

Decision No. OF0074 - 2020

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **Celtic Liquor Limited** for the granting of a remote Off Licence pursuant to s.100 of the Act in respect of premises situated at 1877 Paparoa Valley Road, Paparoa, Kaipara District.

Before the Kaipara District Licensing Committee

Chair: Mr Mark Farnsworth, MNZM, JP

Members: Mr Gordon Lambert

Ms Grace Le Gros

Hearing at: Mangawhai Meeting Room, Kaipara District Council Offices
The Hub, 6/6 Molesworth Drive, Mangawhai, commencing at 0900

APPEARANCES

Kaipara District Council Staff

Gavin Dawson - Governance Advisor

Dean Nuralli - Monitoring and Compliance Services Manager

Fiona Poyner - Independent Inspector

Alison Smith, Environmental Health Officer (observer)

Gina Aylett, Monitoring and Compliance Services Technical Support Officer (observer)

Northland District Health Board

Wendy Antrobus - Technical Officer

Applicants

The applicant failed to appear.

Objectors

No objectors made an appearance.

DECISION OF THE KAIPARA DISTRICT LICENSING COMMITTEE

Introduction

- [1] We have before us an application by **Celtic Liquor Limited** for the granting of a remote seller Off Licence in respect of their premises situated at 1877 Paparoa Valley Road, Paparoa, Kaipara District.
- [2] The application was filed on 3 April 2020.
- [3] The application is for a new Off-Licence to allow for the sale and supply of alcohol under a remote seller style Off-Licence. The applicant is a New Zealand Limited Company which was incorporated on 31 March 2020. The company is comprised of two directors who are also the shareholders. The proposal seeks trading hours of Monday to Sunday from 7.00am to 10.00pm which fall within the default national maximum trading hours pursuant to section 43 of the Sale and Supply of Alcohol Act 2012 (the Act).

Reporting Agencies

- [4] The Kaipara District's Chief Licensing Inspector Rachel Sheppard filed report¹ objecting to the application on the grounds of suitability. Concerns were expressed regarding: the lack of experience of the directors; their lack of adequate knowledge of the sale and supply of alcohol legislation; and host and social responsibility have not been covered off to the Inspector's satisfaction. A minimum standard of acceptance would be proof of having obtained the Licence Controller Qualification (LCQ) certificate by both directors of the applicant company.
- [5] A supplementary Submission was filed by Kaipara District Council Licensing Inspector² noting:
- On 19 October 2020 copies of the Licence Controller Qualification Certificates (LCQ) were provided to the Kaipara District Territorial Authority for Roy Macintyre and Roy Pridham: and
 - The need to appoint a manager to meet the requirements of section 212 of the Act.
- [6] Police³ did not oppose the application.
- [7] The Medical Officer of Health⁴ did not oppose the application.

Objections

- [8] The Council received five objections to the application.
- [9] Mr Gary Dallas⁵ objected on two grounds:
- The availability of alcohol within the local area; and
 - The suitability of the character and experience of the applicant.
- [10] Ms Deb Clapperton⁶ made a similar objection.

¹ Ms Rachel Sheppard retired Chief Licensing Inspector 19 August 2020

² Ms Fiona Poyner Licensing Inspector, 29 October 2020

³ Sargent Tai Patrick (TPC213) Alcohol Harm Prevention

⁴ Dr Catherine Jackson Medical Officer of Health Northland District Health Board, 4 May 2020

⁵ 1810 Paparoa Valley Road

⁶ 3245 Paparoa-Oakleigh Road

- [11] Mr David Porteous⁷ & Lynaire Porteous objected on the grounds the proposal would increase the ready availability of alcohol which in turn puts financial pressure on families that can least afford alcohol.
- [12] Ken & Delwyn Chambers⁸ objected citing the harm caused by alcohol. They noted that there are no safe methods of checking who buys alcohol online.
- [13] Ms Joy Bonham⁹ objected on the grounds of the harm caused by alcohol and the 'excessive' trading hours proposed (Monday to Sunday 7.00 am to 10.00 pm).

The Evidence and Submissions

- [14] In the absence of the applicant and objectors we found ourselves in a position where we can only address the application in terms of the documents that have been placed before us.
- [15] We would have sought further information from the applicant on:
- The proposed hours of trading;
 - The suitability of the 'building';
 - How they would validate and check the age of purchasers;
 - How the requirements of section 212 of the Act would be met; and
 - their comments on the matters raised by objectors.
- [16] We would have sought from each of the objectors, further information on their points of objection.
- [17] We would have closely questioned, both Mr Dallas and Ms Deb Clapperton on their submission that a single fire incident is a testament to character. From our initial reading, this statement appears harsh and unnecessary. Failing satisfactory answers, we would have sought the withdrawal of the allegation from both objectors.

Committee Decision and Reasons

- [18] It is very evident to us that the applicant has not got '*all its ducks in a row*'. The best course for the applicant would be to withdraw the application and address the outstanding matters. We invite them to do so. If the application is not withdrawn, within 10-working days from the date of this decision, the application will be formally turned down.
- [19] In making a decision to formally turn down the application regard we must have regard to section 105 of the Act, in particular the following elements:
- (a) the object of the 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) 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; if so, what services;
 - (f) whether 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; and
 - (g) whether the applicant has appropriate systems, staff, and training to comply with the law.

⁷ 12b Bonham Street, Pahi. This submission was counter signed, (endorsed) by Janet & Nicholas Boulgaris

⁸ 33 Oxford Street, Whakapirau

⁹ 16 Kotare Crescent, Paparoa

- [20] As the applicant and the objectors did not appear at the hearing, we are unable to give an objective consideration to any of the above listed matters (b) – (g).
- [21] In the absence of information to the contrary, the application does not meet the requirements of section 105 of the Act. We find the application does not achieve the objectives of the Act. In the event that the application is not withdrawn it must be turned down.

Dated at Mangawhai this 17 day of November 2020

A handwritten signature in black ink, appearing to read 'Mark Farnsworth', with a stylized flourish at the end.

Mark C Farnsworth MNZM, JP
Chairperson
Kaipara District Licensing Committee

On behalf of: - Grace Le Gros & Gordon Lambert