

Application

19/021/2021

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND
IN THE MATTER

of an application by
Panorama Motels Limited for the
renewal and variation of an on-licence
pursuant to sections 120 & 127 of the
Act in respect of the premises at 59
Awakino Road, Te Kuiti known as
Panorama Motor Inn

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The on-licence 19/021/2021 in respect of the premises situated at 59 Awakino Road, Te Kuiti and known as Panorama Motor Inn is varied and renewed for a further period of 3 years. The licence may issue upon payment of the annual fee.
2. The present conditions of the licence continue to apply with the exception of conditions (c) and (d) which are replaced as follows:

(c) The area where alcohol is to be sold and consumed is described in the plan date stamped as received by the Waitomo District Licensing Committee on 14 April 2021 and no alcohol is to be taken out of this area.

(d) The bar and area immediately in front of the bar is designated as a supervised area (no persons under 18 can be in the area unless with their parent or legal guardian)./ The remainder of the area is undesignated.

Reasons

1. This is an application by Panorama Motels Limited for the renewal and variation of an on-licence in respect of the premises situated at 59 Awakino Road, Te Kuiti and known as Panorama Motor Inn. Panorama Motels Limited seek to vary the licence by changing the designation of the premises from the whole area being supervised, to just the bar and area immediately in front of it being supervised and the rest of the premises being undesignated.

Waiver request for late application

2. Linare Ryan, Panorama Motels Limited Manager, has requested that a waiver be granted from the requirement to file the application 20 working days before the expiry of the licence. Ms Ryan states that the business has been under considerable pressure as a consequence of the COVID 19 pandemic, with difficulties securing adequate staffing levels for fluctuating trading levels and staff illnesses. This has placed pressure on her as the manager, as she has had to provide cover for many staff shifts. This resulted in her running out of time to get the on-licence renewal filed.
3. Section 127(2)(b) Sale and Supply of Alcohol Act 2012 provides that a holder of a licence may apply to renew the licence by filing an application with the licensing committee “no later than 20 working days before the expiry of the licence, or by such later date (not being later than the expiry of the licence) as the licensing committee may allow”. This application was filed on 14 April 2021 with the secretary of the District Licensing Committee, 18 working days before the expiry of the on-licence on 9 May 2021. Therefore, this application was filed late.
4. Section 208 provides that where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by the Act, the licensing committee or chairperson, if satisfied that the neglect or omission was not wilful, may waive the same on such terms as they think equitable.
5. Justice Heath in the High Court decision of *Sara v Johns* (HC) CIV-2008-404-7746 states that section 111 (the identical provision to s 208 under the Sale of Liquor Act 1989) cannot be used to “waive non-compliance with the need to file before expiry of the on-licence or off-licence, based on the principle that a specific provision will be given precedence over a general one”.
6. Justice Heath distinguishes between a provision in the Act that provides an express jurisdiction to extend time to do a particular act such as section 111 and a provision with no express jurisdiction to extend time such as section 123 (renewal of manager’s certificates). Heath J states that strict time limits are placed on applications for renewal of an off-licence “to prevent licenced premises from being operated illegally”.
7. Firstly, the renewal application was filed before the expiry date of the licence therefore a waiver can be considered. Secondly, I am satisfied that the applicant has a genuine reason for failing to file the application on time and the failure was not intentional. Thirdly, the impact of the failure is reasonably minor and will not have any impact on public participation in the process or the obligations of the reporting agencies. Therefore, a waiver is granted from the requirement to file the application more than 20 working days before the expiry of the licence and the renewal application is accepted as if it were filed on time.

The application

8. The application was advertised and there have been no objections by 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 (section 134).
9. The purpose of the Sale and Supply of Alcohol Act 2012 is to put in place a new system of control over the sale and supply of alcohol (section 3). 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 (section 4).

10. In deciding whether to renew and vary an on-licence the licensing committee must have regard to sections 105, 120 and 131 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? Is the design and layout of the premises suitable?
 - c) 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?
 - d) Does the applicant have appropriate systems, staff and training to comply with the law?
 - e) Have the police, inspector and medical officer of health raised any relevant considerations?
 - f) 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?
 - g) Has the applicant sold, displayed, advertised or promoted alcohol in a responsible manner?
 - h) Does the application comply with the Waitomo District Local Alcohol Policy?

Should the licence be varied and renewed?

11. The licensing committee is satisfied that Panorama Motels Limited is a suitable applicant to hold an on-licence. The company has demonstrated compliance with the Sale and Supply of Alcohol Act 2012. The company has an appropriate Host Responsibility Policy and staff training programme and complies with the Waitomo District Local Alcohol Policy. There are five certificated duty managers who are responsible for ensuring compliance with the Act.
12. Panorama Motels Limited is a hotel with a restaurant that is open to non-residents. The entire premises consists of a restaurant, conference and function room, bar area, office and administration, 19 accommodation units and swimming pool. The only areas licensed are the restaurant and bar and associated small external deck, and conference/function room and pool table area. There are no minibars or off-licence sales.
13. Panorama Motels Limited proposes to continue with licensed hours from 10.00am to 2.00am the following day Monday to Sunday. The licensing committee is satisfied that these are appropriate hours of operation.
14. The licensing committee is satisfied that suitable measures will be taken to ensure that alcohol is sold and supplied responsibly and that harm caused by inappropriate or excessive consumption of alcohol is minimised.
15. The licensing committee is satisfied that the premises has a suitable design and layout to meet the requirements of the Act. Panorama Motels Limited seek to vary the licence by changing the designation to just the bar and area immediately in front of it being supervised and the rest of the premises being undesignated. The Licensing Inspector is not opposed to this change and explains that the supervised area would be demarcated by an existing vertical column to one corner of the customer side of the bar servery as well as pot plants. Signage will be installed stating the bar servery is a supervised area and children under the age of 18 years are only permitted if accompanied by a parent or legal guardian. The change to the designation is sought to enable families to bring their friend's children, who are minors, to eat

in the restaurant. The licensing committee is satisfied that this change is appropriate due to the low-risk nature of the premises. Therefore, the existing conditions relating to the designation and the site plan (showing the designations) are replaced to reflect the changes.

16. The licensing committee is satisfied that the renewal of the on-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 past 12 months.
17. The licensing committee is satisfied that alcohol is sold, displayed and promoted in a responsible manner and in accordance with the requirements of the Act.

Conclusion

18. Therefore, the application for the renewal of the on-licence is granted.

Dated this 1st day of July 2021

A handwritten signature in black ink, appearing to be 'S. Grayson', written in a cursive style.

Sara Grayson
Commissioner
Waitomo District Licensing Committee