

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Nikhail Himalaya Merchants Whanganui Limited** for a new Off- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 59a Jones Street, Whanganui and known as “Merchants Liquor Whanganui”.

BEFORE THE RANGITIKEI DISTRICT LICENSING COMMITTEE

The application for a new Off-Licence was advertised in the Wanganui Chronicle on the 25th January and 1st February 2018 with no objections received.

The application was not displayed in the front window for ten days following this first publication in the paper as required by statute. Instead it was displayed from 21st February to the 3rd March 2018. This error was due to miscommunication between the owner and store manager. A waiver under s. 208 is granted for the application not being displayed within the correct statutory timeframes. A waiver is issued due to there being no obvious wilful neglect or omission.

No matters of opposition were raised under section 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 applicant is currently trading an off licence ‘Bottle Store’ at 59a Jones Street, Whanganui under a second Temporary Authority whilst change of ownership and this licence is procured. The premise is currently operating under base licence 036/OFF/002/2016 which has an expiry date of 20th March, 2020.

(2) The application for new off-license was made on 23rd January 2018 on the prescribed form. The application seeks similar conditions to the previous licence. The general nature of the business will continue to be that of a ‘Liquor Store’. The premise has been a licensed off licence since 2011.

(3) The file contained evidence that the business is an approved type for which off-licences may be issued in terms of s. 28 and 32 of the Act.

(4) The complete file that I received included –

- The application
- Certificate of incorporation
- Managers Certificates
- Social Responsibility Policy
- Supporting information from applicant's agent
- Lease deed
- Floor plan
- Location Plan
- Photos of interior, exterior and principal entrances
- Police disclosure information
- Copy of Newspaper advertisement
- Existing licence and TA
- Fire evacuation declaration from owner
- Building and Planning Certificates of compliance
- Reports from Police, Medical Officer of Health and Inspector

Decision Making

(5) In considering this application for Off-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.

Sections 105 Analyses:

(6) the object of this Act:

The Inspector inquired into the application seeking evidence that the object of the Act will be complied with under this licence. The applicant provided a host responsibility policy and alcohol management plan that if followed should ensure statutory compliance.

(7) the suitability of the applicant:

The applicant is a private company incorporated in 2015 with three directors/shareholders.

The applicant supplied names of two certified managers to be employed on the premises, which is seen as minimal but appropriate. The applicant operates two other premises in Whanganui and ten other premises around the country.

The applicant has operated under the two Temporary Authorities without apparent issue.

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

(8) any relevant local alcohol policy:

No local policy is currently in place.

(9) the days on which and the hours during which the applicant proposes to sell alcohol:

Applicant has applied for the following hours –

Monday to Sunday 8.00am to 11.00 pm.

These hours are within the national trading hours and same as the hours contained in the current licence. These are considered reasonable.

(10) the design and layout of any proposed premises:

The premise is an existing premise/bottle store that will get a face lift when the new licence is granted. It's requested the whole store be supervised which is suitable for this type of licence.

(11) 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:

I accept the inspectors assessment that there have been no complaints about nuisance type offences in the area in the past and that if managed well this should continue with no or little reduction in amenity due to the issue of the licence.

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

The applicant has nominated four managers of varied experience and skills. The inspectors report notes the store has appropriate plans in place and staff receive training in their responsibilities.

Reporting Agencies

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

(14) **Police** – No report received within statutory timeframe therefore assume they offer no opposition.

(15) **Medical Officer of Health** - Report received on 14th February 2018, of no opposition.

(16) Licensing Inspector

Full report dated 20th February 2018. The inspector provided, amongst other things, her assessment of the application in relation to the Act. The inspector also assessed the application against s105 criteria. This assessment has been referred to in this report.

The inspector concluded that the application is complete and will likely meet the criteria for a new off - licence. No opposition raised within the inspectors report.

Committees Decision and Reason

(17) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies, my site inspection and my assessment above, I conclude that the application generally meets the s. 105 criteria under the Act to be granted a new off-licence for the premise situated at 59a Jones Street, Whanganui, to be known as 'Merchants Liquor Wanganui'.

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

(19) The following conditions will apply to the licence:

- (a) No alcohol is to be sold or delivered from the premises on Good Friday, Easter Sunday or Christmas Day or before 1.00pm on Anzac Day
- (b) Alcohol may only be sold or delivered on the following days and during the following hours:

Monday to Sunday 8.00am to 11.00pm.

- (c) 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.
- (d) 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.
- (e) 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—
 - attached to the inside of the premises concerned; and
 - so as to be easily read by people entering each principal entrance.
- (f) Drinking water must be freely available to customers while alcohol is being supplied free as a sample on the premises and signage directing people to drinking water must be prominently displayed on the premises at that time.
- (g) The whole of the premises is designated ‘supervised’.

Dated at Whanganui District this 5th day of March 2018.

Signed



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Stuart Hylton
Whanganui District Licensing Commissioner