

Decision number: 17/SP/022/2021

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012 (the Act)

AND

IN THE MATTER

of an application
by **Nexgen Touring
Limited**
pursuant to s138 of the Act
for an on-site Special
Licence in respect of an
open space site situated at
18 Sommerville Road,
Okoroire known as
**"OKOROIRE HOT
SPRINGS HOTEL"**

BEFORE THE SOUTH WAIKATO DISTRICT LICENSING COMMITTEE

Chair/Commissioner: Murray Clearwater

THE APPLICATION

1. On 22 October 2021 Nexgen Touring Limited lodged a Special Licence application for a two-day outdoor concert over a long weekend in January 2022.
 2. The application was an improvement on last year's attempt but still had many ends untied and permissions not obtained.
 3. The application drew opposition from the MOoH who cited a range of concerns relating to amenity and good order, preventing intoxication and the safety of patrons attending the event. It appears those issues were resolved to their satisfaction, and they are now unopposed. The Police were busy with their COVID responsibilities and did not report on this application.
 4. The event will be held at the Okoroire Hot Springs Hotel and the site has a number of topographical features that significantly increase the risks for such events, namely, the hot springs, a fast-flowing river on one boundary, its remoteness, and exposed and difficult to contain boundaries.
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5. The event has a planned maximum capacity of 3000, with overnight camping tickets available.
6. Plans have now been provided of the event entry points, the licensed areas, stages, bars and food vendor locations, drinking water sites, lighting sites, access between areas, and the fencing restricting access to the site.
7. Between lodgement date, and recently, several meetings and communications have taken place between the parties. The applicants have submitted last year's comprehensive Alcohol Management Plan (AMP) and Security Plan, and both have been revised and provided.
8. As requested by the DLC at the hearing for last year's event, a debrief was held in March of 2021. Overall, it appears the event went well but attendee numbers were low in the region of 700-800. The increase in scale for this year's event brings elevated risk levels in many areas.
9. This event remains a high-risk event and will require overt and responsive management to ensure that alcohol is sold and supplied, and consumed, in a safe and responsible manner.

Application Analysis

10. **After reviewing the material before the Committee, we have decided to consider this application on the papers.** For clarity and emphasis, we intend to go through each of the criteria as we did last year.

The Object of the Act.

11. It is a fundamental aspect of the Act **that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly: and... the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.**
12. One of our main concerns last year was that the applicants were still relatively 'new' to major event promotions. With the assistance of the experienced Wendy Alfeld and her team, it appears that last year's event went well. They get credit for that, but this year's event is potentially 3 times larger.
13. With the assistance of council officers, it appears as though the mechanics of the event will be in place and that the Object of the Act should be met.

The nature of the event/s.

14. As we said last year “The genre of the music, the age demographics of the likely attendees (18-24) and the topography of the site clearly makes this is a high-risk event and requires skilled, overt and competent management. “
15. In events such as these, intoxication levels must be competently assessed **and re-assessed** throughout the evening by Mrs Alfeld and her team.

The suitability of the applicant.

16. Last year, the agencies queried the suitability and experience of Nexgen Touring Limited and its directors. The company had only recently been registered and Messrs Bristow and Baker were new to the alcohol licensing regime. Wisely, they engaged Wendy Alfeld to take overall control of the sale, supply and consumption of alcohol on site. Mrs Alfeld does have many years of experience in a wide range of events and concerts and the Committee takes some comfort in that.
17. Her presence, and overall management style, will again be a critical factor for the success of this event.

Any Local Alcohol Policy (LAP).

18. There is no Local Alcohol Policy. There is nothing to consider.

Whether, in our opinion, *the amenity and good order of the area* would be likely to be reduced by more than a minor extent by the granting of this licence.

19. Learnings from last year have been included in the revised AMP written for this event but writing one, and implementing it, are two quite different concepts.
20. The onus is firmly on the applicant to put it in to practice and ensure that no nuisance is created for neighbours and the public generally.
21. The event will be fully COVID compliant and vaccine passes will be required at point of entry.

The days and hours sought for the licence.

22. The days and hours sought are longer than last year and long for this type of event. We repeat, that overt responsive management of patrons will be required should any attendees attempt to over-indulge in alcohol.

The design and layout of the premises.

23. The layout of the site is still of concern to the Committee. It appears that some of the fencing was inadequate last year, and the placement of security officers was haphazard at best. The nearby presence of the swiftly flowing Waihou River and potential fence jumpers in to, and out, of the venue must be fully and competently managed.
24. **We understand that the Hot Springs are going to be securely fenced and not available to concert goers for the duration of the event.**

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

25. The AMP prepared for this event with certificated managers working at the bars, conducting ID and intoxication assessments, gives us some comfort that the event can be safely managed. A RFID wrist-banding system will be utilised again to make the event cashless and give the organisers the ability to electronically suspend the ability of a patron to make further alcohol sales if deemed necessary.
26. Up to 35 COA qualified guards and crowd controllers, from P4G, will be securing the site and monitoring crowd behaviour. All staff will be fully briefed by management prior to the start of the concert.

Any areas of the premises that the applicant proposes should be designated as restricted areas or supervised areas.

27. The whole of the site is designated as a **Restricted Area**. That means that no attendee under the age of 18 years is permitted on the site at all. This is appropriate and must be rigidly enforced.

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.”

28. We are aware in other jurisdictions that promoters have been badly let down by contracted security providers, on the day, by not fronting up with the agreed numbers of competent staff to perform the required functions. At the end of the

day the buck stops with the event promotor and the licensee. If there are insufficient security staff to properly secure the site and conduct the necessary checks and surveillance, then the event must be abandoned and shut down. As it is often said “Alcohol is no ordinary Commodity.” The sale, supply and consumption of alcohol must be undertaken safely and responsibly or not at all.

29. It is proposed that all attendees will be RFID wrist banded and a full medical triage unit will be present. These are all responsible measures.
30. A One-Way Door will operate with no pass-outs to prevent side loading or other activities. If any attendees need to go back to their cars for medication or the like they must be accompanied by a guard. Obviously, close rescreening of those patrons not camping over will be required whenever they re-enter the site.
31. Mrs Wendy Alfeld will be the overall Duty Manager and will oversee the operation of all the bars.

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.***

32. The applicant’s revised AMP now adequately covers off these requirements. Only beer, low strength beer, cider and up to 5% abv RTDs will be offered.
33. Ample free water will be tankered into the site and be available throughout the venue and on the buses.
34. The staggered drop offs will help in the dispersment of patrons, but we still think this will be another of the challenges for the applicant to ensure that the amenity and good order of the drop off sites is not adversely affected. We are told that security staff will ride on the bus as it returns patrons to the nearby townships.

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

35. The regulatory and reporting agencies are unopposed, but no doubt will conduct compliance monitoring inspections during the weekend.

Section 143 Additional requirements for large-scale events

*If, in the opinion of the licensing committee concerned, an application for a special licence relates to a large-scale event, the committee may do any or all of the following: **require the applicant to provide the committee with a management plan describing how the applicant proposes to deal with matters such as security, monitoring, interaction with local residents, and public health concerns:***

- *require the applicant to provide the committee with a certificate by the territorial authority that the proposed use of the premises meets the requirements of the [Resource Management Act 1991](#) and of the building code:*
- *require the applicant to liaise with the Police and the territorial authority on planning for the event.*
- *In deciding whether to issue a special licence, the licensing committee concerned may have regard to the following matters (in addition to the matters stated in [section 142\(1\)](#)):*
- *whether, and how well, the applicant has complied with any requirement under subsection (1)(a):*
- *whether, and how well, the applicant has complied with any requirement under subsection (1)(c), and whether the Police and the territorial authority are satisfied with any liaison that has taken place.*

36. This is a new section in this Act and requires (if sought by the Committee) AMPs for major events and also requires the applicant to liaise with the local authorities and the regulatory agencies.
37. Once again, we have been advised that numerous interactions have been required with the applicant to get the necessary permissions and policies in place for this event.
38. As we have said previously, the obtaining of a Special Licence for a large-scale event is a process and not an event. It does take time, and when there is constructive input from all parties, a more robust outcome is likely.
39. However, the buck stops with the applicant. It is their event and their job to get it right. Council officers should not have to be committing numerous 'man' hours to these projects to get them compliant with local regulation and policies.
40. **We now have a comprehensive AMP, Security Plan and TMP for this activity. The applicant has liaised with the agencies and has been open to, and implemented, any reasonable suggestions for improvements.**

41. A Resource Consent was required and has been sought and approved. The applicant must comply with all restrictions and permissions contained therein.

DISCUSSION AND REASONS FOR THE DECISION

42. As we have previously stated the applicant is put on notice that this event will, most likely, be closely monitored by the agencies and the granting of similar licences in the future will be based on exemplary performance and full compliance with the licence conditions we intend to impose.
43. We see a key measure to the successful management of this licence will be the prescribed hourly meetings between the licensee and the regulatory agencies who attend to conduct compliance inspections.
44. The Regulatory Agencies will not be there to hold the hand of the applicant and their teams. If in attendance, the Inspectorate will be monitoring and assessing the sale and supply of alcohol against the conditions of licence. The Police (if present) will be there primarily as enforcers of the Act, and to prevent breaches of the peace around the event. Overt event security staff must be proactive and deal with all issues promptly and firmly on their own instigation.
45. Based on regular consultation between the agencies, and the applicant, the agencies will have the ability to require a further reduction of service size, alcohol percentage of products, and/or the closure of the bars as the event progresses.
46. We believe it can be granted and the Object, and Purpose of the Act will still be met.
47. In regard to setting appropriate conditions for the position we find ourselves in was well discussed in the **Vaudrey High Court Appeal CIV-2015-409-000098 [2015] NZHC 2749**¹ where it was said... ***“there must be a sufficient connection between the condition the relevant body wishes to impose and the risk it seeks to guard against.*”**

(a) It follows as a matter of logic that the condition must be no more restrictive than is necessary to militate against the identified evil.

¹ Vaudrey High Court Appeal CIV-2015-409-000098 [2015] NZHC 2749

(b) the relevant body must direct itself as to all relevant circumstances; it must then weigh the risk to be abated, or benefit to be secured, against the relevant circumstances as identified

48. We have this direction in mind as we turn our mind to the conditions that will be imposed on this event. We understand that the applicant accepts that the conditions set will be similar to last years.

DECISION

The District Licensing Committee, pursuant to the Sale and Supply of Alcohol Act 2012 **grants** the application by **NEXGEN TOURING LIMITED** for an on-site Special Licence in respect of an open space site situated at 18 Sommerville Road, Okoroire known as the "**OKOROIRE HOT SPRINGS HOTEL**", subject to the following conditions.

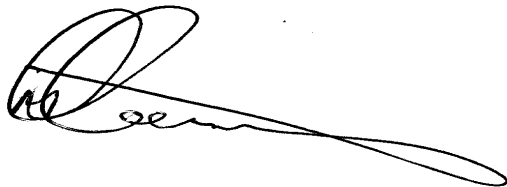
1. Alcohol may be sold and supplied for consumption on the premises only on the following days and hours:
 - 29 January 2022 1.00pm-1.00am the following day.
(Sales of alcohol to cease at 12.30 am)**
 - 30 January 2022 11.30am to 2.00am the following day.
(Sales of alcohol to cease at 1.30am);**
2. Drinking water must be freely available throughout the venue. with easily accessible taps available for patrons to access free drinking water and clean disposable cups;
3. A **certificated manager** must be on duty at all times at **each bar facility**, within the licensed area, when the premises are open for the sale and supply of alcohol and their **full name must be prominently displayed**. Service staff must be fully trained and competent in server intervention techniques. **The overall Duty Manager is to be Wendy Alfeld;**
4. Food must be available for consumption on the premises at all times the premises are open for the sale and supply of alcohol, in accordance with the sample menus supplied with the application for this licence, or menu variations of a similar range and standard;

5. The licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of **non-alcoholic and low-alcohol beverages**;
 6. Alcohol of the following types, and containers may be sold under this licence: **beer, cider, and RTDs, (as listed in the AMP) in depressurised cans, plastic or PET vessels, or disposable cups**;
 7. The whole of the licensed area is to be securely fenced with 1.8 metre post and wire mesh fencing and is designated as a **Restricted Area**;
 8. As a matter of clarity, we record that the ON Licence currently in force at the Hot Springs Hotel is 'suspended' for the duration of this event
 9. The larger camping area, and the car park area, are to be securely fenced and supervised by security personnel.
 10. **The river from the lower road bridge to the hot pools is to be fenced and the Hot Pools closed for the duration of the concert licence.**
 11. **All Crowd Controllers must be COA qualified, and CC endorsed and be experienced in working at large scale events. All are to wear similar, identifiable uniforms to raise their profile and improve visibility;**
 12. **Any patron detected with BYO alcohol or illicit drugs are to be refused entry or removed from the licensed area.**
 13. **A One-Way Door (OWD) Policy shall apply during the event times and no Pass-Outs to return to vehicles (other than on medical grounds) are to be permitted;**
 14. **Attendees who do not stay overnight on-site are to be fully screened on re-entry to the property on each occasion;**
 15. The Licensee must display signage as follows:
 - a)At every point-of-sale detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
 - b)A copy of the licence attached to the premises so as to be easily read by persons attending the premises;
 16. The licensee must provide information and advice about forms of transport available to patrons from the licensed premises;
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17. The licensee **must comply** fully with the relevant Resource Consent conditions in force at this location, the Alcohol Management Plan and the Traffic Management Plan;
18. **Police have the ability to require the further reduction of alcohol service sizes, or a shift to low alcohol beer, or to request a closure of all, or any bar, at any time based on intoxication levels and/or crowd behaviour. Any request is to be evidence-based on hourly review meetings with the licensee, the Police, and any of the South Waikato Licensing Inspectorate, or the Medical Officer of Health Representative (if present).**

And finally, a thorough face-to-face debrief is to take place within 90 days of the event and written minutes are to be produced and provided to all parties and this Committee.

DATED at TOKOROA this 18th day of January 2022

A handwritten signature in black ink, appearing to read 'Murray Clearwater', with a long, sweeping tail extending to the right.

Murray Clearwater
Chairperson/Commissioner
South Waikato District Licensing Committee