

Application	19/044/2018 and 19/045/2018
<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 Incorporated for the renewal of a club licence and an off- licence pursuant to section 127 of the Act

HEARING at the Waitomo District Council Chamber on Thursday 28 February 2019

WAITOMO DISTRICT LICENSING COMMITTEE

Chairperson: Mrs S Grayson
Members: Mr J Gower, Ms T McIntyre

APPEARANCES

Mr B Johnston – President, Aria Cosmopolitan Club Incorporated
Miss S Johnston – Club Manager, Aria Cosmopolitan Club Incorporated
Ms J Taitoko – Duty Manager, Aria Cosmopolitan Club Incorporated
Mr L Norris - Licensing Inspector
Mrs N Zeier – Medical Officer of Health

DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE

1. The club licence 19/CLUB/009/2015 in respect of the premises situated at 1 Kie Kie Street, Aria is renewed for a further period of 3 years. The licence may issue upon payment of the annual fee.
2. The present conditions of the club licence are replaced as follows:
 - (a) Alcohol may be sold only on the following days and during the following hours:

Monday to Sunday, from 10.00am to 1.00am the following day
 - (b) The club must always have a secretary.
 - (c) The club must inform the District Licensing Committee of the name of a new secretary within 10 working days of their appointment.

- (d) All proceeds from the sale of alcohol belong to the club.
- (e) Alcohol may be sold or supplied to:
 - i) a member of the club,
 - ii) any member of any other club where this club has an arrangement for reciprocal visiting rights,
 - iii) a person who is invited and accompanied by the members listed in i) or ii) above.
- (f) 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 30 August 2019 and no alcohol is to be taken out of this area.
- (g) The entire premises is undesignated (persons under 18 can be in the area).
- (h) A holder of a manager's certificate or a properly notified manager must be on duty and on the premises at all times alcohol is sold. If a duty manager is not present then there must be no alcohol sales and a notice displayed advising the public of this fact.
- (i) A manager's register (as required by s.232 of the Act) is to be maintained and available on site.
- (j) The licensee must ensure that all lighting and surveillance equipment installed on the premises is kept and maintained in good working order at all times.
- (k) The licensee must maintain and display a Host Responsibility Policy and ensure all bar staff and committee members receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.
- (l) Alcohol must not be sold or supplied to minors or intoxicated persons. The licensee must display appropriate signs at every point of sale detailing restrictions on the sale and supply of alcohol to such persons.
- (m) Drinking water must be freely available and this must be clear to customers while the premises is open for the sale and supply of alcohol.
- (n) A range of non-alcoholic and low-alcohol drinks must be available at all times when the premises is open for the sale of alcohol.
- (o) Food must be available for consumption on the premises at all times the premises is open for the sale of alcohol in accordance with the menu submitted with the application for this licence, or variations of a similar range and standard. Where catered finger foods, buffet or a la carte meals are not provided, there must be a minimum of four food choices available (excluding nuts and crisps and the like).
- (p) A telephone must be freely available for customers to call for transport and staff must assist if required. A sober driver service must be provided if no other transport options are available.

- (q) No BYO alcohol is permitted on the premises while alcohol is available for sale.
 - (r) The Licensee must ensure the following are displayed;
 - i) A copy of the original licence with all the conditions, just inside the principal entrance so persons entering can read it.
 - ii) A sign in a prominent place identifying the duty manager.
3. Aria Cosmopolitan Club Incorporated is authorised to sell and supply alcohol for consumption off the premises to any authorised customer as described in the licence conditions. The off-licence 19/OFF/004/2015 is renewed for a further period of 3 years. The licence may issue upon payment of the annual fee.
4. The present conditions of the off-licence are replaced as follows:
- a) Alcohol may only be sold and supplied to
 - (i) a member of the club,
 - (ii) any member of any other club where this club has an arrangement for reciprocal visiting rights,
 - (iii) a person who is invited and accompanied by a member listed in (i) above.
 - b) The club must always have a secretary.
 - c) Within 10 working days of the appointment of a new secretary, the secretary of the licensing committee is told the name of the new secretary.
 - d) All proceeds from the sale of alcohol belong to the club.
 - e) Alcohol may be sold only on Monday to Saturday from 10.00 am to 10.00 pm.
 - f) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.
 - g) The entire premises is undesignated.
 - h) The area where alcohol is to be sold is described in the plan date stamped as received by the District Licensing Committee on 30 August 2019.
 - i) The holder of a manager's certificate or a properly notified manager shall be on duty and on the premises at all times alcohol is sold.
 - j) A manager's register (as required by s.232 of the Act) is to be maintained and available on site.
 - k) A Host Responsibility Policy must be maintained and displayed in a prominent place that can be seen by customers and the Licensee must ensure all staff and committee members receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.

- l) There must be no sale or supply of alcohol to minors or intoxicated persons and there must be appropriate signs detailing these restrictions at every point of sale.
- m) Drinking water must be freely available and displayed whenever alcohol is being supplied by way of complimentary tastings.
- n) The Licensee must ensure the following are displayed;
 - i) A copy of the original licence with all the conditions, displayed prominently in the premises.
 - iii) A sign in a prominent place identifying the duty manager.

Reasons

1. This is an application by Aria Cosmopolitan Club Incorporated for renewal of a club licence and an off-licence in respect of the premises situated 1 Kie Kie Street, Aria and known as Aria Cosmopolitan Club. The club has been an incorporated society since 1941 and has held a club licence since 27 August 1990. Section 28(4) provides that a club can hold an off-licence if it has continuously held an off-licence since before the commencement of the Sale and Supply of Alcohol Act 2012. Therefore, Aria Cosmopolitan Club Incorporated is entitled to hold a club licence.

Reports and hearing

2. The Licensing Inspector, Police and Medical Officer of Health do not oppose the application. However, while no concerns have been raised about the way the club has sold alcohol, the licensing committee is concerned that limited information was provided regarding staff training conducted since the licence was last renewed. In addition, the Licensing Inspector has raised a concern about a lack of a functioning CCTV camera covering the point of sales for the off-licence and a lack of signage about CCTV cameras.
3. Based on the information provided, the licensing committee was unable to grant the application on the papers, therefore the application was set down to be heard at a public hearing pursuant to section 202(3). The Licensing Committee conducted a site visit prior to the hearing on 28 February 2019.
4. Following the hearing, the application was adjourned to 10 May 2019. The club was asked to provide a training plan for bar staff and committee members, a list of clubs with which Aria Cosmopolitan Club has an arrangement for reciprocal visiting rights, a copy of the rules or constitution, an amended site plan that included all licensed areas including the outside areas, photos showing the location of signage regarding CCTV cameras and evidence that a latch had been installed on the premises side of the rear gate.
5. An extension was granted to 30 August 2019 to provide the requested evidence, because changes to the rules had not yet been approved. All of the requested documents were supplied by 1 November 2019.

The Sale and Supply of Alcohol Act 2012

6. The purpose of the Act is to put in place a new system of control over the sale and supply of alcohol (s 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

(s 4).

7. In deciding whether to renew a club 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?
8. Section 132 provides that the licensing committee may vary or cancel any conditions applying to the licence before its renewal.

Is Aria Cosmopolitan Club Incorporated is a suitable applicant to hold a club licence?

9. The Licensing Inspector does not report any concerns regarding the suitability of the club to hold a club licence and in particular notes the stable, experienced management within the club. The club President, Mr Johnston, has been on the committee for ten years, and the Secretary/Manager Ms Taitoko has held these roles for the past seven years. As at February 2019 the club had 196 members. The licensing committee is satisfied that Aria Cosmopolitan Club Incorporated is a suitable applicant to hold a club licence.

Are the days and hours during which the applicant proposes to sell alcohol reasonable? Does the application comply with the Waitomo District Local Alcohol Policy?

10. Aria Cosmopolitan Club Incorporated currently has licensed hours from Monday to Sunday, from 10.00am to 2.00am the following day for the club licence and from 10.00am to 10.00pm for the off-licence. Aria Cosmopolitan Club Incorporated has agreed to reduce the licensed club hours to Monday to Sunday from 10.00am to 1.00am the following day. These hours and all other aspects of the application comply with the Waitomo District Local Alcohol Policy (LAP). The LAP only permits a club to operate from 9.00am to 1.00am the following day.

Is the design and layout of the premises suitable?

11. The club premises and grounds are tidy and well looked after. The licensed area includes the main club rooms and an outdoor garden that includes a covered smokers area. This has now been clarified with an amended site plan dated 30 August 2019.
12. The off-sales counter is now covered by a working CCTV camera and signage makes this clear to customers. A latch has been installed on the premises side of the rear gate, satisfying safety concerns raised by the licensing committee.

13. 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. The premises is currently undesignated, and this is appropriate for this type of social club with a family focus. The licensing committee observed that there is play equipment outside and toys available inside for children.

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?

14. The club does not 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.

Does the applicant have appropriate systems, staff and training to comply with the law? 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?

15. The Licensing Inspector states in his report that there is a Host Responsibility Policy displayed on the notice board, a SCAB Intoxication Assessment Tool displayed behind the bar, a date of birth chart behind the bar and prohibited persons signage is displayed. The club has three certificated duty managers and has a manager on duty when alcohol is sold or supplied. A manager's register is maintained.

16. However, the Licensing Inspector observed that there was no evidence of any training provided over the past three years apart from bar staff training on 4 August 2018 and training for committee members in October 2018.

17. Club Manager, Miss Johnston, gave evidence that while the club has a membership of 196, the majority of members come infrequently. The most popular night is a Friday, when up to 30 members may socialise at the club. This is only night that the kitchen is open, unless there is a special function. On other nights pies, pizzas, hot chips and lasagne toppers are available.

18. The club has now clarified which clubs have reciprocal visiting rights and require all visitors to sign-in and record the membership number of their own club. The licensing committee notes that it would be a good idea for the club to make a policy about how many guests a member can sign in. Most clubs of a similar nature have a policy that a member can sign in 3 – 5 guests. This is a practical number of people for a member to be responsible for.

19. The club now has a training plan for bar staff and committee members that includes induction training and a six monthly refresher. There was some confusion at the hearing about who may purchase off-licence sales. The licensing committee reminds the club that pursuant to section 60(2) off-licence sales may only be made to club members and their guests and a member of a club with reciprocal visiting rights. Therefore, off-licence sales may not be made to guests of a member of a club with reciprocal visiting rights or the general public. Information about this should be included in the training provided to bar staff and committee members.

20. It is a condition of this licence that bar staff and committee members are trained in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012. This condition also now requires committee members to undertake some training. This ensures club committee

members are aware of their responsibilities as a licensee in ensuring the club complies with the Sale and Supply of Alcohol Act 2012. This is particularly important for new committee members.

21. The licensing committee reminds the club of the importance of undertaking training and maintaining records that document when the training occurred, what it was about and who attended. This evidence will be critical for any further renewals.
22. While there were some deficiencies in the original application, the club has made good progress with staff, systems and training and now has systems in place to ensure compliance with the Act at all times.
23. The licensing committee is satisfied that the amenity and good order of the locality will not be increased by more than a minor extent by the effects of a refusal to renew the licence.

Has the applicant sold, displayed, advertised or promoted alcohol in a responsible manner?

24. The licensing committee does not have any evidence to suggest that the club has sold, displayed, advertised or promoted alcohol in an irresponsible manner.

Conclusion

25. Therefore, the application for the renewal of the club licence and the off-licence is granted. The conditions for both licences have been replaced to ensure that they are consistent with club licences issued since the commencement of the Sale and Supply of Alcohol Act 2012. The new conditions include information about the statutory obligations relating to clubs, training requirements for committee members, the display of signage and the maintenance of a manager's register. The licensed hours for the club licence have been amended as requested. Unnecessary conditions, such as those relating to party pills have been removed.

Dated this 30th day of November 2019



Sara Grayson
Commissioner
Waitomo District Licensing Committee