



# *Hastings District Council*

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## **DECISION – OFF-LICENCE**

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# **HASTINGS DISTRICT LICENSING COMMITTEE**

**Parizara Limited (The Merchant) Off Licence**

**Meeting Date: Friday, 14 December 2018**

**DECISION NO: HDC/OFF/486/2018**

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

**AND**

**IN THE MATTER** of an application by **Parizara Limited** for a  
of an off-licence pursuant to s.100 of the  
Act in respect of premises situated at **908  
Heretaunga Street East, Hastings** known  
as "**The Merchant**".

**BEFORE THE HASTINGS DISTRICT LICENSING COMMITTEE AT A MEETING  
HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION  
BUILDING, LYNDON ROAD EAST, HASTINGS ON  
MONDAY, 14 DECEMBER 2018 AT 9.00AM**

**LICENSING COMMITTEE**

Chair: Councillor Kerr  
Members: Councillor Lyons and Mr D Fellows

**Committee Secretary:**

Mrs Carolyn Hunt

**APPEARANCES:**

Agent for the Applicant:  
Applicant:

Mr Steve McDowell  
Rajiv Kumar, Parizara Limited (The Merchant)  
(Director)  
Gary Singh (Owner)  
Donna Kira, Marketing Manager, Bottle O Group

Licensing Inspector:

Ms Janine Green

New Zealand Police:

Sergeant in Charge of Alcohol Harm Prevention,  
Raymond Keith Wylie

Constable David Patrick Power – Alcohol Harm  
Prevention

**OBJECTOR:**

Hawke's Bay District Health Board:

Dr Rachel Eyre, Medical Officer of Health  
Theresa Te Whaiti  
Rowan Manhire-Heath

Witness:

Mark and Kathy Ramsay

Witness:

Liz Batenburg

## **DECISION OF THE HASTINGS DISTRICT LICENSING COMMITTEE**

### **1.0 INTRODUCTION**

- 1.1 This was an application for an Off-licence 029/OFF/011/2018 made by Rajiv Kumar, Parizara Limited in respect of "The Merchant" situated at 908 Heretaunga Street East, Hastings.
- 1.2 The Police and Licensing Inspector had not opposed the Off Licence application.
- 1.3 The Medical Officer of Health opposed the application under the Object of the Act section 105 (1)(d) hours; 105 (1)(h) amenity and good order, Section 106 (1)(a)(iii) and 106 (1) (b) (i) in relation to the location.
- 1.4 One objection was received from the Parkvale Kindergarten, including a petition from 22 signatories.
- 1.5 The Medical Officer of Health identified and notified 9 sensitive sites within 1km of the proposed site. One objection was received from Parkvale Kindergarten, who were unable to attend.
- 1.6 Parkvale Kindergarten had concerns which related to:
  - Proximity to other off licence premises
  - Proximity to sensitive sites
  - Concern with traffic flow and safety
  - Drink and driving concerns
  - Potential damage to their property
  - Potential risk to their staff out of hours
- 1.7 There were an additional four late objections received after the 15 working day notification period which did not comply with section 102 of the Sale and Supply of Alcohol Act.
- 1.8 Each late objector present at the Hearing said their objection was late as they did not see the notice.
- 1.9 The District Licensing Committee referred to O'Hagan's Irish Pub (2013) NZARLA70 for guidance and therefore does not accept "not seeing the notice" as sufficient reason to provide a waiver to the prescribed timeframe.
- 1.10 The Committee has noted the concerns raised by the late objectors and advised them this Committee would take heed of their concerns as they have been raised by other objectors who met the statutory timeframe.

### **2.0 AT THE HEARING**

- 2.1 The applicant presented his evidence and spoke with knowledge and understanding of the Act.

- 2.2 The Licensing Inspector, in evidence, stated that upon investigation she had not found the Hastings District to have a high density of Off Licenses; bottles stores or licenses with a similar risk rating and therefore did not believe this licence would have more than a minor effect on the amenity and good order of the area.
- 2.3 Constable Power presented evidence of victimisation crime statistics for the areas of Parkvale and Akina. There were no comparable statistics for other areas of Hastings city provided as evidence.
- 2.4 Constable Power when asked to comment in his professional opinion if these two areas were more likely to have a police call out than any other areas in Hastings, he responded that these areas were no more likely to have a call out than other areas.
- 2.5 The New Zealand Police had not provided any alcohol related harm statistics, for this area, nor had they objected to the issue of this licence.
- 2.6 The Medical Officer of Health raised concerns around notification and location of the notice on-site. The Licencing inspector confirmed the requirements of the Act had been met.
- 2.7 During the hearing the Medical Officer of Health requested a copy of the applicant's survey capturing positive feedback from members of the community.
- 2.8 Little consideration was given by the Committee to this document or the Parkvale Kindergarden petition.
- 2.9 The evidence from the Medical Officer of Health covered international, national and local studies and documents that highlighted harm that alcohol can cause, linking density and availability and vulnerability factors.
- 2.10 Statistics were highlighted showing alcohol related harm in Hastings generally and in Akina specifically.
- 2.11 Medical Officer of Health called two of the late objectors as witnesses. Their evidence was limited to describing the local area, and the effect alcohol has in their area.
- 2.12 Lisa Batenburg described where and when the school bus collected children from a bus stop near the premises.
- 2.13 The community objection to a new bottle store was limited to the Medical Officer of Health, Parkvale Kindergarden and 4 late objectors.
- 2.14 This is in comparison to another local bottle store application which was withdrawn prior to the hearing.
- 2.15 Medical Officer of Health refers to that application (known as Babala's) and in her evidence notes *"the applicant withdrew due to community opposition as they realised they do not have a social licence to operate"*.

- 2.16 Babala's application lodged on 2 July 2015, received a total of 106 objections including objections from the Licencing inspector, Medical Officer of Health and Police.
- 2.17 There was not that level of opposition to this application.
- 2.18 Two other alcohol outlets were within 1km of this site (4 Square 400m and New World 1000m). Both applications had their licences renewed in March 2016 and July 2018, respectively, without objection from this community.
- 2.19 The Chair reminded the Applicant, the Objector, and Witnesses, that if the application was granted the first period of a licence was only for 12 months.
- 2.20 This could be seen as a probation period and the responsibility continued to sit with the applicant to ensure the business operates as described in the application and at the Hearing.

### **3.0 CONSIDERATION – OBJECT, SUITABILITY AND s103 REPORTS**

- 3.1 In considering an application for an off licence the Committee is directed by s105 (1) (a), (b) and (k) of the Act to have regard to the following criteria:

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

- (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”.*
- (2) *For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes -*
- (a) *any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and*
  - (b) *any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).*

- 3.2 The Applicant advised that alcohol would not be sold or supplied to minors or those who were intoxicated. Those older than 18 years will not be served if they are in school uniform.
- 3.3 The Committee acknowledged the concerns raised by the Medical Officer of Health especially with regards to crime and alcohol statistics for the Hastings District, and specifically whether this application meets the Object of the Act.

- 3.4 Medical Officer of Health evidence showed Hastings exhibits a high level of hazardous drinking (one in four compared with one in five nationally) and that violent offending in Hastings is higher than national average.
- 3.5 Medical Officer of Health produced information from a Hastings central survey in 2015 (which included Akina residents):
- 56.3% of residents surveyed would like less bottles stores
  - 40.9% or residents surveyed like the same number of bottle stores
- 3.6 The Committee noted a Hastings bottle store had recently closed (Angus Inn) which meant there would be the same number of bottle stores, if this application was approved.

**(b) Suitability of Applicant – s105 (1)(b)**

- 3.7 The Applicant for the premises is Parizara Limited and Mr Rajiv Kumar is the Director of the Company. Mr Kumar had not come to the attention of the Licensing Inspector for any misconduct, bad management or any other matters seen as influencing the running of the premises contrary to the requirements of the Sale and Supply of Alcohol Act.
- 3.8 The Licensing Inspector confirmed that based on how their existing premises operated she considered that the Applicant was suitable to hold an off licence.
- 3.9 The Committee noted Mr Kumar's experience, and knowledge of both the Act and his responsibilities.
- 3.10 The Committee is satisfied the Applicant and management are suitably experienced to hold an Off Licence.

**(c) Other reports under s.103 – s105 (k) (l)**

- 3.11 The Medical Officer of Health raised the following issues in relation to the application; Harm caused generally by alcohol; Proximity to sensitive sites and Deprivation of nearby areas.
- 3.12 Statistical evidence of deprivation was produced showing Akina is similar to other parts of Hastings. This data alone is not sufficient to prevent a new bottle store opening on a main thoroughfare on the outskirts of this community.
- 3.13 The sensitive sites (apart from one) did not object to this application.

**4.0 CONSIDERATION - OTHER MATTERS**

- 4.1 The Committee were satisfied that the following other matters, that they must have regard to, have been met:

**S105 1(c) – Relevant Alcohol Policy**

- There is no Local Alcohol Policy.
- In this regard the Committee did look at the Proposed Local Alcohol Policy as both the applicant and the Medical Officer of Health referred to this

document. Akina and Parkvale are not areas proposed to have a ban on new alcohol outlets.

#### **S105 1(d) – Days and Hours**

- Although the Application would meet the default National hours, the Applicant proposed a reduction in licensed hours to address concerns raised by Medical Officer of Health and others during the Hearing.
- The later start time of 9.00am would reduce the impact to alcohol exposure on children waiting for the school bus.

#### **S105 1(e) – Design and Layout**

- The Committee are satisfied that the design and layout, as shown in the plan of the premises, are in accordance with the Crime Prevention Through Environmental Design (CPTED) and would minimise potential harm and ensure a safe environment for customers, the community and staff.

#### **S105 1 (f) and (g) – The Applicant’s Engagement in Services and Sale of Goods, other than Alcohol**

- The Committee are satisfied that there would only be limited additional goods sold, such as chips, cashews, peanuts, chocolate and non alcoholic drinks.

#### **S105 (h) and (i) - Amenity and Good Order in Locality**

- The Committee acknowledged the concerns raised about noise, nuisance or vandalism but believed the effect would be no more than minor (if at all).
- Mr Kumar in his evidence advised *“staff will be monitoring the environment close to the store including the car parking area to ensure there are no issues with public nuisance behaviour arising from the store including vandalism and graffiti”*
- Parking and traffic issues raised were not seen as significant given there was an existing business operating from the site, and this application will provide 6 carparks behind the premises.

#### **S105 1 (j) – Systems, Staff and Training**

- The Committee heard that the Applicant intends to install security systems throughout the store, including closed circuit television (CCT) cameras in the main retail area, chillers, entrance, till and surrounding area including the car park.
- The Committee was satisfied that the staff would be trained in the following areas:
  - Overview of the Sale and Supply of Alcohol Act 2012
  - Appointment and functions of duty managers
  - Minors
  - Controlled purchase operations
  - Hours of operation
  - Intoxicated persons
  - Restricted and supervised areas
  - Armed robbery information.

4.2 The Committee was satisfied that the Applicant meets the requirements of sections 105(1) (c), (d), (e), (f), (g), (h), (l) and (j) of the Act.

## 5.0 CONCLUSION

5.1 The Committee in its decision must consider whether granting this licence would be contrary to the Object of the Act, that being minimisation of harm.

5.2 This application meets all other requirements under section 105 (1) of the Act and it therefore becomes a decision of this Committee as to whether the granting of this licence is contrary to the Object of the Act.

5.3 This application for a licence is also assessed in terms of the potential impact on the risk of alcohol related harm and the Committee does not accept that the granting of this licence will increase alcohol related harm in the area.

5.4 Unlike the Babala's application in Raureka there was limited community objection to this Application.

5.5 After considering the application, as lodged and the evidence provided on behalf of the Applicant and by the objectors, the Committee were satisfied that the statutory criteria which the Committee was bound to consider could be met and the application was hereby **granted**, subject to the conditions set out below.

5.6 Subject to appeal, the licence may be issued on approval from the Licensing Inspector upon satisfactory completion of all works as stated by the applicant and recorded at the hearing.

## 6.0 CONDITIONS

That the licence be issued for one year with the following conditions:

a) Alcohol may be sold only on the following days and during the following hours:

Sunday, Monday, Tuesday, Wednesday	9.00am to 10.00pm
Thursday and Friday	9.00am-11.00pm
Saturday	8.00am to 11.00pm

b) No alcohol is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.

c) The licensee 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 alcohol to minors and those older than 18 years in school uniform and the complete prohibition on sales to intoxicated persons.

d) No single sale of Ready to Drink (RTD) or mainstream beer under 500ml.

- e) That there be no picture display advertising of alcohol products on the outside of the building.
- f) Drinking water is to be freely available and free of charge to customers at the following area where free alcohol samples are being supplied:
  - In each area where free alcohol samples are provided.
- g) The licensed area is described on the plan date stamped: 15 August 2018
- h) That the whole premises be designated as Supervised.

DATED at Hastings this 20th day of December 2018



**CHAIRMAN  
HASTINGS DISTRICT LICENSING COMMITTEE**