not in line with section 229 of the Act whereby a reason given may be that their manager is ill, on leave, terminated or left could be considered reasonable.
24. S/Sgt Carter acknowledged that an amended application was submitted by the applicant but retained their concerns around the completeness of the application, adherence to timeframes and notification requirements on the applicant.
25. In the evidence presented by S/Sgt Carter, he referred to the High Court decision of *Auckland Medical Officer of Health v Birthcare Auckland Ltd* [2015],

[48] The approach to a renewal application should be as for a new licence application.

26. He also referred to the decision of *ARLA Two Brother Wholesale Limited* [2021] NZARLA32

[157] ...there is no presumption that an application for a licence will be granted or that a licence will be renewed. This is made reasonably plain by the face the approach to renew is virtually the same as the process engaged by an application for an initial licence.

[158] It follows then that there is nothing punitive about a decision not to renew a licence. Declining the renewal of a licence is precisely what the Parliament envisaged ought to be done by a decision-maker, when that decision-maker considers, after having regard to the criteria in s131, that the grant of the application will be contrary to the object of the Act.

27. Police submitted to the Committee that the original on-licence application was inaccurate and misleading, that there is no registered charitable trust under the name of: The Loop Restaurant and Bar Charitable Trust. S/Sgt Carter submitted evidence of a number of small failings that when considered in the wider scope pointed to concern over the management and operation of the business.
28. Under the heading Suitability and Object of the Act, S/Sgt Carter submitted that a good operator and licensee should have a strong knowledge as to their legal obligations including the keeping of robust practices, processes and records to ensure they are adhered to. It is the responsibility of the licensee to ensure that the keeping of records and filing of documents are correct and within required timeframes. Police submitted that the matters addressed in his evidence led to the view that the applicant had demonstrated poor planning and timeframe management practices.
29. S/Sgt Carter went on to point out the Police concern with the applicants working knowledge of the Act, relating to special licences. S/Sgt Carter referred to an application submitted by the applicant on 12 November 2021 that was later withdrawn by them following discussions with Council staff. Police at the time were concerned with the extensive number of events being submitted under the one application and with the variety of different functions, Christmas functions, New Year's, Birthdays, Celebration of life and reunions; and with some

of the hours being proposed which ranged from 11am to 3am. Police submitted that the applicant appeared to be unaware there were limits to the number, types and hours sought when applying for a special licence.

30. Police referred to their application to ARLA under section 280 of the Act where suitability of the applicant will be at issue before the Authority. Police submit that the applicant, after having sought legal advice agreed to the facts relating to this matter; submitting that the relating three separate events surmount to serious breaches against the Act.
31. S/Sgt Carter referred the Committee to the conditions on the On-Licence issued to the Loop Restaurant and Bar Charitable Trust in June 2021, and specifically the condition requiring the licensee to screen off the back garden area from view from Te Waiora Medical Centre and Manawatu College. Police told the Committee that the completion of the screening had not been completed in excess of 9 months after the issuing of the licence, and submit that for a licensee failing to adhere with a condition of a licence for that length of time is inexcusable and unacceptable.

He referred to *Hayford v Christchurch DLA 3/12/93 A201/92*:

“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 in justifying a conclusion that the holder of the licence is not a suitable person to hold the licence.”

32. S/Sgt Carter reminded the Committee of the decision relating to the granting of the original on-licence DLC Decision 52/2021 and the Committees comments with regards to the involvement of the Get Group and its training and support provided, and ongoing. Police submit that around the same time the on-licence was granted the Get Group was no longer engaged with the premises in any capacity, and for an extended period of time the applicant did not maintain any sufficient supervision or support from a supporting agency or person within the industry. Police acknowledged Mr Parrant's recent involvement, however informing the Committee that despite Mr Parrant's 50 years as a mentor and 45 years Health and Safety experience, he does not have the same level in the sometimes complex running of a licensed premises and the Sale and Supply of Alcohol Act requirements.
33. Police submit that without the level of support as acknowledged in the DLC decision 52/2021 the same concerns remain until the Get Group or another industry experienced group or person re-engages with the licensee for an extended period of time. S/Sgt Carter went on to say that, it is the due diligence, suitability of the applicant to ensure that continued industry lead support, and mentoring remains in place. Police acknowledged Covid 19 impacts and informed the Committee that there is a number of ways in which the applicant could have reached out and received support and industry-based training and materials.
34. Police submitted that at all times the applicant had the freedom of choice, and for this extended period chose or failed to take action to rectify problems. The applicant made conscious decisions in continuing to trade and operate the business at times outside the conditions set by the Act, and in doing so the applicant made conscious decisions to conduct himself in a way that does not meet his obligations or responsibilities in being a licensee.
35. S/Sgt Carter expressed Police are concerned that the applicant's application for an on-licence renewal with a variation in both the hours and days in which to operate, is unable to produce any forecasted roster across multiple time periods and days. Police submit this new roster should show full coverage for those times and, also consider the licensees legislative requirements concerning meal breaks, leave types, staff coverage and peak demand for both times and days of the week. Police are concerned that when information was requested from the premises, that family members, friends and volunteers have stepped in to help keep this

facility operating for the community. Police raise the concern that this practice in an effort to keep the facility operating by reducing staffing overheads is fraught with inherent dangers, relating to lack of planning, inadequate record keeping, and staff training raising a more serious concern when referring to both applicant suitability and in keeping with the Object of the Act.

36. S/Sgt Carter provided the following case law for consideration with relation to suitability of the applicant:

Two Brothers Wholesale Limited [2021] NZARLA 32, where it is regarded that there is no statutory definition of the word "suitability".

Jays LLA 994/94: "Differing aspects of suitability will be given different weight by decision makers under the Act. Among them are experience in the hospitality industry, management ability, and personal integrity."

Sheard [1996] 1 NZLR 751: "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."

Hooper v Clark – Bar Navajo [1999] NZLLA 1170: "A liquor licence is a privilege. It may colloquially be regarded as a "package deal". Both the burdens and the benefits run the licence. Mr Clark as licensee must either accept those burdens and control the sale and supply of liquor in a satisfactory manner, or he will not continue the privilege. Either the licensee can manage the premises and on-licence satisfactorily, or he cannot."

Nishachay's Enterprises Limited [2013] NZARLA PH837, and *Deejay Enterprises Ltd [1997] NZARLA 837*

37. Police submitted that in the original application for the on-licence of the premises, and recorded in the DLC's decision 52/2021 that the applicant told the Committee at the time that whenever the Loop Restaurant is open, Te Waiora will be closed. S/Sgt Carter pointed out that applying for a variation for Monday to Sunday between 0900-0100hrs, in itself goes against what the applicant originally told the DLC, the DLC decision 52/2021 outcome and the strong reasons, which supported decision at the time.

S/Sgt Carter referred to *My Noodle [2007] NZLLA 1064-1071*:

"We agree that there will always be a difference in the approach to a new on-licence, and the renewal of an existing licence. In the former case, experience has taught us to be conservative when fixing trading hours on the basis that the issue can be raised again after the first probationary year. Naturally, there will be a greater resistance to changing trading hours that have already been awarded. In this case of "The Mini Bar", where there was an application to increase trading hours, the criteria in respect of a new licence apply."

38. S/Sgt Carter informed the Committee of Police concern about the future details of the business disclosed in an information request, where the applicant has informed that "... The intention for the future, should the renewal be for the current hours is to close the operation down". Police submit that in the applicant's letter dated 23 March 2022, the applicant acknowledged the strain imposed by the restricted hours their current on-licence has on them financially. In this same letter, it acknowledged in the past because of stressors and errors in judgement, the applicant has allowed himself to operate outside of his licensing hours, and mention of the economic restrictions the current on-licence has on their business.

Police referred to the following case law to support their position that it is not for the DLC to consider the economic effects of its decisions:

Meads Brothers Ltd v The Rotorua DLA AP26/00: "There is no requirement in the Act for the Authority to consider the economic effects of its decisions on licensees, applicants or anyone else"

Moby's Bar Ltd [2014] NZARLA 871: "Whilst the proposed conditions will have a detrimental effect on the applicant's commercial enterprise, in terms of *Meads Brothers Limited vs Rotorua District Licensing Agency, [2002] NZAR 308* the proposed conditions are not so unreasonable as to warrant amendment. Indeed, as the Court of Appeal stated in *Meads Brothers Limited* the policy of the Act is that licensing decisions are not made for the purpose of giving licensees economic protection. This remains the case under the new Sale and Supply of Alcohol Act."

39. Police submitted that in the applicant's original application it was noted that its intended purposes was a Restaurant and Bar, The Get Group Catering Programme – catering Tangi and Youth Group. Police point out that both in the original application and renewal application the applicant has not provided any supporting evidence of a youth group except that this is part of their intended purpose. Police have concern that an on-licensed premises is not an ideal place in which to hold a youth group given that this is primarily a restaurant and bar.
40. S/Sgt Carter expressed Police concern relating to Car Boot Sales and Market days being held on site at 1 Easton Street Foxton, concerned that a reduction in amenity and good order may result being a site located within a residential zone area. Police submitted that there are other places where market days are currently held in the Foxton area.
41. In the evidence provided by S/Sgt Carter, he told the Committee of Police concerns that the applicants request for a variation in hours from 0900 till 0100, 7 days a week will affect the amenity and good order of the locality to a greater extent. Concerns centred on the residential zone, potential noise nuisance and traffic management nuisance and safety concern to neighbours. He submitted that being a good neighbour is to proactively manage relationships with immediate neighbours.

Police referred to *Paihia Saltwater (2001) Ltd NZLLA 391*:

"Noise is not just a resource management issue. The escape of noise (particularly music) is an example of bad management. The Authority takes a view that if no attempt is made to prevent the escape of, or reduce noise, then it is the Authority's duty to monitor the hours of opening, if not the existence of the licence"

42. Police acknowledged that the RSA operated from the site for more than 50 years and held a Club Licence, and raised the distinct differences in the operating of a club licence compared to the operating of an on-licence under section 60 and 61 of the Act. The submission that in part, there are a set of rules for club members and guests as being part of this or associated club held within a constitution, therefore the applicant inherently operate and run their on-licence differently from the former Foxton RSA Club. Police submit that because of the differences, it has a strong impact on the running, operations and direction the premises under this new on-licence is heading, including how, why and who it caters for, and the types of events held.
43. S/Sgt Carter expressed Police concern that the applicant was unable to provide a current and working roster from August 2021 onwards. Concern extended to the licensee not having a detailed working roster either daily, weekly or monthly. Police submit that rosters are seen as a key tool in the management and operations of a business and not having them can lead to additional problems, which are around the leave, pay and employment matters. Police did acknowledge that the applicant had made an attempt to provide a very basic forecasting of staff as documented, however it lacked detail.

44. Police also noted that the training register supplied by the applicant was lacking detail, and that not only were signatures missing in verifying the persons presence, but except for the training provided by the Get Group to in May 2021 when the premises was first licensed, no training of other additional staff or volunteers has occurred. Police therefore concerned that the applicant has failed to undertake any in-house training regarding any of the varying Covid-19 rules when they were in force, any evacuation procedures, first aid, drink spiking, drugs, patron management, host responsibility, cleaning, security management, food safety or health and safety training.
45. Police submitted that failing to consistently upskill and train staff, not having the appropriate systems and policies in place or having sufficient staff numbers only heighten the level of risk associated with the premises. Submitting that the hospitality industry is already a high risk industry and a lack of upskilled and trained staff who are competent in their roles directly links back to the Object of the Act and Suitability of the applicant.
46. In his closing statements, S/Sgt Carter said "Police submit that the applicant reported in their original application, they have had a bar-restaurant business for 3 years prior to applying for this on-licence. This should have provided a strong background to fully ensure, they have an equally strong understanding of the Sale and Supply of Alcohol Act, the necessary requirements and procedures in place to effectively run a licensed premise without issue..."
"...Police in their evidence has provided and outlined a number of clear examples where there has been sufficient and just concern where suitability if brought into question..."
"...Police respectfully submit that this is not a one-off occurrence but longer systematic breaches and non-compliance of the Act, coupled with failures within the running and management of the licence by the licensee clearly show they are unsuitable on holding a licence in which to operate under."

Mid-Central Public Health

47. Mr Martin McMasters spoke to the Committee on behalf of the Medical Officer of Health from Te Whatu Ora Health New Zealand (Public Health). He told the Committee that Public Health assessed the application under section 131, particularly the criteria in section 105 of the Act. He summarized that Public Health concluded that, due to the matters detailed in their written report, they couldn't be confident that the sale and supply or consumption of alcohol could be undertaken safely and responsibly pursuant to the applicant's application with the variations.
48. In referring to the applicant's suitability, Mr McMasters referred to the admission of responsibility by the applicant regarding the information provided by Police in their unresolved section 280 application to the Authority that the licensee has sold alcohol and had patrons on the premises outside its licensed hours and on at least three occasions during the licensed period.

He referred the Committee to the decision of the Authority, *Deejay Enterprises Ltd [1997] NZARLA 837*,

"Little but a licensee's or manager's character and suitability may stand between upholding the law and turning a blind eye"

49. Mr McMasters told the Committee that it is extremely important that a licensee manage the premises, and that these transgressions did raise the possibility the licensee may be unsuitable for managing the requirements of the significantly longer hours applied for and possibly a more drinking and entertainment focus and compliance with the licensing conditions. He alerted the Committee that longer hours might also result in different activities and more risk of noise or other nuisance to the residences in close proximity.

50. Mr McMasters acknowledged that the Local Alcohol Policy had previously been the subject of the Committees deliberations and that the resolution regarding the conflict with the location of the premises being addressed by the requirement for screening. He informed the Committee that he and a colleague had visited the premises a couple of weeks ago and had been expecting to see a screen on the fence, but instead was pleasantly surprised to see a pullout blind that is halfway across screening 50%. He said that the blind is surprisingly effective at screening the area.
51. He reminded the Committee of their original decision 52/2021, where the Committee had favourably discussed the existence of the premises in Foxton being a facility *"where people can enjoy a meal supported by the consumption of alcohol in a responsible manner"*. That the committee expressed an opinion that the operation of a premises by the RSA was well accepted by the community and had somewhat blended in with the neighbourhood. Public Health submitted that whilst acknowledging those sentiments and the value of the premises to the Foxton community, it felt the District Licensing Committee should not lose sight of the differences between the two operations. One is essentially a club with its self-managing function and the other is more of a commercial premises. Surmising that the facility having a different focus might have more impact on the community.
52. Mr McMasters expressed concern regarding the request for increased hours, stating that the significant increase hardly seemed justified nor had any focus on dining. Furthermore, that the longer hours filled with more entertainment and drinking focus, there is potential disturbance to surrounding dwellings. Saying the extension of hours in to the later evening will require a noise management plan and potentially a one-way door policy, and therefore security to manage this. He acknowledged that a one-way door policy and security had been a recent conversation between the applicant and the Licensing Inspector, and that there had apparently been no noise complaints under the current licensed hours.
53. Public Health submitted that the applicant's failure to comply with the licence conditions and to implement and record staff training demonstrated that the applicants systems are not fit for purpose or were not being diligently managed. Thus, giving rise to the risk of non-compliance and alcohol related harm or problems with the amenity and good order of the locality should the licence be renewed with the requested variations granted.
54. Mr McMasters expressed an opinion that the applicant in their management of the premises so far has not conclusively demonstrated compliance with the provisions of the Act with the conditions of the current licence.

Alcohol Licensing Inspector

55. Mr Eric Gimpel addressed the Committee tabling his report submitted under section 103 of the Act, taking the report as read. In Mr Gimpel's written report he informed he had visited the premises and that it generally complies with the requirements of the Act, noting no major issues. His report informed that there had been no noise complaints associated with the premises during the past two years.
56. In his report Mr Gimpel wrote *"the amenity and good order of the locality would not change if the renewal was refused. On this basis, it is my view that the amenity and good order of the locality would not likely to be increased, by more than a minor extent, by the effects of the refusal to renew this licence"*.
57. Mr Gimpel recommended the Committee consider the imposition of conditions on any renewal, recommending that a number of discretionary conditions be included as documented in pages 39 and 40 of his report.
58. Mr Gimpel's overall recommendation to the Committee being: *"Although Police and the Medical Officer of Health have opposed this application, I feel with monitoring and support*

the licensee can follow the conditions as stated (in his report) above and therefore I do not have any opposition to the application to the renewal of this on licence by the applicant and recommend that the Horowhenua District Licensing Committee grant the renewal for the statutory three year period”.

Legal framework

59. In considering this application for On-Licence renewal, the licensing committee had regard to the criteria under sections 131 and 105 of the Act.

Section 105 matters

Object of the Act – s105(1)(a)

60. The Committee has considered the object of the Act in reaching its decision on the application, and noted there are already four premises with on-licences and one premise with a Club Licence operating in Foxton that is a small town. The further availability of lengthy opening hours in addition to those already existing in Foxton, and in any event contrary to the operative local alcohol policy, is in the opinion of this Committee as not in keeping with the Object of the Act.

61. The Committee noted that the manner in which a licence is operated must be clearly examined to see if its operation has been such as to meet the Object of the Act, and, in its view, this had not been the case for this premises. The evidence presented by Police at the hearing, informing there had been at least three occasions when alcohol was sold outside of the licensed hours persuading the Committee of such.

In considering the evidence presented by the applicant relating to the number of staff holding a Managers Certificate, the Committee was not convinced that the business could continue to operate with only one authorised man

62. after, and found the applicants approach to the employment of sufficient staff with the appropriate bar Managers certification to be casual and lacking.

Suitability – s105(1)(b)

63. The Committee referred to the evidence provided by Police regarding breaches of the Act, and the applicant's apparent disregard for adherence.

64. The Committee referred to the original decision 52/2021 and were disappointed that the ongoing support promised by the applicant that the Get Group would provide did not occur. This was a strong consideration of the committee when deciding to grant the original licence.

Any relevant local alcohol policy – s105(1)(c)

65. The Committee must consider the LAP in their decision-making, and through consideration of the evidence presented during the hearing the Committee has determined that a 1.00am closing time is not appropriate for the premises, with regards to the premises location and its proximity to the facilities as outlined in the LAP that are inconsistent with the LAP.

The days upon which the Applicant proposes to open – s105(1)(d)

66. As outlined in point 65 above.

The design and layout of the premises – s105(1)(e)

67. The Committee had no concerns regarding the design and layout of the premises.

Sale of goods and services other than those relating to alcohol and food – s105(1)f) & (g)

68. The Committee had no concerns in this regard.

Appropriate systems, staff and training – s 105(1)(j)

69. From the evidence presented, the Committee were disappointed that the ongoing support to be provided to the applicant by the Get Group did not occur. The Committee noted that this was a strong consideration of the committee when deciding to grant the original licence.

Reporting agencies – s105(1)(k)

70. The Committee noted that the agencies came well prepared to the hearing.

Conclusion

71. The Committee cited *Hayford v Christchurch DLA 3/12/93 A201/92* in that it is a privilege to hold a licence.
72. The Committee believe the evidence provided at the hearing demonstrated a lack of business systems and lack of upskilling of everyone involved in the premises, ultimately leading the Committee to have a lack of confidence in the applicants ability to improve, nor that there will be any improvement. It is the opinion of the committee that the applicant has no understanding of his responsibility under the Act, and have no confidence in the applicant's ability to comply.
73. It is the Committees opinion that the manner in which a licence is operated must be clearly examined to see if its operation has been such as to meet the Object of the Act. In the view of this Committee, this had not been the case for the premises. The evidence presented by Police at the hearing, informing there had been at least three occasions when alcohol had been sold outside of the licensed hours persuading the Committee of such.
74. The Committee mused that if it had a mind, would have taken to consideration to a renewal for one year, however the evidence presented at the hearing relating to safety and suitability outweighed and the Committee were not convinced it was going to make a difference.
75. The Committee were disappointed in the lack of evidence provided by the applicant. At the hearing the Chairperson urged the applicant to present evidence that would enable the Committee to grant a favourable outcome for the applicant. The lack of evidence did not help the applicants cause.
76. For these reasons, the District Licensing Committee of Horowhenua have made the decision to refuse the renewal of the alcohol on-licence for the Loop Restaurant and Bar, including the requested variations.

Decision

The decision of this Committee is to refuse the renewal of the on-licence for the Loop Restaurant and bar including the requested variations made by Jason Mark Kauri, as Trustee for the Loop Foxton Charitable Trust.

In coming to this decision, the Committee has considered all aspects of Section 131 and associated parts of Section 105 of the Sale and Supply of Alcohol Act 2012, and the Operative Horowhenua Local Alcohol Policy.

Pursuant to section 135(2) of the Act, the on-licence for The Loop Restaurant and Bar being licence 40/ON/003/2021, expires on 2 December 2022.

Sections 152, 154 and 155 of the Act relating to the right to appeal this decision are in effect. This decision has no effect for 10 working days after the date on which notice of this decision is given to the applicant and the agencies.

DATED at LEVIN this 25th day of October 2022.

A handwritten signature in blue ink, appearing to be 'R J Brannigan', is written above the printed name.

R J Brannigan
Commissioner

Application for Renewal of On Licence

Jason Mark Kauri
Trustee

The Loop Foxton Charitable Trust

Complete File

Contents

Application for Renewal of On Licence

Public Notice

Premises Plans

Host Responsibility

Notice of Renewal of Manager's Certificate – Edith Margaret Williams

Copy of Driver's Licence – Jason Mark Kauri [Removed](#)

The Loop Restaurant & Bar Menu

The Loop Restaurant & Bar Drink's List

Levin Police Report

Medical Officer of Health Report

Liquor Licensing Inspector Report

Renewal of On Licence Checklist

The following **must** be included with your application:

- ☒ Completed, **Signed and Dated** application form
- ☒ Public notice - Form 7 is to be completed and 2 copies attached for checking prior to you placing it in a local newspaper.
- ☒ Public notice - Form 7 (for premises window) must be displayed on the premises in a conspicuous place (This must be publicly advertised within 10 working days after filing the application).
- ☒ I understand that I must publicly advertise within 20 working days after filing the application.
- ☒ Copy of letter from the Fire Service re: evacuation scheme, phone (06) 353 2500 or email fireinfo@manawatu.fireandemergency.nz with Liquor Application in the subject line.
- ☒ Fee (See Council's website – www.horowhenua.govt.nz/LiquorLicensingFees)
- ☒ This Checklist

Please note: If the information listed above is not provided with your application it will not be formally accepted and will be placed on hold until the relevant information has been provided.

Suspended under current Covid 19 Alert level.

(COVID LEVELS LOWER WILL NEED TO COMPLY.)

Fire Statement: Section 100(d) (Please tick one) For all Licenses

- ☐ (i) the owner of the building in which the premises are situated provides and maintains an evacuation scheme as required by section 21B of the Fire Service Act 1975; or
- ☒ (ii) because of the building's current use, its owner is not required to provide and maintain such a scheme; or
- ☐ (iii) because of the nature of the building, its owner is exempt from the requirement to provide and maintain such a scheme

Print Name:

John Jackson

Signed:

[Signature]

Date:

2nd March.

FORM 3
Application for Renewal of On-Licence
Sections 127(2), Sale and Supply of Alcohol Act 2012

To: The Secretary
District Licensing Committee Horowhenua
C/- Horowhenua District Council
Private Bag 4002
Levin 5540

Application for renewal of On-Licence is made in accordance with the particulars set out below.

Variation of conditions of Licence

Are any changes sought to the present conditions of the licence?

☒ Yes ☐ No

If Yes, what changes are sought? 9:00 am till 1:00 am

Endorsements (If for a BYO Licence)

(state by type every endorsement sought or sought to be renewed)

/ I WISH TO RENEW SECTION
catering licence. 38.

Is a licence already held for this premise or conveyance: (please circle one)

☒ Yes ☐ No

If yes, please provide details of licence:

(49/01/003/2021)

Details of applicant (Licensees name)

1. Full legal name or names to be on licence

The Loop Foxton Charitable Trust -
Please see email below

Jason Mark Kauri

2. Postal address for service of documents

1 Easton St Foxton.

3. Contact Person

Name: Jason Kauri

Preferred daytime contact number: [REDACTED]

Email address: theloopfoxton@gmail.com

Rowena Coles

From: renaee christensen [REDACTED]
Sent: Thursday, 21 April 2022 9:15 AM
To: Compliance
Subject: The loop

Categories: Alcohol

Bharat

The name change for the application is THE LOOP FOXTON CHARITABLE TRUST

THANKS JASON

Sent from my iPhone

4. Details of Premises

Trading name: The Top Restaurant & Bar

Physical address: 1 Easton St.

What part (if any) of the premises does the applicant intend should be designated as-

(i) A restricted area /

(ii) A supervised area /

On which days and during which hours are proposed for sale of alcohol?

Sunday	9:00 am till 1:00 am	hrs
Monday	9:00 am till 1:00 am	hrs
Tuesday	9:00 am till 1:00 am	hrs
Wednesday	9:00 am till 1:00 am	hrs
Thursday	9:00 am till 1:00 am	hrs
Friday	9:00 am till 1:00 am	hrs
Saturday	9:00 am till 1:00 am	hrs

5. Details of managers

Full legal name: EOITH MARGARET Williams

Number: 38 CERT 248

Expiry date of managers certificate: 21st MAY 2023

Date of Birth: [REDACTED]

Full legal name: /

Number: /

Expiry date of managers certificate: /

Date of Birth: /

Full legal name: /

Number: /

Expiry date of managers certificate: /

Date of Birth: /

6. Conditions

What provision does the applicant intend to make for the sale and supply of -

(i) Food: FULL MENU / BAR SNACKS / ENTREES / DESSERTS

- (ii) Non-alcoholic beverages: 96 Heniken citrus 96 coke-Sprite O.J.-Water.
etc.
- (iii) Low-alcohol beverages: 2.5% Heniken. Skol Lager 2.5%.

To what extent and where; will drinking water be freely available to patrons: Bar area
Kitchen area. Water coolers.

If no access to mains water supply, potability of water intended to be available: (describe) _____
Water coolers - craft on bar.

What steps does the applicant propose to take to provide assistance with or information about alternative forms of transport from the licensed premises? Uber - taxi - courtesy
vehicle - friends family.

What steps does the applicant propose to take to ensure that the requirements of the act in relation to the sale of alcohol to prohibited persons are observed? Host Responsibility
trespass / minors / Intoxication - Keep calm - be polite - let friends know.

What other steps does the applicant propose to take to promote the responsible consumption of alcohol? Non Alcoholic drinks - provide food at all times - Serve Responsibly
and ensure safe transport home.

7. Other systems (including training systems), and staff in place (or to be in place) for compliance with the Act (describe) All staff well trained. All have L.C.P training
Also trained by the Get Group.

8. Additional questions

The granting or renewal of this application will not decrease the amenity or good order of the area by more than a minor extent because we: RSA Owners had all the
necessary Compliance. We the loop Restaurant and bar have now been
operating for the last 15 months. Noise levels Keep low -
Staff training on going.

The design and layout of our premises complies with the Act because: All complies within the
same layout as the loop Restaurant and bar have been operating
for the last 15 months. Noise levels Keep low. Staff training.

The granting or renewal of this application will contribute to the Object of the Act by: The
Safe Alcohol act Supply and Consumption of Alcohol should be undertaken
Safe and Responsibly the harm caused by excessive or inappropriate
consumption of alcohol should be minimised.

Dated at: (place and date)

4th / 6 / 2022

Signature of applicant:

[Signature]

NOTES

1. This form must be accompanied by the prescribed fee.
2. Within 20 working days after filing this application with the District Licensing Committee (or 10 working days if it is an application for renewal), the applicant must give public notice of it in Form 7. The notice must be given in compliance with regulation 36, 37, or 38 of the Sale and Supply of Alcohol Regulations 2013 (whichever applies to this application).
3. Except in the case of a conveyance, within 10 working days after filing this application with the District Licensing Committee, the applicant must ensure that notice of this application in Form 7 is attached in a conspicuous place on or adjacent to the site to which this application relates (unless the Secretary of the District Licensing Committee agrees that it is impracticable or unreasonable to do so).

FORM 7

Public Notice of Application for Renewal of On-Licence (or application for variation of conditions of On-Licence)

Sections 101, Sale and Supply of Alcohol Act 2012

Full name: (Licensee's Name) Jason Mark Kauri

Address: 1 Easton St Foxton.

Occupation: MANAGER.

has made application to the District Licensing Committee at Horowhenua for the issue / renewal / variations of conditions of (circle one) of a

On Licence

(specify type of licence)

In respect of the premises situated at:

1 EASTON ST FOXTON

(address)

Or the: _____ known as: _____
(specify type of conveyance)

The general nature of business conducted under the licence is:

THE LOOP RESTAURANT AND BAR.

(for example; hotel, tavern, restaurant, entertainment/night club)

The days on which and the hours during which alcohol is (or is intended to be) sold under the licence are:

Mon Till Sunday.

9:00 am Till 1:00 am.

(specify days and hours)

The application may be inspected during ordinary office hours at the office of the Horowhenua District Licensing Committee at 126 Oxford Street Levin.

Any person who is entitled to object and who wishes to object to the issue of the licence may, not later than 15 working days after the date of publication of this notice, file a notice in writing of the objection with the Secretary of the District Licensing Committee at Private Bag 4002, Levin 5540.

Closing date for objections: _____

No objection to the **renewal** of a licence may be made in relation to a matter other than a matter specified in section 131 of the Sale and Supply of Alcohol Act 2012.

(In case of publication in newspaper(s) This is the [state whether first, second or only] publication of this notice.

(In case of second publication in newspaper(s) This notice was first published on [state date].

FORM 7

Public notice of application for Renewal of On-Licence (or application for variation of conditions of On-Licence, (for premises window)

Sections 101, Sale and Supply of Alcohol Act 2012

Full name: (Licensee's Name) Jason Kauri

Address: 1 Easton St Foxton.

Occupation: Manager

has made application to the District Licensing Committee at Horowhenua for the issue/ renewal /variations of conditions of (circle one) of a

On licence

(specify type of licence)

In respect of the premises situated at:

1 Easton St Foxton

(address)

Or the: _____ known as: _____

(specify type of conveyance)

The general nature of business conducted under the licence is:

The 100p Restaurant and bar

(for example; hotel, tavern, restaurant, entertainment/night club)

The days on which and the hours during which alcohol is (or is intended to be) sold under the licence are:

9:00am till 1:00 am Monday till Sunday

(specify days and hours)

Date of first advertisement in the newspaper: _____

The application may be inspected during ordinary office hours at the office of the Horowhenua District Licensing Committee at 126 Oxford Street Levin.

Any person who is entitled to object and who wishes to object to the issue of the licence may, not later than 15 working days after the first date of publication of this notice, file a notice in writing of the objection with the Secretary of the District Licensing Committee at Private Bag 4002, Levin 5540.

Closing date for objections: _____

(This public notice must be printed on paper that is at least A4 size and the print must be legible and prominent.)

Applications for On, Off, Club and Special Licences - New and Renewals SALE AND SUPPLY OF ALCOHOL ACT 2012

The Object of the Act

All applications must be considered in light of the object of the Act (section 4):

- The sale, supply and consumption of alcohol should be undertaken safely and responsibly;
- The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

Harm includes crime damage, death, disease, disorderly behaviour, illness or injury, directly or indirectly caused or directly or indirectly contributed to by the excessive or inappropriate consumption of alcohol. It also includes harm to society generally or the community directly or indirectly contributed to by the excessive or inappropriate consumption of alcohol.

Design and Layout

Design and layout can help reduce alcohol-related harm occurring within licensed premises. For example, bar layout, seating, sound, lighting, access and a host of other design elements can be used to improve security, reduce tension and improve the atmosphere in licensed areas.

Guidelines and examples on the types of concepts that design and layout could include are contained in Crime Prevention Through Environmental Design (CPTED). Guidelines on CPTED can be obtained by emailing or phoning the Liquor Licensing Inspector.

Amenity and Good Order

- What appropriate systems, staff, and training is in place or will be put in place to ensure compliance with the law.
- Current and possible future noise levels (if relevant what they intend to do to mitigate them).
- Current and possible future levels of nuisance and vandalism (if relevant what they intend to do to mitigate them).
- The number of other licensed premises in the area. Will the granting of this licence increase negative effects in the area?
- The purposes for which land near the premises is being used for, and will that change if the licence is issued?

you want to stay connected

Public Notice – Alcohol licence

The following application has been received for an alcohol licence. Objections may be made within 15 working days of the publication of this notice.

27 April 2022

Section 101, Sale and Supply of Alcohol Act 2012

The Loop Foxton Charitable Trust has made application to the District Licensing Committee at Horowhenua District Council for Renewal of an On Licence in respect of the premises situated at 1 Easton Street, Foxton known as The Loop Restaurant and Bar. The general nature of the business to be conducted under the licence is that of a Restaurant and Bar.

The days on which and the hours during which alcohol is sold under the licence are: Sunday to Saturday from 9am until 1am the following day.

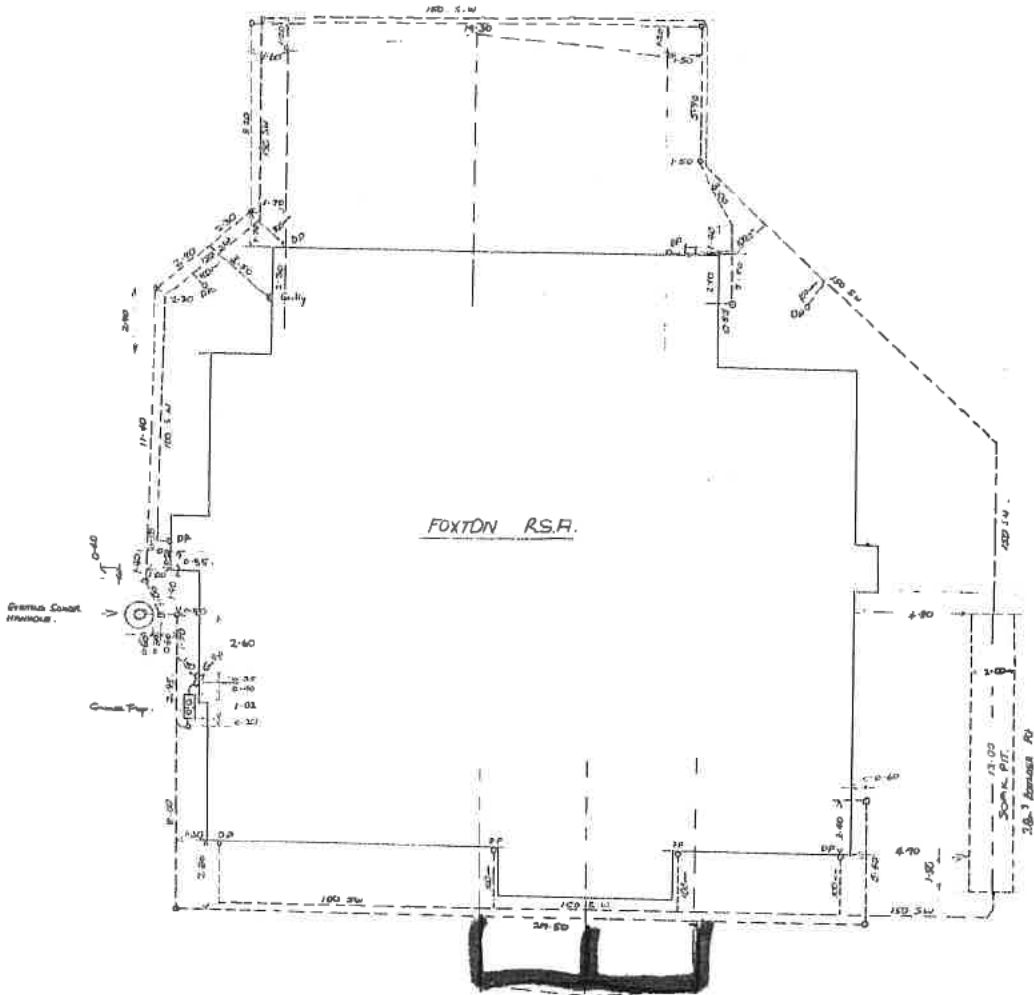
The application may be inspected during ordinary office hours at the office of the Horowhenua District Council Main Office, 126 Oxford Street, Levin.

Any person who is entitled to object and who wishes to object to the issue of the licence may, not later than 15 working days after the date of the publication of this notice, file a notice in writing of the objection with the Secretary of the District Licensing Committee at Horowhenua District Council, Private Bag 4002, Levin 5540.

No objection to the renewal of a licence may be made in relation to a matter other than a matter specified in section 131 of the Sale and Supply of Alcohol Act 2012.

Objection period closes 17 May 2022.

Aerial map.



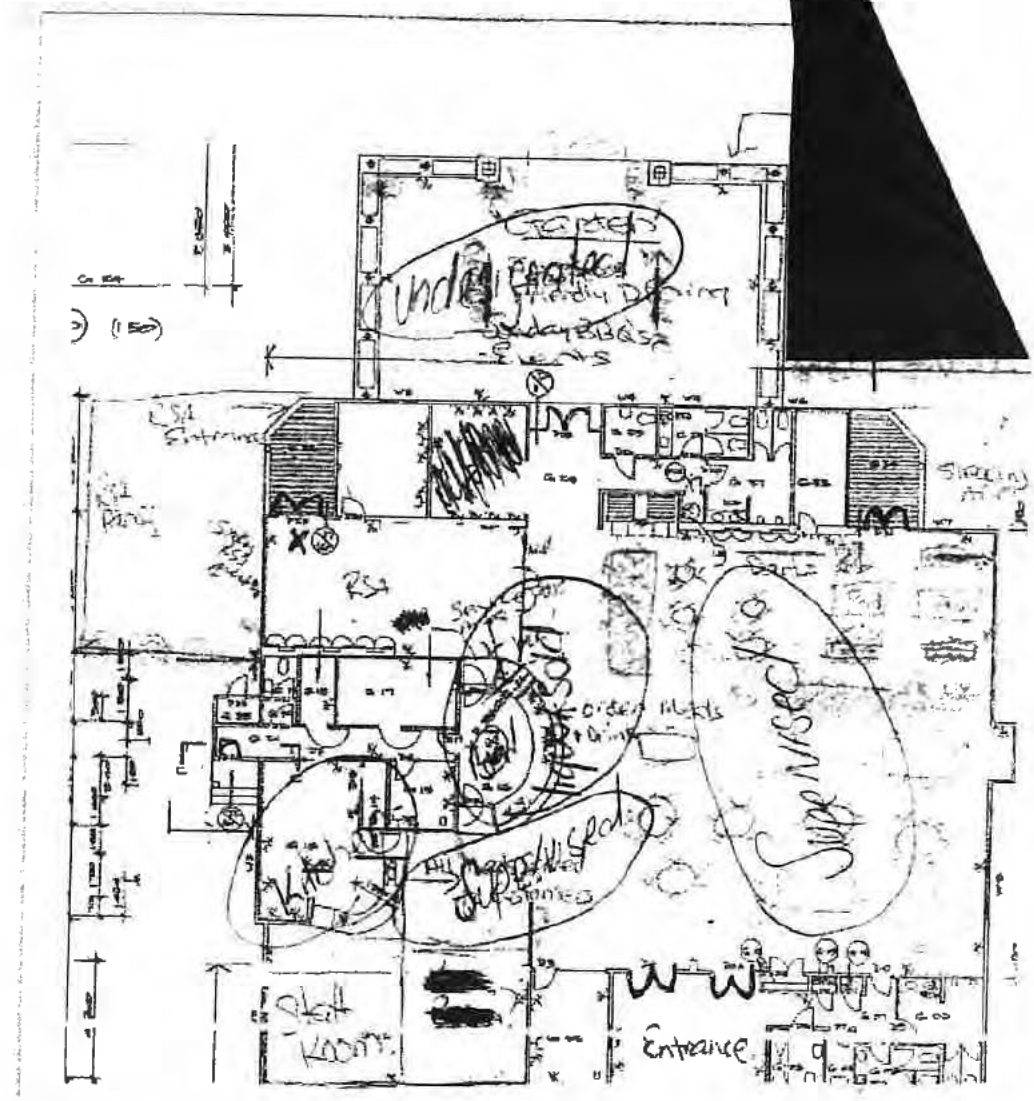
SEWER + STORMWATER ASBESTOS

DATE : MARCH 2008

SCALE : 1:100

ORIGIN : WAIKANE CONTRACTING

Principle entrance



The Loop (2020) Foxton Limited

HOST RESPONSIBILITY POLICY

The Owners and staff want you to enjoy our restaurant & bar facilities.

Our policy is to serve customers in a friendly, responsible and professional manner.

For your safety and enjoyment we provide:

- A Courtesy Vehicle
- Information about Taxis
- Designated Drivers
- Meals and Snacks
- Non Alcoholic Drinks
- Low Alcoholic Drinks
- Tea & Coffee

By law we cannot serve alcohol to intoxicated persons or underage persons.

Avoid the risks of Drinking and Driving.

- Have a designated driver
- Ask our staff to phone a taxi
- Use our courtesy vehicle

"Host responsibility" makes sure everyone has a good time and leaves in a safe shape for the road home.

We are responsible hosts.



NOTICE OF RENEWAL OF MANAGER'S CERTIFICATE

Sections 226, Sale and Supply of Alcohol Act 2012

To **EDITH MARGARET WILLIAMS**

Your manager's certificate **38/CERT/248/2019** is renewed.

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of managers' certificates, this certificate expires on **21 May 2023**, unless again renewed.

Dated at Feilding on 16 June 2020

A handwritten signature in black ink, appearing to read "K. R. Ball", written over a horizontal line.

Secretary

Manawatu District Licensing Committee



Note:

1. This certificate is valid only if it has an original signature and seal

The Loop Restaurant and Bar

Food Menu

Mains

Scotch Fillet Steak	\$35.00
Sirloin Pork	\$22.00
Moroccan Chicken	\$22.00
Thai Beef Salad	\$22.00
Salmon Steak and Salad	\$30.00
Pork Belly on Kumara Mash	\$25.00
BBQ Pork Ribs	\$25.00
Fettuccini	\$22.00

Burgers

The Loop Burger	\$25.00
Chicken Cranberry Burger	\$20.00
Chicken n Cheese Burger	\$15.00
Steak Burger	\$15.00
Beef Burger	\$15.00

Bar Snax

Snack Platter	\$16.00
Chicken Tenders & Chips	\$14.00
Bowl of Fries	\$5.00
Chicken Nuggets	\$8.00
Mini Hot Dogs	\$8.00
Wedges - Plain	\$9.00
Wedges - Loaded	\$15.00

Entrees

Shrimp Cocktail Salad	\$8.00
Garlic Bread	\$8.00
Garlic Prawns	\$12.00
Deep Fried Camembert	\$12.00
Salt & Pepper Squid	\$12.00

Desserts

Chocolate Brownie	\$12.00
Cheesecake	\$12.00
Deep Dish Apple Pie	\$12.00
Waffle Sundae	\$12.00
Mini Donuts	\$12.00
Banoffee Pie	\$12.00
Lemon Meringue Pie	\$12.00
Sundae - Choc, Strawberry	
Caramel	\$12.00

(All Desserts - Homemade)

Thursdays Steak Nite	\$20.00
----------------------	---------

(Catering, Takeaways and Deliveries available)

Non - Alcoholic

Coke, Lemonade, Gingerale - Cans - \$3.00

Bundeberg Bottles - Ginger Beer and Lemon, Lime Bitters - \$4.50

Juice - Glass - \$3.00

Water - free

Coffee, Tea - free

Heineken 0.0% - 330ml bottle	\$6.00
Steinlager Zero 0% - 330ml bottle	\$6.00
Export Citrus 0% - 330ml bottle	\$6.00

Alcohol Sales

RTD's

Cruisers - 275ml bottle 5%	\$7.00
Long Whites - 320ml bottle 4.8%	\$7.00
Somersby Apple Cider - 330ml bottle 4.5%	\$7.00
Woodstock - 330ml bottle 5%	\$7.00
Jim Beam - 330ml bottle 5%	\$7.00
Pink Gin - 330ml bottle 4%	\$7.00
Jack Daniels - 330 ml bottle 6%	\$7.00
Coruba Rum - 330ml bottle. 5%	\$7.00
Canadian Club - 330ml bottle 4.8%	\$7.00

Beer

Export 33 - 330ml bottle 4.5%	\$7.00
Export Gold - 330 ml bottle 4 %	\$7.00
Export Gold Low Carb - 330ml bottle 4%	\$7.00
Steinlager Classic - 330ml bottle 5%	\$7.00
Corona - 355ml bottle 4.5%	\$7.00
Tui - 330ml bottle 4%	\$7.00
Heineken Lager - 330ml bottle 5%	\$7.00
Heineken - 330ml bottle 0.0%	\$6.00
Steinlager Zero 0% - 330ml bottle	\$6.00
Export Citrus 0% - 330ml bottle	\$6.00

Beer on Tap

Export Gold	\$6.00
Tui	\$6.00

Wine

Red - Shiraz	\$7.00 per glass
White - Chardonnay	\$7.00 per glass
- Sauvignon	\$7.00 per glass
- Pinot	\$7.00 per glass



Date: 06/05/2022

The Secretary
District Licensing Committee
Horowhenua

RE: On-licence Renewal with Variations

APPLICANT'S NAME: The Loop Foxton Charitable Trust.

DETAILS OF APPLICANT / LICENSEE: Jason Mark Kauri

SITUATED AT: 1-3 Easton Street, Foxton

The above-named licensee / applicant has applied for a renewal of a current on-licence with additional variations under section 127 of the Sale and Supply of Alcohol Act 2012.

Police wish to raise their concerns to the DLC, with this application being opposed under section 128 of the Sale and Supply of Alcohol Act 2012.

Grounds for Objection under Section 131 – Criteria for renewal.

Police oppose this application under the following subsections:

The object of the Act

Police submit that for the object of the Act to be achieved, the committee must have confidence in the application.

Police are concerned, as noted in the below criteria regarding this application.

Suitability.

Police remain concerned as to the applicant's overall suitability.

Police acknowledge the reserved decision by the Horowhenua District Licensing Committee on the 28 April 2022 where under point 26 stated, "The Committee is aware of the application made by NZ Police under Section 280 of the Act, where the issue of suitability will be at issue before the Authority, the Committee makes no specific finding under this heading"

Police have not received a new pending date for when this ARLA hearing will take place.

Police refer to the other matters set out within Section's 105 and 106 of the Sale and Supply of Alcohol Act 2012, as included and encompasses suitability.

Local Alcohol Policy

On the 12 August 2020, the Horowhenua District Council adopted the Local Alcohol Policy (LAP)

Police refer to Section 7 covering on-licences and sub section 7.1 – 7.3

On the 02 March 2021, the Horowhenua District Council received a new on licence application by the applicant: Jason Mark Kauri as trustee of The Loop Restaurant and Bar Charitable Trust

On the 17 May 2021 a hearing was held before the Horowhenua District Licensing Committee following oppositions being lodged.

On the 27 of May 2021 the Horowhenua DLC issued its reserved decision granting the on-licence 40/ON/003/2021

Police refer to specific points in this decision as still being of relevance.

The days on which and the hours during which the applicant proposes to sell alcohol.

Police are concerned as to applicants proposed hours.

Whether the applicant is engaged in, or proposes on the premises to engage in, the provisions 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.

Police are concerned that in part of a providing a community service, they may allow other traders to set up and sell goods or services inside those premises.

This is a restaurant and bar.

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

Police are concerned that the application in its current state would likely reduce amenity and good order to more than a minor extent.

Whether the applicant has appropriate systems, staff and training to comply with the law:

Police have requested from the applicant details concerning this and have requested a response no later than the 31 May 2022.

Police are concerned that there are potential inadequacies in the application itself to raise concerns to this and also point to suitability.

Summary

Police acknowledge that gradual improvements made by the applicant / licensee, and the assistance sought by them to effect this.

Police remained concerned that the variations proposed in this application, and in part, some of the contained content is out of alignment with each other.

Police remain concerned it also fails to take in past judgements, and previous applications.

Police remain concerned that without strong undertaking and support, the applicant / licensee's past conduct will continue to have a high determinantal impact.

Police submit that the current proposed variations should not be granted on paper and key points are brought back into consideration when deciding on a more balanced proposal of what has been asked for.

Police acknowledge that the matter's currently waiting to be heard by the authority and any outcome arising from this remains in parallel to any other hearing.

.

Yours sincerely

Simon Carter

Senior Constable Simon Carte
Alcohol Harm Prevention Office
Levin Police
PO Box 242
Levin

[Redacted signature]

3 August 2022

Te Whatu Ora
Health New Zealand

The Secretary
District Licensing Committee
Horowhenua District Council
Private Bag 4002
LEVIN 5540

Dear Sir/Madam

RE: SALE AND SUPPLY OF ALCOHOL ACT 2012
APPLICATION FOR RENEWAL WITH VARIATION OF AN ON LICENCE
APPLICANT: The Loop Foxton Charitable Trust
PREMISES: The Loop Restaurant and Bar

I refer to your request received by our office on 27 April 2022, for the variation to conditions and renewal of an on-licence for the above applicant, trading as The Loop Restaurant and Bar, situated at 1 Easton St., Foxton.

The application includes a variation to conditions, changing their trading hours from Wednesday to Sunday 4.30pm to 9.30pm, to Monday to Sunday 9.00am to 1.00am.

MidCentral Public Health is currently supporting the national Covid-19 response and under the Epidemic Preparedness (Sale and Supply of Alcohol Act 2012-Licence Application Inquiries) Immediate Modification Order 2020, the Medical Officer of Health is not required to report on any NEW or RENEWAL applications for ON, OFF and CLUB licenses until 30 days after the Epidemic Notice is lifted.

However we have been able to consider this application with respect to the public health issues involved. As part of our enquiries we have visited the applicant at the premises (on 21/7/22) and consulted with the Police and the Licensing Inspector.

As a result we advise that the application as it stands is opposed.

Summary of issues and relevant legislation

“131 Criteria for renewal

(1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

- (a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):
- (b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:
- (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:
- (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.”

•105(a) – the object of the Act:

Due to the matters detailed below we cannot be confident that the sale, supply and consumption of alcohol can be undertaken safely and responsibly pursuant to this application.

•105(b) – the suitability of the applicant:

The information supplied by the Police (and which they have cited in their currently unresolved s. 280 application) indicates the licensee has sold alcohol and had patrons on the premises outside his licensed hours on at least 3 occasions. The licensee has subsequently taken responsibility for this and we are unaware if there have been any recent transgressions.

It is also concerning that there is no indication that there has been any training of general staff in responsibilities and processes etc relating to the Sale & Supply of Alcohol. As there is a recommended free facility online (Servewise), the applicant could have ensured staff have done this and recorded it – and any other training done – in his Training Register.

These factors do raise the possibility that the licensee may be unsuitable for managing the requirements of the significantly longer hours applied for, and possibly a more drinking or entertainment focus, in compliance with any licensing conditions. Longer hours might also result in different activities and more risk of noise, or other nuisance to the residences in close proximity.

•105(c) – any relevant local alcohol policy:

The situation regarding the Local Alcohol Policy has already been subject to the Committee's deliberations and we note that the resolution regarding the conflict with the LAP was addressed by the requirement for screening of that portion of the premises facing the medical facility and school. While this does seem suitable to address the issue, the screening is only 50% complete.

The Committee also favourably discussed the existence of a premises in Foxton where "...people can enjoy a meal, supported by the consumption of alcohol in a responsible manner." [52] The Committee also expressed an opinion that the previous operation of the premises by the RSA was "...well accepted by the local community..." [45] and has "...somewhat blended into the neighbourhood." [53]

Whilst acknowledging these sentiments and the value of the premises to the Foxton community, we feel the DLC cannot lose sight of the differences between the two operations and the potential impacts that a more commercial operation with a different focus might have on the community.

•105(d) the days on which and the hours during which the applicant proposes to sell alcohol:

The variation sought is to go from hours of 4.30pm to 9.30pm (a total of 5 hours) to 9.00am to 1.00am (a total of 16 hours). This is a significant increase and hardly seems justified by any focus on dining. If the longer hours are filled with a more entertainment or drinking focus there is potential for disturbance to the surrounding dwellings. Any extension into the later evening would require a noise management plan and potentially a one way door policy and therefore security to manage this. (We understand the applicant has discussed the issue of the One-way door and security with the Licensing Inspector and that there have not been any noise complaints under the current hours.)

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

Given the applicants failure to comply with his licence conditions and to implement and record staff training, it seems either the systems or their implementation are not fit for purpose or not being pursued diligently enough. This raises the risk of non-compliance, alcohol related harm and/or problems with the amenity and good order of the locality should this renewal, - with the requested variations – be granted.

In summary, we do not feel that the applicant – in his management of the premises so far – has conclusively demonstrated compliance with the provisions of the Act or the conditions of this current licence. Given that the requested extension of hours would require greater efforts to maintain the good order of the locality and the avoidance of alcohol related harm, we feel the variation is not justified by past conduct.

While we can accept that the premises are an asset to the community we would oppose these extended hours. Should the Committee consider the renewal of the licence (and even some extension of the hours) warranted we might suggest the requirement for a Noise Control Plan; a One-Way door; the completion of the required screening and – given the less than ideal compliance and the request for longer hours – the truncating of the renewal period to give the applicant an opportunity to establish he can run the premises compliantly.

Yours faithfully

Signed on behalf of Te Whatu Ora/Health NZ, Central Region, Public Health Service



Martin Macmaster

For Dr Rob Weir

Medical Officer of Health

National Public Health Service | Central Region

Te Pae Hauora o Ruahine o Taranaki

Cc New Zealand Police, Fire and Emergency NZ

Renewal of On Licence – Alcohol Licensing Inspectors Report

To: The Secretary, Horowhenua District Licensing Committee
From: Eric Gimpel - Alcohol Licensing Inspector
Date: 16 August 2022
Subject: Application for renewal of On Licence
Applicant: The Loop Foxton Charitable Trust (t/a The Loop Restaurant and Bar)

Introduction

- [1] This is a renewal application (with variations) with all the conditions as have been granted under licence 40/ON/003/2021, including sections 14 to 16 and 64 of the Sale and Supply of Alcohol Act 2012.

The Application

- [2] On 4 March 2022, The Loop Foxton Charitable Trust lodged an application with the Horowhenua District Licensing Committee for the renewal of their On Licence (40/ON/003/2021) under section 127(2) of the Sale and Supply of Alcohol Act 2012.
- [3] The general nature of the business being conducted under the licence is that of a restaurant and bar. Given the current On Licence conditions, controls and monitoring, I have no concerns.
- [4] The whole of the premises will be designated as a '**supervised**' area, which is the correct designation for this type of premises.

The Current Licence

- [5] The applicant has held an On Licence for this premises for 14 months, and seeks a renewal with variations to the conditions of the licence currently in force.
- [6] The existing licence records the following:

Licence Type	Licence Number	Expiry Date	Trading Hours
On Licence	40/ON/003/2021	27 May 2022	Wednesday to Sunday 4:30pm to 9:30pm

- [7] The applicant has applied for a variation to the current day and hours, with the proposed new days and hours of:

Monday to Sunday – 9:00am to 1:00am the following day

- [8] The new hours requested comply with the hours for On Licences as per section 7.1 of the Local Alcohol Policy.
- [9] Since the application was received within the statutory timelines and as provided for in Section 122 of the Act, a licence does not expire provided an application to renew has been made before the end of its currency.
- [10] Section 132 of the Act refers to the imposition of conditions on renewal.

Conduct of the Licence

- [11] I have visited the premises and it generally complies with the requirements of the Act, and no major issues were noted.
- [12] A duty manager is available but the applicant will be required to have a minimum of at least three more certified managers available to work at the premises, especially with the variation to the current hours.
- [13] A full restaurant style menu is available for customers for the purpose of dining and this is considered appropriate and meets the range and style specified in the regulations made under the Act.
- [14] A current Host Responsibility Policy was displayed on the premises.
- [15] Water is freely available from the bar area and is delivered to tables in the restaurant.
- [16] Low alcohol beer is available and promoted along with a range of non-alcoholic drinks.
- [17] Signage requirements comply, and no issues of concern were noted during the inspection.

Statutory Criteria for renewal

- [18] In deciding whether to renew a licence, the District Licensing Committee must have regard to the criteria set down in sections 131 and 105(1) paragraphs (a) to (g), (j) and (k) of the Act.

Section 105 matters

- [19] (1) *the object of this Act is that -*

- (a) *the sale, supply and consumption of alcohol should be undertaken safely and responsibly; and*
- (b) *the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.*
- (2) *For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes -*
 - (a) *any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

[20] A search of the databases found no negative Inspectors reports from previous inspections.

[21] In my time as the Licensing Inspector, I have found the applicant has demonstrated suitable measures to ensure responsible sales, supply and consumption of alcohol and that harm will be minimised thereby meeting the object of the Act.

The Suitability of the applicant

Is there any information available to show that the applicant is unsuitable to hold a licence?

- [22] The applicant has applied as a Trust. The applicant 'The Loop Foxton Charitable Trust' has operated from the current premises since the original licence was granted on 27 May 2021. Even though the applicant has limited experience, I have no suitability concerns regarding the applicant at this time.
- [23] The premises currently has one certified manager, and three other staff have applied for their managers certificates, one of which the Police have opposed.
- [24] No criminal convictions have been recorded against the applicant, however the Police report identifies some concerns around suitability. Their report is attached to the file.
- [25] At the time of writing this report, neither the premises nor the applicant has any enforcement holdings against them. However, the premises has a pending ARLA hearing set down for 8 September 2022 in the Levin District Court. This is a section 280 application lodged by the Police.

Any Local Alcohol Policy?

Is there any conflict in what is being applied for with the requirements of the LAP?

- [26] The Horowhenua District Council has a current Local Alcohol Policy (LAP) and the application meets the following requirements for on licensed premises:

The days on which and the hours during which the applicant proposes to sell alcohol

[27] The current trading hours are:

Wednesday to Sunday – 4.30pm to 9.30pm

- [28] As per paragraph 7 of this report, the applicant has applied for a variation in trading hours. The proposed variation in trading hours are consistent with the Horowhenua District Council LAP and within the default national maximum trading hours under section 43 of the Sale and Supply of Alcohol Act 2012.
- [29] The applicant has indicated that the premises would probably not operate on all the days and during the hours requested in the application, but allows the premises to operate if required.
- [30] They have operated under several 'Special Licences' for functions with no issues and currently hold a six month special licence for tangi and funerals.
- [31] Both the Police and Medical Officer of Health have raised issues with the variation in trading days and hours. With regular compliance checks, I do not have any concerns moving forward.

The design and layout of the premises

Any additional comments about the design and layout of the premises?

- [32] The layout of the premises is shown on the floor plan attached as part of the application. There is also an outdoor smoking area included as part of footprint and is licensed also.
- [33] I have conducted an inspection of the premises in relation to Crime Prevention Through Environmental Design (CPTED), and I have no issues or concerns regarding the design and layout of the premises.

Whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments and food, and if so, which goods

- [34] The applicant does not engage in the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments and food.

Whether the applicant is engaged in, or proposes on the premises to engage in, the provisions 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.

- [35] The applicant currently does not engage in or propose to engage in any services on the site, other than the sale of goods other than alcohol, low alcohol refreshments, non-alcoholic refreshments and food.

Whether the applicant has appropriate systems, staff, and training to comply with the law

Security plan

- [36] The applicant will be using suitably qualified and experienced managers during trading hours. The premises is fully alarmed and monitored, and well set out to provide good surveillance and monitoring.

Staff Training and development plan

- [37] The licensee has one certified manager and three current applications for new managers. There will always be a certified manager on duty during trading hours.
- [38] The applicant has provided the following:

Managers' Name	Certificate number	Expiry Date
Edith Williams	38/CERT/248/2019	21 May 2023
Lynette Solomon	New application lodged	
Bonnie Petersen	New application lodged	
Jason Kauri	New application – Police oppose	

- [39] Alternate forms of transport are displayed such as taxi numbers and shuttle from the premises.
- [40] The managers are fully aware of their legal obligations in relation to the sale and supply of alcohol and it is undertaken safely and responsibly. The management of the premises is considered appropriate in context of this business – medium risk premises – restaurant and bar.
- [41] Casual bar staff will be completing the online 'Servewise' Course.

Monitoring systems for minors and intoxication

- [42] The duty manager's will ensure that ID checking is undertaken for all persons who appear to be under the legal age to ensure that no underage person is served alcohol.
- [42] All staff members are trained in identifying signs of intoxication. Intoxicated persons are not served and would be asked to leave the premises.
- [43] The applicant has requested that the entire premises be designated as **"Supervised"**.
- [44] A review of the supporting information and an inspection of the premises demonstrate that the applicant has appropriate systems, staff and training to meet the requirements of the Act.
- [45] The applicant has agreed to a 'One way door restriction' on Friday and Saturday nights from 11.30pm, and there will be security (with a Certificate of Approval - COA) on the door also. This is to ensure no patrons re-enter the premises after they leave, and no new patrons enter.

Section 131 matters

Whether (in its opinion) the amenity and good order of the locality would likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence

Would the amenity and good order of the locality be increased, by more than a minor extent, by the effects of a refusal to renew the licence? (Matters to consider include e.g. Increase in noise levels greater than a minor extent, potential that levels of nuisance and vandalism, any changes to neighbouring land use)

[46] The following areas have been considered with respect to the amenity and good order of the locality and the effect of the licensed premises:

Noise levels

[47] A search of the council database show no noise complaints associated to the premises during the last two years.

Levels of nuisance and vandalism

[48] A search of council records shows no complaints regarding nuisance and vandalism in the immediate vicinity, and there are no examples of graffiti.

The number of premises for which the same kind of licences are already held

[49] There are four (4) other premises in the vicinity that hold an on licence, and they are:

Post Office Hotel, Foxton Hotel, Manawatu Hotel and Mrs Nubbs

[50] The amenity and good order of the locality would not change if the renewal was refused. On this basis, it is my view that the amenity and good order of the locality would not likely to be increased, by more than a minor extent, by the effects of the refusal to renew this licence.

Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129.

Reports from Police and Medical Officer of Health

[51] A report dated 6 May 2022 from the Alcohol harm Prevention Office of the New Zealand Police, they have opposed this renewal application on the following grounds:

- The object of the Act
- Suitability of the applicant
- The Local Alcohol Policy (LAP)
- The proposed new trading hours
- Engaging in other services not directly related to the sale of alcohol etc.
- Amenity and good order
- Appropriate systems, staff and training
- Pending unresolved s. 280 application to ARLA

[52] A report dated 3 August 2022 on behalf of the Medical Officer of Health, has opposed the renewal application on the following grounds:

- Appropriate systems, staff and training to comply with the act
- Suitability of the applicant – information supplied by police regarding unresolved s. 280 application with ARLA.
- The object of the Act
- Any relevant Local Alcohol Policy
- Days and hours in which the applicant proposes to sell alcohol

Other matters

Public Notice

[53] The application was advertised on the Horowhenua District Council website for a period of 15 days from 27 April 2022. There were no public objections received by the close off date of 17 May 2022.

Statement of compliance with Section 76, Fire and Emergency New Zealand Act 2017

[54] In a report dated 16 April 2022 from Fire and Emergency New Zealand, they advised that the building is compliant to Fire and Emergency (Fire Safety, Evacuation Procedures and Evacuation Schemes) Regulations 2018.

Conditions

[55] Having regards to the terms and conditions of the current on-licence and Section 132, which refers to the imposition of conditions on renewal, I recommend the following be included on the licence when issued:

- No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1:00pm on ANZAC Day to any person who is not on the premises to dine.
- Alcohol may only be sold on the following days and between the following hours:

Monday to Sunday between 9:00am to 1:00am

- Alcohol may not be sold or supplied to persons under the age of 18 years of age.
- Evidence of age documents will be requested where appropriate.
- The licensee must maintain and display a Host Responsibility Policy in a prominent place.

- At all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low alcohol beverages must be available.
- Food must always be available for consumption on the premises when the premises are open for the sale of alcohol in accordance with the menu submitted with the application, or variations of that menu of a similar range and standard.
- The area of the premises where alcohol can be sold or supplied and consumed will be designated as **'Supervised'**, as per the plans submitted with the application. No alcohol is to be taken outside these areas.
- A sign shall be prominently displayed inside the premises which identifies the full name of the manager on duty or the person responsible for the sale and supply of alcohol under the licence.
- The holder of a current managers' certificate or a properly notified manager shall be on duty and on the premises at all times when alcohol is being sold.
- Appropriate signs must be displayed adjacent to every point of sale detailing the statutory restrictions on the sale and supply of alcohol to persons under the age of 18 years, and the complete prohibition on sales to intoxicated persons.
- The licensee must always ensure that a copy of the licence is displayed inside the premises so as to be easily read by people using the premises.
- Drinking water is to be freely available to customers while the premises are open for business.
- A telephone must be freely available for customers to call for transport and staff must assist if required. Contact numbers for alternative forms of transport must be displayed and viewable to customers.
- A 'one way door' restriction will apply on **Friday and Saturday nights from 11:30pm to 1:00am the following day**. No person can enter or re-enter the premises between these times and on the above days.
- A certified security officer shall be on duty during the days and times the 'one way door' restrictions are in place.
- The outdoor smoking area on the western side of the building is to be screened off with full screening, as currently is being used.

Recommendation

- [56] Although both Police and the Medical Officer of Health have opposed this application, I feel with monitoring and support the licensee can follow the conditions as stated above and therefore I do not have any opposition to the application to the renewal of this on licence by the applicant and recommended that the Horowhenua District Licensing Committee grant the renewal for the statutory three year period **commencing 27 May 2022.**



Eric Gimpel
Alcohol Licensing Inspector
Community Experience and Services Group