

Decision N° **ON0085-2017**

In the Matter

of the Sale and Supply of Alcohol Act 2012

And

In the Matter

of applications by **198 Molesworth Drive Limited** pursuant to s.136 of the Act for a Temporary Authority Order.

Before the Kaipara District Licensing Committee

Chair: Mr Mark Farnsworth
Members: Mr Gordon Lambeth and Mr Mark Vincent
On call: Democratic Services Manager: Sean Mahoney
General Manager Planning and Regulatory: Fran Mikulicic
Regulatory Manager: Dean Nuralli
Chief Licensing Inspector: Rachel Sheppard

Decision (from the hearing)

This is for an application for a temporary authority order by 198 Molesworth Drive Limited in order to carry on the sale and supply of alcohol through the on-licence at the premises known as the "Harvest Blue Café and Bistro", situated at 2 Moir Point Road, Mangawhai, Kaipara District under the authority of on-licence number 03/ON/006/2016 currently in force.

Section 136 of the Act provides as follows:

"A licensing committee may, on the application of a person who appears to the committee to have any right, title, estate, or interest in any premises, or any business conducted in any premises, for which an on-licence is in force, make an order authorising the applicant (or some suitable person nominated by the applicant) to carry on the sale and supply of alcohol for a period, not exceeding 3 months, stated in the order."

The Applicant

198 Molesworth Drive Limited is seeking a temporary authority order so as to enable trading until such time as a substantive on licence is issued by the District Licensing Committee. The company currently has two directors and four shareholders.



Agencies Reports

The applications were referred to the Police and Inspector as relevant agencies for comment. No matters in opposition have been raised by the Licensing Inspector or the Police. The application was referred to the Kaipara District Council District Licensing Committee for a full hearing.

The Decision

On consideration of all matters placed before them, the Kaipara District Licensing Committee grants the application for a Temporary Authority Order by 198 Molesworth Drive Limited, to enable them to carry on the sale and supply of alcohol through the on-licence at the premises known as 'Harvest Blue Café and Bistro', situated at 2 Moir Point Road, Mangawhai, Kaipara District, under the authority of on-licence number 03/ON/006/2016 currently in force until 13 September 2017.

The Order is issued on the following conditions:

"That potable drinking water be freely available to all customers at all times that the premises are open for the sale and supply of alcohol. Signage directing people to drinking water must be prominently displayed on the premises at that time. 'Freely available' to customers, in relation to water, means –

- (a) Supplied free in clean drinking vessels on request; or*
- (b) Available free in larger containers from which it may be easily poured or drawn by customers, together with clean drinking vessels that are also available free nearby; or*
- (c) Available free from a tap to which customers have easy access, together with clean drinking vessels that are also available free nearby."*

"That the applicant maintains at least two certified managers on staff to ensure operation of the business to the conditions of the base licence."

Reasons for the Decision

The Committee is satisfied as to the matters to which they must have regard as set out in s.136 of the Act. We are satisfied that the applicant has established tenure of the premises and that an on licence is currently in force until 13 September 2017. It is considered that the applicant is suitable to hold a licence in order to fulfil the purpose and object of the Act.

The Temporary Authority Order may issue immediately and is granted until the existing On licence expires on 13 September 2017.



The applicant's attention is drawn to s.43 (1)(a) of the Act whereby no alcohol is to be sold outside of the default maximum trading hours. Under the current base licences this means that any on-licence sales within the licenced premises are restricted to maximum trading hours of Monday to Sunday from 10.00 am to 1.00 am the following day excluding the sacrosanct days where no alcohol sales may take place unless the patron is on the premises for the purpose of dining.

The applicant's attention is drawn to the expiry date of the existing base licence. To ensure uninterrupted trading of alcohol sales a new On licence must issue by 13 September 2017.

The applicant's attention is drawn to s.214 of the Act whereby a manager is to be on duty at all times and responsible for compliance.

"214 Manager to be on duty at all times and responsible for compliance

- (1) Except as provided in section 215, a manager must be on duty at all times when alcohol is being sold or supplied to the public on any licensed premises.*
- (2) A manager on duty on any licensed premises is responsible for—*
 - (a) the compliance with and enforcement of—*
 - (i) the provisions of this Act; and*
 - (ii) the conditions of the licence in force for the premises; and*
 - (b) the conduct of the premises with the aim of contributing to the reduction of alcohol-related harm.*
- (3) At all times while a manager is on duty on any licensed premises, the full name of the manager must be prominently displayed inside the premises so as to be easily read by people using the premises; and the person named as manager at any time is to be treated for the purposes of this Act as the manager at that time.*
- (4) At all times when alcohol is being sold or supplied on licensed premises the licensee must take all reasonable steps to enable the manager to comply with this section"*

DATED at Mangawhai this 14th day of July 2017.



Mark Farnsworth MNZM

Chair

Kaipara District Licensing Committee

