

**IN THE MATTER**

of the Sale of Liquor Act 1989

**AND**

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of an application by **Onerahi Hotel Limited** for the renewal of an off licence pursuant to s.41 of the Sale of Liquor Act 1989 in respect of premises situated at **the corner of Waverly Street and Onerahi Road, Onerahi** known as **the Onerahi Tavern**

**BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE**

Chairman: Councillor John Williamson  
Member: Lee Andrewes  
Member: Mervyn Williams

**DECISION (ON THE PAPERS)**

This is an application by Onerahi Hotel Limited dated 11 November 2013, for the renewal of an off licence ( 002/OFF/2/2013) in respect of premises situated on the corner of Waverly Street and Onerahi Road, Onerahi, known as the Onerahi Tavern. The general nature of the business that of a tavern where off sales are undertaken across the bar.

Onerahi Tavern Limited is also the holder of an on licence and the renewal of the on licence is currently before the Alcohol Regulatory and Licensing Authority (ARLA) for determination in that the trading hours sought for the on licence did not comply with the Whangarei District Licensing Agency Liquor Licensing Policy and renewal applications were subsequently opposed. A public hearing of the ARLA in January 2014 has provided clarity on trading hours and it is envisaged that the on licence for the Onerahi Tavern will be renewed soon. The application for the off licence however can be dealt separately and in isolation but it is noted that there was some hold up due to outstanding fire safety requirements and that these have now been attended to and the renewal application now placed before the Committee for determination.

Criteria for renewal of a licence

The Sale of Liquor Act 1989 was repealed on the 19 December 2014 when it was replaced by the Sale and Supply of Alcohol Act 2012. The application was made between 6 months and 12 months after day of assent of the Sale and Supply of Alcohol Act 2012 and as such section 407 of the 2012 Act applies as to how this application is determined. Section 407 provides that the application must be dealt with under the 1989 Act but with certain provisions of the 2012 Act to also apply. Consequently the District Licensing Committee must have regard to the matters as set out in section 131 of the Sale and Supply of Alcohol Act 2012 when deciding whether to renew a licence.

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.

#### The premises

The premises is situated on the corner of Waverly Street and Onerahi Road, near the Onerahi Shopping Centre in the Whangarei suburb of Onerahi. An Off Licence was first issued to Onerahi Hotel Limited in November 2009 with the licensing hours being 9.00 am to 10.00 pm, Monday to Sunday.

#### Management of the premises

The applicant is a private company incorporated on 27 April 2007. Victor Wayne Hill is the sole director of the applicant company.

Marie Gayle Menner Ryan is the holder of a General Manager's Certificate (002/GM/49/2012) and the principal manager of the business. Three (3) additional duty managers each holding general manager certificates have been appointed.

The applicant company, Onerahi Hotel Limited, has met all licensing conditions since the licence was first issued in November 2009.

#### Public notice

The applicant publically notified the application in accordance with the Act, by placing two advertisements in 'The Whangarei Report'. The first notice was published on 21 November 2013 and the second on 28 November 2013.

Notice of the application was also attached to the premises as required by the Act. This was confirmed during a visit to the premises on 14 November 2013.

The public notice contained some errors. Firstly the applicants name was shown as Onerahi Tavern Ltd, not Onerahi Tavern Limited and secondly the application referred to the grant of an off licence not the renewal of an off licence.

The applicant has applied for a waiver under Section 111 of the Sale of Liquor Act 1989. Section 111 provides as follows:

*"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 Authority or (as the case may require) the Agency (now the Committee) or the chairperson, if satisfied that the neglect or omission was not wilful, may, by certificate signed by the chairperson, waive the same on such terms as they think equitable.*

I am satisfied these mistakes were not wilful omissions and believe is inconsequential to the renewal of the Off licence for Onerahi Tavern and recommend that the Committee grants the waiver application.

No public objections to the application were received.

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

The applicant has provided a statement, that the building in which the premises is situated has an evacuation scheme for public safety which meets the requirements for such a scheme.

The Fire Service in a report dated 16 May 2014, has raised no matters of concern about the application.

**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 desire to be heard has been received. Accordingly we deal with the matters on the papers.

We are satisfied as to the matters to which we must have regard as set out in s.131 of the Act and we renew the on licence for a further period of 3 years (expiring on the 11<sup>th</sup> November 2017) on the conditions presently attached to it but with a change required by section 110 of the Act relating to the provision of drinking water the condition worded as follows:

- drinking water is to be freely available (free of charge) while the premises are open for business at the bar counter in the premises.

We further grant a waiver to the applicant under section 111 of the Sale of Liquor Act 1989.

**DATED at Whangarei this 24<sup>h</sup> day of June 2014**

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Chairman  
**Whangarei District Licensing Committee**