



WAIMAKARIRI
DISTRICT COUNCIL

Waimakariri District Licensing Committee

Hearing Agenda

Thursday 26 May 2022

1.00pm

*Council Chamber
215 High Street
Rangiora*

Members:

Commissioner Neville Atkinson (Chairperson)

Commissioner Philip Redmond

Commissioner Paul Williams

SUMMARY AGENDA

WAIMAKARIRI DISTRICT LICENSING COMMITTEE

Notice:

I give notice that a meeting of the Waimakariri District Council District Licensing Committee will be held as follows:

Date: Thursday 26 May 2022 commencing at 1pm.

Venue: Council Chamber, 215 High Street, Rangiora

Tracy Tierney
Secretary Waimakariri District Licensing Committee
8 April 2022

District Licensing Committee Members

Chairman: Councillor Neville Atkinson
Members: Councillor Philip Redmond and Councillor Paul Williams

Welcome and Introductions

Declaration of Conflict of Interest;

Members of the Committee to confirm that they do not have any conflict of interest in relation to the applications.

Overview of the Proceedings

The Chairman will outline the process for the hearing of evidence from the parties.

Applications for Managers Certificates

The following papers are provided in relation to the application:

LL3026 – Lindsay John Peters application for new Managers Certificate	6 - 10
Brief of evidence of Lindsay John Peters	11 - 13

Reporting Agencies Reports

Raj Deo, Chief Licensing Inspector, Waimakariri District Council report	14 - 17
New Zealand Police (opposed)	18 - 19
Police Disclosure	20 - 33

WAIMAKARIRI DISTRICT LICENSING COMMITTEE
(Sale and Supply of Alcohol Act 2012)

NOTICE OF HEARING

NOTICE is hereby given that the Committee will hold a public hearing to consider the proceedings listed below. The matter will be called at the time and date specified.

If such persons do not then appear in person or by counsel, the matter may be heard and determined in their absence.

The venue for the hearing will be: Council Chambers
Waimakariri District Council
212 High Street
Rangiora

26 May 2022

1pm LL3026

Lindsay John Peters

An application pursuant to s. 219 for the issue of a Managers Certificate.

Note: At this stage the hearing will be held in person however if attendees are required to isolate in line with Ministry of Health direction at the time, the hearing may be held online in a virtual meeting room at the discretion and direction of the District Licensing Committee Chair.

Dated at Rangiora this 8th day of April 2022



Tracy Tierney
Secretary
Waimakariri District Licensing Committee
Private Bag 1005
Rangiora 7440

Telephone: 0800 965 468
Email: esu.admin@wmk.govt.nz

WAIMAKARIRI DISTRICT LICENSING COMMITTEE
(Sale and Supply of Alcohol Act 2012)

Memo to Parties

1. All briefs of evidence and any other documentary material that the agencies seek to introduce into evidence must be disclosed to the applicant, the other reporting agencies, and the secretary of the committee at least 10 working days before the scheduled hearing. The DLC Chair will provide a minute outlining the reporting timeframes to be circulated by the DLC Secretary.
2. Procedurally, all witnesses will be sworn in.
3. The applicant will present their matters following which there will be an opportunity for cross examination by the parties. Counsel may re-examine their client to clarify any issues raised in cross examination.
4. The reporting agencies will present their reports, if any, and the applicant and submitters are able to cross examine the agencies.
5. Each objector then can present their evidence and again the parties including the applicant are able to cross examine the objector.
6. The Committee may ask questions at any stage.
7. Once the hearing has completed hearing evidence, the applicant may be asked to sum up. The hearing will adjourn to consider its decision.
8. If you cannot comply with the timetable provided, you must make a written application to the Committee to vary it urgently. Any application must be made in a timely manner. Following any such application, directions will be issued in response.
9. The hearing will commence at the time and date set out in the Notice of Hearing accompanying this memo.

Dated at Rangiora this 8th day of April 2022



Tracy Tierney
Secretary
Waimakariri District Licensing Committee
Private Bag 1005
Rangiora 7440

Telephone: 0800 965 468
Email: esu.admin@wmk.govt.nz

**IN THE WAIMAKARIRI DISTRICT
LICENSING COMMITTEE**

No. LL3026

IN THE MATTER OF the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER OF an application for the issue of a Managers Certificate by
LINDSAY JOHN PETERS

MINUTE 1 OF THE DISTRICT LICENSING COMMITTEE

- [1] The Committee received an application for renewal of managers certificate from Lindsay Peters on 28 February 2022. As the applicants managers certificate had expired on 11 June 2021 the renewal application was accepted as a new application.
- [2] On 17 March 2022 the New Zealand Police advised their opposition to the application under s222 of the Sale and Supply of Alcohol Act 2012.
- [3] The applicant has confirmed they wish to proceed therefore a hearing is required.
- [4] As per Notice of Hearing issued on 8 April 2022, a public hearing will be held on 26 May 2022 commencing at 1pm.
- [5] Reporting agencies are to provide their statutory reports to all parties via the Secretary by 5.00pm on 28 April 2022.
- [6] In the interest of natural justice, the applicant has the opportunity to provide any further evidence in response to all parties via the secretary by 5.00pm on 5 May 2022.
- [7] A full disclosure pack will be provided to all by parties by 5.00pm on 12 May 2022.
- [8] I direct the Secretary of the District Licensing Committee to provide a copy of this minute to all parties involved in this matter.

Dated this day 8 April 2022

Neville Atkinson
Chair
District Licensing Committee

LL3026 / [Trim reference]

LH3024

ENVIRONMENTAL SERVICES

Waimakariri District Licensing Committee

**Application for Renewal of
Manager's Certificate**

Section 224, Sale and Supply of Alcohol Act 2012

To: The Secretary
Waimakariri District Licensing Committee
Private Bag 1005
Rangiora 7440

Applications should be lodged with the Waimakariri District Licensing Committee if:

- you are employed at a licensed premises within the District, or
- you do not currently work in licensed premises but you live within the District.

(Note: please seek guidance from an Environmental Health Officer before lodging application.)

Applications must be lodged before the certificate expires. The application fee is \$316.25.

Application for a Manager's Certificate is made in accordance with the details set out below.

Details of applicant

Full legal name: LINDSAY JOHN PETERS

Other names/aliases known by: _____

Date and place of birth: 14-1-1950 - BURWOOD - CHCH

Gender: MALE Occupation: SEMI-RETIRED - TAVERNKEEPER

Driver's licence number: AY 725591 or Passport number: _____

Residential address: 99 RAVEN QUAY KAIAPOI

Day phone number: _____ Mobile number: 027 2344678

Email address: mandytav @ xtra.co.nz

Postal address for service: 99 RAVEN QUAY KAIAPOI

E MAIL - mandytav @ xtra.co.nz Post code: 7630

Preferred mode of contact: _____

Current place of employment: MANDEVILLE TAVERN KAIAPOI

Continued over page

ENVIRONMENTAL SERVICES

Waimakariri District Licensing Committee

Information Sheet for Renewal of Manager's Certificate

Section 224, Sale and Supply of Alcohol Act 2012

Applicant notes and information

You are about to renew your Manager's Certificate.

Applications should be lodged with the Waimakariri District Licensing Committee if:

- You are employed at a licensed premises within the District, or
- You do not currently work in a licensed premises but live within the District. (Note: please seek guidance from an Environmental Health Officer before lodging application.)

To lodge this application you will need:

- The prescribed fee of \$316.25. The fee is non-refundable
- Completed application
- A copy of your current Manager's Certificate if not issued by the Waimakariri District Licensing Committee
- A copy of your Licence Controller Qualification certificate (LCQ) completed for the Sale and Supply of Alcohol Act 2012 or an LCQ Bridging Test if you completed your LCQ under the Sale of Liquor Act 1989

Note: The Bridging Test enables managers to show they understand and can comply with the new Act.

- A copy of relevant documentation to demonstrate experience in the industry (i.e. letter from employer or CV)

The Licensing Inspector will contact you to arrange a suitable time for an interview.

Note: A Manager's Certificate can only be renewed if you apply before the expiry date shown on your current certificate.

Please do not return this information sheet with your application.

Convictions

Have you been convicted of any offence (including traffic but not parking)? Yes No

Note: As per the Criminal Records (Clean Slate) Act 2004, if you have no convictions in the last 7 years, you need not declare any convictions prior to that date other than convictions relating to imprisonment or indefinite disqualified from driving.

If 'Yes', give details below. You may wish to explain the circumstances on another page.

Nature of offence	Date of conviction	Penalty suffered

What steps have you taken to manage the sale and supply of alcohol pursuant to the licence with the aim of contributing to the reduction of alcohol-related harm?

NON ALCOHOLIC AND LOW ALCOHOL DRINKS AVAILABLE AT ALL TIMES
SEVERAL OPTIONS OF FOOD AVAILABLE FOR SALE AND CONSUMPTION AT ALL TIMES
TRANSPORT OPTIONS -
MONITOR FOR UNDERAGE AND ANYONE UNABLE TO PRODUCE SATISFACTORY I.D. WILL BE REFUSED SERVICE
ANYONE CONSIDERED TO BE INTOXICATED WILL BE REFUSED SERVICE AND ASKED TO LEAVE

Do you currently hold a Licence Controller Qualification (or a prescribed qualification within the meaning of section 218 of the Sale and Supply of Alcohol Act 2012)? Yes No

If 'Yes', what date was the qualification obtained: ON FILE

Details of certificate

Who issued your previous certificate/renewal? W.D.C.

Current place of work, or club where certificate used: MANDEVILLE TAVERN KAIAPO

Certificate Number: 058/CERT/00046/2015 - FILE REF 3026 Expiry Date: _____

Authorisation

Applicant name: LINDSAY PETERS Date: 28-2-22

Applicant signature:  (must not be signed by an Agent or Solicitor).

PLEASE NOTE - A signature is not required if you submit this form electronically. By entering your name in the box above you are giving your authority for this application to proceed.

Processing Timelines

Applications should be made well before your certificate is required. On average about 5-6 weeks is required for a standard application to allow for processing, statutory reporting on your application, and issuing of a District Licensing Committee (DLC) decision on your licence. Timelines will be longer if there are agency oppositions or missing information on your application.



Completion Certificate

This is to certify that

Lindsay John Peters

has successfully completed the

**Licence Controller Qualification
Bridging Test**

on

03 June 2015

This certificate is awarded in recognition of the recipient completing the LCO Bridging Test, which covers the Sale and Supply of Alcohol Act (2012) for holders of an LCO Certificate awarded under the repealed Sale of Liquor Act (1989). This certificate does not replace the Licence Controller Qualification (LCQ) or verify the completion of NZQA unit standards. The Completion Certificate should be presented along with a corresponding LCO Certificate for the application of the Manager's Certificate.

Certificate No: 5115

A handwritten signature in black ink, appearing to be 'D. Minchington'.

Dean Minchington
Chief Executive Officer
ServiceIQ (Service Skills Institute)





Setting the Standard

HOSPITALITY
STANDARDS
INSTITUTE

THIS IS TO CERTIFY THAT

Lindsay John Peters

has gained the

Licence Controller Qualification

via the HSI Transition Process

Chief Executive

HOSPITALITY STANDARDS INSTITUTE, NEW ZEALAND

Date of issue:
Tuesday, 27 September 2005

BEFORE THE WAIMAKARIRI DISTRICT LICENSING COMMITTEE

IN THE MATTER of an application by **LINDSAY JOHN PETERS** pursuant to s219 of the Sale & Supply of Alcohol Act 2012 for the issue of a Managers Certificate

BRIEF OF EVIDENCE OF LINDSAY JOHN PETERS

Counsel Acting:
P J Egden
Barrister
PO Box 29599, Fendalton
Christchurch
Telephone: (03) 961-4020
Facsimile: (03) 961-4021

I **LINDSAY JOHN PETERS** of Kaiapoi, Tavern Keeper, state:

1. I am the applicant for a Managers Certificate under s219 of the Sale & Supply of Alcohol Act 2012.
2. The Police are opposing the application by virtue of my recent conviction for driving with excess breath alcohol. I pleaded guilty to this charge and was convicted on 16 March 2022. The offence occurred on 20 February 2022.
3. By way of background, on 20 February 2022 I had not been at the Mandeville Tavern at any stage that day. I had been at a friend's place for most of that day assisting him with cattle work on his farm. We finished work around 6pm ??? and then had a few beers at his home. I was driving to my home when I was stopped at a Police checkpoint and breath tested. There were no aggravating factors relating to my driving.
4. I have one previous conviction for excess breath alcohol in 2002. I have no other convictions.
5. I have been involved in the liquor industry since 1978 when I took the position of managing the Mandeville Tavern, Kaiapoi, for the Kaiapoi Rugby League Club, which held the premises licence. I managed the Tavern for two years until 1980 and during this time held a Managers Certificate.
6. In 1987 I purchased the Tavern and obtained the appropriate licences and Managers Certificate. I continue to hold the on licence for the premises under my company Linrae Holdings Limited.
7. Over my 37 years involvement with the hospitality industry, I have had no issues with the Police or the other licensing agencies relating to the operation of the premises. My applications for renewal have always been granted unopposed. I consider my record is exemplary, apart from my convictions for drink driving. Neither of these were connected in any way to the Mandeville Tavern.
8. My Managers Certificate expired on 11 June 2021. I simply overlooked applying for a renewal. In the past the Waimakariri District Licensing Committee would send out notifications of the need to file applications for renewal. I am not aware of having received such a notification by email or post in 2021 although I accept it may have been sent but for some reason was not picked up. I accept however that the onus was on me to apply for renewal. In my defence, the last couple of years have been very difficult in the hospitality industry due to Covid. I was under considerable stress and simply did not turn my mind to the renewal of the Certificate.
9. This is the one and only time I have overlooked the time limits for renewal, both for the On- Licence and my Managers Certificate, in my 37 years' involvement in the industry.

10. Over the years I have kept up to date with the many changes to the liquor licensing laws. I last completed the LCQ Bridging Test on 3 June 2015. I consider that my track record with the ownership and management of licenced premises shows that I have a good knowledge of the law and have conducted the sale and supply of alcohol in a safe and responsible manner. However, I have recently enrolled for the LCQ course so as to update my knowledge.
11. In the current covid environment many hospitality businesses have struggled to survive. Our turnover has dropped significantly over the last two years. The business could not sustain employing two fulltime managers if my managers certificate is not granted. I would seriously have to consider my options. This would be too heavy a price to pay given my track record and my adherence to the Object of the Act.

DATED this 5 day of May 2022



Lindsay John Peters

**WAIMAKARIRI DISTRICT LICENSING COMMITTEE
215 HIGH STREET RANGIORA**

Application by **Lindsay John Peters** for a new Manager's Certificate pursuant to **Section 219 of the Sale and Supply of Alcohol Act 2012**

LICENSING INSPECTOR'S REPORT PURSUANT TO SECTION 220(2) OF THE SALE AND SUPPLY OF ALCOHOL ACT 2012

Inspector: Raj Deo **Date:** 28 March 2022

Application Type: New Manager's Certificate

Date of Application: 2 March 2022

Applicant: Lindsay John Peters

Premises Address: 99 Raven Quay Kaiapoi

Trading Name: Mandeville Tavern

Principal Purpose: Tavern

Licence Numbers : DLC Reference: LL 3026

Application

[1] Lindsay John Peters has applied for a new manager's certificate pursuant to Section 219 of the Act. The applicant has the prescribed qualification to hold a manager's certificate as required by Section 218 of the Act.

[2] Lindsay Peters is the owner and licensee for Mandeville Tavern. He has held a manager's certificate number 058/CERT/00046/2015, which has expired on 11 June 2021 and therefore, seek the issue of a new certificate.

[3] The applicant has been operating the Mandeville Tavern since 1987. I have discussed the application with Lindsay Peters on 16 March and later on 23 March 2022 after receiving the Police report. Lindsay Peters was informed that the application has been opposed by Police because of the recent conviction.

Report by Police

[4] New Zealand Police have opposed the application being granted as confirmed by their report dated 17 March 2022. Their grounds of opposition is that Lindsay Peter was convicted in the Christchurch District Court on 16 March 2022 for breath alcohol level over 400.

Under section 222(a) and (b) Police oppose the application for manager's certificate as the conviction casts doubt on his suitability at this time. Police have advised Peters that they have opposed the application.

Criteria for manager's certificates Section 222

In considering an application for a manager's certificate, the licensing committee or licensing authority, as the case may be, must consider the following matters:

- (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](#).

Suitability

[5] In considering an application for a manager's certificate, the licensing inspector is required to inquire and report on the application pursuant to section 220(2) and the criteria for new manager's certificates as required by section 222 of the Act.

[6] The Act requires that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly pursuant to the licence with the aim of contributing to the reduction of alcohol-related harm. This cannot be achieved since the applicant who is also the licensee has been convicted for driving whilst intoxicated.

[7] Suitability is one of the criteria required to be considered when granting or renewing manager's certificate as are convictions. A conviction for an offence and more specifically one involving alcohol as is the case here calls into question the applicants suitability.

[8] I have reviewed the application and considered the opposition from Police. I have to consider the issue of suitability of the applicant and whether he meets the requirements of section 222 of the Act. I am not satisfied that Lindsay Peters meets the requirements of section 222 of the Act and is not suitable to hold a manager's certificate.

Summary

[9] In the well-known case of **Graham Leslie Osborne NZLLA 2388/95** the Liquor Licensing Authority set out guidelines suggesting the ways in which applicants with convictions should be dealt with.

[10] For example a stand down incident- free period of two years was suggested for an isolated excess breath/blood alcohol conviction. Five years was suggested for serious offending or convictions relating to or involving the abuse of alcohol. Such guidelines were given the seal of approval by the Alcohol Regulatory and Licensing Authority in its decision of **NZ LNQ Limited [2014] NZARLA PH229**:

The decision in GL Osbourne NZLLA 2388/95 and subsequent authorities indicate that an application for General Manager's Certificate is unlikely to be granted such a certificate until two years have elapsed conviction – free after drink and driving

conviction. Where there are two drink – drive convictions the period is usually extended to five years.

Conclusion

[11] In this application suitability due to the nature of the conviction is the basis for the Police opposition. As raised by the Police, the main issue is the nature of offending and the part alcohol played and how it reflects on the applicant's suitability to be a manager.

[12] Current expectations are that the management of licensed premises should be conducted by persons of integrity who are committed to make wise decisions around others under his management, in order to prevent harm around alcohol consumption under the Act.

[13] I have provided the following decisions regarding suitability to assist the Committee.

Deejay Enterprises Limited (LLA Decisions 531/97-532/97) which clearly sets out the relevant principles, where the Authority held:

“The broad pattern in recent years has been to gently raise the required standard for licensees and holders of a General Manager’s Certificate....The “guiding hand” or “hands-on” operator of any company or the potential holder of a General Manager’s Certificate now receives greater scrutiny from both the Police and other reporting agencies.

Character and reputation are closely examined. The law and human desires of patrons frequently take different directions. The Police cannot be everywhere. Little but a licensee’s or manager’s character and suitability may stand between upholding the law and turning a blind eye. Self-imposed standards in accordance with the law must be set by licensees and by holders of General Manager’s Certificates who control and manage licensed premises.

The Hospitality industry is one of the few work places where the off- duty conduct of managers is on the same footing as their on- duty conduct. In **Henry v Strange LL1632/96**, the Liquor Licensing Authority stated:

A serious question raised by this application is how off-duty conduct involving the consumption of alcohol should be weighed when considering the suitability of an individual to continue to hold a General Manager’s certificate.

In many occupations off-duty conduct is commonly ignored .An exception may arise when the conduct impacts upon work performance. Few trades or professions have a direct legislative link, which requires that conduct including out of hours activities, be considered under the quasi-disciplinary procedure of Section 135 of the Act.

Nevertheless, that burden is imposed by Parliament of licenses under Section 132 and managers under the Sale of Liquor Act 1989. Their conduct and suitability may be examined at any time if an application is brought before this Authority.

Recommendation

[14] I refer the Committee to the guidance outlined in the decision of **G L Osbourne NZLLA 2388/95** that is relied on in matters of suitability and the subsequent decision **Police v Mason [2015] NZARA 590** that defines the principles of Osborne decision and not renew the applicant's Manager's Certificate until a two-year conviction free period has elapsed.

[15] Having considered the application, supporting documents, and made enquiries where appropriate, I recommend that the application made by **Lindsay John Peters** for a new manager's certificate as detailed above be declined by the District Licensing Committee.

A handwritten signature in blue ink, appearing to read 'Raj Deo', is written over a horizontal blue line.

RAJ DEO
Chief Licensing Inspector
Waimakariri District Council



17 March 2022

The Secretary
Waimakariri District Licensing Committee
Private Bag 1005
Rangiora 7440

CONFIDENTIAL

This information is provided solely for the information of the Waimakariri District Licensing Committee and the Alcohol Regulatory and Licensing Authority. It may be released to the Applicant but not to any other person without the specific consent of the

Subject: Application for Manager's Certificate

Applicant: Lindsay John PETERS

Introduction

The application for new Manager's Certificate was received by police on 2 March 2022.

Relevant legislation: Section 222 Criteria for manager's certificates

In considering an application for a manager's certificate, the licensing authority or licensing committee concerned must have regard to the following matters:

- (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.

Section 222

(a) the applicant's suitability to be a manager

(b) Any convictions recorded against the applicant:

PETERS was convicted in the Christchurch District Court on 16 March 2022 for Breath Alcohol level over 400.

Under Section 222 (a) and (b) Police oppose the application for Manager's Certificate as the conviction casts doubt on his suitability at this time.

Police have advised PETERS that they have opposed the application.

Yours faithfully



Senior Constable Genevieve CRADDOCK

Alcohol Harm Prevention Unit | Canterbury District | NZ Police

✉ Christchurch Central Police Station | 40 Lichfield Street | PO Box 2109

Christchurch 8011 | DX WX10057

☎ 021 191 2235 | ✉ Email: gcai17@police.govt.nz



Safer Communities Together

Disclosure Index

File #: **Officer in Charge:** Senior Constable Genevieve Craddock

IN THE MATTER of an application by Lindsay John Peters pursuant to s.219 of the Sale and Supply of Alcohol Act 2021

Item	Document	Pgs	Disclosed to	Via	Date
1	Copy of Brief of Evidence CRADDOCK	2	All parties per list below	Email	12.4.2022
2	Copy of Police Submissions	4	All parties per list below	Email	12.4.2022
3	Copy of Criminal and Traffic History	1	All parties per list below	Email	12.4.2022
4	Copy of Summary of Facts	1	All parties per list below	Email	12.4.2022
5	Copy of Statement Constable ALTY	4	All parties per list below	Email	12.4.2022

Raj Deo
Waimakariri District Council
Mr Peters

1. My full name is Genevieve Mary Brownlee CRADDOCK and I am a Police Senior Constable with the Police Alcohol Harm Prevention Unit in Christchurch.
2. I have been in the police for fourteen years and in that time, I have been with the Alcohol Harm Prevention Unit for eight years.
3. On 2 March 2022 I received an application for a new Manager's Certificate for Lindsay John PETERS.
4. I noted it said renewal application but the email from the administration team in Waimakariri advised it was a new Manager's Certificate application.
5. Conducting a check in the Police National Intelligence Application I noted his previous Manager's Certificate had expired which explained the new Manager's Certificate application.
6. When I looked up the Police records, I saw Mr Peters had been convicted and sentenced in the Christchurch District Court on 16 March 2022 for the charge of Breath Alcohol level over 400 with the offence date of 20 February 2022.
7. I now produce a copy of the Conviction and traffic history.
[EXH GC01]
8. On 17 March 2022 I opposed the application for a new Manager's Certificate by Mr PETERS due to the recent drink driving conviction.
9. I obtained a copy of the Summary of facts and statement from the Police officer who charged Mr PETERS with excess breath alcohol.

10. I now produce a copy of the Summary of Facts and statement from Constable
ALTY.

[EXH GC02 & GC03]

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

BEFORE THE WAIMAKARIRI DISTRICT LICENSING COMMITTEE

UNDER the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER OF an application by Lindsay John PETERS
for a Manager's Certificate

SUBMISSIONS OF POLICE

Presented by:

Senior Constable G CRADDOCK
New Zealand Police
40 Lichfield Street
CHRISTCHURCH

MAY IT PLEASE THE COMMITTEE:

Introduction

1. The Committee has before it a Manager's Certificate application by Lindsay John PETERS.
2. The application was received by Police on 2 March 2022.
3. It is opposed under Section 222 (a) applicant's suitability to be a manager (b) any convictions recorded against the applicant.
4. Police seek leave to vary, amend or update these submissions, and to file any submissions in response to materials which might be filed or provided by the applicant or other parties.
5. On receipt of the application for new Manager's Certificate Police ran a check in the National Intelligence Application (NIA) and discovered Mr PETERS had one conviction of Driving with Excess Breath Alcohol.
6. The date of the offending was 20 February 2022 and the conviction and sentencing was on 16 March 2022.
7. On 17 March 2022 Police filed a report in accordance with section 220 (3) of the Act. The report was in opposition of the application due to an assessment the applicant was unsuitable to hold a Manager's Certificate.
8. The Object of the Act is to ensure the sale, supply and consumption of alcohol is undertaken safely and responsibly; and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
9. This places an obligation on a manager to comply with the requirements of the Act and ensure the object is met.

10. In terms of less serious convictions the Authority provided some guidance in Re Osborne LLA PH2388/95 at page 5 where it said:

“Less serious convictions are also weighed. By way of example is an isolated excess breath/blood alcohol conviction, or a single driving offence disclosing no pattern of offending. Nevertheless all convictions must be weighed as required by s.121(1)(b). In these and similar cases we frequently indicate that a minimum of two years from the date of conviction may result in a subsequent favourable decision.”

11. Section 222(c) outlines matters the Committee must consider in respect of any application for a manager’s certificate:

- (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.*

12. In DeeJay Enterprises [Re Millward LLA PH531/97, PH532/97] the Authority said at page 6:

“The "guiding hand" or "hands on operator" of any company, or the potential holder of a General Manager's Certificate, now receive greater scrutiny from both the police and other reporting agencies. Character and reputation are closely examined. The law and human desires of patrons frequently tug in different directions. The police cannot be everywhere. Little but a licensee's or manager's character and suitability may stand between upholding the law and turning a blind eye. Self imposed standards in accordance with the law must be set by licensees and by holders of General Managers' Certificates who control and manage licensed premises”.

13. The suitability issue was described in the High Court in *Re Sheard* [1996] 1 NZLR 751 at page 13, where, in an appeal against a decision of the Authority, Holland J commented:
"The real test is whether the character of the applicant has been shown to be such that he is not likely to carry out properly the responsibilities that are to go with the holding of a licence".
14. Police submit the conviction is recent and alcohol related, this should be of concern to the Committee.
15. Police submit Mr Peters is not suitable at this time to be a holder of a Manager's Certificate due to the Conviction and the application should be refused.

Party Details

Party ID:	[REDACTED]	Party Name:	Peters, Lindsay John
PRN:	[REDACTED]	Master PRN:	Y
Date of Birth:	14/01/1950	Gender:	Male
Country of Birth:	New Zealand	DLICNO:	[REDACTED]

List of Aliases/Linked Case Parties

Name	Name Type	Master PRN
Peters, Lindsay John	Known As	N

Criminal and Traffic Conviction History

Court	Result Date	Offence Date	Offence	Outcome Detail	Charge Outcome Status	Sentence Status	Sentence Detail
Christchurch District Court	16/03/2022	20/02/2022	Breath Alcohol Level Over 400 Mcgs/Litre Of Breath Blood/Breath = 600	Convicted and Sentenced	Stands	Stands	Fine - \$750.00, Court Costs - \$130.00 / Disqualification From Driving - 16/03/2022 - 6 Months
Rangiora District Court	20/03/2002	01/03/2002	Breath Alcohol Level Over 400 Mcgs/Litre Of Breath Blood/Breath = 552	Convicted and Sentenced	Stands	Stands	Fine - \$600.00 / Disqualification From Driving - 20/03/2002 - 6 Months

Sentence Act Warnings

Court	Warning	Warning Date
-------	---------	--------------

NO RELEVANT DETAILS FOUND

s129B Written Caution to Persons with Interest in Motor Vehicle

Caution Date	Third Party Name	Served Date
--------------	------------------	-------------

NO RELEVANT DETAILS FOUND

Post Conviction Order

Court	Order Date	Order	Term	Status	Effective Date
-------	------------	-------	------	--------	----------------

NO RELEVANT DETAILS FOUND

Registration Orders

**Order
Date**

Order

NO RELEVANT DETAILS FOUND

**THIS INFORMATION SHOULD NOT BE RELEASED TO ANYONE OTHER THAN
THE INDIVIDUAL CONCERNED WITHOUT MINISTRY OF JUSTICE AUTHORISATION**



NZ Police

POL 262 03/21

SUMMARY OF FACTS

POLICE **Lindsay John PETERS**
DOB 14/01/1950
PRN [REDACTED]

CHARGE Driving with Excess Breath Alcohol
Land Transport Act 1998, Section 56(1)
Penalty: 3 months imprisonment / \$4,500 fine / 6 months
disqualification

CIRCUMSTANCES

At about 8:37pm on the 20th of February 2022, the defendant PETERS was the driver of the Toyota Hilux motor vehicle, registration [REDACTED] on Percival Street, Rangiora.

The defendant was stopped at a Police checkpoint and when spoken to it was observed he was under the influence of alcohol.

A compulsory breath test was conducted, the result was a fail.

A breath screening test was positive.

An evidential breath test showed 600 micrograms of alcohol per litre of breath.

DEFENDANT COMMENTS

In explanation the defendant stated he had two jugs prior to driving.

The defendant is a 72 year old male, self employed and has appeared before the Court before on an excess breath alcohol charge in 2002.



STATEMENT

Section 82 Criminal Procedure Act 2011

Statement of: Constable MacKenzie Anne ALTY Age (if under 18): _____

Date statement taken: 23/02/2022 Time: 1.30pm

Location: Christchurch Central Police Station

I, Constable MacKenzie Anne ALTY, state:

1. My full name is Constable MacKenzie Anne ALTY.
2. I am attached to the Impairment Prevention Team, based at Christchurch Central Police Station.
3. On the 20th of February 2022, I was working as part of a team conducting a Compulsory Breath Test Checkpoint on Percival Street, Rangiora, Christchurch.
4. At approximately 8.37pm a vehicle approached our checkpoint and I breath tested the male driver, who was the sole occupant of the car.
5. The driver was advised we were doing an alcohol checkpoint and was asked to count 1 to 5 into the Drager breath test machine.
6. This returned a Fail result, which was shown to the driver.
7. I said to the driver that "I now require you to undergo a Breath Screening test without delay".
8. Available to me was my Drager 7510NZ device, serial number MM0368 with a calibration date of 30-01-2023.
9. This Drager 7510NZ is a device approved by the Minister of Police by notice in the New Zealand Gazette; Land Transport (Breath Tests) Notice 2015.



New Zealand Police
STATEMENT CONTINUED

Section 82 Criminal Procedure Act 2011

Statement of: Constable MacKenzie Anne ALTY Age (if under 18): _____

10. The Breath Screening Test was administered in accordance with the Land Transport (Breath Tests) Notice 2015.
11. I asked the defendant for his license and then asked him to pull over to the left hand side of the road.
12. I scrolled down to the Screening Test Option and pressed OK.
13. I removed a fresh mouthpiece from its plastic sleeve and attached it to the top of the device and pressed OK to confirm a new mouthpiece had been attached.
14. The device displayed "Screening Please Blow" and I instructed the defendant to blow through the machine until I told him to stop.
15. The device then returned a result of 'Over 400'.
16. I advised the driver of the result.
17. I said, "I now require you to accompany my to the Police Booze Bus or other such place for the purpose of an evidential breath test, blood test or both."
18. I noted down the defendant's vehicle registration which was KQK76 and asked the driver to hand me his keys.
19. On arrival back at the Booze bus I obtained a Breath and Blood Alcohol procedure sheet.
20. I then read the defendant his rights, from the Breath and Blood procedure sheet, at the Police Booze Bus in accordance with the Bill of Rights Act 1990.
21. I said "I now require you to accompany me to the Booze Bus or other such place for the purpose of an evidential breath test, blood test or both. You have the right to remain silent. You do not have to make any statement. Anything you say will be recorded and may be given in evidence in court. You have the right to speak with a lawyer without delay and in private before deciding to answer any questions and Police have a list of



New Zealand Police
STATEMENT CONTINUED

Section 82 Criminal Procedure Act 2011

Statement of: Constable MacKenzie Anne ALTY Age (if under 18): _____

lawyers you can speak to for free. These rights will continue throughout the breath or blood test procedures. If you wish to speak to a lawyer a telephone will be made available for that purpose as soon as practicable. You will be allowed a reasonable time to consult and instruct a lawyer from the time a telephone is made available to you.”

- 22. I asked if he understood these rights, which he said he did.
- 23. I completed page 1 then went through the procedures as per the Breath and Blood Alcohol procedure sheet.
- 24. I now seek leave of the court to refer to the Breath and Blood Alcohol procedure sheet. (Produce Exhibit)
- 25. The Evidential breath testing device returned a result of 600 micrograms of alcohol per litre of breath.
- 26. I then started the 10 minute period at 9.02pm and concluded it at 9.13pm being a complete 11 minutes. I concluded the period by asking the defendant if he wanted a Blood test or wanted to stay with the Breath test. The defendant said he would stay with the breath test.
- 27. At the conclusion of the procedure, I issued PETERS with a summons to appear in the Christchurch District Court on Wednesday 16th March 2022.
- 28. I also issued him with roadside safety directive not to drive for 12 hours.
- 29. He was then released.

I confirm the truth and accuracy of this statement. I make the statement with the knowledge that it is to be used in court proceedings. I am aware that it is an offence to make a statement that is known by me to be false or intended by me to mislead.

Signature

24/02/2022
Date

witness initials



New Zealand Police
STATEMENT CONTINUED

Section 82 Criminal Procedure Act 2011

Statement of: Constable MacKenzie Anne ALTY Age (if under 18): _____