

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **ZEN
TAKEAWAYS LIMITED** for an On-
Licence pursuant to section 100 of the
Sale and Supply of Alcohol Act 2012, in
respect of the premises situated at 51
Victoria Avenue, Whanganui and known
as “Japanese Takeaway Momiji”.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The application for a new On-Licence was advertised in the Rivercity Press on the 20 and 27 September 2018; together with statutory signage on the building as evidenced through photographic receipt. 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 1st September 2018 on the prescribed form. The application seeks to establish a new licensed ‘café/restaurant’ in a premise situated at 51 Victoria Avenue, Whanganui. The premise is known as ‘Japanese Takeaway Momiji’ which has operated as a non-licensed café for a few months. Prior to this the ‘Big Orange’ was a licensed restaurant on this site.

(2) The premises at 51 Victoria Avenue is owned by Far Paddock Trust who have confirmed by way of supporting letter that the applicant has the necessary lease for the premise including the ability to be licensed.

(3) The applicant is an incorporated company (2016) with one director and two shareholders. The one director, Bizen Miyake, is the certified manager nominated for the licence. The applicant is currently operating under a Temporary Authority.

(4) The premise will be known as the ‘Japanese Takeaway Momiji’ and is seeking to be undesignated which is usual for licensed cafés/restaurants. The principal entrance is located at the front of the entrance to the premises off Victoria Ave. The certificate of compliance from the Whanganui District Council, has stated a maximum number of patrons as being 60.

The applicant provided a statement that the café will not hold more than 60 people therefore is exempt from having an evacuation plan.

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

- The application
- Certificate of incorporation
- Floor 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 not having to have an evacuation scheme
- Copy of public notice on the building
- Host Responsibility Policy
- Copy of supporting letter from landlord
- Copy of Licence to Occupy from Council for front dining use
- 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/restaurant application although previously there was a similar licensed operation on site and the applicant is currently trading under a Temporary Authority. The sale and consumption of alcohol on the premise should be minor and complimentary compared to the Café's general business.

The applicant provided a Host Responsibility Policy 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, Zen Takeaway Limited, is an incorporated company with one director and two shareholders.

The Director, Bizen Miyake, is the named certified manager for the licence. This is the bare minimum for an on-licence. The inspector has discussed this situation with the applicant.

(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, 8.00am to 12.00 midnight**

Note: There is a licence to occupy for the dining area on public land to the front of the premise which will limit the time for this area to 9.00am to 11pm.

These hours seem reasonable for the activity.

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

The application included a floor plan 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:

No.

(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 an existing activity within the Commercial Zone.

Within the agency reports there are no concerns about the possible reduction in amenity and good order from any licence issue.

(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 and security plan 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** – Report received on 12th October 2018, offering no opposition.

(19) **Medical Officer of Health** - Report received on 1st October 2018, offering no opposition.

(20) Licensing Inspector

Full report dated 26th October 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 51 Victoria Avenue, Whanganui, to be known as ‘Japanese Takeaway Momiji’.

(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, 8.00am to 12.00 midnight (interior premises)

Monday to Sunday, 9.00am to 11.00pm (tables out front of premises)

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 26th day of October 2018.

Signed



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Stuart Hylton
Whanganui District Licensing Commissioner