



Decision No. QLDLC Hearing 0016/17

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

AND

IN THE MATTER of an application by **BIDFOOD LIMITED** **situated at 20A Ardmore Street, Wanaka** pursuant to s.127 of the Act for an application for renewal and variation of an off licence.

DECISION OF THE DISTRICT LICENSING COMMITTEE

- [1] An application was filed by Bidfood Limited on 31st January 2017 for renewal and variation of an off licence in respect of premises situated at 20A Ardmore Street, Wanaka and known as Mediterranean Market. It was considered in accordance with ss.127 and 191 of the Sale and Supply of Alcohol Act 2012.
- [2] The original application was opposed by the Medical Officer of Health on the grounds the single alcohol area and inclusion of the outside courtyard and its intended use, did not comply with the Act. In response to this opposition the applicant reduced the size of the single alcohol area that had been applied for and withdrew the variation to include the outside courtyard within the licensed area. As a result, the Medical Officer of Health withdrew opposition to the renewal application.
- [3] The applicant had sought to include the courtyard in the licenced area to eliminate the need to apply for special licences to use the courtyard for wine tastings in the future, as had been done in the past. Six special licences have been issued in the past for this purpose and the Inspector has questioned whether these licences should have been issued as he considers allowing tastings in the courtyard on occasions is in breach of s114(1)(a) which states:

114 Effect of single-area conditions

- (1) Every single-area condition takes effect as a condition that the licensee of the premises concerned must ensure that—
 - (a) no display or promotion of, or advertisement for, alcohol occurs on the premises at any place outside the alcohol area; and
 - (b) the premises are not reconfigured or rearranged in a way whose effect (whether intentional or not) is that the alcohol area contains—
 - (i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
 - (ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.

Section 114(5) specifies what isn't considered a promotion and tastings aren't described in it.

- (5) For the purposes of this section,—
- (a) neither of the following is a promotion of alcohol:
- (i) a sign (consistent with other general signage in the supermarket or grocery store concerned) giving directions to, or describing the location of, an area where alcohol is available for purchase;
 - (ii) a newspaper, magazine, or catalogue containing a promotion of or advertisement for alcohol; and
- (b) **described** means described under section 113; and
- (c) **designated** means designated under [section 113(3)(b); and]
- (d) **low-alcohol or non-alcoholic beer, wine, or mead** means a product that is specified in section 58(1)(a) to (d) but that is not alcohol.]

[4] Based on this, we agree with the Inspector that tastings in the courtyard cannot be offered even on an occasional basis as the courtyard is not part of the single alcohol area. If the applicant offers tastings under its off licence, then these tastings would need to be conducted in the single alcohol area.

[5] For clarification, a special licence is to enable the sale and supply of alcohol to people attending an event. Tastings offered in a premise with an off licence in effect, is not considered an event. Tastings are a way to display and promote the alcohol that is for sale on the premises and therefore must be conducted as per the conditions of the off licence. The approval of these special licences effectively breached the single alcohol area condition in the off licence. The whole purpose of Section 112(1) is to limit the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol.

112 Compulsory conditions relating to display and promotion of alcohol in single area in supermarkets and grocery stores

- (1) The purpose of this section and sections 113 and 114 is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.

[6] Further, allowing tastings in the courtyard under special licences did not comply with the intent of s113 (5) (b) (i & ii) which is to prevent direct pedestrian routes to the main body of premises through alcohol areas. The courtyard is on the direct route from the carpark to the main entrance.

- (5) The authority or committee must describe an alcohol area within the premises only if, in its opinion,—
- (a) it is a single area; and
- (b) the premises are (or will be) so configured and arranged that the area does not contain any part of (or all of)—
- (i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or
 - (ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.

[7] In view of this, special licences should not be applied for by supermarkets or grocery stores to enable tastings outside of their single alcohol areas.

[8] The variation of the hours from 8.00am – 6.30pm to 8.00am – 10.00pm was sought to cover occasions when the applicant holds cooking demonstrations in the store after the premises has closed. With these increased hours, special licenses will no longer be required as the alcohol offered is only free tasting to match the food that has been cooked and will take place in the single alcohol area. The Inspector was not unfavourable to this variation and the Medical Officer of Health did not oppose it.

[9] The application was duly advertised and no public objections were received. No reports with matters in opposition were filed by the Police and the Medical Officer of Health's

position is addressed above. The Inspector's report was not unfavourable. No public hearing is necessary and the application is dealt with on the papers.

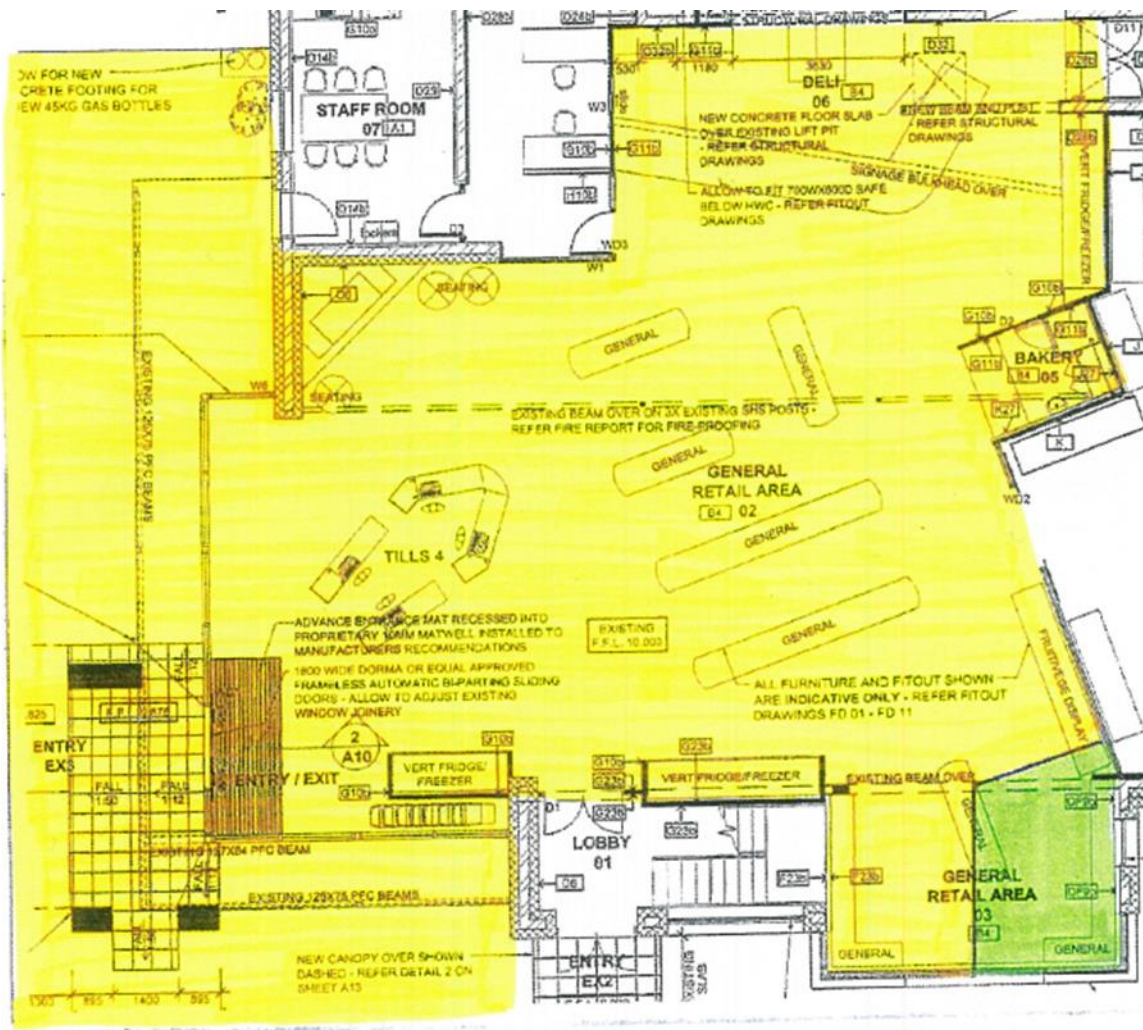
[10] The Committee has considered the criteria in s.131 of the Act and grants the application for renewal and variation of off licence with the following conditions:

i) Days and Hours (Inside only)

Monday to Sunday 8.00am to 10.00pm

ii) Single Alcohol Area

The approved Single Alcohol Area is shown in green on the plan below.



[11] The Licence is renewed until 28th February 2020 that being the anniversary date of the licence and three years since the last renewal and the issue of a replaced licence is authorised.

[12] The applicant's attention is drawn to ss. 56, 57 and 214(3) of the Act obligating the holder of an off licence to display;

- i) A sign attached to the exterior of the premises, so as to be easily read by persons outside each principal entrance, stating the ordinary hours of business during which the premises will be open for the sale of alcohol;

AND

- ii) A copy of the licence and of the conditions of the licence attached to the interior of the premises so as to be easily read by persons entering through each principal entrance;

AND

- iii) The full name of the manager on duty must be prominently displayed inside the premises so as to be easily read by people using the premises.

DATED at Queenstown this 22nd day of June 2017



L. A. Cocks

Commissioner

Queenstown Lakes District Licensing Committee