

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012

**AND**

**IN THE MATTER**

of an application by **Ambrosia Delicatessen** for an On- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 85 Glasgow Street, Whanganui and known as “*Cuban Belle*”.

**BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE**

The application for a new On-Licence was advertised in the Whanganui Chronicle on the 7th and 11th May 2018; together with statutory signage on the building. No objections were received. 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 in accordance with the provisions of s.202 (1) and 191(2) of the Sale and Supply of Alcohol Act 2012.

**Commissioner:**      **Stuart Hylton**

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

***Application***

(1) The application was made on the 3<sup>rd</sup> May 2018 on the prescribed form. The application seeks to establish a new licensed ‘restaurant/cafe’ in a premise situated at 85 Glasgow Street, Whanganui. The premise is to be known as ‘Cuban Belle’ which is a new activity established on land/buildings zoned residential with appropriate planning and building consents.

(2) The premises is owned by two persons who have confirmed by way of supporting letter that the applicant has a one plus two plus two year lease for the premise including the ability to be licensed.

(3) The applicant is an incorporated company with two directors who are also the shareholders plus another person.

(4) The premise is seeking to be undesignated which is usual for licensed cafés. The principal entrance is located at the front of the entrance to the premises off Glasgow Street. The certificate of compliance from the Whanganui District Council, has stated a maximum number of patrons as being 32. On one side of the building is a café and the other is a gallery and artists studio. Only the café area is to be licensed.

The applicant provided a statement that the café has a compliant evacuation plan.

(5) The complete file that the District Licensing Committee received included –

- The application
- Certificate of incorporation
- Floor/site plan
- A s. 100(f) RMA/ Building Act compliance letter from Council
- Letter from applicant's landlord agreeing to the application to be licensed.
- Letter from applicant attesting to having a compliant evacuation scheme
- Host Responsibility Plan
- Copy of supporting letter from landlord
- Full menu
- Public Advert wording
- Reports from Police, Medical Officer of Health and Inspector

### ***Decision Making***

(6) In considering this application for On-Licence the District licensing Committee (here in after referred to as the 'Committee') had regard to the criteria specified under s. 105 of the Act.

#### **(7) the object of this Act:**

This is a new licensed café to the area although the sale and consumption of alcohol on the premise should be minor and complimentary compared to the Café's general business and associated business of an artist studio/gallery.

The applicant provided a Host Responsibility Plan that shows how alcohol will be sold in a responsible manner under the licence. If followed this should ensure the object of the Act continues to be complied with. The applicant has the initial first year to show that they can operate the licence in accordance with the Act and the licence conditions.

#### **(8) the suitability of the applicant:**

The applicant, Ambrosia Delicatessen Limited, is an incorporated company with two directors and three shareholders, most experienced in the industry.

The application names two certified managers and one further person who has an application pending. This is suitable for this type of operation.

(9) The inspector and reporting agencies do not challenge suitability of the applicant and neither do I.

#### **(10) any relevant local alcohol policy:**

No local policy is currently in place.

#### **(11) the days on which and the hours during which the applicant proposes to sell alcohol:**

The applicant has applied for the following days and hours –

- **Monday to Sunday, 10.00am to 10.00pm**

These hours seem reasonable for the activity.

**(12) the design and layout of any proposed premises:**

The application included a floor plan (date stamped 3 May 2018) showing premise layout, area to be licenced and principal entrance.

This relatively simple layout should assist compliance management.

The whole of the licensed premise is to be undesignated.

**(13) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:**

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**(14) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:**

This is a new activity within a Residential Zone where the activity including that being applied for is permitted in accordance with the operative District Plan and Resource Consent RCLU 17/0058. Being in a residential neighbourhood, the applicants will have to be careful to comply with amenity ordinances especially those relating to noise.

Within the inspectors report it states 'that the issue of this alcohol licence would not likely reduce amenity and good order in the area by more than a minor extent'.

**(15) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—**

- (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but**
- (ii) it is nevertheless desirable not to issue any further licences:**

No concerns raised.

**(16) whether the applicant has appropriate systems, staff, and training to comply with the law:**

If the host responsibility policy is followed the licence holder should have no problems with compliance.

***Reporting Agencies***

(17) The following reports were received under section 103 of the Act.

(18) **Police** – No Police report received within statutorily timeframe therefore we must assume there is no opposition.

(19) **Medical Officer of Health** - Report received on 23rd May 2018, offering no opposition.

**(20) Licensing Inspector**

Full report dated 6<sup>th</sup> June 2018. The inspector provided a comprehensive report into the application, has met the applicant and concluded that the application is complete, appears to meet the criteria for a new on-licence and therefore there has no opposition to the application.

***Committees Decision and Reason***

(21) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies, my assessment above, I conclude that the application meets the s. 105 criteria under the Act to be granted an on-licence for the premise situated at 85 Glasgow Street, Whanganui, to be known as 'Cuban Belle'.

(22) Accordingly the application is **approved** for issue for one year subject to the following conditions and payment of any outstanding fees, if any.

(23) 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) Liquor may only be sold only on the following days and during the following hours:

**Monday to Sunday 10.00am to 10.00pm**

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.

- (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 menu submitted with the application, or variations of that menu of a similar range and standard.
- (e) The licensee must ensure that, at any time customers are lawfully on the premises,—
  - (i) 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
  - (ii) 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
  - (iii) 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, 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 whole of the licensed premises is **undesignated**.

### **3 Decision**

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

**Dated at Whanganui District this 7th day of June 2018.**

**Signed**

A handwritten signature in blue ink, appearing to read "Hylton", is placed over a dotted line.

**Stuart Hylton**  
**Whanganui District Licensing Commissioner**