

IN THE MATTER:

of an application by **TINUI BAR AND CAFÉ LIMITED**
pursuant to s127 of the Sale and Supply Alcohol Act
2012 for the renewal of ON and OFF Licences in respect
of the premises situated at 1 Charles Street, Tinui,
Masterton and known as Tinui Café and Bar

BEFORE THE MASTERTON DISTRICT LICENSING COMMITTEE

Chair	Mrs Catherine Rossiter-Stead
Members	Mrs Rosalie Barnes
	Mr Bill Johnson

HEARING

Held at Masterton District Council Chambers on 21st August
2025.

APPEARANCES

Applicant

Mr Maru Turner	Applicant
Ms Sarah Thompson	Applicant's Agent

Masterton District Licensing Inspectors

Mr David Gallagher	Licensing Inspector
Ms Terri Mulligan	Licensing Inspector

Witnesses

Ms Bronwyn Johnson	Chief Licensing Inspector
Senior Constable Dean Fawcett	NZ Police
Constable Gracie Donaldson	NZ Police
Constable Norman Chu	NZ Police

Observing

Mr Anoop Gopalakrishnan	Medical Officer of Health
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DECISION OF THE DISTRICT LICENSING COMMITTEE

Decision

- [1] The Masterton District Licensing Committee (the Committee) acting pursuant to the Sale and Supply of Alcohol Act 2012 (The Act) GRANTS a TRUNCATED Renewal of both an On-Licence and Off-Licence for Tinui Bar and Café Limited, trading as Tinui Café and Bar, situated at 1 Charles Street, Tinui, Masterton, for a period of 18 months until 28 August 2026.

Introduction

- [2] Tinui Bar and Café Limited, trading as Tinui Café and Bar, applied to renew the On-Licence and Off-Licence for the premises located at 1 Charles Street, Tinui, Masterton. The applications were both lodged on 11 November 2024. The existing one-year Licences both had an expiry date of 28 February 2025. This is the first renewal.
- [3] The premises is located in a rural zone area, situated about 44 kilometres and with a travel time of approximately 40 minutes from Masterton.
- [4] The general nature of the business is that of a café and bar, and is frequently utilised as a community hub for local groups, including the Tinui ANZAC committee.
- [5] The Applicant, Tinui Bar and Café Limited, is a legal company incorporated on 24 July 2023 with one director listed as Maru Turner, who is also the sole shareholder.
- [6] The NZ Police and the Medical Officer of Health both advised that they did not have an objection to these applications having been served notice in the required form and within time.
- [7] No public objections were lodged with the District Licensing Committee.
- [8] The premises was operating under an on-Licence (42/ON/004/2024) and an off-Licence (42/OFF/003/2024) both issued on 28 February 2024.
- [9] The evacuation scheme (EV-178013-1) for the premises was approved by Fire and Emergency NZ on 3 December 2024.
- [10] The three Committee members undertook a site visit to the premises in the week prior to the hearing.
- [11] The issuing of the Licence renewals for Tinui Bar and Café Limited has been opposed by the Licensing Inspector of the Masterton District Council.

Licensing Inspector Objection

The Licensing Inspector's objection to the granting of both the on-Licence and off-Licence is:

- [12] The Licensing Inspector has serious concerns with the Applicant's suitability as required by s 105 (1)(b) of the Sale and Supply of Alcohol Act 2012, following a compliance visit on 14 February 2025.
- [13] The Licensing Inspector also highlights in their written report that there is no evidence to show that the Applicant has appropriate systems for staff training in place as required in s 105 (1) (j), or sufficient transport options for patrons as stated in s 54, and that the Applicant

has also failed to comply with the requirements imposed by s 231 in relation to the notice of appointment, etc, of manager, temporary manager or acting manager.

- [14] As a result of additional concerns from other agencies that intoxication and violence has occurred at the premises, the Inspector is not confident that the Applicant is achieving the object of the Act s 105 (1) (a) outlined in s 4.

The Applicant

The Applicant's Statements of Evidence and Oral Submissions at Hearing

- [15] Mr Turner attended the hearing, alongside his agent Ms Thompson from Innovative Hospitality.
- [16] Ms Thompson commented on behalf of the Applicant. Her main points were:
- (a) That the issue at hand appeared to be whether Mr Turner's behaviour towards the Police at the time of the compliance visit in February constituted a reason for impacting the licence applications
 - (b) She advised the Committee that there had been no other breaches of the Act and there had been no further issues. Mr Turner had worked with her to update the training records, incident register etc. She also added that Mr Turner had never served a minor or done anything to increase alcohol harm.
 - (c) When questioned by the Committee, Ms Thompson reiterated that the training documentation was being put through and there were weekly management meetings where the staff talked through any issues. She was confident that Mr Turner knows what his responsibilities are and that he understands that he must keep records updated. She was satisfied that he is complying with the Act. She also felt that this was an unusual circumstance and from her point of view she believed that Mr Turner knows what to do, and specifically that intoxicated or disorderly people are not allowed on the premises.
 - (d) She stated that Mr Turner was involved in this one instance of behaviour for which he was apologetic.
 - (e) Mr Turner had already been censured for the incident in December, where he was given a warning for potentially being intoxicated. At that time the bar was closed and Mr Turner lives on the site.
 - (f) There had also been an impact on Mr Turner's firearms licence.
 - (g) She also advised that the Committee needed to take into account that the bar was a community space, as there wasn't much in a location like Tinui.
- [17] Mr Turner elaborated on his written brief of evidence and answered questions from the Committee. His main points were:
- (a) Mr Turner detailed in his written evidence that the night leading up to the assault incident in December was very relaxed. It was between Christmas and New Year. He was with close friends and family and at the end of the night they were doing karaoke. This was confirmed by CCTV provided to the Police. The bar was closed to patrons at 11pm. Earlier in the day, a local group of people had attempted to buy a box of high percentage alcohol from one of the younger members of his staff. They were refused. They returned to the premises at 11:30pm and tried to enter the building.
 - (b) When questioned by the Committee about his relationship with the group, Mr Turner explained that two of the group were known to him and that he didn't think they were 'particularly upstanding members of the community'.
 - (c) Mr Turner also provided further detail on what led up to the incident that took place that night. He explained that while members of the group were asking to be served, a woman from the group (known to Mr Turner) was approached by Mr Turner's partner who challenged her about having bought buns from a supplier on Mr

Turner's business account. Mr Turner added that money was tight, business was quiet, no money had been made on the buns, and money had been wasted on something that didn't make a dollar. This was the reason for the argument, and the subsequent assault that took place between the local woman and his partner when the group returned to the premises later that evening.

- (d) According to Mr Turner, the group had also caused chaos at another rural bar and camping ground in Castlepoint earlier in the day before returning to his premises.
- (e) It was later that night and following the assault between the local woman and Mr Turner's partner, that a male member of the group (also known to Mr Turner) got involved and was then punched by one of Mr Turner's friends and family. The male was punched with what appeared to be a 'knockout hit'. The Police and ambulance were called. The male appeared unconscious.
- (f) In response to the Committee's questions around serving alcohol to the group, Mr Turner clearly stated that the group had not been served at any time nor had they been drinking at the premises earlier in the day.
- (g) This incident took place on 27 December 2024, a filing to the Alcohol Harm Prevention Officer (AHPO) was made on 23 January 2025, a phone call to Mr Turner was made on 4 February 2025, and then a letter subsequently sent to Mr Turner also dated 4 February 2025 from the AHPO [as part of a graduated response model bringing to Mr Turner's attention that *allowing a person to become intoxicated, or allowing intoxicated persons to remain on the premises are breaches of the Sale and Supply of Alcohol Act 2012.*] Mr Turner stated in his evidence that he was disappointed with the delay in the filing and had made a complaint to the Independent Police Conduct Authority (IPCA).
- (h) Mr Turner also stated that he was very upset about the comments made in the letter by the Police officer who dealt with the assault incident. Mr Turner felt that he was not intoxicated and that his standoffish behaviour was down to a combination of factors including the fact he was upset his partner had been assaulted and that he has a medical issue caused by essential tremors which is why he is often standoffish leaning on objects/buildings and has his arms crossed as this is more comfortable for his body to be relaxed.
- (i) In his written evidence, Mr Turner explained that the bar is often closed by 8pm at night and the actual trading hours were around 3-4 hours a day. The business has had a very poor first year of trading because of the recession and poor weather.
- (j) He also noted that in the first 10 months of operating no issues had required any police intervention and that he has maintained a positive relationship with the local / rural Police.
- (k) Mr Turner also had his Manager's Certificate renewed on the 30 January 2025 and valid till 28 February 2028 with no objections from either the Police or the Medical Officer of Health.
- (l) When questioned by the Committee about Mr Turner's gesture with his finger towards a member of the Police during the subsequent compliance visit in February, Mr Turner explained he was upset with the Police. He thought that he and the Police were friends and that he had interacted well with them. He was still upset about the comments contained in the APHO letter, especially saying that he was uncooperative, standoffish and refused to show the Police the CCTV. Mr Turner also disagreed with the Police's assessment that he was intoxicated, he said he had had a drink, but he wasn't intoxicated. Following the assault incident, it was late, and he was upset and cold.
- (m) Mr Turner said that during the compliance visit he was expressing to the Licensing Inspector how he felt about being misrepresented in the letter and admitted that he might have been louder than expected when he said the 'Police are no friends of mine' while gesturing with his finger.
- (n) Mr Turner, when questioned further by the Committee about his medical condition, explained that it affected how people perceived him. He said he can get agitated and have tremors for which he is medicated. He also said he tucks himself in to stop the tremors which can often appear standoffish.

- (o) The Committee also enquired about drinking on the premises after the bar is closed. Mr Turner reiterated that the assault incident was after Christmas, and normally he goes back to his house because it has air-conditioning. That evening his father-in-law, partner and daughter were on the premises. They were enjoying karaoke and it was a social occasion. The evening appeared to have reached a certain point where there were no more customers, and it wasn't viable to run the kitchen any longer. He added that the duty manager was there. He didn't have his name on the Duty Manager placard, and they were within the operating hours and fully closed.
- (p) In his written evidence Mr Turner stated that he understood how to manage incidents of disorderly behaviour and will always call the Police if his staff or customers are at risk. He continues to employ qualified duty managers and ensure that all the requirements of the Sale and Supply of Alcohol Act 2012 are met.
- (q) Mr Turner also stated in his written evidence that the lack of staff training and documentation of the training have now been remedied. Staff have completed serve-wise training and signed a staff training declaration; at team meetings the sale and supply of alcohol is discussed. Quarterly training is now marked on a training register held on site.
- (r) Mr Turner advised the Committee that 'it was a lesson learnt'. He has lost his firearms licence. He was upset and will try to improve his communication. He also added that he knew this situation was going to affect his future and his licences.
- (s) Mr Turner apologised for any offence in relation to his dealings with the Police or Inspectors.

The Licensing Inspector's Statements of Evidence and Oral Submissions at Hearing

- [18] Committee members received a detailed disclosure provided by Mr D Gallagher, a Licensing Inspector for Masterton District Council. Papers included the applications for the on-licence and off-licence, the Inspectors Report objecting to both applications, and the police statements relating to the assault incident in December and the compliance visit that took place in February. This provided a good background to the application and the Inspector's objection. These were noted by the Committee and taken as read.
- [19] The Licensing Inspector was called to speak to his objection. He highlighted the following points:
 - (a) The premises was remote, 44km from Masterton and it takes 40 minutes to get there.
 - (b) There is a statutory obligation on the Licensing Inspectors to enquire into all applications and report to the District Licensing Committee and if any issues are identified they must raise these concerns with the DLC.
 - (c) There is no presumption that the committee should renew the licences. The Inspector stated that licences are hard to get and easy to lose and referred to *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Ltd* [2018] NZHC 1123 at [45 and 46]¹
 - (d) The Inspector also stated that while there is no burden of proof on any party, the Applicant must provide sufficient evidence to respond to oppositions, the Applicant has failed to comply with the basics required under the Act. The Inspector referred to *Linwood Food Bar Limited* [2014] NZARLA PH511-512 - *if the Applicant can't get the small things right, they're unlikely to get the big things right*²— and applied to this case, the small things are having all paperwork required and evidence of staff training.
 - (e) The key issues are the Applicant has failed to achieve the object of the Act and has displayed an attitude inconsistent with a suitable person to hold a licence and to have appropriate staff systems and processes and has failed to comply with the requirements of the Act.

¹ *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Ltd* [2018] NZHC 1123

² *Linwood Food Bar Limited* [2014] NZARLA PH511-512

- (f) The Inspector said that the comments of Justice Clark in *Lion Liquor Retail Limited (Liquor King Kent Terrace) v Palmer* [2017] NZARLA 170 (12 May 2017)³ are relevant, which the Committee should keep forefront of their mind. Justice Clark uses the term twin statutory objects, *that is that the sale and supply and consumption of alcohol should be undertaken safely and responsibly and that alcohol related harm should be minimised*. The Inspector believed the Applicant had fallen short of expectations that the premises should be managed effectively to fully comply with the Act.

- [20] The Licensing Inspector called witnesses to give evidence on the manner the premises have been run and the applicant's suitability.
- [21] The first witness was Constable Donaldson, the Police Officer who attended the assault incident on 27 December 2024, who read her written statement to the Committee.
- [22] Following questions from the Licensing Inspector, Constable Donaldson confirmed the following:
- (a) From the footage provided by Mr Turner the premises appeared open as there were people at the bar.
 - (b) When the Constable arrived at the premises there were six patrons present.
 - (c) On arrival, the patrons were not in possession of any alcohol.
 - (d) The Constable on attending calls at a licensed premises normally records a hotel licensed premises report and a patron's report, recording details of intoxication status. Mr Turner met the definition of intoxication as he displayed more than two elements of the Speech, Coordination, Appearance and Behaviour (SCAB) assessment. He had been drinking crate beer and had been on the premises for about four hours.
- [23] The Committee inquired about how much Mr Turner had been drinking. Although the Constable didn't think she had asked him at the time, she was satisfied that he was under the influence of alcohol.
- [24] The second witness was Senior Constable Fawcett, one of the two Police Officers who attended the compliance visit on 14 February 2025, who read his written statement to the Committee.
- [25] In his written statement the Senior Constable said he had entered the bar and proceeded to the serving area where the Licensing Inspectors were engaged in conversation with Mr Turner. As he approached the bar Mr Turner raised his middle finger in his direction and when questioned why he had done it, Mr Turner had responded by saying the "Police are no friends of mine". After being advised that Mr Turner had an obligation under the Act to work with the Police and the agencies, Mr Turner responded by raising two fingers and repeated the Police were no friends of his.
- [26] The statement also stated that a "heightened" discussion followed away from the bar between the Senior Constable and Mr Turner. Mr Turner showed the Senior Constable the patron report that had been completed by the officer who had dealt with the incident in December. Mr Turner was advised by the Senior Constable if he disagreed with the report that there was a complaints process he could follow.
- [27] Following questions from the Licensing Inspector, the Senior Constable confirmed the following:
- (a) The Senior Constable had 14 years' experience involved in Alcohol Harm Reduction.

³ *Lion Liquor Retail Limited (Liquor King Kent Terrace) v Palmer* [2017] NZARLA 170 (12 May 2017)

- (b) That he was “taken aback and surprised” with Mr Turner’s behaviour and had not experienced behaviour like this from any other licensee or duty manager.
- (c) That quarrelsome behaviour on a licensed premises could lead to issues.

- [28] The Senior Constable was asked by the Committee about how many other premises were inspected that night. He confirmed that they had visited between eight and 12 with no other issues. The Senior Constable advised the Committee that the Police were there as part of the obligation under the Act to work with partner agencies. The Council was the lead agency so were speaking to the managers; they were there in support and other managers spoken to were amenable.
- [29] The Committee also enquired about the graduated response model mentioned in the letter from the AHPO, and the Senior Constable explained that it relates to where there is an issue with a licensed premises, or licensee or manager, and there is an opportunity for that to be addressed. He explained further that it provided something to present to the Alcohol Regulatory & Licensing Authority (ARLA) and it showed that every effort was made to try to address a situation. “We are all trying to work together to achieve the object of the Act, it’s an opportunity for everyone to sit round the table, it’s recorded, it’s part of the process – something we generally do”.
- [30] The Committee noted that there was no fine issued and asked whether the letter was more of a warning letter. The Senior Constable stated that Mr Turner was not intoxicated but agitated during the compliance visit. If he had been intoxicated, the graduated response model could be one way of dealing with it. “It is on a case-by-case basis as there is nothing set in stone to say you have to fine someone.” The Senior Constable reminded the Committee that the Alcohol Harm Prevention portfolio had been taken over by Wellington and in reply, the Committee asked that if a local response had been made, would the agitation by Mr Turner around his potential misrepresentation in the letter have been avoided. It was noted by the Licensing Inspector that the Senior Constable had not seen a copy of the letter so did not know or comment on what Mr Turner was upset about. The Committee did however take note that Mr Turner had shown the Senior Constable a copy of the licensed premises patron report completed by an officer which was mentioned in the Senior Constable’s witness report.
- [31] The third witness was Constable Chu, the other Police Officer who attended the compliance visit in February, who read his written statement to the Committee.
- [32] In his written statement the Constable said he had observed Mr Turner “having an interaction with Senior Constable Fawcett and that there appeared to be some tension during this interaction, and that they were heard speaking in raised voices with looks of concern and disapproval from other patrons in the bar”. The Constable said he had spoken to patrons outside the premises. A male who he assessed to be under the influence was with two friends who were also questioned but weren’t drinking and were going to drive him home.
- [33] Following questions from the Licensing Inspector, Constable Chu confirmed the following:
- (a) There was tension between Constable Fawcett and Mr Turner as seen through their facial expressions and body language, and it surprised and shocked the patrons in the bar at the time.
 - (b) The two patrons who were questioned by the Constable were on their learner and restricted licences and to comply with their licence conditions stated that it was not legal for them to take passengers.
 - (c) The Constable understood that transport options at the premises were down to patrons having to transport themselves.
- [34] The Committee wanted to understand further the issues with the transport options and asked what other rural hotels do and whether this was a common issue. The Constable

said that the Applicant should be helping patrons in organising transport to and from the premises. He hadn't come across other situations where rural premises had issues with transport.

- [35] In answer to the Committee's question around who had the responsibility to have a facility to get patrons home i.e. was it entirely dependent on the patrons themselves where there is no public transport, the Licensing Inspector added that it is a condition of the licence to assist or advise on safe transport options. The Licensing Inspector, when asked what the hotel had done in the past, said that the transport options had been "taxi numbers and shuttles".
- [36] The fourth and last witness was Chief Licensing Inspector Johnson, who also attended the inspection on the 11 December 2024, and then the compliance visit alongside Licensing Inspector Gallagher in February. She read her written statement to the Committee.
- [37] Following questions from the Licensing Inspector, the Chief Licensing Inspector confirmed the following:
- (a) The Chief Licensing Inspector had over 20 years' experience and was uniquely qualified to comment on a competent licensee.
 - (b) The transport option was covered up and that it was unusual for a notice to be covered.
 - (c) She also confirmed that during the inspection there was no formal staff training policy in place, the training register needed to be updated, there was no training for new staff and the Applicant had a large turnover of staff and a number of new younger staff.
 - (d) When asked by the Licensing Inspector what conclusions did she draw regarding the Applicant and whether they were able to comply with s 105(1)(j) of the Act, the Chief Licensing Inspector said in terms of having suitable systems and training there were deficiencies and in good, licensed premises they usually have systems and training in place.
- [38] The Committee enquired further into training plans and systems and asked what the Chief Licensing Inspector expected to see in a training plan. The Chief Licensing Inspector said she would expect the Applicant to document competencies and knowledge, how they do regular training, identify intoxication and how they go through things like SCAB on a regular basis with staff.
- [39] When asked by the Committee what constituted a high turnover of staff, the Chief Licensing Inspector said that often premises didn't have significant turnover of staff, that this was a small tavern and there had been three new staff members since the initial licence.
- [40] The Committee was keen to understand whether all premises have a staff training register. The Chief Inspector said that many do but admitted that there were some that don't, and this is picked up and addressed as part of the compliance. When questioned by the Licensing Inspector, the Chief Licensing Inspector said that the Licence Compliance Folder is usually onsite or available on the premises.
- [41] The Chief Licensing Inspector stated that the Applicant had subsequently provided the documentation.

Licensing Inspectors Closing Submission

- [42] The Licensing Inspector in his closing submission reminded the Committee that this was a first renewal following a probationary year and that a precautionary approach had already been taken.

- [43] He stated that there was no onus on the agencies to prove the application should be granted. It was the applicant that needed to prove its application met the required criteria⁴.
- [44] The Licensing Inspector also referring to Justice Clark in paragraph [43] emphasised that prospective risk should be the test, adding that there is no one test for an application, but regard must be had to all the relevant factors⁵.
- [45] The Committee was asked by the Licensing Inspector to consider whether this application helped achieve the safe supply and sale of alcohol, in accordance with the Act, and whether this application will help achieve the minimisation of alcohol related harm in accordance with the object⁶.
- [46] He also put to the Committee should they find that the Applicant does not satisfy one criteria, it should not be able to find the Applicant to be consistent with the object of the Act and the application should be refused⁷.
- [47] Turning to s 105(1)(b) on the suitability of the applicant, the Licensing Inspector summarised what the Committee had heard from:
- i. Constable Donaldson of the applicant's attitude and his gross level of intoxication at the incident in December 2024
 - ii. Senior Constable Fawcett, an experienced officer who previously held the Alcohol Harm Reduction portfolio, about the Applicant's attitude and clear disregard to Police and their important role in the licensing regime where the applicant was in essence attacking the messenger
 - iii. Constable Chu who described the lack of transport to assist patrons from the premises
 - iv. Chief Licensing Inspector Johnson who outlined a breakdown of systems and procedures to enable the applicant to comply with the law.
- He reminded the Committee that holding a licence *is a privilege not a right*⁸ and that a holder of a liquor licence under the Sale of Liquor Act 1989 is granted a privilege that permits him to sell liquor when others are not permitted to do so.
- [48] The Committee asked the Licensing Inspector for clarification around the 'gross level of intoxication'. He admitted the officer had not said "gross" but had surmised this from the intoxicated patrons report.
- [49] The Applicant's attitude towards the Police was also highlighted by the Licensing Inspector who believed they were effectively *attacking the messenger rather than the message*⁹ and showed that the Applicant had failed to demonstrate their suitability, and the high standard expected of the licensee.
- [50] Turning to s 105(1)(j) regarding the appropriate systems and training, the Licensing Inspector stated that the Applicant has failed to comply with the basics required under the Act and believed that if the licensee *is unable to get the small things right then they're unlikely to get the big things right*¹⁰. The small things can be considered as having the paperwork in order as required by the Act, such as having an up to date managers register and notifying the Agency of manager changes, as required by s 231 of the Act. This also includes showing evidence that staff have been trained, while the applicant has now

⁴ *Liquor to Go* [2013] NZARLA PH 920

⁵ *Lion Liquor Retail Limited (Liquor King Kent Terrace) v Palmer* [2017] NZARLA 170 (12 May 2017)

⁶ *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Ltd* [2018] NZHC 1123

⁷ *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Ltd* [2018] NZHC 1123 & *Re Venus NZ Limited* [2015] NZHC 1377 (18 June 2015)

⁸ *Hayford v Christchurch DLA* 3/12/93 HC Christchurch A201/92

⁹ *Saints*, re [2005] NZLLA 584 (6 September 2005)

¹⁰ *Linwood Food Bar Limited* [2014] NZARLA PH 512 (1 August 2014)

provided some evidence of staff training and has notified the agencies of manager changes, this was done after inspector visits and the issues identified. The Licensing Inspector felt that these small things would be expected to be completed without such prompting.

- [51] The Licensing Inspector also believed that the Applicant had failed to comply with the requirement to help with transport options from the premises. The Committee were reminded that Tinui is a remote premises, close to 44km from Masterton and takes 40 min to travel to. The Licensing Inspector felt that this remoteness coupled with a poor attitude to compliance by the Applicant has clearly shown that the Applicant does not have the appropriate systems, staff and training in place to comply with the law.
- [52] The Licensing Inspector stated that there are no reports on file from the Medical Officer of Health or Police because the incidents highlighted at this hearing happened after the 15 days for objection, so the Police could not make any opposition.
- [53] In summary the Licensing Inspector said that the Applicant had:
- i. Not upheld the object of the Act.
 - ii. Demonstrated their unsuitability as there have been breaches of the Act and licence conditions.
 - iii. Failed to understand their responsibilities as a licensee as there appear to be no systems for staff training in place to comply with the law.
- [54] In his final statement, the Licensing Inspector felt if the Committee renewed the licences for a full three-year period, the object of the Act could be ignored and the potential for harm continue. While the decision to renew the licences rested with the Committee, he stated that a full renewal would not be of benefit to the applicant or the wider community. However, should the Committee decide to renew the licences, he submitted that a truncated period of 18 months would be appropriate in this case, coupled with regular visits by the agencies that would provide the applicant with ample opportunity to comply with the Act.
- [55] The Committee asked for clarification on his final statement and enquired whether the Licensing Inspector was saying that he thought the Committee look at a “yellow card” rather than a “red card”, and if there were further conditions that he would recommend placing on the licences. In response the Licensing Inspector said he didn't think any extra conditions were needed and he couldn't think of any that would help achieve the object of the Act that weren't already there.
- [56] For added clarity, the Committee questioned whether he agreed that there was a possibility of potentially extending the ‘probationary period’ instead of renewing for the full three years. The Licensing Inspector responded by saying that a probationary period could be extended and he accepted the Tinui Bar was an integral hub of the community. He said it would be a disservice to the community and Mr Turner to just take their licence. Mr Turner needed to be given the opportunity to have “another bite at the cherry, but not for the full three years”.

Applicant Right of Reply Evidence

- [57] The Committee reminded Mr Turner that it wanted to have confidence that they were a suitable Applicant, and in response to the Committee's questions he highlighted:
- (a) They had done NZQA qualifications, booked training and were filling out a six-monthly online questionnaire. They were also looking at a SCAB tool.
 - (b) They hadn't intentionally covered up the transport notice. They did look at buying a van, but they couldn't afford it. They normally ring another person to come and drive because they are a small crew. Mr Turner did have his private car, and he could

take patrons home, and that there were also taxis in town, and if you pay enough, they will pick up people from Tinui.

- (c) Mr Turner believed the patron who said he had to make his own transport home wasn't a normal situation. They would have taken him home if they needed to.
- (d) Mr Turner emphasised that he would like better working relationships, especially with the Council. He had been given pointers, they had gone away and done what was asked, but felt they were being asked to do more. He would also appreciate more help and regular updates.
- (e) He also re-emphasised that he felt he had a good, easy working relationship with the Police, he thought they were friends and was upset this relationship had broken down.
- (f) Mr Turner also felt that when he was working in Australia there had been a more informal interaction. He felt that he had come into a different place, and that the agencies don't seem to do business the way he's used to.

Legislation

The Committee, in deciding the application for the renewal of both the on-licence and off-licence, must, in making its decision, take into account the criteria noted below in the Sale and Supply of Alcohol Act 2012.

Section 4

- [58] *The object of the Act is to ensure that alcohol is sold and supplied safely and responsibly and that any harm caused by the excessive or inappropriate consumption of alcohol is minimised.*

Section 131

- [59] Section 131 details the Criteria for Renewal. They are as follows:

1. *In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*
 - a) *The matters set out in paragraphs (a) to (g), (j) and (k) of s 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 s 129;*
 - d) *The manner in which the Applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*
2. *The authority or committee must not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.*

Section 105

- [60] Section 105(1) details the Criteria for Issue of Licences:

1. *In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*
 - a. *The object of the 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 proposed to sell alcohol;*
- e. *The design and layout of any proposed premises;*
- f. *Whether the Applicant is engaged in, or proposed 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 proposed 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 –*
 - i) *they would be unlikely 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*
 - ii.) *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 s 103.*

Section 54

[61] Section 54 addresses help with and information about transport to be available.

The holder of an on-licence or club licence must ensure that, at any time customers are lawfully on the premises, —

- (a) *there is readily available to the customers, free, comprehensive, and accurate information about the forms of transport from the premises that are available at that time; and*
- (b) *there are on the premises, and readily accessible to the customers, staff able to give them comprehensive and accurate information about the forms of transport from the premises that are available at that time; and*
- (c) *those staff will on demand give any customer appropriate advice free.*

Section 231

[62] *Notice of appointment, etc, of manager, temporary manager, or acting manager*

- (1) *A licensee must give notice, in accordance with subSection (2), of the appointment, or the cancellation or termination of the appointment, of any manager, temporary manager, or acting manager.*
- (2) *Notice is given in accordance with this subSection if the notice is given within 2 working days after the appointment, or the cancellation or termination of the appointment, to—*
 - (a) *the licensing committee with which the application for the licence was filed; and*
 - (b) *the constable in charge of the police station nearest to—*
 - (i) *the premises, where the licence is in force for any premises; or*
 - (ii) *the office of the licensing committee with which the application was filed, where the licence is in force for a conveyance.*
- (3) *It is not necessary to comply with subSection (1) in respect of the appointment of a temporary manager or an acting manager for any period not exceeding 48 consecutive hours.*
- (4) *The licensing committee may, within 5 working days after receiving a notice of the appointment of any temporary manager or acting manager, notify the licensee that it*

does not approve the appointment, in which case it must give a copy of the notice to the constable referred to in subSection (2)(b).

- (5) *On receiving notice under subSection (4), the licensee must terminate the appointment with effect from a date not later than 5 working days after the date of the notice.*

[63] During the hearing and following a detailed reading of the submitted evidence, it became clear that the provisions of s 105 Criteria for issue of licences, that were in contention were:

- i. (1)(a) the object of this Act
- ii. (1)(b) suitability of the Applicant
- iii. (1)(j) whether the Applicant has appropriate systems, staff and training to comply with the law.

[64] Also in contention were s 131 Criteria for Renewal; the matters set out in paragraphs (1)(a) to (g), (j) and (k) of s 105 (1).

[65] None of the other provisions in s 105 were raised as a cause for concern by the Chief Licensing Inspector, and there was no evidence submitted or introduced during the hearing that raised any questions. The Committee therefore determined that in all other respects of s 105 the Applicant meets the criteria for the renewal of the two licences and that only the remaining areas of contention, as identified above, will be addressed in this decision.

[66] In addition, the Committee also considered the provisions in s 54.

Case Law

[67] The following case law has been provided to the committee to assist in considering its decision.

[68] *Liquor to Go* [2013] NZARLA PH

[32] An Applicant for an off-licence must prove its case. If it fails to do so, then the Authority is unable to grant the application. The standard of proof is the civil standard, namely on the balance of probabilities.

[54] In any application for a licence, the Applicant is obliged to make its case.

[69] *Tony's Liquor Upper Hutt Ltd* [2014] NZARLA 253428

[33] An Applicant for a liquor licence must prove its case. The onus is upon it.

[70] *Lion Liquor Retail Limited (Liquor King Kent Terrace) v Palmer* [2017] NZARLA 170 (12 May 2017).

[All sections] with respect to all applications given the assessment criteria are the same.

[71] *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited* [2018] NZHC 1123

[43] The factors to be considered in the course of assessing an application for a licence or renewal, as the appellants submitted, stand to be assessed in terms of their potential impact upon the prospective risk of alcohol-related harm.

[44] An application for the renewal of a licence is to be assessed in the light of a range of factors relevant to the particular application. There is no one test. Regard must be had to the object of the Act and the statutory criteria for renewal. The criteria relevant to this application include the suitability of the Applicant, the days on which and the hours during which the Applicant proposes to sell alcohol, the design and layout of the premises, and the

matters dealt with in the reports from the Police and Medical Officer of Health. There is also to be regard for the amenity and good order of the locality and whether it would be likely to be increased by more than a minor extent, if a renewal were refused.

[45] The statutory provisions must be applied in a way that promotes the twin statutory objects which are that the sale, supply and consumption of alcohol should be undertaken safely and responsibly and that alcohol-related harm should be minimised. The aim of minimisation requires alcohol-related harm to be reduced to the smallest amount, extent or degree.

[46(c)] A licensing committee or Authority, after having regard to the criteria for renewal in s131, is then to step back and consider whether there is any evidence indicating that granting the application will be contrary to the statutory object in s4. Or, as Heath J articulated a “test”.

[72] *Re Venus NZ Limited* [2015] NZHC 1377 (18 June 2015)

[20] Although the “object” of the 2012 Act is stated as one of 11 criteria to be considered on an application for an off-licence, it is difficult to see how the remaining factors can be weighed, other than against the “object” of the legislation. It seems to me that the test may be articulated as follows: is the Authority satisfied, having considered all relevant factors set out in s 105(1)(b)–(k) of the 2012 Act, that grant of an off-licence is consistent with the object of that Act? That is the approach I take to the appeal.

[73] *Hayford v Christchurch DLA* 3/12/93 HC Christchurch A201/92

A holder of a liquor licence under the Sale of Liquor Act 1989 is granted a privilege. It permits him to sell liquor when others are not permitted to do so. Deliberate failure to carry out conditions attached to the licence must be strong factor justifying a conclusion that the holder of the licence is not a suitable person to hold the licence.

[74] *Page v Police* 24/7/98 HC CHCHAP 84/98

Section 13(1)(a) provides that the Applicant for an on-licence must demonstrate his or her suitability. In other words what is required is a positive finding. That implies an onus upon the Applicant to demonstrate suitability. Such suitability is not established in a vacuum but in the context of the particular case: for example the place, the intended business (here in a difficult central city location), the nature of the business itself, the hours of operation and the intended activities, provide the basis for the assessment of the individual.

[75] *Saints, re* [2005] NZLLA 584 (6 September 2005)

[16] From time to time in proceedings before us, parties seek to attack the messenger rather than the message. In doing so, they need to know that they are more likely to send out a signal about their own suitability to hold a licence. We accept that all parties are entitled to be dealt with fairly and professionally by District Licensing Agency Inspectors, the Medical Officer of Health, and the Police. Where this does not happen we have not hesitated to make comment. However, the great majority of all inspectors, and health professionals, and members of the Police who have appeared before us have been totally professional. We rely on them to monitor and enforce the Act. Without their assistance, there would be no point in having a licensing system. Those who seek to indirectly undermine and intimidate the reporting agencies need to understand that they are unlikely to receive any sympathy in this forum.

[76] *Linwood Food Bar Limited* [2014] NZARLA PH 512 (1 August 2014)

[14] *The Inspector summarised her opposition by stating that if the licensee was unable to get the small things right then it was unlikely to get the big things right. In support of this proposition she referred to Hayford v Christchurch DLA, 3/12/93 (as above).*

District Licensing Committee Discussion, Findings, Decision and Reasons

- [77] The Committee must take an evaluative approach and adopt a merits-based assessment of the application and measure it against the object of the Act. The Committee, in reaching its decision, also assessed the evidence against each provision in the Act upon which the Chief Inspector bases their objection.

The Object of the Act

- [78] With regards to s 105(1)(a) the Committee notes that the object of the Act is to ensure *that the sale and supply and consumption of alcohol should be undertaken safely and responsibly and that alcohol related harm should be minimised*¹¹.
- [79] In assessing the evidence, the Committee has looked at the situation “as a whole”, including: the circumstances and resulting stress caused by the incident that took place on 27 December; the Applicant’s length of time in business; the proximity of the Applicant’s residence; and the location of the premises within the Masterton District.
- [80] The Committee acknowledges that the onus is on the applicant to show that they understand the requirements of the Act and have the systems and staff training in place to not only demonstrate compliance, but to ensure that the patrons are suitably and responsibly served.
- [81] In order to determine if the Applicant meets the object of the Act, the Committee notes that *safely and responsibly* needs to be assessed with regard to the other areas of the objection and acknowledges that the failure of one area of s 105 could have a direct bearing on whether the Applicant meets the object of the Act.

The Suitability of the Applicant

- [82] Assessing the suitability of the Applicant to hold both an on-licence and off-licence with respect to s 105(1)(b), the Committee believes that the evidence presented by the Licensing Inspector with regards to both the demeanor and behaviour displayed by Mr Turner is compelling, however while not condoning the behaviour in any way, the Committee took into consideration the wider context, specifically:
- i. There were no issues or objections raised by the agencies, in particular the Police or the Medical Officer of Health prior to the incident on 27 December.
 - ii. There were no objections when the renewal notices were published to the public.
 - iii. Mr Turner had his Manager’s Certificate recently renewed without any objections.
 - iv. The incident in December was the Applicant’s first recorded incident on the premises, and the Applicant had made it clear that they had not served alcohol to the group involved.
 - v. The AHPO had employed a ‘graduated response model’, which acted as a warning.
 - vi. Although he did not articulate it very well, Mr Turner’s belief that he had been misrepresented in the APHO letter and that this misrepresentation contributed to his behaviour.
 - vii. Mr Turner had lost his firearms licence.
 - viii. Mr Turner’s apology to both the Police and Licensing Inspectors.
- [83] In considering the demeanor of Mr Turner on the evening of the December incident, the Committee noted that he was under the influence of alcohol, but given the proximity of his

¹¹ Section 4(1) Sale & Supply of Alcohol Act 2012

residence, just a few metres away from the bar, they could also appreciate how Mr Turner had remained drinking socially in the bar with his friends and family after the bar had closed for the night during the Christmas period. The Committee accepted Mr Turner's explanation of this social event. However, the Committee would strongly advise that since Mr Turner's "livelihood is on the line", he should ensure that his business is clearly separated from his social interactions involving alcohol.

- [84] The Committee also acknowledged that the premises was located in a rural situation and was an important social hub for a small community that had recently experienced difficult times.

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

- [85] Assessing whether the Applicant has appropriate business systems, staff and training in place to comply with the law s 105(1)(j), the Committee supports the Chief Inspector's concerns around deficiencies in having suitable systems and training. In consideration, the Committee was guided by the following:
- i. In a pre-arranged inspection that took place on 11 December 2024, the Chief Licensing Inspector had observed the requirements of the Act being complied with and there were no issues, although a check was needed to ensure the appointed Temporary Manager had a new Manager's Certificate, which was found to have been issued the day before the visit.
 - ii. The second inspection was the compliance visit two months later with the Police on 14 February 2025. This visit was instigated because the Licensing Inspector had received information on the 7 February 2025 about the assault incident which had occurred at the premises on 27 December 2024. During this visit the Chief Licensing Inspector observed that:
 - *A compliance folder Incident report had been completed for 27/12/2024 with limited information.*
 - *Kitchen deep fryer on. Food available to be cooked.*
 - *Transport option on notice board but had been covered up. Changed on site.*
 - *Staff training register needs to be updated. No training new staff. Have had a large turnover of staff.*
 - iii. The transport challenges given the rural location of the premises with no courtesy van and limited access to taxis.
 - iv. The opinion from the Licensing Inspector that the small things would be expected to be completed without prompting.
 - v. The fact that incidents will happen in licensed premises and licensees should use the incidents as learning experiences. The Committee advises that the Applicant should conduct a full debrief with staff, take appropriate disciplinary action with staff and patrons and put in measures to prevent a reoccurrence.
- [86] The Committee agreed with the Licensing Inspector that the small things needed to be attended to without prompting but took into account that this was the Applicant's first year of business, in a tough and depressed business environment. They noted that Mr Turner had admitted in his right of reply that he wasn't used to doing business in this way i.e. not having direct assistance from the Inspectors and required more help. They believe the Applicant is now cognisant of the precise paperwork needed with respect to s 231 to provide notice of appointment of managers, temporary managers, and acting managers, and with respect to s 105 (1)(j) demonstrating that regular training is being undertaken. Although Inspectors cannot tell Applicants what to do, the Committee did feel that perhaps

more guidance could be given with new licences. They also felt that the Applicant would benefit greatly from general business skills training and further assistance with his compliance paperwork obligations from a licensing consultant.

- [87] With respect to s 54 and the condition of the on-licence (part g) that the licensee '*must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises*'¹². The Committee appreciates the rural transport challenges; however, they believe the onus is on the Applicant to ensure the safety of the patrons. They felt that the Applicant was aware this is an area that needs to be improved, and the Committee was reassured by the Applicant's willingness to use his private car to ensure people get home safely.

Conclusion

- [88] The Committee concurred with the Licensing Inspector's submission and agreed to effectively 'extend the probationary period' to another 18 months to give the Applicant an opportunity to demonstrate that they are operating a good, licensed business.
- [89] The Committee reminds the Applicant to expect regular compliance visits from the Licensing Inspectors and the Police, and places on record that if there are any breaches of the Act, the Committee may not provide for a positive outcome on future applications.
- [90] The Masterton District Licensing Committee acting pursuant to the Sale and Supply of Alcohol Act 2012 GRANTS a TRUNCATED Renewal of both an On-Licence and Off-Licence for Tinui Bar and Café Limited, trading as Tinui Café and Bar, situated at 1 Charles Street, Tinui, Masterton, for a period of 18 months until 28 August 2026.

Dated at MASTERTON this 15th day of September 2025

CJ Rossiter-Stead

Catherine Rossiter-Stead
Commissioner
Masterton District Licensing Committee



¹² Section 54 (a)-(c) Sale & Supply of Alcohol Act 2012

Conditions of the Licences

On-licence

ON-LICENCE

- a) no alcohol is to be sold on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person who is not present on the premises to dine or is lodging on the premises
- b) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday 8.00am to 1.00am the following day
- c) the Bar Room is designated as a supervised area
- d) drinking water is to be provided to patrons free of charge from a water supply prominently situated on the premises
- e) at all times the premises are open for the sale and supply of alcohol, a range of substantive food must be readily available. A minimum of three types of food should be available. Menus must be visible, and food actively promoted
- f) the licensee must have available for consumption on the premises, at all times when the premises are open for the sale of alcohol, a reasonable range of non-alcoholic refreshments and low-alcohol beverages
- g) the licensee must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises
- h) the licensee must display signage as follows:
 - i. at every point-of-sale detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
 - ii. a copy of the licence attached to the inside of the premises so as to be easily read by people entering each principal entrance to the premises; and
 - iii. a sign prominently displayed at the premises, which identifies by name the manager for the time being on duty;
 - iv. a copy of the Host Responsibility Policy in view of the public

OFF-LICENCE

- a) no alcohol is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day
- b) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday 9.00am to 10.00pm
- c) the Bar Room is designated as a supervised area
- d) the licensee must display signage as follows:
 - i. at every point-of-sale detailing restriction on the sale and supply of alcohol to minors and intoxicated persons;
 - ii. a copy of the licence attached to the inside of the premises so as to be easily read by people entering each principal entrance to the premises; and
 - iii. a sign prominently displayed in a prominent place on the premises, which identifies by name the manager for the time being on duty;
 - iv. a copy of the Host Responsibility Policy in view of the public
- e) drinking water is to be freely available to customers, while alcohol is being supplied free as a sample at the place where the samples are being supplied