

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012

**AND**

**IN THE MATTER**

of an application by **Marsden Cove Fishing Club Incorporated** for a **club licence** pursuant to s.99 of the Act in respect of premises situated at **Unit 2B, 30 Rauriri Drive, Marsden Cove, Ruakaka** known as "Marsden Cove Fishing Club"

**BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE**

Chairman: Councillor John Williamson  
Member: Lee Andrews  
Member: Mervyn Williams

**DECISION (ON THE PAPERS)**

This is an application by Marsden Cove Fishing Club Incorporated dated 29 November 2013, for a on club licence in respect of premises situated at Unit 2B, Rauriri Drive, Marsden Cove, Ruakaka ,known as the Marsden Cove Fishing Club.

The Fishing Club

*The definition of a "club" under the Sale and Supply of Alcohol Act 2012 means a body that—*

- (a) is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or*
- (b) is a body corporate whose object is not (or none of whose objects is) gain; or*
- (c) holds permanent club charter.*

The applicant is an Incorporated Society incorporated on 2 October 2009. The objects of the club as stated in Marsden Cove Fishing Club's constitution and rules are:

- To foster further fishing and aquatic activities for members and their families.
- To encourage members to practice sound conservation to ensure the sustainability of our marine resources.

Special licences have been granted to the applicant in the past for nationwide fishing competitions held at the Marsden Cove Marina, One Tree Point. Club members hold weekly meetings at the function room of Waterline Café and Restaurant, Rauriri Drive, Marsden Cove.

A club licence is sought by the applicant. Section 21 of the Act defines club licences being:

*"On the premises a club licence is held for, the licensee can sell and supply alcohol to authorised customers (within the meaning of section 60(3), for consumption there."*

Section 60 further requires the sale and supply of alcohol in clubs to members and guests only, it reads:

*(1) The holder of a club licence must ensure that no alcohol is sold or supplied to any person for consumption on the premises unless the person is—*

- (a) an authorised customer; or*
- (b) if the licence issued subject to a condition allowing alcohol to be sold or supplied to people of that kind, a person who is on the premises at the invitation of an authorised visitor who is also on the premises.*

(2) *If a club licence and an off-licence are held for the same premises, the holder must ensure that no alcohol is sold or supplied to any person for consumption off the premises unless the person is an authorised customer.*

(3) *In this section,—*

**authorised customer**, *in relation to premises a club licence is held for, means a person who—*

*(a) is a member of the club concerned; or*

*(b) is on the premises at the invitation of, and is accompanied by, a member of the club concerned; or*

*(c) is an authorised visitor*

**authorised visitor**, *in relation to premises a club licence is held for, means a member of some other club with which the club concerned has an arrangement for reciprocal visiting rights for members*

**member**, *in relation to a club, means a person who—*

*(a) has expressly agreed in writing to comply with the club's rules; and*

*(b) is recognised as a member of the club by those rules.*

The applicant proposes to operate a club including 75 registered members each day between the hours of 8am to 10pm, Monday to Sunday. It is located adjacent to the Marsden Cove Marina, in “unit 2B” of the commercial/retail spaces within the Marsden Cove development. Club activities include regular club meetings and workshops, fishing and aquatic activities for members and their families. The club will continue to host some major (nationwide) fishing competitions.

#### Public notice

The applicant placed two advertisements in The Whangarei Report with the first notice on 6 February 2014 and the second on 13 February 2014 as required section 101 (b) of the Act. It is a requirement of the Sale and Supply of Alcohol Act 2012 to place public notification within 20 working days after filing the application with the Whangarei District Licensing Committee on 29 November 2013.

The applicant has applied for a waiver under Section 208 of the Sale and Supply of Alcohol Act 2012. Section 208 states:

*“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.”*

The applicant has mistakenly advertised the public notifications outside the required time frame.

No public objections were received.

#### Suitability of the applicant

The applicant is an Incorporated Society incorporated on 2 October 2009. The Club President, Bert Rowsell is a local businessman with forty years management experience from both professional and social perspectives. Margaret Mitchell is the Club Secretary who has worked a registered nurse for the Northland District Health Board and Kensington Hospital. Allan Mitchell is a certificated manager who has managed some special licensed events for the club in the past years. There are no questions raised by the Police as to the suitability of the applicant to hold a club licence.

Resource Management Act and Building Code certificates.

The applicant has provided the required certificates from the Territorial Authority in respect of the Resource Management Act 1991 and the Building Code.

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 we deal with the matters on the papers.

We are 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.

**Conditions**

- (a) The club must have a secretary at all times;
- (b) Within 10 working days of the appointment of a new secretary, the club must inform the secretary of the appropriate licensing committee is told the name of the new secretary;
- (c) All proceeds from the sale of alcohol belong to the club;
- (d) The club must have available for consumption on the premises, at all times when the club is open for the sale of alcohol, a reasonable range of non-alcoholic refreshments and low-alcohol beverages.
- (e) Alcohol may be sold only on the following days and during the following hours:  
**Monday to Sunday 8.00 am to 10.00 pm**
- (f) Food must be available for consumption on the premises as follows:  
At all times when the premises are authorised to be open for the sale of alcohol, food of a range and style similar to that shown on any menu submitted or a range of snack foods in the

nature of pies, sandwiches, filled rolls, pizzas and the like, must be conveniently available for all members and their guests and the availability of those foodstuffs must be notified to them by appropriate notices throughout the premises.

- (g) The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.
- (h) The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of alcohol.
- (i) The Club Committee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed.
- (j) The holder of a club licence must ensure that, while the premises are open for the sale or supply of alcohol, no person consumes on the premises any alcohol not sold or supplied on the premises by the licensee.

In terms of section 101 of the Act we are satisfied that the omission made by the applicant in the public notification of the application was not wilful and we waive the omission.

**DATED at Whangarei this 25<sup>th</sup> day of March 2014**

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Chairman  
**Whangarei District Licensing Committee**