

**IN THE MATTER**

of the Sale and Supply of Alcohol  
Act 2012

**AND**

**IN THE MATTER**

of an application by **ASHBURTON  
COLLEGIATE RUGBY  
FOOTBALL CLUB  
INCORPORATED** for the renewal  
of a CLUB-Licence pursuant to  
s.127 of the Act in respect of  
premises situated at **17  
Smithfield Road, Ashburton**  
and known as "**Collegiate Rugby  
Football Club Incorporated**".

**BEFORE THE ASHBURTON DISTRICT LICENSING COMMITTEE**

Chairman: Mr A Lawn  
Members: Mrs S Griffin  
Mrs R Kilworth

**HEARING** at ASHBURTON on 2 September 2016.

**APPEARANCES**

Mrs B McArthur- Club Treasurer and appearing for the applicant.  
Mrs H Faass - Ashburton District Alcohol Licensing Inspector - in opposition.

**RESERVED DECISION OF THE COMMITTEE**

***Introduction***

- [1] This is an application by Ashburton Collegiate Rugby Football Club Incorporated pursuant to s.127 of the Act for the renewal of a club licence in respect to premises situated at 17 Smithfield Road, Ashburton (hereafter called the Club). The Club is the owner of the land and buildings to which the licence applies.
- [2] In addition to the application for renewal, the club has requested a change to its trading hours and an extension to the licensed area to include a large outside area, which includes a children's playground.
- [3] The Club is authorised to trade at the following times Monday to Friday 4.00pm to 12.00 midnight, Saturday 9.00am to 1.00am and Sunday 9.00am to 10.00pm. The Club seeks a variation to its hours to allow trading on Monday to Wednesday 2.00pm to 11.00pm, Thursday to Saturday 11.00am to 12.00 midnight and Sunday 2.00pm to 11.00pm.
- [4] The application was publically notified and no objections were received and there were no reports in opposition from the Police or Medical Officer of Health. The

Alcohol Licensing Inspector opposed the application for renewal on the grounds that she had some concerns that the outside licensed area has located within it a children's playground and that licensing this area would be contrary to the object of the Act.

- [5] In her report the Inspector outlined the history of the application. It appears that the Club was of the understanding that the outside area was licensed but no reference to this outside area can be found in council records from the original application made in 2003. The plan attached to the original application does not define the actual area that the license extends to, nor is there mention of it in the Inspector's report. Mrs Faass states that this is a matter which needs some clarification. A new plan was subsequently submitted by the applicant. This shows the area which the applicant seeks to have licensed.
- [6] The Inspector's report also stated that apart from the issue regarding whether the outside area, which includes the children's playground, should be licensed there were no concerns regarding the applicant's suitability or the manner in which the applicant has sold and supplied alcohol.

### ***The Hearing***

- [7] Mrs Belinda McArthur appeared on behalf of the Club. She is the Clubs Treasurer, is the holder of a manager's certificate and runs the bar at the Club.
- [8] Mrs McArthur came prepared for the hearing and read from a brief of evidence which outlined the Club's position. She gave clear evidence and represented her Club in a very professional manner. She stated that the Club has been operating since 1987 and was applying for the change in the trading hours to reflect the change in the way the Club now needs to operate. They have had a massive increase in their JAB teams in the last two years and find teams are playing earlier.
- [9] In evidence Mrs McArthur stated that the Club has 160 registered players, of which 125 of these are junior players. There are approximately 300 club members.
- [10] In answer to questions Mrs McArthur stated that the outside activities are mainly just children playing, there are no outside fixed seating for use in the area and the area is used three or four times a year for drinking by the senior B team. Mrs McArthur also stated that there is usually 20 to 40 children present in the outside area.
- [11] Mrs McArthur also stated that she opens and runs the bar and committee members help out when it is busy. Training of staff is continuous and members are supervised. She has held a manger's certificate for the last couple of years. She stated that the last Club licence renewal was in 2013 and that the outside area had been discussed with the previous licensing Inspector at that time, including the outside fenced area and patio. She also confirmed that the clubrooms are the only licensed part of the building (it has a gymnasium and

changing rooms attached to the main building) apart from a very small smoking area at the rear of the premises.

### ***Alcohol Licensing Inspector***

- [12] Mrs Helene Faass is the Alcohol Licensing Inspector for the Ashburton District Council and has been a Licensing Inspector for the past 13 years, the last two in Ashburton. Her report was taken as read.
- [13] In her brief of evidence the Inspector outlined her inquiries into the renewal application including a site visit on the 16<sup>th</sup> of August 2016 where she met with Mrs McArthur and discussed the proposed outside area as well as taking photographs of the premises, including the outside area. In regards to the variation of hours Mrs Faass stated that she had no issues with them and that they seemed reasonable in the light of other club licenses in the district.
- [14] Mrs Faass confirmed that her only concerns with the application were whether the outside area is licensed currently and whether the placement of children's play equipment within the licensed area was appropriate in the light of the object of the Act.

### ***Decision***

- [15] In the decision *Mount Roskill Rugby Football Club Incorporated, re [2004] NZLLA 141* the Authority stated;

*[23] We have always taken the view that sporting clubs play a special part in the maintenance and development of any community. They help to provide an outlet for physical and recreational activity. They provide opportunities for young people to play sport within a club environment. The senior members give selflessly in terms of organising, coaching and fund raising. Clubs that provide opportunities for young people to play sport should be encouraged wherever possible. In a modern busy society it is becoming increasingly difficult to find adults prepared to offer their time and services for the good of the club as well as the wider community.*

- [16] This Committee agrees with the Authorities comments in that case and confirms that the only area of contention regarding the renewal of this club licence is the variation to extend the licensed area to a large outdoor area, which includes a children's playground.
- [17] It was suggested during the hearing that the outside licensed area could be limited to the concrete area immediately adjacent to the side door of the clubrooms and that some form of screening in the form of a small fence or planters could be placed there but there did not seem to be any appetite for this suggestion by the applicant.
- [18] In making any decision in relation to the Act we must take into account both the respective criteria and the object of the Act. The criteria are set out in ss. 131 and 105. In our opinion the application meets the criteria except in relation to the proposed outside area.

[19] The object of the Act is set out in full below.

“s.4

Object

(1) The object of this Act is that—

- (a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
  - (b) the harm caused by the excessive **or inappropriate consumption of alcohol should be minimised. (Our emphasis)**
- (2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—
- (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
  - (b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).”

[20] In the introductory speech of the Minister, the Right Honourable Simon Power, when he moved the first reading of the Bill then known as the Alcohol Reform Bill, he said.

*“New Zealand needs a safe and responsible drinking culture. The late 1980s saw liberalisation of the sale of alcohol to create a so-called European-style moderate drinking culture. Further changes followed in 1999. It is clear that those changes had not worked. Excessive drinking and intoxication contributes to our crime rate and our injury rate and affects our general health. It impacts on workplace productivity and contributes to family violence and child abuse.*

....

*This is a large Bill, but its objectives are simple. It zeros in on alcohol-related harm, crime, disorder and public health problems, especially where our young people are concerned. It aims to reduce excessive drinking and improve the operation of the alcohol licensing system, including community input on licensing, and to support the responsible sale, supply, and safe consumption of alcohol. Licences will be harder to get and easier to lose.”*

[21] This new system that we are entrusted with has a far greater focus on creating and maintaining a responsible and safe environment where alcohol will be sold, supplied and consumed and that in doing so alcohol related harm caused by the excessive and inappropriate consumption of alcohol will be minimised.

[22] We believe that the words “inappropriate consumption” in the Act’s object relate to actions such as the supply of alcohol to an underage person or an intoxicated person and do not directly relate to a situation such as this. Having said that whether the variation of the licensed area sought in this application is ‘appropriate’ is still a relevant question to ask and therefore if the answer to that question is negative the term may therefore be entirely in context.

- [23] Part of the criteria at s.105(e) is *The design and layout of any proposed premise*, and when we make our decision this criteria must be considered. Any premise layout must be weighed against the object of the Act.
- [24] Having heard all the evidence and weighed it in the light of both the criteria, at s.131 and 105 of the Act, including promoting the object of the Act, we have come to the conclusion that to license an area which is primarily used by children, and has equipment in it which is for the exclusive use of children, would be both irresponsible and inappropriate and therefore the application to extend the licensed area to the outside area which includes children's play equipment must be declined.
- [25] Mrs McArthur, stated in answer to questions, that the Club rents out the premises to other than club members and applies for a special licenses in each case. It was suggested to Mrs McArthur that if there were occasions where the outside area was to be used then a special licence application could submitted with a request for an extension of the licensed area and that the agencies would then be able to report on the merits of each particular application.
- [26] It seems to us that given that the area is used by a very small group of people for up to four times a year that this is a reasonable approach to take.
- [27] We are satisfied as to the matters to which we must have regard as set out in s.131 of the Act and we renew the licence for three years with the varied hours as requested. The licensed area shall be the area as described on the plan, submitted by email and dated 29 August 2016, including the small outside area described as a 'smoker's area. It will not include the outside area bounded by the fence which includes the concrete area as described on the plan.

**DATED** this 21 day of September 2016.



Chairperson  
**Ashburton District Licensing Committee**