

Application	19/53/2021 & 19/054/2021
<u>IN THE MATTER</u>	of the Sale and Supply of Alcohol Act 2012
<u>AND</u> <u>IN THE MATTER</u>	of an application by Aria Cosmopolitan Club Inc for the renewal of a club licence and an off- licence pursuant to section 127 in respect of the premises at 1 Kie Street, Aria and known as Aria Cosmopolitan Club

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The club licence 019/CLUB/006/2019 and the off-licence 019/OFF/005/2019 in respect of the premises situated at 1 Kie Street, Aria and known as Aria Cosmopolitan Club are renewed for a further period of 3 years. The licences may issue upon payment of the annual fee.
2. The present conditions of the club licence and the off-licence continue to apply.

REASONS

1. This is an application by Aria Cosmopolitan Club Inc for renewal of a club licence in respect of the premises situated at 1 Kie Street, Aria. The application was received on 20 July 2021. The initial Inspector's report dated 10 November 2021 informed the licensing committee that the club was no longer a legal entity because it had been removed from the Register on 16 August 2021. On 22 November the licensing committee issued a decision stating:

The application for the renewal of club licence 019/CLUB/006/2019 and off-licence 019/OFF/005/2019 by Aria Cosmopolitan Club Incorporated in respect of the premises situated at 1 Kie Kie Street, Aria and known as Aria Cosmopolitan Club cannot be considered by the Waitomo District Licensing Committee. Aria Cosmopolitan Club must immediately cease the sale and supply of alcohol.

2. The reason for this decision was:

As the applicant club has been removed from the Incorporated Societies register, it is no longer a body corporate. In addition, the club does not hold a permanent charter. Therefore, the club is not an organisation/legal entity entitled to apply for the renewal of a club licence or an off-licence and must immediately cease the sale and supply of alcohol.

3. The Licensing Inspector reports that the applicant club filed an appeal to the Alcohol Regulatory and Licensing Authority, which was dealt with on 25 January 2022, and chaired by Judge P Connell. At the hearing Judge Connell stated that the appeal could not proceed, as in effect the licensing committee have stated they cannot make a decision. The applicant club cannot sell alcohol as the licence is suspended as they are not a registered entity. Judge Connell advised that the applications could be dealt with on the papers by the District Licensing Committee as soon as the club is re-registered.
4. In a second report dated 8 February 2022, the Licensing Inspector states that Aria Cosmopolitan Club Inc was re-registered as an incorporated society on 2 February 2022. Therefore, the licensing committee now accepts that the club is a legal entity that is entitled to continue holding a club licence and an off-licence.
5. The applications were advertised, and no objections have been received from members of the public. The Liquor Licensing Inspector, Police and the Medical Officer of Health have provided reports and do not oppose the application. Accordingly, the matter is decided on the papers (s 134).
6. The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol is minimised (s 4).
7. In deciding whether to renew a club licence and an off-licence the licensing committee must have regard to sections 131 and 105 of the Act. Therefore, this committee must consider the following questions within the framework of the purpose and object of the Act:
 - a) Is the applicant suitable?
 - b) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
 - c) Is the design and layout of the premises suitable?
 - d) Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
 - e) Does the applicant have appropriate systems, staff and training to comply with the law?
 - f) Have the police, inspector and medical officer of health raised any relevant considerations?
 - g) Will 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?
 - h) Has the applicant sold, displayed, advertised or promoted alcohol in a responsible manner?
 - i) Does the application comply with the Waitomo District Local Alcohol Policy (LAP)?

Should the club licence be renewed?

8. The licensing committee is satisfied that Aria Cosmopolitan Club Inc is a suitable applicant to hold a club licence and an off-licence. No issues regarding suitability have been raised by the reporting agencies.
9. The licensing committee is satisfied that the current licensed hours from 10.00am to 10.00pm the following day, Monday to Sunday for the off-licence, and 10.00am to 1.00am the following day, Monday to Sunday, for the club licence, are appropriate and comply with the LAP.

10. In all other respects the applications comply with the LAP. In particular, there is a separate point of sale for off-licence sales adjacent to the principal entrance.
11. The licensing committee is satisfied that the premises has a suitable design and layout to meet the requirements of the Act. It is well appointed and able to be monitored effectively by the staff of the premises.
12. The club has an appropriate Host Responsibility Policy which demonstrates suitable measures will be undertaken in regard to responsible sale and supply of alcohol and that harm will be reduced and obligations under the Sale and Supply of Alcohol Act 2012.
13. The Licensing Inspector reports that in-house training on the Act for the club's committee members (who assist at the bar servery) had lapsed since the last renewals were issued. This is very concerning and shows a lack of attention to the conditions of the licence by the club. It also shows some concerning trends with the club's management, which are also seen in the club's failure to maintain its incorporated society status. The licensing committee acknowledges that the COVID-19 pandemic has interrupted the normal operation of many clubs, including their normal training sessions for committee members and bar staff. Although the club has been able to sell alcohol for considerable periods of time in the past two years, therefore, there were opportunities for training. However, the club has submitted evidence of training undertaken since the beginning of 2022 based on a revised training plan. The training conducted has been comprehensive and training will now be a standing agenda for the club's monthly committee meetings. Therefore, the licensing committee accepts that the club has a suitable training plan for bar staff and committee members.
14. It is very important that committee members undertake regular training in the obligations and responsibilities of the holder of a club licence. This ensures that the club understands its legal obligations as a licensee and knows how to support bar staff. The licensing committee is satisfied that the club has sufficient Duty Managers who serve on these premises to ensure the responsible sale and supply of alcohol. At the next renewal, the licensing committee will want to see adequate records of staff training conducted since these renewals were granted. If these records are not provided with the renewal applications, it is possible the applications for renewal of the club licence and off-licence may have to be considered at a public hearing.
15. The licensing committee is satisfied that the renewal of the club licence and the off-licence will not reduce the amenity and good order of the locality by more than a minor extent. There have been no reports of any nuisance, vandalism or noise problems associated with this premises in the previous licensing period.

Conclusion

16. Therefore, the application for the renewal of the club licence and the off-licence is granted.

Dated at this 23rd day of February 2022



Commissioner
Waitomo District Licensing Committee