

Notice of Decision



Decision No. 57/MC/1664/2021

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Collette Erana Riddell under s. 219 of the Sale and Supply of Alcohol Act 2012 for a new Manager's Certificate

BEFORE THE Hurunui District Licensing Committee

Chairperson: Councillor Michael Ward
Members: Councillor Pauline White
Mr David Kidd

HEARING at Amberley from 9am on Tuesday 10th August 2021.

APPEARANCES

Miss Collette Riddell – Applicant
Constable Genevieve Craddock – New Zealand Police – in opposition
Constable Robert Willis – New Zealand Police (Witness)
Ms Dianne Morrison – Chief Licensing Inspector – supporting Police opposition.

DECISION OF THE COMMITTEE

DECISION

1. The application for a new Manager's Certificate is declined.

SUMMARY

2. The Hurunui District Licensing Committee received an application from Collette Erana Riddell for a new Manager's Certificate on 2nd February 2021.
3. The application is opposed by the Police and the Licensing Inspector is supporting Police opposition.
4. The primary concern presented by the Police is the applicant's failure to declare all her convictions and the convictions themselves, all within a four-year period, that reflect negatively on the applicant's suitability to hold a Manager's Certificate.
5. The Committee believe a five-year period, free from conviction from the date of Ms Riddell's last offence, would prove reassuring. If Ms Riddell can demonstrate a respect for and evidence of upholding the law over a consistent period, providing suitable reports from both the Police and Licensing Inspector are received, the Committee may

be able to give more favourable consideration on a re-application for a Manager's Certificate in the future.

6. For the reasons set out in this decision, we conclude that the new Manager's Certificate should not be granted at this time.

BACKGROUND

7. An application was filed by Collette Erana Riddell on Tuesday 2nd February 2021 for a new Manager's Certificate.
8. The Police submitted a report in opposition to this application on the grounds of the applicant's suitability relating to previous convictions and failure to disclose all convictions. This consisted in a total of five convictions with only two being identified in the application form. The most recent being in 2019.
9. The Licensing Inspector submitted a report in support of Police opposition to the application, stating that the issues raised by Police should be considered by the Licensing Committee at a public hearing.
10. Given the opposition by the Police, and support for Police opposition from the Licensing Inspector, the application was required to be heard before the District Licensing Committee by way of public hearing, in accordance with Section 202(3) of the Act.
11. A hearing was scheduled for Tuesday 10th August 2021, and convened at the Hurunui District Council Chambers, 66 Carters Road Amberley.

EVIDENCE AND SUBMISSIONS

APPLICANT'S EVIDENCE

12. Ms Riddell provided a written brief of evidence dated Thursday 22nd July 2021. She presented the brief orally at the hearing.
13. Ms Riddell gave her experience in the industry as an all-rounder, clearing tables, and filling in where needed, and has completed training in Level Two Kitchen skills at the Rangiora Community College.
14. Ms Riddell went on to say that she has worked at the Star and Garter Hotel for the last eight months, and before that, worked at Mount Beautiful Two Rivers Café. Ms Riddell started at Mount Beautiful Two Rivers Café in June 2019 but was made redundant when the Café closed down due to the COVID-19 Lockdown in March 2020. Ms Riddell produced a letter of support from Kimberley Eagle, her previous employer at Mount Beautiful Two Rivers Café.
15. Ms Riddell stated that she has always wanted to work in the hospitality industry and own her own café or restaurant in the future. In 2016, she planned to move up to the North Island with her sister to pursue an opportunity in hospitality. However, this did not eventuate as her Mother's husband was killed in a hunting accident that same year.

16. It was the hunting accident, Ms Riddell stated, that led her to make poor decisions and subsequently to have criminal convictions. Ms Riddell said that she has accepted the consequences of those poor decisions with the loss of her driver's license and sentencing to community work.
17. Ms Riddell went on to say that she is working towards getting her full drivers-license and is ready to move on and make better life choices for herself and her five-year-old son. She is working on ways to make herself better, her career, and is not ready to give up. She has always wanted to work in hospitality.

CROSS EXAMINATION

Police Questions

18. Senior Constable Genevieve Craddock asked Ms Riddell why she failed to disclose all her convictions in the application. Ms Riddell said that she did not intentionally fail to submit them but was unsure of dates and couldn't remember what the offence was and when it occurred.
19. Senior Constable Craddock brought the applicant's attention to her *Criminal and Traffic History* conviction sheet, submitted as evidence, EXH GC02. Ms Riddell acknowledged that they were offences she had committed, that she was sorry and confirmed she did not include the offence dated 23rd July 2019 (Breach of Community work) in her application.
20. Senior Constable Craddock stated that Senior Constable Robin Ellis will give evidence that Ms Riddell trespassed in Rangiora and that she was caught trespassing after being trespassed. Senior Constable Craddock asked Ms Riddell who she was with on 21st November 2020 at the Warehouse in Rangiora. Ms Riddell explained she was with her partner at the time. Senior Constable Craddock went on to ask why Ms Riddell got trespassed from the Warehouse. Ms Riddell replied that she hadn't done anything wrong and that she got dragged into the situation. It was Ms Riddell's partner who was accused of stealing at the Warehouse and she only went back to see what was going on.
21. Senior Constable Craddock went on to ask Ms Riddell why she went back to the Warehouse on the 14th of February 2021 after being trespassed. Ms Riddell replied that she didn't realise that you could be verbally trespassed and thought there had to be a paper trespass order issued. Ms Riddell went on to say that she didn't do anything wrong and so didn't realise she was trespassed.
22. Senior Constable Craddock referred to Ms Riddell's comment that she has accepted the consequences of her poor decisions in the past and went on to ask Ms Riddell how she had accepted those consequences. Ms Riddell replied that she has tried to accept the consequences of her actions and complete the community service even though she had to go back to court. She went on to say that she made sure she completed the community service prior to the court date.
23. Senior Constable Craddock stated that both she and Constable Ellis will give evidence that Ms Riddell was issued with a suspension notice for driving offences. Senior Constable Craddock went on to ask Ms Riddell how she got the excess demerit points. Ms Riddell

confirmed that they would probably have been driving issues, relating to speeding, or driving on a learner's licence with passengers.

24. Senior Constable Craddock went on to ask Ms Riddell how she is working towards getting her full-driver's licence. Ms Riddell said that she is reading the road code and will book for a driving test. She will try and get practice driving.
25. Senior Constable Craddock asked Ms Riddell why she did not include a letter from her previous employer, Ms Eagle at Mount Beautiful Two Rivers Café, with her Manager's Certificate application. Ms Riddell replied that she had lost contact with Ms Eagle for quite some time after being made redundant and had only recently been in touch.
26. Senior Constable Craddock went on to say a letter of support had been received from Ms Riddell's current manager Ms Vickey Pooley and asked if Ms Riddell had told Ms Pooley about her convictions. Ms Riddell confirmed that she had.
27. Senior Constable Craddock asked Ms Riddell if she had requested Ms Pooley attend the hearing. Ms Riddell said that Ms Pooley had offered to attend the hearing, but Ms Riddell said to Ms Pooley that she would be fine. There were no further questions.

Licensing Inspector Questions

28. In a letter received from Ms Pooley, Dianne Morrison Chief Licensing Inspector noted that Ms Riddell works in the kitchen and is responsible for meals coming out of the kitchen and kitchen standards. The Inspector asked Ms Riddell what this involved. Ms Riddell replied that she overlooks the meals that go out to customers, rotates stock, and checks stock due dates. Ms Riddell went on to say that her other duties include making sure that everything in the kitchen is running smoothly and that customers are happy.
29. The Inspector went on to ask Ms Riddell how often she works serving behind the bar. Ms Riddell confirmed that she does not often help behind the bar but can if needed. The Inspector asked how many duty managers work at the Star and Garter, Ms Riddell replied that there is only one, Ms Pooley.
30. The Inspector asked Ms Riddell if she had completed the Licence Controller Qualification (LCQ). Ms Riddell replied that she had, the Inspector then brought Ms Riddell's attention to page 27, paragraph four of the Hearing agenda and asked if she was familiar with the role and responsibility of a duty manager.

When undertaking the role of a duty manager on licensed premises, the manager is responsible for compliance with and enforcement of the:

- ***Provisions of the Act***
- ***Conditions of the licence***
- ***Conduct of the premises, with the aim of ensuring the safe and responsible sale and supply of alcohol and minimizing alcohol-related harm.***

The Inspector then asked Ms Riddell what she saw the role of duty manager to be. Ms Riddell replied, making sure that everyone is drinking responsibly, of age and no intoxication.

31. When the Inspector asked how Ms Riddell would ensure the conditions of a licence are maintained Ms Riddell seemed confused and asked what do you exactly mean by that. The Inspector went on to explain that the Hotel has an on and off-licence and has various conditions, and asked Ms Riddell if she read the licence for the Hotel. Ms Riddell said that when she first started at the Hotel she had read the licence, and it included the off-licence being open until 10pm and no takeaway alcohol after 10pm.
32. Ms Riddell was asked by the Inspector if the Hotel has different designated areas in the restaurant and what designation that area would be. Ms Riddell replied that she did not think that there are designated areas, Ms Pooley told her there are none. Ms Riddell went on to say that she was confused as Ms Pooley said that there are no designated areas and agreed with the Inspector that anyone under 18 years-of-age needs to be supervised by a parent or legal guardian.
33. Finally, the Inspector asked Ms Riddell what sort of things do you do as a Duty Manager to make sure alcohol is served responsibly. Ms Riddell replied checking IDs, making sure they're not intoxicated, no drunk drivers.

District Licensing Committee Questions

34. Mr David Kidd enquired into the experience the applicant has with staff and money. Ms Riddell replied that she had been taught to do the cash up at Mount Beautiful and is undergoing training at the Hotel. She went on to say she has a good team at the moment and there is no micro-managing. The team works well together and shares the workload.
35. Councillor Pauline White referred to discussions Ms Riddell had with Ms Pooley about the designated and undesignated areas and asked if there were any other times of professional development, discussing responsibilities of a bar manager or training. Ms Riddell confirmed that she does spend time with Ms Pooley to get further training, which included the fire and emergency plan.

AGENCY REPORTS

Police – Witnesses for the Police

36. Senior Constable Robin Ellis provided a written brief of evidence dated Wednesday 28th July 2021. He presented the brief orally at the hearing. His evidence related to serving notice to Ms Riddell regarding offences committed between September 2020 and February 2021.
37. The offences include an excess demerit suspension notice delivered to Ms Riddell's home, where she was present, on 9th September 2020, which meant she could not drive a motor vehicle for three months. A formal trespass notice issued on 21st November 2020 at the Warehouse, Rangiora, and a violation of the trespass notice on 14th February 2021. A formal Police warning, submitted as evidence EXH GC03, was issued by Senior Constable Ellis to Ms Riddell of the violation on 25th April 2021. There were no questions for the witness.

38. Senior Constable Genevieve Craddock provided a written brief of evidence dated Monday 26th July 2021. She presented the brief orally at the hearing, submitting four exhibits of evidence in support of the written brief. They included:

EXH GC01 – Application for a new Manager’s Certificate for Collette Riddell

EXH GC02 – Conviction and Traffic History

EXH GC03 – Formal Police Warning Letter

EXH GC04 – Police Opposition Report

39. Senior Constable Craddock stated that the application, submitted as evidence EXH GC01, was received by Police on 26th February 2021 and is opposed. Stating Ms Riddell’s application is of concern to Police as she has not disclosed all of her convictions but selected only two for driving while disqualified. Senior Constable Craddock went on to say Ms Riddell’s convictions and deception should be of significant concern to the Committee.
40. Senior Constable Craddock spoke of Ms Riddell’s conviction and traffic history (exhibit EXH GC02). Driving while suspended, which she was convicted in the Christchurch District Court and trespassing after being previously trespassed at the Warehouse in Rangiora, and breaching community work resulting in a conviction. Senior Constable Craddock stated that this shows a pure disregard for conditions placed on Ms Riddell and casts strong doubts on her character and suitability.
41. Senior Constable Craddock cited case law from *Deejay Enterprise [Re Millward LLA PH531/97, PH532/97]* in support of the importance Police place on an applicant’s character and suitability for a Manager’s Certificate.

“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 Manager’s Certificates who control and manage licensed premises.”

42. Senior Constable Craddock stated that it is hard to see how Police can be satisfied that Ms Riddell will carry out the responsibilities and rules under the Sale and Supply of Alcohol 2012 when she has shown she does not comply with the law. Therefore, the Police conclude that Ms Riddell is unsuitable, and the application should be declined.

CROSS EXAMINATION

Licensing Inspector Questions

43. The Inspector asked Senior Constable Craddock what the non-disclosure of convictions on an application generally look like to Police. Senior Constable Craddock stated that it looks deceitful and that you should know when you’ve been to court and know when you’ve had a conviction generally. Senior Constable Craddock went on to say that it appears Ms Riddell has just picked two of her convictions and that in the Constable’s experience you don’t forget when you have been to court.

44. Senior Constable Craddock also stated that it was not common to have a non-disclosure of convictions in a Manager's Certificate application. The Inspector asked Senior Constable Craddock if the employer usually comes along to support the applicant, she replied that yes they do and that was why she asked Ms Riddell. Normally it would be good, if the application is opposed, for the employer to come along to support the application. In fact, Senior Constable Craddock was surprised that the employer, Ms Pooley, was not present.
45. There were no further questions. There was nothing more from Senior Constable Craddock, other than to highlight that Ms Riddell did not bring Ms Pooley, her manager, in support of her application which concerned Police. It also meant there was no opportunity to ask Ms Pooley about Ms Riddell.

AGENCY SUBMISSIONS

Licensing Inspector

46. Dianne Morrison, Chief Licensing Inspector provided a written submission dated Monday 26th July 2021. At the hearing she expanded on that submission further by stating she felt the Police had given compelling evidence to not issue Ms Riddell a Manager's Certificate. This was demonstrated by Ms Riddell's on-going disregard for the law and other instances dealing with the Police.
47. The Inspector went on to say honesty is a fundamental character trait required of Duty Managers which brings into question the suitability of Ms Riddell. The conviction themselves and the pattern over time indicate an on-going disregard of the law which does not indicate suitability. There have been other instances where Ms Riddell has had dealings with the Police which further indicate a disregard of the law, for example the trespass incidences.
48. The Inspector considers the applicant has yet to demonstrate a long-term change in mindset to comply with the law in her personal life. In the event Ms Riddell seeks a Manager's Certificate or to run her own bar in the future there will be legal requirements on many levels that will require compliance.
49. The Inspector added Ms Riddell has not provided convincing evidence in the steps she has taken or will take to ensure there is no further offending. Duty Managers are required to uphold requirements of the Act. The Committee and Agencies require assurances that Duty Managers will undertake their role in a responsible manner thereby minimising alcohol related harm.
50. The Inspector said that she supports the Police opposition to the application and is not satisfied Ms Riddell is suitable to hold a Manager's Certificate at this time. In her opinion Ms Riddell has not met the Section 222 criteria for the issue of a Manager's Certificate, therefore the application should be declined.
51. There were no questions for the Inspector.

ANALYSIS

52. Section 222 sets out the criteria for manager's certificates. It reads:

Criteria for manager's certificates

In considering an application 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.

53. We will proceed to consider the application on the basis of the above criteria.

Suitability of the applicant

54. The Committee considered comments made by Senior Constable Craddock that non-disclosure of convictions on a Manager's Certificate application is very uncommon.

55. Notwithstanding Ms Riddell's convictions, trespass notices and non-disclosure of breach of community service, the Committee acknowledge Ms Riddell is ready to move on and make better life choices for herself and her five-year-old son. The Committee support Ms Riddell's intentions to work on ways to make herself better.

56. Therefore, the Committee think it fitting Ms Riddell seek further training and mentoring within the industry and work on ways to demonstrate a respect for and compliance with the law.

Any convictions recorded against the applicant

57. Ms Riddell has a total of five convictions, they are:

- **14 December 2016:** Drove while licence suspended or revoked. Ms Riddell was convicted and disqualified from driving for six months.
- **9 September 2017:** Operated a vehicle carelessly. Ms Riddell was convicted and discharged.
- **9 September 2017:** Failed to stop or ascertain injury – non-crash injury crash. Ms Riddell was convicted, disqualified from driving for six months and sentenced to 85 hours community work.
- **17 May 2018:** Drove while disqualified. Ms Riddell was convicted and sentenced to 60 hours community work.
- **23 July 2019:** Breach of community work. Ms Riddell was convicted and discharged.

Ms Riddell disclosed only two of her five convictions:

- **14 December 2016:** Drove while licence suspended or revoked. Ms Riddell was convicted and disqualified from driving for six months.
- **17 May 2018:** Drove while disqualified. Ms Riddell was convicted and sentenced to 60 hours community work.

58. In *Osbourne [1995] NZLLA2388* the Liquor Licensing Authority said:

“...without fettering ourselves in this or other applications, it may be helpful if we indicate that we commonly look for a five-year period free of any serious conviction...”

While the Committee support Ms Riddell’s intentions to work on ways to make herself better, their concern relates to Ms Riddell’s convictions within a four-year period and the non-disclosure of three of those five convictions.

59. Based on *Osbourne [1995]* case law, the Committee believe a five-year period, free from conviction from the date of Ms Riddell’s last offence, would prove encouraging.

60. Currently the Committee question Ms Riddell’s character and suitability. The Committee encourages Ms Riddell to demonstrate a respect for and evidence of upholding the law over a consistent period. If she achieves this, and providing suitable reports from both the Police and Licensing Inspector are received, the Committee may be able to give more favourable consideration on a re-application for a Manager’s Certificate in the future.

Relevant experience and training

61. The Committee are of the opinion that Ms Riddell’s on the job training and support is limited and that Ms Riddell’s primary role at the Star and Garter Hotel is working in the kitchen which does not provide adequate experience to carry out a duty manager role in a Hotel.

62. With no experience of managing staff, or documented evidence of duty manager training, the Committee raised concerns about the lack of Ms Riddell’s skills and experience within the hospitality industry.

63. The Committee consider Ms Riddell’s lack of industry related experience and training is a prohibiting factor in the issuing of a Manager’s Certificate at this time.

Any matters dealt with in any report from the reporting agencies

64. The Committee noted Senior Constable Craddock’s surprise that Ms Pooley, Ms Riddell’s current manager did not attend the hearing as a supporting witness.

CONCLUSION

65. The Committee are unable to be satisfied as to the criteria which we must consider and conclude that the new Manager’s Certificate application should not be granted at this time.

66. The Committee acknowledge Ms Riddell genuinely wants to move on from her past and make better life choices. However, they consider her lack of industry related experience and training is a prohibiting factor in the issuing of a Manager's Certificate at this time.
67. Based on *Osbourne [1995]* case law the Committee believe a five-year period, free from conviction from the date of Ms Riddell's last offence would prove reassuring. The Committee encourages Ms Riddell to demonstrate a respect for and evidence of upholding the law over a consistent period. The Committee believe this and providing suitable reports from the Police and Licensing Inspector are received, would reflect more positively on proving suitability as a Duty Manager and may support a successful application in the future.
68. For reasons outlined in this decision, the Hurunui District Licensing Committee (DLC) has determined that a new Manager's Certificate should not be granted to Collette Erana Riddell at this time. The application is declined.

DATED at Amberley this 18th day of October 2021



Chairperson
Hurunui District Licensing Committee

Notes for the Parties of the Proceedings

69. The Sale and Supply Alcohol Act 2012 Section 154 states: Any party to any proceedings before a licensing committee who is dissatisfied with the decision, or any part of the decision may appeal to the licensing authority against the decision or any part of the decision.

70. An appeal under section 154 must be made by the appellant giving notice of appeal to the licensing authority within 10 working days after the date on which notice of the decision is given to that party.

71. The notice of appeal must:
 - a. be in writing; and
 - b. specify the grounds of appeal in sufficient detail to fully inform the licensing authority and other parties of the issues in the appeal; and
 - c. be sent to the secretary of the licensing authority; and
 - d. be accompanied by the prescribed fee.

