

DISTRICT LICENSING COMMITTEE

<b>Application</b>	018-0111
<b><u>IN THE MATTER</u></b>	of the Sale and Supply of Alcohol Act 2012
<b><u>AND</u></b>	
<b><u>IN THE MATTER</u></b>	of an application by Oparau Community and District Club Incorporated for the renewal & variation of a club licence pursuant to section 127 of the Act

HEARING at the Otorohanga District Council Chamber on Friday 7 June 2019

OTOROHANGA DISTRICT LICENSING COMMITTEE

Chairperson: Mrs S Grayson  
Members: Dr M Cameron, Cr R Johnson

APPEARANCES

Mrs D Slade - Chairperson, Oparau Community and District Club Incorporated  
Mrs M Fernandez - Licensing Inspector

**DECISION OF THE OTOROHANGA DISTRICT LICENSING COMMITTEE**

1. The club licence 018/CLUB/004/2015, in respect of the premises situated at 33 Rotoiti Road, Oparau, and known as Oparau Community & District Club, is renewed for a further period of 3 years, conditional upon the Licensing Inspector confirming that the club has supplied the following documents (that have the necessary content as discussed at the hearing) on or before Friday 19 July 2019:
  - a) A one page Training Plan, that covers how and when training will take place each year for bar staff and committee members and who will conduct training;
  - b) A small training manual that covers key training materials particular to this club, including at a minimum the following topics: the object of the Act; the conditions of the licence; the licensed area; the Host Responsibility Policy; the clubs with reciprocal visiting rights; the club policy on sign-in procedures for authorised customers (including how many guests each club member can sign in); where to find the current list of financial club members; when special licences should be applied for; the SCAB Intoxication Assessment Tool (what it means and how to use it); identifying minors; club policy on sober driver services; and a list of training resources in addition to the training manual (e.g. HPA Resource - The Alcohol Game Plan); and
  - c) An amended site plan that includes all of the rear deck area.

2. When the Licensing Inspector confirms that the documents required in paragraph (1) above have been provided to her satisfaction, the licence may issue upon payment of the annual fee.
3. The present conditions of the licence are replaced as follows:
  - (a) Alcohol may be sold only on the following days and during the following hours:  
**Wednesday to Saturday**, from 3.00pm to 12.00 midnight
  - (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 (date to be inserted by Secretary of District Licensing Committee, subject to (1) above) 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 must be on duty for events and functions only. At all other times there should be a suitable club member responsible for compliance.
  - (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 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.
  - (k) 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.
  - (l) Drinking water must be freely available at the bar and this must be clear to customers while the premises is open for the sale and supply of alcohol.
  - (m) 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.
  - (n) Food must be available for consumption on the premises at all times the premises is open for the sale of alcohol. Catered finger foods, buffet or a la carte meals must be provided for events and functions. At all other times there must be a minimum of four types of light meals available (excluding nuts and crisps and the like).

- (o) 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.
- (p) No BYO alcohol is permitted on the premises while alcohol is available for sale.
- (q) 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 or responsible bar manager.

## **Reasons**

1. This is an application by Oparau Community and District Club Incorporated for the renewal and variation of a club licence in respect of the premises situated at 33 Rotoiti Road, Oparau and known as Oparau Community and District Club.
2. The club has been an incorporated society since 1989 and is therefore entitled to hold a club licence. The club seeks to change the designation from supervised to undesignated and to change the licensed hours from Thursday to Sunday, 1pm to 1am the following day, to Wednesday to Saturday, 3pm to 12 midnight.

## **Reports**

3. The Police and Medical Officer of Health do not oppose the application. However, the Licensing Inspector opposes the application due to concerns about an absence of a staff and committee training plan and an absence of training for some committee members.
4. In addition, the licensing committee had some concerns about whether the clubs listed as having reciprocal visiting rights in the application were actually clubs, in terms of the definition in sections 5 and 60 of the Act. The licensing committee also raised concern about whether there is a common bond or natural link between each club and the Oparau Community and District Club that is in keeping with the purpose of the club as stated in the club rules or constitution.
5. 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.

## **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 Oparau Community and District 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. The club has held the current club licence for the past four years. The licensing committee is satisfied that Oparau Community and District Club Incorporated is a suitable applicant to hold a club licence.
10. The club usually has between 40 and 55 financial members in addition to the approximately 10 life members (who rarely attend the club).

**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?**

11. The Oparau Community and District Club proposes to change the licensed hours from Thursday to Sunday, 1pm to 1am the following day, to Wednesday to Saturday, 3pm to 12 midnight. The club generally only meets for an evening meal on the third Friday of each month. However, they wish to have the option to open on Wednesdays for meetings of local farmers. Therefore, it is better for the club to reduce their licensed hours each day in order to retain the reduced licensing fees. These hours and all other aspects of the application comply with the Waitomo District Local Alcohol Policy (LAP) and there is no reason why the variation to the licensed hours should not be granted.

**Is the design and layout of the premises suitable?**

12. The club premises includes a club room with a bar and good sized kitchen, which looks out onto the deck area. In addition, there are large sliding doors that join the club rooms to the Oparau Hall. These doors are usually locked. However, the doors are unlocked, and the hall area is used from time to time, to increase the size of the premises for functions such as birthdays and events such as the Speed Shear competition, that was held several years ago. When the hall is used for events and functions, the club applies for a special licence to cover the extra area and members of the public attending.
13. The indoor area and most of the deck area can be viewed either from the bar or adjacent kitchen. Given that the premises is relatively small and low risk, the licensing committee is satisfied that a CCTV system is not necessary. There is adequate external lighting at the front and rear (deck) of the premises.
14. The site plan provided with the application clearly shows the principal entrance, the licensed area, the internal layout including the chiller, store room and the deck. However, the licensing committee noticed that the existing site plan date stamped 10 December 2018 does not include all of the rear part of the deck. The licensing committee is satisfied that this is a simple oversight and Mrs Slade has agreed to provide a new accurate site plan. This will be date stamped when received, and the date will be referenced in the new licence conditions.
15. 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 designated supervised, and the licensing committee approves the change to an undesignated area. This is because the club is a small low risk club and it is appropriate for this type of social club with a family focus to be undesignated.

**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?**

16. 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?**

17. Under sections 105 and 131 of the Act, the licensing committee must have regard to whether the licensee has appropriate systems, staff, and training to comply with the law. The licensing committee has an expectation for clubs that bar staff and committee members should be involved in regular training. This ensures that committee members are fully aware of the responsibilities of holding a club licence and provide appropriate support, management and training to bar staff.
18. The application states that the club has two certificated duty managers and a Host Responsibility Policy. At the hearing, Mrs Slade gave evidence that she is the only committee member with a manager's certificate, and she conducts training for the other committee members. The committee members are responsible for the bar, unless there is an event or function on with more than 90 people attending, when a certificated duty manager will be in charge of compliance. Usually three or four committee members work in the bar and kitchen on the monthly club night.
19. Another committee member, Heather Dick, is currently undertaking training and will shortly be applying for her manager's certificate. In the meantime, the club does have an arrangement with Awhina Hesketh, who holds a manager's certificate, and can help out if needed. Ms Hesketh currently works at an on-licence and an off-licence in the district. As suggested by Mrs Fernandez, Mrs Slade has agreed to give Ms Hesketh some training on the specific policies of the club (such as reciprocal visiting rights) and the conditions of the club licence.
20. Mrs Slade has been using the LCQ online tutorials and the HPA Alcohol Game Plan materials to do training with committee members, as recorded in the Training Register and Individual Committee Training Records, on 14 April 2019. All six committee members have now completed the online HPA Servewise course and four have attended Club Champs. The committee members will continue attending Club Champs when it is offered locally.
21. The licensing committee is satisfied that all committee members have now completed some useful training. However, we agree with the Licensing Inspector that a one-page Staff and Committee Training Plan and some training materials specific to the club are still required. This is very important for the club because it is effectively an undertaking about what training the club will provide each year for bar staff and committee members. Committees change, and in order to ensure that the club complies with the Act, regular training is vital if the club wants to keep its club licence. Most clubs hold induction training each year after a new committee is appointed and either have a six-monthly refresher or refresh key topics at regular club meetings.
22. The licensing committee notes that there are an Intoxication Assessment Tool, Host Responsibility Policy and Prohibited Persons sign displayed adjacent to the bar and a visitors sign-in book.
23. Mrs Slade admitted that she was a bit confused about clubs with reciprocal visiting rights. However, she is now clear that there are only three clubs with reciprocal visiting rights: Taharoa Social Sports & Welfare Club (2009) Incorporated, Te Waitere Boating Club Incorporated, and Kawhia Sports Club Incorporated. Mrs Fernandez confirmed that all of these clubs are currently incorporated and are therefore a 'club' within the definition of the Act. The licensing committee is satisfied that these three local clubs are likely to have a similar purpose to the Oparau Community and District Club, relating to providing amenities and cultural

activities, promoting sports, and providing an atmosphere where members can meet and enjoy fellowship with one another. The constitution of the Oparau Community and District Club provides that the club can co-operate with other clubs that have similar objects to its own. Therefore, the Oparau Community and District Club is entitled to have reciprocal visiting right with Taharoa Social Sports & Welfare Club (2009) Incorporated, Te Waitere Boating Club Incorporated, and Kawhia Sports Club Incorporated.

24. Mrs Slade has given an undertaking that the names of these three clubs with reciprocal visiting rights will be added to the staff training manual, along with information about how to identify authorised customers, sign-in procedures and when a special licence should be applied for.
25. After hearing all of the evidence, the licensing committee is satisfied that the club has an appropriate Host Responsibility Policy and staff/committee training programme that demonstrates suitable measures will be undertaken in regard to responsible sale and supply of alcohol and that harm will be minimised. It is a condition of this licence that all committee members and bar staff are trained in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012. 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. The licensing committee is satisfied that the club understands when a special licence should be applied for.

### **New licence conditions**

26. The existing licence states that “The authority conferred by this licence must be exercised through a manager or manager or managers appointed by the club in accordance with Part 6 of the Act”. This part of the licence is out of date and has been the cause of confusion for other clubs. Therefore, it will be removed and replaced with a new condition.
27. The requirement to have a manager on duty at all times does not apply to a club unless the licensing committee considers that it should be a condition of the licence (section 215). Some of the factors the licensing committee takes into account when determining whether a manager should be on duty at all times include: the size and nature of the club, and any associated risks. Risks may include the number and nature of other clubs that have reciprocal visiting rights and the number of visitors likely to be at the club. Most importantly, the club must be able to demonstrate that the thorough training programme is in place.
28. The two options for a duty manager condition are:
  - a) *“A holder of a manager’s certificate or 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.”*

Or for small low risk clubs:

  - (b) *“A holder of a manager’s certificate must be on duty for tournament/events and functions only. At all other times there should be a suitable club member responsible for compliance.”*
29. The licensing committee is satisfied that the club should have a condition that a duty manager is required to be on duty for events and functions only. This is because the club is a small low risk family type club and all committee members have adequate training to ensure compliance with the Act when they are on duty at the bar and kitchen. Outside of events and functions, the club is only usually open once per month for an evening meal and only about 30 club members and their guests attend. Furthermore, given the remote location, it is not likely that many visitors will attend the club, unless a special invitation is made to clubs with reciprocal visiting rights, which does occur from time to time.
30. 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.

31. While there were a number of 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.

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

32. 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**

33. Therefore, the application for the renewal of the club licence is granted conditional upon the Licensing Inspector receiving and being satisfied with the Training Plan, Club Training Manual and amended site plan being provided on or before Friday 19 July 2019. The conditions for this licence 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, the display of signage and the maintenance of a manager's register.

Dated this 7th day of June 2019



Sara Grayson  
Commissioner  
Otorohanga District Licensing Committee