

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER of an application by **GREENSTONE
ENTERTAINMENT GP LIMITED**
pursuant to s.137 of the Act for a
special licence to sell and supply
alcohol for consumption to people
attending an event known as the
Gibbston Valley Winery Summer
Concert to be held at Gibbston
Valley Station, Gibbston Valley,
Queenstown

DECISION OF THE DISTRICT LICENSING COMMITTEE

Introduction

- [1] An application was filed on the 19th September 2017 by Greenstone Entertainment GP Limited (the company) pursuant to s137 of the Act for a special licence. The company proposed to sell and supply alcohol for consumption to people attending a large scale event known as "The Gibbston Valley Winery Summer Concert" to be held at Gibbston Valley Station, Gibbston Valley, Queenstown on Saturday 20th January 2018.
- [2] The event is an annual concert which forms part of the Summer Concert Series held in Queenstown, Taupo and Whitianga. The Queenstown concert has previously seen up to 16,000 attendees and is held on part of the Gibbston Valley Winery's land. The 2018 event, the eighth held in Queenstown has a new Resource Consent issued on the 2nd August 2017 which expires in 2022. The applicant is expecting 18,000 attendees for the 2018 concert and is 'sold out'.
- [3] This year's concert features three international music acts; The Orchestra, Alanis Morissette and Colin Hay of Men at Work Fame. The same artists also perform at the North Island venues, with Queenstown being the first event on the tour. The company's records have shown in the past that their principal 'target market' demographic is male and female equally, averaging an age of around 50.

The Application

- [4] The company seeks to sell beer, cider and wine from 10.30am until 5.30pm. The company has stated in the application that no glass, other than wine bottles and low alcohol options will be sold at the venue. The company contact, Dean Calvert advised that the low alcohol beer will be served in the glass bottles, rather than being poured into plastic vessels. The reason for this is that in his experience, patrons feel discouraged to purchase the low alcohol options if poured into a vessel as they cannot be stored in chilly bins. The aim of serving them in the bottles is to encourage people to choose the low-alcohol options.
- [5] The applicant has advised that alcoholic drinks available for purchase per person, per transaction will be limited to 1x 750ml wine bottle plus 4x cans of beer/cider. After 4.00 pm, no bottles of wine will be available to purchase and the limit of alcoholic beverages per transaction will be reduced to 2x glasses of wine per person or 2x cans of beer/cider or a combination of 1x wine glass and 1x beer/cider can. Alcoholic drinks will not be opened until 4.00 pm, at which point, cans of beer/cider and low alcoholic beverages will be sold open.
- [6] The applicant has also advised that “reduction of serves at certain times if required” or the “ultimate closing of bars if necessary” are options, should intoxication levels require this intervention.

Matters in Opposition

- [7] In a report dated 11th October 2017 from Lynette Grace, delegated by the Medical Officer of Health for Public Health South she stated that she opposed the application under section 105 (1)(a) of the Act; the object of the Act. Her concern was the serving size. She sought to have the initial serve size “reduced in the first instance and again at 4pm”.
- [8] In an email report dated 16th October 2017 from Sergeant Tracy Haggart, Alcohol Harm Reduction Officer of the Queenstown Police, Police opposed the application pursuant to section 105 (1)(a) of the Act. Sergeant Haggart raised concerns regarding the number of serves a patron can purchase at one time. A condition is sought where the maximum amount of alcohol purchased per person, at one time, be up to 4 standard drinks OR a 750ml bottle of wine.

Discussion

- [9] The issue of serve limits has seen an on-going discussion between the applicant company and the agencies for a number of years. The Police and Medical Officer of Health opposed the application for the 2017 event; serve size being one of the main points of opposition.
- [10] The matter was heard by the District Licensing Committee (DLC) on 30th November 2016. The committee’s decision (QLDC 0039/16) included fourteen conditions to be imposed on the Special Licence. The eighth condition addressed the serve size: “No patron be served more than four beers/ciders and/or one 750ml bottle of wine”. The applicant has applied for the same serve sizes in this application.

- [11] Condition Fourteen of the same decision required that “The applicant will attend a formal debrief of how the event was managed with the reporting agencies within three months of the event taking place”. That meeting took place on the 22nd March 2017 and included representatives from Police, Public Health South, the District Licensing Agency and the District Council as well as the applicant company. The committee has had the benefit of a comprehensive report from the Inspector, as well as a copy of the informal notes. The Inspector’s report mentions that the following points were raised by the agencies:

“Senior Sergeant John Fookes of Queenstown Police advised that it was a “reasonably run concert”, “Security was good”. He raised some points regarding the check points upon entry to the event and his preference to have these set further back from entry in future; for the purpose of monitoring patrons more efficiently upon arrival. He also raised some issues regarding the traffic management, of which event organizer Dean Calvert agreed upon a collaborative approach to the traffic management plan for the next application.

Sergeant Tracy Haggart of Queenstown Police advised that there were no arrests at the 2017 concert. She agreed that it was a good event overall but was still disappointed that there was still intoxication; describing a number of photos and videos of patrons leaving the premises. Dean Calvert stated that whilst they try to limit intoxication, it is impossible to stop completely. There was some debate and disagreement between Sergeant Haggart regarding serve sizes and serving drinks opened or unopened.

Stephanie Bekhuis-Pay of Public Health South reported that signage, food and bar staff was good; she didn’t think there was too much intoxication. She advised that the Medical Officer of Health, Dr Derek Bell had concerns about intoxication levels of patrons in the car park leaving the venue and urinating in public.”

The Committee’s Decision

- [12] The committee has been well served by the Inspector providing a detailed and comprehensive report on the application. The report specifically addresses the criteria the committee must have regard to as detailed in s142 of the Act when considering an application for a Special Licence and for the additional requirements for large scale events as contained in s143. In the committee’s view, the applicant company complies with the criteria in s142 and the requirements in s143.

- [13] The committee does not intend to restate the 2017 decision, however it did outline the principal question in [21] of the decision (QLDC 0039/16) and now finds itself compelled to ask again:

We start from the principle that it is legal to sell alcohol under licence, and it is legal to consume it. The object of the Act is that the sale and consumption of alcohol shall be undertaken safely and responsibly. Where is there evidence of any lack of safety or irresponsibility?

- [14] We have considered the opposition from Ms Lynette Grace the delegated Medical Officer of Health for Public Health South and her wish to reduce serving sizes overall and again from 4.00pm. Unfortunately, there was no indication as to what serving sizes would have been appropriate. The committee has considered the opposition from Police

Sergeant Tracey Haggart where again the matter of serve sizes is the principal concern. The police opposition in this application follows a very similar track to that of the 2016 application. In that decision, the committee observed in [26]

“The company is entitled to ask whether anything happened at the last concert which might have persuaded the Medical Officer of Health and the Police to oppose the application.”

[15] It is inherently unreasonable to require the Committee and the parties to re-litigate an issue that has already been the subject of evidence and submissions and a considered decision, unless there is compelling evidence from the 2017 event that the decision was far too liberal, or basically wrong, or that the Act’s objective was undermined. We would have expected that an indication of opposition would have been raised at the debrief meeting last March. One of the characteristics of the new system of control over the sale and supply of alcohol in the new Act is that it is reasonable. (s 3(2) (a)).

[16] The committee considers that the provisions contained in condition 11 of the licence are of vital importance, namely;

“The duty manager must meet hourly with Police or the Liquor Licensing Inspector or when requested during the event, and must follow any directives of the Police officer in charge of the event or the Liquor Licensing Inspector in respect of controls regarding the sale and supply of alcohol.”

We restate our view that this provision is the ultimate safety valve for such an occasion.

[17] In considering the contents and undertakings within the application, the reports and matters in opposition and the Inspector’s report including a summary of last year’s debrief, the Committee is in no doubt of the capabilities of the applicant company to deliver on its alcohol management plan and comply with the conditions of the licence. Pursuant to s.202 of the Act, we note that there is no public “objection” to the application. Parliament has made it clear that in the absence of such an objection the application may be granted on the papers.

[18] The applications SP170122 and SP170143 are granted on the papers and are subject to the following conditions.

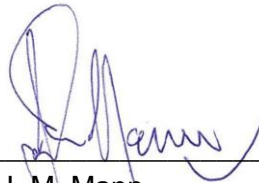
CONDITIONS

This licence is subject to the following conditions:

1. Alcohol may be sold or supplied for consumption on the premises only on the following day and hours: Saturday 20th January 2018 from 10.30am to 5.00pm (main/public bars) and from 11.00am to 5.30pm (Corporate bar).
2. Food, low alcohol beverages and a reasonable range of non-alcoholic refreshments must be available for consumption on the premises at all times.
3. Free water must be freely available at all times.
4. Steps must be taken by the licensee to provide assistance with or information about alternative forms of transport from the licensed premises.
5. The licensee must display signage at every point of sale detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons, and a copy of the licence attached to the premises so as to be easily read by persons attending the premises.

6. A certificated manager must be on duty at all times at each bar facility within the licensed area, when the premises are open for the sale and supply of alcohol and their full names must be prominently displayed.
7. All alcohol sold or supplied must be in a can or plastic vessel, with the exception of 750ml wine bottles and low-alcohol beer bottles.
8. No patron may be served more than four beers/ciders and/or one 750ml bottle of wine from 10.30am in the public bars and 11.00am in the corporate bar. From 4.00pm all beer and cider cans are to be opened at the point of sale.
9. From 4.00pm no more than two alcoholic beverages will be served per person, per transaction.
10. From 4.00pm all wine will be sold by the glass with no more than two glasses per serve; no 750ml wine bottles sales after 4.00pm.
11. A duty manager must meet hourly with Police or the Alcohol Licensing Inspector or when requested during the event and must follow any directives of the Police Officer in charge of the event or the Alcohol Licensing Inspector in respect of controls regarding the sale and supply of alcohol.
12. The licensee may implement its own one-way door policy so that certain patrons who are allowed to return to the car park will not be re-admitted to the event.
13. Non-alcoholic products must not be sold in glass containers.
14. The applicant will abide by the conditions of the alcohol management plan submitted with the application.
15. All patrons must be off the premises by 8.30pm.
16. A representative of the applicant company will attend a formal debrief of how the event was managed with the reporting agencies within three months of the event taking place.

DATED at Queenstown this 30th day of November 2017



J. M. Mann
Commissioner

Queenstown Lakes District Licensing Committee

