

Decision No. **189/2014**

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Two Fish Cafe Limited** for an on licence pursuant to s.99 of the Act in respect of premises situated at **910 Cove Road, Waipu Cove, Whangarei District** known as **Two Fish Cafe**

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

Chairman: Councillor John Williamson

DECISION (ON THE PAPERS)

This is an application by Two Fish Cafe Limited dated 28 April 2014, for an on licence in respect of premises situated at 910 Cove road, Waipu Cove, Whangarei District, known as Two Fish Cafe. The general nature of the business is that of a cafe.

The premises

Two Fish Cafe is a cafe. Alcohol will be supplied to complement the meals consumed on the premises. Restaurants are defined under the Act as premises (not being a conveyance) that are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises.

A general on licence is sought by the applicant. This is the licence issued under the Act in respect of all types of premises where alcohol is sold and consumed on 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.

The application is due to a change of ownership. The premises was operating under a temporary authority (TA) until 12 June 2014. The applicant did not apply for a further TA; instead, they closed the bar until they are granted an on-licence, but the cafe remains open 3 times a week during winter.

The hours sought by the applicant are between 8.00 am to 10.30 pm, Monday to Sunday.

Public notice

The applicant placed two advertisements in The Northern Advocate with the first notice on 23 May 2014 and the second on 27 May 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 14 August 2013. The directors and shareholders are Trent & Theresa Warren and Ivan & Tracey Wilson. The former has been in the hospitality industry for more than a decade. Trent Warren is the chef and overall manager of the cafe and Theresa Warren is the duty manager (002/GM/50/2013).

Theresa Warren is the duty manager (002/GM/50/2013). She was the duty manager for the now defunct "Beachhouse Restaurant" in Waipu. The applicant has employed another duty manager, Shavaun Cherish Bowman Paniora, who is a holder of a current manager's certificate (GM 003/20/2011) that was issued by the Kaipara District Licensing Agency.

A Host Responsibility Policy is in place for Two Fish Cafe, 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 23 May 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 10 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.

The committee is satisfied as to the matters to which it must have regard as set out in s.105 of the Act and the committee grants the applicant for 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:

Monday to Sunday 8.00am to 10.30pm.

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

- i. 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.
- ii. 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.
- iii. The licensee must ensure that signs are prominently displayed within the licensed premises detailing information regarding alternative forms of transport from the premises.
- iv. Free drinking water must be readily available at the bar and dining tables.
- v. 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:

- vi. 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.
- vii. 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.
- viii. No sale to minors and intoxicated persons.
- ix. Evidence of age documents must be requested when deemed necessary.

DATED at Whangarei this 17th day of June 2014

Chairman
Whangarei District Licensing Committee
14/50320