

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Brinic Properties Limited** for the renewal an off licence pursuant to s.127 of the Act in respect of premises situated at **1 Onerahi Road, Onerahi, Whangarei** known as "**Onerahi Super Liquor**"

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

Chairman: Councillor John Williamson

DECISION (ON THE PAPERS)

On 19 June 2014 application was made under section 127 of the Sale and Supply of Alcohol Act 2012 by **Brinic Properties Limited** to the Whangarei District Licensing Committee for the renewal of an off licence (**002/OFF/4/2013**) in respect of the premises situated at **1 Onerahi Road, Onerahi, Whangarei** known as "**Onerahi Super Liquor**".

The premises

The premises are situated in a double storied building on Onerahi Road, just below the Onerahi Tavern. An off licence was first issued to Brinic Properties Limited on the 11th September 2007 with the licensing hours from 8.00am until 11.00pm Monday to Sunday. In May 2013, the applicant chose to reduce their licensing hours to 9.00am until 10.00pm Monday – Sunday, in order to comply with the Whangarei District Licensing Agency Liquor Licensing Policy.

Management of the premises

The applicant is a private company incorporated on 30 October 2003. The directors and shareholders, who also manage the business, are Garry Raymond Hoare (002/GM/112/2007) and Tracee Delwyn Hoare (002/GM/113/2007).

Nicole Dana Hoare (002/GM/165/2007), Cheye Hobson (002/GM/21/2008), Kathleen Louise Millar (002/GM/13/2008) and Brent Royce Noone (002/GM/51/2011) have also been employed.

The Police have not questioned the suitability of the applicant or any of the nominated duty managers.

Amenity and good order

Onerahi Super Liquor is situated in a Business 3 environment and surrounded by a Living 1 environment according to the Whangarei District Plan. It is situated in an environment which has high traffic noise due to it being a main road to, and through, Onerahi. Reports have been received from the Whangarei District Council relating to reported graffiti and crime associated with liquor sales in the past and also from the Council's, noise control contractor relating to noise complaints about the premises. No issues however have been raised in the last 3 years from either report.

The amenity and good order of the locality would not likely be increased by more than a minor extent, by the effects of the refusal to renew this licence.

Public notice

The applicant publicly notified the application in accordance with the Act, by placing two advertisements in 'The Northern Advocate'. The first notice was published on 25 June 2014 and the second on 2 July 2014.

Notice of the application was also attached to the premises as required by the Act. This was confirmed during a visit by the Licensing Inspector on 17 July 2014.

However, the applicant made an error in their public notifications. The name of the premises was notified as "Super Liquor Onerahi" instead of "Onerahi Super Liquor".

Section 208 of the Act provides that *where any person has neglected or omitted to do any act or thing in the precise manner or within the precise time prescribed by this Act, the licensing authority or (as the case may require) the licensing committee or the chairperson, if satisfied that the neglect or omission was not wilful, may waive the same on such terms as they think equitable.*

The applicant has therefore applied for a waiver under s. 208 of the Act.

Statement by the applicant as to compliance with Fire Service Act 1975.

The applicant has provided a statement that due to the building in which the premises is situated its owner is not required to provide and maintain an evacuation scheme, and the Fire Service in a report dated 1 July 2014, has raised no matters of concern about the application.

Criteria for renewal

In deciding whether to renew a licence, the Whangarei District Licensing Committee must have regard to the criteria set down in section 131 of the Sale and Supply of Alcohol Act 2012. Section 131(1)(a) further requires the Agency to have regard to the matters provided for in paragraphs (a) to (g), (j) and (k) of Section 105, subsection (1) of the Sale and Supply of Alcohol Act 2012. Read together these matters are as follows:

- a) the object of this Act
- b) the suitability of the applicant
- c) any relevant local alcohol policy
- d) the days on which and the hours during which the applicant proposes to sell alcohol
- e) the design and layout of any proposed premises
- f) 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
- g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services
- h) whether the applicant has appropriate systems, staff, and training to comply with the law
- i) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 129 of the SSAA. (in place of section 103)
- j) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence
- k) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.

DECISION

The committee has received reports on the application from the Police, the Medical Officer of Health and the Licensing Inspector and none have raised matters in opposition. The application was duly advertised and no objection or notice of a desire to be heard has been received. Accordingly the committee deals with the matters on the papers.

In respect to the errors in the public notification set out above, the committee is satisfied that the omissions were not wilful and that they are inconsequential to this application and the waiver application pursuant to s.208 is therefore granted.

The committee is satisfied as to the matters to which it must have regard as set out in s.131 of the Act and it renews the on licence for a further period of 3 years, expiring on the 11th September 2017 on the conditions presently attached to it but with an additional condition required by section 116 of the Act relating to the provision of drinking water, the condition worded as follows:

Drinking water is to be freely available to customers, while alcohol is being supplied free as a sample on the premises at the place on the premises where the samples are provided.

DATED at Whangarei this 5th day of August 2014

Chairman
Whangarei District Licensing Committee
14/68451