

# TASMAN DISTRICT LICENSING COMMITTEE

Decision No. MGR2420

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012

**AND**

**IN THE MATTER**

of an application by Andrew John  
Butcher pursuant to s.219 of the Act  
for a new Manager's Certificate

**BEFORE THE TASMAN DISTRICT LICENSING COMMITTEE**

Chairperson: Mr E W Unwin  
Members: Mr L Gabites  
Ms J Hodson

**DECISION**

[1] Before the Committee is an application by Andrew John Butcher for a Manager's Certificate. The application was filed with the District Licensing Agency in June 2016. In his application Mr Butcher stated that he had been working as a barman at the "Telegraph Hotel" in Takaka for approximately 18 months. His position is permanent/part time and he is the holder of the Licence Controller Qualification. His application was supported by Mr Michael S Delhanty, the proprietor of the "Telegraph Hotel".

[2] In his application, Mr Butcher disclosed a recent conviction for driving with an excess breath alcohol content. The date of the offending was the first of October 2015. Mr Butcher had been apprehended while driving. His breath alcohol level was 794 micrograms of alcohol per litre of breath. He was duly convicted in the Nelson District Court the same month, and was fined and disqualified from driving for a period of six months.

[3] Mr Butcher did not disclose other convictions, even though he had a history of drink driving. However, the last conviction was some 23 years prior to the filing of his application. He also had an involvement with drugs for which he had received convictions but once again the last offending occurred in 2004, some 12 years ago. The number of convictions certainly disclosed a pattern of behaviour. On the other hand it is clear that Mr Butcher had turned his life around. He gives credit to his partner for helping with the maturity process, and he has now become a contributing member of society. He certainly presented well when he gave evidence.

[4] We understand that at the time of the most recent offending in October 2015, Mr Butcher had been fishing and had consumed alcohol away from licensed premises. He had not had much to eat and although he felt able to drive, he clearly wasn't. It seemed to us that Mr Butcher was able to make the connection between his behaviour on that occasion and the object of the Act as contained in Section 4.

[5] The criteria which this Committee must consider includes Mr Butcher's suitability to be a manager, and the convictions recorded against him. We regard this particular conviction as an isolated offence, even given the previous convictions which seem to us to have occurred when he was much younger and much less responsible.

[6] We accept that the historical decision of *Graham Leslie Osborne* LLA 2388/95, is on point. In that decision, the Liquor Licensing Authority stated that the Authority normally looked for a five year period free of convictions where there had been a serious conviction or convictions relating to and involving the use or abuse of alcohol or arising in the course of an applicant's duty on licensed premises. The Authority went on to say that less serious convictions were also weighed, by way of an example, an isolated excess breath or blood alcohol conviction or a single driving offence disclosing no pattern of offending. In such cases, the Authority suggested that a minimum of two conviction free years might result in favourable consideration.

[7] It seems to us that the decision is still relevant, and that standards need to be kept high in the industry. On the other hand, not only did Mr Butcher present well, but he had the great advantage of having the support of his employer, Mr Delhanty. Mr Delhanty has been involved in the hospitality industry for about 35 years. He has employed a lot of people and not only has he seen fit to appear before the Committee, but he speaks very highly of Mr Butcher's honesty.

[8] Taking all those factors into account, we have decided that the grant of this application will be a process rather than an event. We do not intend to refuse the application, nor do we intend to grant it at this time. Mr Butcher has to earn the certificate.

[9] The Committee's decision is to give him some credit for what he has achieved. We propose to adjourn the application for 12 months which is a little less than the two years suggested by the Osborne decision. During the period of 12 months, we have no difficulty with Mr Butcher being employed as a temporary or acting manager for a maximum of one day a week. Near the end of 12 months we will call for reports from the Inspector and the Police. If those reports are positive, this application will be granted on the papers without any further hearing. If on the other hand, Mr Butcher is unable to survive the period of 12 months and blots his copy book in one form or another, then a further hearing may be necessary.

**DATED** at Richmond this 24<sup>th</sup> day of August 2016

  
L A Illing  
**Secretary**  
**Tasman District Licensing Committee**

