

**IN THE MATTER**

of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER**

of an application by **RYTHM & ALPS LIMITED** pursuant to ss.22(2) and 137 of the Act for a Special Licence to sell and supply alcohol for consumption to people attending an event known as the "Rhythm and Alps Music Festival" to be held at Robrosa Station, Cardrona Valley, Wanaka.

**BEFORE THE QUEENSTOWN LAKES DISTRICT LICENSING COMMITTEE**

Chairman: Mr E W Unwin  
Members: Ms M W Rose  
Mr L Cocks

**HEARING** at Queenstown on 15 December 2014

**APPEARANCES**

Messrs C C Gillies and B F Ellis – representing the applicant company  
Ms J J Mitchell – Queenstown Lakes District Licensing Inspector – to assist  
Sergeant L K Stevens – N Z Police – in opposition  
Dr D W Bell Medical Officer of Health – in opposition

**RESERVED DECISION OF THE COMMITTEE**

**Introduction.**

- [1] This is an application by Rhythm & Alps Limited (the company) pursuant to s.22(2) and s.137 of the Act for a special licence to sell and supply alcohol for consumption to people attending an event known as the 'Rhythm and Alps Music Festival' to be held at Robrosa Station, Cardrona Valley, Wanaka. This is the South Island sister show to the well-established "Rhythm & Vines" music festival. The "Rhythm & Vines" music festival started on a vineyard in Gisborne in 2002, and has been running for twelve years.
- [2] This is the second year that the festival has been staged in Wanaka. Last year was a 'sell-out' crowd of about 10,000 people attending for the two days. Approximately 7000 patrons camped on the site. The evidence is that this festival ran very smoothly with no arrests, and a very low number of patrons requiring medical treatment for intoxication. Given that the festival runs over

New Year's Eve, the applicant can take credit for organising and operating a large musical event with such a positive outcome.

[3] The Festival will take place on the 30 and 31 December 2014. A crowd of 8000 is expected, although tickets sales are apparently tracking behind last year's sales. It is clear that this is a music festival that also provides accommodation for its customers. The applicant argues that if camping was not possible, it is unlikely that the district could provide sufficient alternative accommodation with the numbers wishing to attend. It is equally arguable that one of the attractions of the festival is the opportunity to attend without paying too much for accommodation, as well as being close to the action. 200 people have indicated an intention to establish their camp sites on the day prior to the festival (29 December 2014). The projected number of early campers is 350.

[4] There are two stages which operate throughout the festival being the Alpine Arena' (main stage) and ('Where the Wild Things Are' (smaller stage). The bar hours sought are as follows:

Camping Ground Bar

29 December 2014	Open 03.00pm to 12.00 midnight
30 December 2014	Open 10.00am to 03.00pm
31 December 2014	Open 10.00am to 03.00pm

Festival Bars

30 December 2014	Open 03.00pm to 02.00am the following day
31 December 2014	Open 03.00pm to 02.00am (Main Bar & VIP)
31 December 2014	Open 03.00pm to 05.00am (Wild Things)

[5] Last year the festival was run with an off-licence in the camping ground selling six unopened drinks per customer. This year the plan has been changed, partly because of the wishes of the new bar management company, but primarily because of the provisions of s.42(1) of the Act. The intention is to open a camping ground bar on the afternoon of the day prior to the festival. Furthermore it is intended only to sell four opened items in one serve.

[6] The application was filed with the District Licensing Agency on 6 November last, and all parties were in agreement that this late filing date has impacted on their ability to resolve all the issues in a reasonable if not pragmatic way. In fairness to the company, there had been two prior phone conferences between the company and the Inspector, as well as representatives from the Police and Medical Officer of Health. However, it was apparent that there were unresolved difficulties. The Police were opposed to there being a camping ground bar, and the Medical Officer of Health suggested that the camping ground bar open at 12.00midday rather than 10.00am.

[7] Consequently the Committee ordered a public hearing to set the conditions for the Special Licence. There was never any suggestion that the Special Licence would be refused.

## **The Application.**

- [8] Mr Christopher Gillies gave evidence for the company. He is the event manager, and was the event manager for the “Rhythm & Vines” festival for the past five years. He clearly knows what he is talking about when it comes to music festivals. He was supported by Mr A Turnbull who is a director and shareholder of the applicant company. In addition, they were accompanied by Mr Barry F Ellis who is to be in charge of the bar operation, and Mrs Jessica A Fife who is to be the duty manager for the event. Mrs Fife has previously managed such events as the “Queenstown Blues & Roots Festival”, the Rugby World Cup at the Forsyth Barr Stadium, Orientation week at Otago University, and an 'Elton John' concert.
- [9] The company produced a sophisticated Event Management Plan as well as an Alcohol Management Plan. These documents enhanced the view that all matters designed to ensure a controlled and safe environment, such as security, the wristband system, the three card system, drinking water, food availability, medical assistance, searching of cars and customers, and the closure of the bars one hour before the entertainment finishes had been responsibly thought through. We gained considerable confidence in the company's ability to run the festival in keeping with the Act's objectives.
- [10] Mr Ellis also gave evidence for the company. He is a very experienced licensee and has been involved with the “Blues & Roots” festival in the past. He also owns a number of licensed operations in Queenstown and Dunedin. His company has the contract for the running of the bars for the festival. He advised that he would not have taken on the contract if he had been required to sell unopened products.
- [11] The company made two significant concessions. As part of its Alcohol Management Plan the company was prepared to reduce (if necessary) the serve sizes from four drinks to two per person. It also has a normal practice of voluntarily closing the bars if required. Mr Gillies pointed out that there was no evidence that this was required during the previous year's event. The company accepted that both practices could be the subject of a condition along the lines that the Duty Manager would meet with the Police when requested, and follow the directions of the Police Officer in charge in relation to these two issues. These concessions received a positive response at least from Dr Bell who could see the practical problems that might arise with excessive queues. He thought that the proposed controls in the camp, such as serve size and opening wet pours, provided a reasonable and practical level of management to avoid excessive consumption.

## **The Licensing Inspector.**

- [12] The Inspector reported comprehensively on the application and maintained a neutral stance. She monitored the event last year on one evening and confirmed that a significant number of patrons were dancing. She noted that a patron had been able to avoid security and bring alcohol in. She also

advised that a debrief had been held after the last event where it had been noted that alcohol had been brought onto the site, and that the company intended to carry out a more thorough search this year. Overall she thought that the atmosphere was peaceful and well controlled.

### **NZ Police.**

- [13] Sergeant L K Stevens provided written submissions. She submitted that the practice of allowing sales of alcohol to campers was contrary to the Object of the Act, in that the patrons could not be monitored or supervised once they had entered their tents. She argued that the safety of the campers could not therefore be guaranteed, and that the area should be alcohol free, giving patrons time to refresh, relax and have time out.
- [14] The Sergeant also argued that the camping by patrons on the day before the event was not part of the festival, and since there was no music there could be no event qualifying for a special licence. She contended that the proposed trading hours were excessive, and therefore the likelihood for excessive consumption would be enhanced. In terms of the criteria in s.142 of the Act, Sergeant Stevens submitted that there should be no supply of alcohol on the day before the event, reduced hours in all bars during the event, designated closures of bars for an hour, and voluntary closure of bars if high levels of intoxicated patrons were detected.

### **The Medical Officer of Health.**

- [15] Dr D W Bell has been a Registered Medical Practitioner since 1983. He has been designated as Medical Officer of Health for the Otago and Southland Health Districts since 1998. He provided very thoughtful and helpful submissions. He had attended the previous year's event for 10 hours on the first day, and three hours on the second. He thought that the crowd was generally well behaved although there was evidence of BYO alcohol having made it past the security checkpoint. He noticed signs of intoxication but not in the camping ground during the day. He thought that the bar management was very professional. He stated that St John provided medical services to 10 to 15 people specifically for alcohol and/or drug effects. He was impressed by the scale of services provided by the emergency services such as St John, the Police and even the Fire Service.
- [16] At the teleconference held on 4 November, Dr Bell had suggested that the length of time that the camping ground bar was operating should be reconsidered. He suggested that the bar should open at midday rather than 10.00am. When the application was filed, he noted that there was no change although we record that when he gave evidence Mr Gillies offered to open the bar at 11.00am rather than 10.0am.
- [17] Dr Bell argued that the Law Commission's report "Curbing the Harm" was authority for the proposition that the consumption of alcohol was influenced by its availability. He submitted that opening the camping bar at 10.00am and then the other bars at 3.00pm meant that patrons were able to drink for up to

seven hours prior to the music starting. Further he argued that it was possible to obtain alcohol for up to 16 hours on the first day of the festival, and 19 hours on the second day. In order to reduce the risk of alcohol-related harm he recommended that the bar open at 12.00midday rather than 10.00am. He accepted that the issue was whether reduced hours might encourage the campers to drive to Wanaka to stock up and consume alcohol prior to driving back to the festival.

[18] Dr Bell noted that alcohol was available in any community for 20 hours under the national default hours. However, he suggested the festival was taking place in a confined area with social interaction and a party atmosphere, as well as a target audience of young people. Finally, Dr Bell took issue with the proposed closing time of 5.00am on the morning of New Year's Day. He noted that the bar had closed at 4.00am the previous year.

### **The Committee's Decision and Reasons.**

[19] At the conclusion of the hearing we reserved our decision, but the special licence was issued as soon as we had made decisions on the conditions that were in dispute. We now give our reasons for the conditions that were imposed.

[20] Although Sergeant Stevens advised that suitability was not in issue, this was a case where the suitability of the applicant gave the application integrity and a sense of professionalism, and gave us confidence that the management of the event was likely to ensure that there would not be excessive consumption. If there are examples at the 2014 event, it would not be due to lack of planning or management skills. We thought that the company had made some reasonable concessions. We are satisfied that the company will have appropriate systems, staff and training to comply with the law.

[21] In deciding what conditions to impose, (as well as whether to issue the licence) we are required to have regard to the relevant criteria that are set out in s.142 of the Act. In this case we have had regard to

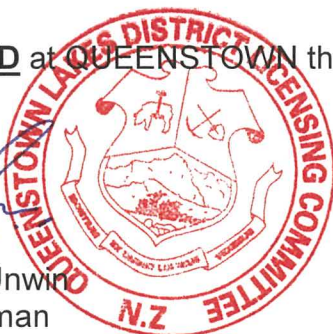
- (a) *The object of the Act.*
- (b) *The days on which and the hours during which the applicant proposes to sell alcohol.*
- (c) *Whether (in the committee's opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence.*
- (d) *Any matters dealt with in any report from the Police, the Medical Officer of Health or an inspector made under section 141.*

[22] As far as the camping ground is concerned, we regard this as an essential part of the event (as do the majority of the patrons). We think it is sensible to allow people to set up camp the day before to avoid congestion and to better allow them to enjoy the event. We accept that patrons will not necessarily be supervised or monitored while they are in their tents, but we are satisfied that this is a 'low key' operation, and that on the first day there will be a limited number of people present. We agree that it would be preferable that they stay on site rather than drive into town. As already stated in this decision we have

sufficient faith in the ability of the management team to ensure the Act will be complied with. We agree that the bar should be open from 3.00pm to midnight on the 29 December.

- [23] As to the bar opening at 10.00am on the following two days, we had some concerns. There is a fundamental tension between the company's desire to provide refreshment to the campers to keep them on site, and the fact that bars will be open for so long prior to the music starting. We accept that this does not mean that any particular patron will be drinking all that time, but it is not as if that patron will be dancing or listening to music either. There was merit in Dr Bell's argument that the target population is youth and there could well be peer pressure.
- [24] Given that the 31<sup>st</sup> of December (New Year's Eve), is the longest day for the majority of patrons, and that there will be a bar open until 4.00am, we deemed it appropriate to restrict the trading hours by requiring the bar to open at midday on that day. It is in our view that the reduction of two hours will make the sale of alcohol safer and more responsible. On the other hand the previous day has less trading hours in total, and is the opening day of the festival. There seemed no reason to us to extend the opening hour.
- [25] The closing time of 4.00am on 1 January 2015 was almost conceded by the company. Given that the national default closing time is 4.00am, it seems to us that there must be some special justification for extending that time. We accept that the music is to play to 6.00am, but at the end of a two day event we regard the risk of excessive or inappropriate consumption as being greater if the bar stays open for the extra hour, than any perceived advantage either to the patrons or the company. Accordingly we fixed the closing time at 4.00am.

DATED at QUEENSTOWN this 22<sup>nd</sup> day of December 2014

  
E W Unwin  
Chairman