

[2015] NZARLA 656-658

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of appeals pursuant to s.81 of the Act by PROGRESSIVE ENTERPRISES LIMITED, FOODSTUFFS SOUTH ISLAND LIMITED and IGNITION GROUP LIMITED

Appellants

AND

TIMARU DISTRICT COUNCIL, WAIMATE DISTRICT COUNCIL and MACKENZIE DISTRICT COUNCIL

Respondent

AND

NEW ZEALAND POLICE, THE MILL HOLDINGS LIMITED, INDEPENDENT LIQUOR (NZ) LIMITED, MEDICAL OFFICER OF HEALTH and TIMARU ALCOHOL ACTION SOUTH CANTERBURY

Section 205 parties

BEFORE THE ALCOHOL REGULATORY AND LICENSING AUTHORITY

Chairman: District Court Judge J J Weir
Member: Ms J D Moorhead

FINAL DECISION OF THE AUTHORITY (ON THE PAPERS)

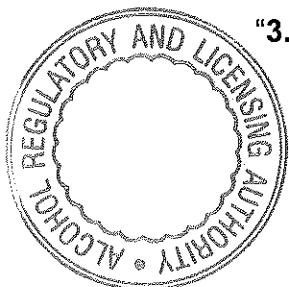
Introduction

[1] At the hearing held before the Authority in Timaru on 20 May 2015 an order was issued directing the respondents (the Councils) to reconsider clause 3.2.2 of their joint Provisional Local Alcohol Policy (PLAP) in accordance with the parties' memorandum dated 19 May 2015, seeking a consent order.

[2] The parties have now submitted a memorandum dated 21 September 2015 in which the respondents have reconsidered this element of the PLAP and the Councils have resolved to amend the PLAP as follows. The clause now reads:

"3.2.2 Discretionary Conditions of Off-licences (Hotel style, Supermarkets and Bottle Stores) may include:

- (i) *The main façade of the premises, being the principal front of a building that faces on to a street or open space, of any new licensed premises must not be within 100 metres of an early*



childhood centre, primary school or secondary school, except that this policy shall not apply to premises that are located:

- *in a business zone of the Waimate District Plan*
- *in a business zone of the Mackenzie District Plan*
- *in a commercial zone of the Timaru District Plan*

- (ii) *Supervised designation for both bottle stores (excluding supermarkets and grocery stores) to ensure unaccompanied minors do not enter bottle shop premises."*

[3] Clause 2 of the PLAP has been consequentially amended to include the following definition:

"Business zone or commercial zone means land zoned as a type of business or commercial zoning in the relevant District Plan at the time when the relevant off-licence is determined. For the avoidance of doubt, the term includes land zoned for business activities (in contrast to industrial or residential activities) in any subsequent District Plan, irrespective of the specified name of the zone."

[4] All of the parties to the original proceedings before the Authority; i.e. the appellants, the respondent and the s.205 parties are in agreement with the reasonableness and appropriateness of the reconsidered element of the respondents' PLAP, and further consent to these proceedings being dealt with in the manner prescribed by the Authority's Practice Note dated 19 March 2015.

Authority's decision and reasons

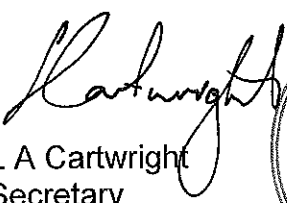
[5] Accordingly, the Authority is now satisfied that all outstanding issues raised in the appeals by Progressive Enterprises Limited, Foodstuffs South Island Limited and Ignition Group Limited have been resolved. The appeals are, therefore, disposed of in their entirety.

[6] The Authority is also satisfied in accordance with s.87(3) of the Act that the element it asked the Councils to reconsider has been replaced by an amended element that is not unreasonable in light of the object of the Act.

[7] It is therefore ordered that the resubmitted PLAP be adopted.

[8] is no order for costs.

DATED at WELLINGTON this 21st day of December 2015


L A Cartwright
Secretary

