

Application Number:

036/CERT/056/2022

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **Mika Gordon** for a Managers Certificate pursuant to section 219 of the Act.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The managers' certificate application (036/CERT/056/2022) had no objections filed and no matters of opposition raised under section 220 reports, therefore the matter was considered by the Whanganui District Licensing Commissioner in accordance with sections 221, 222 and 223 of the Act.

Commissioner: **Stuart Hylton**

RESERVED DECISION OF THE WHANGANUI DISTRICT LICENSING COMMITTEE

1. Application

Mika Gordon made the application on the prescribed form dated 16 September 2022. The applicant intends using the certificate at 'Caroline's Boatshed and Eatery', Tavern Style On-licence, where they have worked in for the past 24 months.

The application included evidence of having obtained the necessary License Controller Qualification. The applicant declared a drink driving conviction in February 2020.

The applicant's employer gave evidence of the applicants experience, skills and suitability to hold a licence.

2. Decision Making

In considering this application for a manager's certificate the licensing committee had regard to the following criteria under section 222 of the Act.

- *a)the applicant's suitability to be a manager;*
- *(b)any convictions recorded against the applicant;*
- *(c)any experience, in particular recent experience, that the applicant has had in controlling any premises for which a licence was in force;*
- *(d)any relevant training, in particular recent training, that the applicant has undertaken and evidence that the applicant holds the prescribed qualification required under [section 218](#);*
- *(e)any matters dealt with in any report made under [section 220](#).*

3 Reporting Agencies

The following reports were received under section 220 of the Act and taken into account during the decision.

3.1 Police – The Police initially opposed the application on the 2 November, presumably due to the applicants drink driving conviction in 2020. The Police then interviewed the applicant and withdrew their opposition in a report dated 7 November 2022. The Police give no details of the interview, the drink driving incident, nor their reasons for change of mind.

3.2 Licensing Inspector – Full report assessing **Mika Gordon's** credentials against the Acts criteria. The inspector has interviewed the applicant and concludes that the application is complete and appears to meet the criteria of section 222 of the Act. The Inspector is silent on the criminal conviction.

4 Conclusion

The Alcohol Licensing Authority in their decisions have made it very clear that they take a dim view of persons seeking areas of responsibility in the liquor trade when they have been convicted of drink

driving themselves. Case law speaks of the need for persons enforcing and managing the law to also be complying with the law, especially alcohol.

The applicant's conviction some two and a half years ago involved a breath alcohol level above 400mgs/litre. There is no information around the incident such as where the applicant had been drinking etc, nor what the applicants attitude to the incident was and their attitude to alcohol since.

In the Osborne decision, the Authority make it clear that they look for a 'stand down' period of 2-5 years for alcohol related convictions depending on circumstances. This Committee does not depart from that guideline lightly.

In light of the lack of details around the conviction supplied to this Committee, we rely on the Inspector/Police reports. We take some comfort from their reports of no opposition and must assume that both reporting agencies believe the 2-3 year stand down period from the incident is sufficient. We hope the applicant has learnt from the incident.

Accordingly based on the evidence provided to me within the application and statutory reports I conclude that **Mika Gordon** meets the criteria to hold a Managers Certificate under the Act.

5 Decision

Accordingly the application is **Approved** for issue for a period of one year.

Dated at Whanganui District this day of 8 November 2022

Signed



Stuart Hylton

Whanganui District Licensing Commissioner

