

LICENSING COMMITTEE

Application	018-0116
<u>IN THE MATTER</u>	of the Sale and Supply of Alcohol Act 2012
<u>AND</u> <u>IN THE MATTER</u>	of an application by Kiwis Wine and Dine Restaurant West Auckland Limited for an on-licence in respect of the premises situated at 11 Maniapoto Street, Otorohanga known as The Food Affairs Otorohanga

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The application for an on-licence authorising the sale and supply of alcohol for consumption on the premises, to any person who is present on the premises is granted. The licence may issue upon payment of the annual fee.
2. This licence continues in force until the close of the period of 12 months after the day it is issued.
3. The licence is subject to the following conditions:
 - a) Alcohol may only be sold or supplied while trading as a restaurant.
 - b) Alcohol may be sold or supplied from 11.00am to 12.00 midnight the following day, Tuesday to Sunday.
 - c) No alcohol may be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person who is not on the premises to dine.
 - d) The area where alcohol is to be sold and consumed is described in the plan date stamped as received by the Otorohanga District Licensing Committee on 7 September 2018 (downstairs) 12 November 2018 (upstairs) and no alcohol is to be taken out of this area.
 - e) The entire premises is undesignated.
 - f) A holder of a manager's certificate or a properly notified manager shall be on duty and on the premises at all times alcohol is sold. If a duty manager is not present then there must be no alcohol sales and a notice displayed advising the public of this fact.
 - g) A manager's register (as required by s.232 of the Act) is to be maintained and available on site.

- h) A Host Responsibility Policy must be maintained and displayed, and the Licensee must ensure all staff receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.
- i) There must be no sale or supply of alcohol to minors or intoxicated persons and there must be appropriate signs detailing these restrictions at every point of sale.
- j) Drinking water must be freely available and this must be clear to customers, while the premises is open for the sale and supply of alcohol.
- k) Food must be available for consumption on the premises at all times when open for the sale of alcohol in accordance with the restaurant menu submitted with the application for this licence, or variations of a similar range and standard.
- l) A range of low-alcohol and non-alcoholic drinks must be available at all times when the premises are open for the sale of alcohol.
- m) A telephone must be freely available for customers to call for transport and staff must assist if required. Telephone numbers for alternative forms of transport from the premises must be displayed.
- n) The Licensee must ensure the following are displayed;
 - i) A sign to be seen from outside the principal entrance stating the ordinary hours of business during which the premises will be open for the sale of alcohol.
 - ii) A copy of the original licence with all the conditions, just inside the principal entrance so persons entering can read it.
 - iii) A sign in a prominent place identifying the duty manager.

Reasons

1. This is an application by Kiwis Wine and Dine Restaurant West Auckland Limited for an on-licence in respect of premises situated at 11 Maniapoto Street, Otorohanga known as The Food Affairs Otorohanga. The restaurant is currently unlicensed. This venue has operated as a licensed tavern and restaurant in the past, with the tavern accessed from the rear of the premises in Cowley Lane. The tavern area is no longer utilised by the restaurant and is currently used for storage.
2. A planning certificate has been received confirming that the proposed use of the premises meets the requirements of the Resource Management Act 1991 and the building code.
3. The application was advertised and there have been no objections by members of the public. The Liquor Licensing Inspector, Police and the Medical Officer of Health have provided reports and do not oppose the application. Accordingly, the matter is decided on the papers (134).
4. The purpose of the Act is to put in place a new system of control over the sale and supply of alcohol (s 3). The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol is minimised (s 4).
5. In deciding whether to issue a licence the District Licensing Committee must have regard to the criteria in s 105 of the Act. Therefore this committee must consider the following questions within the framework of the purpose and object of the Act:

- a) Is the applicant suitable?
- b) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
- c) Is the design and layout of the premises suitable?
- d) Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
- e) Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of licence? Is the amenity and good order of the locality already so badly affected by the effects of the existing licenses that it is unlikely to be reduced further by the effects of the issue of the licence or is it desirable not to issue any further licenses?
- f) Does the applicant have appropriate systems, staff and training to comply with the law?
- g) Have the Police, Inspector and Medical Officer of Health raised any relevant considerations?
- h) Does the application comply with the Otorohanga District Local Alcohol Policy (LAP)?

Is the applicant suitable? Does the applicant have appropriate systems, staff and training to comply with the law? Does the application comply with the LAP?

- 6. The licensing committee is satisfied that Kiwis Wine and Dine Restaurant West Auckland Limited is a suitable entity to hold an on-licence. One of the directors, Mr Kumar has experience working as a duty manager on licensed premises.
- 7. The licensing committee is satisfied that Kiwis Wine and Dine Restaurant West Auckland Limited has an appropriate Host Responsibility Policy and staff training programme. There are sufficient Duty Managers employed to ensure compliance with the Act.
- 8. The licensing committee accepts the recommendation of the Licensing Inspector that the application complies with the LAP.

Are the days and hours during which the applicant proposes to sell alcohol reasonable?

- 9. Kiwis Wine and Dine Restaurant West Auckland Limited proposes to operate as a restaurant from 11.00am to 12.00, Tuesday to Sunday. The licensing committee is satisfied that these are appropriate hours of operation.

Is the design and layout of the premises suitable?

- 10. The licensing committee is satisfied that Kiwis Wine and Dine Restaurant West Auckland Limited has a suitable design and layout to meet the requirements of the Act. It is well appointed and able to be monitored effectively by the staff of the premises and CCTV cameras. The premises consists of a downstairs seated restaurant area and outdoor dining area. the upstairs area will be used for functions or special events. The entire premises is undesignated. This means that people under the age of 18 years may eat at the restaurant without a parent or guardian.

Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?

- 11. Kiwis Wine and Dine Restaurant West Auckland Limited does not engage in the sale of goods or service other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food.

Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of the licence?

12. The licensing committee is satisfied that the grant of an on-licence to Kiwis Wine and Dine Restaurant West Auckland Limited will not have a negative effect on the good order of the locality. There have been no reports of any nuisance, vandalism or noise problems associated with this premises.

Should there be a condition on the licence prohibiting the sale of alcohol to takeaway customers?

13. The Licensing Inspector recommends that a condition be placed on the licence prohibiting the sale of alcohol to customers ordering takeaway food. The company has no plans at this stage for takeaway meals, however if in the future they decide to, alcohol will not be served to customers ordering takeaway food.
14. The licensing committee may issue a licence with any reasonable conditions not inconsistent with this Act (section 117). In general terms the licensing committee aims to promote consistent reasonable conditions for all licensees in the area. Any proposed conditions that are not consistent with other licensees and require more restrictive management by the licensee must be based on sound evidence that an identified risk requires mitigation. This risk must be based on a concern regarding the criteria in section 105 and must ultimately focus on the object of the Act, which is to ensure that alcohol is consumed safely and harm caused by the excessive or inappropriate consumption of alcohol is minimised.
15. Given that the company does not have plans to sell takeaway food, the licensing committee does not consider that it is necessary to place a condition on the licence prohibiting the sale of alcohol to takeaway customers.

Conclusion

16. The licensing committee is satisfied that the grant of the on-licence with the appropriate conditions will ensure the safe and responsible supply of alcohol and the minimisation of harm caused by excessive or inappropriate use of alcohol.
17. Therefore, the application for an on-licence is granted.

Dated at this 18th day of November 2018



Sara Grayson
Commissioner
District Licensing Committee