

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012 ('the Act')

**AND**

**IN THE MATTER** of an application by **E R BELLAS LIMITED** pursuant to s.127 of the Act for the renewal of an ON Licence in respect of premises situated at 50 State Highway One, Awanui known as the "Awanui Hotel."

**HEARING BEFORE THE FAR NORTH DISTRICT LICENSING COMMITTEE**

Chairman: Murray Clearwater  
Member: John Thorne  
Member: Lisa McNab

**HEARING** at Kaitaia on the 26<sup>th</sup> of July 2024

**APPEARANCES**

Ms. Sharlene Pilkington– counsel for the applicant **E R Bellas Limited**  
Mr. Edward Bellas- for the applicant  
Mr. John Maurice witness for the applicant  
Mr. Patrick Barber Chief Alcohol Licensing Inspector – in opposition  
Mr Gary Steed -witness for the Inspector  
Sergeant Tai Patrick – Police Alcohol Harm Prevention Officer (AHPO)– to assist.  
Ms. Wendy Antrobus- representing the Medical Officer of Health- (MOoH) to assist.

## RESERVED DECISION OF THE COMMITTEE

### Introduction

1. By an application dated the 23<sup>rd</sup> of March 2022, **E R Bellas Limited** applied for the renewal of the On Licence that was set to expire on the 30<sup>th</sup> of April 2022. It was duly advertised, and no public objections were received within the prescribed time.
2. The applicant sought the rollover of the existing conditions including the licensed hours of **Monday to Sunday 10.00am to 1.00am the following day and 8.00am to 1.00am for the Garden Bar**. These hours are within the default national maximum trading hours for an On Licence.
3. The hotel contains an older, tavern-style bar, a function room and smokers' area. There are other rooms and alcoves and a separate large garden bar under a marquee. The current designation of the premises has the whole of the premises as a Supervised Area other than the garden bar that is undesignated. There is also a large unlicensed accommodation wing attached to the hotel under separate management.
4. They initially sought a variation of the licensed area to include a new 'al fresco' area out the front of the premises. This request was later abandoned prior to determination.
5. The substantive application drew an opposed report from the Police due to a single car crash involving Mr. Bellas on 20 April 2022 when a car driven by him left the road and travelled 80 metres into a paddock damaging a fence. Mr. Bellas apparently left the scene after the arrival of the local Fire Service and before the Police attended. Enquiries by the Police apparently failed to locate Mr. Bellas on that night.
6. The second incident was a domestic violence incident involving Mr. Bellas and two other persons. Mr. Bellas was later arrested and subsequently faced charges in the District Court.
7. At about this time there were also two incidents of violence at functions at the hotel.
8. The renewal was set down for a hearing to be held on 18 August 2022. Following a request from the Police to allow the district court matters to go through due process and that Mr. Bellas' father had passed away just prior to the proposed hearing the hearing was adjourned sine die.

9. The hearing is now reconvened to determine this application more than 2 years after the base licence expired.
10. The adjournment was the correct approach considering the serious matters Mr. Bellas faced and as will be seen in this decision, we have adopted a pragmatic approach and have allowed much of the evidence to stand on its own merits.

### **Applicant's Evidence**

11. Counsel for the applicant provided a brief combined opening and closing submission but adequately highlighted the issues before the committee today.
12. Ms. Pilkington argued that as many of the allegations and incidents involving Mr. Bellas were not linked to the operation of the hotel they should be put to one side. We disagreed and made it clear to Mr. Bellas that we expect licensees to set an example for their patrons and high standards of behaviour are expected of licensees both at work, and away from the premises.
13. Similarly, she argued that as he had been discharged without conviction on the violence charges and they did not relate to matters at the hotel that they too should be put aside and not affect his suitability as a licensee. Again, we pushed back and reminded Mr. Bellas that as part of the court process he did plead guilty to the charges and his behaviour at the incidents most definitely would be held against his suitability.
14. Ms. Pilkington took issue with the proposed evidence from Mr. Steed, believing that he was an objector to the renewal and his evidence was 'out of time'. Mr. Steed appeared before the Committee as a witness for the Inspector and his evidence was appropriately before the DLC and would be received and weighted by the Committee.
15. Ms. Pilkington also submitted that "since the Police no longer object (sic) and are content with the outcome of criminal proceedings ... the Inspector should not oppose the application on issues that are primarily the concern of the Police." The DLC again pushed back and said nothing could be further from the correct position, we elaborate on this point later in the decision.
16. First, we heard from Mr. Bellas and then from John Maurice, President of Hospitality NZ who had attended the Tri-agency meeting with the Inspectors and Mr. Bellas.
17. Mr. Bellas told us that he has been involved in the hotel from November 2020 and has put considerable time, money and effort in resurrecting the hotel to its former state. He said they are fully booked for functions for the next 8 months and he employs 15 staff, most of them locals.

18. He outlined his experience in hospitality, and he believed that he was well regarded in the township of Awanui and the Far North generally.
19. He told us about the incidents that occurred at the Hotel on 16 and 30 April 2022. From our observations he handled these incidents well and took firm corrective action, as he should. During questioning he said the combatants were not intoxicated and it was mainly caused by a personal issue between the two. We had no evidence presented to the contrary.
20. However, we asked Mr. Bellas to explain the wording on their Entry Notice that stated that “**Overly** intoxicated person/persons upon arrival, will not be permitted entry.” We asked if it was the case that ordinarily intoxicated persons were allowed entry to the hotel?
21. He quickly realised the error in the wording and assured the Committee that it would be promptly rectified. We discuss intoxication levels later in this decision. Other than the unknown tolerance level of intoxication we place no great weight on the two incidents involving the rugby players and the way Mr. Bellas dealt with them.
22. He added that in future if there are incidents at the hotel he will inform all agencies at the time and definite prior to any tri-agency meetings.
23. He then told us his version of the crash in his car on Inland Road Karikari Peninsula on Wednesday the 20<sup>th</sup> of April 2022. In his written evidence he said “I left the scene shortly **after** the arrival of the local volunteer fire brigade yet during questioning he told us he was picked up and driven away by a friend and **drove past** the brigade as they were on the way to the crash.
24. When we heard from the Police later in the hearing there were two more different versions of what happened and whether a tree was knocked over or not. The Police also told us that the car travelled 80 metres into the paddock before coming to rest. We don’t intend to pursue this matter any further other than to say we do not believe Mr. Bellas’s version of this event and we discuss the weighting to be placed on that later in the decision.
25. In relation to the incident at his, then current, partners address on 11 June 2022 Mr. Bellas told us he was charged with two counts of Burglary and two charges of (Crimes Act) assault.
26. Again, we do not intend to outlay the facts of the offences other than to acknowledge that it may well have been a crime of passion on the night, but he went back the next day and there was another altercation. **These are not the actions we expect from a senior community leader and licensee.** Fortunately, when this was put to Mr. Bellas by the Committee, he was remorseful and agreed that he was ashamed of his behaviour and should

- have dealt with his distress in another way.
27. He confirmed that he has completed an anti-violence programme as directed by the Court and he paid \$5000 emotional harm reparation to each of the two victims of the assault incident.
  28. We note the Crown was opposed to the discharge without conviction, so it was a bit rich for Ms. Pilkington to suggest that the Police were “content with the outcome of the court proceedings”. Clearly, they were not.
  29. Regarding the texts that he admitted he sent to Mr. Steed, he again did himself no favours and they reflect poorly on his character. Mr. Steed was entitled to support his employee after she had told him what had happened. He could have no substantial evidence to provide at the proposed court hearing and we reject Mr. Bellas’s explanation for the texts and for banning Mr. Steed from the hotel. Mr. Bellas actions were that of a bully trying to get his own way.
  30. On the positive side we heard about his involvement in the community generally and the support he gives local clubs and organisations. He also employs local people at the hotel. We are told events like the Snapper Classic are ‘legendary’ and he gets credit for these endeavours.
  31. Mr. John Maurice told us that he is the Northland President of Hospitality NZ. He attended the Tri-Agency meeting for Mr. Bellas and said there was no confrontation at the meeting and the incidents were discussed in a convivial manner.
  32. There has also been the passing of time since those incidents and nothing has been brought to the agency’s attention or to the DLC in recent times.

### **Police Evidence**

33. Sergeant Tai Patrick appeared before us by AVL on the request of the DLC as we wished to hear the Police version of the two incidents involving Mr. Bellas i.e. the crash and the domestic assaults.
34. He had the crash file, but the attending officer’s version of the event did not line up with what Mr. Bellas told us nor with the version of the then Alcohol Harm Prevention Officer report to the DLC. This was unfortunate and did not help us consider and weigh up Mr. Bellas’ actions at the incident. Suffice to say we don’t accept his version of events but there is no evidence to the contrary. We expect better from the Police, and we suggest to Mr. Bellas that a sober and mature licensee would have stayed at the scene even if only to ensure no innuendo could result.

35. We then sought to ask some questions of the police about the assault charges and whether a complaint was taken from Mr. Steed regarding the threatening texts. Sergeant Patrick informed us that he did not have the assault file with him and that he was unable to ascertain whether a complaint was formally entered into the police system and followed up re the texts messages.
36. Again, this was unhelpful to the DLC to establish the facts of the matters that we must consider.

### **Inspectors Evidence**

37. Inspector Barber stood by the contents of his report, which was supplementary to the report provided by Inspector Te Orakiri Graham who has since resigned from the Far North District Council. Mr. Barber acknowledged that the resolution processes and outcomes around the two incidents at the hotel was acceptable.
38. He attended the Tri-Agency meeting with Mr. Bellas as support for Inspector Graham, and we see no issue with this.
39. It was put to him that the words in Mr. Steeds' Brief of Evidence were composed by him and were not what Mr. Steed said. He acknowledged that and agreed "it was a bad choice of words' on his part.
40. Mr. Steed spoke to us briefly and told us about the texts he received from Eddie Bellas. He said he knew of Mr. Bellas, and he did offer to support to Mr. Bellas' victim who worked for him at the time. He did not respond to the texts but did find them threatening and he made a complaint to the local Police.
41. He had not heard back from the Police as to whether they followed up the complaint or not.

### **MOoH Evidence**

42. Mrs. Antrobus confirmed that the MOoH did not oppose the application.

### **The Law**

43. Section 3 of the Act states the purpose of the Act as follows:

- (1) *The purpose of Parts 1 and 3 and the schedules of this Act is, for the benefit of the community as a whole, –*
  - (a) *to put in place a new system of control over the sale and supply of alcohol,*

- with the characteristics stated in subsection (2); and*
  - (b) *to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.*
- (2) *The characteristics of the new system are that–*
- (a) It is reasonable; and*
  - (b) Its administration helps to achieve the object of this Act.*

44. Section 4 states the object of the Act as follows:

- (1) *The object of this Act is that –*
- (a) The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and*
  - (b) The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.*
- (2) *For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes –*
- (a) Any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
  - (b) Any harm to society generally or the community, directly or indirectly caused, or directly and indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).*

45. Sections 131/132 of the Act provides the criteria that the licensing committee must have regard to in deciding whether to approve the renewal of a licence:

**131 Criteria for renewal**

- (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 section 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 section 129;*
  - (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*

The clauses in 105 that we must consider are:

**105 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 this 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 proposes to sell*

*alcohol:*

*(e)the design and layout of any proposed premises:*

*(f)whether the applicant is engaged in, or proposes 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 proposes 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).....*

*(i).....*

*(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 [section 103](#).*

### **Section 105(1)(a) The Object of the Act**

46. Section 105(1)(a) of the Act requires that the licensing committee must have regard to the Object of the Act and in particular that the sale, supply and consumption of alcohol should be undertaken safely and responsibility.
47. Similarly, we must ensure that our administration of the Act is reasonable and contributes to the achievement of the Object of the Act **and** benefits the community as a whole.
48. We will assess the other criteria before returning to decide whether the Object of the Act can be achieved by the renewal of this licence.

### **Section 105(1)(b) Suitability of the Applicant**

49. The applicant must be a suitable entity to hold an ON Licence. Suitability is not established in a vacuum, it is based on proven performance and properly dealing with challenges that occur from time to time, especially in late night taverns and hotels.
50. On the positive side it is clear that Mr. Bellas has 'turned' this hotel around and it is now a popular well regarded establishment. Mr. Bellas is involved in a number of voluntary and community roles and had a large number of supporters in the gallery at this hearing.
51. We often conduct hearing like this in complete anonymity from the public. It was not the case for this hearing.
52. There was no evidence of a poorly run hotel or complaints about intoxication or unruly behaviour at the Awanui Hotel. During our site visit before the



hearing, it was encouraging to see staff busy in the kitchen prepping the ingredients for the meals on offer. The provision of tasty substantive meals is an attribute of a good establishment.

53. On the dark side, the car crash and the domestic assaults bring no credit to Mr. Bellas at all. He must be acutely aware now of the blot on his copybook and the time and expense he has had to go through because of those matters.
54. Even though we do not accept his version of events around the car crash we do accept his remorse and understanding that he should have handled both incidents a whole lot better.

#### **Section 105(1)(c) Relevant Local Alcohol Policy**

55. There is no Local Alcohol Policy (LAP) in the Far North. There is nothing for us to consider.

#### **Section 105(1)(d) The days and hours of operation of the licence**

56. The current operating days and hours are **Monday to Sunday 10.00am to 1.00am and 8.00am to 1.00am in the Garden Bar and** are within the default national maximum trading hours for ON licences.

#### **Section 105(1)(e) The design and layout of any proposed premises**

57. There are no obvious issues with the design and layout of the premises other than we did note that there are distinct areas that cannot be managed by one manager at all times due to the layout of the premises.
58. We note that there are several certificated managers appointed to the premises.

#### **Section 105(1)(f) Whether the applicant is engaged in or proposes 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;**

59. No 'other' goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food are sold on the premises.

#### **Section 105(1)(g) Whether the applicant is engaged in or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, and food, and if so, which services.**

60. The venue is often used for functions and major events.

**Section 105(1)(j) Whether the applicant has appropriate systems, staff, and training to comply with the law.**

61. The applicant advises that there are six staff with manager's certificates appointed to the business and another nine staff hold various roles at the hotel.

62. We discussed security staff with Mr. Bellas who advised he has two COA qualified door staff and 4 other non-qualified individuals who help out on big events. We reminded him of the provisions of the Private Security Personnel and Private Investigators Act 2010 that prescribes that only COA qualified staff can be engaged on doorman and security duties.

**Section 105(1)(k) Any matters dealt with in any report of the Police, an Inspector and the Medical Officer of Health under Section 129**

63. The Police submitted a final report that did not oppose the renewal.

64. The Medical Officer of Health has no matters in opposition.

65. The Inspector correctly reported in opposition in regard to the two incidents that we have heard about today.

66. The incidents weigh negatively against Mr. Bellas and will be taken into account when we do our overall assessment of his suitability.

**Reasons for the Decision**

67. Section 3 of the Act requires us to act reasonably in the exercise of our duties and to regulate with the aim of helping to achieve the Object of the Act.

68. We note that there are no matters in opposition formally raised by the MOoH or the Police. The Inspector has opposed the renewal, believing that Mr. Bellas has fatally impugned his suitability and therefore as the alter ego of the company, it is unsuitable to be granted a renewal of licence.

69. As we have stated in the introduction to this decision it is the task of the DLC to review the previous three years of operation at renewal time. Due to the delays in getting this renewal to hearing we are actually reviewing the last 5 years of operation of the Awanui Hotel.

70. On any particular matter this could be advantageous, or detrimental, to the outcome. In this case it is to Mr. Bellas' advantage that he has had 2 years of 'clear' operation both at the hotel and in his private life.
71. There is no guaranteed right of renewal. To hold an alcohol licence is a privilege not a right. A fresh assessment of suitability and being 'fit for purpose' is required at every renewal.
72. By a slim margin we have decided that the Object of the Act can be met, and we approve a renewal of the licence with a refreshed suite of conditions not materially different from the existing ones. We have rationalised the condition/s around noise and activities in the marquee.
73. Mr. Bellas must remain under no illusion that this decision could have gone either way and he will remain on a heightened level of scrutiny for some time to come.
74. The licence will expire in 9 months' time and a further evaluation will be conducted by the agencies and the DLC. We are sure Mr. Bellas knows what is expected of him. Only time will tell.

### **The Decision**

The District Licensing Committee, acting pursuant to the Sale and Supply of Alcohol Act 2012, **approves** an application by **E R BELLAS LIMITED** for the renewal of an ON Licence in respect of premises situated at 50 State Highway One, Awanui known as the "**Awanui Hotel**" on refreshed conditions.

The Licence is renewed for three (3) years from **30<sup>th</sup> April 2022** subject to the following conditions and a Replacement Licence is to be issued.

1. Alcohol may be sold or supplied for consumption on the premises only on the following days and hours **Monday to Sunday 10.00am to 1.00am the following day and 8.00am to 1.00am the following day in the Garden Bar**
2. No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1pm on Anzac Day to any person other than a person who is present on the premises to dine.
3. The following parts of the premises are designated as **Supervised Areas: The whole of the premises other than the Garden Bar remains undesignated.**

4. Drinking water is to be provided to patrons, free of charge, from a water supply prominently situated on the premises.
5. The Licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages,
6. Food must be available for consumption on the premises at all times the premises are open for the sale and supply of alcohol, in accordance with the sample menu supplied with the application for this licence or menu variations of a similar range and standard. Menus must be visible, and food should be actively promoted,
7. A properly appointed certificated or Acting or Temporary Manager must be on duty at all times when the premises are open for the sale and supply of alcohol, and their full name must be on a sign prominently displayed-in the premises,
8. The Licensee must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises,
9. The Licensee must display:
  - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
  - b. At the principal entrance to the premises, so as to be easily read by people immediately outside the premises, a sign stating the ordinary hours of business during which the premises will be open for sale of alcohol;
  - c. A copy of the licence is attached to the premises so as to be easily read by persons attending the premises.
10. No music is to be played in the garden bar area after 9.00pm. Any event triggering an Alcohol Management Plan (AMP) i.e. over 400 patrons, shall be conducted by way of a Special licence.

**DATED** at Kaitaia this 4<sup>th</sup> day of August 2024

A handwritten signature in black ink, appearing to be 'A. J. ...', written over a horizontal line.

Murray Clearwater  
Commissioner  
For the Far North District Licensing Committee

**NOTE**

**Sections 152 to 155 of the Act relating to the right to appeal this decision are in effect.**

**This decision has no effect for ten working days from the date on which a copy this decision is given to the Inspector.**