

DECISION NUMBER

1506/2022

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **BAY FOODIES 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 192 Hastings Street, Napier South, Napier and known as “Mexicali Fresh Napier”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for a new On-Licence was advertised in the Hawkes Bay Today on the 4 and 11 April 2022; 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 30 March 2022 on the prescribed form. The application seeks to establish a new license for an existing premise that was licensed previously. The application comes about from a change of ownership and the applicant has had one Temporary Authority issued to allow this substantive licence application to be made. The Temporary Authority has been allowed to lapse. The premises is at 192 Hastings Street, Napier South, Napier, with the principal entrance accessed off Hastings Street.

The general nature of the business will be a ‘restaurant style On-licence’ and be known as the “Mexicali Fresh Napier”.

(2) The premises is owned by Paxie’s Lane Developments Limited who have given consent and tenure for the licensed operation. The licensed area includes the outdoor area and is more precisely identified on the plan date stamped as received 30 March 2022.

- (3) The applicant is an incorporated company with one director and two shareholders.
- (4) The premise will be known as 'Mexicali Fresh Napier' and is seeking no designation which is suitable for this type of 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 new licence within a previously 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. The premises is low risk.

(8) the suitability of the applicant:

The applicant, Bay Foodies Limited, is an incorporated company with one director and two shareholders. The director/shareholders 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.

Two certified managers are named for the licence application. This is seen as suitable.

(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 which are supported by the inspector –

Monday to Sunday – 8.00am to 12.00 midnight.

These hours 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 areas to be licensed which are supported by the inspector. The premises has an elongated internal layout and includes an outdoor area that has a licence to occupy issued by Council covering the use.

(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 5 April 2022, offering no opposition.

(19) **Medical Officer of Health** - Report received on 6 April 2022, offering no opposition.

(20) Licensing Inspector

Full report dated 4 April 2022. 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 192 Hastings Street, Napier South, Napier and known as the ‘Mexicali Fresh Napier’.

(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 9 May 2022.

Signed



.....

Stuart Hylton

Napier District Licensing Commissioner