

DECISION NUMBER

1482/2021

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **APPLEBORN 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 49 Marine Parade, Napier South, Napier and known as “Three Wise Birds Portside Bar”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for a new On-Licence was advertised in the Hawkes Bay Today on the 22 and 29 April 2021; together with statutory signage on the building. No objections were received and no s. 103 reports noted any opposition.

Therefore the matter is 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 20 April 2021 on the prescribed form. The application seeks to establish a new license for an existing premise that has existed as a licensed establishment of various sorts for a while. The premises is at 49 Marine Parade, Napier South, Napier, with the principal entrance accessed off Marine Parade.

The general nature of the business will be a ‘tavern style’ On-licence.

(2) The premises is owned by Stone Anchor who have given consent and tenure for the licensed operation. The licensed area is the whole ground floor of the building including outdoor (front) area as defined on plan date stamped by NCC on 20th April 2021. The premises has undergone renovations since it was last operated and a licence has been obtained from Council to use the front public paved area.

(3) The applicant is an incorporated company with three directors and five shareholders.

(4) The premise will be known as ‘Three Wise Birds Portside Bar’ and is seeking split designations throughout based on hour of the day/night to reflect changing nature of the premises.

(5) The complete file that the District Licensing Committee received included evidence that the following was provided as part of the application –

- The application
- Certificate of incorporation

- Floor plan
- A s. 100(f) RMA/ Building Act compliance letter from Council
- Letter from applicant's landlord agreeing to the application to be licensed.
- Letter from landlord representative as having the necessary evacuation scheme
- Copy of public notice on the building
- Host Responsibility Policy
- 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 change of licensee within an existing, although renovated, licensed premise. 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.

(8) the suitability of the applicant:

The applicant, Appleborn Limited, is an incorporated company with three directors/ five shareholders. The directors/shareholder have an interest to ensure the licence is a success and the statutory responsibilities are adhered to. The Inspector reports there are no issues around the applicant's suitability.

One certified manager is named for the licence application. This is seen as a bare minimum to operate the premises although the inspector comments the applicant owns another premise in Hastings from which managers could be utilised. We expect the Inspector to monitor this situation.

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

(10) any relevant local alcohol policy:

The Napier LAP has been adopted. The inspector has noted that the application accords with the LAP.

(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 including designations which are supported by the inspector –

Monday to Sunday –

- **8.00am to 9.00pm (Undesignated), and**
- **9.00pm to 2.00am, the following day. (Supervised)**

These hours and designation apparently best reflect the anticipated operation and they accord with the national default maximum trading hours. The applicant and inspector have one year to monitor whether they are suitable before possible renewal.

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

The application included a floor plan that shows the area to be licensed including front paved area. The split designation based on trading hours is shown above which is supported by the inspector.

(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:

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

The premise is an existing use in an appropriately zoned area which should ensure the amenity and good order of the locality are not effected by more than a minor extent.

(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 is followed the licence holder should have no problems with compliance. The applicant has taken their licensing responsibilities seriously previously and there is no reason to suggest this will not continue.

Reporting Agencies

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

(18) **Police** – Report received on 6th May 2021, offering no opposition.

(19) **Medical Officer of Health** - Report received on 10 May 2021, offering no opposition.

(20) Licensing Inspector

Full report dated 17 May 2021. 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 has no opposition to the application. The inspector has suggested possible 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 49 Marine Parade, Napier and known as 'Three Wise Birds Portside Bar'.

(22) Accordingly the application is **approved** for issue for one year subject to the conditions identified in the Inspectors report.

3 Decision

Accordingly the application is **Approved** for issue from this date.

Dated at Napier District this 18 May 2021.

Signed



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Stuart Hylton
Napier District Licensing Commissioner