

**IN THE MATTER** of the Sale and Supply of Alcohol Act 2012

**AND**

**IN THE MATTER** of an application by **Waverley Liquormart Limited** for an **Off Licence** pursuant to s.100 of the Sale and Supply of Alcohol Act 2012 in respect of premises situated at **68 Weraroa Road Waverley** to be known as **Black Bull Liquor**

**BEFORE THE SOUTH TARANAKI DISTRICT LICENSING COMMITTEE**

**Chairperson:** Cr. I.J. Wards

**Members:** Cr. K.V. Bourke

Mr J. Rowe

**HEARING** at **Waverley Community Centre** on the **Thirtieth day of June 2016**

Members of the Committee undertook a site visit prior to the Hearing.

**APPEARANCES:**

Directors of the applicant Company – Mr Sahil Sharma & Mr Aman Singh

Mrs C Denton – South Taranaki District Licensing Inspector – to assist

**OBJECTORS:**

Mrs S Newland – Amenity and good order of the locality

Mrs G McCullum appeared on behalf of Kerri McColl Principal of Waverley Primary School.

**OBJECTORS who did not appear:**

Owen Savage - Amenity and good order of the locality

Marion Archibald - Amenity and good order of the locality

Steve Dowman - Amenity and good order of the locality

Wayne Downs - Amenity and good order of the locality

Chevelia Martin - Amenity and good order of the locality

Rex & Christine Standen on behalf of Waverley Baptist Church - Amenity and good order of the locality and the Object of the Act

Kerri McColl - Amenity and good order of the locality

All those appearing before the committee were sworn in prior to giving evidence.

**RESERVED DECISION OF THE DISTRICT LICENSING COMMITTEE**

**Introduction:**

- [1] Before the Committee is an application pursuant to S. 100 Sale and Supply of Alcohol Act 2012 for an Off-licence in respect of premises situated at 68 Weraroa Road Waverley to be known as "Black Bull Liquor" The hours sought being Monday to Sunday 9.00 a.m. to 10.00 p.m.
- [2] The application was received on 31<sup>st</sup> March 2016 and was first advertised on 7<sup>th</sup> April 2016 and again on the 14<sup>th</sup> April 2016. It was subsequently noticed that the notice referred to S. 131 instead of S. 105. The application was then re-advertised on 27<sup>th</sup> April and 5<sup>th</sup> May 2016.
- [3] The application must be considered under the Sale and Supply of Alcohol Act 2012 and in accordance with the criteria set forth in s. 105 and s. 106 of the Act.
- [4] The premises of the proposed business are situated at the northern side of Weraroa Road on the corner of Bear Street Waverley. Weraroa Road is the main road through Waverley township.
- [5] The premises are owned by AP & AC Holdings Limited (Averyl Coralie Kahukaka) who has given permission and consented to the application.
- [6] The building has a certificate of compliance with the Building Act 2004 and a Compliance assessment under the Resource Management Act 1991.
- [7] The following are within 300m of the applicant site:  
Waverley Library. Waverley Town Pool. Waverley Primary School. Aotea Park.
- [8] **Applicant Evidence:**
- [9] Mr Sahil Sharma stated that he and Mr Aman Singh are directors and equal shareholders of the applicant company.
- [10] Mr Sharma stated that they are experienced operators of nine off Licence premises, are fully aware of the object of the Act and have a reputation of managing their premises to a high standard, a fact supported by the Licensing Inspector in her report.

- [11] He stated that they wished to amend the application to reduce the hours sought from 9.00 am to 10.00 pm Monday to Sunday, to 9.00 am to 8.00 pm Monday to Sunday in line with the Inspector and Medical Officer of Health recommendation.
- [12] He stated that they would have a variety of non-alcohol refreshments available for sale including bottled water as they have at all their licensed premises.
- [13] He stated that all their staff are properly trained with particular regard to ensuring proper identification to prevent the sale of liquor to underage persons.
- [14] Mr Sharma stated that neither he, nor any employee had come to the attention of the Police or inspectors for failing a CPO over the last three years.
- [15] He stated that the directors were confident that they can offer a high standard of operation that would ensure that the community would not be troubled by sales to underage or intoxicated persons.
- [16] Mr Sharma concluded his evidence by stating that they have a proven and good track record, and gave an undertaking that single sales will not occur, that no external alcohol advertising would be on the premises, and that a well run operation such as theirs should not see any increase in loitering or disorder.
- [17] Mr Rowe questioned the security of the premises, and how stock would be delivered into the premises. Mr Sharma responded that it would be a very controlled delivery with stock delivered to the Hawera premises and then delivered during quiet times to Waverley through the main door as that was the only entrance.
- [18] Cr. Bourke questioned Mr Sharma about the adequacy of the CCTV coverage and if it would be capable of recording and storing the recording. He stated that the system would store recordings for fourteen days with high definition and face recognition.
- [19] Cr. Bourke referred to the plan of the premises and queried where they would store empty kegs and crates. Mr Sharma replied that there would be no pallets or kegs on site as they would deliver in small quantities from their other premises.
- [20] Cr. Wards asked how well the applicants knew the Waverley community. Mr Sharma replied that they had read a little about Waverley on Wikipedia and were aware of the location of the school.
- [21] Cr. Wards asked if the Inspector or any of the objectors wished to question Mr Sharma. Mrs Newland questioned the parking, particularly any on site at the rear of the premises. Mr Sharma advised that there would be no parking at the rear as the lease did not allow for that.

**Reporting Agencies:**

**NZ Police**

- [22] NZ Police did not oppose the application and did not attend the Hearing.

**NZ Fire Service**

- [23] NZ Fire Service did not submit a report

**Medical Officer of Health**

- [24] The Medical Officer of Health with the Taranaki District Health Board does not oppose the application, but does have concerns about the potential for an increase in alcohol related harm. For this reason he asks the DLC to consider opening hours 9 am until 7 pm each day and no external alcohol advertising.

**South Taranaki District Council Licensing Inspector Mrs Denton**

- [25] Mrs Denton enquired if the DLC wished her to read her report in full. Mr Wards replied that as the Members had read her comprehensive report it was not necessary to read the full report but asked her to summarise for the benefit of the Objectors present who may not have seen her report.
- [26] The Inspector stated that based on the information provided by the applicant the indication is that they would meet the criteria of the Object of the Act.
- [27] The Inspector stated that this will be the third licensed premises in South Taranaki to be known as Black Bull Liquor. All three premises share the same directors.
- [28] The operation of Black Bull Liquor (Hawera) has raised no concerns with the Inspector regarding the suitability of the directors.

It was noted that the applicant proposed the following hours

Monday to Sunday 9 am to 10 pm

- [29] The District Health Board supports an earlier closing time of 7 pm
- [30] The Inspector stated that her observation was that an earlier closing worked well in a small community and recommended opening hours as 9.00 am to 8.00 pm each day.

[31] If a licence is granted the Inspector recommended an opening inspection to assess the store against the design and layout recommended by crime prevention through environmental design guidelines.

[32] Referring to Amenity and Good Order the Inspector noted that the following were within 300 metres of the proposed site

Waverley Library Plus

Waverley Town Pools

Waverley Primary School

Aotea Park

[33] The following licensed premises are within 300 metres of the proposed site

Waverley Four Square (Supermarket)

Clarendon Hotel

[34] The applicant has indicated that two certified managers will be appointed to the store and their respective certificates were provided as evidence.

[35] The Inspector reported that the applicant has a policy of treating any sale to minors, failure to ask for identification, or accepting incorrect identification as serious misconduct, subject to disciplinary procedures.

### **Objections Heard**

#### **Mrs S Newland**

[36] Mrs Newland asked to table a newspaper article citing alcohol related statistics in the Wanganui Chronicle.

[37] Cr. Wards asked Mrs Newland if the Police were not offering any objection was she aware of any alcohol related behaviour issues. She replied that she was sometimes aware of cars zooming around and she assumed that it was either drug or alcohol related.

[38] Cr Wards asked if Mrs Newland had lived in Waverley for a number of years did she think that alcohol was an issue when the now closed Waverley Hotel was open. Mrs Newland replied that it may have been similar or worse than now but that other disorders which were caused by alcohol were not really known back then.

**Mrs G McCullum**

- [39] Mrs McCullum read the submission letter from the Waverley Primary School Principal Kerri McColl. The letter states that the school regularly sees the problems caused by alcohol. Ms McColl requested that as the town already has two licensed premises that the DLC decline this one.
- [40] Cr. Bourke asked Mrs McCullum if she had seen any other issues other than those mentioned in the letter. Mrs McCullum responded that she had seen people consume too much alcohol and did not want small children to see this type of behaviour as normal.
- [41] Cr Bourke asked if Mrs McCullum considered a reported lack of police in the town as being a big issue. Mrs McCullum replied that there was always a need for another policeman but not a need for another problem like a liquor outlet.
- [42] Cr Wards asked if Mrs McCullum was aware of any CCTV cameras operating in Waverley. Mrs McCullum replied that she was only aware of one camera and she assumed that it was monitored by the Police.
- [43] Cr Wards commented that it was disappointing that police had chosen not to attend the hearing.
- [44] Cr Wards asked Mrs McCullum if she had noticed a reduction in alcohol issues following the closure of the Waverley Hotel. Mrs McCullum said it was hard to say as she did not socialise that way. However she added that not so many people were hanging around outside the premises anymore since it closed and that there was no longer rubbish and a mess left behind the next day.
- [45] Cr. Wards asked if any of the objectors wished to cross examine further. There being none he asked the applicant if they wished to cross examine any of the witnesses.
- [46] Mr Sharma asked Mrs McCullum if she knew there were two Off Licences already in Waverley. Mrs McCullum stated that she knew of the two. Mr Sharma asked how many were stand alone Bottle Stores. Mrs McCullum answered, none. Mr Sharma asked whether Mrs McCullum realised that once a purchase was made in a bottle store that the person then leaves with their purchase for elsewhere. Mrs McCullum agreed.
- [47] Cr Wards stated that the Four Square licence was for a more restricted Grocery Licence. Under Sec. 105 (2) SSA 2012 the committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

- [48] Cr. Wards invited Mr Sharma to sum up should he wish to do so. Mr Sharma advised that he felt it was all covered in the first instance.
- [49] Cr Wards thanked all participants for their input to the hearing and for the manner in which they had conducted themselves in providing the committee with the evidence which would form the basis of the decision that they were now required to make. He concluded by stating that the committee would deliberate in private and issue a written decision to all participants in due course.

#### **Licensing Committee Decision and Reasons**

- [ 50] In considering an application for an off-licence we are directed to have regard to the matters contained in s.105 of the Act.

##### **(a) The object of the Act**

s.4

*(1) The object of this Act is that—*

- *(a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and*
- *(b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.*

- [51] The applicant provided evidence that it had systems and procedures in place were designed to undertake the sale and supply of alcohol safely and responsibly.
- [52] The evidence of the Inspector and the absence of Police objection supports the applicants evidence that they will operate the licence safely and responsibly. We consider them to be adequate and appropriate.

##### **(b) Suitability of the applicant**

- [53] The suitability of the applicant was not challenged. They are experienced with a good record.

##### **(c) Relevant Local Alcohol Policy**

- [54] South Taranaki District Council has not yet adopted a local Alcohol Policy. There is nothing to consider.

##### **(d) The days on which and the hours during which the applicant to sell alcohol.**

- [55] The applicant applied for the hours of 9.00 am to 10.00 pm Monday to Sunday. During the hearing the applicant amended the application to 9.00 am to 8.00 pm Monday to Sunday. We confirm the amended hours as appropriate.

**(e) The design and layout of the premises**

[56] The Licensing Inspector provided evidence that the layout of the store as proposed meets the guidelines recommended by the CPTED. A condition recommending an opening inspection to assess the layout against CPTED criteria is appropriate.

**(f&g) Whether the applicant is engaged in, or proposes to engage in, the sale of goods other than alcohol, low alcohol refreshments, non alcoholic refreshments, and food, and if so which goods. Or services directly related to these products.**

[57] The applicant does not propose to engage in the sale or supply of goods or services other than the sale of alcohol, tobacco, snack food, and promotional products such as T shirts, caps, drinking glasses and the like.

**(h&i) Whether in our 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.**

[58] Several of the submissions in opposition to the granting of a licence were citing amenity and good order as reason for their objection.

[59] Only two objectors appeared and were able to be questioned and cross examined. We consider their evidence to be representative of all objectors.

[60] We found Mrs Newland and Mrs McCallum to be forthright witnesses with genuine concerns for their community and the wellbeing of its citizens.

[61] On balance we consider that the evidence of the Inspector, the lack of opposition to the granting of the licence by the Police and Medical Officer of health, leads us to the opinion that the amenity and good order of the locality would not be reduced to more than a minor extent by the granting of the licence.

**(j) whether the applicant has appropriate systems staff and training to comply with the law.**

[62] The applicant provided evidence of appropriate systems, staff and training that fully complies with the law. Mrs Denton in her evidence confirmed the applicants evidence. We have no concerns.

[63] The application by **Waverley Liquormart Limited** for an **Off Licence** pursuant to s.100 of the Sale and Supply of Alcohol Act 2012 in respect of premises situated at **68 Weraroa Road Waverley** to be known as **Black Bull Liquor** is granted subject to the following conditions;



- (a) **The Licensee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed by;**
- **Display of appropriate signs detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition of sales to intoxicated persons.**
- (b) **Alcohol may be sold or delivered only on the following days and during the following hours;**
- **Monday to Sunday 9.00 am to 8.00 pm. EXCEPT That No alcohol is to be sold or supplied on Good Friday; and on Easter Sunday; and on Christmas Day; or before 1.00 pm on Anzac Day.**
- (c) **Each of the following parts of the premises is designated as a Supervised Area; The whole of the premises.**
- (d) **The licensee will ensure that drinking water is freely available to customers, while alcohol is being supplied free as a sample on the premises and will be located;**

**Placed in the same area and clearly visible where free alcohol samples are available to customers.**

- (e) **Security cameras will be operating internally and externally on the premises as follows;**

**Security cameras must be operating at all times and provide coverage of the entire internal shop and chiller area. External security cameras must be operating at all times and cover the immediate area outside the premises. Cameras must be constantly recording to a hard drive of sufficient capacity to retain images for ten days continuous. The images must be of good quality, sufficient to readily identify people from a moderate distance. The cameras must be operated by sensitivity to motion when the premises are closed for the sale of alcohol.**

- (f) **Advertising is to exclude;**

**Externally placed advertising**

**Advertising placed on any external surface of the premises**

**Advertising placed on any widow where the advertising can be seen from the outside of the premises**

- (g) **The design of the premises is to include;**

**No coverage of the doors used as the principal entrance**

**No coverage of the windows directly adjacent to the doors used for the principal entrance**

**No more than 20% coverage of all other windows**

- (h) **No single serve beverages known as 'ready to drink' or 'RTD's' are to be sold or supplied.**
- (64) **The licence will not be issued until the expiry of Ten (10) working days from the date of this decision. That period of time is the time provided under s. 155(1) of the Act for the lodging of a notice of appeal.**

Dated at Hawera this 12<sup>th</sup> Day of July 2016



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Councillor Ian Wards

Chairperson South Taranaki District Licensing Committee