

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

AND

IN THE MATTER an application by
Bonnar Craig Anderson trading as Rattle
'n Hum for the renewal of an on-licence
pursuant to section 127 of the Act in
respect of premises situated at 141
Bridge Street Nelson known as Rattle n
Hum

BEFORE THE NELSON DISTRICT LICENSING COMMITTEE AT NELSON

Chairperson: Mr Bruce Fraser

Members: Mr Derek Shaw
Mr Laurie Gabites

Hearing at Nelson City Council on 4 and 5 March 2025

Decision: 21 July 2025

Appearances

Mr N Laing and Ms M Brownlee	Counsel for the applicant
A Price	Representing the Medical Officer of Health
I Jones	Licensing Inspector at Nelson City Council
Sergeant S Savage	Alcohol Harm Prevention – Nelson Bays Police

RESERVED DECISION OF THE COMMITTEE

Introduction.

1. This decision relates to an application by Mr Bonnar Craig Anderson for renewal of an on licence for premises known as Rattle 'n Hum, situated at 141 Bridge Street, Nelson (**the Premises**). The application is made pursuant to s.127 of the Sale and Supply of Alcohol Act 2012 (**SSAA/the Act**).
2. At the conclusion of the hearing the committee visited the Premises in order to obtain a better understanding of, and insight into, the Premises and some of the matters raised during the hearing. (Parties were advised of our intended visit and invited to attend.)
3. The history of Mr Anderson's on licence for the Premises can be summarised as follows:
 - First granted to Mr Anderson on 26 July 2012.
 - Renewed in 2013, for 3 years, expiring 26 July 2016.
 - Subsequent renewal (July 2016) opposed by the Police but granted following a hearing, subject to conditions, for an eighteen-month period expiring 16 January 2018.
 - Renewed 2018, and again in 2021, expiring 26 January 2024.

4. The application was forwarded to the Police, the Medical Officer of Health, and the local Licensing Inspector (jointly the **Tri Agencies**) as required by the SSAA. It was opposed by all the Tri Agencies, who each raised similar concerns, primarily associated with the suitability of the licensee.
5. The applicant and each of the Tri Agencies provided evidence (including supporting evidence) by way of statements to the Committee prior to the hearing, with the applicant also filing a reply statement.
6. Following a pre hearing application the Committee had earlier ruled that the timing of the application meant the new rules regarding the conduct of the hearing did not apply, and a cross examination of witnesses was permissible.

The Application

7. The application for renewal of the licence was filed on 17 November 2023. That was within the timeframe required by s127(2) SSAA.
8. Mr Anderson's application provided supporting information, including (but not confined to) the following particulars:
 - The application sought renewal of an on licence for premises at 141 Bridge Street, Nelson, known as Rattle 'n Hum
 - Hours sought were Monday to Sunday 0800 to 0300, a continuation of existing hours.
 - Details of three duty managers were given.
 - A menu was attached.
 - Mr Anderson lost his driver's licence in 1986 following a drink driving conviction.
 - Details of CCTV, training, and other relevant information.
 - Information regarding training and site checks.
 - Information on activities current at the time, future plans and details of plans ensure compliance with on licence requirements set out in the SSAA.

The View of the Tri Agencies

9. As noted above, the Police, the Medical Officer of Health, and the Licensing Inspector all opposed the renewal application.
10. The Police opposition was expressed by Sergeant Savage as follows:

"Police are opposing the renewal for the following reasons.

There are currently three matters from 2023 which are currently before the Alcohol Regulatory Licensing Authority (AARLA). One of the matters is a failed CPO from March 2023, the other two matters relate to allowing intoxication on their premises and occurred in April and September 2023. Agreed Summary of Facts were completed for the intoxication matters and we are now awaiting a date with ARLA.

Of concern on the night of the CPO failure there was no duty manager working at Rattle 'n Hum, the chef was the acting manager and had been doing so for nearly two months, no notification was put through from Rattle 'n Hum advising agencies of his appointment.

Two other matters that raise concern have not been referred to ARLA at this stage.

The first incident relates to a male who had been drinking at Rattle 'n Hum for around 2 hours on the evening of the 18th of September 2023. He was found 5-20 minutes after leaving Rattle 'n Hum with a severe head injury and was hospitalised, he died the following day. An investigation was held and the injuries were found to have been caused by a fall. Staff said he had been in for a 'couple of wines'. CCTV footage was viewed and showed that he consumed 5 glasses of wine and a pour of spirits at Rattle 'n Hum in his two hour period. On CCTV he appeared unsteady on his feet as he walked towards his house. He was found with the head injury approximately 400 metres from Rattle 'n Hum.

The second incident relates to an intoxicated female who was seen leaving Rattle 'n Hum at 2:42am on the 16th of September, she was assisted out by a male, once on the street she fell over and was unable to get back to her feet. After a significant period of time Police had to get a van in to give her a ride home. She was grossly intoxicated and needed assistance.

Previous offences for the same licensee occurred in 2013, 2014 and 2017, these all related to issues with intoxicated patrons being found in their premises. All three offences ended in suspensions from ARLA.”¹

11. The licensing inspector's report on the application stated:

“Management Criteria

One controlled purchase operation has targeted the premises in the last year with alcohol sales to minors occurring.

A number of other incidents have occurred this year as detailed in the police report. These give rise to questioning whether the applicant is sufficiently committed to addressing the requirements of the act and whether he fully understands his host responsibilities.

Holders of Manager's Certificates

The applicant has provided details of 3 certified managers.

Amenity and Good Order

The premises are located in the central business district in close proximity to other bars and restaurants. There have been no issues with noise, nuisance or vandalism in the area as a result of the premises holding a licence.

The amenity and good order of a locality is unlikely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence.

Public Notices and Objections

The application was advertised 17/11/23 for 15 working days on the Nelson City Council website an objection has been received.

¹ Police report dated 5 December 2023 opposing the application.

There is opposition from the New Zealand Police and Medical Officer of Health to the application. See enclosed reports.

Conclusion

Having regard to the application and the supporting information, it is considered that the sale and supply of alcohol proposed under these conditions does not meet the criteria at section 131 of the Sale and Supply of Alcohol Act 2012 and is inconsistent with purpose of the Act.

The suitability of the applicant to manage a licences premises is highly questionable. As seen in the public objection which is by his own Duty Manager (see enclosed objection). The fact that his own Duty Manager is objecting on his suitability is an indictment of his suitability.

There is no satisfactory definition of suitability. As a result, various matters have been identified in the case law as relevant, including an applicant's experience in the hospitality industry, their management ability, and personal integrity.”²

- 11.1. The inspector also noted that opposition to the application had been received from Sandy Walsh following the necessary publication of the application. That opposition was worded as follows:

“I am writing to object to the renewal of the liquor licence for Bonnar Anderson trading as Rattle ‘n Hum 141 Bridge Street Nelson. Bonnar is not a fit and well person to hold this license. In recent months he has had a failed CPO (serving minors) and 3 intoxicated people on premises. Bonnar is frequently intoxicated on his own premises and when staff try to ask him to leave he is abusive and threatens to fire them. Just a few weeks ago he was that intoxicated that 2 staff walked out and he had to work as the Duty Manager whilst intoxicated. He is living upstairs at 141 Bridge Street even though he will say he’s just staying there, I’m sure this is not ok by Nelson bylaws. The premises itself is not plumbed behind the bar and food is stored in the same area as a keg beer. He has been accused of inappropriate behaviour towards young girls that have come in and earlier in the year struck a woman whilst intoxicated on the premises. He is absolutely not fit to run a business that serves alcohol. Sandra Walsh.”³

12. The opposition from the Medical Office of Health simply said “I oppose this application based on the matter of suitability of the applicant. This relates to matters raised by the Police Alcohol Harm prevention Sergeant [Savage].”⁴
13. Fundamentally, the Tri Agencies challenged the “suitability” of the Applicant, as that term applies to the SSAA, with concerns also expressed about staff training.

The Relevant Statutory Provisions

14. An application for renewal of an on licence is made pursuant to s127 SSAA, which sets out the right to apply and the filing requirements.

² Licensing Inspector's report November 2023 opposing the application.

³ Licensing Inspector's report at page 4

⁴ Medical Officer of Health report dated 11 December 2023

15. The criteria for renewal of a licence are prescribed in s131, which states:

“(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.”*

16. The section 105 criteria required by s131(1)(a) are:

“(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:...*
- (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.”*

17. Not surprisingly, s105 requires the Committee to have regard to the “object” of the SSAA. That is set out in s4, and for current purposes is relevantly defined 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.”*

The Case for the Applicant

18. Opening the application for the applicant Mr Laing submitted that:

- the Committee should have a future focus risk assessment approach in its decision making.
- That risk of alcohol related harm should be forward looking.
- The role of the Committee was not to deter or to punish, but to assess the evidence and hear from Mr Anderson what has happened since his appearance

before ARLA and what has been done to ensure the object of the Act can be met.

- The areas of concern by the Tri agencies appeared to be suitability and systems, staff and training, and he asked the Committee to hear what Mr Anderson, with the support of Mr Crosbie, had undertaken since the 2024 appearance before ARLA.
- The Committee's task was to be satisfied that Mr Anderson "actually gets it".

Mr Anderson

19. Mr Anderson gave evidence. By consent, he read his statement of evidence dated 5 July 2024 (**BA1**), and his supplementary evidence, filed with the leave of the committee, dated 25 February 2025 (**BASupp**) (jointly "**the initial evidence**"). (Mr Anderson's evidence in reply is discussed later.)
20. Salient information in the initial evidence included:
 - An outline of Mr Anderson's experience in the hospitality industry, including starting in the industry at age 16, assistant manager of a hotel in Queenstown at age 21, purchasing a licenced bar in Gore when aged 24, and another bar the following year.
 - Advice that Mr Anderson took over Rattle 'n Hum in 2012.
 - An outline of how Mr Anderson had changed the business model including food, pool and gambling machines. Mr Anderson described the venue as "a place where locals and visitors can enjoy our atmosphere, socialise and enjoy".
21. Mr Anderson acknowledged the Tri Agencies' opposition to the application for renewal was based on suitability, systems, staff and training⁵. He responded to those concerns and it is appropriate that we record those responses in some detail.
 - 21.1. Mr Anderson began advising that (at the time the statement was prepared) his licence had been suspended (by ARLA)⁶. While accepting the suspension and penalty he went on to say that his licence had not been cancelled (as sought by the Police) and expressed the view that "*neither should the Committee be looking to do that by not renewing [his] licence*"⁷.
 - 21.2. Mr Anderson acknowledged that he had made mistakes in the past in "*not assessing and monitoring for intoxication as closely as we need to, and around ID checks of minors*". Those issues, he said, engaged their systems, and staff training, which were the areas he had looked to improve.
 - 21.3. Mr Anderson informed the Committee that he had reached out to Mr Tony Crosbie of South Island Hospitality to help review and suggest improvements. He expressed confidence that with Mr Crosbie's help "*it will keep the risk of any*

⁵ BA1 @ [6].

⁶ BA1 @ [8] and [9].

⁷ BA1 @ [9]. This statement indicates what might be regarded as a somewhat fundamental misunderstanding of the renewal process and of his rights. Renewal of a licence is not a right; it is a privilege: *Ferguson v McCullough*, Licensing Authority P915/2007, 19/9/2007 @ [29]. The applicant in each case must establish that they meet the statutory criteria regulating renewals. As the High Court has said, there is no presumption a licence will be renewed: *Medical officer of Health (Wellington Region) v Lion Liquor Retail Ltd* 2018 [NZHC]1123 @ [46(a)], approved in *Sogi Trading Ltd v Licensing Inspector Auckland City Council* [2020] NZARLA 96 @ [116(a)],

*alcohol related harm at our premises low*⁸, improving the operation of Rattle 'n Hum.

- 21.4. Details of staff and rosters were provided by Mr Anderson, along with a copy time sheet. Mr Anderson stated he was present on each day, with varied times of working. He identified the duty managers, Tracey Westland and Ms Fergusson. He outlined that he worked seven (7) days a week, and others were there when he was not working. He also identified that closing time varied, depending on those present in the premises, with typically earlier closing on Monday to Wednesday nights.
- 21.5. An induction sheet for new staff was presented in evidence, along with a copy employment agreement and house rules.
- 21.6. Mr Anderson advised that a duty manager (Anita Ferguson) had completed Typsy training and other staff were in the process of doing so. He said he personally asked questions about this as part of the induction.
- 21.7. One of the “big changes” implemented, said Mr Anderson, was to increase floor checks. He described increased monitoring for signs of influence and intoxication as “really important”⁹.
- 21.8. A “walk the floor checklist” was presented, with advice that staff are required to walk through the premises at least three times an hour looking for signs of intoxication and anyone that looked under 25. Mr Anderson commented that he had issued a direction to be on the lookout for signs of influence, to intervene early, with water freely available and food being well promoted.
- 21.9. Mr Anderson stated that a report was to be made of each walk through and given to him at the end of every shift (Thursday, Friday, Saturday nights).
- 21.10. Other incidents, e.g. disorder, were written up in an incident report, a copy of which was presented to the Committee.
- 21.11. New guidelines had, said Mr Anderson, been provided to security and to duty managers providing a clear outline of their responsibilities.
22. In his supplementary statement (BASupp), Mr Anderson spoke of the new procedures implemented following advice from Mr Crosbie and he presented copies of an extensive number of incident and observation reports, along with some more detailed reports. He described the reporting process as “having been working well”, while acknowledging “they are not perfect”¹⁰.
23. In response to his counsel Mr Anderson:
 - 23.1. addressed the Police’s stated concern that the changes suggested by Mr Crosbie were too little too late, by advising that new policies were being implemented to ensure they keep up to date with any information available.

⁸ BA1 @ [21].

⁹ BA1 @ [31].

¹⁰ BASupp @ [6].

23.2. said the licensing inspector had visited the premises once since the application was lodged, during the day. No advice about operation of the premises was given.

24. Responding to Sergeant Savage's questions:

24.1. Mr Anderson said he had approached Mr Crosbie for help just prior to a scheduled earlier hearing date in mid-2024 (that did not proceed), around the time of the ARLA hearing. He explained the time delay reaching out for help by saying that he had spent considerable time away from the premises and the venue manager at the time had not provided him with all the information about what had been happening.

24.2. Mr Anderson advised the security guidelines had been prepared by Mr Crosbie (attachment G to BA1); he had not made any changes. He noted that some of the material around checking when closing time is not correct.

24.3. Addressing the comment in document "Duty Manager 101" (BA1, attachment C), that Police should be the last resort Mr Anderson said minor incidents could be dealt with by security, but if they escalated the Police should be called

24.4. Mr Anderson said he did not mind Police visiting his premises but he did not agree with 10 or so Police visiting at one time, which he said felt like intimidation when they stood there up to 10 minutes with arms folded. He conceded that it was not always 10 Police, and agreed that perhaps around six (6). He did accept that visiting licensed premises was an essential part of the Police role.

24.5. Addressing Sergeant Savage's query regarding Mr Anderson's advice at an earlier hearing in 2016, that he had engaged Mr Crosbie to help at that time Mr Anderson said some of the training and procedures to improve the way they operated had been adopted and went on to say that changes with staff doing their job correctly was a struggle.

24.6. Responding to a question regarding improved training, Mr Anderson's view was that it was just sitting down staff when inducted and perhaps every month. Mr Anderson advised Sergeant Savage he had kept a training register. He continued by stating that training never stopped, because every day was different. In response to a question from the Chair on this point Mr Anderson acknowledged that while induction training was recorded there were no records of on-going training.

24.7. When questioned about cheap drinks being provided at the premises one evening Mr Anderson advised that he dismissed the staff person concerned.

24.8. Mr Anderson acknowledged that when he was not the on duty manager he could be drinking on the premises. He stated that he enjoyed a beer. Sometimes he was there quite late. He conceded that at times he had been drinking on the premises when Police visited and at times he had words with them. He said that often those discussions were around numbers of Police. He accepted that discussions should be between the duty manager and Police, and not him if he was not on duty.

25. In response to questions from Mr Jones, licensing inspector, Mr Anderson:
- 25.1. Confirmed that a few staff have completed Topsy training.
 - 25.2. Said changes in staff duty managers had been advised to Police.
26. In response to questions from the Committee Mr Anderson:
- 26.1. Advised a SCAB card on the cash register was used to deal with (identifying) intoxication.
 - 26.2. Advised that patrons were checked for underage against the relevant date minus 18 years.
 - 26.3. Offered no information regarding staff training sessions.
 - 26.4. Confirmed Rattle n Hum offered a happy hour from 4pm to 6pm to look after patrons.
 - 26.5. Said individual performance evaluation related to responses to each night's events. There was no regular performance review where Mr Anderson sat down with staff.
 - 26.6. Expressed the belief Sandra Walsh objected to the licence renewal (referred to in the Inspector's report and quoted at [11.1]) because he had banned her son.
 - 26.7. Advised that the business was on the market. He expressed concern at the Tri Agencies opposition to a temporary authority when an agreement to sell had been secured and said the agreement ended at that point. Mr Anderson claimed in his evidence that the letter regarding opposition was sent to the proposed buyers by the Inspector and Sergeant Savage was so damning that they withdrew.
 - 26.8. Stated the incident reporting did not cover the whole week, because early in the week the numbers were so small there is nothing to report. He said reporting usually starts around 6pm, when patron numbers are increasing. Staff are expected to write down incidents and report them. He indicated that as he was working everyday he keeps in touch with any incidents. He expressed his view that overall what was being done was working.
 - 26.9. Described the objection by Sandy Walsh as distressing. He nonetheless accepted that he did have a drink, and occasionally too many.
 - 26.10. Said the induction sheet is a record of the first thing that happens when staff join Rattle 'n Hum. In most cases Mr Anderson's initials appear on the form as supervisor. Induction relating to intoxication required the person to confirm they had read and understood the SCAB card.
 - 26.11. Commenting on the evidence of Constable Watson regarding the incident in which Mr Anderson stated he was knocked to the ground (see [49]), he said another employee saw what happened. Mr Anderson's recollection was he was hit after he came out of the toilet. He stated that he did not lay a charge with the Police as he could not see anything on CCTV. He did not remember talking

with Police that night. He had finished work at 6pm and he thought he had probably gone to Lone Star for dinner, as this was his usual practice.

- 26.12. Agreed that in its decision to suspend the licence ARLA had expressed concern about the way the bar operated and the Authority had put him on notice that was his last chance. He said was doing everything he could to make the bar a place where no problems occurred.
- 26.13. Stated the forms used for incident reports had been copied from Southern Hospitality, with some minor modification. They were introduced after the ARLA decision, when he contacted Tony Crosbie for help.
- 26.14. Stated that he had given instructions to staff on what he expected in terms of reporting. He did not have a specific training session with staff, but he spoke with individual staff as opportunities arose. Bar staff and duty managers are both aware of the need to report any incidents.
- 26.15. Agreed there was no reason for the boxes on some incident forms relating to Police, Fire and Labour and said he would be taking that up with his staff.
- 26.16. Confirmed that staff knew that he was to be notified if there was an incident. He advised that an incident involving Police arresting a woman in Rattle 'n Hum had started in another bar and they called Police. The arrest was made at Rattle 'n Hum but it was not recorded as an incident in the reports by staff.

Mr Crosbie

27. The next witness called in support of the application was Mr Tony Crosbie. Mr Crosbie had earlier provided a brief of evidence dated 5 July 2024 (TC1) and supplementary evidence dated 25 February 2025 (TC2). We found Mr Crosbie a helpful and credible witness.
28. Mr Crosbie advised that Mr Anderson had reached out to him for support. He said the ARLA decision suspending the licence had been a blow to Mr Anderson.
29. Mr Crosbie described Mr Anderson as “a good owner ... committed to working in this industry”.¹¹
30. Mr Crosbie confirmed that he had agreed to help Mr Anderson and provide him with material for use in his premises, including the following documentation, all previously tabled by Mr Anderson:
 - The general incident report.
 - A new walk the floor sweep register.
 - Duty Manager 101.
 - Security Guide.
31. Mr Crosbie stated his view that “these enhanced systems ...will make a real difference”.¹²

¹¹ TC1 @ [20].

¹² TC1 @ [29].

32. Mr Crosbie advised that he had committed to reviewing how Rattle 'n Hum was going on a quarterly basis for the next year. He elaborated by saying that would *"involve sitting down with [Mr Anderson], checking in on his systems, staff and training and making sure that he is doing all the right things"*.¹³
33. Responding to Mr Laing regarding the Police view that this was too late, Mr Crosbie said he planned to work with Mr Anderson to make improvements; he accepted there was still a need to make further improvements.
34. Mr Crosbie advised that although he had provided material to Mr Anderson he was not involved in the implementation of any training. He described his role as being there to provide information to ensure consistency.
35. When asked about helping Mr Anderson back in 2016 Mr Crosbie said that at that time he had not provided the material subsequently provided in 2024.
36. Mr Crosbie said he was there to help going forward but added this was the last time he would be doing something, it was up to Mr Anderson. Mr Crosbie expressed confidence that Mr Anderson could get it back on track.
37. Mr Crosbie said he planned to meet with Mr Anderson once a month for a period of time and let him know what he believed still needed some improvement.
38. Mr Crosbie acknowledged that although he described Mr Anderson as a good owner, there were questions to be asked when intoxicated on premises.

Ms Westland

39. Ms Westland gave evidence regarding a statement she had given to Police on 29 September 2023 regarding Mr H. who died after leaving Rattle 'n Hum.
40. We do not dwell on Ms Westland's evidence reporting regarding Mr H's visit to the bar and subsequent death on 18 September 2023. In our view the role of Rattle n Hum was inconclusive and our decision on the application does not rely on that incident.

Ms Fergusson

41. The next witness called was Ms Fergusson, who read from her statement. She confirmed she was the duty manager at Rattle 'n Hum on the evening of 10 May 2024. Ms Ferguson confirmed to the Committee:
 - 41.1. At about 12:15am on 11 May she was working and spoke with Mr Anderson as he was on his way to the bathroom.
 - 41.2. She went back to the pool table area. She said that as Mr Anderson returned to the bar area two (2) males approached and punched him without warning. She described it as an unprovoked assault, with Mr Anderson falling to the floor. She said the two males were identified and security had them leave the premises without further incident.

¹³ TC1@ [33].

- 41.3. Ms Fergusson stated she did not hear of any conversation between the males and Mr Anderson.
- 41.4. In answer to a question from Sergeant Savage Ms Fergusson confirmed the pool tables could be seen on CCTV, but not very clearly. She also confirmed she did not call Police.
42. Ms Fergusson confirmed she had not seen the males leave the bathroom. She did not see Mr Anderson enter the bathroom. She confirmed that the evidence of Constable Watson (discussed below), albeit coming from a different perspective, was not incompatible her statement.
43. Ms Fergusson confirmed that on the night before the suspension of Rattle 'n Hum's licence was due to start (pursuant to the April 2024 ARLA decision) there was a closing party at Rattle 'n Hum. She was told later in the evening that there were free drinks being offered, but she was not aware of that at the time.

Opposition Evidence

Sergeant Savage: The Police

44. Sergeant Steve Savage gave evidence in opposition in his role as Alcohol Harm Prevention Officer for Nelson Bays Police. His evidence was set out in a statement dated 9 July 2024 and provided to the committee (**SS1**). Sergeant Savage's said his duties included enquiring into and reporting on, alcohol licence applications and he confirmed that he had carried out inquiries into this application and reported, and that he opposed the application.
45. The Sergeant's evidence was that Police were concerned about the suitability of the applicant and issues relating to staff training and systems, leading Sergeant Savage to express his belief that the object of the SSAA would be compromised if the licence was renewed.
46. Sergeant Savage gave evidence relating to the death of Mr H, a patron of Rattle 'n Hum, shortly after he had left the bar in 2023, noted earlier. He also presented extensive evidence, including still photos, diagrams, a video of CCTV footage, and hospital records. As noted earlier, the committee does not propose to dwell on that evidence as ultimately, it did not factor into our decision.
47. Sergeant Savage recounted an incident involving an underage youth he found at the rear of the bar in the outside smoking area during a compliance check of Rattle 'n Hum on 27 August 2023 (some 3 months before the application for renewal was lodged). The sergeant's evidence was that neither the security person nor the duty manager were aware the person was in the bar. It appears that the person was let in by friends who opened the fire escape from the smokers' area and the sergeant's evidence was that security member and the duty manager "*were aware of the issue...and were looking at putting a switch which lit up a red light at the bar when the door was opened*".¹⁴

¹⁴ SS1 @ [38].

48. Sergeant Savage also presented evidence from the National Alcohol Harm Viewer regarding the locality and incidents. This did not factor into the committee's decision and is not canvassed in detail.

Constable Watson

49. Constable Watson, of the Nelson police gave evidence regarding from an incident on 10 May 2024, when she was working as a member of Section five Public Safety Team, Nelson Police in the central city. (This incident was the subject of Ms Fergusson's evidence discussed earlier). Constable Watson read from a statement dated 12 June 2024 (**SW1**).

Constable Watson's evidence can be summarised as follows:

- 49.1. Around 1:00am they were flagged down by the security staff at Rattle 'n Hum.
- 49.2. She initially spoke with a person involved in an argument with a security guard. That person told her he and his friends were in Rattle 'n Hum and when they went to the toilet Mr Anderson came up *"close to them and said they were gay for talking to each other whilst going to the toilet"*.¹⁵ The person said he reacted and hit Mr Anderson when the latter pushed him.
- 49.3. She subsequently spoke to Mr Anderson. The account of her interaction with Mr Anderson is concerning. Constable Watson said Mr Anderson:
- (a) *"appeared to be under the influence of alcohol"*.¹⁶
 - (b) *"was slurring his speech and was swaying from side to side"*.¹⁷
 - (c) had no idea what had happened¹⁸,
 - (d) said he had been to the toilet and was assaulted¹⁹.
 - (e) was difficult to have a conversation with and was fairly blunt towards her.²⁰
- 49.4. Mr Anderson said he could not provide CCTV footage because there was no footage inside the toilets.²¹
- 49.5. Mr Anderson confirmed to Constable Watson he did not want to take the matter any further.
50. In contrast to Mr Anderson's evidence, Constable Watson advised that a security guard told her the event happened inside the bar, near the pool tables²² and CCTV footage would be provided.²³

¹⁵ SW1 @ [10].

¹⁶ SW1 @ [13].

¹⁷ SW1 @ [14].

¹⁸ SW1 @ [15].

¹⁹ SW1 @ [16].

²⁰ SW1 @ [17].

²¹ SW1 @ [18].

²² SW1 @ [19].

²³ SW1 @ [20].

51. Mr Anderson subsequently changed his explanation and said the assault was in the pool table area where there was CCTV footage²⁴, but subsequently said footage could not be viewed by the Police as the assault happened in a blind spot'.²⁵
52. Constable Watson stated she had been policing in Nelson for almost 2 years and regularly did compliance checks on licensed premises, including Rattle 'n Hum. She said that on a number of times when visiting Rattle 'n Hum Mr Anderson was in the bar and drinking alcohol. Constable Watson also stated that she had dealt with Mr Anderson a number of times and on most occasions he was rude to her when he spoke. She advised that on one occasion Mr Anderson told her to 'F off', which she said made her feel uncomfortable. She described that as not the behaviour experienced in other bars, where there was an expectation Police would visit.
53. In his reply evidence (**BA2**) Mr Anderson's response to Constable Watson's evidence was:
- (a) As best he could recall he was assaulted (BA2 @ [9]).
- (b) He was not feeling his best but he denied he was intoxicated" (BA @ [10]).
54. The Chair of the Committee raised with the Applicant's counsel the difference in the evidence of the Applicant and of Constable Watson regarding the assault incident. The Chair also noted that the incident had occurred shortly after the ARLA decision and that might be relevant to suitability. Mr Anderson was offered an opportunity to enter the witness box again to give a response. Counsel took instructions from the Applicant, who declined to give further evidence on the point.

Rebecca Hardiman

55. At the relevant time, Ms Hardiman was a Food Act verifier with Nelson City Council charged with responsibility to ensure compliance with the Food Control Plan. Ms Hardiman read from her statement to the Police dated 25 June 2024 (**RH1**) and stated:
- 55.1. When she arrived at the premises for scheduled visit on 5 December 2023 Mr Anderson unlocked the door and let her in and he "*was immediately aggressive towards me*", alleging she was late²⁶. She checked and found a confirmation email message from him requesting the date change (to the date of the visit).
- 55.2. Mr Anderson was "*swearing and carrying on about council systems being broken*"²⁷.
- 55.3. When she asked Mr Anderson if he had paper towels (after she had washed her hands) he simply replied "nope" and subsequently threw a tea towel (which she described as "grungy") through the air towards her²⁸.

²⁴ SW1 @ [22].

²⁵ SW1 @ [24].

²⁶ RH1 @ [5].

²⁷ RH1 @ [7].

²⁸ RH1 @ [8] and [10].

- 55.4. She found record keeping to be “*minimal*”, with “*no cooling records, no staff training records, no sickness records and no real engagement with the food control plan*”²⁹.
- 55.5. She said Mr Anderson was swearing a lot, his behaviour was “quite intimidating” and after responding to a question from her about cooking a steak he said “*I think it is time for you to go*”³⁰.
- 55.6. She left the premises and had to revisit on another occasion to complete the inspection.³¹
56. Ms Hardiman told the hearing she had been in the role for nearly 3 years and Mr Anderson’s “*blatantly disrespectful behaviour and manner was the worst I have experienced*”³². Ms Hardiman expressed the view that “*it felt like he was trying to intimidate me*”³³. She confirmed the second visit was respectful and without incident.
57. In his evidence in reply Mr Anderson apologised for the way he spoke and understood Ms Hardiman was just doing her job, that he should not have spoken to her like that, he was simply frustrated. He said he was not trying to intimidate Ms Hardiman.

Constable Mitchell

58. Constable Cameron Mitchell gave evidence by audio link, in accordance with a statement dated 16 January 2024 (**GM1**).
59. Constable Mitchell was a Police Officer with twelve years experience, based in Nelson. His evidence was that:
- 59.1. He had been working on the night of 16 September 2023 when, at approximately 2:42 a.m. a “*grossly intoxicated*” female exited Rattle ‘n Hum, walked a short distance and fell over. “*Due to her level of intoxication*” she was unable to get to her feet despite attempts from an associate to help³⁴. She ended up sitting upright leaning on a pole and was arrested and taken to a place of safety at her home in Stoke.
- 59.2. He had had several dealings with Mr Anderson and told the hearing Mr Anderson was “usually in the bar drinking and on several occasions I have had less than pleasant dealings with him”.
- 59.3. While conducting bar checks previously Mr Anderson had advised him to leave his bar as Police were scarring his customers away.
60. Constable Mitchell described Mr Anderson as “*less than ideal to deal with*.”³⁵
61. In response to questions from the Committee, Constable Mitchell:

²⁹ RH1 @ [11].

³⁰ RH1 @ [12] – [14].

³¹ RH1 @ [15].

³² RH1 @ [16].

³³ RH1 @ [17].

³⁴ GM1 @ [6] – [9].

³⁵ GM1 @ [19].

- 61.1. Explained how policing worked in the central business area where the bars are located. He explained Bridge Street is the problem area of the city and regular visits to bars are important, along with a relationship with duty managers. He described Mr Anderson as less approachable than others, often stalling and not wanting Police in the premises.
- 61.2. Stated he had five (5) to six (6) direct dealings with Mr Anderson at the premises over the last few years.
- 61.3. Confirmed he was located across the road and said he had a clear view of the incident on 16 September when the female came out of the bar and stumbled on the street. The area was described as well lit and with no obstructions.
62. Confirmed that in his experience if Mr Anderson was in the bar then most times he was drinking. He expressed the view that the bar was not managed as well as some of the other bars on Bridge Street.

Ronan Smythe

63. Ronan Smythe, called by the Police, read his statement of 26 June 2024 (**RS1**) about a celebration of a friend's birthday on 8 June 2024.
- 63.1. Mr Smythe told the Committee he had consumed alcohol before heading into town that evening, that he had visited a bar but did not drink anything there. He, along with friends, went to Rattle 'n Hum, where there were two (2) bartenders, a male and a female.
- 63.2. He and some friends went up to the bar to get drinks, which were poured by the male, who did not charge for the drinks. He said a friend went and got another round and they too were free. He recounted others also did not pay for drinks.
- 63.3. Mr Smythe described the barman as "*a bit loose*" and "*pouring messy shots*"³⁶. He said he saw the barman "*drinking at least one shot*"³⁷.
- 63.4. Mr Smythe went to say that after his second free drink he was starting to feel intoxicated and he needed to straighten up. After visiting other bar, where he did not drink, Mr Smythe went to a third bar, where he had one drink before he was taken home by friends. He later vomited. He said he would not normally be that sick after a night out and he considered the drinks served that night were much stronger than normal.
64. When asked about the strength of the drinks at Rattle 'n Hum that evening Mr Smythe said that on previous occasions he had consumed more than he did that night but had never felt the way he did after the drinks at Rattle 'n Hum that evening.
65. In reply Mr Anderson said he dismissed the employee. He did not comment further for reasons relating to an employee's rights under the Employment Relations Act 2000.

³⁶ RS1 @ [18].

³⁷ RS1 @ [19].

The Licensing Inspector

66. Michael Ian Jones gave evidence in his capacity as the Alcohol Licensing Inspector at Nelson City Council. He read his written statement dated 9 July 2024 (**IJ1**).
67. Mr Jones confirmed his opposition to the grant of a licence to Mr Anderson, referencing Sergeant Savage's statement, particularly the failings identified, which he considered rendered Mr Anderson *unsuitable to hold an alcohol licence*. Mr Jones referenced the decision of Clark J in *Medical Officer of Health v Lion Liquor Retail* setting out the committee's role in considering the objects of the Act.
68. Mr Jones was concerned that Mr Anderson had made a series of undertakings to institute checks and record keeping with assistance from his friend Tony Crosbie, to tighten up his operation and bring it into compliance with the Act. He expressed two issues with these undertakings.
 - (a) As a licensee of many years standing Mr Anderson should be sufficiently aware that these are the ordinary requirements of a licensee that should be in place as a matter of course. (His emphasis.)
 - (b) The recent undertaking/action was a mirror image of undertakings he made in 2016 at an opposed renewal hearing at Nelson on 18 November 2016.
69. Mr Jones also noted Mr Anderson's evidence in the ARLA April 2024 decision where Mr Anderson acknowledged "that if he had one more slip up", the Police were required to apply to the licensing authority to cancel his licence.
70. Mr Jones' took the view that the undertakings and the support from Mr Crosbie had been ongoing since 2016. Mr Jones did not believe any conditions would result in significant changes to Mr Anderson's premises.
71. Mr Jones informed the hearing that he had not spoken to (the objector), Ms Walsh, who was overseas and unavailable, from whom he had received an objection to the licence.
72. Mr Jones advised the hearing that he had been in the office the day Ms Hardiman came back to the office, from her food compliance meeting with Mr Anderson and he described her as very distressed, and that disturbed him.
73. Mr Jones confirmed there had been no noise complaints or any other matters been reported to Council regarding Rattle 'n Hum.

The Medical Officer of Health

74. Anne Price reports on alcohol licensing matters on behalf of the Medical Officer of Health.
75. Ms Price stated she lodged a letter in opposition to the renewal of a licence for Rattle 'n Hum based on information provided by Sergeant Savage. Ms Price said she aware this area of Nelson is high risk associated with alcohol related harm.

76. Ms Price noted that although Mr Crosbie supported Mr Anderson and had provided help to improve the way Rattle 'n Hum operated, her view was that the suitability of Mr Anderson remained in question, and she remained opposed to the licence renewal.

Closing Submissions

For the Applicant

77. In his closing submissions counsel for the Applicant reminded the Committee:
- (a) to have regard to the criteria when considering a renewal including the conduct during previous renewal period and in particular section 105.
 - (b) to take a future focussed risk assessment especially the potential risk of prospective alcohol related harm.
78. The Committee's attention was drawn to *Townhill Ltd v Alcohol Wise Hurunui* holding that the evaluative function of the DLC was about whether the granting of the licence would be contrary to the object of the Act.
79. Mr Laing reminded the Committee of its responsibility under the Evidence Act 2006 by providing a number of matters he said the committee needed to consider when dealing with evidence. He drew attention to the issue of hearsay evidence and submitted as to how the Committee should address that and whether they should take it into account. He reminded the Committee that where documents or statements are not put to the witness they cannot be proven true.
80. Mr Laing further submitted that the Committee should focus on Mr Anderson being serious about introducing the various materials introduced to improve recording systems and improving training. He acknowledged that Mr Crosbie indicated there was still more to improve at Rattle 'n Hum and said Mr Anderson continues to have the support of Mr Crosbie.
81. Addressing the issue of suitability, Mr Laing submitted that assessment includes the conduct and operation of the premises. He argued that the evidence from Mr Anderson and Mr Crosbie demonstrated suitability.
82. In reference to the Police evidence, regarding interactions, Mr Laing noted that Sergeant Savage had indicated he had not had any problems when dealing with Mr Anderson. He also referred to Constable Watson's evidence as being based on only one encounter with Mr Anderson.
83. Mr Laing further suggested that given the compliance role of the Inspector issues should have been raised and there should have been more checks on the premises. He further submitted that there should have been more contact between the Inspector and Mr Anderson.
84. Addressing the evidence of the Medical Officer of Health, Mr Laing noted no independent evidence was provided relating to her objection as to suitability. Rather, he said, the officer relied on *Lower Hutt Liquormart v Shady Lady* Lighting to determine high risk of the premises and therefore address suitability.

85. Mr Laing noted that the final step for the Committee is set out in the *Vaudrey*, which outlines whether the committee agrees the application is capable of meeting the object of the Act, which is an evaluative exercise for the Committee.
86. Mr Laing also drew the Committee's attention to the issue of hours and conditions that had been raised in the hearing. He also drew the committee to the data produced by Sergeant Savage which was produced by a colleague which showed only data within an area surrounding Rattle 'n Hum and could have been associated with other premises in the area. It did show alcohol related harm related to these premises. (As noted, the Committee has not taken that data into account in reaching its decision.)

Police

87. In his final submission on behalf of the Police Sergeant Savage submitted that Police had had six (6) incidents relating to Rattle 'n Hum before ARLA. He provided details of those matters to the Committee. He confirmed the licence had been suspended by ARLA for 6 weeks in June 2023.
88. The Sergeant drew the Committee's attention to the evidence of Constable Mitchell and Constable Watson which outlined dealings with Mr Anderson. He submitted they reflected that Mr Anderson was often in the bar, and at times intoxicated. He noted Ms Hardiman's difficult visit for a health inspection on behalf of Nelson City Council. Those encounters, said Sergeant Savage, showed issues relating to unsuitability.
89. Responding to Mr Laing's argument that the Committee should address a risk assessment on a future focussed basis Sergeant Savage said it would be dangerous to ignore past issues. He reminded the committee of issues that had occurred and said that despite support, little had changed at Rattle 'n Hum.
90. Sergeant Savage drew attention to the decisions in *Deejay Enterprises Limited* and *Hooper v Clarke* regarding suitability.
91. In relation to staff, systems and training Sergeant Savage noted that there was a lot suggested about Mr Anderson's experience but history show that mistakes are nothing new. Help was first asked for in 2016 and it was only two (2) weeks prior to the hearing that Mr Crosbie was asked again to help. While that help had been offered the Police view was that training was cursory. He noted that no records of training were kept at the premises.
92. Sergeant Savage referred to Constable Watson's less than pleasant encounters and her observation that she had observed Mr Anderson often drinking. Sergeant Savage noted that on occasions he had been rude to Police, showing his dislike for them being in the bar, and on one occasion he had told Police to 'f... off.'
93. Sergeant Savage submitted that to grant a renewal of the licence would be to condone Mr Anderson's behaviour. He confirmed the Police remained opposed to the application.

Mr Jones

94. In his final submission Mr Jones submitted that an applicant's past and current action both inform any decision. He characterised Mr Anderson as having a fraught relationship with agencies, with no compelling evidence of improvements. Mr Jones remained unconvinced of Mr Anderson's commitment and reform.

95. In his closing submission Mr Jones submitted the renewal of the licence would be contrary to the Act as set out in *Two Brothers Wholesale*, where Kelly J held that there is nothing punitive about a decision not to renew a licence. Declining a licence is precisely what Parliament envisaged ought to be done.

Ms Price

96. Ms Price noted that a licence is a privilege, and it was for applicants to put their best foot forward.
97. Ms Price's questioned Mr Anderson's suitability and said staff, systems and training had been brought into question in the hearing and argued that the applicant had been found wanting. She said there had been a number of strong warnings regarding the premises in the past, including ARLA hearings, and she expressed the view that did not seem to have mattered.
98. Ms Price described suitability is the "cornerstone" of the licensing regime. In her view the requirements of the SSAA were not met in this application and she remained opposed to the renewal of the licence.

Admissibility of Evidence and Weight Attributed

99. In light of Mr Laing's challenges during the hearing and in his submissions regarding admissibility of evidence, the committee notes the provisions of s 207(1). That section gives the committee a wide discretion to receive evidence that might not ordinarily be admissible in law. It says:

"The licensing authority or licensing committee concerned may receive as evidence any statement, document, information, or matter that in its opinion may assist it to deal effectually with any matter before it, whether or not the statement, document, or matter would be admissible in a court of law."

100. In relation to the general provisions, including s 207, applicable to district licensing committees, ARLA has recently commented that:

"... the provisions are there to enable a DLCs and this Authority to be able to make decisions which will meet the object of the Act".³⁸

The committee considers that comment to accord with the Act, and respectfully adopts it.

101. The Court of Appeal recently commented on ARLA's ability to receive evidence under s207(1) and simply said, without comment or demur:

"Under section 207, ARLA may receive as evidence in any statement, document, information or matter that in its opinion may assist it to deal effectually with any matter before it."³⁹

102. As s207(1) states, its provisions apply to the committee just as they do to ARLA.

³⁸ *Golden Empire Holdings Ltd v Police* [2023] NZARLA231 @ [131].

³⁹ *Auckland Council v Woolworths New Zealand Ltd and others* [2021] 484 @ [49].

103. For completeness, we note that although s207(2) states the Evidence Act 2006 applies to the committee, that subsection is clearly worded to be subject to ss(1).
104. The committee has approached the evidence with the above provisions and the above principles in mind. In considering the evidence before it the committee has been mindful of hearsay evidence and of evidence that was unable to be tested by questioning and apportioned weight accordingly. Less weight was attributed to evidence where the witness did not appear. Hearsay evidence has been considered with caution.

Case Law on Renewals

105. The legal provisions and principles on renewals of liquor licences are settled.
106. We have outlined the relevant statutory provisions earlier in this decision.
107. ARLA considered the matter in some depth in ***Sogi Trading Ltd v Licensing Inspector Auckland City Council***,⁴⁰ where numerous judgments of the High Court were referenced. We do not repeat the passages in the judgment but do specifically note paragraphs 113-120 as providing helpful guidance. In summary:
- (i) The Act does not articulate a specific test. A series of identified criteria have to be taken into account, any one or more of which may assume prominence in any given application.
 - (ii) Our role in considering an application is evaluative. This requires an assessment of risk
 - (iii) There is no presumption that a licence will be granted;
 - (iv) The committee is to have regard to the criteria in the Act, and then step back and consider whether any evidence indicates that granting the application will be contrary to the statutory object in s 4.
 - (v) Although the “Object” of the 2012 Act is stated as one of 11 criteria to be considered on an application for an off-licence, it is difficult to see how the remaining factors can be weighed, other than against the “object” of the legislation. It seems to me that the test may be articulated as follows: is the Authority satisfied, having considered all relevant factors set out in s 105(1)(b)-(k) of the 2012 Act, that grant of an off-licence is consistent with the object of that Act?
 - (vi) The application of rules involving onus of proof may be inappropriate, for both the applicant and those opposing the application.
 - (vii) The criteria for the issue and renewal of licences are not to be interpreted in any narrow or exhaustive sense. In taking account of information (having regard to the statute as whole) matters raised by section 4 are to be approached on a nationally consistent basis.
108. Given the task is risk assessment, it is appropriate we note ARLA’s view that:

⁴⁰ *Sogi Trading Ltd v Licensing Inspector Auckland City Council* [2020] NZARLA 96 @ [113]

*"A causal nexus is required between the evidence to suggest that the grant of the application, contrary to the object of the Act, will increase the risk of alcohol abuse and the relevant risk. As the evaluative function is an assessment of risk, it is the risk profile which is relevant, there is no requirement to link specific alcohol-related harm to a specific licence"*⁴¹.

109. The committee adopts the procedure outlined in **Sogi** and set out above.

Suitability

110. Gendall J has previously commented that *"there will be cases where the matter(s) to which the decision maker is required to have regard are so fundamental or critical that they assume an elevated mantle."*⁴² The Committee views this as such a case.
111. The term "suitability" is not defined in the Act. The term needs to be assessed in the context of the particular case, with the onus being on the applicant to establish suitability.
112. The Committee adopts the view expressed by ARLA in *Re Nischay's Enterprises Ltd*, where the Authority noted the High Court's rejection in *NZ Police v Casino Bar No. 3 Ltd* of a narrow assessment of the term attributing the manner in which the business would be operated as the determinative factor. The Authority stated :

*"Rather, suitability is a broad concept and the assessment of it includes the character and reputation of the applicant, its previous operation of premises, its proposals as to how the premises will operate, its honesty, its previous convictions and other matters. It also includes matters raised in reports filed under s. 33 of the Act and those reports may raise issues pertaining to the object of the Act as set out in s.4. Thus, whether or not the grant of the licence will result in the reduction or an increase in liquor abuse is a relevant issue..."*⁴³

and continued:

*"Traditionally, that test has been interpreted as meaning whether or not an applicant will comply with the penal provisions of the Act. In fact, the test is much wider. To carry out the responsibilities that go with the holding of a licence includes whether or not liquor abuse issues are likely to arise. Thus, it includes the object of the Act as set out in s.4. The Sheard test is not simply about how a business is likely to operate in the future. It is dependent on an assessment of the more generalised factors referred to in the previous paragraph. It includes how a licensee will deal with liquor abuse issues that may arise from the establishment of the business."*⁴⁴

113. Adopting that judgment, the committee views the following as relevant in assessing Mr Anderson's suitability:
- (a) The licence history, including reporting.
 - (b) Mr Anderson's conduct on the premises.

⁴¹ Sogi @ [118]

⁴² *Christchurch Medical Officer of Health v J & G Vaudrey Ltd* [2016] NZHC 73 @ [121]

⁴³ *Re Nischay's Enterprises Ltd* [2013] NZARLA PH837 @ [53]

⁴⁴ at [54].

- (c) Mr Anderson's attitude to compliance and enforcement, including his interaction with enforcement agencies.
- (d) The proposals for the operation of the business going forward.

We consider the evidence in relation to each of these in turn.

114. The licence history is summarised in paragraph 3 of this decision. It is noted that:

- (i) The question of renewal of his licence has previously been before ARLA and a eighteen month term (as opposed to the "usual" three years) was granted, subject to conditions.
- (ii) ARLA has previously suspended the licence on three occasions.⁴⁵
- (iii) In April 2024 ARLA put Mr Anderson on notice regarding his licence.
- (iv) The police report on the application notes there was no duty manager and the chef acted in that role for nearly two months without any advice to the agencies.⁴⁶

115. Mr Anderson's conduct on the premises is a concern. Leadership, including leadership of licenced premises, comes from the top. Staff inevitably look to management for leadership by example. The evidence before the committee is that Mr Anderson drank, seemingly frequently, and at times to excess, on the premises, albeit when he was not on duty. We note the following:

- (i) One of his duty manager's Sandy Walsh, made comment on this in her objection.⁴⁷
- (ii) Mr Anderson acknowledged drinking on site in response to Sergeant Savage.⁴⁸
- (iii) The incident when Mr Anderson was assaulted on the premises arose after Mr Anderson had been drinking on site.⁴⁹
- (iv) Both Constable Watson and Constable Mitchell gave evidence of Mr Anderson drinking on site.⁵⁰

115. The evidence regarding Mr Anderson's attitude to compliance is troublesome. The evidence included:

- (i) Mr Anderson referred to Police presence in the bar as feeling like intimidation.⁵¹

⁴⁵ Licensing Inspector's report, see paragraph 11 of this decision on page 3.

⁴⁶ Police report, see paragraph 10 of this decision, page 2.

⁴⁷ See paragraph 11.1 above. Although Ms Walsh did not appear, and was not questioned on this, Mr Anderson commented and accepted he had a drink, occasionally too much: paragraph 26.9 above.

⁴⁸ See paragraph 24.8 above.

⁴⁹ See paragraph 26.11, 41-42, and 49.

⁵⁰ See paragraphs 49, 60.2 and 62

⁵¹ See paragraph 24.4

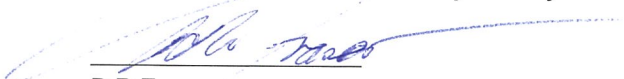
- (ii) The decision to hold a closing party when the suspension of licence was due to come into force⁵² does not speak positively of compliance.
 - (iii) Mr Anderson's changing advice re CCTV footage of the assault incident does not speak well of his approach to order and enforcement and is unhelpful.⁵³
 - (iv) Constable Watson's evidence that Mr Anderson told her to "F. off" shows disregard for enforcement.⁵⁴
 - (v) The evidence of Ms Hardiman shows disregard for rules and enforcement.⁵⁵
 - (vi) Constable Mitchell's account of being advised to leave because the Police were scaring his customers away suggests, at best, a cavalier approach to rules and enforcement.⁵⁶
116. On a positive footing it is clear that, particularly prior to the hearing, Mr Anderson had taken steps to address issues. In particular:
- (i) He enlisted the support of Mr Crosbie.⁵⁷
 - (ii) He introduced new forms, new procedures, and new reports.⁵⁸

While helpful and indicative of a positive approach those steps were late in coming and incomplete (despite ample time). In all the circumstances we do not consider those steps overcome the concerns we have regarding the matters outlined above and what they say about his suitability to hold a licence and ensure compliance with the statutory responsibilities that go with a licence.

Decision

117. After carefully considering all evidence and the submission received, the Committee has stood back and considered the statutory objective, as it is required to do. The Committee has concluded that Mr Anderson is not a suitable person to have his on-licence renewed as we are not satisfied he will properly discharge his responsibilities. In short, the evidence does not satisfy us that renew Mr Anderson's licence meets the objects of the Act. For these reasons Mr Anderson's application to renew the licence is declined.
118. Finally, the Committee acknowledges the work and professionalism of all parties, counsel and witnesses and thanks them for their comprehensive approach to this application.

Dated at Nelson this 21st day of July 2025



B R Fraser

Chair of the Nelson District Licensing Committee

⁵² See paragraph 48 and 63-64

⁵³ See paragraph 49.4, 50 and 51

⁵⁴ See paragraph 52

⁵⁵ See paragraph 55

⁵⁶ See paragraph 60.3

⁵⁷ See paragraph 21, esp 21.3 and 21.7 – 21.8/9

⁵⁸ See paragraph 21.9 – 21.11