

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012 (“the Act”)

**AND**

**IN THE MATTER** of an application by **Georgina Peri** pursuant to s.219 of the Act for the grant of a Managers Certificate

**BEFORE THE FAR NORTH DISTRICT LICENSING COMMITTEE**

**Members:** Mrs Ann Court (Chairperson)  
Mr Martin Macpherson (Member)  
Mr John Thorne (Member)

**HEARING** at **KAIKOHE** on 19 June 2023

**APPEARANCES**

Ms Georgina Peri (applicant)  
Ms Lisa Nelson – Far North District Alcohol Licensing Inspector – in opposition  
Ms Christina Rosenthal – Far North District Licensing Committee Hearing Administrator – to assist  
Ms Te Orakiri Graham – Far North District Licensing Inspector – to assist  
Mrs Ngawaiata Harris – Far North District Licensing Committee Hearing Administrator – to assist

**RESERVED DECISION OF THE COMMITTEE**

**INTRODUCTION**

- [1] This is an application made by Georgina Peri for the grant of a manager’s certificate to manage the licensed club premises known as the Otaua Sports Club situated at 32 Renwick Road, Taheke, Far North District.
- [2] The application was signed by Ms Peri and lodged on the 24 November 2022. The prescribed fee was paid.

- [3] A Police report from Acting Sergeant Roger Dephoff dated 24 December 2022, opposed the application on the grounds of non-disclosure of a recent conviction within the previous 2 years. The type and date of the conviction was not stated.
- [4] The Licensing Inspectors report supported the Police opposition for the same reason. This was just as well for reasons that will become evident later in this decision.
- [5] The applicant is suitably qualified with sufficient experience. A copy of the required Licence Controller Qualification issued 8 February 2022 was attached to the application.
- [6] The applicant has the full support of her club. A written reference was lodged with the application and a recent one signed by the club secretary was provided to us by the applicant at the commencement of the hearing. Both references can be described as glowing and outline the applicant's strong involvement in all facets of the club over many years including being the Chairperson for the past 3 years.

#### **EVIDENCE OF THE APPLICANT**

- [7] At the hearing Ms Peri addressed the Committee. She had not produced a written brief of evidence but told us about her involvement and role at the club. She responded candidly to the Committee's questions but was somewhat vague on recalling dates.
- [8] She confirmed her current position as club Chairperson and said she was responsible for bar staff training and running the bar among the other various voluntary duties she did. She agreed that she could be regarded as one of the stalwarts of the club.
- [9] She said the LCQ training and application fees for her and other club members were paid for by club fundraising activities.
- [10] Ms Peri stated that the previous conviction was a drink drive one that occurred in June 2022 in Kaikohe. There was no correlation or involvement with the offence and any of the activities at the Otua Sports Club. She could not be specific as to precise dates. She claimed she "was only 2 or 3 over the limit" and thought she was ok to drive. A driving disqualification period was imposed as part of the penalty. When asked why she had not declared the conviction she said she was in a hurry filling out the application form and had overlooked it. She expressed sincere remorse and regrets as to the drink drive conviction.
- [11] In response to questions from member Macpherson, Ms Peri demonstrated good practical knowledge of the Act and host responsibility requirements as the appointed duty manager at her club. Similarly she had good knowledge of the terms and conditions of a club licence. She agreed completion of the

ServeWise training module offered through the Health Promotion Agency would enhance her knowledge.

### **THE INSPECTOR**

- [12] The Inspector's Report was taken as read and not challenged. It was clearly in support of the Police opposition.
- [13] In her report the Inspector Ms Nelson said that there were no concerns about the applicant's knowledge. There were no recorded matters regarding the applicant's management of the club premises that were other than satisfactory. When the Inspector questioned the applicant regarding the offence non-disclosure, the response was they "forgot".
- [14] The Inspector concluded by stating her opposition still stood subject to further applicant training via the ServeWise module.

### **EVIDENCE OF THE POLICE**

- [15] There was no appearance by the Police.

### **REASONS FOR THE DECISION**

- [16] The Police objected but did not appear to speak to it as the process requires. We accept there may be operational reasons or resourcing issues, but this was not helpful. Some prior communication with the Inspector as to the nature of the offence would have been desirable as it was very pertinent to the application before us. We are continually hearing that non-responses from the Police are an issue, but we are very mindful of the ever changing Police challenges.
- [17] The absence of the Police meant the Inspector by default adopted the mantle of lead objector. The Inspector was quite right to oppose the application.
- [18] Under all the circumstances we were not mindful to adjourn the hearing. The applicant appeared before us and was entitled to have her application considered on the day. It seemed to us that the applicant filled the offence blanks in, to the best of her knowledge.
- [19] We then had two adverse matters to consider. First the non-disclosure; and secondly the admitted drink drive offence.
- [20] The Authority said in *Deejay Enterprises Limited NZLLA 531 – 532/97d*:

*"The guiding hand or hands-on operator of any company or the potential holder of a General Manager's Certificate now receives greater scrutiny from both the Police and other reporting agencies. Character and reputation are closely examined. The law and human desires of patrons frequently tug in different directions. The Police cannot be everywhere. Little but a licensee's*

*or manager's character and suitability may stand between upholding the law and turning a blind eye. Self-imposed standards in accordance with the law must be set by licensees and holders of General Manager's Certificates who control and manage licensed premises."*

- [21] Another leading decision is **G L Osborne NZLLA 2388/95**. In that decision the Authority indicated that it normally looks for a *"five-year period free of any serious conviction or any conviction relating to or involving the abuse of alcohol... and two years free of all offending... before an application for a General Manager's Certificate will be entertained."*
- [22] This decision has stood the test of time, but it is still a guideline, and all applications need to be judged on their own merits. However, any divergence from this should be in exceptional cases only.
- [23] We found the non-disclosure by the applicant to be unfortunate at best and deliberately deceptive at worst. We lean towards the latter. She needs to take ownership of it.
- [24] In dealing with the conviction itself, by her admission the applicant stated part of the penalty imposed was a disqualification period. This means the breath alcohol reading was likely mid-range, i.e. at least 400 micrograms of alcohol per 100 millilitres of breath. The current lawful limit is 250 micrograms per 100 millilitres of breath. The applicant stated that there were no aggravating features (such as an accident) and she was picked up at a Police check-point. She stated the offence had no connection to club activities.
- [25] On the positive side:

*Holland J said in **Sheard [1996] 1 NZLR 751 (at page 8)**:*

*"The real issue is whether the evidence of that past conduct will indicate a lack of confidence that the applicant will properly carry out the obligations of a licensee."*

*While Sheard related to an application for a licence, this is equally apt in respect of an application for, or a renewal of, a manager's certificate.*

- [26] In this case the offence was one year ago. The applicant is a hardworking and committed club member. The club is an essential part of the rural Taheke community and caters to many activities over all age groups. She is in a senior position and is able to offer training and mentoring to others following in her club footsteps.
- [27] Immediately following the Hearing and prior to this decision being written, the applicant successfully completed the ServeWise Training module and provided evidence of this to the Inspector.

- [28] The letter of support from the club secretary dated 17 June 2023 has stated – ***“we believe her to be an integral part of our community and are very blessed to have her as our club Chairperson”***.
- [29] The club is in a remote rural area, and it is vital that competent managers are available to ensure the requirements of the Act are met.
- [30] After taking all matters into consideration and mindful of the purpose intended by Section 3 – legislation is *for the benefit of the community as a whole* - we find there are special circumstances to warrant the application being granted.
- [31] The decision was not unanimous.
- [32] By majority decision the Far North District Licensing Committee grants the application. The Managers Certificate may issue immediately. It will be valid for 12 months from date of issue.

**DATED** at Kaikohe this 26<sup>th</sup> day of June 2023



**Katie Waiti-Dennis**  
**Secretary**  
**For the Far North District Licensing Committee**



\*Decision written by DLC member John Thorne