

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by **MICHAELA
MARIE POOTS OF WANAKA,**
pursuant to S.219 of the Act for a
Manager's Certificate

BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE

Chairman: Mr L A Cocks
Members: Mr E W Unwin
Mr J M Mann

HEARING at QUEENSTOWN on 12th September 2017

APPEARANCES

Ms T J Surrey – for the applicant
Mr N P Bates – Licensing Inspector – to assist
Sergeant T. Haggart – Queenstown Police – in opposition

RESERVED DECISION OF THE COMMITTEE

Introduction.

[1] Before the committee is an application by Michaela Marie Poots for the renewal of her managers certificate. The application was received by the Agency on the 1st May 2017.

The Application.

[2] Ms Poots is from Hastings New Zealand and is 27 years of age. She has held a managers certificate since 8th May 2013 and this will be her second renewal. Ms Poots is employed at the Lake Bar in Wanaka where she has worked since June 2013. She currently holds the position of front of house Duty Manager and Maitre D. In this role she is responsible for managing the restaurant and training new staff.

The Police Opposition.

[4] The application was opposed by the Police under s222 of the Act
(a) the applicant's suitability to be a manager:
(b) any convictions recorded against the applicant:

[5] On 27th June 2016, the applicant was convicted of driving with excess breath alcohol (level of 806mgms), causing injury, and failing to stop and ascertain injury. She was sentenced to 150 hours community work and disqualified from driving for 1 year 2 months and ordered to pay reparation.

The Licensing Inspector.

[6] The Inspector submitted that the suitability of the applicant is what is in question and provided extracts from several cases where 'suitability' has been addressed, for the Committee to consider.

The Applicant.

[7] Ms Poots told us of her work experience in licenced premises in Wanaka. She had attained a Bachelor of Design at the Otago Polytechnic and a Bachelor of Commerce at the Otago University. She has worked for her current employer, Peter and Vicky Byrne for eight years and she indicated that Mr Byrne was at the hearing to support her and had provided a very positive reference. Ms Poots considers herself to be an experienced duty manager and advised us she has not breached the Sale and Supply of Alcohol Act 2012 (or the Sale of Liquor Act 1989) while working as a duty manager.

[8] Ms Poots expressed her horror at the situation she got herself into on 6th May 2016 and had never been in any trouble with the Police prior to then. She told us she had been drinking at a private house and decided to drive to another private house a short distance away. She could not explain why she drove and acknowledged it was an extremely foolish decision. She believes she was concussed in the crash resulting in her having limited recollection of the incident and of leaving the scene.

[9] Ms Poots advised us she has completed the 150 hours of community work she was sentenced to and has just got her drivers licence back after the the 1 year 2 months disqualification. She is still paying the \$10,000 reparation by instalments. She is unsure why, but the Police did not apply for a suspension of her manager's certificate after she was convicted. She told us she is willing to take a voluntary 28 day suspension which would be in addition to the action taken by her employer (Mr Byrne), where he stood her down as duty manager for one month following the incident.

[10] Ms Poots described her ambition to open a clothing store and sell clothes she has designed but in the foreseeable future would like to stay working at the Lake Bar in her current role with the aim of progressing to a more senior role. She indicated that if her managers certificate is not renewed she cannot achieve this and would only be able to work as a bar tender or waitress with less responsibility and less earning potential.

The Committee's Decision and Reasons.

[11] The suitability of Ms Poots to have her Managers Certificate renewed is the question. When discussing 'suitability' **Holland J in *Re Sheard (1996) 1 NZLR 751*** stated:

"Suitability is a word commonly used in the English language and is well understood. In an earlier decision the Authority has adopted the definition in the Concise Oxford Dictionary as 'well fitted for the purpose; appropriate'."

[12] We acknowledge the offences the applicant was convicted of were very serious but accept that she also received and has completed the commensurate punishment and was ordered to pay a significant amount of reparation. The Police did not apply for a suspension of Ms Poots managers certificate following the incident but she has volunteered a 28 day suspension. This would be in addition to the one month stand down as duty manager imposed by her employer after the incident. Taking account of this, the remorse shown by Ms Poots and the strong support provided by her long standing employer, we proposed renewing the managers certificate for a truncated period of 18 months but with the voluntary suspension of the certificate for 28 days. All parties acknowledged that the proposal was reasonable in the circumstances.

[13] Accordingly, the Committee rules pursuant to S 228(1) of the Act, that the above application for renewal of a Managers Certificate is approved for a period of 18 months with the expiry date of 8th November 2018. The voluntary suspension is for 28 days from the 12th September 2017.

DATED at Queenstown this 25th day of September 2017.



L .A. Cocks
Chairperson

