

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by Criterion Hotel
2020 Limited pursuant to s.120 of the
Act for the variation of an
On-Licence in respect of premises
located at 3 Tyne Street, Oamaru
9400

BEFORE THE WAITAKI DISTRICT LICENSING COMMITTEE

Chairman: Cr Jim Hopkins
Members: Mr Barry McDonald
Ms Kelli Williams

HEARING at Oamaru, 13 April 2023

APPEARANCES

Katrina McLarin	Applicant
Carolyn Van Zyl	Liquor Licensing Inspector
Sergeant Blair Wilkinson	N.Z. Police (on behalf of Alcohol Harm Reduction Officer)
Aaron Whipp	Delegated Medical Officer of Health

DECISION THE WAITAKI DISTRICT LICENSING COMMITTEE

Introduction

- (1) The Committee has before it an application by Criterion Hotel 2020 Limited pursuant to s120 of the Act for a variation of its On Licence to permit the use of an outdoor dining area to be licensed.
- (2) The application for a variation was filed on 26 January 2023 and advertised in accordance with the requirements of the Act.
- (3) The application was circulated to the reporting agencies (Police, Public Health and the District Liquor Licensing Inspector.)
- (4) The New Zealand Police raised concerns about the application. The District Licensing Committee (DLC) Chair determined these concerns required the consideration of the Committee.
- (5) Police concerns and other related matters were discussed by the District Licensing Committee following which it was concluded that a Hearing would be appropriate for this application.
- (6) The applicant has held an On Licence for the premises since 15 September 2021.
- (7) As indicated previously, the location of the premises is 3 Tyne Street, Oamaru. This address is in an area generally referred to as Oamaru's Heritage or Victorian Precinct. The Precinct has a number of retail tenants, generally catering for visitors

and tourists along with entertainment venues, art galleries, cafes and licensed premises. The principal access to the precinct is via Humber or Itchen Street, then Tyne Street.

- (8) One of the streets in the Precinct, Harbour Street, is a one-way street, with vehicles entering from the northern end (the intersection of Harbour and Tyne Streets where the Criterion Hotel is located). From time to time, Harbour Street is closed to vehicles and becomes a pedestrian only space. Such closures of Harbour Street currently occur at weekends in the summer months and also on other occasions when festivals or public events are held, including events in Harbour Street.
- (9) When Harbour Street is closed, vehicular entrance is prevented by a line of removable bollards placed across its intersection with Tyne Street.
- (10) The outdoor dining area the application sought to be licensed would occupy part of the Harbour Street sealed roadway. This would only occur on those occasions when the road is closed to vehicular traffic during the peak visitor summer season or when other festivals or events utilising Harbour Street are taking place.

REPORTING AGENCIES

- (11) The Waitaki District Licensing Inspector filed a report on the variation. The Inspector's report advised that Police and the Medical Officer of Health had reported on the application and that no matters in opposition had been raised by them "although the Medical Officer of Health and Police have noted that they have concerns regarding the 12.00 midnight close for the outside area."
- (12) These concerns were shared by the Inspector, whose report discussed current practise and close times for the precinct's licensed premises. The close time sought in the variation was significantly later than that applying elsewhere.
- (13) The Waitaki District Licensing Inspector, the Medical Officer of Health and the Police appeared at the Hearing to present evidence and answer questions.

APPLICATIONS FOR VARIATION OF A LICENCE - s 120

- (14) The criteria applicable to this application for the variation of a licence are set out in section 120 of the Act. In particular, the committee must have regard to the matters set out in s 105 of the Act. For completeness, these matters are:
 - (a) the object of this Act:
 - (b) the suitability of the Applicant:
 - (c) any relevant local alcohol policy:
 - (d) the days on which and the hours during which the applicant proposes to sell alcohol:
 - (e) the design and layout of any proposed premises:
 - (f) 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:
 - (g) whether the applicant is engaged in, or proposes on the premises 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:
 - (h) whether (in its 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:
 - (i) whether (in its opinion) the amenity and good order of the locality are already so

- badly affected by the effects of the issue of existing licences that -
- (ii) they would be likely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - (iii) it is nevertheless desirable not to issue any further licences:
- (j) whether the applicant has appropriate systems, staff, and training to comply with the law:
- (k) any matters dealt with in any report from the Police, an Inspector or a Medical Officer of Health made under section 103.

THE HEARING

- (15) At the start of the Hearing, before evidence and submissions were presented by the Applicant, the District Licensing Inspector, the Police and the Medical Officer of Health, the Chair outlined the process to be followed. After swearing in, evidence would be presented, then an opportunity given to all parties to put questions.
- (16) Prior to evidence being presented and questions asked, an issue of process was raised by the Medical Officer of Health and brought to the Committee's attention.
- (17) The issue raised concerned the supply of Hearing documents outside the statutory period. Some or all of these documents had only been received by parties on the day before the Hearing.
- (18) The Chair addressed this issue at the start of the Hearing. He acknowledged that the concern was properly raised and agreed that a breach in relation to the timely provision of documents had occurred. He indicated that one option was to reschedule the Hearing to allow parties time to study the documents before appearing. Another was to proceed with the Hearing, provided all parties were satisfied they had not been disadvantaged or that the quality of their submissions has not been compromised by the breach.
- (19) All parties were asked if they felt they had been unduly disadvantaged and all said they had not been. All parties further agreed that the Hearing should proceed forthwith and, with that resolved, submissions were presented.

EVIDENCE AND SUBMISSIONS AT HEARING

- (20) Evidence and submissions were presented first by the applicant, then by the Police, the Licensing Inspector, and the Medical Officer of Health. A closing statement was then presented by the applicant.

Evidence for the Applicant

- (21) Katrina McLarin, a Director and Owner of Criterion Hotel 2020 Ltd, advised that she would present argument and evidence on behalf of the applicants. Ms McLarin said that the Criterion Hotel identified itself as a "gastro-pub" and wished to add an outdoor dining option to their range of services. The area they had identified for this purpose was a section of the Harbour Street carriageway immediately outside the hotel. Having gone through its first summer of trading, Ms McLarin said it had become very clear to the applicants that tourists and locals alike would "prefer to sit outside when the weather is nice." She said the applicants had lost a lot of business by not being able to offer this "in a meaningful way" which had "impacted our bottom line."
- Her evidence was that offering indoor and outdoor dining and drinking experiences had seen other locations become successful destinations, with the Riverside Markets precinct in Christchurch offered as a "fabulous example."
- The applicants' evidence addressed the midnight close time that the applicants

sought. Ms McLarin said the applicants had spent \$120,000 on renovations and additions at the Criterion hotel and that the Oamaru Whitestone Civic Trust had invested a further \$100,000. This spending was to allow the Criterion to have a restaurant food focus, with evening dining as key element of the business plan. She said there was a need to make the site viable and future proof its existence.

The applicants believed that dining options in Oamaru after 8 p.m. were very limited but that dinners could book tables at the Criterion up to 8.30 p.m. which meant the kitchen was still preparing meals beyond 9 p.m.

During the summer daylight saving period, guests tended to dine later, not least because other local attractions, like penguin viewing, also occurred later. Ms McLarin said it was prudent to allow "a minimum of two and a half hours per dining experience." This would mean that the last table service could be completed by 11/11.30 p.m.

The applicants' evidence was that having a 12 midnight close time for the sale of alcohol would allow for occasions when table service is delayed and also when functions or events occur. General permission by way of the variation would mean the applicants would not need to apply for special licenses when such events took place. Ms McLarin cited the annual Steam Punk Event, Heritage Week and the Jazz and Blues Festival as examples of events the Criterion has supported and which justified a variation that generally allowed a 12 midnight close time for alcohol service.

Ms McLarin did not believe that granting the variation would set a precedent or provide any "benchmark for other providers to follow as they don't have the same business model nor the the necessary infrastructure to back up a proposal for outside dining." She said the applicants' venue was the only location in Oamaru where staff were connected by radio and earpiece microphones. This enabled "seamless communications while trading" as well as allowing staff to have oversight of "every area of the site."

The applicants were responsible licensees with more than 25 years experience in the sector. They are the owners of three licensed venues and have had no incidences with police or liquor licensing. Ms McLarin said there had been no public opposition to the variation sought and presented two letters of support from The Oamaru Whitestone Civic Trust and Scotts Brewery Co. These letters are included with this decision as Appendix 1 and 2.

Following the presentation of the applicants' evidence, there was an opportunity for questions to Ms McLarin from the reporting agencies. One question involved differing alcohol sale closing hours in other locations. It was stated, for example, that the closing hour for the outside licensed area at the Riverside Market in Christchurch was 9 p.m. and the applicant was asked if this would also be appropriate for the Criterion Hotel. Ms McLarin said the circumstances were different, with the Riverside Market having a considerable number of differing licensed premises and an outside area both larger and further away from those premises than what was proposed with this variation.

When asked about an agreement that had previously been negotiated with reporting agencies and licensed premises in the heritage precinct area that introduced an outdoor drinking/dining close time of 8 p.m., Ms McLarin said this agreement had been agreed in an earlier period when different circumstances applied, with one venue in particular remaining open later than others in Oamaru and conflicts arising between its patrons and other late night revellers in the vicinity.

Ms McLarin was also asked if people would be able to consume alcohol in the proposed outside area without ordering a meal. She said they would be able to do so but that this would, in her opinion, create no particular extra risk as a result of the policies and practices employed by the applicants and their staff. She also advised, in response to other questions, that the Criterion had operated a small outdoor licensed area on the footpath along the Tyne Street frontage and that there had been no issues arising from its operation. She advised that the larger outdoor area they now wished to establish had, previously during a festival, hosted 20 to 30

outside diners and expected similar future numbers if the variation was granted. When asked how the applicants would manage a situation if large crowds gathered in the area adjacent to the proposed new outdoor licensed area, as had occurred outside another venue, Ms McLarin replied that the applicants could not be expected to control behaviour in other public areas in the precinct. She said that people would be turned away if they were drunk and that the applicants "won't risk our license for a 7 dollar beer." She pointed out that orders for meals and beverages needed to be placed inside the hotel and that this gave staff the opportunity to assess the behaviour and sobriety of potential patrons.

In response to questioning, Ms McLarin advised that the applicants' other venues were at the north end of Oamaru and in Pukekohe, where their restaurant was between a night club and a fish and chip shop. She further told the hearing that, to date, outdoor diners had finished their meals and socialising by 10 or 10.30 p.m. Asked if she felt there would be a greater risk of conflict between patrons with a later close hour, Ms McLarin said any possible conflicts could and would be managed through the practises the applicants have implemented. She acknowledged that the variation would not and could not apply to outdoor diners only and that it was, in fact, an extension of the indoor bar area currently covered by the existing on license.

When questioned if she was concerned that granting the variation could set a precedent, Ms McLarin said she did not believe it would and that any future cases should be considered on their merit. Asked to what extent the applicants accepted responsibility if later evening outdoor potentially become a bigger problem, she said the applicants' business model, intended to create a more upmarket experience with a focus on dining rather than drinking, as well as their experience in the industry and their methods of operation and staff training meant no bigger problems would arise.

She also explained that the applicants sought one variation with a close time of midnight to apply whenever Harbour Street was closed to traffic to avoid the need to apply for one or more special licenses to cover events and festivals as they occurred.

Evidence for the reporting agencies

(22) Sergeant Blair Wilkinson presented on behalf of the New Zealand Police. He began by advising the hearing that he had not intended to present evidence but rather just make a closing statement. It was pointed out by the Chair that the agenda for the hearing had indicated that the closing statement would be a summary in response from the applicants' representative. After discussion, it was agreed that Sergeant Wilkinson would offer evidence and argument, then answer any questions he may be asked.

He began by saying that the Police had no problem with the applicants' operation at the Criterion hotel. He said the issue of concern for Police was that the area for which the variation was sought was outside the hotel at a site where venue patrons would come into contact with other members of the public in what was a busy location. This meant there was a risk of drinks being shared, and the later the hours of operation, the bigger the problematic issues that are likely to arise.

Sergeant Wilkinson said the Police point of view was generally to minimise risks and that, therefore, the less time alcohol was available to be consumed, the better a situation would be. The Police position in relation to this application for a variation was that granting it would create an additional risk that could not be managed. He told the hearing that any risk arising should be mitigated and that the greater the level of restriction imposed the less the risk would be.

Responding to questions, Sergeant Wilkinson said the Police had not lodged an objection when the application was forwarded to them by the Licensing Inspector because they had mistakenly believed it was a roll-over. When becoming aware it was not, they drew the Inspector's attention to the agreement in place regarding outdoor licensed areas in the precinct and advised that they felt it should not be

amended. He told the hearing that his concern was not about the applicants' operating of the Criterion but that he "didn't want to open the door to numerous premises having outside drinking."

In response to other questions, Sergeant Wilkinson advised that he was not sure if an emphasis on dining would reduce the likelihood of risks arising from use of the outdoor Harbour Street area. He said, as a general principle, he felt restricting people's use of the area would be his preferred approach and that issues would be hard to manage otherwise. He did not believe the situation would be improved if the area was roped off. He felt the designation in this instance should be Restricted and not Undesignated. Sergeant Wilkinson acknowledged that the agreement he had referred to was an old one and that the problems which led to its being introduced no longer arose but he considered the earlier time it had proposed for alcohol sales to close was still pertinent because "as the evening wears on, the level of intoxication increases."

(23) The Waitaki District Council Licensing Inspector Carolyn Van Zyl told the hearing she had worked in the role for 11 years. She apologised for an error in her written report which had stated that the current on licence allowed for outdoor alcohol sales until 11 p.m. She said this was not the case and that outdoor sales were currently required to stop at 8 p.m. She further advised that, if granted, the variation would be in place for a year, at which point its effects could be assessed and the variation reconsidered. The Inspector said there was no time frame in which she was obliged to raise issues and that she can raise any issue relating to a license as she sees fit. It is part of her role, she said, to raise issues with the Police and Medical Officer of Health. She had also contacted Ms McLarin to discuss the application because she considered the Criterion Hotel to be "a flagship destination."

Responding to questions, the Inspector told the hearing that she had no doubts about the applicants' suitability. She said they had "huge experience" and agreed that local people did enjoy dining out, however she added that not everyone is satisfied with dining alone and that some people do go on pub crawls which can become "exuberant". She said it would be "naive to assume that just because a restaurant is first class, no problems would arise." She said that there had been "issues around town" and that s 105 of Act included "everything we would look at with an application such as this. There was much to consider, she said. One of the issues for the Committee was the likelihood that granting the variation could see others also emanating to the opportunity to differ outside dining and that precedent could raised as an issue when considering other applications.

Answering other questions, the Inspector agreed that offering a dining experience would reduce any possible risks. She said that, in her experience, food offerings do reduce the risks associated with alcohol consumption.

Asked if there had been any issues at the Scott's Brewery venue, which also has an outdoor dining and drinking area, Ms Van Zyl said that Scott's differed in one important respect. It was a destination and did not have people wandering through its outdoor area on their way to somewhere else.

She did advise that although she had had "conversations" with some license holders regarding intoxication levels there had been no serious breaches and no formal warnings issued recently to venues in Oamaru.

(24) The Medical Officer of Health, Aaron Whipp, was the final reporting agency to address the hearing. He told the committee that he also had "no problems" with the applicants or the way they conducted their business. He said the possible risks arising from granting the variation would be greater if people were just drinking, rather than dining as well. From that perspective he was not concerned about there being an outdoor dining area per se. But he was concerned that having as many as 20 to 30 people in this outdoor area did concern him. He believed that going from zero to 20 or maybe, in extreme circumstances, as many as 50 people would reduce the amenity and good order of the locality.

Answering questions, he said that allowing people to purchase alcohol until 12 midnight was a concern. He also felt that RTDs should not be available and that only beer and wine should be served outside. The Medical Officer of Health told the hearing that, should consent for the variation be granted, he was satisfied that the applicants had systems in place to manage the operation of the outdoor area. He believed that roping the area off or otherwise delineating it would be good and that he had "no concern re a 10.30 p.m. close time."

Closing statement of the applicants

- (25) The hearing concluded with a closing statement from Ms McLarin. She told the hearing that amenity and good order would not be reduced, rather the proposed outdoor area would offer a new experience for tourists. She said dining patterns had changed and that people no longer ate at 5 p.m. but preferred their meals later. She agreed that, if granted, the variation would expire in May 2024 meaning there would only be one year in which it applied, which reduced any perceived risks associated with its being granted.
- She said the applicants had support from their landlord, festival organisers and one other operator in the locality and accepted that the onus was on the licensee to do an effective job and manage operations in such a way as to avoid or minimise any possible risks to amenity and good order. She said the applicants accepted their role was to mitigate risks and that they were good operators who had the commitment, ability and experience to do so. She said the applicants wanted to "take the Criterion into the future" and the granting of the variation would be part of making this happen.

SECTION 120 - Relevant Matters in s 105 (1)

Suitability of applicant - s105 (1) (b)

- (26) No reporting agency has reported that the applicant is unsuitable and, during the hearing, the District Licensing Committee heard no evidence from the agencies that the applicant was unsuitable to hold a licence or variation of a licence. The Committee is satisfied that the applicants are experienced, conscientious and have appropriate policies, systems and training practises in place.
- (27) The Committee considers that there is sufficient evidence for it to reasonably believe that the applicants will continue to properly carry out the responsibilities that go with the holding of a licence, or variation of a licence, including the responsibilities of complying with the Act's objectives.

Any relevant local alcohol policy applicant - s105 (1) (c)

- (28) Because the Waitaki District Council does not have a local alcohol policy there is no adopted Local Alcohol Policy for the committee to have regard to or rely upon.

Days and hours - s105 (1) (d)

- (29) The application is for a variation of the current On Licence relating to a new, outside area and an increase in the number of hours during which the applicants seek to sell alcohol.
- (30) No evidence was presented to the Committee to indicate that the proposed hours fall outside the default national maximum trading hours but evidence was presented that the hours sought were, for the applicants, necessary to implement their business plan and, for the reporting agencies, problematic as an increased risk to amenity and public order.

The design and layout of the premises - s 105 (1) (e)

(31) The area in which the variation is intended to apply is a section of a public roadway outside the applicants' hotel. This road is periodically closed to vehicles and its use for dining and alcohol sales will only occur when the road is closed. The area to be used for dining and alcohol sales will only use part of the carriageway. The hearing was advised that the Waitaki District Council's Roding Department had been consulted and indicated it had no objection to the use proposed in the variation, provided that access for emergency vehicles remained available to allow them access to Harbour Street and its premises when necessary. No evidence was presented at the hearing to challenge the Roding Department's proviso and no party opposed it.

Other goods or services - s 105 (1) (f) & (g)

(32) There is no intention of any other goods or services being provided from the premises.

The effect on the amenity and good order of the locality - s 105 (1) (h)

(33) The effect on the amenity and good order of the locality was a subject of attention and debate at the hearing. For the applicants, Ms McLarin said the emphasis on a 'gastro-pub' dining experience, along with the applicants' experience, staff training and behaviour management, including requiring patrons to place orders inside the Hotel, meant that the episodic outdoor option would enhance the amenity and appeal of the precinct and not impact adversely on good order. The District Licensing Inspector, the Police and the Medical Officer of Health all expressed concerns, to varying degrees, about the effect that granting the variation could have on the amenity and good order of the locality. These concerns focussed on the close hour. The reporting agencies' consensus was that the later alcohol was available for sale, the greater the risk of problems arising from its consumption.

Whether the amenity and good order of the locality are already badly affected – S 105 (1) (i)

(34) No evidence was presented to sustain an argument that the amenity and good order of the area is currently badly affected by the operation of any of the licensed premises in the area, although there had been some significant issues at an earlier time, triggered by the late opening of a now closed venue. This had led to the introduction of the 8 p.m. outdoor dining and drinking protocol agreed between reporting agencies and licensed operators.

Systems, staff and training to comply with the law - s 105 (1) (j)

(35) The evidence presented at the hearing indicated that the applicants have appropriate systems, staff and training in place to comply with the law when operating their current licensed premises. It was also apparent that the applicants have given consideration to the problems and difficulties that could arise if the variation was granted and an expanded outdoor area included in the on licence.

Any matters dealt with in any report from the Police, an Inspector or a Medical Officer of Health made under s103 - s105 (1) (k)

(36) As noted in the response above in relation to effects on amenity and good order of the locality, the possibility of adverse effects on amenity and good order were addressed in the Inspector's report and in the verbal evidence of the Police and Medical Officer of Health. Although no matters in opposition were raised, concerns

were expressed. A principle concern was the proposed 12 midnight close hour for the sale of alcohol. Police and the Medical Officer of Health both advocated for an earlier close hour. The agreement previously reached between reporting agencies and licensed premises operators in the precinct was also cited as a matter for consideration.

CONCLUSION ON SECTION 120 AND s105 AND OBJECT OF THE ACT & THE DECISION OF THE DISTRICT LICENSING COMMITTEE

- (37) This hearing involved an innovative and unprecedented application for a variation and speculative concerns about the consequences if the variation was granted. The Committee's task was to evaluate the differing perspectives and evidence presented by the applicants and the reporting agencies.
- (38) In reaching its conclusion, the Committee had to consider possible adverse effects and any precedent that may arise from granting the variation and assess the applicants' ability to avoid or mitigate possible adverse effects. It was the Committee's view that the possibility of a precedent being set was not a matter the applicants could address. Should any similar application be made at a future time, it would be the responsibility of reporting agencies then to assess the nature of the application and the competence of the applicant. Each application should be considered separately and on its own merits. For that reason, the Committee has concluded that granting this variation would not create a precedent and that no future applicant could argue that it did.
- (39) The Committee accepts that the applicants' experience, business plan, good policies, staff training and unblemished record of operation in a range of venues entitles it to conclude that they (the applicants) have the ability and capacity to manage the proposed new outdoor 'gastro-pub' dining experience generally in a way that would not be likely to reduce the amenity and good order of the locality to more than minor extent.
- (40) The Committee also accepts that the reporting agencies have legitimate concerns. It further accepts the argument presented by the Police and the Medical Officer of Health that the later alcohol is available for sale and consumption the greater the likelihood of problems arising and the amenity and good order of the locality being reduced.
- (41) It also recognises that the ground-breaking nature of this proposal. While resolving that no precedential effect would arise from granting the variation, the Committee is persuaded that a precautionary approach would be appropriate, given that the applicants wish to use a public space which cannot be screened from other public areas in the locality, or from the people using them who may not be patrons of the Criterion and whose behaviour and sobriety cannot be deemed to be the responsibility of the applicants, even though it may impact on the amenity and good order of their outdoor dining area.
- (42) The Committee further accepts that any unwelcome interactions between the Criterion's outdoor patrons and third parties in the vicinity are more likely to occur later rather than earlier in the evening. It shares the concern of the reporting agencies in this regard. The Committee further notes;
- a) the applicants' evidence that, in their limited experience to date, outdoor diners had completed their meals by 10 or 10.30 in the evening, and
 - b) that should the applicants wish to offer a later close hour to cater for any particular festival, event or function they would be able to apply for a Special Licence and that this could cover one or number of specified events.

- (43) The Committee did consider whether a continuation of the agreement in place between reporting agencies and licensed premises in the precinct was appropriate. Taking into account evidence of the Licensing Inspector and the Medical Officer of Health who said he had no concerns about a 10.30 alcohol sale close time, as well as the evidence about the absence of any issues reducing the amenity and good order of the locality since the closure of one particular venue and the emergence of new operators with a new and more upmarket approach, the Committee has concluded that it is no longer appropriate to automatically and universally enforce the previously agreed close time but rather to consider applications for change individually on their merits.
- (44) The Committee records that the variation sought would allow private use of a public carriageway at times when it was closed to vehicular traffic. Such closures are currently seasonal and intermittent and although it was suggested during the hearing that this may change at some future time, thus making Harbour Street a permanently pedestrian only access way, this suggestion is speculative and consideration of the application should address the situation that exists now, not one that may come to pass in the future. But in either case, the site to which the variation would apply is not one that any local licence holder has sought to incorporate into their business. Some venues do feature outdoor areas in approved locations on footpaths but not on any roadway. The Committee notes the conditional approval given by the Waitaki District Council's Roading Department who, in the event the variation is granted, require a section of the carriageway to remain available for the passage of emergency vehicles should the need arise. The Committee supports this position.
- (45) For the foregoing reasons, the Committee has resolved to grant the variation with the following amendments and conditions:
- 1) That the closing hour at which alcohol can be served to patrons in the outdoor area to which the variation applies shall be 10.30 p.m. in the evening on any occasion when Harbour Street is closed to vehicular traffic unless otherwise by Special License.
 - 2) That a defined portion of the carriageway shall remain unoccupied by Criterion hotel patrons and therefore available to emergency vehicles to use as required.
 - 3) That the area kept free for emergency vehicle use shall be as specified by the Waitaki District Council but need not be roped or physically delineated.
 - 4) That the area is designated as Supervised and operated as such.
- (46) In reaching this decision, the Committee considers it has had due regard to the object of the Act and has considered the matters provided for in s 105 and those matters of which it is required to be satisfied. We further note that the variation will be in place for one year only and that a review of any problems arising or adjustments sought will therefore be able to be undertaken in a reasonable timeframe.
- (47) We refer any party who wishes to appeal this decision or part of this decision to s 154 to s 158 of the Act.

DATED at OAMARU this 15th day of May 2023


Chair
Waitaki District Licensing Committee

Appendix 1

THE OAMARU WHITESTONE CIVIC TRUST

Waitaki District Council
Liquor Licensing Department
20 Thames St
Oamaru 9444

11th April 2023

To Whom It May Concern

On behalf of the Whitestone Civic Trust, owner of the building known as the Criterion Hotel (3 Tyne Street), we approve the use of Harbour Street for outside dining when the street is closed to vehicular traffic. We believe that the addition of the outside dining will assist in revitalising the area as a destination for visitors and have no objection to the proposed outside trading hours of 10am to 12 midnight.

As the landlord of many of the buildings in the area, we believe this will have minimal impact on the surrounding businesses regarding noise, as the majority of tenants are open during the day and a handful open at night. The Criterion Hotel provides a key service of food and beverage to the visitors of Harbour Street and enabling them to provide this service outside, will enhance what the street has to offer to these visitors.

The Oamaru Whitestone Civic Trust gives our permission for our tenants Katrina McLarin & Brenda Laverick to seek a variation of liquor license to include outside dining.

Regards

Michelle Harrison

*Michelle Harrison
Property Manager
Oamaru Whitestone Civic Trust
0277788095*

Appendix 2



Wednesday April 12th 2023

To whom it may concern,

I am writing this as a letter of support for The Criterion Hotel to extend their licensed hours for their outdoor area to 12.00am

Scotts Brewing Co have a great relationship with The Criterion Hotel and we often communicate with each other during busy weekends on groups whom we have refused service that may be heading their way and vice versa. We are more than happy to continue to do this to keep our community safe and minimise intoxication between the licensed areas.

It is coming up to 10 years since Scotts Brewing Co opened their doors here in Oamaru and we have managed our license (which is until 1am) very well, with no infringements on our license or any of our duty managers to date.

As we have grown and become busier than ever before, we have taken it upon ourselves to put in place some strict procedures to help manage intoxication and manage ID checks by allocating a staff member to security every Friday and Saturday evening. This staff member is positioned outside, wristbanding all customers who look under 25 years of age that have been ID checked. They also support our Duty Manager's to monitor intoxication levels, and oversee everyone leaving at the end of the night. This has proven to be very effective to ensure everyone is behaving and getting home safe.

The local police have told our staff personally that we are doing a great job with host responsibility and they are very happy with how well we control our licensed area and beer garden.

Hopefully this letter gives the hearing committee comfort in knowing we are managing intoxication flowing into the street the best we can and are willing to work alongside each other to create a safe environment between the licensed areas.

Kind Regards
Brooke Kofoed
General Manager

SCOTTSBREWING.CO.NZ

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