

Decision Number: 60G [2022] 12596

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

AND

IN THE MATTER OF an application by **PC TECH LIMITED**
trading as **Texas Coachlines** for a
Special Licence pursuant to section 138
of the Act in respect of a Conveyance
LYN 902

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: Ms C E Robinson
Members: Mr D Blackwell QSM
Mr D Ivory

Appearances: Mr Raajew Singh and Mr C Person (commencement only) for the applicant
Sergeant David Robertson, NZ Police
Ms Nikki Anderson, Licensing Inspector
Mr David Joker, Team Leader District Licensing Inspectorate

DECISION ON APPLICATION FOR SPECIAL LICENCE

Introduction

[1] This is an application by PC Tech Limited Trading as Texas Coachlines (**'the Applicant'**) for a Special Licence under section 138 of the Sale and Supply of Alcohol Act 2012 (**'the Act'**) in respect of a conveyance, namely a coach registration number LYN902 for private hire to transport the Shirley Rugby League Club Masters team travelling from Christchurch to Queenstown on 8 October 2022 and returning on 16 October 2022.

[2] The application was heard on Tuesday 20 September 2022.

[3] The general nature of the event is that of a sports trip to attend the 'Masters of Rugby League Inc International Tournament taking place in Queenstown between 9 October and 15 October 2022. 30 people, namely members of the Shirley Rugby League Club Masters team and their partners wish to hire the bus to attend the event. The Applicant has advised that the special licence is requested to enable the sale and supply of alcohol for consumption on the bus by passengers during the travel from Christchurch to Queenstown on 8 October and the return trip on 16 October from Queenstown to Christchurch. Importantly as we discuss below, the Applicant's representative and bus driver for the event, Mr Raajew Singh, clarified that a special licence is not being sought for the sale and supply of alcohol for consumption on the bus during the tournament in Queenstown.

[4] The Applicant and its representative, Mr Singh, have experience running similar events, although over five years ago and have requested an exemption from the requirement to provide a qualified duty manager for the event pursuant to section 213(1) of the Act. Mr Singh has previously held a duty manager's certificate up until 2017.

[5] The Medical Officer of Health has not reported on the application. However, both the NZ Police and the District Licensing Inspector, Ms Nikki Anderson, have opposed the grant of the special licence, due to the Applicant's lack of suitability.

[6] The Inspector's Report sets out the background to the application and addresses the matters to which regard is to be had to in section 142 of the Act.¹

Suitability

[7] The issue of suitability arises because of the way Mr Singh engaged with the Inspector when making the application.

[8] Mr Singh lodged the application with the District Licensing Secretariat on 17 August 2022. The application was handwritten and some of the answers to the standard form questions were either vague or illegible. Notably in answer to the question on the form "*On which days and times does the applicant intend to sell or supply alcohol at the event?*" Mr Singh wrote "*On all days as we will be transporting dinner service also*". In answer to the

¹ Inspector's Report, pp3-4

question *“When is the occasion or event to occur”*, Mr Singh wrote *“Event will be held in Queenstown over 8 days. Depart 8 September Return 16 September 2022”* (these dates were later corrected to be 8 to 16 October). Technical staff within the Secretariat then contacted Mr Singh by telephone to clarify certain aspects of the application, including the dates and time for the licence, on 17 August 2022. Mr Singh responded in writing on the same date, with some answers and clarified that:

“Please may I ask for the following dates and times (and discussion) to be added to the licence application I’ve submitted?”

The dates and times I’d like to apply for are as follows:

Pick up in Christchurch at 9AM on 8 September 22 to travel to Queenstown

Pick up in Queenstown at 9AM on 16 September 22 to travel to Queenstown

As this is not a tavern track or wine trail, the only stops intended are for toilets, a lunch stop in either Tekapo, Twizel or Omarama, (depending how hangry we are). This will be the case on the return leg also.

I would be happy for the alcohol licensing inspectors to stipulate no alcohol consumption Omarama to Queenstown and on return the return leg, no alcohol consumption from Ashburton to Christchurch.

The above is more in line with the no alcohol consumption on the return leg policy for the wine trails which allow the passengers a chance to sober up before being dropped off.”

[9] Of concern to the Committee, Police and Inspector is the reference to passengers having an opportunity to ‘sober up’. In answer to questions, Mr Singh made light of this and explained that this was reference to passengers ‘waking up’ refreshed and being ready to disembark when they arrive. Mr Singh confirmed that he understood that it was an offence for passengers to be permitted to become intoxicated on the bus.

[10] The Inspector, Ms Anderson reviewed the application, emailed the Applicant on 24 August, and requested further information because she was unclear about aspects of the event, particularly whether the Applicant intended to sell and supply alcohol for the entire event. The Inspector found the application to be lacking in detail and illegible in parts. Ms Anderson’s email set out in some detail 9 questions for the Applicant.

[11] The Applicant, now with some regret, responded in what reads to us as a tirade, with sarcastic and threatening tone. It reads as if the Applicant has no respect for the Inspector or her role, and goes further with threatening comments regarding possible litigation. Under

cross-examination from the Police, Mr Singh brushed this off as his sense of humour and that it was intended as a joke. We have not set out the details of the email here, but these are contained in the Inspector's Report and appendices.²

[12] Mr Singh has since apologised to Ms Anderson, and her superior, Mr Joker and did so repeatedly during the hearing. Mr Singh noted that another Senior Inspector, who knew him, had sent an email suggesting this was tongue in cheek and acknowledging it as a joke. Mr Singh also explained that he was unwell at the time and was frustrated by the list of questions given he believed he had supplied his answers already to an Alcohol Licensing Technical Officer by phone. We also note the Applicant's email of 17 August where some matters were clarified.

[13] We were unimpressed by the tone (regardless of whether it was intended as a joke) of the email correspondence and agree with the Police and the Inspector that his suitability has been put in issue by that correspondence. It was unprofessional, regardless of who it was directed at. The Inspectorate has an independent role, and it is of concern to us that an applicant believed that an Inspector knew or should know them well enough to receive such correspondence and dismiss it as a joke. It calls into question both the Applicant's credibility and the independence of the Inspectorate. Ms Anderson's questions of Mr Singh were entirely appropriate and professional in the circumstances.

[14] Mr Singh also drew attention to past experiences he has had with the NZ Police. Although he claimed not to hold a grudge, our impression was that Mr Singh is very defensive regarding interactions with the Police. He, however, confirmed in questioning that the Police did not treat him unfairly about this application. If Mr Singh has issues with the Police conduct, then there are other processes available to him. In terms of this application, we are assessing it on its merits and his past interactions with the Police are not relevant here.

[15] Having heard Mr Singh in person, while we do not condone his behaviour in any way, we are satisfied that he has since redeemed himself with his apologies and in supplying further detailed information. We have considered Mr Singh's good track record both when holding a manager's certificate and as an operator of a coach, including when operating under special licenses in the past. On balance we do not find Mr Singh to be unsuitable. We did, however, have a number of concerns about the lack of certainty as to the way he wishes to exercise the

² Inspector's Report, Attachment 2

licence and his expectations of what the Committee could authorise when granting a special licence which we discuss below.

[16] Mr Singh did provide answers to Ms Anderson's questions by email on 25 August and has further elaborated his answers in his statement of evidence and under cross-examination and questioning. Of concern was his answer to Ms Anderson's emailed question 3. His email answer and his brief of evidence reads as if Mr Singh seeks to have the licence include the consumption of alcohol brought on to the bus by passengers between the hours of 2pm and 5pm each day while in Queenstown. In answering questions from the Police and Inspector Mr Singh appeared well aware that the Committee could not grant a special licence for BYO on the bus, however, we understood him to be asking for the Committee to 'allow' or accept that this was inevitable and that it was safer for him to have a licence in place to cover him should passengers bring alcohol on board that was sold or supplied elsewhere.

[17] We have made it abundantly clear to Mr Singh that we operate within the law, and we cannot and do not sanction unlawful activity. It is his responsibility to ensure that passengers do not bring alcohol on board without a licence and there are limitations on licences on board a conveyance. We remind Mr Singh that allowing passengers to bring their own alcohol to consume on board is an offence under the Act.³ We also remind Mr Singh that if granted, a special licence for a conveyance does not permit alcohol to be sold and supplied for consumption off the conveyance either.⁴

[18] Mr Singh confirmed in evidence that he is only seeking a licence for the trip down to Queenstown and the return trip. We have assessed the application on that basis.

Assessment and findings

[19] Section 142 of the Act provides:

(1) In deciding whether to issue a special licence, the licensing committee concerned must have regard to the following matters:

(a) the object of this Act:

(b) the nature of the particular event for which the licence is sought and, in particular,—

³ Section 235 Sale and Supply of Alcohol Act 2012

⁴ Section 42 Sale and Supply of Alcohol Act 2012

(i) whether the applicant is engaged in, or proposes at the event to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods; and

(ii) whether the applicant is engaged in, or proposes at the event to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:

(c) the suitability of the applicant:

(d) any relevant local alcohol policy:

(e) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of the licence:

(f) the days on which and the hours during which the applicant proposes to sell alcohol:

(g) the design and layout of the premises concerned:

(h) whether the applicant has appropriate systems, staff and training to comply with the law:

(i) any areas of the premises that the applicant proposes should be designated as restricted areas or supervised areas:

(j) any steps the applicant proposes to take to ensure that the requirements of this Act in relation to the sale and supply of alcohol to prohibited persons are observed:

(k) the applicant's proposals relating to—

(i) the sale and supply of non-alcoholic drinks and food; and

(ii) the sale and supply of low-alcohol drinks; and

(iii) the provision of help with or information about alternative forms of transport from the premises:

(l) any matters dealt with in any report from the Police, the Medical Officer of Health, or an inspector made under [section 141](#).

(2) The licensing committee must not take into account any prejudicial effect that the issue of the special licence may have on the business conducted pursuant to any other licence.

[20] This application turns on the issue of the Applicant's suitability, which we find in favour of the Applicant; the days and hours proposed for the sale and supply of alcohol for

consumption on the bus; and, the adequacy of the steps that the Applicant proposes to take to meet the object of the Act.

[21] During the hearing the Applicant explained how he intends to manage the sale and supply of alcohol during the journey to and from Queenstown. This included, limiting the sale and supply of alcohol to single serve bottles or cans of beer (including low-alcohol beer) and RTDs not exceeding 5% alcohol, and offering only two varieties of wine to be served in small single serve plastic glasses. Mr Singh proposes to limit the sale and supply of alcohol to each of the scheduled stops, not less than 1 hour apart, so that Mr Singh can personally complete the sale transaction and assess the intoxication of each passenger. Mr Singh proposes to limit each passenger to 6 standard drinks for the duration of the journey (assuming a minimum of one hour driving time between stops when alcohol is available). Mr Singh confirmed that they would not stop at any place to purchase or consume alcohol on the journey. Mr Singh gave evidence that prior to the departure of each scheduled stop he would then store the chilly bin of alcohol in the baggage hold and would not be accessible by passengers in between scheduled stops. Mr Singh also confirmed his intention to provide packed snacks and water and have these available for passengers throughout the journey. He confirmed that there would be non-alcoholic beverages available on board at all times. It is Mr Singh's intention not to sell any alcohol to passengers after Omarama on 8 October and Ashburton on 16 October. Further, Mr Singh, who is concerned about the risk that passengers may ignore his requirements and try to bring alcohol on board from other sources, stated that if that occurs or if a passenger is assessed to be intoxicated on board, then he will *"tear up the licence"* and run a dry bus from that point.

[22] We shared a concern expressed by the Inspector of the ability of Mr Singh to manage the sale and supply of alcohol whilst driving the bus. Mr Singh highlighted that the limitations on the sale and supply of alcohol he proposed and that he had requested that the rugby league club nominate a person to be the contact point and communicator of the expected standards whilst he is driving. We did not understand that this person would be the stand in for a duty manger, however, their role is important to ensure the wellbeing and behaviour of passengers is monitored throughout the journey. We would expect that of a team manger travelling with any team. Our view is that for this to be an effective further mitigation of the potential for alcohol-related harm then that person must not consume alcohol for the duration of the journey.

[23] We questioned Mr Singh on whether he had outlined his 'rules' to the rugby league club. He said he had not done so yet as he was hoping to get the licence first. We asked Mr Singh

if he would accept his rules as conditions to the licence. He agreed and felt that would be helpful.

[24] In terms of overall risk of this event, notwithstanding the age of the participants, we do see that there is a greater risk for any sports team travelling together that they may bring their own alcohol on the journey. Even with the rules or conditions, that risk remains. Mr Singh has said that without a special licence he would not take the trip as he felt that there would be alcohol, and this would pose an unacceptable legal risk to him personally. He felt if licensed then he was on stronger ground to reduce this risk by being able to offer passengers some alcohol.

[25] The Police remained opposed to the licence and felt that Mr Singh may be agreeing to anything just to get the licence. Ms Anderson was also concerned about the ability of Mr Singh to enforce the licence whilst driving the bus.

[26] Standing back and looking at the event in the round, having regard to the steps Mr Singh has offered to put in place and his background in the hospitality industry, we have confidence that Mr Singh understands the law and his responsibilities. He has every incentive and the knowledge to ensure the Act is complied with. We note he is the owner-operator of the coach, and his intention is not to run a 'party bus' or pub crawl. The cost to him and his reputation is at stake if passengers break the rules, or he fails to comply with the conditions of his licence.

[27] The Act is not intended to be no risk. The licence is limited to the travel to and from Queenstown, not the days in between, and the Applicant proposes a number of systems and processes to minimise alcohol-related harm and ensure the safe and responsible sale, supply and consumption of alcohol.

[28] We are satisfied after standing back and evaluating all the matters placed before us and having had regard to the criteria as set out in section 142 of the Act that the granting of this application subject to conditions achieves the dual objects of the Act.

[29] We are satisfied that considering Mr Singh's industry experience it is appropriate to grant an exemption from the requirements to have a qualified duty manager manage the sale and supply of alcohol for consumption on Conveyance LYN902 and accordingly grant an exemption under s213(1) of the Act.

[30] Accordingly, pursuant to section 104(1) of the Act, we grant the application for a Special Licence for the event subject to the following conditions:

- (a) This special licence authorises the sale and supply, and consumption of alcohol within the conveyance registered LYN902
- (b) Alcohol may only be sold and supplied for consumption on the conveyance under the licence on the following days and during the following hours:

Saturday 8th October 2022 9am to 5pm and Sunday 16th October 2022 9am to 5pm.

For the avoidance of doubt this licence does not authorise the sale and supply of alcohol for consumption on the conveyance at any other time, nor does it authorise the consumption of alcohol on the conveyance purchased elsewhere by any other person at any time whatsoever.

- (c) Drinking water will be freely available on the conveyance.
- (d) The licence holder must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (e) Food must be available for consumption on the conveyance throughout the travel from Christchurch to Queenstown and Queenstown to Christchurch.
- (f) Low-alcohol beverages must be available for sale and supply for consumption on the conveyance during the licenced hours.
- (g) Non-alcohol beverages must be available for sale and supply for consumption on the conveyance.
- (h) A copy of the licence as well as age restriction signage must be clearly displayed.
- (i) Entry is restricted to the members of the Shirley Rugby League Club Masters Team and supporters who are booked to travel on Conveyance LYN902.

- (j) Alcohol is only permitted to be sold and supplied for consumption on Conveyance LYN902 at the commencement of the journey and at the end of each scheduled stop being not less than one hour apart.
- (k) The sale and supply of alcohol for consumption on Conveyance LYN902 is limited to beer, cider and RTDs in single serve bottles or cans not exceeding 5% Alcohol per volume and wine served in single serve plastic cups/wine 'glass'.
- (l) The sale and supply of alcohol for consumption on Conveyance LYN902 is limited to 6 servings of alcohol per person for the duration of the journey from Christchurch to Queenstown and 6 servings of alcohol per person on the return journey Queenstown to Christchurch.
- (m) Apart from the individual servings of alcohol sold at each stop alcohol must be stored in the baggage hold.
- (n) Notwithstanding the licensed hours set out in condition (b) there shall be no sale and supply of alcohol for consumption on Conveyance LYN902 after departing Omarama on route to Queenstown and after departing Ashburton on the return trip to Christchurch.
- (o) The conveyance LYM902 is designated as a supervised area.

DATED at CHRISTCHURCH this 21st day of September 2022



Cindy E Robinson
Chairperson

Christchurch District Licensing Committee