

SP1896/2019

IN THE MATTER

of the Sale and Supply
of Alcohol Act 2012

AND

IN THE MATTER

of an application by **GARY JOHN
CAMERON** pursuant to s.137 of the Act for a
special licence in respect of premises
situated at **35 INSLEY STREET,
MANGAWHAI** and known as **THE OLIVE
GROVE**

BEFORE THE KAIPARA DISTRICT LICENSING COMMITTEE

Chair: Mr Mark Farnsworth
Member: Mr Mark Vincent
Member: Mr Gordon Lambeth

HEARING at Mangawhai on 14 March 2019

APPEARANCES

Jason Sheehan – Kaipara District Licensing Inspector – in opposition
Senior Constable Michael Wilson – NZ Police- in opposition

Introduction

The Mangawhai Food and Wine Festival is an annual event held in conjunction with the Mangawhai Walking Weekend. The Festival is held over a period of four hours on land owned by Julia Sutherland known as The Olive Grove. The organisers are expecting up to 800 attendees for an afternoon of music, food and wine supplied by local artists and producers. The proceeds of the Festival will be donated to the Mangawhai Tracks Charitable Trust who create and maintain the walking tracks around Mangawhai. The applicant has addressed all concerns with regard to host responsibility, provision of food and freely supplied potable water, monitoring alcohol consumption, levels of intoxication and alternative transport options. Entry is by ticket only and is an R18 restricted event. The Mangawhai Food and Wine Festival has been held for 11 years with no issues of concern being brought to the attention of the Council. A comprehensive Alcohol Event Management Plan has been provided by the Festival Committee. Mr Gary Cameron lodged the special licence application in his name on behalf of the event.

Hearing

The Chairman opened the hearing, introduced the committee and asked the parties present to identify themselves. He then outlined the approach he intended to take. As far as he was aware, the event had taken place for the previous 11 years without any problems, and no concerns had been raised about the suitability of the applicant. The issue was that the applicant wished to sell wine in 750 ml bottles for the first two hours of the event, and this was opposed by the Police and the Licensing Inspector. Neither the Police nor the Licensing Inspector had concerns about any other aspect of the application.

On that basis, the Chairman advised that he would first question the Police in support of their opposition, followed by the Licensing Inspector, and lastly, the applicant.

The Police

Senior Constable Wilson, the Alcohol Harm Reduction Officer for Waitemata North, tabled his evidence. In it, he expressed the view that serving of wine in 750 ml bottles is not in keeping with the relevant guidelines produced by the Health Promotion Agency (HPA), or indeed the object of the Act, and through questions from the committee explained further the basis for this view. In response to questions he confirmed that, to the best of his knowledge, there was no record of harm arising from alcohol consumption at previous events, and reiterated that he had no concerns about the suitability of the applicant.

The applicant was given the opportunity to ask him questions.

The District Licensing Inspector

Mr Sheehan had prepared a statement of evidence in support of his report, and he read it out to the committee. In this he related his concerns based on his previous first-hand experience - admittedly at significantly larger events – and elaborated on the relevance of the HPA guidelines. While he acknowledged that the guidelines have no statutory effect, he urged the committee to give appropriate weight and consideration to the recommendations contained in them.

The applicant was given the opportunity to ask him questions. The chairman allowed a relatively informal approach to discussion so that the parties might more readily achieve a shared understanding of expectations for this and future events, and what was achievable and practical.

The applicant

The applicant had prepared a submission in support of the application, and in light of the discussion which had already taken place, had little to add to it. He was able to clarify the manager's certificate status of various of the staff who would be involved.

The Chairman closed the hearing, advising that the committee would reserve its decision.

Decision

Pursuant to Subpart 4 and s.211 of the Act the committee decided to grant consent subject to conditions.

Reasons

The committee took into account the contents of the application, the opposition from the Police and the Licensing Inspector, the staff reports and the evidence presented at the hearing. It also noted the position stated by the Medical Officer of Health in her written response to the application.

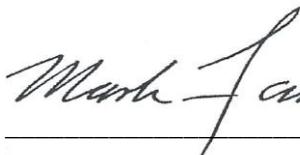
1. The committee had to weigh up the history of this event which had taken place without incident for the previous 11 years, against the advice from the Police and the Licensing Inspector that it should not take place while allowing wine to be sold in 750 ml bottles because of experience of harm where it had been allowed at other large-scale events, and because the relevant Health Promotion Agency guidelines recommend against it.
2. The committee was able to reach a positive conclusion because it was swayed by the incident-free track record of this event, and confidence in the ability of the organisers to maintain this record. It did not see any change in circumstances which had arisen since the last event which would give rise to the need for more restrictive conditions.
3. The committee did take into account the Health Promotion Agency Guidelines: "Guidelines for Managing Alcohol at Large Events" and "Guidelines for Hosting Large-scale Wine Events 2014". It noted that the current application qualified as a large event in terms of the Regulations, but fell toward the smaller end of that scale. The committee understands that the guidelines are not binding, but are available to assist it in making good decisions. The committee wishes to signal that even though it is granting the licence for this event, it would be wrong to assume consent will be granted on the same terms for future events. We signal the likely end to allowing the supply of 750 ml bottles at large-scale events in future.
4. For the sake of completeness, the committee assessed the application against the matters set out in s142 of the Act. It adopts the assessment provided by the Licensing Inspector in his report except for his conclusion that supply of wine in 750 ml bottles is contrary to the object of the Act.

Conditions:

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| <ol style="list-style-type: none"> a) Alcohol may be sold under the licence only on the following days and during the following hours:
Saturday 30 March 2019, 2.45 pm to 6.45 pm. b) The licensee shall have available for consumption on the premises, at all times when alcohol may be sold under the licence, a reasonable range of non-alcoholic refreshments. c) Food must be available for consumption on the premises as follows:
At all times when the premises are authorised to be open for the sale of liquor, food of a range and style similar to that shown on any menu submitted or a range of snack foods in the nature of pies, sandwiches, filled rolls, pizzas and the like, must be conveniently available for all patrons and the availability of those foodstuffs must be notified to them by appropriate notices throughout the premises. d) Low-alcohol beverages of the nature stated on the application form, must be available for sale and supply on the premises at all times when the premises are authorised to be open for the sale |
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- of alcohol.
- e) Potable drinking water is to be freely available to all customers at all times that the premises are open for the sale and supply of alcohol. 'Freely available' to customers, in relation to water, means –
- i Supplied free in clean drinking vessels on request; or
 - ii 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
 - iii Available free from a tap to which customers have easy access, together with clean drinking vessels that are also available free nearby.
- f) The steps detailed in the application form must be taken by the licensee to provide assistance with or information about alternative forms of transport from the licensed premises.
- g) The steps as detailed in the application form must be taken by the licensee to promote the responsible consumption of alcohol.
- h) The following steps shall be taken by the licensee to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed:
- i A certificated manager is to be on duty at all times;
 - ii Host responsibility techniques to be applied to ensure no intoxication;
 - iii No sale of alcohol to minors or intoxicated persons allowed.
- i) Members of the public shall be excluded from the premises if they are intoxicated or a prohibited person under the Act.
- j) The entire premises shall be designated as a restricted area.
- k) Unless otherwise specified in these licence conditions, all aspects of the operation and management of the event must be undertaken in strict accordance with the Alcohol Management Plan supplied in support of the application.
- l) Alcohol may only be served in the following containers:
- i. Beer shall be by way of single serve vessel;
 - ii. Wine shall be by way of 150ml single serve vessel.
 - iii. Wine may also be served in 750 ml bottles for the first two hours of the event

DATED at Mangawhai this 20th day of March 2019



Mark Farnsworth MNZM

Chair

Kaipara District Licensing Committee

For the Panel: - Mark Vincent and Gordon Lambeth

