

Whanganui District Licensing Committee Hearing

Agenda

Meeting Date: Friday 20 November 2020

Time: 12.00pm midday

Venue: Cooks Gardens Events Centre
Peter Snell Room
St Hill Street, Whanganui

Committee: Stuart Hylton (Chair) District Licensing Commissioner
Nicki Higgle (Member)
Annette Main (Member)

Administrator: Kirsty Earle

Application for a new Off-Licence

M7 Limited

Agenda

- 1. Welcome and Introductions**
- 2. Declaration of Conflict of Interest**
- 3. Overview of the Proceedings**
- 4. Hearing of Submissions on Objection Status**
- 5. Hearing Adjournment for DLC to consider Objection Status**
- 6. Reconvene Hearing for Objection Status Decision**
- 7. Hearing of Application**
- 8. Close of Hearing**

References

The following references are provided in relation to the hearing:

- Application by M7 Limited for a new Off-LicenceRef. A – page 5**
- Applicant Supporting Submission of Evidence **Ref. B – page 35**

Objections

- Jay Rerekura **Ref. C – page 51**
- Chester Penaflor **Ref. D – page 53**

Reports and Submissions of Evidence

- Licensing Inspector's Report (In Opposition) **Ref. E – page 56**
 - Memorandum of Counsel for Licencing Inspector **Ref. F – page 63**
 - OneDrive Link to Documents referred to in
Memorandum of Counsel for Licencing Inspector **Ref. G – page 82**
- Police Report (In Opposition) **Ref. H – page 83**
- Medical Officer of Health (MOH) Report (In Opposition) ... **Ref. I – page 84**
 - MOH Supporting Submission of Evidence **Ref. J – page 85**

Further Information

- Whanganui District Licensing Committee –
Direction Notice - Objection Status – Dated 16th November 2020
..... **Ref. K** – page 88
- Information on “Public Hearings – How they Work” **Ref. L** – page 91

1. Welcome and Introductions

The Whanganui District Licensing Committee has received an application from M7 Limited for a new Off-Licence. The application was made under s.100 of the Sale and Supply of Alcohol Act 2012 and was accordingly publically notified.

The application attracted two objections within the prescribed statutory timeframe.

Section 103 reports were received from the Inspector, Police and Medical Officer of Health. All reports opposed the application.

The Whanganui District Licensing issued a 'Direction Notice – Objection Status' dated 16th November 2020. That Notice is referenced to in this agenda and gave notice that the Committee would spend the first part of the hearing considering submissions from any party regarding the matter of status.

2. Declaration of Conflict of Interest

Members of the Committee to confirm that they do not have a conflict of interest in relation to the application.

3. Overview of the Proceedings

The Chairperson will verbally outline the process of the hearing of evidence from the parties. Accordingly the matter is set down for Public Hearing. Please also see Reference L.

The following persons may appear and be heard, whether personally or by counsel, and call, examine, or cross-examine witnesses, in any proceedings:

- (a) The Applicant
- (b) Any Objector
- (c) An Inspector
- (d) A Constable

4. Hearing of Submissions on Objection Status

5. Hearing Adjournment for DLC to consider Objection Status

6. Reconvene Hearing for Objection Status Decision

7. Hearing of Application

8. Close of Hearing

The District Licensing Committee will close the public hearing to deliberate in private.

RECEIVED

19 JUN 2020

\$632.50

**Guide for new
Off-licence or renewal**Section 100 and 127(2), Sale and Supply of
Alcohol Act 1989**WHANGANUI
DISTRICT COUNCIL**

Te Kaunihera a Rohe o Whanganui

Explanations in this guide are intended to assist you to complete the Off-licence Forms numbers on the form relate to the explanatory notes in this guide

Date Accepted 29/07/2020**Background**

It is a legal requirement under the Sale and Supply of Alcohol Act 2012 that you have a licence before you can sell or supply alcohol.

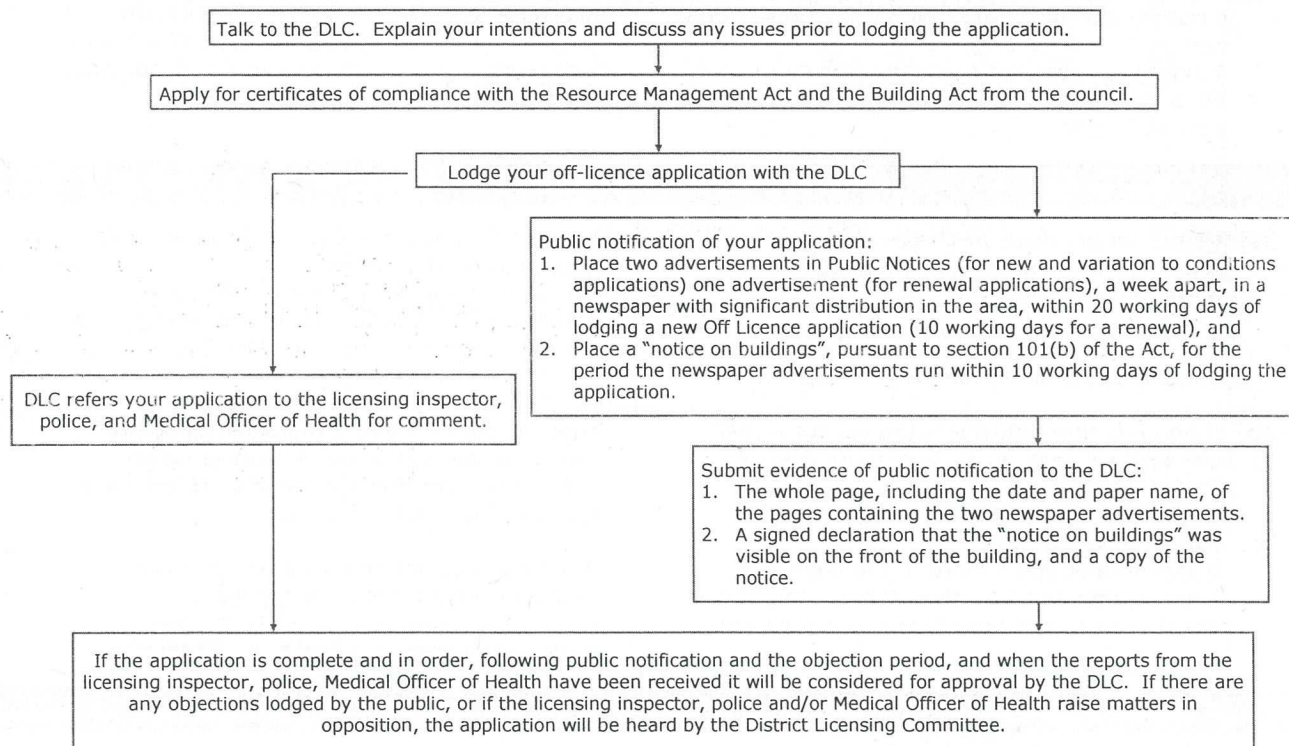
The District Licensing Committee (DLC) is part of the Whanganui District Council and is where you go to obtain a liquor licence.

The object of the Act is to ensure the responsible sale and supply of alcohol. The process for issuing licenses means that checks are done to make sure

only people responsible enough to work within the objectives of the Act are granted permission to sell or supply liquor. There must be a person with a current managers certificate on duty at all times when liquor is being sold or supplied to the public.

What does 'off-licence' mean?

An off-licence authorises the holder to sell or supply alcohol for consumption on their premises, but alcohol cannot be removed from the site.

Process**Cost**

The off-licence application fee and renewal fee is dependant on the cost/risk weighting of each premise, the weighting may vary depending on the type of off-licence you require/operate under, your trading hours and whether any enforcement action has been taken against your premise. You are also required to pay an annual fee also based on the cost/risk weighting.

You will also face advertising costs to meet the

public notice requirements (approximately \$150-\$200). New applications will also incur additional costs to obtain a Certificate of Compliance (\$120)

Processing times

It could take up to 8–12 weeks to process your application. If an objection is received, it could take longer.

The processing time is very much dependent on the applicant submitting a complete application with all attachments.

***An application for an Off-licence WILL NOT BE ACCEPTED unless a photocopy of the application form is attached**

**Application for
Off licence or renewal**
Section 100 and 127(2), Sale and Supply of
Alcohol Act 2012



**WHANGANUI
DISTRICT COUNCIL**
Te Kaunihera a Rohe o Whanganui

Fill this form out with the assistance of the Application for the Off-licence Guide—numbers on this form relate to explanatory notes in the guide.

To the Secretary
District Licensing Committee
Whanganui District Council

Please tick where applicable

Application for

☒ Off Licence

☐ Renewal of Off Licence

Endorsements [state (by type)
every endorsement sought or
sought to be renewed]

1. Details of applicant(s)

1a. Full legal name or names to be
on licence [whom ever will profit
from the sale of liquor]

M 7 LIMITED TA/ KINGS GATE HOTEL
MOTHERSHIP BREWING

1b. Licence held for any premises
or conveyance concerned?

☒ Yes

☐ No

Kind of licence

ON LICENCE

1c. Occupation (if applicant is an
individual)

1d. Date of birth
(if applicant is an individual)

/ /

1e. Status of applicant

☐ Natural person

☒ Private company

☐ Government department or other instrument of the Crown

☐ Licensing Trust

☐ Partnership

☐ Club

☐ Incorporated Society

☐ Territorial authority

☐ Trustee

☐ Public company

☐ Body Corporate

1f. Postal address (for service of
documents)

379 VICTORIA AVENUE, WHANGANUI

1g. Contact person (during normal
office hours) and date of birth

FREYA MCKINNON 1/06/20

1h. Contact numbers

3496044 10211506053

Phone

Mobile

Fax

1i. Email/website address

admin@kingsgate.co.nz / MOTHERSHIP BEER.COM

1j. Has the applicant been convicted of any offence?
(Includes traffic offences, driving offences involving
drink or drugs, but not parking infringements)

☐ Yes

☒ No

If YES, what are the details of each offence?

Nature of offence	Date of conviction	Penalty suffered

2. Business details where the applicant is a company

2a. Date of incorporation

12 June 1995

2b. Place of incorporation

WHANGANUI

2c. Full details of each director and the secretary

Full Name

FREYA MCKINNON

Full Name

Address

379 VICTORIA AVE

Address

Date of Birth

1 1 6 1 7 7

Date of Birth

Place of Birth

WHANGANUI

Place of Birth

Position Held

MANAGING DIRECTOR

Position Held

Business details where the applicant is a company

Full Name	
Address	
Date of Birth	/ /
Place of Birth	
Position Held	

Full Name	
Address	
Date of Birth	/ /
Place of Birth	
Position Held	

2d. ☐ Authorised capital☐ Paid-up capital

2e. Full details of each person who holds shares issued by the company

Full Name	FREYA MCKINNON
Address	AS ABOVE
Date of Birth	/ /
Place of Birth	
Position Held	
Face value of shares held	\$ 900

Full Name	CARL FALCONER
Address	379 Victoria Ave
Date of Birth	30 / 11 / 72
Place of Birth	Wanganui
Position Held	Manager
Face value of shares held	\$ 100

Full Name	
Address	
Date of Birth	/ /
Place of Birth	
Position Held	
Face value of shares held	\$

Full Name	
Address	
Date of Birth	/ /
Place of Birth	
Position Held	
Face value of shares held	\$

Further details where applicant is a public company

2f. Full details of each person who holds 20% or more of the shares, or of any particular class of shares issued, by the company

Full Name	
Address	
Date of Birth	/ /
Place of Birth	

Full Name	
Address	
Date of Birth	/ /
Place of Birth	

Full Name	
Address	
Date of Birth	/ /
Place of Birth	

Full Name	
Address	
Date of Birth	/ /
Place of Birth	

Further details where applicant is a partnership

2g. Full details of each partner

Full Name	
Address	
Date of Birth	/ /
Place of Birth	
Signature	

Full Name	
Address	
Date of Birth	/ /
Place of Birth	
Signature	

Continue

3. Business details

3a. Is the sale of liquor intended to be the principal purpose of the business?

☒ Yes

☐ No

If **no**: (i) What is the intended principal purpose of the business?

(ii) What part of Section 32 of the Act is applicable to this application?

x OFF LICENCE

3b. Is the applicant engaged, or intending to be engaged, in the sale or supply of any goods other than liquor and food, or in the provision of any services other than those directly related to the sale or supply of liquor and food?

☐ Yes

☒ No

If **yes**: (i) What is the nature of those other goods or services?

3c. On which days and during what hours does the applicant intend to sell liquor under this licence?

Day(s)	Hours
MONDAY TO SUNDAY	12 PM TO 9 PM AT THE PREMISE
MONDAY TO SUNDAY	ONLINE (24hrs) FOR DELIVERY ONLY

3d. Full name of manager(s) to be employed, certificate numbers of manager's certificate(s) it expiry and date of birth

Name/Certificate No./Expiry/DOB

FREYA MCKINNON (NORMAN) 36/CERT/108/2014

Name/Certificate No./Expiry/DOB

SONYA HAYWARD EXP 11/2/23 - 36/CERT/001/2016

Name/Certificate No./Expiry/DOB

3e. Where this application is a renewal provide the current Licence Number:

3f. Expiry date

4. Premise details

4a. Address of proposed licensed premises

379 Victoria Avenue, Whanganui

4b. Type of premises

☒

Hotel/tavern

☐

Bottle Store

☐

Remote Sale Premises

☐

Supermarket

☐

Grocery store

☐

Winery cellar doors

☐

Club-Class 1 that has 1,000 or more members of drinking age and operates in the nature of a tavern

☐

Club-Class 2 not Class 1 or Class 3

☐

Club-Class 3 that has up to 250 members of drinking age and operates a bar for 40 hours or less per week

☐

Other (please specify)

4c. Proposed trading name of business (if any)

MOTHERSHIP (MOTHERSHIP BREWING)

4d. Is a licence sought conditional upon construction or completion of building of the premises?

☐ Yes

☒ No

4e. What part (if any) of the premises or conveyance does the applicant propose to designate as:

(i) A restricted area

(ii) A supervised area

(iii) Undesignated area (specify reason)

Premise details continued

4f. Does the applicant own the proposed licensed premises?

☒ Yes☐ No

If no, (i) What is the full name and address of the owner?

FREYA MCKINNON 1379 Victoria Avenue,
Whanganui 4500

(ii) What form of tenure of the premises will the applicant have? (including term of tenure)

LEASE 20 years

Form of tenure

Term of tenure

4g. Does the applicant intend to provide complimentary samples of liquor on the premises?

☒ Yes☐ No

5. Conditions

5a. What Experience and training has the applicant undertaken?

HOST RESPONSIBILITY TRAINING, LQC COURSE/TRAINING
BUSINESS / HOTEL MANAGEMENT PROGRAMMES, Hospitality
NZ Vice president Whanganui District (current)

5b. What steps does the applicant propose to take to ensure that the requirements of the Act in relation to sale of liquor to prohibited persons are observed?

Complete Prohibition of sales of alcohol to intoxicated persons
Appropriate Signage in all designated areas.
To continue to have the appropriate systems, staff and training
to comply with the law, identity checks. The signs also easily read hours

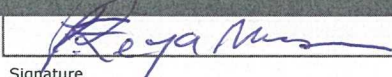
5c. What steps does the applicant propose to take to Promoting responsible consumption of alcohol? OF trade and days

Provide and promote Low alcohol and Nonalcohol beverages (Water)
Food range being substantial and available at all times
Reasonably priced beverages and safe transport options

5d. What other systems (including training systems) does the applicant intend to put in place for staff to comply with the Act?

Have as many staff as possible to do the LQC training
and gain this. Online Serve Wise e-Learning completion
by all staff / new employees

6. Signature



Signature

Dated at Whanganui this 17 day of JUNE 2020

(town/city)

(month)

(year)

FREYA MCKINNON

Name (print clearly)

7. Notes

Notes:

1. This form must be accompanied by the prescribed fee.
2. Within 20 working days after filing this application with the District Licensing Committee (or 10 working days if it is an application for renewal), the applicant must give public notice of it in form 7. The notice must be given in compliance with regulation 36, 37, or 38 of the Sale and Supply of Alcohol Regulations 2013 (whichever applies to this application).
3. Except in the case of a conveyance, within 10 working days after filing this application with the District Licensing Committee, the applicant must ensure that notice of this application in form 7 is attached in a conspicuous place on or adjacent to the site to which the application relates (unless the Secretary of the District Licensing Committee agrees that it is impracticable or unreasonable to do so).
4. Where it must be determined whether the premises are a grocery store, the statement of annual sales revenue as required by regulation 12 or 13 (as the case requires) of the Sale and Supply of Alcohol Regulations 2013, are to be attached.

*This WILL NOT BE ACCEPTED unless a photocopy of the application form is attached

Continue

Office Use

Type of licensed premise	Class	Weighting	Weighting applied
Off-Bottle Store		15	
Off-Club	Class 1 at least 1,000 members of age/operates as a tavern at any time	5	
Off-Club	Class 2—not Class 1 or Class 3	5	
Off-Club	Class 3 >250 members of age/less than 40 hours each week	5	
Off-Grocery		15	
Off-Hotel		10	10
Off-Remote Sale Premises		5	5
Off-Supermarket		15	
Off-Tavern		10	
Off-Winery cellar doors		2	
Off-Not otherwise specified		5	
Latest licensed hours		Weighting	
Off-Remote sales premises		0	0
Off-licenses 10.00pm or earlier		0	0
Off-licenses any time after 10.00pm		3	
No. of enforcements in last 18 months		Weighting	
None		0	
1		10	
2 or more		20	
TOTAL WEIGHTING			10
Cost/risk category based on weighting		Application/ Renewal Fee	Annual Fee
Very Low (0-2)		\$368.00	\$161.00
Low (3-5)		\$609.50	\$391.00
Medium (6-15)		\$816.50	\$632.50
High (16-25)		\$1,023.50	\$1,035.00
Very High (26 plus)		\$1,207.50	\$1,437.50
FEE PAYABLE		\$	\$ 632.50

Received 16/07/2020

Checklist for Off-licence or renewal

Section 100 and 127(2), Sale and Supply of
Alcohol Act 2012



WHANGANUI
DISTRICT COUNCIL
Te Kaunihera a Rohe o Whanganui

How to use this checklist

Use this checklist when finalising your OFF licence or renewal to assist you to lodge a complete application and to avoid delays in processing. Your application will be accepted based on this checklist to ensure that it has sufficient information to commence processing.

All items on this checklist must be TICKED to show that they are either provided (P) or are not applicable to your project (N/A).

Use the Renewal ONLY Column for items that are required just for a renewal.

Later additional information may be requested during the processing of your OFF Licence to confirm compliance.

Office Use	Applicant use		P—Information provided	N/A—not applicable to this project
	P	N/A	Renewal ONLY	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the applicant is incorporated) - A copy of the CERTIFICATE OF INCORPORATION or other documentary evidence of its incorporation.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the applicant is a Club) - Evidence that the Club— • Held a Charter under Section 164 of the Sale of Liquor Act 1962 immediately before the 1st day of April 1999; or • Holds a Club Licence under the Sale of Liquor Act 1989 or Sale and Supply of Alcohol 2012, and is not a Sports Club	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the applicant relates to a HOTEL or TAVERN) - A reference to the number on the On licence held by the applicant in respect of a Hotel or Tavern.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the application relates to premises in which the principal business is the MANUFACTURE OR SALE OF LIQUOR) - Particulars of principal business conducted on the premises.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the application relates to a SUPERMARKET) - Particulars of the floor area of the supermarket, including any separate Departments set aside for such foodstuffs as fresh meat, fresh fruit and vegetable, and delicatessen items.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the application relates to a GROCERY STORE) - Particulars of the principal business of the store including evidence and certified accounts showing the percentage of turnover that is derived from the sale of main order household foodstuffs.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the application is made IN RELIANCE OF SECTION 34) Evidence to show that the sale of liquor in premises of a kind described would not be economic.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the application is made IN RELIANCE OF SECTION 35) Particulars of the kind of goods sold in the premises to which it is claimed the sale of liquor would be complementary.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the application relates to the business of a caterer) Evidence to show that the applicant is or will be conducting the business of a caterer, including the frequency and types of functions that are or are proposed to be catered for.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A SCALE PLAN showing:	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	• Those parts of the premises that are to be used for the sale or supply of alcohol; and	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	• Those parts of the premises (if any) that the applicant intends should be designated as restricted areas, supervised areas or un-designated areas; and	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	• (Except where the applicant is a Club) - Each entrance to the premises that the applicant intends should be designated as a principal entrance	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(Where the applicant is not the owner of the premises) - WRITTEN STATEMENT FROM THE OWNER to the effect that the owner has no objection to the grant of the Licence.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	A CERTIFICATE OF COMPLIANCE BY THE LOCAL AUTHORITY that the proposed use of the premises meets the requirements of the Resource Management Act 1991 and the Building Act 2004.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The PRESCRIBED FEE for the application.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NZ Fire Service Evacuation Pack to be returned with application or where this is application is a renewal provide a signed declaration on your own letterhead that either: 1) The building in which the premises are situated has an evacuation scheme for public safety which meets the requirements of s.76 of the Fire and Emergency New Zealand Act 2017; or 2) The building, by reason of its current use, does not require such a scheme, or that the building is exempt from having to meet the requirements for such a scheme.	

Received 16/07/2020

Office Use	Applicant use	P—Information provided	N/A—not applicable to this project
	P	N/A	Renewal ONLY
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Proof copy of proposed newspaper advertisements to be checked prior to advertising.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Once the newspaper advertisements have been published, provide the whole page that the newspaper advertisement was published on (one of each advert).

Received 16/07/2020

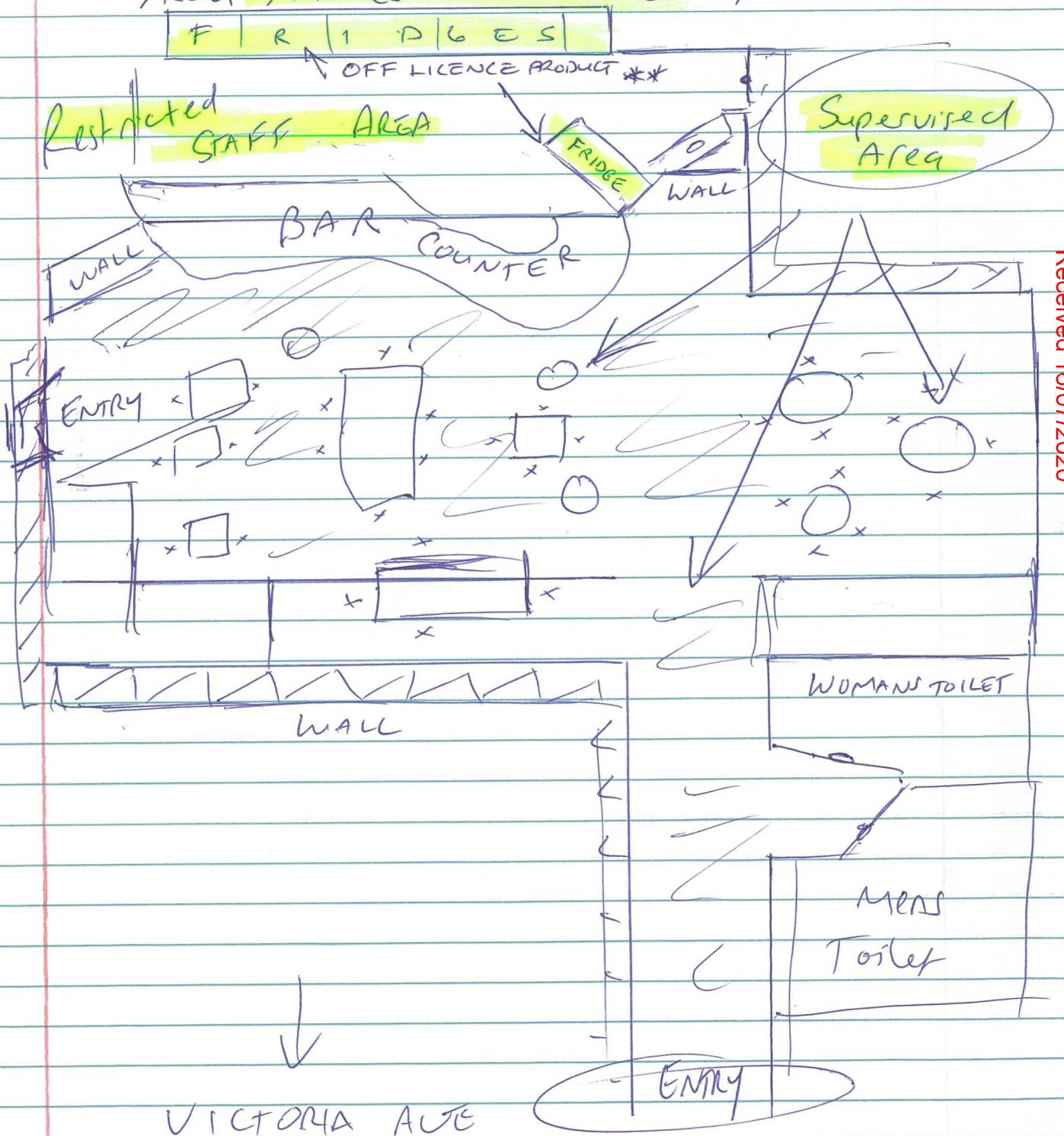
17 JUNE 2020

MOTHERSHIP BAR

KINGSGATE HOTEL

379 VICTORIA AVE

PROPOSED DESIGNATED AREA IN THE BAR FOR
THE OFF LICENCE SALE OF ALCOHOL. SITE PLAN
* Seating/standing Areas of Bar - Supervised Area.
* FRIDGES EXISTING BEHIND THE BAR COUNTER
IN AN AREA RESTRICTED FOR STAFF ONLY. SALES
FROM FRIDGES - ONLY ACCESSIBLE BY STAFF



Received 16/07/2020

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

AND

IN THE MATTER of an application by **M7
Limited** for a renewal of On
Licence pursuant to section
127 of the Supply of Alcohol
Act 2012.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The application for renewal of **On Licence (036/ON/004/2014)** was publically advertised in the River City Press on 16th and 23rd January 2020 along with a display notice attached to the premise in accordance with the Regulations, with no objections received.

As no matters of opposition were raised under section 102 and 103 reports; therefore the matter was considered by the Whanganui District Licensing Commissioner on the papers contained in the full file provided by the secretary.

Commissioner: Stuart Hylton

**RESERVED DECISION OF THE WHANGANUI DISTRICT LICENSING
COMMITTEE**

1. Application

On the 17 December 2020, **M7 Limited** on the prescribed form made application for renewal of an On-licence. This is the third renewal application by the licensee.

The application for renewal of On-Licence is in relation to the premises known as '*Kingsgate Hotel – The Avenue*' situated at 379 Victoria Avenue, Whanganui.

The general nature of the business is that of an 'On Licence Hotel'. The renewal application seeks to renew with the same existing conditions. The premise has not come to the notice of authorities in an adverse manner during the renewal period.

The complete file included –

- The application

- Fire evacuation compliance statement
- Host Responsibility Plan
- Owner permission letter
- Food/Drinks list
- Floor plan
- Photo's
- Copy of draft public notice and public display
- Existing Licence
- Reports from Police, Medical Officer of Health and Inspector

2. Decision Making

In considering this application for On-Licence the licensing committee had regard to the criteria under section 131 and 105 of the Act. Section 105 assessments were made using the inspector's full report and own assessment. I accept the inspector's assessment and recommendations.

Key matters raised in complete file including the inspector's report were –

- The applicant is an experienced private company incorporated in 2002. A hotel has been on site since 1991 and the current licensee has operated the business since 1998. The applicant has named three managers for the licence which is seen as adequate for this type of licence.
- The premise has not come to the notice of authorities in an adverse manner during the renewal period. This is the third renewal application.
- The applicant provided a host responsibility plan that if followed should ensure the object of the act is met.
- The applicant is 'hands on' in the business. The applicant appears to have appropriate systems, staff and training to comply with the law.
- There were no reports questioning suitability and neither do I.
- The current hours wanting to be renewed have operated without incident i.e.

Monday to Sunday, between 8.00am to 2.00am the following day.

- Floor plan provided works well for the general nature of the business held on the premises. The areas to be licensed includes the Restaurant,

Bar, Hotel Rooms and entranceway. The bar is to be designated 'Supervised' and the rest of the premises 'Undesignated'.

- No CPTED or amenity or good order issues raised with renewal. There is no reason to believe the amenity and good order of the locality would likely to be increased, more than a minor extent, by the effects of a refusal to renew the licence.
- The applicant has satisfactory systems for staff training and performance.
- The Whanganui LAP has been adopted and allows for discretionary conditions relating to On licences. The inspector has recommended that the following condition be placed on the renewal stating –
 - the licensee will record and maintain a register of significant alcohol related incidents and have that register available for inspection by an enforcement officer at any time during trading hours
 - The licensee must ensure litter (this includes, but is not limited to, vomit and alcohol-related rubbish) is removed from outside the premises.
 - The licensee must ensure that at all times when a queue is formed; a dedicated staff member is required to manage the queue and ensure it does not impede the general public or use of the pavement.

The applicant has signalled they are happy with this recommendations to be included in the renewal. On this basis this seems reasonable conditions to include.

3 Reporting Agencies

The following reports were received under section 103 of the Act and taken into account during the decision.

3.1 Police – Report received on 13 January 2020, of no opposition..

3.2 Medical Officer of Health – Report received on 8 January 2020, of no opposition.

3.3 Licensing Inspector – Full report dated 7 February 2020. The inspector has no opposition to the application and assessed the application against s. 105

matters with no matters of opposition raised. The inspector concludes that the application is complete and appears to meet the criteria for renewal of the licence with existing conditions.

4 Conclusion

Based on the evidence provided to me within the complete file, my assessment above of section 105 matters and the past operation of the premise/licensee, I conclude that the application by **M7 Limited** meets the statutory criteria to be granted a renewal of On-Licence under the Act for a period of three (3) years, from the expiry date of the previous licence.

The licence will be subject to the following conditions –

- (a) The licensee must have available for consumption on the premises, at all times when the premises are open for the sale of alcohol, at reasonable prices, a reasonable range of non-alcoholic drinks and low alcohol drinks.
- (b) The licensee must have free drinking water available for customers at each bar whilst open for business.
- (c) Alcohol may only be sold on such days and during such hours as the premises are being operated as a Hotel but not other than on the following days and hours:

Monday to Sunday, between 8.00am to 2.00am the following day.

EXCEPT THAT on Good Friday, Easter Sunday, and Christmas Day, or before 1pm on Anzac Day, no alcohol is to be sold or supplied on the premises unless the buyer is a person who is present on the premises to dine or a person residing or lodging on the premises.

- (d) Food must be available for consumption on the premises at all times when the premises are open for the sale of alcohol in accordance with the food list submitted with the application, or variations of that list of a similar range and standard.
- (e) The licensee must ensure that, at any time customers are lawfully on the premises,—
 - there is readily available to the customers, free, comprehensive, and accurate information about the forms of transport from the premises that are available at that time; and


- there are on the premises, and readily accessible to the customers, staff able to give them comprehensive and accurate information about the forms of transport from the premises that are available at that time; and
 - those staff will on demand give any customer appropriate advice free.
- (f) The licensee must ensure that for each principal entrance to the premises there is displayed at all times a sign attached to the inside or outside of the premises, so as to be easily read by people immediately outside the entrance, stating the ordinary hours of business during which the premises are open for the sale of alcohol
- (g) The licensee must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, together with a copy of the floor plan: is displayed -
- (a) attached to the inside of the premises concerned; and
 - (b) so as to be easily read by people entering each principal entrance.
- (h) The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of alcohol.
- (i) The licensee and managers on duty must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of liquor to minors and the complete prohibition on sales to intoxicated persons.
- (j) The licensee will record and maintain a register of significant alcohol related incidents and have that register available for inspection by an enforcement officer at any time during trading hours.
- (k) The licensee must ensure litter (this includes, but is not limited to, vomit and alcohol-related rubbish) is removed from outside the premises.
- (l) The licensee must ensure that at all times when a queue is formed; a dedicated staff member is required to manage the queue and ensure it does not impede the general public or use of the pavement
- (m) The following designations to apply –
- **Bar Area - Supervised**
 - **Rest of Licensed Premises – Undesignated**

5 Decision

Accordingly the application is **Approved** for issue immediately.

Dated at Whanganui District this 10 day of February 2020

Signed



.....

Stuart Hylton
Whanganui District Licensing Commissioner



Date Accepted 29/07/2020

Received 16/07/2020



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD**

**Guaranteed Search Copy issued under Section 60 of the Land
Transfer Act 2017**



Identifier **WN29D/57**
Land Registration District **Wellington**
Date Issued **03 July 1986**

Prior References
WN465/155

Estate Fee Simple
Area 2448 square metres more or less
Legal Description Lot 6 Deposited Plan 31095

Registered Owners
Chardonnay Properties Limited

Interests

5075338.2 Lease Term commencing 1.10.1997 and terminating 30.9.2027 CT 12742 issued, produced 24.8.2001 at 11.12 and entered - 17.9.2001 at 11:33 am

Subject to a right convey Electricity (in gross) over part marked A on DP 327787 in favour of Powerco Limited created by Transfer 5779053.1 - 28.10.2003 at 9:00 am

8574922.2 Variation of Lease 5075338.2 extending the term to 30 September 2040 - 1.9.2010 at 12:52 pm

10141833.2 Mortgage to Westpac New Zealand Limited - 14.8.2015 at 2:21 pm

Received 16/07/2020

WN29D/57





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD**

**Guaranteed Search Copy issued under Section 60 of the Land
Transfer Act 2017**



R. W. Muir
Registrar-General
of Land

Identifier WN11B/156
Land Registration District Wellington
Date Issued 12 April 1973

Prior References
WND2/1096

Estate Fee Simple
Area 1555 square metres more or less
Legal Description Lot 4 Deposited Plan 31095

Registered Owners
Chardonnay Properties Limited

Interests

5075338.2 Lease Term commencing 1.10.1997 and terminating 30.9.2027 CT 12742 issued. - produced 24.8.2001 at 11.12 and entered 17.9.2001 at 11:33 am
8574922.2 Variation of Lease 5075338.2 extending the term to 30 September 2040 - 1.9.2010 at 12:52 pm
10141833.2 Mortgage to Westpac New Zealand Limited - 14.8.2015 at 2:21 pm

WN11B/156





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD**

**Guaranteed Search Copy issued under Section 60 of the Land
Transfer Act 2017**



R.W. Muir
Registrar-General
of Land

Identifier **WN29D/538**
Land Registration District **Wellington**
Date Issued 12 November 1986

Prior References

WN29D/56

Estate	Fee Simple
Area	2398 square metres more or less
Legal Description	Lot 5 Deposited Plan 31095

Registered Owners
Chardonnay Properties Limited

Interests

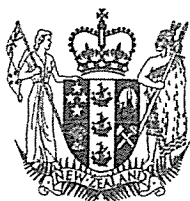
5075338.2 Lease Term commencing 1.10.1997 and terminating 30.9.2027 CT 12742 issued, produced 24.8.2001 at 11.12 and entered - 17.9.2001 at 11:33 am

8574922.2 Variation of Lease 5075338.2 extending the term to 30 September 2040 - 1.9.2010 at 12:52 pm

10141833.2 Mortgage to Westpac New Zealand Limited - 14.8.2015 at 2:21 pm

WN29D/538





**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**



R. W. Muir
Registrar-General
of Land

Identifier WN5A/944
Land Registration District Wellington
Date Issued 04 September 1967

Prior References
PROC 4731

Estate	Fee Simple
Area	1062 square metres more or less
Legal Description	Section 553 Town of Wanganui

Registered Owners
Chardonnay Properties Limited

Interests

Subject to Section 8 Coal Mines Amendment Act 1950

Subject to a right of way over part created by Gazette Notice 731065 from and after 4.12.1967 - 14.12.1967 at 11.55 am

5075338.2 Lease Term commencing 1.10.1997 and terminating 30.9.2027 CT 12742 issued, produced 24.8.2001 at 11.12 and entered - 17.9.2001 at 11:33 am

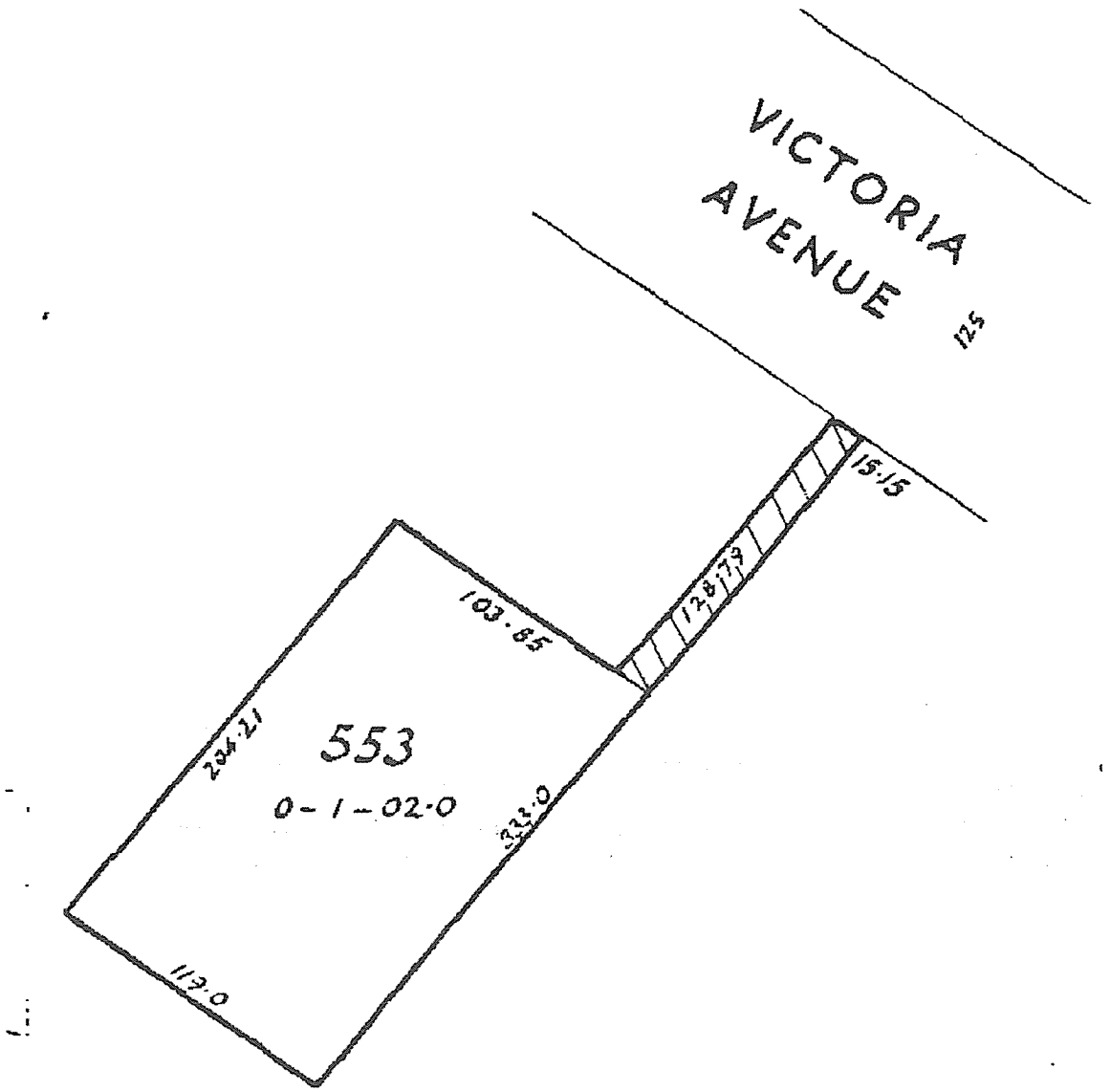
8574922.2 Variation of Lease 5075338.2 extending the term to 30 September 2040 - 1.9.2010 at 12:52 pm

10141833.2 Mortgage to Westpac New Zealand Limited - 14.8.2015 at 2:21 pm

Received 16/07/2020

Identifier

WN5A/944



Received 16/07/2020



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**



R. W. Muir
Registrar-General
of Land

Identifier WN677/30
Land Registration District Wellington
Date Issued 27 October 1955

Prior References

WN465/151

Estate Fee Simple
Area 1847 square metres more or less
Legal Description Lot 2 Deposited Plan 18120

Registered Owners
Chardonnay Properties Limited

Interests

5075338.2 Lease Term commencing 1.10.1997 and terminating 30.9.2027 CT 12742 issued, produced 24.8.2001 at 11.12 and entered - 17.9.2001 at 11:33 am

8574922.2 Variation of Lease 5075338.2 extending the term to 30 September 2040 - 1.9.2010 at 12:52 pm

10141833.2 Mortgage to Westpac New Zealand Limited - 14.8.2015 at 2:21 pm

WN677/30





CERTIFICATE OF INCORPORATION

M 7 LIMITED

651458

This is to certify that MCKINNON CONSULTING LIMITED was incorporated under the Companies Act 1993 on the 12th day of June 1995
and changed its name to AVENUE MOTOR INN LIMITED on the 17th day of September 1999
and changed its name to AVENUE HOTEL AND CONFERENCE CENTRE LIMITED on the 28th day of June 2001
and changed its name to M 7 LIMITED on the 16th day of April 2008.

Neville Harris

Registrar of Companies
16th day of April 2008



<http://www.eset.com>

The message was checked by ESET NOD32 Antivirus.

For further details relating to this company check www.companies.govt.nz

Certificate printed 16 Apr 2008 15:17:21 NZT

Received 16/07/2020

Customs controlled area licence

Section 59, Customs and Excise Act 2018

Pursuant to Section 59 of the Customs and Excise Act 2018, I hereby grant to:

M 7 Limited, trading as Mothership Brewing

a Customs controlled area licence for the purposes of:

The manufacture of goods specified in Part A of the Excise and Excise-equivalent Duties Table, namely: Beer

for the area located at:

Kingsgate Hotel Complex, 379 Victoria Avenue, Whanganui CBD, Whanganui

(As shown on the deposited site plan held by the Chief Executive of the New Zealand Customs Service)

This licence is granted subject to the terms, conditions, and restrictions issued with this licence.

Dated at: **New Plymouth** this **Twenty Second** day of **July 2019**




Chief Executive of the New Zealand Customs Service

Note: Section 63 of the Customs and Excise Act 2018 provides that the Chief Executive of the New Zealand Customs Service may, by notice in writing, vary or revoke the terms, conditions, or restrictions to which this licence is subject.

Received 16/07/2020



12 June 2020

The Secretary
Whanganui District Licensing Committee
PO Box 637
Whanganui

Dear Sir/Madam,

This letter serves as a **final** certificate for the purposes of section 100(f) of the Sale and Supply of Alcohol Act 2012.

This certificate refers to a proposal to conduct the following business:

Hotel – Off Licence

With trading hours of:

**Monday to Sunday 2.00pm to 9.00pm – Off sales for premises,
24/7 Online sales.**

This certificate relates to premises at:

**Kingsgate Hotel
379 Victoria Avenue
Whanganui**

The proposed use of the premises by the applicant,

**Kingsgate Hotel
379 Victoria Avenue
Whanganui**

Trading as:

Mothership Brewing/Kingsgate Hotel

Maximum Occupancy Number:

80

Meets the requirements of the Resource Management Act 1991.

This site is zoned Outer Commercial therefore this activity is permitted in this zone.

Meets the requirements of the Building Act 2004

The building is existing that will not have a change of use and as such the building used for the proposed use meets the requirements of the New Zealand Building Code to the extent required by the Building Act 2004. BWOFF is current and expires 1 August 2020. CS/5745 Building Amendment Act 2012 to be addressed.

Signed for and on behalf of the Whanganui District Council.

Kym Fell
Chief Executive

Received 16/07/2020

SECTION 101

SALE AND
SUPPLY OF
ALCOHOL ACT
2012

M7 Limited, 379 Victoria Avenue, Whanganui has made application to the District Licensing Committee at Wanganui for an Off Licence in respect of the premises situated at 379 Victoria Avenue, Whanganui, known as Mothership Brewing.

The general nature of the business conducted under the licence is a brewery.

The days on which and the hours during which alcohol is sold under the licence are **Monday to Saturday, 2.00pm to 9.00pm; Sunday 4.00pm to 8.00pm.**

~~Online (remote) sales
-24/7-~~

The application may be inspected during ordinary office hours at the office of the Whanganui District Licensing Committee at 101 Guyton Street, Whanganui.

Any person who is entitled to object and who wishes to object to the issue of the licence may, not later than 15 working days after the date of the publication of the first notice, file a notice in writing of the objection with the Secretary of the District Licensing Committee at PO Box 637, Whanganui 4540.

No objection may be made in relation to a matter other than a matter specified in section 105(1) of the Sale and Supply of Alcohol Act 2012.

This is the first publication of this notice.

SECTION 101

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No objection may be made in relation to a matter other than a matter specified in section 105(1) of the Sale and Supply of Alcohol Act 2012.

This is the second publication of this notice.

The first notice was published on July 30, 2020.

add word: first

27/07/2020 Approved by Steve T.
[Signature]

The Secretary

District Licensing Committee

Whanganui District Council

P O Box 637

WHANGANUI 4540

November 20

APPLICATION OFF- LICENCE SUBMISSION M 7 LIMITED**M 7 Limited is T/A Kingsgate Hotel, Mothership, Mothership Brewing.**

Mothership is a 'Bar and Restaurant' at the Hotel. Mothership Brewing is a manufacturer of craft beer and hard seltzers and non alcohol seltzers. It has an approved CCA (customs controlled area) in the Kingsgate Hotel Complex - a family business locally owned.

By 'Type' we would not classify ourselves as a 'Cellar Door' Due to the fact that it has facilities of a bar/restaurant and accommodation being a hotel for tourists and travellers.

The application for an Off Licence being

- (1) a hotel ss 17-19, 32(1)(a), and Reg 5,
- (2) a manufacturers off-licence ss 17-19, 32(1)(d) and Reg 5.
- (3) a remote sellers off-licence ss 5, 18(2), 32(1)(c), 40, 48, 49, 59, and Reg 5.

LOCAL AREA POLICY WHANGANUI DISTRICT

A LAP must be reasonable in light of the object of the Act. The object of the Act ss 4 (1) (a) (2) (b) is to encourage the safe and responsible consumption of alcohol so that alcohol-related harm caused by excessive or inappropriate consumption is minimised ss 4 (2) (a)(b).

M 7 LIMITED are intent of upholding the purpose of the policy, as it has done with it's ON licence since 1995 if the application is granted its intended to work in good faith bi-partisan with the LAP ***LAP policy document - Warrick Zander 28 September 20, Sale and Supply of Alcohol Act 2012 application for new off licence -M 7 Limited***

(c) The purpose of the Policy is-

To govern the sale, supply and consumption of alcohol so that it is undertaken safely and responsibly.

To minimise alcohol-related harm in the Whanganui District.

To support the welfare of our Community and protect our people from alcohol-related harm.

To reflect our local communities' character, amenity, values, preferences and needs.

M7 Limited will uphold the object of the Act and proposes to sell its manufactured craft beers, seltzer³ and non alcoholic beverages solely manufactured by the licensee Mothership Brewing as defined but not limited to ss 32 (1)(d). from its premise in restricted quantities per order or per person. *It does not propose to sell all alcohol types, range and variety similar to a bottle store. This would be adverse to the object of the act due to high alcohol spirits or youth appealing RTD's.*

1. We will uphold the intent of the LAP and the Object of the Act by:

Promoting quality, sustainability not quantity. Restricting purchase quantities, days and times for click and collect or on site purchasing. Mothership is a small batch brewery.

We currently brew 100 litres of alcohol at a time.

The volume would be considered to be on the lowest scale in the industry.

Restricting consumption that will 'minimise long-term health risks' or reduce your risk of injury on a 'single occasion' harm of a legal product - Maximum 'order' or 'purchase' of either 12x 330ml cans or 4x 440ml cans or a 600ml to 1lt bottle range being an aged or special edition release or 1x Prowler (plastic 1.25l) bottle. Guidelines and Low risk alcohol advice from HAP has been considered in drafting this restriction to **Reduce your long-term health risks by drinking and Reduce your risk of injury on a single occasion of drinking.**

This would be similar in the drop down menu options of description and quantity at <https://shiningpeakbrewing.com/shop/> the maximum order of purchase policy we have adopted as outlined by HAP is within safe practice or parameters to uphold the ss (4) Object of the Act (1)(a)(b) (2) (a)(b)

4 Object

(1)The object of this Act is that—

(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

(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).

Health Promotion Agency (HAP) Low Risk Alcohol Advice

The alcohol drinking advice from Te Hīringa Hauora/Health Promotion Agency is designed to help you make an informed choice and help keep your risk of alcohol-related accidents, injuries, diseases and death low.

Low-risk is not no-risk. Even when drinking within low-risk limits, a range of factors can affect your level of risk, including the rate of drinking, your body type or genetic makeup, your gender, existing health problems and if you are young or an older person

Advice for adults

Reduce your long-term health risks by drinking no more than:

- two standard drinks a day for women and no more than 10 standard drinks a week
- three standard drinks a day for men and no more than 15 standard drinks a week

AND at least two alcohol-free days every week.

Reduce your risk of injury on a single occasion of drinking by drinking no more than:

- four standard drinks for women on any single occasion
- five standard drinks for men on any single occasion.



No roadside or exterior advertising of manufactured products for sale. The entrance to the bar and hotel is 32m from the curbside.

Restricting the type of alcohol for sale - Only sell Craft Beer and Hard Seltzers, no Spirits, Wine or RTD's as these do not also meet *our demographic of patrons who are generally 30 to 80 yrs of age, male and female, predominantly of european descent.*

Limit and Restrict the ease of purchase and availability - Placement of alcohol for purchase will be managed from behind the bar in a staff only area. There will be no racking, fridges in the public areas of the complex, or bar for the public to pick up and present to the bar staff for sale. Behind the bar area will contain the product on display in the fridges that are available with the packaging. ***Pricing that is set at a premium price.***

Staff Training and Education - Continue to provide strong training practice modules round the safe and responsible sale of alcohol and invite guest speakers from the Health Sector to speak about the harm of excessive alcohol and get up to date information round local problems etc.

Restricting Days and Hours of on Premise Sales - Initially we sort Monday to Sunday 12pm to 9pm. We reflected that we did not want to have sales from our premises this early at 'lunch time' so we changed the time applied for in the afternoon from 2pm to 9pm, Monday to Saturday, then Sunday 4pm to 8pm. Our On Licence enables us to trade far in excess of these hours at the start and end of the day. We wish to be responsible and not have people potentially in a state of influence late at night purchasing alcohol to take off the premise. Generally people will dine in the bar and if they have a vehicle they would like to purchase some of our beverages to take home and be in a safe place to have a drink. Travellers staying at the Hotel would like to take home something that is local and made at the site where they have just stayed for themselves or gifts for friends or family.

Being Responsible - Our website has a Social Responsibility Notice and our premise displays 4 Duty Managers, HPA and ALAR posters with our Host Responsibility notice are all displayed inside the entrance with the Covid 19 QR and round the premise⁽¹⁾. We provide transport options to our patrons as an on-licence premise. The website will restrict the purchasing items and quantities in the cart function.

. Website

Social Responsibility Notice

At Mothership our team focuses on quality and being sustainable, not quantity. ***We would like all our patrons to enjoy our custom ales in moderation.*** At all times we have ***low alcohol beverages and session-able beer options.*** Our own Hard Seltzers are around 3.5%. The team on-site can go through our host responsibility policy and provide alternative travel options if you are having a beer or wish to have our assistance at any time. ***Alcohol will not be sold to minors or people under 18 years of age.*** Remember our beer is better peered with food options, see our menu

2. COVID 19, Pandemic or consideration pursuant to section 70(1)(f) and (m) of the Health Act 1956 - Hotel/Bar/Restaurant - Being still able to trade with an OFF LICENCE

Given trading restrictions imposed on on-licensed premises as a result of the COVID-19 pandemic or further pandemics pursuant to section 70(1)(f) and (m) of the Health Act 1956 in the future that 'would' or 'could' close our on-licence premise and/or hotel, ask the committee to consider the impact to M 7 Limited if it was to decline this application. An Off-Licence would allow employees a better chance of retaining employment by M 7 Limited being able to sell remotely from its premise the manufactured licensees beverages. It would also enhance the viability of the business and minimise loss and hardship, or adverse health factors like stress or depression on its owners or employees.

- Economic Loss
- Loss of Staff
- The Hotel is an iconic part of the heritage of the city. Opening in 1969.
- A new 'norm' supporting Click and Collect or Contactless deliveries.
- Recognising the Hotel and Companies potential
- Assisting in the economic growth of the business
- Afforded the right to be legally able to be treated the same as a similar business in another district by approving an Off-Licence

The Hotel complex employs 22 Whanganui residents.

**Our sector of 'tourism' and 'hospitality' was heavily impacted in Whanganui
Product Manufactured by the licensee was not able to be sold**

The previous Level 3 effectively closed all avenues available to the complex for revenue. The Hotel had 2 staff from the Countdown Pharmacy stay for 1 week and no other person's staying or requiring accommodation. Generally the hotel has 1200 to 1400 nights of accommodation visitors per month and is analytically number one in most nights a month. M 7 Limited (Kingsgate Hotel Complex) employs cleaners, kitchen staff, bar and restaurant staff, administration staff and one young person in the brewery area. A surge of 'Buy Local' Support Local' messages were being communicated across the country as well as locally to purchase and support affected local businesses. The Government and Local Government supported the 'Buy Local' initiatives.

On 24 March 2020, as a result of COVID-19, an infectious disease, the Prime Minister issued a notice under the Epidemic Preparedness Act 2006 which allows the use of special powers by the Director-General of Health (exercising functions as the Medical Officer of Health for New Zealand), for preventing the spread of the disease.

Pursuant to section 70(1)(f) and (m) of the Health Act 1956, on 24 April 2020 the Director-General of Health issued the Health Act (COVID-19 Alert Level 3) Order 2020. The Order commenced at 11.59 pm on 27 April 2020 following New Zealand having been in a state of lockdown for all but essential services

In accordance with Health Act (COVID-19 Alert Level 3) Order 2020, except for essential personal movement, all persons in New Zealand have been required to remain at their home or place of residence and to maintain physical distancing.

(2) The Restaurant/ Bar/ Hotel was required to be closed unless the required infection control measures set out in the Order were operating

(3) One of these requirements, the 'on premises customers and clients control measure', required sufficient systems and processes to be in place to ensure no customers or clients enter the Complex other than to the minimum extent necessary to collect goods through a method that minimises physical contact and does not involve entering the building in which the premises are located.

(4) Business operations were severely affected.

(5) On 11 May 2020, the Prime Minister announced that New Zealand would move to COVID-19 Alert Level 2 at 11.59 pm on 13 May 2020.

(6) To enable the public of New Zealand to plan for Alert Level 2, the Prime Minister signalled that from 21 May 2020 premises like Mothership will be able to open to customers subject to: (a) maintaining physical distancing of one metre between groups of customers, which groups must be 'seated, separated, and served by a single server' if possible; (b) individual groups being restricted in size and capacity being restricted to no more than 100 people (excluding waiting and other staff); and (c) indoor gatherings being limited in duration.

(7) M 7 Limited enquires for an off-site special licence for Mothership Brewing to sell alcohol where the alcohol could be delivered from remote sales since it didn't have an OFF Licence only an ON Licence Mothership brewing received many requests to purchase the licensees manufactured alcohol remotely for distribution and delivery AT LEVEL 3. This was not possible due to no off licence. (** email correspondence attached in appendix)

After review of the impact of the pandemic to the business it was decided to plan for further lockdowns or the like.

An email titled Covid Impact - Succession Planning, written by C Falconer was sent 13 August 20 to Steve Turfrey, Licensing Inspector Whanganui requesting a special off licence or any other options to be able to sell and supply our products at level 3,4. Mr Turfrey replied that he had referred this to the Chief Licensing Inspector, Mr W. Zander replied [a special licence cannot be granted for remote sales of alcohol as you describe. Section 22\(5\), Sale and Supply of Alcohol Act specifies that an 'off-site' special licence allows you to sell alcohol, for consumption somewhere else, to people attending an event described in it.](#)

Classification as a Manufacturer, right to distribute SS 42(1)

Even though Mothership Brewing manufactures alcohol and can distribute ss 42(1) and would not be able to have approved a Special Off Licence even if it holds an On-Licence. The product manufactured by the licensee could not be available for sale via Remote sales from the premise or - Click or collect or Contactless Delivery see **UM Holdings Ltd - Danger Danger [2020]NZARLA84 15 MAY 2020**. We submit to the committee that in the very likely event of future restrictions Pursuant to section 70(1)(f) and (m) of the Health Act 1956. Manufacturing alcohol is listed as an essential service, with a right to distribute the product then an OFF Licence should be considered as a real alternative since the new terminology of '**Click and Collect**' is the new norm and also '**Contactless**' delivery.

It is of M 7 Limited's opinion If you are not able to have a Special Off Licence in these restrictions then an Off Licence would be a statutory licence that would cover these imposed conditions and be without bias.

In the conclusion summary of **UM Holdings Ltd - Danger Danger [2020]NZARLA84** the District Court Judge K D Kelly provides answers to issues raised similar to M 7 Limited Question 4 it would have been more appropriate to apply for an Off-Licence - Yes.

UM Holdings Ltd - Danger Danger [2020]NZARLA84
Conclusion

[124]*There is no doubting that the circumstances brought about by COVID-19 are unusual and unprecedented. As Mr Sherriff for UMHL has noted, this is the first time since the first liquor licence was issued in New Zealand 180 years ago, that people have not been able to gather to drink alcohol in licensed premises.*

[125]Unfortunately, an off-site special licence is not able to be issued to help alleviate the hardships these circumstances bring when an off-licence is catered for in the Act and the only issue is how long it will take to obtain one.

[126]As already stated, the Authority does not need to evaluate the application against the criteria in s 142 of the Act. [127]**In answer to each of the issues raised in this application:**

Question 1: Is UMHL precluded by virtue of s 42 of the Act from being issued an off-site special licence because it is not a distributor of alcohol? Yes

Question 2: Is UMHL a distributor of alcohol for the purposes of the definition of 'licensee's alcohol' as that term is used in s 22(5)? No

Question 3: Is consumption in people's homes an 'event' for the purposes of s 22(5) of the Act? No

Question 4: Is the issue of a special licence precluded by s 41 of the Act because it would have been more appropriate for UMHL to apply for an off-licence? Yes

'It is with the interests of other parties being 'employees' M 7 Limited also asks the committee to please take into account the care and consideration when deliberating on a decision of the application round the employees of the business **UM Holdings Ltd - Danger Danger [2020]NZARLA84** answers to issues raised Q4
M 7 Limited

3. Entrepreneurial Right and Economic Development in Whanganui

Mothership Brewing, M 7 Limited would like to be able to fairly compete on the national stage with other craft brewing manufacturers with its products. We are an entrepreneurial business that intends to become a successful locally owned company in its niche market. We would like to increase our market share, employ more staff and become a well renowned and respected company producing award winning beverages.

(1) **Constraints** With an Off-Licence the business will be able to market its product's throughout the country with remote sales to help grow its 'brand'. Without an Off-Licence it would not be practical to produce, promote and sell its products to individuals across the country. Currently we could distribute to businesses that have an off licence but we would also need to produce large volumes that we are not ready to manufacture for MOQ. There's also an adverse risk with return or stock or credits from any expired goods. Remote is to the purchaser only and the high freight costs and larger production facility we would require is not available to us. Therefore in summary the remote seller is to the purchaser only, being a contract or arrangement online between minor parties (seller/buyer)

(2) **Distribution Model to a 3rd Party for sale - Economically not viable.**

There has been a gradual change of Breweries not distributing products to a 3rd Party that displays an off licence (middleman), who then distribute or have available to consumers by remote sales or warehousing manufacturers products.

In part due to 'covid19' implications and also freight or extra costs. One very expensive cost is the freight for kegs or slabs of canned craft beer which requires MOQ. Since Covid small and large Breweries are selling or distributing from their premise only and not via the distribution model operated by off licence companies similar to Auckland's Beertique or Christchurch based Hop and Vine or online company BeerJerk.

The Breweries that only sell from their premise and distribute to the NZ public are some of NZ's most celebrated - Behemoth (straight from manufacturer), Garage Project, Urbanaut, Shining Peak, Brew Union, Lakeman, Duncans, Epic and many more.

As a small batch brewery Mothership Brewing has an investment and budget that supports the 1-1 sale of our product from our premise based on its manufacturing capacity and demand.

4. Living, Working and Running a Business in Whanganui

As a family owned company, we live and work in Whanganui. We wholeheartedly support all local businesses and celebrate their uniqueness. As a new manufacturer that started manufacturing in August 2019 we believe that our business is the same kind or like as referred to in the:

Whanganui Welcoming Communities Plan 2018/2019 that should be afforded the right, in good faith, to reach its potential and to maximise its economic development opportunities.

This is not possible in declining the off licence application as it would be similar to chopping ones arms off, disabling the manufacturers right to also distribute for sale at its premise whilst already having demonstrated as an on-licence Licensee that M 7 Limited has a strong will and practice to adhere to the object of the act and has successfully done this since 1995 and variation to the company from 2008 in good faith and therefore would be seen as being a 'good operator' who is intent on upholding the object of the act with the afforded right to have approved an off licence.

Policy Inventory number: 845213 Approved 1 May 2018

5. Economic Development, Business and Employment Communities maximise and harness the economic development opportunities that newcomers can offer. Councils work with business associations to promote the contribution that newcomer business owners

5. An Economic Strategy That Supports Our Development

Local council is clear that it has a vision that appears not to be biased towards types of businesses with a vision supporting richness, lifestyle and commerce. The craft beer industry is rich in diversity and lifestyle. ***Stating that it is 'Being truly business friendly' and for Business - Our 'open for business' approach makes it easy*** are a bold statement if it was to be bias to the lawful manufacturing and legal ability to sell alcohol from the same premise by a business in this district, which has also not come to the attention of NZ Police, or MOH, District Licensing for adverse practice or matters before this application.

[Whanganui Council Economic Development Strategy 2019 -

Principles Partnership, transformation, innovation

Vision Supporting richness and opportunity through education, lifestyle and commerce

One of the Goals

ATTRACT Generating more interest in Whanganui. Delivering on what people and businesses need. Knowing our advantages and selling them confidently. Being truly business friendly.

OVERVIEW OF ECONOMIC OPPORTUNITIES

Whanganui's background is diverse. Our core strengths lie in tourism, food processing, medium-scale specialist manufacturing, and processing logistics sectors

Business *Our 'open for business' approach makes things easy.*

We undertook pre-engagement on a draft strategic framework and received constructive feedback on its aims. This feedback was supported by some general themes, which were incorporated into a draft document. Formal consultation followed, with the community's views taken into account in the development of a final strategy.

There must be an openness to new opportunities, with us jumping on these when we can - including being proactive about what we can attract here, rather than just expecting things to come to us.

Optimising our potential We possess significant untapped talent and opportunity. We are a district of achievers, creatives and innovators. Our size sometimes means we have to find new ways of delivering things and making our own success. We also have a large (and often passionate) nonresident or ex-pat population. Harnessing these strengths, ideas and resources can give us a real economic advantage, but this requires thought and investment

Being enabling Doing business in our district should be easy. We have made gains but there is still more to be done. This relates to our focus on building our reputation and this strategy's particular commitment to attracting, growing and retaining our business base. The Council and Whanganui & Partners are working together on this so that new and existing opportunities can be progressed]

6. The LAP

'The Local Area Policy of no further new off-licences will be considered appropriate under this policy if the grant of that further new off-licence would bring the total number of off-licences in the region to 14 or more' - this policy does not show regard and fairness to a manufacturer, of alcohol like 'M 7 Limited' as 'potential'2.4 in the Whanganui district at this years review of 2.1. M 7 Limited in this specific application has been upholding the object of the act by being an approved operator with a current On Licence and believes it should have been considered in the annual review of 2.1.

No adverse matters have come to the Police's attention or MOH except that this approval of the application could contravene Section 108.

LAP Policy Draft did not specify a brewery or manufacturer in the consultation document which we believe is not fair or transparent to the public. Only the use of general hospitality business titles were used and could be considered as flawed or to the detriment of a manufacturer.

Proposed Local Alcohol Policy submission form *highlighted the types of **(bottle stores, hotels, bars, taverns, and wineries)** will be limited with no new off licences but excluded from the consultation document **'manufacturer' 'brewery' 'distributor' 'remote sellers' 'licensees alcohol'** which did not appear in the original draft consultation document or known by 'ordinary' members of the public in their feedback documents. However it is **clearly recognised in SS Act a manufacturers off-licence ss 17-19, 32(1)(d) and Reg 5. a remote sellers off-licence ss 5, 18(2), 32(1)(c), 40, 48, 49, 59, and Reg 5.***

WANG Website - Proposed Local Alcohol Policy submission form Reference:

WANG-QF-170314-7HIQ7-D65 Attachment:

not attached

Title: Mr Name: Bernard Corkery E-Mail: bmcorkery@xtra.co.nz

Address 26D Virginia Road St Johns Hill Whanganui

Phone: 027 348 7010 Organisation: not supplied

Do you wish to speak to Council in support of this submission?: No

Would you like to be involved in future consultation and are you happy for us to retain your contact details?: Yes

The total number of off-licences (bottle stores, hotels, bars, taverns, and wineries) will be limited to the total number of off-licences at the time the draft Local Alcohol Policy is adopted (currently at 16). (supermarkets and grocery stores excluded): Disagree

No new off-licences (bottle stores, hotels, bars, taverns, and wineries) will be granted if in close proximity to a sensitive site defined as an early childhood centres, schools, Marae, and places of worship (supermarkets / grocery stores excluded): Disagree

7. Alcohol is not all bad and locality may actually reduce the instances of violent offences in the locality

- (1) Alcohol use is considered necessary for the development of 30 diseases and contributes to the development of many more (Jennie Connor, Broad, Jackson, Hoorn, & Rehm, 2004; Rehm, 2011; World Health Organization, 2011).
- (2) A case study of community action against alcohol harm: liquor licensing in Fantame Street, Porirua, 2011-2013A thesis submitted in fulfilment of the requirements for the degree of Master of Public Health Sarah Paterson University of Otago, Wellington 2014 wrote -

2.3.3.3 New Zealand outlet research: location specific

Similarly, recent studies in Manukau that were repeated for the whole of the North Island found the relationships between outlet densities and harm such as violence, police events and motor vehicle accidents varied in urban and rural areas and by outlet type (Cameron et al., 2012b, 2013). ***For example, in central Wellington city, the addition of an extra off- licence resulted in decreased reported violent offences***

8. Bias with Supermarkets and Grocery stores in the LAP, increased risk of harm

M 7 Limited submits that it would be hard to argue that the manufacture and supply for sale in regards to this application would be close to or any worse than a Supermarket or Grocery store selling alcohol which represented over 30% of all beer available for consumption in NZ and just under 60% ^{1.48} of all wine and which have exceptions to the Whanganui District LAP limit of any new off licences and can gain a licence no matter the off licence numbers.

Supermarkets and Grocery Stores are exempt from the Local Area Policy.

Supermarkets and Grocery have liquor for sale across different types of products in large visible areas with nationwide advertising of price redacted items from opening to close.

These sites are for any person in public, no matter of age or creed. Society frequents these premises often. Our application submits that in the Object of the act we will be restricting the supply and sale of alcohol to the times our application has stated and is lowering the chance of purchase adversely compared to trading hours of local supermarkets, grocery stores and bottle store alcohol availability.

We also do not advertise in this manner, by press or TV nor do we have foot traffic round our designated display areas similar to the volume of people in our local supermarkets or grocery stores.

We would argue that since we manage the sales of alcohol in an On Licence Premise - then we are better trained and equipped in the sale of such products and assessing the state of the purchaser in the Object of the act than a supermarket or grocery store.

We manage environments where people may be influenced or walk in in an intoxicated state to the premise more frequently than the aforementioned outlets. These occurrences would not likely be dealt with to the same degree in a Supermarket. For example in a self serve check out area - there is very little engagement with staff and the assessment of the person invariably could be more of a risk to the sale of alcohol to an intoxicated person than on our premise. Engagement with a person purchasing alcohol requires time, assessing the purchaser, skills, experience and excellent communication to uphold the Object of the Act.

The following submissions

NZLC R114 – ALCOHOL IN OUR LIVES: CURBING THE HARM I am pleased to submit to you Law Commission Report 114. Alcohol in Our Lives: Curbing the Harm, which we submit under section 16 of the Law Commission Act 1985.

Part 1: The case for reducing alcohol related harm THE HARM

12 Balanced against these harms must be the pleasure many people derive from the consumption of alcohol. Those who drink in a low-risk manner will be little affected by our proposals. The focus of our proposals is on the excessive consumption of alcohol, which the evidence tells us is clearly associated with the heavy burden of acute harms we are experiencing as a society.

1.48 According to a New Zealand Retailers' Association report, the two supermarket chains (Australian-owned Progressive Enterprises and the New Zealand cooperative, Foodstuffs) sold just under 60% of all wine and just over 30% of all beer available for consumption in New Zealand in 2008.⁴⁰ The consultation revealed a surprisingly strong sentiment in favour of removing alcohol altogether from supermarkets and returning to the pre-1989 era when it was only sold by specialist liquor outlets.

1.50 HANZ also argued removing all alcohol from supermarkets and grocery stores would be consistent with "the object of reducing alcohol-related harm".⁴¹ Many submitters from the hospitality sector expressed the view that supermarkets' aggressive promotion and pricing of cheap alcohol has played a major part in the acceleration of drinking away from licensed premises. One long-standing proprietor suggested that, in the past two years, the combination of the recession and deep discounting by large retailers had seen an intensification of the phenomenon of "pre-loading" (drinking before going out):⁴²

9. LAP IN GENERAL

We submit that the LAP Policy 2.4 should have regard to our Business types and have regard with development objectives and potential in the Whanganui district in the annual review of 2.1 which is the limit of new off licences and have had 'good reason' to recommend increasing the number limit - restriction on new off licences.

With the pandemic of Covid 19 the annual review should have considered these types of businesses, especially primarily 'remote seller' capabilities for businesses similar to M 7 Limited. A manufacturer would require an off licence at the time they completed the annual review 2020 due to hardship with covid government restrictions and not being able to distribute its own product locally by remote sales of the licensees product.

If it had regard to this and also noting that our Application had no other opposition for an off licence apart from section 108, then M 7 Limited could've had it's off licence application approved outright, as section 108 would not have applied as an objection by the Police, Med Officer, DLIC Inspect.

With the Pandemic and new word/phrasing of ***Click and Collect or Contactless delivery*** M 7 Limited met the grounds and requirements of development objectives. Or if 'not' then M 7 Limited business developments could've been taken into account In this year's annual review.

We pose a question on how can you sell a licensees alcohol if your on licence business is closed, staff have no employment or work and are also not allowed at the premise? However your manufacturing business is deemed to be an essential service and the only connection to sales you have is remotely and you are not able to get an off licence because it is opposed due to a Local Policy (LAP)? This is unfair and unreasonable when the law supports such an opportunity and if the Object of the law is being adhered to see submission document point 1 We will uphold the intent of the LAP and the Object of the Act by then the greater good of the law should prevail.

2. District-wide limit on off-licensed premises

Policy 2.1. From the date this policy comes into force, no further new off-licences will be considered appropriate under this policy if the grant of that further new off-licence would bring the total number of off-licences in the region to 14 or more.

2.2. For the purposes of clause 2.1 above, a new off-licence does not include a new offlicence for a supermarket or grocery store.

2.3. For the purposes of clause 2.1 above, the total number of off-licences in the region excludes off-licences for supermarkets and grocery stores.

2.4. Clause 2.1 will be reviewed by the Whanganui District Council annually to ensure that this clause is not inconsistent with development objectives and potential in the Whanganui district.

1 Mothership Bar
 2 Booking.com 19/20
 3. Beer classification 991050G
 The hard seltzer are classified as other fermented beverages
993021D Containing more than 1.15% but not more than 2.5%
993026E Containing more than 2.5% but not more than 6%

Appendix

Emails

Dear Steve,

We have been working on plans at the Hotel and Bar round the government's level 2 Covid step for the 'Rest of NZ' outside of the Auckland Region. Part of our planning is round how we can pivot as a business to retain staff and create new revenue streams. The next decision by the Government could be to increase restrictions to Level 3.

In the event of Level 3

- as an on-site manufacturer being an 'Essential Service' of Beer and Low Alcohol Seltzers - we would like to offer our products online for sale and contactless deliveries by myself to our patrons and others in our community.

We don't sell to retail businesses as we don't 'mass' produce in the numbers they require. We also have stock and new releases for the next 6wks sitting to move. We would instead - produce (pour), then package, deliver on every individual order.

Background -

We are Whanganui's largest employer as an accommodation provider.

We have 22 Staff employed by us. Covid Level 3 will mean we will not be able to accept accommodation bookings unless for essential services (last covid was minimal) - This wing of our business will effectively close.

We cannot open our bar and food services to the public unless its delivery. It's probable that we will not be able to access any further rounds of a wage subsidy as ours runs out next week. We are already experiencing more cancellations than bookings over the last 3 days.

I craft custom ales (mothership brewing) with my employees at the hotel.

Since the covid restrictions earlier this year we did not lose any staff and made wages payable via our savings and wage subsidy. Any further restrictions by the Govt. would be a grave situation to our business and staff employment.

Workplaces

Under Alert Level 3, you are required to work from home if you can.

<https://covid19.govt.nz/covid-19/restrictions/alert-level-3/>

Workplaces can only open if:

- workers cannot work from home, and
- workplaces are operating safely, and
- customers are not allowed on the premises, and
- businesses can trade without physical contact with customers, for example through phone or online orders, delivery, pick-up and drive-through

1. A number of people wanted to support us in our community but we didn't have an Off Licence for purchasing our products -

We have made an application to WDC for this and advised due to the LAP numbers it will be opposed.

2. Enquiries for food deliveries were very low.

3. Hardly had any essential service people for accommodation
Hotel was mothballed..

4. We were able to still purchase 'Brewing products' and manufacture. Business as usual - unable to sell the products -stored.

5. Manufactured products could be sold online and would provide immediate revenue to support staff wages and running costs.

- Covid meant 'contactless' and 'online' 'remote' were new business models required by business owners in a pandemic across the country - LAP Whanganui does not allow this with new businesses.

Being Local - Supporting Local

As we are a local business, sustainable (we create/manufacture, staff/ sales - from within), employing local people and marketing our products generally to our patrons in a 'niche beverage area we would like to know if there is any options that we have with the Whanganui District Licencing Team or Whanganui District Council to allow us - under any further restrictions, to be able too keep one arm of our business operational through online alcohol sales (excludes spirits, wine).

Reason for Change - New Era - Pandemics - Contactless Expectations - Sustainable Businesses more and more common in our Communities.

We see clear differences in our business model to a bottle store or supermarket - the aforementioned have mass sales and appeal to the whole community that access their sites and are also readily accessible in the suburbs where LAP designated risk areas are. We operate from a secure site, commercial kitchen with restrictive access in a commercial zone.

Our Question -

Could our query request be considered by a Special Licence? or an On Licence or Other Whanganui District Council Pandemic Response Discretion (assisting local business)? - If Restrictions are Imposed of Level 3 and 4.

Our Website - can be viewed at mothershipbeer.com (restricts anyone under 18yrs), has a statement round our Health & Wellbeing and Alcohol policy in moderation on the site. All products would be added to the website and would have the same information required by our monthly customs filing on all cans or bottles. This includes, Alc.Vol by volume - health and promo statements, ABV%, Full description of ingredients. Blank labels to not appeal to minors or other.

We look forward to your contact and hope your team are all well and things are not too full on at the moment.

Cheers

--

Many thanks

Carl Falconer GM @
Mothership Brewing/ Kingsgate Hotel
cell. 0225980112
The Avenue Kingsgate Hotel & Conference
Ph 063490044
379 Victoria Ave, Wanganui 4500.
www.spit-roast.com
www.mothershipbeer.com

Email - Steve Turfrey

Hi Carl

Thanks for this note. I have referred your enquiry to our Chief Licensing Inspector so that there is clarity and only one response which informs your considerations.

I will get back to you as soon as I can. I trust I can do that as soon as possible given the pressing covid related matters.

Kind regards

Email Warrick Zander

Hi Carl,

In response to your question, a special licence cannot be granted for remote sales of alcohol as you describe. Section 22(5), Sale and Supply of Alcohol Act specifies that an 'off-site' special licence allows you to sell alcohol, for consumption somewhere else, to people attending an event described in it.

This means two things- firstly, to have a special licence you must have an event and secondly, people must be attending the event described ie not remotely.

I understand the situation you are in, like many other business owners who are impacted by the unprecedented times but unfortunately we cannot assist with your request.

Regards,

We thank the committee for considering the points and matters of our submission with the original application for an off licence M 7 Limited

Dated at Whanganui on 13 November 2020

Carl Falconer

Carl Falconer
rep . M 7 Limited



19 August 2020

Alcohol Licensing Team
Whanganui District Council
PO Box 637
WHANGANUI 4540

Ngā mihi o te wā,

I am writing to object the new off-licence application by M7 Limited TA/Kingsgate Hotel Mothership Brewing, 379 Victoria Avenue, Whanganui.

I currently coordinate the **Community Action on Youth & Drugs** (CAYAD) contract for the Ministry of Health. CAYAD is funded by the Ministry of Health to reduce the harm young people experience from alcohol and other drugs. CAYAD coordinators support leaders from communities, organisations and young people to collaborate and create lasting changes in their environment that will promote wellbeing and reduce the risk of harm.

The CAYAD contract is coordinated from **Ngā Tai o Te Awa Trust** which also holds contracts for *Māori Problem Gambling* and *Suicide Prevention*. Our organisation is situated at 142 Guyton Street, which is a distance of 1.5km from the proposed off-licence.

I make this objection personally, but also note I am a Member of *Safer Whanganui Alcohol and Other Drugs Reference Group (SWAODRG)*. If I am unable to attend the hearing due to other commitments, I ask that other members of SWAODRG represent me.

I make this objection on the following grounds:

**1. APPLICATION DOES NOT MEET THE CRITERIA OF THE LOCAL ALCOHOL POLICY 2019
- WHANGANUI DISTRICT COUNCIL (SECTION 105 (1)(C))**

District-wide limit on off-licensed premises

Policy

2.1. From the date this policy comes into force, no further new off-licences will be considered appropriate under this policy if the grant of that further new off-licence would bring the total number of off-licences in the region to 14 or more.

The Sale and Supply of Alcohol Act 2012 (the Act) allows for councils to adopt a policy relating to the sale, supply, or consumption of alcohol within its district.

The objectives of the Act are stated as:

- 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.

Council considered that the Local Alcohol Policy is necessary to further strengthen the objectives of the Act in reducing alcohol-related harm in the district. Having a policy delivers Council's

commitment to support the welfare of the community, protect people from harm, and support the work of health agencies to secure a district that works for everyone.

The purpose of this policy is to minimise alcohol-related harm within the district through the regulation of matters relating to licensed premises.

2. REDUCED AMENITY AND GOOD ORDER (SECTION 106 (1A)(III))

In deciding whether amenity and good order would be reduced or increased by more than a minor extent, the decision-makers must consider (section 106) the number of other licensed premises in the area.

The neighbourhood is well provisioned with off-licences with a Countdown, a Pak'nSave, and a New World located on Victoria Avenue within 400 metres of the proposed premise. Furthermore, there are already four more bottle stores nearby – a Bottle-O 350 metres away at 379 Victoria Avenue, a Liquorland 700 metres away at 291 Victoria Avenue, Black Bull Liquor 310 metres away at 446 Victoria Avenue and another Black Bull bottle store within one kilometre at 43a Dublin Street.

With three supermarkets and three bottle stores in the immediate locality, it would not be unfair to state that the locality is over provisioned with off-licence alcohol. As supported by the community submissions to the draft local alcohol policy, and the local alcohol policy, it is desirable not to issue any further licenses.

My contact details are as follows:

Jay Rerekura - CAYAD Project Manager
Ngā Tai O Te Awa Trust
142 Guyton Street
Central
WHANGANUI 4500

Nāku iti nei,



Jay Rerekura

4 August 2020

Alcohol Licensing Team
Wanganui District Council
PO Box 637
Wanganui 4540

Dear Sir/Madam

I wish to object to the alcohol licence application by M7 Limited TA/Kingsgate Hotel Mothership Brewing, 379 Victoria Avenue, Whanganui.

I have an interest in this application that is greater than the general public because I work in the area of alcohol-related harm in the community as a Registered Addiction Practitioner under DAPAANZ. (https://www.alcohol.org.nz/sites/default/files/field/file_attachment/AL1021_Objecting%20to%20a%20licence_online.pdf).

DAPAANZ (Drug and Alcohol Practitioners' Association Aotearoa–New Zealand) Everyday thousands of New Zealanders struggle with the effects of addiction. Everyday addiction practitioners work with those who are addicted and those who care for them, to help make recovery possible. DAPAANZ is the membership association representing the professional interests of practitioners working in addiction treatment. DAPAANZ is an incorporated society and a registered charity, affiliated to the Allied Mental Health and Addiction Group and a member of the NZ Drug Foundation.

Members are passionate about making a difference for individuals, whānau and communities. Members foster and maintain good and ethical practice in addiction treatment through promotion of our [Code of Ethics](#), our [Addiction Intervention Competency Framework](#), and our [registration process](#). We use every opportunity to promote addiction treatment and advocate for change. We do this through submissions, using our influence with key people and organisations, and by raising issues in a range of settings.

I object to the application on the following grounds:

Objection 1:

Grounds for objection – The application does not meet the criteria set down in the local alcohol policy (section 105 (1)(c)).

Reasons for objections:

1. The Local Alcohol Policy 2019 – Whanganui District Council.

<https://www.whanganui.govt.nz/files/assets/public/policies/local-alcohol-policy-2019.pdf>

This policy outlines the licencing conditions Council's District Licensing Committee (DLC) and the Alcohol Regulatory Licensing Authority (ARLA) must have regard to when they make decisions on licence applications.

With the purpose of reducing alcohol-related harm in the Whanganui District, the policy sets a district-wide limit on off-licensed premises (with the exclusion of supermarkets and grocery stores); location of licensed premises to sensitive sites; a requirement for a one-way door restriction; discretionary conditions; and maximum trading hours for licensed premises.

OBJECTIVES AND POLICIES

2. District-wide limit on off-licensed premises

Policy

2.1. From the date this policy comes into force, no further new off-licences will be considered appropriate under this policy if the grant of that further new off-licence would bring the total number of off-licences in the region to 14 or more.

2. The Sale and Supply of Alcohol Act 2012 (the Act) allows for councils to adopt a policy relating to the sale, supply, or consumption of alcohol within its district.

The objectives of the Act are stated as:

- 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.

Council considered that the Local Alcohol Policy is necessary to further strengthen the objectives of the Act in reducing alcohol-related harm in the district. Having a policy delivers Council's commitment to support the welfare of the community, protect people from harm, and support the work of health agencies to secure a district that works for everyone.

The purpose of this policy is to minimise alcohol-related harm within the district through the regulation of matters relating to licensed premises.

BACKGROUND AND ISSUES

Safer Whanganui's Alcohol and Other Drugs Reference Group's (SWAODRG) initial investigations found there was enough rationale and research for the development of a Local Alcohol Policy.

Discussions amongst Council and key stakeholders including the WDHB's Medical Officer of Health and Police then confirmed that a more restrictive stance to curb alcohol-related harm in the district was needed.

To inform the policy's development, Council developed a Draft Local Alcohol Policy Research Report.

The following issues taken from the report are presented as concerns for address by a Local Alcohol Policy:

- In 2014, 18.7% of residents (compared to the New Zealand average of 15.5%) identify themselves as a hazardous drinker.
- Whanganui's population is more prone to alcohol-related harm (Māori make up 22% of the district's population and are twice as likely than non-Māori to consume large quantities of alcohol; 7.4% are aged 18 to 24; and 39% of the population experience high levels of deprivation).
- When contrasting on and off-licence closing hours to Emergency Department (ED) presentations, a higher frequency of alcohol-related ED presentations occurs in conjunction with the availability of alcohol and the closing times of on and off-licence outlets.
- Alcohol-related chronic disease admissions for the most part have been relatively steady across 2013 to 2015 for both discharge and patient counts.
- Deaths and injuries where alcohol was deemed a contributing factor are on the increase.
- In 2015, 45% of Alcohol and Other Drug referrals have a diagnosis of Alcohol Use Disorder.
- Over the last five years, Police actions undertaken where a person is found intoxicated in public (drunk custodies) peak between 1:00am to 1:59am, coinciding with the final hour of trade for on-licences.
- Police data indicates that alcohol was a factor in 19% of all family violence cases attended by Police during 2014/15 and 2015/16.
- Where there is a concentration of licenced premises, and the relatively higher availability of alcohol (Central Whanganui, Whanganui East, Aramoho, Gonville, and Castlecliff), there is also a higher frequency of violence events and drunk custodies than in areas where there is a lesser concentration of licenced premises and relatively less availability of alcohol.
- 15% of the total vehicle crashes recorded for the Whanganui district in 2014 were alcohol-related.

Objection 2:

Grounds for objection – Amenity and good order (section 106 (1a)(iii)).

Reasons for objections:

1. In deciding whether amenity and good order would be reduced or increased by more than a minor extent, the decision-makers must consider (section 106) the number of other licensed premises in the area.
2. The neighborhood is well provisioned with off-licences with a Countdown, a Pak'nSave, and a New World located on Victoria Avenue within 400 metres of the proposed premise. Furthermore, there are already four more bottle stores nearby – a Bottle-O 350 metres away at 379 Victoria Avenue, a Liquorland 700 metres away

at 291 Victoria Avenue, Black Bull Liquor 310 metres away at 446 Victoria Avenue and another Black Bull bottle store within one kilometre at 43a Dublin Street.

With three supermarkets and three bottle stores in the immediate locality, it would not be unfair to state that the locality is overprovisioned with off-licence alcohol. As supported by the community submissions to the draft local alcohol policy, and the local alcohol policy, it is desirable not to issue any further licenses.

My contact details are:

Chester Penaflor

100 Heads Road, Private Bag 3003, Whanganui, 4540

06 348 3150

I make this objection personally, but also note I am a Member of Safer Whanganui Alcohol and Other Drugs Reference Group (SWAODRG). If I am unable to attend the hearing due to other commitments, I ask that other members of SWAODRG represent me.

I intend to present my objections at any Hearing.

Yours sincerely,

Chester Penaflor, MD, PGDipRehabilitation, PGCertHS(CBT), BSc, CertPH
Registered Addiction Practitioner
DAPAANZ Reg. No. 1430

Property ID: 6952

September 2020

The Secretary
District Licensing Committee
Whanganui District Council
P O Box 637
WHANGANUI 4540

Dear Sir

**SALE AND SUPPLY OF ALCOHOL ACT 2012 -
APPLICATION FOR NEW OFF LICENCE**

<i>Applicant:</i>	M 7 LIMITED T/A KINGSGATE HOTEL - MOTHERSHIP BREWING
<i>For the premises known as:</i>	KINGSGATE HOTEL
<i>And situated at:</i>	379 VICTORIA AVENUE, WHANGANUI 4500
<i>General nature of business:</i>	HOTEL
<i>Designation:</i>	SUPERVISED IN PART AND UNDESIGNATED

PREMISES DESCRIPTION/BACKGROUND

This is an application for a new off-licence. The general nature of the business requested is for a 'Cellar Door- Brewery' operation with remote sales of its on-site brewed products from their premises known as the Kingsgate Hotel – Mothership Brewing. The premises having already an 'On Licence' (036/ON/004/2014) in respect its current Hotel operations known as 'Kingsgate Hotel – The Avenue'.

The principal entrance to the premises is off Victoria Avenue.

The premises has been a licensed venue where existing use rights have existed. The Kingsgate Hotel has not come to the notice of monitoring agencies in an adverse manner.

Two public objections have been made and The Medical Officer of Health and Police oppose the application.

I **oppose** this application. This position is formed on the basis that-
(Section 105(1)(c), Sale and Supply of Alcohol Act 2012).

- The Local Alcohol Policy (LAP) provides for a maximum of thirteen ‘Off Licence’ premises (excluding Supermarket and Grocery stores) within the Whanganui District. That limit is already met meaning in terms of the LAP, it is not considered appropriate for Whanganui to accommodate this application for an additional off licence.

In conjunction with my opposition, I also raise concerns in relation to the object of the Act and proliferation of licences in the area which is outlined below (See- ‘statutory criteria’).

SITE LOCATION

The proposed premises is located in a block of commercial buildings in upper Victoria Avenue and has existing use rights. A Certificate of Compliance was included with the application confirming compliance with the Resource Management Act 1991 and the N Z Building Code.

The premises is situated within an alcohol ban area.

SURROUNDING SENSITIVE USES/ACTIVITIES

Wanganui Intermediate School, 90 Dublin Street 140m

Wanganui Collegiate School, 128 Liverpool Street 100m

Top Kids Kindergarten, 168 Glasgow Street 242m

NOTIFICATION

The application was notified in the River City Press on 30 July 2020 and 6 August 2020. The public notice was placed on the building and a photograph of this is attached to file records.

Two public objections have been received following public notification, both were received within the specified timeframes.

Objector	Received	Objection
Chester Penaflor	4 August 2020	<ul style="list-style-type: none"> • Section 105(1)(c), Sale and Supply of Alcohol Act • Section 105(1)(h&i), Sale and Supply of Alcohol Act
Jay Rerekura	19 August 2020	<ul style="list-style-type: none"> • Section 105(1)(c), Sale and Supply of Alcohol Act • Section 105(1)(h&i), Sale and Supply of Alcohol Act

STATUTORY CRITERIA (Section 105, Sale and Supply of Alcohol Act 2012)***(a) The object of the Act***

The Applicant has provided a Social Responsibility Policy stating that suitable measures will be undertaken with regard the responsible sales/supply of alcohol and that harm will be minimised. A search of relevant data base records evidences no concern with current and previous On-licence compliance.

I raise a concern should this application be granted in conflict of the Local Alcohol Policy, as in my view it will consequently be inconsistent the object of the Act. The development of the LAP and restriction of off licences in Whanganui is founded on evidence of alcohol related harm and the cap is provided as a tool to minimise such harm in Whanganui. On this basis, the issuing of an additional off licence that would exceed the cap will have an undesirable effect on alcohol related harm in Whanganui.

(b) Suitability of Applicant

The Applicant is M 7 Limited, trading as the Kingsgate Hotel – Mothership Brewery. The Applicant is an experienced private company originally incorporated under the name of McKinnon Consulting Limited. McKinnon Consulting Limited was incorporated on 12 June 1995 where several iterations have occurred. On 16 April 2008 M 7 Limited was notified as the accepted name change.

Freya McKinnon is the sole director of M 7 Limited and is noted as being the principal shareholder and Managing Director. She reports the ‘face value’ of her shares as \$900-00 with Carl Falconer the only other shareholder. His shares face value are reported as \$100-00.

The Applicant has supplied the following names, manager’s certificate number and expiry date for the certificated managers to be employed on the premises:

Manager’s Name	Certificate No.	Expiry Date
Freya McKinnon	036/CERT/108/2014	02/12/2021
Sonya Hayward	036/CERT/001/2016	01/02/2023

The Applicant has an existing On-Licence 036/ON/004/2014 providing On-Licence operations for their hotel/accommodation/restaurant operation. There are no known issues in respect the operation of that licence.

Suitability of the Applicant is therefore not opposed.

(c) Local Alcohol Policy

On 2 September 2019 the Whanganui Local Alcohol Policy 2019 (LAP) came 'into force' excluding clauses three and four which came in force on 2 December 2019.

The purpose of the Policy is-

- To govern the sale, supply and consumption of alcohol so that it is undertaken safely and responsibly.
- To minimise alcohol-related harm in the Whanganui District.
- To support the welfare of our Community and protect our people from alcohol-related harm.
- To reflect our local communities' character, amenity, values, preferences and needs.

The development of the LAP is extensive and follows a special consultative procedure. Conditions are developed in response to the evidence of alcohol related harm in Whanganui and provided as a tool to support the object and purpose of the Act. The documentation to support the development of the LAP is collated here for the DLC to have regard to-

[X:\OSD\Policy\Local Alcohol Policy.](#)

Clause two- District wide limit on off-licensed premises limits the number of off licences (excluding supermarket and grocery stores) in Whanganui to 13 which was the number of applicable off licences at the time of drafting. During the final stages of drafting the LAP and before implementation, a 14th off licence was able to be issued meaning there are 14 premises within the Whanganui District that are subject to the cap:

Premises Name	Address	Type	Cap #
Big Barrel Riverside	33 Somme Parade	Bottlestore	1
Big Barrel Victoria Avenue	379 Victoria Avenue	Bottlestore	2
Big Barrel Whanganui East	59a Jones Street	Bottlestore	3
Big Barrel	94 Puriri Street	Bottlestore	4
Blackbull Liquor	1 Polson Street	Bottlestore	5
Blackbull Liquor	129 Duncan Street	Bottlestore	6
Blackbull Liquor	13 Purnell Street	Bottlestore	7
Blackbull Liquor*	446 Victoria Avenue	Bottlestore	8
Blackbull Liquor	43a Dublin Street	Bottlestore	9
Liquorland	291 - 293 Victoria Avenue	Bottlestore	10
Roots Brewing Co.	43 SH3	Cellar Door	11
Windermere Gardens	313 SH3 North	Cellar Door	12
Wanganui East Club	101 Wakefield street	Club Off Licence	13
Castlecliff Club	4 Tennyson Street	Club Off Licence	14

* Blackbull Liquor 446 Victoria Avenue was issued an initial Off-licence on 31 January 2019.

This application is for a type of licence under Section 32(1)(a) for which the cap applies. The limit is already met meaning in terms of the LAP, any additional licence will be contrary to the intent and purpose of the policy.

I therefore oppose the granting of this application.

(d) The days and hours during which the Applicant proposes to sell alcohol

The Applicant originally sought the following days and hours of operation:

- Monday to Sunday, between 12.00pm to 9.00pm.

However, the Applicant publicly advertised the following days and hours of operation:

- Monday to Saturday, between 2:00pm to 9:00pm.
- Sunday, between 4:00pm to 8:00pm.

On 5 October 2020, the Applicant confirmed the publicly advertised days and hours as the correct times requested.

The hours are within the national ‘maximum trading hours’ specified in section 43 of the Act, and are within the hours considered reasonable by the LAP. The Applicant has also indicated there will be remote sales pursuant to the licence and is aware of the additional requirements set out in Section 59 of the Act.

I am of the opinion that the hours requested, in regard to ‘Off-site’ operations are reasonable.

(e) The design and layout of the proposed premises

The Applicant has not conducted a CPTED assessment.

As per the floor plan provided, the Applicant has rearranged the layout of the premises and in my opinion, gives a better open overview of the premises display areas. No overt signage is proposed.

The Applicant seeks a supervised designation for the “whole shop area”. I agree that it would be beneficial to assist with the control of the premises.

(f) The sale of goods other than those directly relating to the sale of alcohol, low and non alcoholic refreshments and food

The Applicant intends to only sell their brewed products, glassware and branded apparel.

(g) The provision of services other than those directly relating to the sale of alcohol, low and non alcoholic refreshments and food

The Applicant operates a Hotel with associated services.

(h) and (i) The amenity and the good order of the locality

The following areas have been considered with respect to the amenity and good order of the locality and the effect of the licensed premises:

Noise levels

There should be no noise issues arising from the operation of the business under this specific licence.

Levels of nuisance and vandalism

A search of Councils records shows nuisance related reports where unknown public members (not proven to be related to this venue) have deposited their personal rubbish into on-site skip bins. These matters have been addressed by Council staff.

Number of existing licensed premises in the vicinity

The following off licensed premises are located within approx. 400 metres of the proposed licensed premises:

1. Big Barrel, 379 Victoria Avenue, Whanganui. (Part of this same complex)
2. New World, 374 Victoria Avenue, Whanganui.
3. Pak N Save, 167 Glasgow Street, Whanganui.
4. Countdown, 433 Victoria venue, Whanganui.
5. Blackbull Liquor, 446 Victoria Avenue, Whanganui.
6. Liquorland, 291-293 Victoria Avenue, Whanganui.

I consider this number of off licences in an area of approximately 400 metres as ‘saturated’ and support the objectors’ concerns around proliferation of off licensed sales. 25% of all off licences in Whanganui are within 400 metres to this premises. My concerns expressed under this section are encompassed in my primary opposition under Section 105(1)(c).

(j) Whether the Applicant has appropriate systems, staff and training

The Applicant operates an on-licence Hotel and provides a comprehensive staff induction and training system. The proposed nature of this operation is small in scale and handled predominantly by the Applicant himself who has shown a reasonable understanding of relevant legal requirements.

(k) Reports from Regulatory Agencies

- On 2 September 2020 the Medical Officer of Health reported in opposition to the application.
- On 4 September 2020 Police reported in opposition to the application.

CONCLUSION

This application is made for a new off licence pursuant to Section 32(1)(a), Sale and Supply of Alcohol Act 2012 which is a type of Off licence that is subject to the cap (13) prescribed in Clause two of the Local Alcohol Policy 2019. Whanganui District already exceeds the prescribed cap by having 14 applicable premises, of which three are within a short distance to this proposed premises.

Whilst the DLC is not bound by the LAP, it is my submission the cap that was developed following an extensive, evidence based special consultative process should be applied to this application.

A purpose of the LAP and the Object of the Act share a common goal which is to minimise alcohol related harm. Should the DLC grant this application in conflict with the LAP, it is my view it will also be in conflict with the object of the Act.

I therefore oppose the application and recommend it is declined by the Committee.

Yours faithfully,

Warrick Zander

Compliance Operations Manager/ Chief Alcohol Licensing Inspector

Whanganui District Council

28 September 2020

**BEFORE THE WHANGANUI
DISTRICT LICENSING COMMITTEE**

No:

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

AND

IN THE MATTER of an application pursuant to s.32(1)(a) for an off-licence by **M7 LIMITED** for premises situated at 379 Victoria Avenue, Whanganui and known as "*Kingsgate Hotel*".

**MEMORANDUM OF COUNSEL FOR WARRICK ZANDER,
LICENSING INSPECTOR**

Dated 12th November 2020

Next Event : Hearing : 1.00pm 20 November 2020

MAY IT PLEASE THE COMMITTEE:

Introduction

1. Counsel represents the Licensing Inspector. Counsel will be appearing at the hearing in Whanganui for the Inspector.
2. This Memorandum responds to the:
 - (a) Notice of Hearing dated 5 November 2020;
 - (b) Notice of Objections and Reports in Relation to application dated 5 November 2020; and
 - (c) The Direction Notice – Objection status dated 28 October 2020.
3. The role of the Inspector is to inquire into the application and file a report with the DLC – s.103(2). That has been done – report dated 28 September 2020. The Inspector has an automatic right to appear and be heard, personally or by counsel – s.204(3)(c). He and I will attend the hearing.
4. The DLC is obliged ("*must*") to have regard to the Inspector's report – s.105(1)(k) – and *any matters dealt with in* the report.
5. Within the report is a link (p4) X:\OSD\Policy\Local Alcohol Policy. **All the documents accessed through that link form part of the Inspector's report and the matters dealt with in it. They are evidence in front of the DLC which it must have regard to,** because the information relates to the LAP – s.105(1)(c). These are the documents:
 - (a) Whanganui Alcohol Strategy Group – LAP Project Plan – 23 November 2012 (4pp).
 - (b) The LAP – Timetable of Consultation (2pp).
 - (c) Wanganui District Council Meeting Agenda/Index – 11 March 2013 (pp4143-4345) (see 4235-4239).
 - (d) Minutes of a Meeting of the Community & Environment Committee held 21 February 2013 (pp46-96) (see eg pp62-66).
 - (e) The PLAP (14pp).

- (f) Summary of changes to PLAP (3 pages).
 - (g) Minutes Strategy & Finance Committee 28 February 2017 (66pp – see 4-17) - also:
 - (i) Proposed DLAP – A1;
 - (ii) Statement of Proposal – A2;
 - (iii) LAP Research Report – A3;
 - (iv) Foodstuffs – A4;
 - (v) Summary of Stakeholders – A5;
 - (vi) DLAP survey – A6;
 - (vii) DLAP survey summary – A7.
 - (h) Minutes Strategy & Finance Committee 11 April 21017 (39pp).
 - (i) Minutes Statutory Management Committee 22 May 2017 (40pp).
 - (j) Reconvened Statutory Management Committee 13 June 2017 (10pp) also:
 - (i) Summary of Submissions and officers comments – 1
 - (ii) Draft PLAP – 2
 - (k) Statutory Management Committee 19 June 2017 (2pp).
 - (l) Council Minutes 4 July 2017 (27pp, at 19-20).
 - (m) Foodstuffs appeal to ARLA [2018] NZARLA 269-270 (3pp).
 - (n) Council Minutes 13 November 2018 (69pp, at 20-30).
 - (o) Council Minutes 13 August 2019 (20pp, at 7).
6. The LAP adopted by the Council on 13th August 2019 is **attached hereto**. By December 2019 it was all in force.
 7. Subject to any further direction from the DLC, prior to the hearing, it is not intended that the Inspector file any further documentation or brief of evidence. The Inspector will rely upon, and I will refer to, the report and all the information/evidence in the documents linked/referred to. If

this approach to the presentation of the Inspector's evidence is not acceptable to the DLC , it will no doubt issue another Direction.

8. As counsel I will file and present submissions on the day at the hearing at the appropriate time.
9. The Inspector's report and the LAP and the documents referred to in 5 comprise the Inspector's material for the hearing. The Inspector will be available for questioning by the Committee if required. Parties to a DLC hearing cannot require or compel an Inspector to give evidence/be cross examined – *Smith v Kiwano* [2016] NZARLA PH 497 at [42]-[47] and [71]-[77].
10. There is one final matter. It is obvious from the three reports from each of the Tri-Agencies that they are all opposed to the granting of the application because to do so would be contrary to the LAP. Not only is s.105(1)(c) in play, but also s.108. Legal submissions about those provisions will be presented at the hearing. Two objections from members of the public were received. It appears from paragraph 6 of the Commissioner's Notice dated 28 October 2020, that the consideration which lead to that procedural determination was unilateral, and carried out on the papers, but without any opportunity afforded to:
 - (a) the applicant; or
 - (b) any of the Tri-Agencies; or
 - (c) either of the Objectors,

to be heard, before the Notice was issued. Certainly, my instructions as counsel for the Inspector are that he was not afforded any opportunity to be heard on the questions of status of the objectors or the validity of the objections , before the Notice issued.
11. It is respectfully submitted that the process adopted in respect of this preliminary matter, breached the natural justice rights of all parties, including the natural justice rights of the two Objectors.
12. As the documents contained in the link in the Inspector's report indicate, the Objectors were regarded as key stakeholders by the Strategy & Finance Committee of the Council [as part of the

SWAODRG] and Dr Penaflor was afforded speaking rights at the meeting on 28th February 2017 when consideration was being given at the very early stages of the proposed DLAP. Both Objectors appeared as submitters to the DLAP at the meeting of the Statutory Management Committee of Council on 22nd May 2017 – that Committee heard and considered the public submissions pursuant to the Special Consultative procedure. Given their direct participation and involvement in the DLAP process, that could establish status in a case where the LAP was the central issue. The validity of the objections would follow. Prior to or at the hearing, it is respectfully submitted that further consideration to this status point be given by the DLC.

13. Counsel for the Inspector was requested to call the two rejected Objectors as witnesses for the Inspector, to overcome the consequences of the Commissioner's Notice, and enable/facilitate those persons being heard by the DLC, albeit only as witnesses rather than parties. Whilst that is of course possible, Counsel considers his duty as a barrister and solicitor to assist the Committee outweighs that course of action – hence this submission that the matter of the objectors' status, and thus party status rather than witness status, might be reconsidered, in the light of the foregoing. For the avoidance of doubt, the Inspector's position is that both Objectors should be granted status in this case where the LAP is the central issue.
14. A DLC or its Commissioner always has power to rehear a matter it has determined – pursuant to s.201(4) of the Act, and always has the power to correct anything it considers needs correction – pursuant to s.13 Interpretation Act 1999.

Dated at Wellington 12TH November 2020



Alastair Sherriff
Counsel for the Licensing Inspector

TO: Whanganui District Licensing Committee

AND TO: other parties – applicant/tri-agencies/two objectors

This Memorandum is filed by **Alastair George Sherriff**, Solicitor and Counsel for the Licensing Inspector, whose address for service is at the offices of Buddle Findlay, Level 17, Aon Centre, 1 Willis Street, Wellington. Documents for service on the abovenamed may be left at that address or may be:

1. posted to the solicitor at PO Box 2694, Wellington; or
2. left for the solicitor at a document exchange for direction DX SP20201, Wellington; or
3. emailed to the solicitor at Alastair.sherriff@buddlefindlay.com.

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LOCAL ALCOHOL POLICY 2019

Whanganui District Council

Review: September 2025

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EXECUTIVE SUMMARY

This policy outlines the licencing conditions Council's District Licensing Committee (DLC) and the Alcohol Regulatory Licensing Authority (ARLA) must have regard to when they make decisions on licence applications.

With the purpose of reducing alcohol-related harm in the Whanganui District, the policy sets a district-wide limit on off-licensed premises (with the exclusion of supermarkets and grocery stores); location of licensed premises to sensitive sites; a requirement for a one-way door restriction; discretionary conditions; and maximum trading hours for licensed premises.

INTRODUCTION

Why we need a policy

The Sale and Supply of Alcohol Act 2012 (the Act) allows for councils to adopt a policy relating to the sale, supply, or consumption of alcohol within its district.

The objectives of the Act are stated as:

- 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.

Council considers a policy is necessary to further strengthen the objectives of the Act in reducing alcohol-related harm in the district. Having a policy delivers Council's commitment to support the welfare of the community, protect people from harm, and support the work of health agencies to secure a district that works for everyone.

The purpose of this policy is to minimise alcohol-related harm within the district through the regulation of matters relating to licensed premises.

Who it is prepared for

This policy applies to all current and prospective licensed premises in the Whanganui district and is prepared for Whanganui's District Licensing Committee and Council's Alcohol Licensing team.

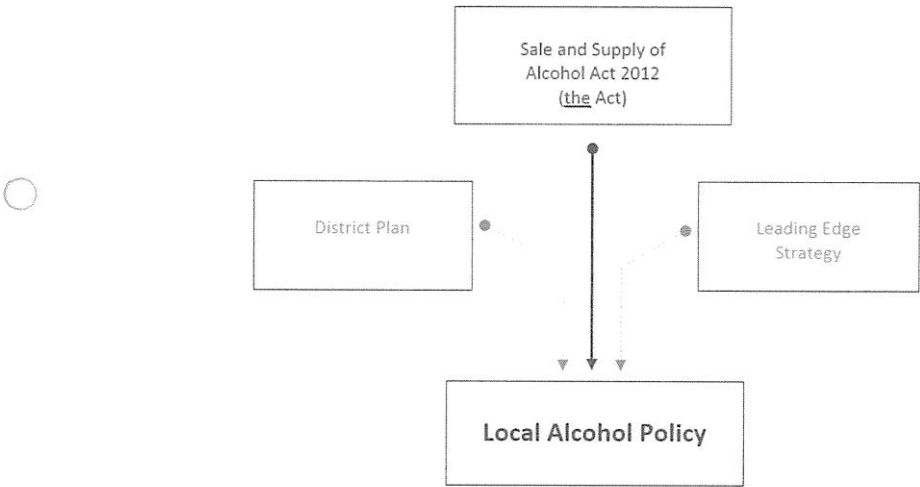
Scope of policy

Section 77(1) of the Act legislates the scope of this policy to the following matters (and no others):

- location of licensed premises by reference to broad areas;
- location of licensed premises by reference to proximity to premises of a particular kind or kinds;
- location of licensed premises by reference to proximity to facilities of a particular kind or kinds;
- whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district;
- maximum trading hours;
- the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions;
- one-way door restrictions.

Where this policy doesn't make reference to a matter concerning Alcohol licensing, Council's position defaults to the provisions of the Act.

POLICY CONTEXT



The content of this policy is provided for under Section 77(1) of the Act and has been written in accordance with the policies set out in Council’s District Plan. This policy supports the goal of Council’s Leading Edge Strategy in improving health targets, pursuing actions to support the welfare of the community, and in securing a district that works for everyone.

BACKGROUND AND ISSUES

Safer Whanganui’s Alcohol and Other Drugs reference group’s initial investigations found there was sufficient rationale and research for the development of a Local Alcohol Policy. Discussions amongst Council and key stakeholders including the WDHB’s Medical Officer of Health and Police then confirmed that a more restrictive stance to curb alcohol-related harm in the district was needed.

To inform the policy’s development, Council developed a Draft Local Alcohol Policy Research Report.

The following issues taken from the report are presented as concerns for address by a Local Alcohol Policy:

- In 2014, 18.7% of residents (compared to the New Zealand average of 15.5%) identify themselves as a hazardous drinker.
- Whanganui's population is more prone to alcohol-related harm (Māori make up 22% of the district's population and are twice as likely than non-Māori to consume large quantities of alcohol¹; 7.4% are aged 18 to 24; and 39% of the population experience high levels of deprivation).
- When contrasting on and off-licence closing hours to Emergency Department (ED) presentations, a higher frequency of alcohol-related ED presentations occurs in conjunction with the availability of alcohol and the closing times of on and off-licence outlets.
- Alcohol-related chronic disease admissions for the most part have been relatively steady across 2013 to 2015 for both discharge and patient counts.
- Deaths and injuries where alcohol was deemed a contributing factor are on the increase.
- In 2015, 45% of Alcohol and Other Drug referrals have a diagnosis of Alcohol Use Disorder.
- Over the last five years, Police actions undertaken where a person is found intoxicated in public (drunk custodies) peak between 1:00am to 1:59am, coinciding with the final hour of trade for on-licences.
- Police data indicates that alcohol was a factor in 19% of all family violence cases attended by Police during 2014/15 and 2015/16.
- Where there is a concentration of licenced premises, and the relatively higher availability of alcohol (Central Whanganui, Whanganui East, Aramoho, Gonville, and Castlecliff), there is also a higher frequency of violence events and drunk custodies than in areas where there is a lesser concentration of licenced premises and relatively less availability of alcohol.
- 15% of the total vehicle crashes recorded for the Whanganui district in 2014 were alcohol-related.

VISION AND PURPOSE

Vision statement

To support the objectives of the Sale and Supply of Alcohol Act 2012 and contribute to the safety and health of the Whanganui District.

Purpose

- To govern the sale, supply, and consumption of alcohol so that it is undertaken safely and responsibly.
- To minimise alcohol-related harm in the Whanganui District.

¹ 2013/14 New Zealand Health Survey, Ministry of Health

- To support the welfare of our community and protect our people from alcohol-related harm.
- To reflect our local communities' character, amenity, values, preferences and needs.

OBJECTIVES AND POLICIES

1. Location of licensed premises to be considered in line with sensitive locations

Policy

- 1.1. With respect to any new licence applications, the District Licensing Committee shall have regard to the proximity to facilities identified as a sensitive site and the likely impact on that site amenity, and good order.
- 1.2. From the date this policy comes into force, no new off-licence applications (with the exception of supermarkets² and grocery stores³) will be granted for premises determined by the District Licensing Committee to be within 100 metres of the legal site boundary of a sensitive site as defined.
- 1.3. For the purposes of clauses 1.1 and 1.2 above 'sensitive site' means:
 - Early childhood centres⁴
 - Primary and secondary schools⁵
 - Marae
 - Places of worship⁶
 - Alcohol treatment centres
 - Children's parks/playgrounds
- 1.4. For the purposes of clauses 1.1 and 1.2 above, a new licence application, including a reference to a new off-licence application, means an application for a premises that has not traded pursuant to a licence of the same kind within the previous 6 months.
- 1.5. Where a sensitive site opens in proximity to an existing licensed premises that licensed premises is exempt from clauses 1.1 and 1.2 of this policy.
- 1.6. Where existing licensed premises are within 100 metres of the legal boundary of a sensitive site and the licensee of those premises re-locates its business to premises that remain within 100 metres of that same sensitive site, clause 1.2 of this policy will not apply.

Rationale

Young people's exposure to alcohol outlets and susceptibility to associated alcohol advertising provides the grounds for the inclusion of a buffer between licensed premises and sensitive sites. Supermarkets and grocery stores are exempt due to the display, promotion, and advertisements restrictions provided for by the Act.

² As defined by section 32(1)(e) of the Sale and Supply of Alcohol Act 2012.

³ As defined by section 33 of the Sale and Supply of Alcohol Act 2012.

⁴ As defined by section 310 of the Education Act 1989.

⁵ As defined by section 145(2) of the Education Act 1989.

⁶ Includes any church, mosque or other facility designed primarily for worship and related religious activities

2. District-wide limit on off-licensed premises

Policy

- 2.1. From the date this policy comes into force, no further new off-licences will be considered appropriate under this policy if the grant of that further new off-licence would bring the total number of off-licences in the region to 14 or more.
- 2.2. For the purposes of clause 2.1 above, a new off-licence does not include a new off-licence for a supermarket or grocery store.
- 2.3. For the purposes of clause 2.1 above, the total number of off-licences in the region excludes off-licences for supermarkets and grocery stores.
- 2.4. Clause 2.1 will be reviewed by the Whanganui District Council annually to ensure that this clause is not inconsistent with development objectives and potential in the Whanganui district.

Rationale

The application of this limit will only apply to off-licences, as on-licences and club licences provide a controlled drinking environment that is sufficiently regulated by the Act and corresponding regulations. Supermarkets and grocery stores are exempt due to the provisions of the Act regulating the kinds of alcohol sold, display and single-area conditions⁷.

CLAUSE 3 & 4 NOT IN FORCE UNTIL 2 DECEMBER 2019

3. A one-way door restriction will apply

Policy

- 3.1. All taverns, bars, pubs, and night-clubs whose licensed hours exceed midnight are required to have a one-way door restriction in effect from one hour prior to licensed closing hours.
- 3.2. Any patrons exiting any tavern, bar, pub, or night-club within the district are not to be admitted or re-admitted to any of these listed licence premises.
- 3.3. This policy does not apply, at the discretion of door staff, to allow for an intoxicated person to be taken to a place of safety on the licenced premises⁸.

Rationale

A one-way door restriction is designed to stagger patron migration and reduce alcohol-related disturbances and offences.

⁷ As defined by sections 58, 112, and 114 of the Sale and Supply of Alcohol Act 2012.

⁸ In accordance with section 252(3)(a) of the Sale and Supply of Alcohol Act.

CLAUSE 3 & 4 NOT IN FORCE UNTIL 2 DECEMBER 2019**4. Maximum licensed hours**Policy

The following maximum licensed hours are:

4.1. On-licence hours**4.1.1. Tavern, Hotel, bar, pub, or night-club**

- a) Opening hours: 8am
- b) Closing hours: 2am the following day.

4.1.2. Restaurants

- a) Opening hours: 8am
- b) Closing hours: Midnight.

4.2. Off-licence hours**4.2.1. Supermarkets, grocery stores and bottle stores**

- a) Opening hours: 7am
- b) Closing hours: 10.00pm

4.2.2. Hotels, bars, taverns, and wineries

- a) Opening hours: 7am
- b) Closing hours: 9.30pm

4.3. Club licence hours

- a) Opening hours: 8am
- b) Closing hours: Midnight

4.4. Special licence hours

- 4.4.1. Special licence hours granted will not exceed the maximum hours allowed for under the Act.

Rationale

On-licences reflect current maximum licensed hours and are set below the maximum trading hours in the Act. Decreasing and limiting hours of sales from off-licences is designed to reduce alcohol-related harm including violence events, drunk custodies, and alcohol-related offences. Clubs' maximum licensed closing hours better reflect the nature of activities associated with this licence.

5. The District Licensing Committee may consider discretionary conditionsPolicy

The District Licensing Committee *may* consider the following list of discretionary conditions when issuing a licence. The District Licensing Committee may apply any reasonable condition that it believes will minimise alcohol-related harm, and that it is not limited to the list provided in this policy.

5.1. On-licences

- 5.1.1. Pursuant to Section 110(1) and 117 of the Act, the following discretionary conditions *may* apply to on-licences:

CLAUSE 3 & 4 NOT IN FORCE UNTIL 2 DECEMBER 2019**4. Maximum licensed hours**Policy

The following maximum licensed hours are:

4.1. On-licence hours**4.1.1. Tavern, Hotel, bar, pub, or night-club**

- a) Opening hours: 8am
- b) Closing hours: 2am the following day.

4.1.2. Restaurants

- a) Opening hours: 8am
- b) Closing hours: Midnight.

4.2. Off-licence hours**4.2.1. Supermarkets, grocery stores and bottle stores**

- a) Opening hours: 7am
- b) Closing hours: 10.00pm

4.2.2. Hotels, bars, taverns, and wineries

- a) Opening hours: 7am
- b) Closing hours: 9.30pm

4.3. Club licence hours

- a) Opening hours: 8am
- b) Closing hours: Midnight

4.4. Special licence hours

- 4.4.1. Special licence hours granted will not exceed the maximum hours allowed for under the Act.

Rationale

On-licences reflect current maximum licensed hours and are set below the maximum trading hours in the Act. Decreasing and limiting hours of sales from off-licences is designed to reduce alcohol-related harm including violence events, drunk custodies, and alcohol-related offences. Clubs' maximum licensed closing hours better reflect the nature of activities associated with this licence.

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5.1. On-licences

- 5.1.1. Pursuant to Section 110(1) and 117 of the Act, the following discretionary conditions *may* apply to on-licences:

- Application of a one-way door restriction after a specified trading hour.
- More restrictive hours taking into account neighbouring land use (section 110(3) of the Act).
- For licence holders of both an on-licence and an off-licence, require a separate point of sale for the off-licence if a totally separate area or premises is not practical.
- The licensee is required to maintain a register of significant alcohol-related incidents that is available for inspection by enforcement authorities at any time during trading hours.

5.1.2. The following discretionary conditions *may* apply to the outdoor areas of Tavern and Hotel licences:

- Require a management plan for the management of patrons in outdoor areas, to minimise impacts on the amenity of nearby properties.
- The licensee must ensure litter (this includes, but is not limited to, vomit and alcohol-related rubbish) is removed from outside the premises.
- The licensee must ensure that at all times when a queue is formed; a dedicated staff member is required to manage the queue and ensure it does not impede the general public or use of the pavement.
- Require a noise management plan and compliance at all times with that plan.

5.2. Off-licences

5.2.1. Pursuant to Sections 109, 117, and 133(2) of the Act, the following discretionary conditions *may* apply to bottle stores⁹, general stores¹⁰, and complimentary sales¹¹:

- At least 50% of any store front glazing shall be transparent.
- Alcohol-related advertisements, signage and display of alcohol is to be consistent with Crime prevention through environmental design (CPTED) guidelines.
- The licensee is required to maintain a register of significant alcohol-related incidents that is available for inspection by enforcement authorities at any time during trading hours.
- Impose a supervised designation for bottle stores¹² only.
- The licensee must not break down the retail packaging of packages containing less than 445ml units of beer, cider or RTDs for sale from the licensed premises, except where the retail packaging of those alcohol products has been accidentally damaged and in which case the licensee may re-package those alcohol products for sale in packages containing no less than 4 units.

⁹ As issued under section 32(1)(b), of the Sale and Supply of Alcohol Act 2012.

¹⁰ As issued under section 34 of the Sale and Supply of Alcohol Act 2012.

¹¹ As issued under section 35 of the Sale and Supply of Alcohol Act 2012.

¹² As issued under section 32(1)(b).

5.3. Club licences

5.3.1. Pursuant to Section 110(1) and 117 of the Act, the following discretionary conditions *may* apply to club licences:

- Where patronage exceeds 100 people at any one time, a certificated manager must be on duty.
- More restrictive hours taking into account neighbouring land use (section 110(3) of the Act).
- Define the specific maximum number of patrons to be permitted on the premises.
- Require a management plan for the management of patrons in outdoor areas, to minimise impacts on the amenity of nearby properties.
- The licensee is required to maintain a register of significant alcohol-related incidents that is available for inspection by enforcement authorities at any time during trading hours.
- Require a noise management plan and compliance at all times with that plan.

5.4. Special Licences

5.4.1. Pursuant to Section 117 of the Act, the following discretionary conditions *may* apply to special licences:

- Events over 1,000 attendees, or as otherwise considered appropriate, require an Event Alcohol Risk Management Plan in a form acceptable to the Council.
- Restrictions of the number of drinks sold to one patron and setting of final drinks.
- Restricting or prohibiting certain types of drinking vessels.
- Require a management plan for the management of patrons in outdoor areas, to minimise impacts on the amenity of nearby properties.
- Require a noise management plan and compliance at all times with that plan.
- The licensed area designated for the sale, supply and consumption of alcohol to be clearly defined and cordoned off, especially with respect to outside events.

Rationale

The outlined discretionary conditions are aimed at minimising risks and pre-empting problems. The listed discretionary conditions are to be considered, but are voluntary in application and *may* not necessarily be applied by the District Licensing Committee.

MONITORING AND EVALUATION

The following indicators provide measures for evaluating the policy's success in achieving its stated objectives.

Objective	Outcome	Indicator	Method
A one-way door restriction will apply Maximum licensed hours	Reduce risks to public safety and health.	Number of drunk custodies.	Drunk custodies statistics provided by Police trend analysis.
A one-way door restriction will apply Maximum licensed hours	Reduce risks to public safety and health.	The number of violence events reduce for each hour between 9pm and 6am the next day. 98% of off-licences apply one-way door policy.	Trend analysis of violence events. Data provided by Police. Police to conduct random audits of one-way door policy.
All objectives	Consumption of alcohol safely undertaken.	Average number of alcohol-related presentations to Emergency Department. Drink driving offences. Feedback from inspectors and Medical officer of Health.	Emergency Department alcohol-related presentations provided by WDHB and trend analysis performed. Drink driving offences as provided by Police. Feedback provided by Council inspectors and Medical officer of health.
Maximum licensed hours District-wide cap on off-licensed premises	District's health improves	Alcohol-related problems in the district, including: <ul style="list-style-type: none"> • alcohol-related chronic diseases • alcohol use disorders • injuries where alcohol was a 	Alcohol-related chronic diseases provided by WRPFO, monitored and examined. Alcohol use disorders monitored,

		contributing factor	provided by WDHB. ACC provides injury data based on search of claim form's free text field.
Maximum licensed hours District-wide cap on off-licensed premises	Sale, supply, and consumption of alcohol should be undertaken safely and responsibly.	Infringements issued under Council's Alcohol Control Bylaw decrease.	Trend analysis of all three offence types provided by Police.

REFERENCES

- *Sale and Supply of Alcohol Act 2012*
- *Resource Management Act 1991*
- *Education Act 1989*

From: [Democracy Team](#) on behalf of [Democracy Services & Advice Team](#)
To: ["Alastair.Sherriff@buddlefindlay.com"](#)
Bcc: ["Chester.Penaflor@wdhb.org.nz"](#); [Warrick Zander](#); ["Alan.Thomson@police.govt.nz"](#); ["Liquor.Licence@midcentraldwb.govt.nz"](#); [Stuart Hylton](#); ["Neralee.Malcolm"](#); ["Jay Rerekura"](#)
Subject: RE: M7 Ltd Memorandum of Counsel for Licensing Inspector - Hearing 20th November 2020
Date: Friday, 13 November 2020 3:06:00 PM
Attachments: [Memorandum of Counsel for Licensing Inspector - M7 Limited - Hearing 20 November 2020.pdf](#)
[image001.png](#)

Kia ora,

In addition to the document attached to the e-mail below - Memorandum of Counsel, Licensing Inspector – a link to additional documents in relation to the Local Alcohol Policy (LAP).

Within the Memorandum of Counsel, Licensing Inspector Document there is a 'link' and reference to further documents – those documents are evidence in front of the DLC because the information relates to the Local Alcohol Policy.

I have uploaded these documents onto [OneDrive](#) for you to access – https://whanganuidc-my.sharepoint.com/:f/g/personal/kirstye_whanganui_govt_nz/EqUEpNnHkmRDmrGVpkSgKJsBA4NwbrGnL0a9FhpGpoVqsw?e=rePs1U

Please do not hesitate to contact democracy@whanganui.govt.nz if you have any problems.

Kind Regards,

Kirsty

From: Democracy Team
Sent: Thursday, 12 November 2020 4:28 PM
To: 'Alastair.Sherriff@buddlefindlay.com' <Alastair.Sherriff@buddlefindlay.com>
Subject: FW: M7 Ltd Memorandum of Counsel for Licensing Inspector - Hearing 20th November 2020

To whom it may concern,

Please find attached the documents in relation to the M7 Limited District Licensing Committee Hearing:

- Memorandum of Counsel for Licensing Inspector

If you require any further information please do not hesitate to contact the Democracy Team at Democracy@whanganui.govt.nz or 06 349 3152.

Kind Regards,

Kirsty

3 September 2020

The Secretary
District Licensing Committee
Whanganui District Council
PO Box 637
Whanganui 4500

Dear Sir/Madam

APPLICATION FOR NEW OFF LICENCE

APPLICANT: M 7 Limited

PREMISES: 379 Victoria Avenue, Whanganui

Please receive this interim report on the above applicant prepared under the provisions of the Sale and Supply of Alcohol Act 2012

This report is to advise that our investigation into this application is complete and Police wish to oppose this application for a New OFF licence for the following reason:

Licence may be refused if contrary to the Local Alcohol policy

Sale and Supply of Alcohol Act 2012

Section 105 - Criteria for issue of licences

(1)(c) - Any relevant local alcohol policy

Section 108 - Licence may be refused if contrary to local to local alcohol policy

The licensing authority or licensing committee concerned may refuse to issue a licence if-

- (a) there is any relevant local alcohol policy; and
- (b) in its opinion, the issue of the licence, or the consequences of the issue of the licence, would be inconsistent with the policy.

In particular this application is in conflict with the Whanganui Council's Local Alcohol policy 2019

2. District-wide limit on off-licensed premises

Policy

2.1. From the date this policy comes into force, no further new off-licences will be considered appropriate under this policy if the grant of that further new off-licence would bring the total number of off-licences in the region to 14 or more.

Yours faithfully



Senior Constable Keith Thomson
Alcohol Harm Prevention Officer
New Zealand Police



MidCentral Health
Phone (06) 356 9169
Fax (06) 350 8818

Postal Address:
Private Bag 11036
Manawatu Mail Centre
Palmerston North 4442
New Zealand

Physical Address:
Ruhine Street
Palmerston North
New Zealand

Public Health Centre
Health Protection, Lambie Hostel, Private Bag 3003, Wanganui
Telephone (06) 348-1775: Fax (06) 348-1783
E-mail: PHUWang@midcentraldhb.health.nz
For URGENT Enquiries After Hours Telephone (06) 348 1234

2 September 2020

The Secretary
District Licensing Committee
Whanganui District Council
P O Box 637
Whanganui 4500

Dear Sir/Madam

APPLICATION FOR NEW OFF LICENCE
APPLICANT: M 7 Limited
PREMISES: 379 Victoria Avenue, Whanganui

Please receive this interim report on the above applicant prepared under the provisions of the Sale and Supply of Alcohol Act 2012.

This report advises that our investigation into the applicant/premises is complete and that Medical Officer of Health wishes to oppose this application for a new OFF licence for the following reason:

- **Licence may be refused if contrary to local alcohol policy (section 108).**

Please be advised that the application is **opposed**.

Yours faithfully

Chris Hill, Compliance Officer
For Dr Patrick O'Connor
Medical Officer of Health
Whanganui Public Health Service

Cc New Zealand Police, Fire and Emergency NZ

From: Chester Penaflo <Chester.Penaflo@wdhb.org.nz>

Sent: Thursday, 12 November 2020 1:46 PM

To: Neralee Malcolm <Neralee.Malcolm@midcentraldhsb.govt.nz>; Democracy Team <Democracy@whanganui.govt.nz>

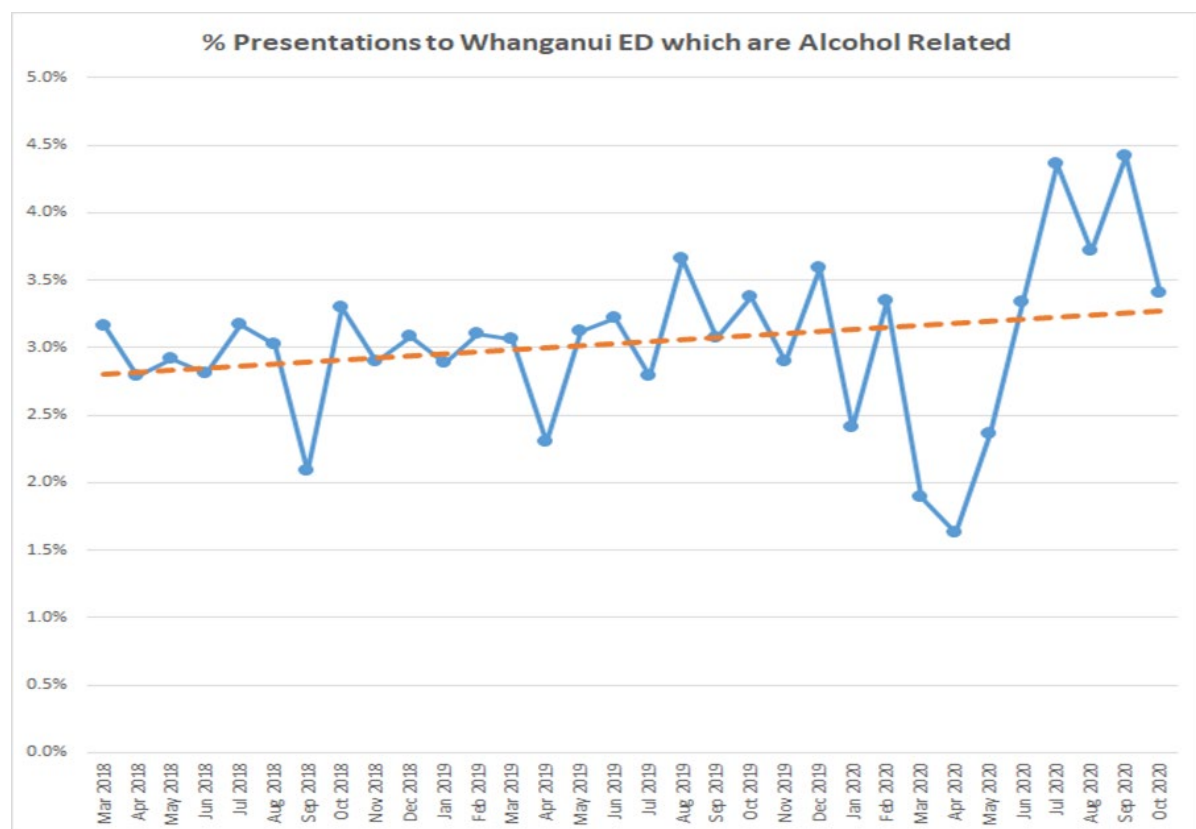
Subject: RE: DLC Notice of Objections and Reports M7 Limited Hearing 20 November 2020

Morena,

This is on behalf of Dr. Patrick O'Connor, Medical Officer of Health.

The graph shows the percentage of Alcohol-related ED presentations in WDHB – Emergency Department (Mar 2018 – Oct 2020).

This is being submitted as a document for the coming hearing on the 20th of November, M7 Limited Off licence application.



Kind regards,

Chester Penaflo, MD | Kaihoe - Health Promotion | Pokapū Hauora Tūmatanui – Public Health Centre
DDI 06 348 3150 | **EXT** 8150 | **FAX** 06 348 1783 | **Whanganui District Health Board** | www.wdwb.org.nz

He Hauora pai ake, He Rangatiratanga
Better Health and Independence



From: Neralee Malcolm <Neralee.Malcolm@midcentraldhsb.govt.nz>

Sent: Thursday, 12 November 2020 1:15 pm
To: 'Democracy Team' <Democracy@whanganui.govt.nz>
Cc: Chester Penaflor <Chester.Penaflor@wdhb.org.nz>
Subject: RE: DLC Notice of Objections and Reports M7 Limited Hearing 20 November 2020

Thankyou

Chester Penaflor (WDHB) has been delegated to attend and represent Dr Patrick O'Connor for this hearing.

Thank you

Neralee Malcolm (Administration Support Officer) for
 Dr Patrick O'Connor (Medical Officer of Health)
 Whanganui Public Health
 Private Bag 3003
 Whanganui
 06 3481771

From: Democracy Team <Democracy@whanganui.govt.nz>
Sent: Thursday, November 12, 2020 10:45 AM
To: Neralee Malcolm <Neralee.Malcolm@midcentraldhd.govt.nz>
Subject: RE: DLC Notice of Objections and Reports M7 Limited Hearing 20 November 2020

Kia ora Naralee,

Thank you for letting us know that you cannot attend the hearing. Will the Medical Officer of Health be supplying any further evidence to this hearing? *Please let me know by the end of today if possible.*

If further evidence is going to be provided, please disclose this as soon as possible.

Kind Regards,

Kirsty

From: Neralee Malcolm <Neralee.Malcolm@midcentraldhd.govt.nz>
Sent: Monday, 9 November 2020 11:59 AM
To: Democracy Team <Democracy@whanganui.govt.nz>
Subject: RE: DLC Notice of Objections and Reports M7 Limited Hearing 20 November 2020

Thank you. Please be advised we will not be attending.

Neralee Malcolm (Administration Support Officer) for
 Dr Patrick O'Connor (Medical Officer of Health)
 Whanganui Public Health
 Private Bag 3003
 Whanganui
 06 3481771

From: Democracy Team <Democracy@whanganui.govt.nz>
Sent: Thursday, November 5, 2020 14:52 PM
To: admin@kingsgate.co.nz
Subject: DLC Notice of Objections and Reports M7 Limited Hearing 20 November 2020

To whom it may concern,

Please find attached the documents in relation to the M7 Limited District Licensing Committee Hearing:

- Notice of Objections and Reports in relation to application
- Notice of Hearing
- Direction Notice – Objection Status
- Public Objections (Jay Rerekura and Chester Penaflor)
- Inspector Report
- Police Report
- Medical Officer of Health Report
- ‘Public Hearings – How they Work’

If you require any further information please do not hesitate to contact the Democracy Team at Democracy@whanganui.govt.nz or 06 349 3152.

Kind Regards,

Kirsty

| Democracy Services & Advice Team

P: +64 6 349 3152 | M: +64

www.whanganui.govt.nz

Whanganui District Council | 101 Guyton Street | | Whanganui 4541

Reference K

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012 ("Act")

AND**IN THE MATTER**

of an application by **M7 Limited** for a new Off Licence pursuant to s.100 of the Act in relation to the premises situated at 379 Victoria Avenue, Whanganui and known as "Kingsgate Hotel".

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

Commissioner: Stuart Hylton

DIRECTION NOTICE - OBJECTION STATUS**Application**

1. Pursuant to section 201(4) of the Act and section 13 of the Interpretation Act 1999, this notice recalls and replaces the previous Direction Notice issued by this Committee dated 28 October 2020.
2. This is an application for a new Off-Licence by **M7 Limited** in relation to the premises known as "Kingsgate Hotel". The applicant currently operates a Hotel Style On-licence from the premises and is seeking to obtain an off licence to sell on-site brewed products both over the counter and remotely, for consumption off the premises.
3. The application was publically notified in accordance with s. 101 of the Act.
4. The application attracted two objections within the prescribed statutory timeframe.
5. The application has also drawn opposition from all three reporting agencies – Medical Officer of Health, Police and Inspector. All three reporting agencies principally oppose the application on the grounds the application will not accord with the current Local Alcohol Policy 'cap' on Off Licence premises (excluding Supermarkets and Grocery Stores) for Whanganui i.e. Cap is thirteen premises which is currently met.
6. The two objectors and their main grounds for objection are listed in the table below.

Objector	Address	Grounds for Objection
Jay Rerekura	142 Guyton Street, Whanganui. (Work Address)	<ul style="list-style-type: none"> Section 105(1)(c), Sale and Supply of Alcohol Act i.e. application does not meet the criteria of the Local Alcohol Policy is respect of districtwide limit on off-licensed premises Section 105(1)(h&i), Sale and Supply of Alcohol Act i.e. amenity and good order issues
Chester Penaflor	100 Heads Road, Whanganui (Work Address)	<ul style="list-style-type: none"> Section 105(1)(c), Sale and Supply of Alcohol Act i.e. application does not meet the criteria of the Local Alcohol Policy is respect of districtwide limit on off-licensed premises Section 105(1)(h&i), Sale and Supply of Alcohol Act i.e. amenity and good order issues

Objections and Status

7. The determination of each objector's status will determine whether this Committee can take into account the objection when determining this application and whether objectors have rights to appear and give evidence at any hearing proceedings.
8. The matter before this Committee is to determine whether the objections have status for this application i.e. comply with s. 102 objection requirements under the Act.
9. In this preliminary matter of objector status, the Committee will spend the first part of hearing proceedings on the 20th November 2020, to hear from the applicant, any of the tri agencies and the objectors on the matter of status.
10. Once all parties have been afforded the opportunity to be heard on the matter, the Committee will adjourn to consider the matter before returning with its decision.
11. After the Committee has communicated its decision the hearing will continue.

Hearing Start Time

12. The DLC in its formal notice dated 5th November 2020, advised that the hearing for this matter was set down for Friday 20th November 2020, starting at 1.00pm.
13. Due to the quantum of material anticipated to be heard within the Committee's time constraints, we advise that **the hearing start time is now 12.00 midday** rather than the 1.00pm previously advised.

DATED this 16th day of November 2020

A handwritten signature in blue ink, appearing to read 'Stuart Hylton', with a stylized flourish at the end.

**Stuart Hylton
Commissioner
Whanganui District Licensing (Alcohol) Committee**

WHANGANUI DISTRICT LICENSING COMMITTEE

Public Hearings – How they work

PUBLIC HEARINGS

Some alcohol licensing applications must be heard by a District Licensing Committee at a public hearing.

Each Committee has three members – a Commissioner (or Chairperson) and two list members. The Committee members and Chair are independent from the Council and have expertise and experience in hearing processes.

Hearings are usually held in the Whanganui District Council's Chambers (corner of Guyton and St Hill Streets) but may need to be held at a different venue if large numbers of people are expected to attend. The applicant, reporting agencies (Police and Medical Officer of Health), Inspector and anyone objecting to the application who wishes to be heard, will be given 10 working days' notice of the date, time and venue of the hearing.

Prior to the hearing all parties to proceedings will be sent an agenda which will include the full application, Police, Medical Officer of Health and Licensing Inspector reports and any objections. Depending on the complexity of the matters to be heard, the District Licensing Committee may seek disclosure of all evidence before the hearing.

Public hearings are reasonably formal so that applications are dealt with consistently and fairly, and all parties are given a fair opportunity to present their views.

District Licensing Committee hearings are open to the public, including the media. It may be necessary to exclude the public from some parts of a hearing or limit the release of information for commercial or personal privacy reasons.

WHAT HAPPENS AT THE HEARING

When you arrive at the hearing, you'll be asked by the Committee Administrator to record your attendance if you are appearing as an applicant, on behalf of an applicant, as an objector, as a witness or representing one of the reporting agencies.

If you have a written submission you wish to present at the hearing, 10 copies of your submission should be given to the Administrator for distribution to the Committee and others who have 'status' to be part of hearing proceedings.

The Hearing will usually follow the following format.

Opening and Introduction

The Committee Administrator announces that the hearing is about to start and everyone stands as the Committee comes into the room.

The Chairperson asks everyone to sit down before introducing the Committee members, and advises which licence application is being heard. If you recorded your attendance when you arrived at the hearing, you'll be asked to introduce yourself. The Chairperson then gives a brief outline of the hearing procedure.

The Applicant

If you are the applicant, you'll be asked to swear your evidence either on oath (eg on the Bible) or by affirmation.

You will then (either personally or through a representative) introduce your application and present your case. You can ask witnesses to speak in support of the application.

The Committee may have questions or seek to cross examine you and/or your witnesses. The Chairperson will then invite the reporting agencies (Police, Medical Officer of Health and Licensing Inspector) and any objectors to ask any questions or matters of cross examination. The Chairperson will manage this process.

Reporting Agencies

The Police, Medical Officer of Health and Licensing Inspector will be asked whether they wish to present their reports or any new evidence. If they do, they will all be sworn in before presenting their evidence. They must answer any questions or matters of cross examination from the Committee, the applicant or objector/s.

Objectors

If you are an objector and wish to speak at the hearing, you'll be sworn in before you can present your objection – in person or through a representative.

At the hearing you cannot introduce new grounds for the objection but you can present evidence to support the reasons why you objected to the licence application. For example, you may provide evidence that the licensed premises have continued to cause problems since you lodged your objection.

As an objector, you can also call witnesses to support your objection. The Committee members, reporting agencies and applicants may have questions or cross examine you and your witnesses.

Applicant's Right of Reply

If you are the applicant you have the right of reply, including the opportunity to comment on any matters that have been raised at the hearing and to briefly sum up your application. No new evidence may be introduced at this stage.

CONCLUSION OF THE HEARING

The Chairperson will then advise everyone that the public part of the hearing is finished and the decision will be made by the Committee in private. The Committee Administrator will ask everyone to stand while the Committee leaves the room.

THE DECISION

The Committee may make a site visit before or after the public hearing and may also meet in private to discuss the evidence submitted before finishing their decision.

The written decision of the Committee (including the reasons for it) will be sent to all parties to the proceedings.

THE APPEALS

All those who took part in the hearing have the right to appeal to the Alcohol Regulatory Licensing Authority if they are dissatisfied with the decision or any part of the decision.

An appeal must be lodged with the Alcohol Regulatory Licensing Authority within 10 working days after the decision was notified. Details on how to make an appeal are contained on the Ministry of Justice website <https://www.justice.govt.nz/tribunals/licences-certificates/arla/>.

For further information on the District Licensing hearing process, contact Merle Benson at Whanganui District Council, merle.benson@whanganui.govt.nz or 06 349-0001.