

Decision No. **304/2014**

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **The Mill Retail Holdings Limited** for the renewal an off licence pursuant to s.127 of the Act in respect of premises situated at the **Corner of Walton Street and Dent Street, Whangarei** known as "**The Mill**".

BEFORE THE WHANGAREI DISTRICT LICENSING COMMITTEE

Chairman: Councillor John Williamson

DECISION (ON THE PAPERS)

On **25 June 2014** application was made under section 127 of the Sale and Supply of Alcohol Act 2012 by **The Mill Retail Holdings Limited** to the Whangarei District Licensing Committee for the renewal of an off licence (**002/OFF/7/2013**) in respect of the premises situated at the **Corner of Walton Street and Dent Street, Whangarei**, known as "**The Mill**".

The premises

This renewal application relates to an existing bottle store holding an off licence. The premises are situated in a building attached to The Mad Butcher and in the car park for Pak n Save. An off licence was first issued to The Mill Retail Holdings Limited on the 29th July 2013 with the licensing hours from 9.00am until 10.00pm Monday - Sunday.

Management of the premises

The applicant is a private company that was incorporated on 28 March 2013. The directors are Julian Davidson, Takashi Fujisaki, and Katsuki Atsushi. The shareholder which holds 100% of the shares is Independent Liquor Ltd, the directors for that company are the same as above.

The applicant has been managing 35 The Mill stores since incorporation.

Kevin Ross Atkins (02/GM/58/2011) is the store manager. Kolio Siaoisi Lamusitele (002/GM/51/2009), Summer Flower Littlejohn (02/CERT/031/2014), and Tracy Chapman (GM/2179/98) are employed as duty managers. Duty managers ensure that all licensing conditions are met at all times.

Amenity and good order

The Mill is situated in a Business 1 environment and directly opposite the Town Basin environment according to the Whangarei District Plan. It is situated in an environment which has high traffic noise due to it being located in the Whangarei CBD. The bottle store would not be deemed a noise source.

Reports were sought from the Council's, Community Services Department relating to reported graffiti and crime associated with liquor sales in the past and also from council's, noise control contractor relating to noise complaints about the premises. No issues had been raised in the last 3 years from either report.

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 3 July 2014 and the second on 10 July 2014.

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

However, the name of the licensee was advertised as "The Mill Retail Holdings Ltd" instead of "The Mill Retail Holdings Limited".

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 provided a statement dated 23 June 2014 that due to the building's current use, its owner is not required to provide and maintain an evacuation scheme. The Fire Service in a report dated 21 July 2014, 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 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 29th July 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.

Additionally, 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.

DATED at Whangarei this 19th day of August 2014

Chairman
Whangarei District Licensing Committee
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