

Application

19/030/2025

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND
IN THE MATTER

of an application by
Kimberley Louise Wilcock for
a Manager's Certificate pursuant to section
219 of the Act

HEARING at Railway Building 3, Te Kuiti, on 12 September 2025

WAITOMO DISTRICT LICENSING COMMITTEE

Commissioner: Dr M Cameron

Members: Ms T McIntyre, Mr G Whitaker

APPEARANCES

Ms K Wilcock – Applicant

Ms JL Brueck - Licensing Inspector (in opposition)

Mrs M Fernandez - Licensing Inspector (to assist Ms Brueck)

Sergeant F Cook-Jones – Police (to assist)

DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE

The application by Kimberley Louise Wilcock for a Manager's Certificate is granted.

Introduction

- [1] This is an application by Kimberley Louise Wilcock for a Manager's Certificate.
- [2] Reports under section 220 of the Act were received from an Inspector and the Police. The Inspector raised matters in opposition to the application, while the Police raised concerns but did not oppose the application. Due to the opposition from the Inspector, the matter was dealt with by way of a public hearing.

The application

- [3] The applicant holds the qualification prescribed in section 218.

- [4] The Inspector opposed the application on the grounds of suitability. Specifically, the applicant has a substantial criminal history, with the most recent conviction being in January 2018.

Hearing

- [5] The applicant, Ms Wilcock, spoke to her pre-circulated email statement. She accepted her previous offending, and noted that she had “done all I can to turn my life around, be a law-abiding citizen, and try to put that behind me”. Ms Wilcock noted that she had established a good reputation in the district, and had not been in trouble with the police since her release from prison. She had cut ties with her previous associates, and it has been seven years and seven months since she got her last conviction.
- [6] Ms Wilcock outlined her experience working one night per week as a temporary bar manager.
- [7] Finally, Ms Wilcock questioned whether, if her application was declined, that implied that she had not be rehabilitated.
- [8] In response to questions from the Committee, Ms Wilcock explained that she had been temporary manager at Piopio Cosmopolitan Club, working on Thursdays as manager, and on Fridays alongside another duty manager. She also reported working on Saturdays as required.
- [9] The Committee questioned Ms Wilcock to establish her knowledge of the Act, and the responsibilities of a Duty Manager. She demonstrated good, but imperfect, knowledge, but was clearly very nervous.
- [10] Asked about her past convictions, Ms Wilcock noted that she had suffered a marriage breakdown. She served 20 months in prison, out of her sentence of 30 months, and was released early as her house had been seized and sold by the Police. Ms Wilcock noted that she no longer drinks, and has been living locally in the Waitomo District for 3.5 years.
- [11] The Inspector, Ms Brueck, read her pre-circulated brief of evidence. She noted that she had interviewed the applicant on 8 July 2025, and found her to be knowledgeable.
- [12] Ms Brueck then turned to the issue of suitability. She noted that the applicant had been forthcoming about her criminal history, was “open and honest and willing to discuss the details”. However, Ms Brueck noted that the criminal history provided by Police revealed “a persistent pattern of offending dating back to 1992 with offences relating to drugs and driving”.
- [13] Ms Brueck pointed the Committee to the Authority’s decisions in *Lord v Mulvihill* [2015] NZARLA PH 319 and *Re Clifford* [2003] NZLLA 553, noting that both decisions highlight applicants being unsuitable to hold a Manager’s Certificate due to drug (cannabis) convictions. Ms Brueck also pointed the Committee to the decision *Re Marx* [1997] NZLLA 946-947, noting that added weight should be given to convictions that involve the abuse of drugs, and that the pattern of offending should be considered. Ms Brueck further noted that the applicant was a mature adult able to make sound decisions at the time of the offending.
- [14] Ms Brueck acknowledged that the applicant was very forthcoming, and that two people that the Inspector had spoken to about the application, Karen Loyd and Lucille Wood, both

employed in management positions at the premises where the applicant works, provided “overwhelmingly positive references recommending the application for their manager’s certificate”.

- [15] In response to questions from the Committee, Ms Brueck accepted that she wouldn’t have opposed the manager’s certificate if it hadn’t been for the criminal offences.
- [16] The brief of evidence of Senior Sergeant Hall was taken as read. Sergeant Cook-Jones added some further comment, noting that the applicant had 27 convictions between 1992 and 2018, and was sentenced to 30 months prison for the last convictions. The applicant had not come to police attention since her release from prison.
- [17] In response to questions from the Committee, Sgt Cook-Jones noted that the Clean Slate Act does not apply, due to Ms Wilcox’s custodial sentence.
- [18] Finally, Sgt Cook-Jones noted that she would be satisfied that the convictions do not hamper the applicant’s knowledge and ability to apply the Act.
- [19] In closing submissions, the Inspector noted that she remained opposed to the grant of the Manager’s Certificate, due to the seriousness of the offending. However, she also believed that the applicant’s recent conduct definitely should be considered.

Criteria for determining the application

- [20] In deciding whether to issue a Manager’s Certificate, the Committee must consider the matters detailed in section 222 of the Act. These are:
 - (a) the applicant’s suitability to be a manager;
 - (b) any convictions recorded against the applicant;
 - (c) any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force;
 - (d) any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under section 218; and
 - (e) any matters dealt with in any report made under section 220.
- [21] In the Committee’s view, s 222 (a) and (e) are most relevant when considering this application. The Committee has considered the other criteria in s 222(b), (c), and (d), and is satisfied regarding those criteria.

Reasons and decision

- [22] The applicant has a large number of convictions. While all of those convictions are more than seven years old, the inclusion of convictions for drug offences is of great concern to the Committee.
- [23] However, the applicant has clearly turned over a new leaf. She has cut ties with her past associates, moving away from the area where her offending occurred. She has made great strides in rehabilitation.

[24] Ms Wilcock does not deny her past offending. She was open and honest and forthcoming with the Inspector, and in the hearing. She has not sought to diminish her responsibility for her past actions.

[25] The Inspector raised several decisions in case law related to past convictions. In *Re Clifford* [2003] NZLLA 553, the Liquor Licensing Authority refused an application for a General Manager's Certificate on suitability, ostensibly because of the applicant's use of cannabis. The Authority wrote in that decision, at [6]:

"We accept that in a modern world the use of cannabis is accepted by many as to be almost legal. In our view alcohol and cannabis often go together. We are not prepared to licence general managers who may have more than a passing acquaintance with the drug."

[26] The Committee notes that in the Clifford case, the applicant had a recent conviction for dishonesty offences, within two years of their application. Moreover, the Authority also wrote at [6] that:

"Mr Clifford is welcome to reapply once he has established where he stands with the use and abuse of cannabis."

[27] That case has limited application to the application before the Committee. Ms Wilcock's last conviction was over seven years ago. Despite the aversion to granting a Manager's Certificate to a cannabis user, the Authority was clearly willing to consider an application by a reformed user.

[28] In *Lord v Mulvihill* [2015] NZARLA PH 319, the Authority granted an application by the Police to cancel a Manager's Certificate. While this decision affirmed the earlier consideration of cannabis abuse as an aggravating factor, again the last conviction that the manager in that case was within two years of the application.

[29] In *Re Marx* [1997] NZLLA 946-947, the Liquor Licensing Authority declined an application for an on-licence and a Manager's Certificate on the grounds of suitability. The Authority wrote that:

"Ms Marx's testimonials provide some evidence that at least recently, she has properly carried out her lawful obligations. Yet when the applicant's lengthy pattern of convictions is examined as a whole, we simply do not have confidence that Ms Marx will properly carry out her full obligations under the Sale of Liquor Act. We remind ourselves that a liquor licence is a privilege, not a right (see Hayford v Christchurch District Licensing Agency High Court Christchurch AP201/92 3 December 1993 Holland J). We similarly regard the issue of any Manager's Certificate as a privilege."

[30] The Committee notes the similarity with this application. Ms Wilcock has a lengthy pattern of convictions, and strong testimonials. However, in the Marx case the last incident was only one year before the application, and serious fraud convictions were within the period of five years. Ms Wilcock's most recent conviction was more than seven years ago, and she has not come to police attention since her release from prison.

[31] The appropriate test of suitability for an applicant for a Manager's Certificate remains the test outlined in *Re Sheard* [1996] 1 NZLR 7518, where Holland J said:

“Obviously, the applicant’s past conduct will be very relevant to the consideration of suitability. The real issue is whether the evidence of that past conduct will indicate a lack of confidence that the applicant will properly carry out the obligations of a licensee. And again... “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 go with the holding of a licence.”

- [32] While the Committee does not deny the seriousness of Ms Wilcock’s past offending, the Committee notes that the offending occurred some time ago, and does not speak to Ms Wilcock’s suitability to hold a Manager’s Certificate now. Her recent conduct, her reputation in the community, and the positive references provided by her managers, provide evidence with greater weight in relation to her suitability to hold a Manager’s Certificate.
- [33] The Committee has formed the view that Ms Wilcock has all of the necessary qualities to be a very good duty manager. In particular she has suitable experience, a supportive employer, a mature attitude and a good understanding of the responsibilities of a certificated manager.
- [34] Therefore, the application for a Manager’s Certificate is granted.

Dated this 1st day of October 2025



Michael Cameron
Commissioner
Waitomo District Licensing Committee