

IN THE MATTER of the Sale & Supply of  
Alcohol Act 2012

AND

IN THE MATTER of an application by the  
HEATHCOTE VALLEY  
SCHOOL for an On-Site  
Special Licence pursuant  
to s22 of the Act in  
respect of premises  
known as the Heathcote  
Valley School situated at  
61 Bridle Path Road,  
Christchurch.

DECISION OF THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

<u>Chairperson</u>	Mr R J Wilson JP
<u>Members</u>	Mr G Buchanan
	Mr D L Blackwell OSM

INTRODUCTION

[1] This is an application by the Heathcote Valley School for an On-Site Special Licence for premises known as the Heathcote Valley School situated at 61 Bridle Path Road, Christchurch. The occasion is a Gala Fundraising Event to be held on Friday 4<sup>th</sup> November 2016 between the hours of 5 pm and 8 pm. The applicant has appointed an experienced and certificated Duty Manager to take charge of the licensed area which will be contained within a small marquee. This is an annual event and there have been no problems whatsoever with similar events in the past.

[2] There has been no objection or wish to be heard expressed by members of the public and neither has the application been opposed by the Licensing Inspector or the NZ Police. The Medical Officer of Health has however reported in opposition. Such opposition does not necessarily require a public hearing, s202 of the Act providing that only public objections require this. The Committee may choose to decide the matter on the papers although s191(2) requires a full quorum of three not just the Chairperson sitting alone. The Committee has given careful consideration to the matter and has decided that a public hearing is not necessary. We therefore proceed to determine the matter on the papers.

### THE OPPOSITION OF THE MEDICAL OFFICER OF HEALTH

[3] The Medical Officer of Health has chosen to oppose the application on the basis of the suitability of the applicant. His argument pursuant to s 142(1)(c) of the Act amounts to the assertion that the wish of the applicant to continue with the application despite being advised that the Medical Officer of Health thinks it is inappropriate somehow renders the applicant unfit to hold a licence. This is an extraordinary extension of the usual criteria for suitability and we reject it outright. The Committee is however required to have regard to all the matters set out in s142(1) and as the Medical Officer of Health has put forward other material in support of his position we now proceed to examine that.

[4] On 31<sup>st</sup> August 2016 Mr Peter Shaw, delegate for the Medical Officer of Health contacted the applicant and cited a letter dated 28<sup>th</sup> May 2015 from the Secretary of Education to the Auckland Medical Officer of Health confirming the Ministry of Education's position "that alcohol should only be at adult only fundraisers" and "that it is important that schools are encouraged to set positive examples and avoid alcohol use around children". The letter did go on to make clear that School Boards of Trustees were independent of the Ministry in the matter and could make their own decisions. The applicant considered the Medical Officer of Health's urging of the school to withdraw its application but decided not to do so.

[5] The Medical Officer of Health has provided a statement from Tracy Clelland, Senior Tutor, University of Canterbury Education Department. Ms Clelland is an expert in the field of health education. She opposes the application on the grounds that it would "normalize alcohol use and does not support an HPS

(Health Promoting Schools) approach to wellbeing or the principles of health education". We have carefully considered what Ms Clelland has to say and we respect her opinion. However it differs little from the evidence the Medical Officer of Health has put before us in past applications where on balance we have preferred the opposing view which points to the positive influence of children seeing parents having a social drink in a socially acceptable manner in a controlled and family oriented environment. We are not setting ourselves up as experts in the matter. We are required to reach our decision on the evidence before us and we are simply not convinced that the consequences of the granting of this application is likely have the dire consequences that the Medical Officer of Health suggests.

[6] We are required as in all decisions to consider the object of the Act as set out in s4. S4 (1) says:

*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 minimized.*

S4 (2) goes on:

*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 behavior, 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 behavior. Illness, or injury of a kind described in paragraph (a).*

There will be agreement that we are not discussing excessive consumption of alcohol here. What is envisaged is the opportunity for members of a community to take time out in the course of a community event to have a glass of beer or wine in the company of friends and neighbours.

[7] The Medical Officer of Health's argument is that such, at what he terms a "child focused event", will contribute to harm to society generally by normalizing the consumption of alcohol. The Senior Licensing Inspector in his report says that

"To hold the view that the exposure of alcohol to children causes significant harm would imply that no licence should be granted to any licensed premises or special licence granted for any event where children are present." Clearly this would not be practicable or consistent with the Act. The applicants in this case are responsible people seeking a special licence for a community event. They have considered the points made by the Medical Officer of Health in opposition and formed their own view that their proposed activity would not be harmful. They are seeking a licence as the law allows them to do. We see no reason why they should not get one and they are granted a Special Licence pursuant to s104(1).

[8] The licence will be subject to the following conditions:

#### Compulsory Conditions

The following conditions are compulsory:

- (a) Alcohol may only be sold under the licence on the following day and during the following hours:

Friday 4<sup>th</sup> November 2016 between the hours of 5 pm and 8 pm

- (b) Drinking water will be freely available on the premises as specified in the application.

#### Discretionary Conditions

The following discretionary conditions will apply:

- (a) The licence holder must display appropriate signs adjacent to every point of sale detailing the statutory requirements on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (b) Food must be available for consumption on the premises as specified in the application.
- (c) Low alcohol beverages must be available for sale and supply on the premises as specified in the application.
- (d) Non alcoholic beverages must be available for sale and supply on the premises as specified in the application.
- (e) The licensee must provide assistance with or information about alternative forms of transport from the premises as specified in the application.
- (f) A copy of this licence together with signs showing the age restriction must be clearly displayed.
- (g) Entry is open to the general public.

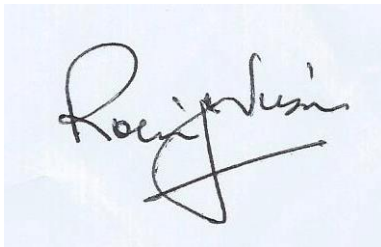
(h) Alcohol may only be sold, supplied and consumed within the area marked on the plan submitted with the application.

The licence is also subject to the following conditions which in the Committee's opinion are not inconsistent with the Act

(a) Noise should be controlled so as not to disturb neighbouring residents.

The premises are not designated.

Dated at Christchurch this 29<sup>th</sup> day of September 2016

A handwritten signature in black ink on a light blue background. The signature is cursive and appears to read 'R.J. Wilson'.

R.J. Wilson  
Chairperson,  
Christchurch District Licensing Committee