

Decision No: 45/055/2024

Reference: CL731

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

**AND**

**IN THE MATTER OF** An application by **Paraparaumu Beach Golf Club Incorporated** under section 127 (2) of the Sale and Supply of Alcohol Act 2012 for the renewal of a Club Licence in respect of premises situated at 376 Kapiti Road, Paraparaumu, and to be known as Paraparaumu Beach Golf Club (**PBGC**)

**BEFORE THE KAPITI COAST DISTRICT LICENSING COMMITTEE**

**Chair:** Mr Nigel Wilson

**Members:** Mrs Jackie Elliott

Mr Bede Laracy

**HEARING** at Kapiti Coast District Council offices, Paraparaumu, on Wednesday 4 December 2024.

**APPEARANCES**

**Objector:**

**Mr David James**

**Ms Sam Hunt** (In support of Mr James)

**Applicant:**

**Mr Gregory McCardle – BMC Lawyers**

**Mr Glen Mitchell – President, PBGC**

**Mr Dylan Higgins – General Manager, PBGC**

**Reporting Agencies:**

**Katherine McLellan** – Chief Alcohol Licensing Inspector (Ms McLellan appeared on behalf of Licensing Inspector Antionette Bliss who wrote the Report)

**Shane Benge** – Senior Sergeant

**Hayley Carter** – Witness for the Licensing Inspector

All those appearing were sworn in.

**Written Evidence was provided from:**

Golf Wellington Board Chair, **Peter Gapes**;

PBGC Administration Manager, **Scott McGufficke**;

**David James**;

Licensing Inspector, **Antoinette Bliss**;

PBGC General Manager, **Dylan Higgins**;

Golf Wellington General Manager, **Steve Weir**;

Director/Lawyer of BMC Lawyers, **Greg McCardle**;

PBGC President, **Glen Mitchell**;

Chief Alcohol Licensing Inspector, **Katherine McLellan**;

PBGC Food and Beverage Manager, **Hayley Carter**;

PBGC Acting General Manager, **Nigel Blair**.

**Video Evidence was provided from:**

Paraparaumu Beach Golf Club

**INTRODUCTION**

1. This is a hearing for an application pursuant to section 127 (2) of the Sale and Supply of Alcohol Act 2012 by **Paraparaumu Beach Golf Club Incorporated** for the renewal of a Club Licence for premises situated at 376 Kapiti Road, Paraparaumu, and to be known as Paraparaumu Beach Golf Club (**PBGC**)

## **THE APPLICATION**

2. A copy of the application (7 August 2024) was forwarded to the reporting agencies and the Licensing Inspector. The Licence expired on 8 August 2024 but has remained valid as the application for renewal was filed prior to this date. The applicant had not sought any variation to the conditions of the licence.
3. The application was publicly notified and the District Licensing Committee Secretariat received one objection to the application, in accordance with section 102 of the Sale and Supply of Alcohol Act 2012, from Mr David James.
4. The District Licensing Committee received the Application and the Inspector's Report along with the notice of Objection from Mr James.
5. Having considered the objection to the renewal of the licence from Mr James, along with the serious issues raised in the Inspector's Report (16 October 2024) and the further recommendation of the Inspector (Page 13 of the report) the District Licensing Committee considered there was sufficient evidence presented that a Hearing was required to determine if a licence renewal should be granted.
6. The District Licensing Committee were of the view there were two separate issues in play – namely the evidence of Mr James with its specific focus; and the evidence contained in the Inspector's Report that highlighted a number of issues that directly called into question the suitability of the Applicant to hold a licence.

## **BACKGROUND**

7. Mr James, a member of the PBGC (until recently), objected on the grounds the PBGC had breached its obligations of Host Responsibility.
8. The Inspector raised several areas of process deficiency in the general operations of the PBGC in relation to alcohol, to warrant a hearing.
9. The Paraparaumu Beach Golf Club was established in 1949. The applicant has held an alcohol licence on the premises since at least 1992. In 2001 resource consent and building consents were granted for alterations to the clubhouse and to upgrade of the course. PBGC is an Incorporated Society.
10. The general nature of the premises is that of a sporting club, the principal business being participation in, and promotion of, sport (golf) otherwise than for gain.
11. The café is open from 9am daily and alcohol can be served from 10am.

12. The applicant also hires out the club's facilities for weddings and other functions requiring three Special Licences to be issued in the last three years.

13. The club has a total of 733 members, including social members, with 71 being under the age of 18 years of age. Therefore, the club is risk ranked as a Class 2 club with associated cost/risk ranking of Low under sections 5 to 7 of the Sale and Supply of Alcohol (Fees) Regulations 2013.

## HEARING

**Note:** The Hearing was conducted under the rules of new legislation that do not allow for cross examination

## APPLICANT'S EVIDENCE IN CHIEF

14. Mr McCardle opened for the applicant. He told the hearing the Bar Licence was essential to the survival of the PBGC. He said the Club had operated in compliance of the Act for the 29 years it has held an alcohol licence.

15. Mr McCardle said there were no areas of concern in relation to the Inspector's Report (pg 4) regarding the incident register as there had been no incidents to report on.

16. Mr McCardle expressed the view that the September meeting with the Inspector had resolved any issues of concern. He stated the two incident reports tabled (in written evidence from Ms Carter) were examples of normal reporting.

17. Mr McCardle said the PBGC submits that it has appropriate processes in place to be compliant with the Act.

18. A point of contention relating to evidence from Mr James related to the size of a golf trophy that was used as a drinking vessel which was claimed to be in excess of 500ml.

### ***254 Sales of spirit in vessel exceeding 500ml***

(1)

*The licensee or a manager of any licensed premises, or an employee of the licensee, who sells or supplies any spirit to any person, for consumption on the licensed premises, in a vessel exceeding 500 ml commits an offence.*

(2)

*A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.*

*(3)*

*Subsection (1) does not apply to the sale or supply of any spirit to a person who is a lodger on the licensed premises for consumption in the part of the licensed premises in which that person lodges.*

In reference to section 254 of the Act: Mr McCardle said the vessel was close to 500ml but contended it did not breach the Act.

19. Mr McCardle then addressed the PBGC response to the written evidence of the objector Mr James.

20. Mr McCardle said the basis of Mr James' evidence was that he was intoxicated, and the club had breached its host responsibility by allowing him to be served alcohol. Mr McCardle refuted that claim and stated the club complied with section 252 of the Act.

### ***252 Allowing intoxication on licensed premises***

*(1)*

*The licensee or a manager of any licensed premises who allows an intoxicated person to be or remain on the licensed premises commits an offence.*

*(2)*

*A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$5,000.*

*(3)*

*It is a defence to a charge under subsection (1) if the defendant satisfies the court that, as soon as the defendant or any employee of the licensee became aware of the situation, reasonable steps were taken in respect of the intoxicated person concerned, either—*

*(a)*

*to take the person to a place of safety on the licensed premises; or*

*(b)*

*to remove the person from the licensed premises.*

21. Mr McCardle stated the complainant (Mr James) was in a conflicted position as he had received a two-year suspension from the club. Mr McCardle contended that Mr James' objection to the renewal of the club's licence was retaliatory.

22. Mr McCardle said a \$1,000 bar tab had been provided by the club to cover drinks and food for about 50 patrons who were there to celebrate the club winning a golf trophy (the vessel referred to in 18. above).

23. Mr McCardle said the video evidence showed that Mr James was not intoxicated at a time when he (Mr James) had claimed he was.

24. The Hearing watched the three videos supplied by PBGC (the first two - 1 to 2 minutes each) which covered Mr James' speech. This was at 7pm. The third video of just a few seconds was at 8.15pm and provided no discernible evidence.

**NOTE:** The Committee noted at the 7pm video there appeared to be about 20 patrons in attendance.

25. Mr McCardle said that while the complainant alleges an intoxicated state influenced his behaviour, the complaints received related to behaviour when the complainant was sober. He said the report had outlined the bad behaviour including 'tossing the cup over his shoulder.'

26. Mr McCardle said the evidence given against the PBGC was not verified by anyone other than Mr James.

## **INSPECTOR EVIDENCE IN CHIEF**

27. Ms McLellan's submission was on behalf of the Licensing Inspector's Report (the Report) authored by Licensing Inspector Antionette Bliss. Primary points of note from the Report were:

28. The Inspector (Ms Bliss) raised a number of concerns that were not directly related to Mr James specific complaint but focussed on processes the PBGC used, or did not use, related to its role as licensee under the Act.

29. Ms McLellan's submission stated in the Report the Inspector concluded that, at the time of her inquiry into the application, proof of having "appropriate systems, staff and training to comply with the law" (section 105(j) of the Act) had not been provided.

30. The Report raised a concern that at the 8 August 2024 monitoring Inspection PBGC had not maintained an incident register. It also noted the record of staff training for duty managers and staff working behind the bar was not maintained.

31. The Licensing Inspector had requested that NZ Police, Paraparaumu complete an inspection at the Club on Saturday 13 August 2024 when a Club event was to occur. NZ Police were not able to attend due to other work priorities.

32. The Inspector met with Scott McGufficke (Administration Manager), Nigel Blair (Interim General Manager) and Glen Mitchell (PBGC President)

on 14 August 2024 to discuss issues relation to the Club's licence which included - Quote from the Report:

- *I spoke about the complaint received and indicated we would be investigating further.*
- *The objection process, if we received any objections.*
- *We spoke about staff training and systems that are required to be in place.*
- *The Club's constitution and around members of the public being allowed to consume alcohol.*
- *Special licences and when they are required.*

33. The Report stated the Club's licence renewal application was submitted on 7 August 2024 and was incomplete and required follow up. The Act requires applications to be submitted 20 working days prior to the expiry date. The Club were issued multiple reminders from Council staff.

34. In reference to the incident of 11 May 2024, the Inspector met (on 27 September 2024) with Hayley Carter who was on duty that night. Ms Carter was not a certified Duty Manager at the time of the incident. Ms Carter stated she had cut off one member who was intoxicated and slowed service on another. The Inspector advised Ms Carter the licence conditions require that the person who had been cut off should have been safely removed from the premises.

35. The report also considered the incident of the 10 shots of vodka served in the trophy and cited section 254 of the Act:

### ***254 Sales of spirit in vessel exceeding 500ml***

*(1)*

*The licensee or a manager of any licensed premises, or an employee of the licensee, who sells or supplies any spirit to any person, for consumption on the licensed premises, in a vessel exceeding 500 ml commits an offence.*

*(2)*

*A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$2,000.*

*(3)*

*Subsection (1) does not apply to the sale or supply of any spirit to a person who is a lodger on the licensed premises for consumption in the part of the licensed premises in which that person lodges.*

On 1 October 2024 the Inspector asked GM Dylan Higgins to provide comment on the serve size that was poured within the vessel. The responses showed the shot glass size was 60ml. Mr Higgins thought the serve was not over 500ml but close. In response to the question 'Was the duty manager

aware that serving something over 500mls was not permitted?' the answer was 'not directly, no'.

The Report states the Inspector's view that this 'Shows a need for further staff training in the area. Also shows a need to have key golf club figures understand the Act, as it applies to them as well.'

36. The Inspector's conclusion (16 October 2024) stated: 'Given the evidence discussed above I am unable to conclude at this stage that there are suitable measures being undertaken to ensure the responsible sale and supply of alcohol, and that harm will be minimised.'

37. Under Suitability of the Applicant, the Inspector's Report states the applicant needs to demonstrate their suitability to continue to operate licensed premises.

38. Further, the Report stated 'After review of the application, supporting information and discussions with the applicant, in my opinion the applicant has not yet demonstrated that there are appropriate systems, staff and training in place to meet the requirements of the Act.'

39. The Inspector's Report concluded with a request that the District Licensing Committee determine this application via a hearing.

#### **EVIDENCE FROM WITNESS HAYLEY CARTER**

40. Ms Carter was presented by the Inspector as a Witness to assist the Committee in gaining an understanding of what happened on the night of 11 May 2024. Ms Carter is currently the Food and Beverage Manager at the Club.

41. Ms Carter was working in the kitchen and behind the bar on the night of 11 May 2024 and has since been appointed as a duty manager at the club and has held a manager's licence since 19 July 2024.

42. Ms Carter's evidence is she was not overly concerned by the amount of alcohol being consumed by anyone, including Mr James. She did stop serving a club member and said at about 8pm Mr James left the club of his own accord. She believed he was on his way to becoming intoxicated and she would not have served him any more alcohol if he had come to the bar and had told Brooke (also working the bar) not to serve him anymore alcohol.

43. In relation to serving alcohol in the trophy cup Ms Carter said she was asked to fill the cup with 10 shots of vodka and tonic. She said she was not comfortable doing that and said she had not gained the Licence Controller Qualification at that stage and was not aware it was an offence to sell spirits in a vessel exceeding 500mls.



## OBJECTOR EVIDENCE IN CHIEF

44. Mr James objected to the renewal of the Club Licence for PBGC on the grounds that they have breached their obligations under the requirements of Host Responsibility.

45. Mr James objection was in accordance with section 128 of the Act.

46. The themes raised in the objection are:

- The object of the Act
- The manner in which the applicant has sold (or, as the case may be, sold and supplied) displayed, advertised, or promoted alcohol.
- Whether the applicant has appropriate systems, staff, and training to comply with the law.

47. Mr James said the statements from Ms Carter were contradictory in that he was said to be sober, but it was also claimed that he was sufficiently intoxicated that he would not have been served any more alcohol had he requested it.

48. Mr James said on the night in question (11 May) Ms Carter was not a certified duty manager and the club did not have a duty manager at the club.

49. Mr James said the bar manager says she could not remember the details but later wrote them in a diary entry.

50. Mr James noted the Inspector's Report stated a hearing was required.

51. Mr James corrected a statement made earlier that a guest had been intoxicated and was cut off, when he said the person described as his guest was a member of the club. Mr James contended that the club was in breach of host responsibility as the person was allowed to stay in the club after the decision was made to stop serving him alcohol.

52. Mr James said he could not recall drinking from the Trophy Cup.

53. He considered Mr Higgins' statements unreliable as he was not there at the time. He disputed Mr Higgins comments on serving sizes as he was not the manager at the time or working at the club.

54. Mr James mentioned the comment made by Ms Carter in relation to adding extra drinks on to the bar tab that had not been consumed. He said this was surely not legal or fair and they had paid for drinks they did not get.

55. At the core of Mr James' evidence was the assertion his behaviour that night (11 May) which led to his two-year suspension from the club was a

result of him being intoxicated and that PBGC was in breach of the Act for serving him alcohol when he was intoxicated.

## QUESTIONS FROM THE COMMITTEE

56. The Chair acknowledged that while Senior Sergeant Shane Bengé was not giving direct evidence for Police he was available to assist the Committee with any questions they may have.

57. Committee member Laracy raised a question in reference to Mr James' evidence that a team manager had lost their licence in March 2014 as a result of a drink driving charge after leaving the club. Snr Sgt Bengé said that information was not available. Snr Sgt Bengé said this had not been raised as a concern.

58. Snr Sgt Bengé said he had concerns about there having been no Special Licence applications by PBGC in 2022 when a licence would have been appropriate. Snr Sgt Bengé said the onus was on the Inspectorate and the Club to have a clear understanding of the Act.

59. Asked by the Committee for a general overview in addressing some of the issues raised Snr Sgt Bengé offered the following; He said shots in a vessel is not responsible drinking and would like the Club to address this. He said the Club is now aware of the need to apply for Special Licences when they are appropriate. Snr Sgt Bengé questioned the quality of staff training beyond LQC, including the recognition of degrees of intoxication. He would like to see a reference to no shots as a condition.

60. Mr Laracy asked the Inspector for a view about the recording of incidents at the Club. Ms McLellan said she has worked with the Club and believed the club was now aware of its responsibility to have all incidents properly recorded.

61. Mr Laracy asked if incidents such as the alleged sexual harassment were discussed at regular health and safety meetings. Mr Higgins responded that had not been the case but under the new policy they will be.

62. Mr Laracy asked Mr Mitchell to clarify his statement (in written submission) *"In consultation with the Duty Manager, who had earlier been sexually harassed by David, we closed the bar with final tabs being settled by approximately 8.15pm at which time we left the premises."* Mr Mitchell said that was an error as there was no duty manager on the premises. He said he had not witnessed any sexual harassment and Ms Carter did not want it taken further.

63. Mr Laracy asked if the incident was recorded in the Incident Register. The answer was no, it was not logged.

64. Mr Laracy noted Mr James had requested a copy of the Club's Host Responsibility Policy, and Mr Mitchell replied that it had not been provided.

65. Mr Laracy asked if the diary entry constituted a sufficient record of what was considered a serious incident. Mr Mitchell replied no, probably not – we would need to tighten that up. Mr McCardle added the Club has since engaged a Human Resources company to assist.

66. Committee Member Elliott noted the discrepancy between Ms Carter who stated there were 10 shots of vodka and Mr Mitchell whose written submission said there were 16 shots of vodka. For PBGC Mr McCardle Mr Mitchell had been going on hearsay and the actual figure was recorded on the Bar Till as 10.

67. Ms Elliott asked how many patrons were in attendance at the time of the trophy presentation. Mr Mitchell said at the outset at 5.30pm there were about 50 people and the initial \$1,000 bar tab had been consumed by 7.15pm.

68. Ms Elliott noted the Club record showed the cut off for the member who was refused any more alcohol happened at 6pm which suggested he had already consumed alcohol before arriving at the PBGC and was there an acceptance of excess alcohol use at the Club. Mr Mitchell said no, not at all, the Club has a good record and it is not a drinking club.

69. Ms Elliott asked about the photo in evidence from the Inspector's Report that showed the trophy and the quantity was 60ml shot glasses times 10. Mr Mitchell said those photos were not from the night and had been taken by Wellington Golf to demonstrate the capacity of the cup. Further, Mr Mitchell said the cup was divided into two pours as it did not have the capacity to contain the vodka and tonic. Mr Higgins said there had since been discussions with the Club to put processes in place to better deal with these issues.

70. Ms Elliott asked Mr Higgins how could the club ensure a duty manager is either on site or available if required. (Noting the requirements under section 215 of the Act.)

### ***215 Circumstances where section 214 does not apply***

*(1)*

*The requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to—*

*(a)*

*premises for which a club licence is held; or*

(b)  
*premises for which an on-licence endorsed under [section 37](#) is held; or*

(c)  
*premises for which an off-licence endorsed under [section 40](#) is held; or*

(d)  
*premises for which an off-licence but no on-licence is held where fruit or vegetable wine or grape wine is made; or*

(e)  
*premises for which an off-licence but no on-licence is held that are situated on land from which there is harvested produce from which fruit or vegetable wine or grape wine is made.*

(2)  
*At any time, the requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to any premises for which both an off-licence and an on-licence are held if—*

(a)  
*the premises are—*

(i)  
*premises where fruit or vegetable wine or grape wine is made; or*

(ii)  
*premises situated on land from which there is harvested produce from which fruit or vegetable wine or grape wine is made; and*

(b)  
*at that time no alcohol is being sold or supplied to the public for consumption on the premises.*

(3)  
*A manager in respect of those premises is only required to be on duty if it is a condition of the licence or a condition of the endorsement of the licence and only for the days and times that may be specified.*

(4)  
*If it is a condition of the licence or the endorsement of the licence that a manager be on duty at any particular time, [section 214\(2\) to \(4\)](#) applies to a manager of the premises when he or she is on duty.*

71. Mr Higgins responded that he wasn't employed at the time and the two duty managers who were off site were Matthew Goring and Leo Barber. Mr Higgins said he was employed by the PBGC to sharpen up these processes and had been there since September (2024).

72. Mr Laracy referred to sections 214 and 215 of the Act, noting the Club's obligation to ensure legislative requirements were met. Mr Higgins responded that a current condition on the licence is the requirement to have a duty manager on Friday and Saturday.

73. Snr Sgt Benge also responded that he would assume that for a licensed premise such as a golf club with the Club's volume, would it be standard practice to have a duty manager on at all times. Sgt Benge said in high-risk events there should be a duty manager at all times.

74. Mr Higgins said in his new role as General Manager he is addressing all processes, and the plan is to have a duty manager at all times.

75. Ms Elliott asked Ms Carter who the duty manager was on 11 May 2024. Ms Carter said it was Leo Barber who was not at the Club. Ms Carter said the process now is the duty manager would be on the premises at all times alcohol is being sold.

76. Ms Elliott asked if the bar would shut down if none of the duty managers were available. Mr Higgins said he was not aware that has happened but said in that circumstance the bar would be shut down.

77. Ms Elliott asked if the person accused of sexual harassment had been asked to leave the club and was the duty manager informed of the incident. Ms Carter said the person was not asked to leave and the duty manager was not informed.

78. Ms Elliott asked if the accused person was continued to be served alcohol after the allegation was made. Ms Carter said she was not sure of the timing.

79. Ms Elliott asked what actions were taken to ensure the intoxicated person who had been cut off had safe transport away from the venue. Ms Carter said she had no idea. Mr Higgins added there was a taxi number clearly displayed and better policy around this would be beneficial.

#### **CLOSING STATEMENTS - OBJECTOR**

80. In his closing statement Mr James said any unacceptable behaviour from him on the night of 11 May was due to a lack of host responsibility on the part of the club for serving him to the point of intoxication.

81. Mr James said there were between 20 and 25 people at the Club and not 50 as claimed by the Club. He said the \$1,400 bar spend was between 25 people which included five under the age of 18 who were not drinking.

82. Mr James said there was a history of incidents at the Club over 30 years. He said it was his personal experience that a DIC happened after a member left the Club and nothing happened to that member at the Club. He said a committee member has crashed a golf cart while intoxicated and there were no consequences for him.

83. Mr James said he wanted to see change at the Club for the better.

84. Mr James said the allegation of sexual harassment is a serious matter and if it happened why weren't the Police involved.

#### **CLOSING STATEMENTS – LICENSING INSPECTOR**

85. In her closing statement Ms McLellan said Mr James had raised a number of relevant points. She said for her the primary focus is; does the Club now have awareness of its responsibilities under the Act.

86. Ms McLellan was of the view that a truncated licence renewal period would be appropriate.

#### **CLOSING STATEMENTS – APPLICANT**

87. Mr McCardle said the PBGC had taken significant learnings from this process and are instituting policies and procedures to ensure compliance with the Act.

88. Mr McCardle said the Club management had reached out to Snr Sgt Bengé in instituting regulations – he said this was initiated by the Club and that should be noted.

89. Mr McCardle said the shots of alcohol into the vessel issue had been discussed and the Club was happy to institute a policy of no shots.

90. In reference to a person refused service Mr McCardle said the person was not actually intoxicated but, on his way, and cited section 252 of the Act and that the Club had taken reasonable steps to ensure the safety of the person involved.

#### ***252 Allowing intoxication on licensed premises***

*(1)*

*The licensee or a manager of any licensed premises who allows an intoxicated person to be or remain on the licensed premises commits an offence.*

*(2)*

*A person who commits an offence against subsection (1) is liable on conviction to a fine of not more than \$5,000.*

*(3)*

*It is a defence to a charge under subsection (1) if the defendant satisfies the court that, as soon as the defendant or any employee of the licensee became aware of the situation, reasonable steps were taken in respect of the intoxicated person concerned, either—*

*(a)*

*to take the person to a place of safety on the licensed premises; or*

*(b)*

*to remove the person from the licensed premises.*

91. In respect of the absence of applications for Special Licences by the Club in 2022, Mr McCardle offered it being the post-covid period as being a possible explanation.

92. Mr McCardle said the Club was happy to take on board the recommendations offered by the reporting agencies and said there was a willingness to collaborate with the agencies.

93. Mr McCardle said removing the Licence would have a significant impact on the Club and the Club Committee.

94. In reference to the statement made by Mr James that the Club had breached its host responsibility by serving him to the point of intoxication, Mr McCardle said the video showed no clear signs of intoxication on the part of Mr James.

#### **CLOSING FROM THE DLC CHAIR**

95. The Chair thanked the participants for the respectful way they had dealt with the Committee and each other during the Hearing.

96. The Chair said the Decision is reserved and would be communicated to the parties at a later date – expected to be within four weeks of the Hearing.

#### **COMMITTEE'S CONCLUSION**

97. The Committee considered the written evidence/statements/responses presented by the PBGC in its application; and, from PBGC Administration Manager Scott McGufficke, and from David James, and from Licensing Inspector Antionette Bliss, and from PBGC General Manager Dylan Higgins, and from Golf Wellington General Manager Steve Weir, and from Greg McCardle - Director/Lawyer of BMC Lawyers, and from PBGC President Glen Mitchell, and from Golf Wellington Board Chair Peter Gapes, and from Chief Alcohol Licensing Inspector Katherine McLellan, and from PBGC Food and Beverage Manager Hayley Carter, and from PBGC Acting General Manager Nigel Blair.

98. The Committee noted that much of the evidence and correspondence focussed on the actions of Mr James, and particularly on the events of 11 May 2024. However, the Committee considered much of this to be of

secondary but informing consideration to the hearing which in the Committee's view would have proceeded even if Mr James had not raised an objection to the renewal of the Club Licence.

99. The Committee was overt in its statement that the hearing was not a test of Mr James' character and nor was he in any way on trial at the hearing. The Committee was of the view that the evidence and supporting documentation presented, including that of Mr James, and particularly that of Licensing Inspector Antionette Bliss, and its reasonable veracity, was sufficient for the Committee to proceed with a hearing.

100. The Committee heard of the 11 May 2024 incident in which Mr James asserted he had been intoxicated and the Club, in allowing him to become intoxicated, had breached the requirements of host responsibility. The Committee viewed three video clips of the trophy presentation speeches in which Mr James was the primary speaker. The Committee are of the view that Mr James' speech was robust in its presentation and the content was clearly not designed to endear him to the Wellington Golf authorities, with a smattering of expletives included. However, while the speech itself may have been offensive to some, the Committee are of the view that Mr James did not appear to be intoxicated during the oration.

101. The events of 11 May 2024 did highlight a number of deficiencies in the PBGC processes around the safe sale and supply of alcohol. The serving of vodka shots in a vessel (trophy) may well have been a breach of the Act.

102. When it was clear there may be alcohol issues that would normally be dealt with by a certified duty manager the club had not attempted to have one present. One club member had been cut off and evidence from Ms Carter said another would not be served any more alcohol. The Act requires that a person cut off should have been safely removed from the premises but this did not happen. Also during the night there was an alleged incidence of sexual harassment of a staff member and still no duty manager was called. The Committee is of the view Ms Carter was in a position to deal with a situation which should have fallen to a certified duty manager.

103. The Inspector in her final Report on the application stated: proof of having "appropriate systems, staff and training to comply with the law" (section 105(j) of the Act) had not been provided.

104. The Report raised a concern that at the 8 August 2024 monitoring Inspection PBGC had not maintained an incident register. It also noted the record of staff training for duty managers and staff working behind the bar was not maintained.

105. The Report stated the Club's licence renewal application was submitted on 7 August 2024 and was incomplete and required follow up. The Act



requires applications to be submitted 20 working days prior to the expiry date. The Club were issued multiple reminders from Council staff.

106. The Inspector's conclusion (16 October 2024) stated: 'Given the evidence discussed above I am unable to conclude at this stage that there are suitable measures being undertaken to ensure the responsible sale and supply of alcohol, and that harm will be minimised.'

107. The Committee gave significant consideration to the Report which stated, 'After review of the application, supporting information and discussions with the applicant, in my opinion the applicant has not yet demonstrated that there are appropriate systems, staff and training in place to meet the requirements of the Act.'

108. The Committee heard from Snr Sgt Bengé who said shots in a vessel is not responsible drinking and he would like the Club to address this. He said the Club is now aware of the need to apply for Special Licences when they are appropriate. Snr Sgt Bengé questioned the quality of staff training beyond LQC, including the recognition of degrees of intoxication. He would like to see a reference to no shots as a condition.

109. In her closing statement Ms McLellan said Mr James had raised a number of relevant points. She said for her the primary focus is; does the Club now have awareness of its responsibilities under the Act.

110. The Committee also considered Ms McLellan's the view that a truncated licence renewal period would be appropriate.

111. The Committee also considered the views of the PBGC in mitigation of the concerns raised before and during the hearing.

112. Mr McCardle had said the PBGC had taken significant learnings from this process and are instituting policies and procedures to ensure compliance with the Act.

113. As asked, the Committee had noted Mr McCardle's statement that the Club management had reached out to Snr Sgt Bengé in instituting regulations – and this was initiated by the Club.

114. Mr McCardle said the shots of alcohol into the vessel issue had been discussed and the Club was happy to institute a policy of no shots.

115. In reference to a person refused service Mr McCardle said the person was not actually intoxicated but, on his way, and cited section 252 of the Act and that the Club had taken reasonable steps to ensure the safety of the person involved. The Committee considered this and was of the view the Inspector's interpretation of what should have happened was correct.

116. In reference to the statement made by Mr James that the Club had breached its host responsibility by serving him to the point of intoxication, Mr McCardle said the video showed no clear signs of intoxication on the part of Mr James and the Committee agrees.

117. The Committee has taken at face value Mr McCardle's statement that the Club was happy to take on board the recommendations offered by the reporting agencies and that there was a willingness to collaborate with the agencies.

118. It was also a consideration of the Committee the impact, eloquently put by Mr McCardle, that the PBGC has a long and storied history as one of the premier golf clubs not only in New Zealand but also internationally and removing the Licence would have a significant impact on the Club and the Club Committee, and community.

119. The Committee is of the view a special licence may have assisted on the occasion of May 11 (although it may not have been foreseen that the club would have been winners of the golf trophy which led to the celebrations in question.) Certainly, the presence of a certified Duty Manager may have positively impacted the situation.

120. While the evidence around the drinking vessel is murky there is sufficient concern about the practice itself to warrant the attention of all parties concerned.

121. The Committee noted the statements from Mr Higgins that the acknowledged deficiencies in the Club's processes in regard to the compliance with the Act were being addressed as a priority.

122. The Committee is of the view the PBGC should be given time to ensure a certified Duty Manager is present for all hours where alcohol is sold or supplied. Further the PBGC would provide the appropriate staff training of a responsible Licensee and keep an up-to-date register of incidents. The provision of no shots being served was acknowledged by the Club. The Committee is of the view the PBGC has the intention to meet these standards to the satisfaction of the reporting agencies.

**DECISION:**

123. In the matter of an application by **Paraparaumu Beach Golf Club Incorporated** under section 127 (2) of the Sale and Supply of Alcohol Act 2012, for the renewal of a Club Licence in respect of premises situated at 376 Kapiti Road, Paraparaumu, and to be known as Paraparaumu Beach Golf Club (**PBGC**), the Committee considered the application in reference to evidence and submissions from the parties (mentioned in 97. above), and to Sections 102, 105(j), 127, 128, 214, 215, 252, and 254 of the Act.

124. The District Licensing Committee hereby:

(a) Declines the application by **Paraparaumu Beach Golf Club Incorporated** under section 127 (2) of the Sale and Supply of Alcohol Act 2012 for the renewal of a Club Licence in respect of premises situated at 376 Kapiti Road, Paraparaumu for the renewal of a Club Licence for the period of three years.

(b) The Committee accepts the application by **Paraparaumu Beach Golf Club Incorporated** under section 127 (2) of the Sale and Supply of Alcohol Act 2012 for the renewal of a Club Licence in respect of premises situated at 376 Kapiti Road, Paraparaumu on the basis of a truncated period of one (1) year from the date of expiry (8 August 2024).

Dated at Paraparaumu this 24th day of December 2024.

A handwritten signature in black ink, appearing to read 'Nigel Wilson', written in a cursive style.

Nigel Wilson

Chairperson

Kapiti Coast District Licensing Committee