

SPECIAL LICENCE

IN THE MATTERof the Sale and Supply of Alcohol Act 2012
(the Act)**AND****IN THE MATTER**of an application by Samantha Kekila Tiera
Tarawa for a Special Licence pursuant to
Section 22 of the Act in respect of premise
situated at 76 Market Street, Blenheim,
Marlborough District known as 'Club Envy'.**BEFORE THE MARLBOROUGH DISTRICT LICENSING COMMITTEE**Chairman: John Leggett
Members: Nadine Taylor (Deputy Chair), Graeme Barsanti.**HEARING** at Blenheim on Tuesday 17 December 2019.**Appearances**Samantha Kekila Tiera Tarawa (Applicant) with Sio Asiata (in support)
Senior Sergeant Peter Payne and Sergeant Michael Porter (NZ Police) – in opposition
Coral Hedley (Public Health Alcohol Licensing Officer) – in opposition
Karen Winter (Chief Licensing Inspector) – to assist
Gemma McKinney (Māori Warden)**RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE (DLC)**

This is an application by Samantha Kekila Tiera Tarawa for a Special Licence in respect of premise situated at 76 Market Street, Blenheim, Marlborough District known as 'Club Envy'.

The application is for an on-site special licence to allow the licensee to sell and supply alcohol for consumption there for an event to be held on 24 December 2019 for the hours of 7.00 pm to midnight. The application specifically states that the event is "Extension of Licence Hours" and that the principal purpose of the event is "Entertainment, Food and Alcohol consumption".

The application was referred to the agencies and opposition to the application was received from the NZ Police and Medical Officer of Health. The Chief Licensing Officer also recommended that the application be referred to a DLC Hearing.

A hearing was therefore called for 2.00 pm on Tuesday 17 December 2019 in the Council Chambers.

Hearing

We are satisfied that no conflicts of interest exist amongst the panel to this application.

A procedural matter was raised in the letter of opposition from Ms Hedley concerning the timeframe for the lodging of the application. The application was effectively a day out from the 20 day requirement

under s137 of the Act; however we are satisfied that this is not an issue in this case and dismiss this matter of opposition under the discretion as outlined in s137(2) of the Act.

The next issue to be considered was the Special Licence application itself and the information contained in that application. Under event details the application was for an extension of hours on Tuesday 24 December 2019 for the hours of 7.00 pm to midnight. The application further states that the purpose of the application was for entertainment, food and alcohol consumption. We questioned Ms Tawera on this matter and we were advised that Ms Tawera had filled the form out herself, and that the event would be for a Christmas Party for the public and not for staff. Ms Tawera confirmed that she had filled out the application for an "extension of licensing hours".

Senior Sergeant Payne reiterated the NZ Police's opposition to the application as the application was for an extension of licensing hours and not a specified event; noting that the DLC must have regard to the criteria in s142 of the Act. Ms Hedley agreed with the view of the NZ Police. Ms McKinney also agreed with the view of the NZ Police.

Ms Winter stated that whilst it may not be intended that way, the application is clearly for "business as usual". Ms Winter also stated that a ticketed event, especially on a holiday, helped the agencies in identifying an event.

We acknowledged that our reading of papers reached the same conclusion as the agencies. We reiterated to Ms Tarewa that an application must be filled in properly so as to allow the agencies to enquire into and report with reasonable understanding of what the special licence application is for.

Ms Tarewa responded that the application was the same as last year except that for this year's application she had filled out the form to indicate the event was for an "extension of hours" rather than a party. Ms Tarewa advised that last year's event was allowed. Ms Tarewa also reconfirmed that the event would be open to the general public. Ms Tarewa did comment that as she was aware of the certain things happening around the special licence application and the potential for the event not to happen and therefore had not advertised the event.

District Licensing Committee's Decision

As advised above we dismissed the matter of opposition under s137 of the Act.

We then turned our thoughts to s142 of the Act and the matters contained in that section. Before considering s142(1)(a) we considered the wording of s142(1)(b).

The proposed nature of the event is an extension of hours for Christmas Eve. In deciding whether to grant a special licence we considered whether the event proposed is an event for which a special licence can be granted.

The Collins dictionary defines an event as *something that happens, especially when it is unusual or important*. We can infer from this that an event would not be normal business activity.

In *The Bullock Bar Limited and Luggate Hotel Limited QLDC 0012/14*, that District Licensing Committee commented:

A special licence enables the licensee to sell or supply alcohol to people who are attending an event described in the special licence. It is not to be granted to enable people to attend the premises primarily to drink. An event is defined in s.5 of the Act as including an occasion or a gathering.

They also conclude in paragraph 33:

...The applicants carry the onus of proving on the probabilities that the proposed events will not be business as usual, and there will be real difference to what happens on these particular days and nights compared to what happens on any other days and nights.

We also concluded that an "extension of licence hours" is not an event as described in s142(1)(b) of the Sale and Supply of Alcohol Act 2012 and therefore decline the application by Samantha Kekila Tiere Tarawa for an on-site special licence to allow the licensee to sell and supply alcohol for consumption at Club Envy for an event to be held on 24 December 2019 for the hours of 7.00 pm to midnight.

We must also acknowledge the other matters raised in the submissions of the NZ Police in regard to the NZ Police's applications to ARLA under sections 280 and 285 of the Act. However as we did not need to enquire into this enforcement action, no further consideration of these matters were made.

DATED at BLENHEIM this 19th day of December 2019

A handwritten signature in black ink, consisting of several loops and a final horizontal stroke.

Secretary
MARLBOROUGH DISTRICT LICENSING COMMITTEE