

Decision Number:

60E [2024] 17932

IN THE MATTER OF

the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER OF

an application by **Vieceli Hospitality Limited** for an **Off-Licence renewal** in respect of premises situated at **6 Inwoods Road, Christchurch**, to be known as '**Liquorland Parklands**'

BEFORE THE CHRISTCHURCH DISTRICT LICENSING COMMITTEE

Chairperson: **Mr D Blackwell, QSM**

Members: **Mrs M Redstone, JP**

Ms Tracy McIlraith

HEARING at CHRISTCHURCH on **April 18 2024**.

APPEARANCES

Mr L. Vieceli – Director and Shareholder of the Applicant

Mr O. Peers – Counsel for the Applicant

Mr M. Henderson-Rauter – Assisting Counsel for the Applicant

Mr T. Swete – Witness for the Applicant

Ms C. Rumba – Objector

Mr P. McMahon – Witness for the Objector

Dr L. Gordon – Counsel for the Objector

Mr G. Hay – Licensing Inspector - to assist

Sergeant D. Robertson – New Zealand Police - to assist

RESERVED DECISION OF THE COMMITTEE

Introduction

[1] This is an application by **Vieceli Hospitality Limited** ('**the Applicant**') for an **Off-Licence renewal**. The premises is situated at **6 Inwoods Road**, Christchurch, known as '**Liquorland Parklands**'. The application was received by the Christchurch City Council Alcohol Licensing Team on 2 June 2023.

[2] Mr Vieceli advised us that he is a director and shareholder of Vieceli Hospitality Limited.

[3] The application states that the nature of the business is that of an **Off-Licence bottle store**.

[4] The Applicant has sought the following trading hours:

Monday to Sunday, between the hours of 9.00am and 11.00pm.

The applicant had sought the same hours as his current hours however, due to some discussions prior to the hearing, the hours sought were amended to the above.

These hours are less than the default national maximum trading hours for an Off-Licence.¹

[5] Two public objections were received within the required timeframe. The status of these objections is covered below.

[6] The application drew no opposition from the reporting agencies (the Licensing Inspector, the Medical Officer of Health and the Police)

[7] The District Licensing Committee ('the Committee') members conducted a formal internal and external site visit of the premises on 16 April 2024.

Preliminary matters

[8] Prior to the hearing the Committee received submissions initially from Mr Peers questioning the status of the two objectors. Numerous submissions were received from Mr Peers and Dr Gordon. In its written decision The Committee ruled Mr Mc Mahon did not have status but Ms Rumba did have status due to living approximately 1 kilometre from the premises.

[9] At the start of the hearing further preliminary matters were raised. Ms Rumba, through Counsel, sought to have Mr McMahan appear as a witness for her. As Ms Rumba had not filed a brief of evidence as directed by the Committee, prior to the hearing her Counsel sought to have her brief of evidence accepted.

[10] The Committee heard submissions from Mr Peers and Dr Gordon. Sergeant Robertson made the Police position very clear stating that Mr McMahan was abusing process in asking to be accepted as a witness at this late stage.

[11] The Committee took a short recess to deliberate on the submissions received.

[12] The Committee, in a majority decision, agreed to accept Ms Rumba's newly presented brief of evidence and to allow Mr McMahan to be heard as her witness.

[13] The Committee's reasoning being that Ms Rumba appeared to be a lay objector and as such the Committee had always tried where possible to give lay persons a little extra leeway. The Chair noted each situation is assessed on its merits.

¹ s43 of the Sale and Supply of Alcohol Act 2012.

[14] The chair said allowing Ms Rumba to produce a witness and evidence at the start of the hearing put the applicant at a disadvantage and offered the applicant one of two options; proceed with the hearing to the end of the applicant's and the applicant's witness' evidence, including cross examination, and then adjourn the hearing to another day or to proceed with the hearing as planned. Mr Peers said he would prefer to proceed with the hearing.

The Applicant

Opening submissions of Mr Peers – Counsel for the Applicant

[15] Mr Peers said the application had not been objected to by the Police, the Licensing Inspector or the Medical Officer of Health. He also said it appeared the Objector does not oppose to the renewal per se – their position rather appears to be that additional discretionary conditions should be imposed.

[16] Mr Peers talked through a number of matters relating to the Massey University Environmental Health Intelligence New Zealand Index of Deprivation for 2018 (Deprivation Index). He noted that while there were pockets of high deprivation there were also some large pockets of decile 3. He also said that taking a slightly wider view the areas of Waitikiri and Waimairi Beach were predominantly ranked as decile 1.

[17] Mr Peers reminded the Committee that the Licensing Inspector stated in his report that “the evidence in this application does not support that the area surrounding Liquorland Parklands is sufficiently deprived”.

[18] Mr Peers questioned whether the objection focused on the imposing of further conditions is the proper use of the objection process. He said the objection process is not a forum to lobby for conditions without actual and factual evidence of alcohol related harm.

[19] Mr Peers then covered suitability of the applicant quoting case law in this area. He reminded the Committee of the British Isles case² regarding the absence of unfavourable comments from the reporting agencies.

[20] Mr Peers, under amenity and good order, said there is no onus of proof on the applicant – the Committee's task is to form an opinion on the evidence before it.

-Evidence of the Applicant – Mr Louis Vieceli, Owner and Shareholder, Vieceli Hospitality Limited

[21] Mr Vieceli read his brief of evidence, starting with his background in the industry over the last 35 years. He said in addition to Vieceli Hospitality Limited he currently owns and operates several other on

² Re British Isles Inn Ltd LLA Decision No PH406/2006

and off-licence businesses in Christchurch. He said these businesses are within the Vieceli Hospitality Group.

[22] Mr Vieceli said as far as he was aware there have been no formal complaints raised by the Police, relevant local authorities or the Licensing Inspector in relation to non-compliance with the Act or with licence terms. He said they have a good proactive relationship with the Licencing Inspector and local Police and are always open to advice. He said the only issue the group has dealt with was noise complaints related to CBD on-licence premises and they worked with those complainants to address those issues.

[23] Mr Vieceli said he would describe the Parklands area as a melting pot with a wide mix of demographics all within a relatively short distance. While he acknowledged there were pockets of high deprivation, he would not describe Parklands a highly deprived area and this reflected their customer base.

[24] On the possibility of single sales, Mr Vieceli said their range did include a small selection of single sales which he considered gave their customers a different option when purchasing alcohol. He said there was no evidence to suggest single sales from Liquorland Parklands carry any greater risk of alcohol harm than multi-container sales.

[25] Mr Vieceli said he was aware that single units could encourage drinking amongst younger or lower-socioeconomic demographics. He said he was aware of some pockets of lower socio-economic on the deprivation index and as a result he accepts it would be inappropriate to market to younger or more susceptible drinkers. He said this is why their offering is modest.

[26] Mr Vieceli said if there was evidence that single sales were causing harm in the Parklands community he would certainly reconsider his approach.

[27] In relation to suitability, Mr Vieceli refuted any claims that because they sold a small number of single sales their suitability was compromised. He also noted that since mid- 2023 they had actually stopped selling a number of single products.

[28] On concerns raised about amenity and good order Mr Vieceli said there have been no concerns or issues raised by the Police about Liquorland Parklands or the surrounding area.

Cross examination

[29] Mr Vieceli said their clients were a mixed group. They saw a lot of tradespersons vehicles but generally he thought they were local people more in the mature age group. He said in the current economic climate some people would be aware of price points and have traded down.

[30] Mr Vieceli said since the earthquake there has been a lot of repair work which has tidied up the area and there were a lot of new houses.

[31] Mr Veiceli said they have considerable interaction with many sporting groups in the area mainly due to their associated restaurant.

[32] Asked about alcohol harm in the Parklands area Mr Veiceli said that information would be better coming from the agencies as they have very few incidents at their store. He said they were compliant with the Act and they minimised harm by having well trained duty managers who in turn train the other staff. Mr Veiceli said the recent incident outlined by the Police shows how seriously they value their licence.

[33] Under questioning Mr Veiceli said there were some blocks of high deprivation near the store but there were areas of lower deprivation across the road and behind the store. He said the objector lived 1.4 km away where it had a deprivation index of 3.

[34] Mr Veiceli said, to the best of his knowledge all the products they sold were legal. He said they were mindful of who they sold to and the staff make an assessment of each customer. He said the single products they sold came in various types of packaging but they generally did not arrive as single sales.

[35] Mr Veicel said he had no evidence that said the sales of single products were causing excessive harm. He would expect the Inspector or the Police would let him know if they had such evidence.

[36] Asked to explain his statement that they do not target younger customers, he said they do not have things like bargain bins in the store. Asked if he had any stats to show their customers were in the more mature range, he said that was his observation. He said as his office opened onto the store he was in the store very regularly and often had interaction with customers.

[37] Mr Veiceli said product arrives in various pack sizes - for example 4 packs, 6 packs, 8 packs, 10 packs, 12 packs and often packs within packs.

Evidence of Mr Swete – Witness for the applicant

[38] Mr Swete said he was the general manager for the Veiceli Hospitality Group which owns the Liquorland Parkland store and the adjoining tavern and restaurant. He said he had worked for the Veiceli Hospitality Group for about 10 years and had been in the industry for about 20 years. He said he had been involved with the management of Liquorland Parklands since 2022.

[39] Mr Swete said the store had 3 full-time staff and one part time staff member. All the full-time staff held general managers certificates. He said it was usually a requirement of employment that prospective staff members had completed LQC certification and were certified managers or were in the process of acquiring managers certificates.

[40] Mr Swete outlined the systems in place to ensure compliance with the Act, including the hiring and retention of experienced qualified staff. He said employee inductions and refresher training is based on Te Whatu Ora's 'Off-licence premises toolkit'.

[41] Mr Swete said the staff were trained to ensure they monitor the outside of the store and the car park area to ensure alcohol is not being purchased for persons under 18. He said they have CCTV to enable them to keep a watchful eye around the premises.

[42] Mr Swete said all the advertising campaigns were undertaken centrally by the franchisor which were typically online but were sometimes done by a mailer.

[43] Mr Swete acknowledged that there may be situations where single sales could contribute to alcohol harm but he does not consider there is any evidence of specific alcohol harm because of single units sold at Liquorland Parklands. He said single unit sales appear to be associated with responsible consumption practices. He said his understanding was that single sales were generally purchased typically by tradespersons on their way home between the hours of 5.00 pm and 7.00 pm.

[44] Mr Swete detailed the range of products Liquorland Parklands sells noting they currently sell 15 unit beverages under the price of \$6.00. These were mainly different types of beer but included three ciders and the three RTDs. He said using his and the store's general manager's experience the demographic of the typical purchase of single units was likely to be in the 35 plus age group.

[45] Mr Swete said the current off-licence allows for the sale and delivery of alcohol between the hours of 8.00 am to 11.00 pm. He said they operate 9.00 am to 9.00 pm Sunday to Wednesday, 9.00 am to 10.00 pm on Thursday and 9.00 am to 11.00 pm on Friday and Saturday. Mr Swete said their hours reflected demand but were also tied in with the trading hours of the bar and restaurant next door.

[46] Mr Swete noted that Mr Vieceli had indicated in his brief of evidence that they would agree to the licence opening hours be amended from 8.00 am to 9.00 am each day.

[47] Mr Swete said he disagreed with any suggestion that the amenity and good order of the locality would be increased, by more than a minor extent, should the Committee decline the renewal of the licence. He said Liquorland Parkland had never breached its conditions or had negative attention from the Police or the Licensing Inspector. He also said he understood there had been at least 8 monitoring visits by the Christchurch City Council Licensing Team since the last renewal and he was not aware that any issues were identified.

[48] Mr Swete said retailers must be proactive to protect their communities. He said one measure they had taken was to contract security guards, in conjunction with the neighbouring bar and restaurant, to monitor the general vicinity of both premises on a Friday and Saturday night.

Cross examination

[49] Upon questioning Mr Swete said he had 23 years of experience in the industry and had had a manager's certificate for about 20 years. He said while the majority of his experience had been in the on-licence side of the industry in recent years he had spent more and more time in the off-licence side.

[50] Mr Swete said his method of training was discussion based. For example how we made a certain decision and how could we have made it better. He said formal type training would be perhaps every six months but in reality discussions took place on an almost daily basis. New inductions were undertaken before a new person started but as their staff had generally been with them for a long time such inductions were very rare.

[51] Asked about incidents recorded, Mr Swete said they were mostly low key such as no ID. Or more commonly lack of ID within a whole group. He said lack of ID might happen 2 – 3 times a day with refusal for suspected intoxication perhaps once a week.

The inspector

[52] Mr Hay appeared as the Alcohol Licensing Inspector and did not oppose the application.

[53] Mr Hay had supplied to the Committee a comprehensive report and detailed his assessment in relation to the requirements of the Act.

[54] Under section 9 of his report, when assessing the twin objects of the Act, Mr Hay said the following;

Will the sale, supply of alcohol be undertaken safely and responsibly on this premises?

“From the application and the documents filed with it and information available from my inquiries, I am satisfied that the applicant has provided sufficient information to satisfy that all the criteria are met. On assessing this information I consider that the proposed application is consistent with the safe and responsible sale, supply and consumption of alcohol for this type of premises”.

Do we have confidence that the steps proposed will minimise, as far as possible, harm caused by the excessive or inappropriate consumption of alcohol?

“After considering the information provided with the application and having spoken with the company director, I am of the opinion the applicant is in a position to do what is reasonably expected of them and that should the licence be granted the applicant will be able to comply with the licence conditions”

[55] Further down under section 9 in his report Mr Hay said;

“The average (mean) deprivation IMD deprivation rank (out of 6181) for those data zones within 1km of 6 Inwoods Road, Parklands, Christchurch is 2996.38. This provides an overall IMD ranking of 5”.

[56] While Mr Hay did not give a Brief of Evidence, he made himself available to answer questions.

The Medical Officer of Health

[57] The Medical Officer of Health did not oppose the application and did not attend the hearing.

The Police

[58] The New Zealand Police did not oppose the application.

[59] Sergeant Robertson filed a brief of evidence which was taken as read. In his evidence he outlined the location.

[60] He also complimented a duty manager at Liquorland Parkland who contacted the Police after they had declined to sell alcohol to an intoxicated person. On investigation the Police found that this person had been served at another outlet in the area.

[61] Sergeant Roberson also outlined the Police Alcohol as a Contributing Factor data (ACF). He said the total number of incidents in the area for the 6 plus years of the data is moderate in comparison to other areas.

Cross examination

[62] Sergeant Robertson said ACF calls generally peaked in the evenings with demand mostly between 6.00 pm and 1.00 am with a peak of 9.00 pm. He said the lowest demand was 5.00 am to 11.00 am. He said the data compares with other areas, such as Hornby, where he recently said the data was unremarkable. He said the data for the likes of Eastgate would be approximately double that of Parklands.

[63] Sergeant Robertson said he had no information to say this was a problem site. He said when he visited the site there was no sign of alcohol use in the carpark or surround area.

[64] Sergeant Robertson said on his visits to the store there were no overt signs of single sales. He said these were mainly in the chiller.

[65] Asked if there was any relationship with a shooting incident mentioned in Ms Rumba’s evidence. Sergeant Robertson said he had no knowledge of the incident but he understood it happened a number of years ago.

[66] When asked about potential early closing for the store Sergeant Robertson said that was questionable as the Police generally do not know when the alcohol was purchased.

[67] Sergeant Robertson said areas of high deprivation tended to mirror ACF stats. He said social deprivation has a relationship with alcohol abuse.

[68] Sergeant Robertson agreed the significant new housing developments in the general area were probably not in the 2018 data.

The Objector

[69] There was one public objector, Ms Rumba.

Opening submissions of Dr Gordon - Counsel for the Objector (Ms Rumba)

[70] Dr Gordon's opening submissions were taken as read.

[71] She said she wanted to highlight suitability. She said in areas of vulnerability a much higher level of suitability is required and vulnerability was the essence of the Shady Lady case³.

[72] Dr Gordon said the area was one of significant vulnerability and that went to suitability of the applicant. She said in areas of high vulnerability there needed to be an acknowledgement of the vulnerability and the need to mitigate alcohol damage.

[73] Dr Gordon said the objector was not asking for the store to close just to restrict single sales. She then talked through several cases where a minimum price has been imposed and single cans restricted.

Evidence of Ms Rumba

[74] Ms Rumba read her brief of evidence.

[75] Ms Rumba said she was concerned the store was in an area of significant deprivation and sells cheap single cans and bottles of beer and RTDs. She said this speaks to the suitability of the applicant.

[76] Ms Rumba said she believed the applicant is not suitable because he does not recognise the alcohol related harm in the area.

[77] Ms Rumba said the troubled hot spots included Parklands Reserve, Parklands Community Centre and the Travis Wetlands carparks. She said she went around those areas the day before the hearing and found numerous cans, mostly RTDs.

[78] Ms Rumba outlined a number of incidents that had happened in or around the location. These included a ram raid at another liquor outlet in the general locality, a gang shooting, a person attacked by youths, boy racers, that her parents tyres had been slashed and her husband being assaulted by young persons under the influence of alcohol in their street. She said she knew of family harm incidents.

³ Shady lady Lighting Ltd [2018] NZARLA 187.

[79] Ms Rumba talked about a community meeting in May 2021 about youth crime and she supplied numerous statements made at that meeting. One of those quotes was from the Police which said Parklands was not statistically unsafe to live in.

[80] Ms Rumba quoted several brands of strong alcohol beer selling for \$4.99.

[81] Ms Rumba finished by saying all she was asking for was an improvement for the sake of her community.

Cross-examination of Ms Rumba

[82] Ms Rumba said she has lived at her current address since 2020. She said she was concerned with troubled youth in the area.

[83] Ms Rumba said the store sold appealing cheap alcohol. Asked to explain what cheap alcohol was she said she thought it was anything under \$6.00 which was below a coffee.

[84] Asked about the lack of evidence to link alcohol issues to this store she said there are only two alcohol stores in the area.

[85] Sergeant Robertson said he was unable to find a record of one incident she quoted in her evidence relating to her husband being assaulted. Ms Rumba said the issue related to a nearby house who had huge parties involving younger people but she was unsure if the Police were involved. She said the litter she spoke about was in the Park opposite the mall and agreed another store was nearby as well.

[86] Asked if she felt any comfort with the reports from the Police or the Licensing Inspector where they say they have visited the site may times, 8 – 10 times recently by the Sergeant, and they could not find any issues and the store appeared to be run professionally. Ms Rumba said no.

[87] In relation to being opposed to single sales she said she felt vulnerable people could scrape together the funds to buy a single can.

[88] In light of the public meetings Ms Rumba had mentioned, she was asked if she was surprised there were not more objectors. She said no as the process was time consuming.

Witness for the Objector – Mr McMahon

[89] Mr McMahon's brief of evidence was taken as read.

[90] Mr McMahon said Ms Rumba's objection was made on the grounds of suitability and the object of the Act.

[91] Mr McMahon said on his visit to the store in 2023 he noted the applicant sold a large range of single cans of beer and RTDs direct from the fridges and the chiller. He said they also sell a large range of Nitro and he does not agree with the applicant that their range is modest and low key.

[92] Mr McMahon said he was not asking for the store to be shut down, just asking that for it to pull back a little. He said the decile 10 pockets were highly deprived and the people most affected were children.

[93] He said to stop selling products for under \$6.00 would make a difference.

Cross examination.

[94] Mr McMahon said the harder it is to buy alcohol then harm reduces.

[95] Asked why community leaders did not make objections Mr McMahon said as a society we are in denial as to the damage in society caused by alcohol. He said generally local businesses were scared to speak up.

[96] Mr McMahon said he hoped Christchurch would have a Local Alcohol Policy within two years but it would be very useful if the big franchise agreed to put in place policies on single sales and some products. He re-emphasised that he/they were only looking for small changes.

[97] Mr McMahon said decisions in a community should be made on the basis of the most deprived and not just averaged out. He also said every community was different.

[98] Mr McMahon said that in general he did not have an issue with how this store was run with the caveat that you accept bottle stores do cause harm.

[99] Mr McMahon said he gets frustrated with people saying what they are doing is legal. His position is that these people should not be selling these products in the community.

Final submissions

[100] Dr Gordon said the objector objected to the suitability of the applicant and pointed to the Shady Lady case which in essence raises the threshold for suitability due to the vulnerability of the area. She also quoted Aashi Ventures Ltd⁴.

[101] Dr Gordon said "In short, the concept of vulnerability has no single definition, but involves the Committee weighing up the factors on a case by case basis. The factors include the deprivation level of the area, levels of crime and disorder and other vulnerabilities".

⁴ Aashi Ventures Lid [2023] NZARLA 187

[102] Dr Gordon noted the crime statistics from the Police data and the evidence of incidences mentioned in Ms Rumba's evidence.

[103] Dr Gordon said the objector acknowledges the Riccarton Bush case⁵ where ARLA said the average deprivation levels of the area must be taken into account when assessing deprivation.

[104] In relation to single sales Dr Gordon states that the objector opposes single sales. Ms Rumba's evidence outlines the single sales sold.

[105] Dr Gordon said it is clearly lawful for the Committee or The Authority to impose single conditions, and it is now common.

[106] Dr Gordon said Vieceli Holdings Limited is not a model operator as there are significant issues that go to The Object of the Act. She said with only two liquor stores and a supermarket in the area, the significant harm observed likely implicates all of these stores.

[107] Dr Gordon said Ms Rumba requests the Committee imposes the following conditions on the licence;

- a \$6 minimum on single sales of beer, RTDs, ciders in cans of 600 ml or less;
- No cartons to be pulled apart to sell singles;
- That Nitro and similar alcohol- mixed energy drinks not be sold.

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Mr Peers for the Applicant

[108] Mr Peers raised several matters relating to the evidence of Ms Rumba and Mr McMahon. He said Ms Rumba's objection was limited to whether the applicant was suitable because it sold single sales in an allegedly high deprivation area and she produced no other evidence as to suitability factors.

[109] Mr Peers said Mr McMahon spoke generally about the link between deprivation and the effect of alcohol on social inequality. He did not give any evidence to the specific risk factors concerning Queenspark/Parklands.

[110] Mr Peers said both Mr Vieceli and Mr Swete, in evidence, said that the sale of alcohol is capable of causing harm and explained the actions they take to reduce the likelihood of such harm occurring.

⁵ Riccarton Bush Kilmarnock Resident's Association Inc v Christchurch Liquor Ltd [2023] NZARLA 18

[111] Mr Peers said the witnesses for the applicant acknowledge that the location of Liquorland Parkland had pockets of deprivation. He said the view of Mr Vieceli and Mr Swete of the area being a mixed area is backed up by the Licensing Inspector's report. He notes the area has an average IDM ranking of 5.

[112] In relation to extended suitability Mr Peers noted that the applicant had operated in the community for an extended period of time with a completely clean track record and no compliance issues or breaches.

[113] Mr Peers did acknowledge Ms Rumba did raise the issue of RTD cans she saw in the Reserve at 60 Queenspark Drive. Mr Peers said the reserve was closer to another liquor store and also said Ms Rumba provided no photographic evidence.

[114] Mr Peers pointed the Committee to Sergeant Robertson's evidence that the total number of ACF calls was "moderate in comparison to other areas".

[115] Mr Peers noted that in *Vaudrey and Bond*⁶ the Court held that conditions must be reasonable. He also noted in the *Riccarton Bush* case, a new licence application, the conditions were offered by the applicant as an undertaking.

Discussion

[116] We are dealing with an application for the renewal of an off-licence which has now been in place for a long time. The applicant has, as Mr Peers said, an unblemished record. The application is not opposed by the Licensing Inspector, The New Zealand Police or the Medical Officer of Health.

[117] The objector alleges grounds of suitability and that the renewal would be contrary to the object of the Act. The objector and her witness made it clear that they were not trying to close the store down but to have conditions imposed relating to single sales, a minimum price on sales of \$6.00 and no sales of mixed energy drinks.

[118] The objector and her witness relied almost entirely on the deprivation index showing high levels of deprivation in the immediate vicinity of the applicant's store.

[119] The Committee accepts there is a level of alcohol harm related to the deprivation levels of an area even though no specific evidence was presented. The Committee is also aware that in areas of high deprivation an elevated level suitability is required.

[120] The Committee is mindful of the report of the Inspector and the evidence of Sergeant Robertson who found no areas of concern with how the store is operated despite many visits to the store. Sergeant Robertson detailed to the Committee an incident where a duty manager at the store turned away a person

⁶ *Vaudrey and Bond* [2015] MZHC 2749

they deemed as intoxicated and contacted the Police when they found out he had purchased alcohol from another store.

[121] The applicant's witnesses, and in particular Mr Swete, explained their systems and procedures together with how staff are trained. The Committee accepts those systems and procedures appear to be very sound and meet an elevated level should that be required to meet the suitability requirements.

[122] The Committee is mindful that the IMD Deprivation average for the area is 5 even though there are some pockets of higher deprivation very near the store. The Committee's practice notes indicate that in areas of high deprivation conditions as to single sales are likely to be included in a decision. Using the IMD average we do not believe this is necessary for this store in this area with this applicant, subject to good systems and procedures being place

[123] The Committee, to avoid doubt, must make its decisions based on the merits of each application and it may be that a new and or less experienced operator in this general locality could still have conditions as to singles sales included in a decision.

[124] The Committee undertook a site visit of the store, two days before the hearing, and formed the impression that it was very tidy and well presented. There was no sign of the promotion of cheap alcohol. The store and the adjoining restaurant and bar are set in a fenced area well back from the road. There was no alcohol advertising visible from the road.

[125] The Committee wishes to put on record its view that it has no doubt the objector or her witness are very genuine and passionate in their desire to reduce alcohol harm in the community. Likewise the Committee was very impressed with the applicant, and in particular Mr Swete, who was clearly able to articulate the applicant's policies and procedures.

[126] Our task, after considering all the criteria set out in the Act relating to the renewal of an Off-Licence, is to take a step back and consider whether the Object of the Act would be met by the granting of a renewal.

[127] The Object of the Act as set out in s4(1) is:

- (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 minimised,*

[128] Section 4(2) of the Act goes on to explain:

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 behaviour, 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 behaviour, illness, or injury of a kind described in paragraph (a).*

[129] We are also mindful that the characteristics of the Act as set out in s3(2) are that-

- (a) *It is reasonable; and,*
- (b) *Its administration helps to achieve the object of this Act.*

[130] The matters to which we must have regard when deciding whether to renew a licence are set out in s131(1) of the Act as follows:

- (a) *the matters set out in paragraphs (a) to (g), (j) and (k) of section 105(1):*
- (b) *whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:*
- (c) *any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:*
- (d) *the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*

We shall deal with these in order:

The object of this Act

[131] As Heath J. said in *Re Venus NZ Ltd CIV 2014-419-420 [2015] NZHC 1377* “*having considered all the factors set out in s105(1) (b) to (k) of the 2012 Act, is the Authority satisfied that grant of an off-licence is consistent with the object of the Act?*” It follows that we defer this consideration to last.

The suitability of the applicant

[132] The Licensing Inspector, The Police and the Medical Officer of Health were not opposed to the renewal application and presented no evidence that caused any concern to the Committee. The objector raised concerns with the selling of single sales and of cheap alcohol, which they held, goes back to suitability. The Committee accepts that these products are legally permitted to be sold. The systems,

procedures and training put in place by the applicant fulfils the requirements to meet the obligations under the Act in this location.

[133] The Committee cannot agree with the objectors and finds the applicant suitable to hold an alcohol licence.

Any relevant local alcohol policy

[134] Christchurch has no local alcohol policy.

The days on which and the hours during which the applicant proposes to sell alcohol

[135] The Applicant sought the same hours as the current licence, 8.00am to 11.00pm Monday to Sunday. These hours are within the default hours set out in the Act.

[136] In discussion with the Licensing Inspector the applicant agreed to amend these hours to 9.00 am to 11.00 pm Monday to Sunday. The Committee has no concern with these hours.

The design and layout of any proposed premises

[137] The Committee visited the store and found the premises well laid out and very tidy. The Committee has no concerns in this area.

Whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods

[138] The applicant runs a bottle store and the committee has no concerns under this heading.

Whether the applicant is engaged in, or proposes to engage in, the provision of services other than those directly related to the sale of alcohol, low alcohol refreshment, non-alcoholic refreshments, and food, and if so, which service

[139] The applicant's premise is a bottle store and no issues have been raised.

Whether the applicant has appropriate systems, staff, and training to comply with the law

[140] The applicant appears to have good systems in place to cover administrative and compliance matters as well as staff training. We note they expect all their staff to have or complete the requirements to hold a managers certificate.

Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under s103

[141] No issues were raised by any of the agencies.

[142] Section 131(b) requires us to turn our minds to amenity and good order. We must have regard to: “*whether (in [our] opinion) the amenity and good order of the locality would likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence*”. Section 106(2) of the Act sets out the factors to which we must have regard when considering amenity and good order.

[143] No evidence was produced to convince the Committee that the amenity and good order of the locality will be increased by more than a minor amount by the refusal to grant the licence. We note the objector and her witness indicated they were looking for small changes and not the removal of the licence. The agencies are not opposed.

[144] We now take the step back as advised by Heath J. in *Re Venus NZ Ltd* and consider the Object of the Act in the light of all the other matters to which we are required to have regard. Can the supply of alcohol by Vieceli Hospitality Limited, trading as Liquorland Parklands, be undertaken safely and responsibly and can the harm caused by the excessive or inappropriate consumption of alcohol be minimized should the licence be renewed? We believe that both requirements can be met for the reasons outlined above. The renewal of the Off-Licence is granted.

Decision

[145] The decision is that the Off-Licence for Vieceli Hospitality Limited trading as Liquorland Parklands will be renewed for a period of **three years**. It will be renewed subject to the following conditions:

Section 116(1) Discretionary Conditions

- (a) The following steps must be taken to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
 - Display of 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.
- (b) The following steps must be taken to ensure the provisions of the Act relating to the management of the premises concerned are observed:
 - Alcohol must only be sold and supplied on the premises within the area marked on the plan submitted with the application.

Section 116(2) Compulsory Conditions

- (a) No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1 pm on Anzac Day.

(b) Alcohol may only be sold or delivered on the following days and during the following hours:

Monday to Sunday 9.00 am to 11.00 pm.

(c) Water must be freely available to customers on the premises while alcohol is being supplied free as a sample.

Section 117 – Other discretionary conditions

(a) The following steps must be taken to promote the responsible consumption of alcohol:

- The licensee must implement and maintain the steps proposed in their host responsibility policy aimed at promoting the reasonable consumption of alcohol.

Section 119 – Restricted or supervised areas (other)

(a) The interior of the premises is designated as a supervised area.

Conditions applying to all remote sales for the sale and supply of alcohol

The following information must be displayed on the internet site in a prominent place, in any catalogue used by the licence holder and on any receipt issued for any alcohol sold via the internet site:

- (a) The licence holders name, the licence number and the date on which the licence expires.
- (b) A copy of the licence or a clearly identified link to such an image must be displayed in a prominent place on the internet site.
- (c) The following steps must be taken to verify people are over the purchase age:

In the case of an order made using the internet site, telephone order or physical order, the prospective buyer must declare he or she is 18 years of age or over (and where the prospective receiver is involved that the prospective receiver is also 18 years of age or over)

- (i) Once when the prospective buyer first commences the order process; and,
- (ii) Again, immediately before the sale of alcohol is completed.

Other restrictions and requirements to be noted on the licence

- s56 - Display of signs.
- s57 - Display of licence
- s59 – Requirements relating to remote sales by holders of Off Licences
- s214 - Manager to be on duty at all times and responsible for compliance.

[146] A copy of the licence setting out the conditions to which it is subject is attached to this decision. The licence shall be issued for **three years**.

[147] The Applicant's attention is drawn to s259 of the Act which makes it an offence not to comply with certain requirements and restrictions imposed by or under the Act. Specifically, s46 to s63 and s231(1). The Applicant must comply with all conditions specified on the licence.

DATED at Christchurch this 15th day of May, 2024.

A handwritten signature in blue ink, appearing to be 'D.L. Blackwell', written in a cursive style.

D.L.Blackwell, QSM.

Chairperson

Christchurch District Licensing Committee