

**File number:** 3705.01\2015-2016  
**Report to:** District Licensing Committee  
**Meeting date:** 27 October 2015  
**Subject:** Application for Renewal of Off Licence – the partnership of Melanie Jane Bayes and Donato Gallo  
**Date of report:** 17 October 2015  
**From:** Rachel Sheppard  
 Chief Licensing Inspector

**Approved for agenda** ☐

**Report purpose** ☒ **Decision** ☐ **Recommendation** ☐ **Information**

**Assessment of significance** ☐ **Significant** ☒ **Non-significant**

### Summary

In the matter of the Sale and Supply of Alcohol Act 2012 and an application pursuant to s.127 of the Act for the granting of the renewal of an Off Licence the partnership of Melanie Jane Bayes and Donato Gallo, 381 King Road, Mangawhai, Kaipara District, known as Estuary Vineyard. The application was received on 20 August 2015 with further information requested. On receipt of this further information the application was forwarded for agency reporting on 03 September 2015. All reports were received from the agencies by 28 September 2015. The application may now progress to the District Licensing Committee hearing scheduled for 27 October 2015.

### Recommendation

***That the District Licensing Committee:***

- 1 *Receives the Chief Licensing Inspector's report titled 'Application for Renewal of Off Licence to the partnership of Melanie Jane Bayes and Donato Gallo dated 17 October 2015; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of section 79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Grants the application made by the partnership of Melanie Jane Bayes and Donato Gallo for the renewal of the Off Licence.*

### Reason for the Recommendation

The reports from the Medical Officer of Health, the Police and the Inspector appointed under the Act are satisfactory and do not oppose the issue of the renewal of the Off Licence. There has been no objection or notice of desire to be heard as a result of the public notification of the application. It is appropriate that the application be determined on the papers pursuant to s.202 of the Act.

## **Reason for the Report**

Application under s.127 of the Sale and Supply of Alcohol Act 2012 has been made by the partnership of Melanie Jane Bayes and Donato Gallo, 381 King Road, Mangawhai, Kaipara District for the granting of the renewal of an Off Licence.

## **Background**

The applicants are the owners of the property, which is located in the main viticulture area in Mangawhai, approximately four years ago. It is situated in the close proximity of three other established and licenced wineries from which cellar door tastings and sales are undertaken. An Off licence had previously been held for the premises by the previous owner of the property which operated with no issues of concern being brought to the attention of the Territorial Authority.

The applicant's intention is to operate as a wine cellar with facilities for tastings of their locally produced wines, and to allow for the sale of unopened and sealed bottles of wine for consumption off-site. The premises is currently licensed from Monday to Sunday from 10.00am to 6.00pm from the cellar door and remote (internet) sales 24 hour/7 days. In the past year the applicant has operated a well-managed premises, with no issues or concerns relating to amenity and good order within the local surrounds.

Section 127 of the Act provides for an application for the renewal of an Off Licence to be lodged with the Territorial Authority for the reporting on by the Police, the Medical Officer of Health and the Inspector. On receipt of those reports s.130 of the Act provides for the District Licensing Committee to grant or decline an application.

## **Issues**

Section 234 of the Act requires that if alcohol is on any premises for sale, or display or kept for sale, in those premises a current licence must be in force. Any unlicensed premises allowing alcohol to be sold from those premises would be deemed to be in breach of the Act.

The application was filed with the Territorial Authority on 20 August 2015 and publically notified on 22 August 2015 in the Northern Advocate which satisfies the requirement of Section 127 of the Act.

Reports from the agencies detail no formal objection and cover off the following matters:

- The Inspector's report offers no objection to the application. On interview with the applicant any concerns with regard to host responsibility, supervision of entry, alcohol consumption, monitoring levels of intoxication and alternative transport options together with amenity and good order have been covered off to the Inspector's satisfaction.
- The Police report offers no recommendations or objections to the renewal of the Off licence.
- The Medical Officer of Health's report offers no additional recommendations or objections to the application, nor highlights any issues of concern that require further enquiry. As highlighted in the MOH report, the premises will be assessed and monitored as part of routine compliance checks to ensure provision is made to provide a safe environment anytime that alcohol is being consumed.

- Although the New Zealand Fire Service are not obliged to report under the Act, the Territorial Authority welcomes input from the NZFS as fulfilment of an extended interagency collaborative approach with regard to all premises applications.

The existing licence is deemed to be current under s.122 of the Act.

The applicant has demonstrated knowledge of their host and social responsibility requirements under the Act, together with supervision of entry, and no sale or supply of alcohol to prohibited persons. It is not considered that the granting of the renewal of this licence would offer any new substantial risk or adversely impact on the existing amenity and good order in the local area.

Currently one of the partners Melanie Bayes holds a managers certificate. This is considered adequate staffing for the maximum hours of trade that the premises may be open for the sale and supply of alcohol. Section 215 (1) (d) of the Sale and Supply of Alcohol Act 2012 states that the requirement to have a manager on duty at all times when alcohol is being sold or supplied to the public on any licensed premises does not apply to the premises for which an off-licence but no on licence is held where fruit or vegetable wine or grape wine is made.

## **Factors to Consider**

### ***Community Views***

The Community expects that only fit and proper persons are granted licences or certificates for any matter concerning the sale of alcohol. Others in the community will expect Council to deal with these matters in the most efficient and effective manner.

### ***Policy Implications***

The decision has no impact on Council policy.

### ***Financial Implications***

There are no financial implications attached to this decision.

### ***Legal/Delegation Implications***

The Sale and Supply of Alcohol Act 2012 provides for all decisions on applications to be made by Council's District Licensing Committee. For unopposed applications the Chair alone may determine the application based on the information provided in the papers.

## **Options**

The District Licensing Committee has two options; it may either grant the application with conditions or decline the application.

**Option A:** Grant the application with conditions.

**Option B:** Decline the application.

## **Assessment of Options**

There are no grounds that officers are aware of that would substantiate a declining of the application. Based on the reports received by the Police, the Medical Officer of Health and the Licensing Inspector,

there is no good reason to impose further conditions on the licence other than those required under the Act. The applicant has provided all information thus satisfying the reporting agencies who have responded with no opposition being raised to the issuing of the renewal of the Off licence.

Option A is considered the preferred option as it satisfies all requirements of s.105 and s.131 of the Sale and Supply of Alcohol Act 2012 allowing the unopposed application to issue once determined by the District Licensing Committee.

### **Assessment of Significance**

A decision in accordance with the recommendation is not considered to have a high degree of significance because it does not involve any Council expenditure or impact financially on any ratepayers.

### **Recommended Option**

The recommended option is **Option A**.

### **Next Step**

The decision by the District Licensing Committee will be publicised on Council's website.

### **Attachments**

- Reports for Renewal of an Off Licence for the partnership of Melanie Jane Bayes and Donato Gallo (Attachment 1)
- Draft Decision by District Licensing Committee (to be finalised on Letterhead when approved) (Attachment 2)
- Draft Replacement Licence (to be finalised when approved) (Attachment 3)
- Draft Notice of Renewal (to be finalised on Letterhead when approved) (Attachment 4)