

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 On-Licence application by **The Bunker Limited**, for the Units 3E and 3F, Main Street, Mangawhai Central, Mangawhai, Kaipara District.

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

RESERVED DECISION OF THE KAIPARA DISTRICT LICENSING COMMITTEE ON AN APPLICATION BY THE BUNKER LIMITED FOR AN ON-LICENCE

Chairperson: Mark Farnsworth
Member: Cr Gordon Lambeth
Member: Grace Le Gros

HEARING: On papers 15 August 2024

Introduction

1. In an application which was publicly notified on 23 April 2024 **The Bunker Limited (Applicant)** applied for an On-Licence in respect of premises at Units 3E & 3F, Main Street, Mangawhai Central, Mangawhai (**the Application**).
2. The public notification attracted one objection from Mr Stewart McElwain, which was filed with the DLC pursuant to section 105(1)(h), submitting the proposed activity would impact on the amenity and good order of the locality.
3. The Inspector's Report records:

"This application is for a new on licence to allow for the sale of alcohol under a function centre style licence. The proposed premises will include an outdoor dining area on the footpath immediately in front of the premises with a bar and four golf simulators in the interior of premises. The applicant is a private company incorporated on 29 February 2024 and comprises of two directors and three shareholders. The directors and shareholders reside in Mangawhai.

The proposed premises is situated at Main Street, Mangawhai in the area known as Mangawhai Central. The premises has never been licensed before. The applicant has a 6-year lease in place with Mangawhai Central Limited with 3 terms of 6 years right of renewal (if all rights of renewal are exercised.) Mangawhai Central Limited have advised that they "have no objection to "the Bunker" obtaining an alcohol licence to enable the business to sell and supply alcohol to the public."

A licence to occupy (LTO) from the Kaipara District Council for a period of three years states that the applicant has the use of the footpath for the purposes of outdoor dining, however, must leave 1.8-meter footpath clearance. In consultation with the reporting agencies the applicant

has agreed that the footpath area is designated for the purposes of dining only and will be closed at 8.30pm.”

4. Neither the Police nor the Medical Officer of Health filed submissions in opposition to the application.
5. The District Licencing Inspector in her report records:

“Having regard to the matters specified at section 105 of the Act, I do not believe that the granting of this application and the issue of a new on-licence would be inconsistent with the object of the Act”.

Procedural Decisions

6. Ms Joanne Howard¹, the Applicant’s agent filed on 24 June 2024, a section 202 Objection to strike out the sole objection by Mr Stewart McElwain to their application for an On-Licence.
7. In a Reserved decision dated 22 July the committee resolved:
*“The District Licensing Committee acting pursuant to the Sale and Supply of Alcohol Act 2012, declines the application by **Bunker Limited** declare the Stewart McElwain submission dated 29 May 2024 vexatious.”*
8. On scheduling a hearing for 14 August 2024 and the parties receiving the Panels’ First Direction dated 25 July the hearing Administrator was informed² by the objector Mr McElwain that he was withdrawing his objection as the applicant had addressed his concern about the outside seating arrangement and made the appropriate changes.
9. It was resolved that the application would be considered by the committee without the need for a public hearing.

Reasons for the Decision

10. The object of Act:

4. Object

The object of this Act is that—

(1) (a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and

(b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

(2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—

(a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and

¹ Omega Hospitality, Liquor Licensing Consultants.

² 7 August 2024

(b) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

11. As noted above:

- Neither the Police nor the Medical Officer of Health have raised any matters in opposition; and
- The Inspector reports that the amenity and good order of the locality is unlikely to be reduced by more than a minor extent if the licence was granted.

12. Overall, we are satisfied as to the matters to which we must have regard as set out in s.105 & 106 of the Act have been met by the applicant. The application is not contrary to the objective and purpose of the Act.

DECISION

13. The District Licensing Committee acting pursuant to the Sale and Supply of Alcohol Act 2012, **approves** the application by **The Bunker Limited** for an On-Licence in respect of premises at Units 3E & 3F, Main Street, Mangawhai Central, Mangawhai subject to conditions.

CONDITIONS

- a) No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person who is not present on the premises to dine.
- b) Alcohol may be sold and supplied only to individuals participating in or spectating the Golf Simulator, and only on the following days and during the following hours:
 - Monday to Sunday 10.00am to 12.00 midnight; and
 - Monday to Sunday 10.00am to 8.30pm – outdoor dining area.
- c) 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 water vessels that are also readily available 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 promote the responsible consumption of alcohol:

- (i) The licensee must ensure that all staff comply with the host responsibility plan submitted with the application for an on-licence detailing the steps to be taken by the licensee to ensure a safe drinking environment.
 - (ii) Food must be available for consumption on the premises at all times the premises are open for the sale and supply of alcohol, in accordance with the sample menu supplied with the application for this licence or menu variations of a similar range and standard. Menus must be visible, and food should be actively promoted.
 - (iii) The licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages.
- f) 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 appropriate signs are prominently displayed detailing the statutory restrictions on the supply of alcohol to minors and intoxicated persons adjacent to every point of sale.
- g) A properly appointed certificated or Acting or Temporary Manager must be on duty at all times when the premises are open for the sale and supply of alcohol, and their full name must be on a sign prominently displayed in the premises.

DATED at Mangawhai this 15th day of August 2024



Mark C Farnsworth MNZN
Chairperson
Kaipara District Licensing Committee

For – Cr Gordon Lambeth & Grace Le Gros