

## DECISION FOR RENEWAL OF ON-LICENCE

**Licence Number:** 67/ON141/6/2013

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER** of an application by **Zan Limited** for the renewal and variation of an On-Licence pursuant to sections 120 and 127 of the Act in respect of premises situated at Sandflat Road Cromwell, known as the **Pitstop Café**.

### **BEFORE THE CENTRAL OTAGO DISTRICT LICENSING COMMITTEE**

Mr Robert B McNeil (Chairman)  
Dr Michael MacAvoy  
Ms Tanya Surrey

**HEARING** held at Alexandra on 29 May 2014

### **APPEARANCES**

#### Applicant

Mr Mike Sentsch, General Manager, Highlands Motorsport Park  
Ms Bridget Irving, Associate, Gallaway Cook Allan Lawyers  
Mr Nicholas Horn, Liquor Licensing Bureau (South Island) Ltd

#### Objector

Mr Alan McKay, 346 Kawarau Gorge Road, Cromwell

#### Reporting Agencies

Mr R J Applegarth, Licensing Inspector, Central Otago District Council  
Snr Constable Gordon Pay, New Zealand Police  
Dr Derek Bell, Medical Officer of Health, Public Health South (in attendance no submission or opposition)

### **DECISION**

#### **Background**

This is an application by Zan Ltd for the renewal and variation of an On-Licence in respect of premises located at Sandflat Road Cromwell, known as the Pitstop Café.

There are two elements to the variation:

- a) Extend the licenced area to cover the area identified on the submitted plan,
- b) Extend the licence hours to; 9.00am to 12.30am Monday to Sunday.

The proposed variations are sought to provide flexibility for the applicant in the variety of activities the venue can potentially offer.

The application was duly advertised and an objection was received from an adjacent property owner. The objector clarified that his objection related only to the variation of hours sought in the application and he had no issue with the extended area of the licence.

## The Applicant's Submission

Mr Horn gave evidence and stated that the Applicant seeks to extend the current trading hours to cater for market demands. The current trading hours ceasing at 10.30pm restricts the Applicant in providing facilities that meet the demands of clients. Extending the trading hours to 12.30am will allow the Applicant to cater more effectively for weddings and conferences and be competitive with other venues in the area. I noted that a closing time of 12.30am is still earlier than might be considered normal for restaurant style operations.

Mr Sentsch said in evidence that whilst Highland's is a Motorsport Park, racing cars is not the predominant activity on a day-to-day basis. Highland's is as much a tourism business, conference and functions venue as it is a race track. We have a team of staff that are capable of running a wide variety of events that are different and attractive to a wide variety of people and organisations.

Ms Irving noted that the Compliance certificate issued under section 100(f) of the Sale and Supply of Alcohol Act 2012 highlighted the activities authorised through the resource consent granted for the operation which includes tourist activities, corporate activities including promotions and driving schools, business functions, other gatherings such as weddings, birthdays and special occasions and motorsport. The events themselves are already authorised. She noted the resource consent granted for the venue does not seek to control the operating times of events, other than race days.

On the matter of a suitable management plan for the proposed activity; it was the evidence of Mr Horn that a generic Alcohol Management Plan for the whole site would not be appropriate because it would not be able to respond to the idiosyncrasies of all the events that might occur. He proposed the following condition on behalf of the applicant:

*"No less than X working days before an event being held under this licence the licence holder will provide to the Licensing Inspector an Alcohol Management Plan for the Event that addresses the following:*

- 1. The date and duration of the event.*
- 2. Estimated maximum number of attendees.*
- 3. The site layout for the event, including where relevant:*
  - a. Any areas identified as supervised/restricted areas.*
  - b. Location and availability of food at all times alcohol is being sold.*
  - c. Location of free drinking water that is visible and promoted with signage.*
  - d. Where licensing information will be displayed.*
  - e. Access and egress points for attendees.*
- 4. Transportation options for attendees.*
- 5. Duty Manager responsible for the event.*
- 6. Type of persons attending (such as ticket holders, invitees etc.)*
- 7. Security measures for the event; including*
  - a. Minimum number of security staff;*
  - b. Whether bag checks will be completed prior to attendees entering.*

*For the purposes of this condition an "Event" is a discrete function held within the Motorsport Park grounds, but outside of the Museum Café Buildings and which caters for more than X persons. For avoidance of doubt all other conditions in the licence will also be complied with when holding Events to which this condition applies and any other activities involving the consumption of alcohol occurring at the site (including with the Museum Café Building)."*

## **The Objection**

Mr McKay who lives approximately 300 metres from the museum building raised the concern that the variation of the hours will affect the enjoyment of his property.

Mr McKay said that

*“it seems to me that the licensing hours dictate the duration of the events they wish to hold in those premises and he believed that a 12.30am closing would impact on their lives considerably.”*

He believes

*“anything later than a 10.30pm limit with people leaving at about 11.00pm will cause a loss of quietness in the evening and a disturbance of sleep patterns”.*

His real concerns arise from motor vehicle noise from people leaving starting their car, and driving through to The Nose car park to Sandflat Road.

He said

*“We already hear noise from the venue and our experience from times of the granting of special licences are not pleasant. Vehicle noise is on-going for a long period of time and is extremely loud”.*

## **The Police Submission**

Senior Constable Pay said that the Police had no opposition regarding the suitability of the Applicant and that the days of trade and the hours of the business are not considered as excessive for the type of operation.

Senior Constable Pay said that

*“Police are satisfied the licensing of the whole motorsport complex is reasonable. This is based on (a) the Applicants assertion that alcohol being sold at remote parts of the complex will be for identifiable events and functions and suitable management will be provided and, (b) the Applicant has shown they are capable of planning and operating well-run events pursuant to special licences”.*

## **Licensing Inspector**

The Licensing Inspector Mr Applegarth noted that the applicant had obtained several special licences over the last year for events and

*“on all occasions the applicant has demonstrated that they are capable of managing the sale and supply of alcohol at large events in a safe and responsible manner,”* and was *“unaware of any harm caused by the excessive or inappropriate consumption of alcohol at those events”.*

He did note however that Council received an email from Mr McKay in June last year expressing his concern regarding the noise from traffic leaving the venue after a particular event for which a Special Licence was issued. The matter had been referred to Council’s Planning Department for consideration as to compliance with the Resource Consent granted for the venue.

## **Reason for Decision**

The Committee notes from the Licensing Inspector’s Report that the public notification process was carried out incorrectly in that the advertisements were not placed within 10 working days of filing the application. This came about as a result of a Council staff request to withhold notification as there was a need to clarify technical issues relating to the application. The Committee is satisfied that the

neglect was not wilful on the part of the Applicant and the late notification has not disadvantaged the opportunity for the public to object to this application.

The Committee noted that the licensed area sought by the Applicant and the property boundaries did not align. They therefore requested that a plan be submitted clearly identifying the boundaries of the licence within the property.

The Committee considered Mr McKay's concerns regarding the issue of traffic noise from vehicles leaving the venue, and noted that as alternate exits are available these should be used as often as possible to minimise the impact of traffic movements on the objector.

For large events the Committee identified the need for planning meetings between reporting agencies and the applicant at which they should place particular emphasis on the need to control vehicle movements and direct traffic away from the Objectors property as nearly as is reasonably practicable.

In consideration of the variation to the closing time, the Committee considered section 105(h) of the Act and the amenity and good order of the locality. The Committee also took into consideration Mr McKay's concerns and have approved 12 midnight as a suitable closing time considering the type of events proposed and the approval granted in the Resource Consent for the property.

### **Decision**

The Committee grants a waiver in accordance with Section 208 of the Act from the requirements of Section 127(3) of the Act regarding the timing of the public notice for this application.

We are satisfied as to the matters to which we must have regard as set out in Section 131 and 132 of the Act and agreed to the following change of conditions for the licence:

1. The licence area is redefined as per the map titled *Highlands Motorsport Park Liquor Licence Map – Boundary* dated 5/6/2014 as attached to this decision.
2. No less than 20 working days before any event held under this licence where more than 400 people will be in attendance the licence holder shall provide an Alcohol Management Plan and arrange a pre-event meeting with the Licensing Inspector and the other Reporting Agencies.
3. The variation to this on-licence is approved to allow the sale of alcohol on the following days during the following hours; Monday – Sunday 9.00am to 12 midnight.
4. We are satisfied as to the matters to which we must have regard as set out in section 131 of the Act and renew the licence until 27 March 2017 that being 3 years from the first anniversary of the licence. We authorise the issue of a replacement licence with varied conditions as detailed above, and a renewal certificate.

Dated at Alexandra this 10 day of June 2014

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Philip R Melhopt  
Secretary  
Central Otago District Licensing Committee