From: Michelle Kemp [mailto:michellek@4sight.co.nz]

Sent: Tuesday, 28 April 2020 11:49 a.m.

To: Jane Anderson < Jane. Anderson@selwyn.govt.nz>

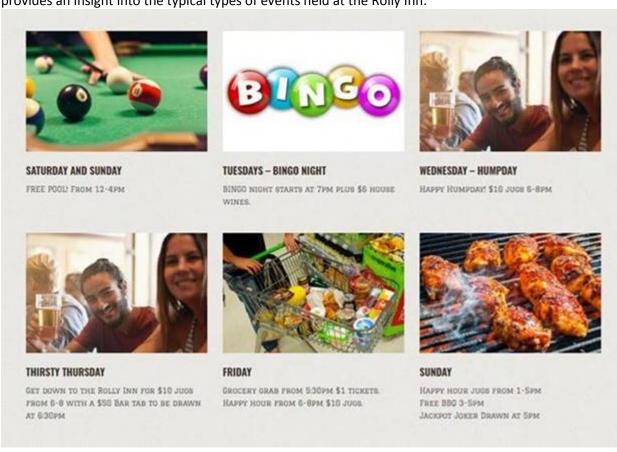
Cc: Karen Blair < Karenb@4sight.co.nz>

Subject: RE: RC205094 - hours of operation for the Rolly Inn

Hi Jane,

Thank you for your email. The Rolly Inn does host bands and other events. Bands have entertained patrons at the Rolly Inn since (at least) 1967: some years go the bands would perform Thursday, Friday and Saturday night, however the demand for that level of activity is no longer there. At present bands play at the Rolly Inn approximately two times per month and typically on a Saturday night from 9pm – 12am. However, if requested by patrons, the band may play an extra hour till 1am. In some cases the band may also play on a Sunday afternoon. At present, bands are not restricted and can play whenever there is demand: it is expected that this resource consent process will not restrict the existing activities and as per the application the intent is that the operations at the Rolly Inn will be able to continue.

In terms of current and future scale of events. See snip below from the Rolly Inn website which provides an insight into the typical types of events held at the Rolly Inn:



In terms of outdoor activities, the smokers' area is used for smoking only and is not equipped for outdoor dining. A patron may wish to take their nibbles or a bowl of chips outdoors with them whilst they are smoking of course, and this is not restricted, but dining per se in this area is not encouraged. There is no restriction on when patrons can access the smoking area during the core operating hours. This area has always been used for smoking and its use was not questioned in 2004

when the structure was granted building consent (only the extension of the cover structure into the front yard).

The operation described above, and within the application information regarding the Rolly Inn, forms part of the existing lawful environment and should be disregarded in your assessment. As previous, it is important to recognise that the aside from the function facility, reconfiguration of the car park and encroachment of the covered smokers area structure to the Brookside Road boundary, which are acknowledged consent triggers, no operational changes to the Rolly Inn are proposed. The Rolly Inn will simply continue to operate as it has always operated under its existing use rights.

We note that written approval to the activity has been received from 3, 5, 7 Brookside Road (Rolleston Vet Services) and the nearest residential property 9 Brookside Road (forms attached, signed plans are in the mail). These properties are the closest to Rolly Inn. Effects on these properties can be disregarded. The nearest residential property (that has not provided written approval) is 11 Brookside Road, which is located some 110m from the Rolly Inn tavern. The tavern component of the Rolly Inn is designed to ensure that noise is predominantly directed towards SH1. In addition, the liquor store activity is located along Brookside Road and internally there two 200mm solid concrete walls separating the tavern from Brookside Road to ensure that noise is not an issue for residents of Brookside Road.



Source: Google maps

We note your comment that the 'typical' outcomes for a resource consent for a pub or similar entertainment activity would include a noise limit condition, limits on the number of events of a scale determined to have a notable effect and a noise management plan. At present, such

restrictions are not imposed on the Rolly Inn. It is not considered necessary to specifically condition the day to day operation of the Rolly Inn such as the events identified above as they will not generate adverse acoustic effects and therefore their frequency is not at issue. It is however accepted that those aspects of its operation that have the potential to generate effects beyond the boundary could be conditioned to capture the potential for adverse effects at a level consistent with those currently generated. On that basis, the applicant is willing to consider a condition or conditions to address and manage those matters where it can be demonstrated that the condition is fundamental to ensuring an actual or potential effect is appropriately avoided, remedied or mitigated over time. For example, a condition that requires a band to not play outdoors is considered appropriate and a condition (to the following effect) that specifies particular noise limits from affected residential properties, where their written approval has not been provided could also be imposed:

Noise from any activity associated with the Rolly Inn shall not exceed the following noise limits at any point within 11 and 13 Brookside Road, Rolleston:

- Daytime (0700 2200 hours) 55 dB L_{Aeq}
- Night-time (2200 0700 hours) 45 dB L_{Aeq} and 70 dB L_{AFmax}

Noise shall be measured in accordance with NZS 6801:2008 "Acoustics – Measurement of Environmental Sound" and assessed in accordance with NZS 6802:2008 "Acoustics – Environmental Noise"

As per Section 6.2 of the AEE, the proposed private function activity does not include provision for voice or music amplification. A condition to that effect can also be imposed if it is considered necessary (for example, helpful to repeat it for ease of monitoring). In accordance with the wording of the conditions offered above, any music playing within the private function area will need to comply with the noise condition offered above.

For ease of reference, the following conditions are therefore proposed in relation to the Rolly Inn activity to provide surety over time with regards to potential noise effects:

- 1. No bands shall play outside of the Rolly Inn building.
- 2. Noise from any activity associated with the Rolly Inn shall not exceed the following noise limits at any point within 11 and 13 Brookside Road, Rolleston:
 - Daytime (0700 2200 hours) 55 dB L_{Aeq}
 - Night-time (2200 0700 hours) 45 dB L_{Aeq} and 70 dB L_{AFmax}

Noise shall be measured in accordance with NZS 6801:2008 "Acoustics – Measurement of Environmental Sound" and assessed in accordance with NZS 6802:2008 "Acoustics – Environmental Noise".

3. There shall be no voice or music amplification associated with the Private Function Area of the Rolly Inn.

As this Email provides clarification of existing operations at the Rolly Inn, rather than changing the nature or scale of those operations, no additional assessment of potential actual and potential effects is considered necessary.

For the avoidance of doubt, this email accompanies and forms a part of the application for resource consent and accompanying documentation.

We trust this addresses your recent request. Please do not hesitate to contact me if you require further information.

Kind regards

Michelle Kemp

Senior Planning and Policy Consultant

Mobile: 021 119 2873 4Sight.Consulting LinkedIn

4SIGHT COVID-19 RESPONSE PLAN

From: Jane Anderson

Sent: Tuesday, 21 April 2020 11:12 AM

To: Michelle Kemp

Subject: RE: RC205094 - hours of operation for the Rolly Inn

Hi Michelle

Thanks for your responses.

From a noise perspective, we are still unclear as to the current and future scale of events occurring on site. Of interest is whether the Rolly Inn hosts bands, or other events that would be disproportionately loud, at what levels, how often and at what times etc, and controls on outdoor pub activities for dining or smoking etc. In order to fully assess the noise environment, a full description of these activities is requested.

It is noted that usually the outcome for a resource consent for a pub or similar entertainment activity would include a noise limit condition, limits on the number of events of a scale determined to have a notable effect, and a noise management plan. Please can you advise if the applicant is willing to offer consent conditions to address and manage these matters. Further, with regard to the noise limits, it is noted that the application includes a condition offered for noise limits for the service station, please advise if the applicant considers that these would be suitable for the site, including Rolly Inn activities.

Kind regards Jane

From: Michelle Kemp [mailto:michellek@4sight.co.nz]

Sent: Tuesday, 21 April 2020 9:29 a.m.

To: Jane Anderson **Cc:** Karen Blair

Subject: RE: RC205094 - hours of operation for the Rolly Inn

Morning Jane,

You will note that I only attached the one timesheet yesterday as an example, but I can provide photos of many more timesheets if you think it is necessary. Just let me know once you have had a chance to review the information provided.

Kind regards

Michelle Kemp

Senior Planning and Policy Consultant

Mobile: 021 119 2873 4Sight.Consulting LinkedIn

4SIGHT COVID-19 RESPONSE PLAN

From: Michelle Kemp

Sent: Monday, 20 April 2020 2:41 PM

To: Jane Anderson < <u>Jane.Anderson@selwyn.govt.nz</u>>

Cc: Karen Blair < karenb@4sight.co.nz>

Subject: FW: RC205094 - hours of operation for the Rolly Inn

Hi Jane,

Thank you for your email. I address the matters raised in your email below. I note that this information now accompanies and forms a part of the application for resource consent.

1. Provide evidence that the Rolly Inn has been legally operating a 24/7 business as proposed in the application to a level to satisfy the requirements of section 10 of the RMA; that is that the hours of operation were legally established and have continued to operate to a similar character, intensity and scale to those which existed before the rule became operative or the proposed plan was notified;

The consenting history was provided within Annexure 1 of Attachment 2 to the section 92 response dated 31 March 2020 and will not be repeated here. The following information builds on the information provided within the section 92 response, with specific emphasis on the hours of operation as that is the aspect of the operation which Council has requested further information on.

From historical records, it is clear that the Rolly Inn operated on a 24/7 basis including pub, accommodation, breakfast / dining facilities, and all ancillary activities such as cleaning, laundry, food preparation and administrative functions undertaken within that 24/7 period.

Council records date back to 1967, when a bar extension was approved at the site. This of course predates the current Selwyn District Plan, the Resource Management Act 1991 and the former Town and Country Planning Act 1977. The extensive building consent history demonstrates that the Rolly Inn activity was lawfully established, and at no time did the Council record restrictions on the hours of operation or seek to impose the same.

A key piece of information with regards to existing use rights is provided in the 2004 building permit for the 'smokers area' which was accompanied by a letter from the Council. This permit was issued subject to a RMA restriction on its implementation because the building did not comply with the setback of 4m from the road boundary (Brookside Road only) and was therefore not considered to comply with the provisions for Existing Uses in Section 10 RMA. As previously argued, it is important to record that correspondence from the Council at the time clearly states that EUR did not apply to the smoker's area because it constituted a proposed extension to an existing building where that

extension did not comply with the requirements of the District Plan, and not because of the activity per se - including with regard to hours of operation, either specific to the smoker's area or more broadly to the Rolly Inn operations themselves. If the Rolly Inn did not have existing use rights at this time, it is submitted that the nature and scope of the letter would have been quite different. This letter predates the current Selwyn District Plan, which was notified in 1995, made fully operative on 2 May 2016, and zones the site Living 1. It is important to note that the previous District Plan – Ellesmere Section of the Selwyn District Plan, was made operative in 1982 and zoned the site Residential 2. Pubs were not a permitted activity in either the more recent Living 1 zone or the previously applicable Residential 2 zone. Under both plans, places of assembly such as the Rolly Inn trigger discretionary activity consent. This use of the Rolly Inn as a tavern has continued throughout this time. Despite being specifically considered by Council a number of times as part of various building consent applications (which required town planning sign off) with that being challenged by the Council only twice; with regard to the restaurant / food activity (for which consent was subsequently obtained) and the smokers area (for the building infringement into the yard only, with that infringement now being addressed through the current resource consent application). In that regard, it is considered that the 24/7 operations were part of the historic and lawful operation of the activity and have continued to be so. It is important to record, in drawing that conclusion, that there is no suggestion that the pub activity itself has operated at or currently operates on a 24/7 basis.

With reference to Section 2.2 of the AEE, the hours of operation of the Rolly Inn activity are as follows:

- Core hours between 11am and 2am the following day for the bar, seven days a week;
- Infrequently and in addition, between 7am and 11am for the bar, seven days a week;
- Core hours between 11am to 9pm for the bottle shop, seven days a week;
- Infrequently and in addition, between 7am and 11am for the bottle shop, seven days a week;
- Ancillary activities such as cleaning, maintenance, restocking, food and beverage preparation, administration and other business-related tasks are undertaken as required on a 24/7 basis.

The Council granted a liquor license for the trading hours as set out above (7am – 2am (max), 7 days per week) on the 12th September 2017.

Whilst the above four bullet points set out the hours for trading, the business responds to demand (during these hours only) and for example, if there are no customers at 10pm on a Monday, the tavern will shut early, but never earlier than 10pm and this is not consistent. The owner and the manager of the Rolly Inn have an extensive amount of operational information to demonstrate the hours for trading as set out above.

See attached:

- Letter from the Marie Mills, Manager of the Rolly Inn, dated 15 April 2020. Ms Mills has worked at the Rolly Inn for over 20 years and has confirmed the trading hours.
- Dated timesheet from the Rolly Inn staff.
- Incident Reports dating back to 2006, 2007, 2008 and 2010. This information is sensitive and
 for that reason the nature of the incident has been blanked out (kept confidential). The key
 reason for inclusion is, in any case, to provide evidence relative to time (refer top right-hand
 corner of the incident sheet). In addition the bottom of the letter shows the time that the
 report was filled out which was undertaken outside of the 'core hours' in some cases which

proves that administration and other business related tasks are undertaken as required on a 24/7 basis.

Other non-trading and ancillary activities such as cleaning, restocking, laundry, food and beverage preparation, setting up promotional material etc occurs outside of the core trading hours of operation and sporadically. It is an entirely appropriate and necessary to retain the ability to undertake these activities outside of the core trading hours including when customers are not in the building. These activities do not generate noise or disturbance, they have always been able to be undertaken outside of the core hours, there is no set time at which they occur and this a typical operating occurrence for any business of this manner.

It is clearly set out above, including with reference to the consenting history, that the Council has on multiple occasions accepted that the Rolly Inn, including tavern and bottle store activities and excluding only those activities for which specific resource consent has been required, have been lawfully established over time, and further that the Council as well as the operator has relied on the application of existing use rights for the activity.

The attached information is considered sufficient to provide reasonable evidence that the hours of operation of this activity form part of the existing environment and the effects of this must be disregarded.

With regards to the comments on the MDA acoustic report, I would refer you to section 3.2 of the report. A noise survey of the Rolly Inn Activity was undertaken, noise from the traffic dominated the noise measurements, though laughter and raised voices from the patrons were audible at times. It was noted however, that these were relatively quiet compared to noise received from traffic on State Highway 1. The Rolly Inn has been designed to ensure that the majority of noise emissions are directed towards the State Highway 1 and do not cause nuisance on Brookside Road. The owner and manager of the tavern do their utmost to ensure that noise is not an issue for residents along Brookside Road, and to their recollection have not received a verified noise complaint.

The new function facility will only operate a maximum of two times per month, at any time within the trading hours of operation 7am – 2am, any day of the week. There will be no amplified music. The operation of the function facility has also been taken into account within the MDA acoustic report. Given the orientation of the building and presence of SH2, this activity is not envisaged to be discernible above the ambient noise environment.

If necessary, the applicant is willing to consider fair, reasonable and practical conditions that would ensure that the existing operation and function facility operates in the manner outlined within the application. We have not set out draft conditions below, because we expect these would simply be worded to reflect the hours set out in the application and above and therefore there is no benefit in doing so at this point in time. As previously, we would appreciate the opportunity to review and comment on any draft conditions at the appropriate time.

2. Please provide further assessment of the environmental effects associated with a 24/7 operation of both the existing activities and the proposed function room at the Rolly Inn

This part of the request was an 'or': an alternative to a satisfactory response to Question 1. On the basis that Question 1 has been comprehensively answered, and for the reasons outlined above, further assessment is not considered necessary.

Kind regards

Michelle Kemp

Senior Planning and Policy Consultant

Mobile: 021 119 2873 4Sight.Consulting LinkedIn

4SIGHT COVID-19 RESPONSE PLAN

----Original Message-----

From: Jane Anderson < <u>Jane.Anderson@selwyn.govt.nz</u>>

Sent: Tuesday, 14 April 2020 1:46 PM

To: Michelle Kemp <michellek@4sight.co.nz>

Subject: RC205094 - hours of operation for the Rolly Inn

Hi Michelle

Thank you for the information provided relating to the Rolly Inn and its existing use rights.

The key issue for the current application is the hours of operation, these are stated in the application as being 11am to 2am as core hours, with the Rolly Inn also operating outside of these core hours. The evidence provided to date for existing use rights for these operating hours has been that the applicant holds a liquor licence for operating between 7am to 2am. The Council considers that a liquor licence does not provide sufficient evidence that the Inn is consistently open during these hours (and beyond these 'core hours' as noted in the application) to a level that meets the requirements of Section 10 of the RMA; that is that the hours of operation were lawfully established and that the operation has continued to a similar or same level to those which existed before a rule relating to hours of operation became operative. It is consider that, should the Council be of a mind to grant the consent for the proposed function room, the consent would implicitly grant consent to the hours of operation of the Rolly Inn outlined in the application. However, as I have noted, sufficient evidence as to whether these hours of operation were legally established has not been provided.

As noted in the Request for Further Information – given that the current application uses the current hours of operation as a baseline for assessing the proposal, the Council seeks further clarification of the existing use rights for the operation of the Rolly Inn, in order to have a better understanding of the legally established existing environment and the potential effects of the proposed function room activity at the Rolly Inn.

It is noted that the MDA acoustic report does not provide an assessment of the noise levels of the current and proposed activities at the Rolly Inn, noting only that voices from the outdoor area were audible at times. Whilst it is acknowledged that the current day to day operation of the Inn is

unlikely to be discernible above the ambient noise environment, consenting the proposed hours for the Rolly Inn with no conditions would enable the Inn to operate to a level that may be discernible from adjacent residential properties. Further, I note that there are potential character and amenity issues beyond noise that may also need to be addressed

In order to address these matters, it is requested that the applicant either:

1. Provide evidence that the Rolly Inn has been legally operating a 24/7 business as proposed in the application to a level to satisfy the requirements of section 10 of the RMA; that is that the hours of operation were legally established and have continued to operate to a similar character, intensity and scale to those which existed before the rule became operative or the proposed plan was notified;

or

2. Please provide further assessment of the environmental effects associated with a 24/7 operation of both the existing activities and the proposed function room at the Rolly Inn

Please note that the timeframes for this consent remain on hold

Kind regards

Jane

Jane Anderson Consultant Planner

DDI: +64 33472810

Selwyn District Council

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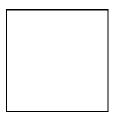
2 Norman Kirk Drive, Rolleston 7614 PO Box 90, Rolleston 7643 Phone: 0800 SELWYN (735 996)

Fax: (03) 347-2799

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2 Brookside Road Rolleston, Christchurch Phone (03) 347 8760 Email: rollyinn@rollyinn.co.nz

15th April 2020

To Whom it May Concern

I am the Manager of The Rolly Inn Tavern situated at 2 Brookside Road, Rolleston.

Legally as per our On Licence we are permitted to trade from 7am to 2am the following day. Our opening hours vary from day to day and week to week. Depending on special occasions, major sporting events or similar.

Mondays are obviously quiet days and we may shut at 10pm. The next Monday there might be a Bingo fundraiser on, and we will shut at midnight. On Fridays and Saturdays, it is not uncommon to be trading right up until 2am, especially if we have a band or DJ playing. Quite often we will do breakfasts on the weekends or anytime patrons require it which means we open from 7am.

I have worked at The Rolly Inn for over 20 years and this has always been the case. We do not have regular trading hours. We are open when it is necessary as long as it is within our licensed hours as specified on the On Licence.

If you have any questions, please don't hesitate to contact me on 021 802 485

Kind Regards

Marie Mills Manager

Rolly Inn

DUMB Savar By NAME Sturday DAY triday 14th June START 1730 4:30 8:30 8 FINISH = 60 000 4.30 a initia TOTAL DM Initial