

4. Application for an Off-licence - Parua Bay 4 Square

Reporting Officer: Reiner Mussle (Team Leader: Environmental Health)

Date: 31 March 2010

Vision, Mission and Values

Creating the ultimate living environment.

Local Government Act 2002 – The Four Well-Beings

Cultural: *No direct link.*

Economic: *The consideration and granting of licences and certificates under the Sale of Liquor Act 1989 can permit increased trade and opportunity by providing employment in the hospitality industry, so contributing to the districts well being.*

Environmental: *No direct link.*

Social: *The consideration and granting of applications under the Sale of Liquor Act 1989 can provide both increased opportunity for positive socialising in licensed premises, but can also contribute to increase in social and health harm from alcohol abuse.*

At the Licensing Exemptions and Objection Committee meeting on Wednesday, 9 December 2009 the Whangarei District Licensing Agency considered an application by Krispa Kripa Limited for an Off Licence in respect of the Parua Bay 4 Square for a new Off Licence. The premises are an existing business and the applicants sought the same operating hours issued to the previous licensee. These hours were outside the existing Liquor Licensing Policy hours. The Agency, in considering the application, declined to grant the licence and forwarded the application to the Liquor Licensing Authority for determination as an opposed application. The Licensing Inspectors report recommended to the Authority that the licence be granted with hours complying with the Agency Policy.

The Liquor Licensing Authority dealt with the application on the papers and granted the Off-licence (002/OFF/1/2010) to the applicant with the hours sought by the applicant - Monday to Sunday 7.00am to 10.00pm. The Authority decision and a covering letter is attached to this report.

Recommendation

That the Whangarei District Licensing Agency receives and notes the decision of the Liquor Licensing Authority.

Attachment:

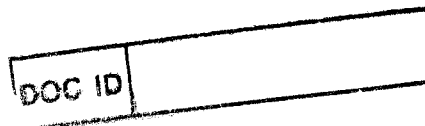
[Letter and Decision \(218/2010\)from the Liquor Licensing Authority \(Parua Bay Four Square\).PDF](#)



002/OFF/141/2010

19 March 2010

Krishna Kripa Limited
P O Box 3290
ONERAHI



Dear Sir/Madam

APPLICATION FOR AN OFF-LICENCE: "PARUA BAY 4 SQUARE"

I refer to your application for an off-licence in respect of the above premises.

The Liquor Licensing Authority, by decision no. *218/2010*, dated *19 March 2010*, granted the application with immediate issue of the licence. The licence is enclosed.

I wish to draw your attention to the following:


1. The licence will need to be renewed in accordance with the relevant sections of the Act. You should familiarise yourself with the provisions of ss.40 to 46 of the Sale of Liquor Act 1989 and Form 15 of the Sale of Liquor Regulations 1990.
2. The requirement to display signage and a copy of the licence in terms of s.48 of the Act.
3. The requirement of every licensee to notify an address for service to the Secretary of the Licensing Authority in terms of s.223(1) of the Act.

Tribunals Unit

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4. The need to appoint a manager or managers in accordance with Part 6 of the Act.

Yours faithfully



A B H Williams
for Secretary
Liquor Licensing Authority

cc Secretary
District Licensing Agency
C/- Whangarei District Council
Private Bag 9023
WHANGAREI

~~cc Liquor Licensing Section
New Zealand Police
Private Bag 9016
WHANGAREI~~

Copies of the decision and licence are attached for your information

Decision No. 218/2010

IN THE MATTER

of the Sale of Liquor Act 1989

ANDIN THE MATTER

of an application by KRISHNA KRIPA LIMITED for an off-licence pursuant to s.31 of the Act in respect of premises situated at 1387 Whangarei Heads Road, Parua Bay, Whangarei, known as "Parua Bay 4 Square"

BEFORE THE LIQUOR LICENSING AUTHORITY

Chairman: District Court Judge J D Hole

Member: Mr P M McHaffie

DECISION

This is an application by Krishna Kripa Limited for an off-licence in respect of premises situated at 1387 Whangarei Heads Road, Parua Bay, Whangarei, known as "Parua Bay 4 Square".

The principal business is that of a grocery store in terms of s.36(1)(d)(ii) of the Act and hours are sought to sell liquor between 7.00 am and 10.00 pm daily.

The application is accompanied by a certificate issued pursuant to s.31(1)(e) of the Act, and the Police offer no opposition.

Advertising did not attract any public objection but the District Licensing Agency Inspector opposes the proposed hours of trade on the ground that they fall outside those recommended in the Whangarei District Council's liquor licensing policy.

The council's policy document relating to hours sets out general guidelines for the operation of off-licence premises in or adjacent to residential areas. The recommended opening time is 9.00 am. This applies specifically to bottle stores attached to hotels or taverns, or stand-alone liquor retail facilities. Supermarkets and grocery stores are not specifically mentioned.

The principal business is that of a grocery store and the sale of liquor is ancillary to that purpose. The Inspector is satisfied that the business meets the test in that regard, and there is no question as to the suitability of the applicant.

The applicant is trading in terms of the previous licence, which authorises liquor sales for the same hours as sought in this application, viz 7.00 am to 10.00 pm daily. It is probable that this business, in common with many others of the genre, trades from 7.00 am as a matter of course. It seems to this Authority that to curtail the sale of liquor for the first two trading hours each morning is not only impractical, but may be likely to cause inconvenience to some of the applicant's customers.



We have stated in numerous decisions that where a local authority has adopted a liquor policy after due consideration and consultation, we will take cognisance of its recommendations. On the other hand a policy is only a set of guidelines. This policy does not specifically refer to the applicant's operation which has its own particular requirements.

While we take due note of the Inspector's comments we are not persuaded that there is any requirement to tamper with the hours as they currently apply. In the absence of any adverse information in relation to how the applicant has operated the business under temporary authority, we propose to deal with the application, as sought, on the papers.

In doing so, we point out that any licence which issues is only valid for 12 months. This is regarded as a probationary period to give a new licensee an opportunity to demonstrate an ability and willingness to operate the business in a fitting manner. At the end of that initial year an application for renewal must be lodged, and advertised, giving scope for review if the conduct of the licensee has given cause for concern.

We are satisfied as to the matters to which we must have regard as set out in s.35 of the Act, and we grant the applicant an off-licence. A copy of the licence setting out the conditions to which it is subject is attached to this decision.

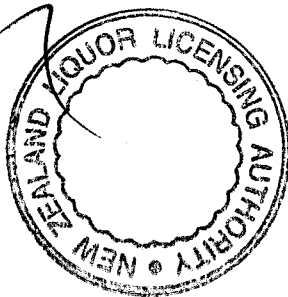
The licence may issue immediately.

The applicant's attention is drawn to ss.48 and 115(3) of the Act obliging the holder of an off-licence to display:-

1. A sign attached to the exterior of the premises, so as to be easily read by persons outside each principal entrance, stating the ordinary hours of business during which the premises will be open for the sale of liquor; and
2. A copy of the licence, and of the conditions of the licence, attached to the interior of the premises so as to be easily read by persons entering through each principal entrance; and
3. A sign prominently displayed inside the premises, which identifies by name the manager for the time being on duty.

DATED at WELLINGTON this *19th* day of *March* 2010.


B M Holmes
Deputy Secretary



COPY

002/OFF/1/2010

OFF-LICENCE

Sections 29 and 114, Sale of Liquor Act 1989

PURSUANT to the Sale of Liquor Act 1989, **KRISHNA KRIPA LIMITED** is authorised to sell or deliver liquor on or from the premises situated at 1387 Whangarei Heads Road, Parua Bay, Whangarei, and known as "Parua Bay 4 Square", to any person for consumption off the premises and to supply complimentary samples of liquor on the premises.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Part 6 of the Act.

CONDITIONS

This licence is subject to the following conditions:

- (a) No liquor is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day or before 1.00 pm on Anzac Day:
- (b) No liquor is to be sold other than:
 - (i) Wine that conforms to the standard prescribed by regulation 219 of the Food Regulations 1984 (SR 1984/262), or any other standard that may be set, by regulations made pursuant to the Food Act 1981 or by food standards issued pursuant to that Act, in substitution for that standard; and
 - (ii) Sparkling wine that conforms to the standard prescribed by regulation 220 of those regulations, or any other standard that may be set, by regulations made pursuant to the Food Act 1981 or by food standards issued pursuant to that Act, in substitution for that standard; and
 - (iii) Fruit wine that conforms to the standard prescribed by regulation 226 of those regulations, or any other standard that may set, by regulations made pursuant to the Food Act 1981 or by food standards issued pursuant to that Act, in substitution for that standard; and
 - (iv) Sparkling fruit wine that conforms to the standard prescribed by regulation 227 of those regulations, or any other standard that may be set, by regulations made pursuant to the Food Act 1981 or by food standards issued pursuant to that Act, in substitution for that standard; and
 - (v) Mead that conforms to the standard prescribed by regulation 226 of those regulations, or any other standard that may be set, by regulations made pursuant to the Food Act 1981 or by food standards issued pursuant to that Act, in substitution for that standard; and
 - (vi) Beer that conforms to the standard prescribed by regulation 218 of those regulations, or any other standard that may be set by Regulations made under the Food Act 1981 or by food standards issued under that Act, in substitution for that standard; and
 - (vii) Any food condiment containing liquor if the food condiment has been prepared for culinary purposes and rendered unsuitable for drinking.
- (c) Liquor may be sold or delivered only on the following days and during the following hours:
Monday to Sunday 7.00 am to 10.00 pm.
- (d) The licensee must ensure that the provisions of the Act relating to the sale and supply of liquor 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.

THE LICENSED PREMISES

In terms of Regulation 10 of the Sale of Liquor Regulations 1990 the sale or delivery of liquor is authorised in or from the whole of the premises. The premises, situated at 1387 Whangarei Heads Road, Parua Bay, Whangarei, are more precisely identified as outlined in a plan date stamped as received by the Liquor Licensing Authority on 25 February 2010.

DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE/S


A copy of this licence must be displayed at the principal entrance to the premises. The entrance from the car park is designated as the principal entrance.

DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force -

- (a) Until the close of the period of 1 year commencing with the date of its issue; or
- (b) If an application for the renewal of the licence is duly made, until the application is determined; or
- (c) If the licence is renewed, until the close of the period for which it is renewed.

DATED at WELLINGTON this *19th* day of *March* 2010


B M Holmes
Deputy Secretary
Liquor Licensing Authority

