

**IN THE MATTER**

of the Sale and Supply of Alcohol  
Act 2012

**AND**

**IN THE MATTER**

of an application by Zen Takeaway  
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/006/2016) was publically advertised in the Whanganui Chronicle on the 28th June 2017 and placed a notice on the front door according to statute; with no objections resulting.

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 12<sup>th</sup> June 2017, Zen Takeaway Limited on the prescribed form made application for renewal of an on-licence.

The application for renewal of On Licence is in relation to the premises known as '*Japanese Takeaway Momiji*' situated at 21 Victoria Avenue, Whanganui.

The general nature of the business is that of an On-Licence Restaurant. The renewal application seeks to renew with the same existing conditions apart from extended licensed areas to accommodate outdoor seating.

The complete file included –

- The application
- Menu
- Floor plan

- Copy of public notice and notice on door
- Host Responsibility Plan
- Existing Licence
- Certificate of incorporation
- Licence to occupy
- Statement regarding evacuation scheme
- Company information
- 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 that include –

- Satisfaction that the applicant has conducted the sale and supply of alcohol pursuant to the licence,
- The licence application meets the criteria of s. 131 of the Act,
- No opposition to the renewal of licence.

Key matters raised in the inspectors report and complete file included –

- The applicant is a private company incorporated in 2016.
- The applicant has operated the business and licence for about 1 year without incident.
- The premises has not come to the notice of authorities in an adverse manner during the renewal period.
- The applicant provided a host responsibility policy that if followed should ensure the object of the act is met.
- One certified manager was put forward for the licence which is considered to be suitable. The applicant appears to have appropriate systems, staff and training to comply with the law.
- Suitability is not challenged.

- The current hours have operated without incident i.e. Monday to Sunday, 8.00am to 12.00 midnight. The application is for Monday to Sunday, 8.00am to 12.00 Midnight however the outdoor seated area shall be restricted to 9.00am to 11.00pm to comply with the LTO and in keeping with other outdoor licensed areas in the zone.
- The premises is within the cities Central Commercial Zone surrounded by entertainment and hospitality providers.
- The floor plan provided shows an extended outdoor seating area at the front of the premises on the footpath. The application to include this area within the licensed premises was supported by an appropriate Licence to Occupy (LTO) between Whanganui District Council and the applicant. This LTO is limited to the hours of 9.00am to 11.00pm.
- Current 'non designation' of premise is to remain which is suitable for a restaurant type licence.
- The business is a restaurant. The sale and supply of alcohol is not the main focus of the operation. No CPTED or amenity or good order issues raised within renewal reports. 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 appropriate systems for staff training and performance.

### **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 11th July 2017, of no opposition.

**3.2 Medical Officer of Health** – Report received on 11th July 2017, of no opposition.

**3.3 Licensing Inspector** – Full report dated 2<sup>nd</sup> August 2017. The inspector has no opposition to the application and assessed the application against s. 105 matters with no matters of opposition raised. The report concludes that the application is complete and appears to meet the criteria for grant of the licence with additional condition sought.

#### 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 meets the statutory criteria to be granted a renewal of On-Licence under the Act for a period of three (3) years.

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 restaurant but not other than on the following days and hours:
  - **Main covered premise: Monday to Sunday, 8.00am to 12.00 Midnight.**
  - **Outdoor seated area: Monday to Sunday, 9.00am to 11.00pm.**
- (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.

## **5 Decision**

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

**Dated at Whanganui District this 10th day of August 2017.**

**Signed**



**Stuart Hylton**

**Whanganui District Licensing Commissioner**