

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012

**A N D**

**IN THE MATTER** of an application pursuant to s.100 of the Act for the granting of an Off Licence to **Bacchus (Mangawhai) Limited**, Units 3C and 3 D, 83 Molesworth Drive, Mangawhai, Kaipara District.

**BEFORE** **Kaipara District Licensing Committee Hearing Panel** - Mark Farnsworth (Chair); Cr Gordon Lambeth & Grace Le Gros

**PANEL:** Mr Mark Farnsworth MNZM

Mr Gordon Lambert

Ms Grace Le Gros

**HEARING at:** Mangawhai Conference Room, Kaipara District Council Offices  
1C Molesworth Drive, Mangawhai Commencing at 1000

### **APPEARANCES**

#### ***Kaipara District Council***

Mr Warren Bangma, Simpson Grierson, Legal Counsel for the Inspector

Ms Fiona Poyner, Alcohol Licensing Inspector and witness

Ms Tracey Deane, Governance Advisor & Hearing Administrator

Observers:

Mr Dean Nuralli – Monitoring and Compliance Service Manager and Chief Licensing Inspector

Ms Alana Thurston, Governance Advisor

#### ***New Zealand Police***

Observer:

Sergeant George Harder, Police Alcohol Harm Reduction Officer

#### ***Northland District Health Board***

Observers:

Ms Wendy Antrobus, Technical Officer Healthy Environments (Alcohol and Tobacco)

Ms Carrie Bryers, Public Health Registrar

#### ***Applicant represented by:***

Mr. John Young, Legal representative for the applicant

Ms Jo-anne Thomas, Director and Shareholder, and witness for the applicant

Observers:

Mr Jason Thomas, Shareholder, for the applicant

Ms Norma Blundell, for the applicant

Mr Mark Satherley, Regional Operations Manager for Liquorland

Mr George Robertson (online)

Ms Nadine Mehlhopt (online)

### **Objectors**

1. Ms Gale Matherson, 20 Lupis Way Kaiwaka
2. Greg Neal, 14b Mokohinau Drive Mangawhai
3. Ms Belinda Fowler, 14b Mokohinau Drive Mangawhai
4. Mr Aaron Kemp, 64 Cotton Lane, Mangawhai
5. Ms Linda Ritchie, 7 Devich Road, Mangawhai
6. Ms Arna Alexander, Winsor Way, Mangawhai
7. Ms Rosa Ewing, 104A Moir Street, Mangawhai
8. Mr Tim Veron, C11 Moir Street, Mangawhai
9. Mr Derek Parrott, 67 Kedge Drive, Mangawhai
10. Ms Patricia Knibbs, 1 herons Lane, Mangawhai
11. Ms Dianne Matamana, 56 Moir Street, Mangawhai
12. Mr Donovan Broad, 22e Weka Street, Mangawhai
13. Ms Johanna Kloosterboer, 20 Kahu Drive, Mangawhai
14. Mr David Riddlestone, 1 Ngaio Close, Mangawhai
15. Ms Lesley Smith, 15 William Gilbert Drive, Mangawhai
16. Mr Sean O'Connor, Mangawhai movies Molesworth Drive & Devich Road
17. Ms Sara Arancibia, 13 Ti Tree Place, Mangawhai
18. Ms Brittany Bray, 63 Eveline Street, Mangawhai
19. Ms Karen Watson-Smith, Jack Boyd Drive, Mangawhai
20. Mr Mike Ferguson, 53 Greenway Drive, Mangawhai
21. Ms Fiona Strathern, 36 Greenway Drive, Mangawhai
22. Ms Vickie Matich, 10 Sandy Lane, Mangawhai
23. Ms Sakaraia Kuninikoro, 7 Sandy Lane Mangawhai
24. Phil & Amanda Elrick,
25. Ms Laura Procotor, 2 Cullen Street, Mangawhai
26. Ms Aliesha Hayes, 216 Thelma Road North, Mangawhai
27. Ms Kiri Eastwood, 23 Cullen Street, Mangawhai
28. Ms Sara Allan. 30 Taranui Place, Mangawhai
29. Ms Hilary Cole, 2 Mangawhai Heads Road, Mangawhai
30. Ms Marie McKenna
31. Ms Megan Dowson
32. Mr Jamie Mace

### **Appearance notes:**

Only Mr Derek Parrott (and his spouse, as an Observer) appeared  
Ms Petra Kloosterboer (apologised as she had to leave early prior to speaking)  
Mr Timothy Vernon (apology received on the day due to illness)

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## **RESERVED DECISION OF THE KAIPARA DISTRICT LICENSING COMMITTEE**

### **Introduction**

1. In an application dated 20 January 2023 **Bacchus (Mangawhai) Limited (Applicant)**, applied for an Off-Licence in respect of premises at Units 3C & 3D, 83 Molesworth Drive, Mangawhai (**the Application**).

2. The application was publicly notified on 26 January 2023 and again on 2 February 2023. Thirty-two (32) objections were filed with the DLC. Two of the objections did not provide sufficient information regarding their place of residence or work to allow the DLC to determine if the objectors have an interest greater than the public generally under section 102(1) of the Act. Twenty-four of objections were by way of a template form and submitted by the *Communities Against Alcohol Harm (CAAH)*.
3. Objection points included:
  - The placement of notice on or adjacent to site (section 101(a));
  - Impact on good order in the local Community;
  - The proposed days and hours of sale; and
  - There are sufficient licenses in the general area.
4. Neither the Police nor the Medical Officer of Health filed submissions on the application, The Licensing Inspector in her report noted<sup>1</sup>:
  - The Police did not oppose the application, on the basis the Applicant has agreed to a condition prohibiting single sales of beer (apart from craft beer) or ready to drink spirits in bottles or cans less than 440mls and shots or pre-mixed shots; and
  - The Medical Officer of Health had no objection to the issue of the licence, but recommended the DLC consider a discretionary condition limiting advertising.
5. The premises are located in Mangawhai Central, which is a large new urban development featuring commercial and residential development. A New World supermarket and a Bunnings have already been established. Key features of the application include:
  - The sale of alcohol is the principal purpose of the business (a bottle store);
  - Hours of business Monday to Sunday 10.00am to 10.00pm<sup>2</sup>; and
  - Does not propose to become engaged in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food.
6. The District Licensing Inspector recommended the District Licensing Committee (**Committee**) should convene a public hearing to determine the application<sup>3</sup>. The application was set down for a formal hearing as the Committee wanted to hear about the concerns of the objectors, and to satisfy itself that the Applicant's proposed operating regime would not reduce the amenity and good order of the area by more than a minor extent.

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<sup>1</sup> Application Material page 107

<sup>2</sup> The Applicant amended the hours that were initially applied for.

<sup>3</sup> Inspector's Report, 11 April 2023 at [18]

### ***Applicant's Evidence***

7. To provide a context to the Applicant's evidence Mr John Young, Legal Counsel, for the Applicant provided us with legal submissions which highlighted decisions of the *Alcohol Regulatory and Licensing Authority (ARLA)* which he advocated were critical the Committee's evaluation of the application and strongly suggest that it should be granted namely:
  - **Ponda Holdings Limited**<sup>4</sup> which addresses suitability and amenity and good order:
  - **Mereana Selby v Kiw-E Otaki Limited**<sup>5</sup> which reconfirms that generalised evidence is not sufficient and that, in itself, proliferation is not a ground of objection; and
  - **Townill Limited**<sup>6</sup> which also reconfirms the approach set out in **Selby** while also providing guidance on the appropriate approach to the amenity and good order criteria; and
  - **Riccarton Bush Kilmarnock Residents Association**, a very recent decision which broadly confirms the approach in **Selby** and **Town**<sup>7</sup>.
8. The Applicant, Ms Jo-Ann Thomas, provided us with an overview of the development occurring at Mangawhai Central, noting that there had been an 60% increase in Mangawhai population from 2013 to 2018, and an environmental scan showed that growth will be focused on the new Mangawhai Central development.
9. Ms Thomas outlined her target market and reasons why the location had been chosen<sup>8</sup>, namely:
  - The other bottle stores are not located in Mangawhai Central, but are located further away in Mangawhai Heads and Mangawhai Village.
  - The new residential development and growth generally will mean there is additional demand for bottle store products as a larger population will increase pressure on all existing retailers in Mangawhai; and
  - Mangawhai Central will attract people from surrounding rural areas to shop, and people who are driving through Mangawhai to other holiday destinations like Langs Beach and Waipu Cove.
10. She proffered the view that their store would complement the other services in Mangawhai<sup>9</sup>.

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<sup>4</sup> Ponda Holdings Limited [2014] NZARLA PH558

<sup>5</sup> Mereana Selby v Kiw-E Otaki Limited [2020] NZARLA 210

<sup>6</sup> Townill Limited [2021] NZARLA 50

<sup>7</sup> John Young Opening Legal Submission at Section 2

<sup>8</sup> Jo-Ann Thomas EIC at [3.3]

<sup>9</sup> Ibid at [3.3(c)]

11. Ms Thomas provided commentary of why the Application meets each of the Section 105 Criteria<sup>10</sup>. We have recorded below the key points made:

*Section 105(1)(b) The Suitability of the Applicant:*

- Owned a bach in Mangawhai since 2013. Members of the Mangawhai community and actively support local community groups;
- Understands the importance of meeting obligations under the Act;
- Will help limit potential harm by not selling RTDs in cans or bottles under 440ml individually; and
- Will adhere to national guidance on alcohol promotions.

*Section 105(1)(c) Any Local Alcohol Policy:*

- The Kaipara District does not have a Local Alcohol Policy.

*Section 105(1)(d) Days and Hours:*

- Seeking modified hours 10.00am to 10.00pm, seven days a week.

*Section 105(1)(e) Design and Layout:*

- The premises are part of a new commercial and residential development. The building was not complete when they applied. Therefore, the Building Code Compliance Certificate required has not been finalized.
- Security of the store is very important to them. Recognising that good design and layout are important to minimise potential harm and ensure a safe environment for staff and customers. They have designed the store layout *with Crime Prevention Through Environmental Design* principles in mind.
- Fog cannons, a panic button, a roller door, and alarms will be installed. There is also the intention to install bollards.

*Section 105(1)(f) Sale of other goods:*

- They intend to sell low-alcohol refreshments, non-alcoholic refreshments, and some food;
- They have agreed not to sell tobacco and vaping products.

*Section 105(1)(g) Other services:*

- Not offering other services

*Section 105(1)(h) & (i) Amenity and Good Order:*

- They are committed to ensuring the amenity and good order of the store and surrounding area.
- No significant noise levels will be generated by the proposed store that could adversely affect the amenity and good order of the locality. The adverse impacts of noise on residential neighbours will be minimal.
- Committed to helping keep the store's environs clean and tidy.

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<sup>10</sup> Ibid at Section 4

- Any signs of vandalism on or near the premises will be quickly corrected.
- Staff will monitor the area outside the store for anyone drinking outside the shop, or causing any issues, and assist in dealing with any person as appropriate in the circumstances. The store is within an alcohol ban area which is 24/7 during the peak summer period, from 22 December to 13 January each year. Throughout the rest of the year, there is an alcohol ban from 8:30 p.m. to 7:00 a.m. each day.
- There are no sensitive sites with a 500-meter radius of us. The premises cannot be seen from sensitive sites.
- There are two stand-alone bottle stores around Mangawhai. One is in Mangawhai Heads, approximately 1.8 km away; the other is in Mangawhai Village, approximately 1.7 km away. The Mangawhai Central New World holds an off-licence and will be in close proximity to the store.
- The Inspector did not find that there were any detrimental effects on amenity and good order from the proposal and it was their view that generally Mangawhai is very clean and tidy.

*Section 105(1)(j): Systems, Staff and training*

- Their Host Responsibilities Policy sets some of their systems and processes and will be displayed prominently in store.
- Signage will be used to display the name of the manager on duty, trading days and hours of the store, and a copy of the licence will be on display.
- There will be no sales to people over the age of 18 in school uniform.
- The store till system will remind all staff of the obligations around the - “under 25 policy - check ID for anyone that looks under 25 - at the beginning of every shift, when logging on.
- All staff are trained in their requirements and responsibilities under the Act, including making sure staff are able to identify minors and customers who may be intoxicated. Training will be given upon induction for new staff, and there will be on-going training for all staff.

*Section 105(1)(k): matters dealt with by the reports by the Police, District Licensing Inspector and the Medical Officer of Health*

- The Police and the Medical Officer of Health did not oppose the application.

*Section 105(1)(a): Object of the Act*

In concluding her commentary on section 105 Ms Thomas opined<sup>11</sup>:

“My evidence above demonstrates how we will meet the criteria set out in section 105 of the Act in relation to this application. All of the things I have outlined above are designed to ensure that alcohol is sold safely, and harm is minimised. I know that alcohol can cause harm. However, if we maintain high standards in what we do and how we present ourselves, then I believe we reduce the risk of our customers consuming alcohol irresponsibly.”

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<sup>11</sup> Ms Thomas EIC at [4.49]

12. In addressing the objectors' concerns Ms Thomas noted<sup>12</sup>:
- Almost all objectors make a submission to the effect that there are sufficient alcohol stores in Mangawhai already. This does not account for the huge population growth which has occurred and will continue to occur, particularly in the area around the premises.
  - There are currently only two bottle stores which are able to sell a full range of products. Neither of these stores are in the Mangawhai Central area.
  - Inspector did not consider the number of alcohol stores was an issue.
  - They take the effects of alcohol related harm very seriously and know that they have a role to prevent that harm in our community.
  - Her evidence outlines the many steps that have been implemented, or will be implemented to minimise alcohol related harm.
13. In closing Ms Thomas reiterated her proffered view that the application meets the criteria of section 105.

### ***District Licensing Inspector's Evidence***

14. To provide a context to the Inspector's evidence Mr Warren Bangma, Legal Counsel, for the Council provided us with legal submissions in which he addressed:
- The legal requirements for objectors to have standing to object to the application<sup>13</sup>. He noted:  
  

*"In **Re I S Dhillon and Sons Ltd [2013] NZARLA 256**, ARLA recorded at [37] that a one kilometre radius*

*"is a notional area often used to determine whether there is an interest greater than the public generally".*
  - The relevant statutory considerations<sup>14</sup>.
  - The relevance of the existing number of licences of this kind already held in the locality<sup>15</sup>.
15. In concluding Mr Bangma advocated<sup>16</sup>:
- "It is respectfully submitted, for the reasons set out in Ms Poyner's evidence and in these submissions that the Application satisfies the matters set out in section 105(1)(a)-(k) of the Act and the object of the Act, and can be granted.
16. The Council Licensing Inspector Ms Fiona Poyner provided a brief of evidence in which she provided us with a summary of the key findings of her Inspector's Report.

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<sup>12</sup> Ibid at section 5

<sup>13</sup> Mr Bangma Opening Legal Submissions at section 2

<sup>14</sup> Ibid at section 3

<sup>15</sup> Ibid at section 4

<sup>16</sup> Ibid at [5.1]

17. Ms Poyner confirmed, as noted above neither the Police nor the Medical Officer of health objected to the application<sup>17</sup>.

18. Ms Poyner told us that she had considered the Application against the matters set out in section 105(a) - (k) of the Act and the object of Act and opined<sup>18</sup>:

“In my opinion, having considered the Application against the matters set out in section 105(1)(a)-(k) of the Act and the object of the Act, there are no reasons to decline the Application. In particular, there is nothing I am aware of to suggest that, if this licence is granted, alcohol will be sold, supplied or consumed in a way that is unsafe or irresponsible, or that there will be alcohol related harm. The full reasons for my opinion are set out in my Inspector’s Report”.

19. In addressing the number of bottle store licenses in Mangawhai and Mangawhai Central she told<sup>19</sup> us she had looked at the predicted population of the area and had determined that Mangawhai has grown rapidly and is predicted to continue to do in the coming years. We questioned Ms Thomas on the population trends.

20. In concluding her evidence Ms Poyner proffered the opinion<sup>20</sup>:

“Overall, in my opinion, having considered the Application against the matters set out in section 105(1)(a)-(k) of the Act and the object of the Act, there are no reasons to decline the application”.

### **Objectors’ Evidence**

21. Only one objector, Mr Derek Parrott, chose to give evidence at the hearing. In introducing himself Parrott informed us that, after meeting with the Applicant and hearing the evidence of Ms Thomas, he was changing his objection from one of total opposition to one of conditional support for the application.

22. Mr Parrott told us he was a Mangawhai resident. He retired from the New Zealand Police in 2011 and moved to Mangawhai in 2013. he noted<sup>21</sup> that his place of residence is approximately 3 kms from Mangawhai Central and falls outside of the ‘close proximately’ residential criteria that has been established by the High Court. As the Applicant did not challenge the standing of Mr Parrott we adopted the view that because of his experience and local knowledge Mr Parrott, was as he put it, “a person with an enhanced interest in the application”.

23. The first issue which Mr Parrott raised was an objection he had made under section 101(a) of the Act concerning the placement of notice on or adjacent to the site. We asked Mr Parrott if he wished to table a procedural point on this matter. He declined, noting that he didn’t intend to take the matter further. He was just wanted the time to fully outline to the committee what happened and his concerns. We need to record the actions of the DLC: this is a construction site as a direct result of Mr Parrott’s

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<sup>17</sup> Ms Poyner EiC at [3.4 – 3.5]

<sup>18</sup> Ibid at [3.7]

<sup>19</sup> Ms Poyner EiC at section 4

<sup>20</sup> Ibid at [5.1]

<sup>21</sup> Parrott EiC at [7 – 15]



objection the site was visited by both the inspector and committee chair. The objection period for the Application was extended by the committee for an extra week.

24. To help the committee understand how alcohol can impact on the good order to the local community Mr Parrott outlined a number of incidents involving young people and alcohol. In particular he referenced to:
- The April 2023 incident in which a newly planted roundabout located less than 100m from the proposed Liquorland site at Mangawhai Central was vandalized.
  - The June 30 2022 incident in which the Wood Street public toilets were tagged.
25. Mr Parrott also observed<sup>22</sup> that Mangawhai is currently served by 3 dedicated bottle stores and 3 grocery stores which are licenced for the sale of liquor. An additional liquor store will inevitably result in an increase in anti-social behaviour, a subject traversed in the recent (May 2023) **Supreme Court decision (SC139/2021) of Foodstuffs North Island Limited and Auckland Council**.
26. Mr Parrott noted that his conditional support of the Application hinged on the committee addressing the opening hours. He drew our attention to the following: The Supreme Court decision<sup>23</sup> (para.75) made the following comments pertinent to this discussion:
- “The evidence referred to was “a good deal of factual and expert evidence about alcohol-related harm and it’s linkage to the sale and supply of liquor”*
- The Court of Appeal, canvassed this evidence finding that it was sufficient to justify the restriction on closing hours it went on to say –
- “It is not necessary that the Licensing reach a final view about the relationship between trading hours and harm. It sufficed, as we have explained, that there was a real and appreciable possibility that an earlier closing time would reduce alcohol -related harm. And that, in essence, is what (The Licencing Authority) decided in the quote... and concluded, that there was an evidential basis for the closing hours restriction.”*
27. Mr Parrott was of the view<sup>24</sup>:
- “The application that is before the Committee will set a higher benchmark than the established Mangawhai bottle stores, and if approved could become a benchmark for future off- licence Applications, to extend hours”
28. In concluding Mr Parrott opined that the Kaipara District needed Liquor Policy. He reminded the committee<sup>25</sup>:
- “The Kaipara District Licensing Committee has a statutory duty to assess the Liquorland application against the criteria of S.105 of the Act but while doing so has a responsibility to the Mangawhai community to adopt a precautionary approach to learn from and avoid the mistakes of other District Licensing Authorities.”

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<sup>22</sup> Parrott EIC at [39]

<sup>23</sup> *Supreme Court decision (SC139/2021) of Foodstuffs North Island Limited and Auckland Council*

<sup>24</sup> Parrott EIC at [52]

<sup>25</sup> Ibid at [65]

## Discussion and Reasons for the Decision

29. The Act requires that when deciding whether to grant a licence or not, the licensing committee **must have regard** to the matters contained in section 105 and 106 of the Act.
30. Section 105(1)(a) of the Act requires that the licensing committee must have regard to the object of the Act and in particular that **the sale, supply, and consumption of alcohol is to be undertaken safely and responsibly, and that the harm caused by the excessive or inappropriate consumption of alcohol is minimised.**
31. It is our function to determine and decide, based on the evidence adduced at the hearing, that the granting of the Application will achieve the purpose of the Act.
32. The first matter we must address is the standing of the objectors who did not attend the hearing. We sought clarification from both Mr Young and Mr Bangma on the weight we should give to proforma submissions. Mr Young submitted<sup>26</sup>

“It is well settled that little or no weight can be given to objections where objectors do not appear at a hearing<sup>27</sup>. In my submission, pro-forma objections should receive no weight if the objector does not appear because the parties do not know precisely what the objector’s concerns are when the written objection is produced in a formulaic and predetermined way”

Mr Bangma was of a similar mind to Mr Young.

33. Mr Bangma also addressed the issue of the legal requirements for objectors to have standing in order to object to an Application. Section 102(1) of the Act provides that a person may object to the grant of a licence only if he or she has a greater interest in the application for the licence than the public generally. Mr Bangma noted<sup>28</sup>

“In *Re I S Dhillon and Sons Ltd* [2013] NZARLA 256, the Authority recorded at [37] that a one kilometre radius

*“is a notional area often used to determine whether there is an interest greater than the public generally”.*

This was upheld in *Utikere v I S Dhillon and Sons Ltd* [2014] NZHC 270.

Although I note that there seems to have been some acceptance that objectors who lived within a 1-2km radius could also have standing to object.”

34. Ms Poyner, in her Inspectors Report, provided<sup>29</sup> us with the location of the submitters. Only 1 objector lives within 1km of the site and 13 objectors live within 2kms of the site. In terms of the 17 objectors (with the exception of Mr Parrortt) who

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<sup>26</sup> Young Closing Legal Submissions at [1.3]

<sup>27</sup> *Re Sapphire Dreams Ltd* [2014] NZARLA 92 (at 3).

<sup>28</sup> Bangma Opening legal Submissions at [2.5]

<sup>29</sup> Application Material at page 171

live more than 2kms from the site, and the two objectors who did not provided an address, they did not attend the hearing. Given their non-attendance we were not in a position to question these objectors as to why they should to given standing. We came to the view, due to their location and non-attendance, that they should not be granted standing.

35. In terms of the 13 objectors who live within 2 km of the site, with the exception Ms Kloosterboer and Mr Veron, due to their non-attendance at the hearing we were not in a position to question these objectors as to why they should to given standing. We came to the view that they should not be granted standing.
36. Mr Tim Veron provided an apology for non-attendance at the hearing due to illness. Mr Veron tabled one of the proforma objections.
37. Ms Petra Kloosterboer attended the first part of the hearing but left early. Ms Koosterboer had provided a, considered written objection.
38. In considering that weighting we should afford Mr Veron and Ms Kloosterboer we turn to the decision of the Liquor Licensing Authority who said in **GRAMMADE ENTERPRISES LIMITED LLA PH648-649/032**  
*“The objections will have little probative value if those making the allegations in the objection are not able, or prepared, to appear at the hearing to affirm, or swear, to the truth of what they are saying. By not appearing, their opinions and concerns cannot be tested by cross-examination by the applicant or questioned by members of the Authority.”*
39. We were not in a position to question neither Mr Veron or Ms Kloosterboer on their objections. We came to the view that no weight could be given to their objections. We do however note our decision will go some way to meeting the intent of Ms Kloosterboer’s final submission Point 8<sup>30</sup> on the conditions that should be applied if consent is granted.
40. In her Inspector’s Report Ms Poyner provided a comprehensive sections 105 & 106 analysis. She provided us with a summary her assessment in her evidence. Her analysis was not challenged by way of evidence at the hearing. We have accepted and adopted her analysis for the purpose of this decision. As note in paragraph 20 above she recommended the granting of the licence.
41. Key points from Ms Poyners section 105 analysis:
  - No issues were raised about the suitability of the Applicant. There was general acceptance that the Applicant was a suitable person to hold a Licence.
  - Kaipara District does not have an Alcohol Policy. Mr Parrott, in his evidence, raised the issue of the need for a Policy. The committee has not been lobbied on the matter, nor has it, in recent times, discussed the need for a policy. Ultimately it a policy matter for the Council to address. We will inform the Council of Mr Parrott’s submission and will provide advice on request.

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<sup>30</sup> Application Material at page 267

- The amended trading hours (Monday to Sunday 10.00am to 10.00pm) are less extensive than the default national maximum trading hours prescribed in section 43 of the Act.
- A building certificate for the purpose of s.100 (f) of the Act has not been issued. The building is currently under construction. A Licence cannot be issued until the building and planning certificates are provided.
- The premises will be fitted out in accordance with the National Guidelines for Crime Prevention through Environmental Design” (CPTED) – Safer Bottle stores.
- The amenity and good order of the locality is unlikely to be reduced by more than a minor extent if the licence was granted.
- As noted above neither the Police or the Medical Officer of Health opposed this application as the applicant had agreed to discretionary conditions.
- Discretionary conditions re single sales and advertising under section 117 of the Act have been recommended.

42. Overall, the committee is satisfied as to the matters to which we must have regard as set out in sections 105 & 106 have been either addressed or met.

## **DECISION**

The District Licensing Committee acting pursuant to the Sale and Supply of Alcohol Act 2012, **grants** an application by **Bacchus (Mangawhai) Limited** for the grant of an OFF Licence in respect of premises situated at 3C & 3D Molesworth Drive Mangawhai subject to conditions. We have imposed two discretionary conditions by consent to lock in the product range and alcohol advertising.

### **Conditions:**

The licence is subject to the following conditions:

- (a) No alcohol is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.
- (b) Alcohol may be sold only on the following days and during the following hours: Monday to Sunday - 10.00 am until 10.00 pm.
- (c) Drinking water is to be freely available to customers when alcohol tastings are provided. “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 water vessels that are also available free nearby
- (d) The fees payable for the licensing of the premises concerned are the following risk rating: medium.
- (e) 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:
  - (i) Ensure that no intoxicated persons are allowed to enter or to remain on the premises.

- (ii) Ensure that the appropriate signs are prominently displayed detailing the statutory restrictions on the supply of alcohol to minors and intoxicated persons, at each entry and adjacent to each point.

(f) The entire premises is designated as a supervised area.

*Imposed under section 117 of the Act.*

- (g) No single sales of:
  - (i) Beer or ready to drink spirits (RTD's) in bottles, cans or containers of less than 440mls in volume may occur except for craft beer; and
  - (ii) Shots or pre-mixed shots.
- (h) Beer or ready to drink spirits (RTD's) in bottles, cans or containers of less than 400mls in volume must be sold in four packs or higher except craft beer.
- (i) Advertising:
  - (i) External or external-facing advertising of prices of alcohol products, or promotion of a special price / discount of an alcohol product must not be displayed on the façade of the building.
  - (ii) External advertising of alcohol products must not be displayed by way of flags, sandwich boards or bollard covers outside the premises.

**Once the building certificate, required under section 100f of the Act, is provided the Licence will be granted for 12 months from the date of issue.**

**DATED** at Mangawhai this 14 day of June 2023



**Mark c Farnsworth MNZN**  
Chairperson  
Kaipara District Licensing Committee

For – Cr Gordon Lambeth & Grace Le Gros