

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by for an on licence
pursuant to s.99 of the Act by **The Irish
Kiwi Limited** in respect of premises
situated at **47 Vine Street, Whangarei**
known as **Wildside Bar and Grill**

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

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

DECISION (ON THE PAPERS)

This is an application by The Irish Kiwi Limited dated 17 March 2014, for an on licence in respect of premises situated at 47 Vine Street, Whangarei, known as Wildside Bar and Grill. The general nature of the business is that of a tavern, bar and grill.

The premises

The application relates to an existing On-licensed premises, which previously operated under the name of "Legends Sport Bar" and which is situated on Vine Street within the Central Business District of Whangarei. The premises currently operates as a tavern and will continue to do so. *Taverns* are defined under the Act as below:

- (a) Means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but*
- (b) does not include an airport bar*

A general On licence is sought by the applicant. This the licence issued under the Act in respect of all types of premises where alcohol is sold and consumed on the premises but there are specific requirements relating to premises dependant on the manner in which the premises operates for example as a restaurant, tavern, hotel or bowling alley/billiards room. Section 14 of the Act defines a general on licence being:

On any premises an on-licence (other than an on-licence endorsed under section 37) is held for, the licensee –

- (a) can sell and supply alcohol for consumption there; and*
- (b) can let people consume alcohol.*

The applicant took over the business on 26 September 2013 and has been operating under Temporary Authority since then, without any matters of concern coming to the attention of enforcement partners.

Hours of trading

The applicant seeks the hours Monday to Saturday 9.00 am to 3.00 am the following day and Sunday 9.00 am to 1.00 am the following day. The applicant has confirmed acceptance of the one way door system and agreed to implement such system, once the implementation date is determined.

Public notice

The applicant placed two advertisements in 'The Whangarei Report' with the first notice on 27 March 2014 and the second on 3 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.

Management of the premises

The applicant is a private company incorporated on 15 August 2013. Mark John Lesley-Ellis is the sole director of the applicant company and manages the business. Mark John Lesley-Ellis and Kasey Jessica Williams are equal shareholders of the applicant company. There are no questions as to the suitability of the applicant to hold a licence by the Police.

Mark John Lesley-Ellis is the director of the applicant company and the manager of the business. He is the holder of a current Manager's Certificate (GM 3373/95) and has been managing licensed premises for more than 15 years. Four additional certificated and suitably experienced duty managers have been appointed by the applicant company. The applicant has available for use two certificated security personnel, when required.

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.

Resource Management Act Certificate

The applicant has provided a certificate dated 23 April 2014 stating that the proposed use of the premises complies with the Resource Management Act 1991 in that the activity is considered to be a permitted activity under the Whangarei District Plan.

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.

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

This licence is subject to the following conditions:

(except in the case of a licence endorsed under [section 38](#) of the Act (or when the licensee also holds a special licence for the premises)) no alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day to any person who is not—

- (i) residing or lodging on the premises; or
- (ii) present on the premises to dine.

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

Monday to Saturday 9.00 am to 3.00 am the following day – with a one way door system in place from 1.00 am. Provided that the one way door system only applies once the Authority has set a uniform one way door implementation date for all other affected CBD premises, and where the licensee wishes to operate hours between 9.00 am – 1.00 am, then the one way door system will not apply.

Sunday 9.00 am to 1.00 am the following day

EXCEPT THAT on the Thursday before Good Friday; and on Easter Saturday; and on Christmas Eve; and on the day before Anzac Day, alcohol may only be sold between 9.00 am and 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.**
- **Free drinking water must be readily available to customers at the bar counter.**
- **Food must be available for consumption on the premises as follows:
A range of food choices must be readily available at all times that the premises are open. Menus must be visible and food should be actively promoted. A minimum of three types of food should be available. The range or style of food will be as shown on any menu submitted. Alternatively the range of food should include such items as paninis, pizzas, lasagne, toasted or fresh sandwiches, wedges, pies, filled rolls, and/or salads.**
- **The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.**
- **The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of alcohol.**

(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.

(d) the whole of the premises is designated as a **supervised** area.

DATED at Whangarei this **24th** day of **June 2014**

Chairman
Whangarei District Licensing Committee
14/52355