

Decision No. **190/2014**

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **German Accent Limited** for an on licence pursuant to s.99 of the Act in respect of premises situated at **60 Cameron Street, Whangarei** known as **Cafe Restaurant Mozart**

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

Chairman: Councillor John Williamson

DECISION (ON THE PAPERS)

This is an application by German Accent Limited dated 24 March 2014, for an on licence in respect of premises situated at 60 Cameron Street, Whangarei, known as Cafe Restaurant Mozart. The general nature of the business is that of a cafe restaurant.

The premises

The application relates to existing on-licensed premises within the Central Business District of Whangarei. A restaurant style On Licence (002/ON/12/2008) was first issued to Worz Swiss Company Limited in 2008 with licensing hours from 7.00 am to 3.00 am the following day, Monday to Sunday.

German Accent Limited has purchased the business and has been trading under temporary authorities since July 2013. The applicant proposes to operate the restaurant for the following days and hours:

Tuesday to Sunday - 10.00 am to 12.00 midnight

Public notice

The applicant placed two advertisements in The Whangarei Report with the first notice on 17 April 2014 and the second on 24 April 2014, as required section 101 (b) of the Act.

Notice of the application was displayed at on the principal entrance of the building, as required by the Act.

No public objections were received.

In the public notification, the applicant mistakenly advertised Daniela Alexandra Schlecht, as the applicant's name, instead of the company's name "German Accent Limited".

Management of the premises

The applicant is a private company incorporated on 11 July 2013. The directors and shareholders are Alexandra Bernadette Resch and Daniela Alexandra Schlecht. The latter is the certificated duty manager (002/GM/117/2009). Daniela Schlecht previously worked as a duty manager for Dickens Inn; Reva's on the Waterfront and Red Pizzeria in Whangarei.

The applicant has been in the Hospitality Industry for more that 18 years. Daniela Schlecht is the duty manager (002/GM/117/2009) and head chef, while Alexandra Resch is the administrator and in charge of the front house. Previously, Daniela worked as a chef and duty manager for Reva's on the Waterfront; Dickens Inn and Red Pizzeria in Whangarei.

There is a Host Responsibility Policy in place for Cafe Restaurant Mozart, a copy of which was attached to the application.

Resource Management Act and Building Code certificates.

Building Code Certificate

The applicant has provided a certificate dated 3 April 2014 from the Whangarei District Council confirming that the proposed use of the premises meets the building code, subject to the premises occupancy being restricted to less than 50 people.

Resource Management Act Certificate

The applicant has provided a certificate dated 23 April 2014 that the proposed use of the premises complies with the Resource Management Act 1991 in that it has an existing use right in accordance with section 10 of the Resource Management Act 1991.

Section 105 Criteria for issue of licences

In deciding whether to issue a licence, the licensing committee concerned must have regard to the criteria as set in section 105 (1) of the Sale and Supply Act 2012 as follows:

- (a) the object of this Act:*
- (b) the suitability of the applicant:*
- (c) any relevant local alcohol policy:*
- (d) the days on which and the hours during which the applicant proposes to sell alcohol:*
- (e) the design and layout of any proposed premises:*
- (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:*
- (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:*
- (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:*
- (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—*
 - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but*
 - (ii) it is nevertheless desirable not to issue any further licences:*
- (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.*

DECISION

The committee has received reports on the application from the Police, the Medical Officer of Health and the Licensing Inspector and none have raised matters in opposition. The application was duly advertised and no objection or notice of desire to be heard has been received. Accordingly the committee deals with the matters on the papers.

Waiver under section 208 of the Act

Section 208 of the Act provides that *where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by this Act, the licensing authority or (as the case may require) the licensing committee or the chairperson, if satisfied that the neglect or omission was not wilful, may waive the same on such terms as they think equitable.*

In respect to the public notification, where the applicant mistakenly advertised Daniela Alexandra Schlecht, as the applicant's name, instead of the company's name "German Accent Limited", the committee is satisfied that the omission was not wilful and inconsequential to this application and the waiver application is granted.

The committee is satisfied as to the matters to which we must have regard as set out in s.105 of the Act and we grant the applicant an on licence subject to the following conditions.

(a) alcohol may be sold only on the following days and during the following hours:

**On such days and during such hours as the premises are being operated as a restaurant, but not other than the following days and hours:
Tuesday to Sunday 10.00 am to 12.00 midnight**

(b) the following steps must be taken to promote the responsible consumption of alcohol:

- **The licensee must have available for consumption on the premises at all times when the premises are open for the sale of alcohol, a reasonable range of non-alcoholic refreshments and low-alcohol beverages.**
- **Food must be available for consumption on the premises at all times when the premises are open for the sale of alcohol in accordance with the menu submitted with the application for a licence, or variations of that menu of a similar range and standard.**
- **The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.**
- **Free drinking water must be readily available at the counter and at each table where diners are seated.**
- **The licensee must implement and maintain the steps proposed in the Host Responsibility Policy supplied in support of the application.**

(c) the following steps must be taken to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:

- **This licence must exercise through a manager or managers appointed by the licensee in accordance with subpart 7 of the Act. Manager to be on duty at all times and responsible for compliance.**
- **The licensee must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sale to intoxicated persons.**
- **No sale to minors and intoxicated persons.**
- **Evidence of age documents must be requested when deemed necessary.**

DATED at Whangarei this 17th day of June 2014

Chairman
Whangarei District Licensing Committee
14/50199