

**IN THE MATTER**

of the Sale and Supply of Alcohol Act  
2012

**AND**

**IN THE MATTER**

of an application by **Churamigos 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 49 Taupo Quay, Whanganui and known as “Gracias Tex Mex Whanganui”.

**BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE**

The application for a new On-Licence was advertised in the Whanganui Chronicle on the 12 and 26 August 2021; together with statutory signage on the building. No objections were received and no s. 103 reports noted any opposition.

Therefore the matter is 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 10 August 2021 on the prescribed form. The application seeks to establish a new license for an existing restaurant at 49 Taupo Quay, Whanganui. The applicant has obtained the necessary lease to hold and manage a Liquor Licence and continues the business that has existed on the premises for the last two years. The general nature of the business will continue to be that of a restaurant and alcohol will only be sold to seated customers i.e. no bar as such. The premises used to be licensed a number of years ago.

(2) The premises at 49 Taupo Quay, Whanganui is owned by Oikos Properties Limited who have confirmed in writing that the applicant has a lease for the area in question including the ability to be licensed. The licensed area is the ground floor including decked area out the back towards the river. The applicant seeks the licensed area to be undesignated. The principle entrance is that off Taupo Quay.

(3) The applicant is an incorporated company, incorporated in 2020, with two directors and three shareholders named.

(4) The premise will be known as ‘Gracias Tex Mex Whanganui’ and is seeking to be ‘undesignated’ which is suitable for a Restaurant type licence. The applicant provided evidence

of suitable tenure, a letter in relation to evacuation planning compliance and a Certificate of Compliance from Council in relation to Building and Planning.

(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 landlord representative as having the necessary evacuation scheme
- Copy of public notice on the building
- Host Responsibility Policy
- 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 an existing operator within an established restaurant within a premise which was previously licensed. 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. Sale of alcohol should be minimal at the premises and the operation is considered 'low risk'.

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

The applicant, **Churamigos Limited**, is an incorporated company with two directors and three shareholders. The director has an interest to ensure the licence is a success and the statutory responsibilities are adhered to.

Two certified managers are named on the licence application. This is seen as adequate.

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

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

The Whanganui LAP has been adopted. The LAP allows for discretionary conditions relating to On-licences. The inspector has recommended that the following conditions be placed on the licence 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 applicant has signalled he is happy with this recommended conditions to be included on the licence. On this basis these seem to be reasonable conditions to include. No other discretionary conditions under the LAP were recommended by any of the reporting agencies.

**(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,**

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

The application included a floor plan that shows the area to be licensed. This is an existing licensed footprint that is the whole dining area including decked area out the back. The whole of the licensed premise is to be ‘undesigned’ which is supported by the inspector.

**(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:**

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

The licensed premise is existing, it is surrounded by other food and beverage premises within the Central Business Commercial zone which should ensure the amenity and good order of the locality are not effected 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. The applicant appears to take their licensing responsibilities seriously which should assist the premise to be run in a compliant manner.

### ***Reporting Agencies***

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

(18) **Police** – Report received on 17 September 2021, offering no opposition.

(19) **Medical Officer of Health** - Report received on 4 October 2021, offering no opposition.

### **(20) Licensing Inspector**

Full report dated 7 October 2021. 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 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 49 Taupo Quay, Whanganui and known as ‘Gracias Tex Mex Whanganui’.

(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 conditions contained in the Inspectors report.

## **3 Decision**

Accordingly the application is **Approved** for issue from this date.

**Dated at Whanganui District this 7 October 2021.**

**Signed**



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

