

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Wanaka Street 3 Limited** for an on licence pursuant to s.99 of the Act in respect of premises situated at **3 Wanaka Street, Tikipunga** known as **Tikipunga Tavern**

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 Wanaka Street 3 Limited dated 25 March 2014, for an on licence in respect of premises situated at 3 Wanaka Street, Tikipunga, known as Tikipunga Tavern. The general nature of the business is that of a tavern.

The Applicant

The applicant is a private company incorporated on 30 April 1996. Coral Elizabeth Dickson is the sole director and Endor Trustee Limited is the sole shareholder of the applicant company.

The applicant took over the business on 22 October 2013 and has been operating under Temporary Authority since that time. The current third temporary authority is due to expire on 10 July 2014. The conditions of on licence (002/ON/14/2011) issued to Tiki Escape Limited continue to apply.

The Premises

The application relates to an existing on licensed premises that has operated at 3 Wanaka Street in Tikipunga, Whangarei for many years under the name of "Tikipunga Tavern".

The applicant proposes to continue to offer similar services to those provided by the previous licence holder and has made application for a tavern-style on licence.

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 examples as a restaurant, tavern, hotel/motel 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*

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*

Hours of Trading

The applicant seeks the hours Sunday and Monday 9.00 am to 10.00 pm; Tuesday to Thursday 9.00 am to 11.00 pm and Friday and Saturday 9.00 am to 1.00 am the following day.

Clause 12.1.1 of the Whangarei District Licensing Agency's, Liquor Licensing Policy sets down the maximum trading hours for On licensed premises in the District:

12.1.1 On licensed premises situated adjacent to residential areas

Sunday – Thursday - 8.00 am to 11.00 pm

Friday – Saturday - 8.00 am to 1.00 am the following day

The proposed hours comply with the policy provisions relating to on licensed hours adjacent to residential areas.

Public Notice

The applicant publically notified the application in accordance with the Act, by placing two advertisements in the Whangarei Leader. No public objections to the application were received.

The first notice was published on 3 June 2014 and the second on 10 June 2014. It is a requirement of the Sale and Supply of Alcohol Act 2012 to give public notification within 20 working days after filing the application with the Whangarei District Licensing Committee. These public notifications were made more than 20 working days after the applicant filed their application with the Whangarei District Licensing Committee on 25 March 2014.

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.*

The applicant has therefore applied for a waiver under s. 208 of the Act.

Management of the premises

The certificated duty managers are Rodney Paul Sorensen (GM/007/246/00), Rhys Kelly Gurney (002/GM/9/2013) and Janelle Mary Levina Rogers (002/GM/64/2009) who have been appointed in order to assist in managing alcohol sales and consumption.

There are no questions as to the suitability of the applicant to hold a licence by the Police. The Police in a report dated 1 July 2014, have raised no objection to the granting of this on licence as long as the applicant serves the negotiated suspensions for the base licence issued to Tiki Escape Limited under the current Temporary Authority and Rodney Sorensen's managers certificate as decided by an Alcohol Regulatory and Licensing Authority decision [2014] NZARLA 403-404.

The Licensing Inspector advised the committee that the applicant has indicated that they intend to fully comply with the decision specified above.

Resource Management Act and Building Code certificates.

The applicant has provided a certificate dated 9 April 2014 from the Whangarei District Council confirming that the proposed use of the premises meets the building code.

The applicant has provided a certificate dated 23 April 2014 stating that the activity has existing use rights in accordance with the Resource Management Act 1991 and that the proposed hours of operation remain in accordance with the operating hours approved under the two previous Liquor Certificate applications (RC39979 and RC40913).

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.

In respect to the error relating to the timing of the public notification set out above, the committee is satisfied that the omission was not wilful and is inconsequential to this application and the waiver application pursuant to s.208 is therefore granted.

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:

Sunday and Monday	9.00 am to 10.00 pm;
Tuesday to Thursday	9.00 am to 11.00 pm; and
Friday and Saturday	9.00 am to 1.00 am the following day.

EXCEPT THAT 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. Drinking water must be available to customers free of charge at the bar counters.**
- **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 Totara Bar, Bistro Bar and Upstairs Function Room is designated as a **supervised** area and the Gaming Room as a **restricted** area.

DATED at Whangarei this 8th day of July 2014

Chairman
Whangarei District Licensing Committee
 14/57905