

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

**AND**

**IN THE MATTER** of an  
application by **Lyhour Phou  
Limited** for an On- Licence  
pursuant to section 100 of the Sale  
and Supply of Alcohol Act 2012, in  
respect of the premises situated at  
262 Gloucester Street, Taradale,  
Napier and known as “The Wok”.

**BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE**

The application (ON1461) for a new On-Licence was advertised in the Hawkes Bay Today on the 18 March and 4 April 2020; together with statutory signage on the building as evidenced in photo held on file. No objections were received. No matters of opposition were raised under section 102 and 103 reports; therefore the matter was considered by the Napier District Licensing Commissioner on the papers contained in the full file provided by the secretary in accordance with the provisions of s.202 (1) and 191(2) of the Sale and Supply of Alcohol Act 2012.

**Commissioner: Stuart Hylton**

**RESERVED DECISION OF THE NAPIER DISTRICT LICENSING COMMITTEE**

*Application*

(1) The application was made on the 16<sup>th</sup> March 2020 on the prescribed form. The application seeks to licence a previously licensed restaurant style premise situated at 262 Gloucester Street, Taradale, Napier. The premise is known as ‘The Wok’ and its layout is relatively small, simple and well known.

(2) The premises at 262 Gloucester Street, Taradale, Napier is owned by Rasmin Properties Limited who have confirmed by way of supporting letter that the applicant has a lease for the premise including consent to be licensed.

(3) The applicant is an incorporated company with one director / shareholder. One person is named as a certified manager for the licence which is seen as the bare minimum required.

(4) The premise will continue to be known as the ‘Wok’ and is seeking to be undesignated. The principal entrance is located at the front of the premises off Gloucester Street and is shown on the map contained on the application file stamped received on 16 March 2020.

(5) The complete file that the District Licensing Committee received included –

- The application
- Certificate of incorporation
- Floor plan
- A s. 100(f) RMA/ Building Act compliance letter from Council

- Letter from applicant attesting to not having to have an evacuation scheme
- Copy of public notice on the building
- Host Responsibility Policy
- Copy of supporting letter from landlord
- Full menu
- Public Advert wording
- Reports from Police, Medical Officer of Health and Inspector

### ***Decision Making***

(6) In considering this application for On-Licence the District licensing Committee (here in after referred to as the 'Committee') had regard to the criteria specified under s. 105 of the Act.

#### **(7) the object of this Act:**

This is a new (although previously) licensed restaurant and the sale and consumption of alcohol on the premise should be minor and complimentary compared to the restaurants general business.

The applicant provided a Host Responsibility Policy that shows how alcohol will be sold in a responsible manner under the licence. If followed this should ensure the object of the Act continues to be complied with. The applicant has the initial first year to show that they can operate the licence in accordance with the Act and the licence conditions.

#### **(8) the suitability of the applicant:**

The applicant, Lyhour Phou Limited, is an incorporated company with one director/shareholder. There is one named certified manager for the licence.

(9) The inspector and reporting agencies do not challenge suitability of the applicant and neither do I.

#### **(10) any relevant local alcohol policy:**

Application accords with Local Alcohol Policy.

#### **(11) the days on which and the hours during which the applicant proposes to sell alcohol:**

The applicant has applied for the following days and hours –

- **Monday to Sunday, 8.00am to 12.00midnight**

These hours seem reasonable for the activity and within the default national maximum trading hours.

#### **(12) the design and layout of any proposed premises:**

The application included a floor plan date stamped 16 March 2020 showing premise layout, area to be licenced and principal entrance.

This relatively simple layout should assist compliance management.

The restaurant of the licensed premise is to be undesignated.

**(13) 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:**

No.

**(14) whether (in its 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:**

This is an existing activity within the Taradale Shopping Centre Commercial Zone where the purchase and sale of food and beverages is permitted.

Within the agency reports there are no concerns about the possible reduction in amenity and good order from any licence issue.

**(15) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—**

**(i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but**

**(ii) it is nevertheless desirable not to issue any further licences:**

No concerns raised.

**(16) whether the applicant has appropriate systems, staff, and training to comply with the law:**

If the host responsibility policy and security plan is followed the licence holder should have no problems with compliance.

### ***Reporting Agencies***

(17) The following reports were received under section 103 of the Act.

(18) **Police** – Report received on 15 May 2020, offering no opposition.

(19) **Medical Officer of Health** - Report received on 20 March 2020, offering no opposition.

(20) **Licensing Inspector**

Full report dated 20<sup>th</sup> May 2020. The inspector noted the concerns raised initially by Police in regards to the applicant's low number of nominated managers to manage the licence. This matter has been resolved with Police and will be monitored during first year of operation.

The inspector provided a comprehensive report into the application, has met the applicant and concluded that the application is complete, appears to meet the criteria for a new on-licence and therefore recommends that the licence be issued with recommended conditions.

### ***Committees Decision and Reason***

(21) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies, my assessment above, I conclude that the application meets the s. 105 criteria under the Act to be granted an on-licence for the premise situated at 262 Gloucester Street, Taradale, Napier, to be known as 'The Wok'.

(22) Accordingly the application is **approved** for issue for one year subject to the following conditions and payment of any outstanding fees, if any.

(23) The licence will be subject to the following conditions:

- a. The licensee must have available for consumption on the premises, at all times when the premises are open for the sale of alcohol, at reasonable prices, a reasonable range of non-alcoholic drinks and low alcohol drinks.
- b. The licensee must have free drinking water available for customers at each bar whilst open for business.
- c. Liquor may only be sold only on the following days and during the following hours:

- **Monday to Sunday, 8.00am to 12.00midnight**

EXCEPT THAT on Good Friday, Easter Sunday, and Christmas Day, or before 1pm on Anzac Day, no alcohol is to be sold or supplied on the premises unless the buyer is a person who is present on the premises to dine.

- d. Food must be available for consumption on the premises at all times when the premises are open for the sale of alcohol in accordance with the menu submitted with the application, or variations of that menu of a similar range and standard.
- e. The licensee must ensure that, at any time customers are lawfully on the premises,—
  - (i) there is readily available to the customers, free, comprehensive, and accurate information about the forms of transport from the premises that are available at that time; and
  - (ii) there are on the premises, and readily accessible to the customers, staff able to give them comprehensive and accurate information about the forms of transport from the premises that are available at that time; and
  - (iii) those staff will on demand give any customer appropriate advice free.
- f. The licensee must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, is displayed—
  - (a) attached to the inside of the premises concerned; and
  - (b) so as to be easily read by people entering each principal entrance.

- g. The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of alcohol.
  
- h. The licensee and managers on duty must ensure that the provisions of the Act relating to the sale and supply of alcohol 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.

**3. Decision**

Accordingly the application is **Approved** for issue.

**Dated at Napier District this 21st day of May 2020.**

**Signed**



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**Stuart Hylton**

**Napier District Licensing Commissioner**