

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by Chick Company Limited pursuant to s.127 of the Act for the renewal of an On-Licence in respect of premises situated at 43 Hakiaha Street, Taumarunui, known as "Jasmines Café and Thai Restaurant".

BEFORE THE RUAPEHU DISTRICT LICENSING COMMITTEE

Commissioner: Ross Murphy

DECISION

1. This is an application by Chick Company Limited pursuant to s.127 of the Act for the renewal of an On-Licence in respect of premises situated at 43 Hakiaha Street, Taumarunui, known as "Jasmines Café and Thai restaurant".
2. The application was required to be notified in accordance with s.127 of the Act. No objection has been received under s.128 of the Act.
3. Reports from the Police, Medical Officer of Health and an Inspector do not raise any matters in opposition to the application, however the Inspector did highlight gaps in staff training which has been an issue in past renewals with the renewal in 2017 requiring a hearing.
4. Following this on 20 December 2023 we issued a direction "*To further this renewal the Committee requests the applicant conduct a complete session with all staff on the licence conditions, the Host Responsibility Policy, Intoxication Assessment Tool and anything else the Inspector feels is relevant. Proof of this session is required. Further to this the applicant can provide a written plan and agreement as to everything set out in our guidelines previously issued*". This was to be complete on or before 31 January.
5. This was completed and the Inspector has been thorough in analyzing the content and program and is satisfied all is now in order (we will address the detail below). Accordingly, the application is now determined on the papers.
6. **In deciding whether to issue the licence renewal the District Licensing Committee must have regard to the criteria in s.105 and 131 of the Act.** Therefore, this committee must consider the following questions within the framework of the purposes and object of the Act:
 - Is the object of the Act met or likely to be met?
 - Is the applicant suitable?
 - Are the requirements of any relevant local alcohol policy met?
 - Are the days on which and the hours during which the applicant proposes to sell alcohol reasonable?
 - Is the design and layout of the premises suitable?
 - Does the applicant engage in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services?
 - Is the amenity and good order of the locality likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence?

- Does the applicant have appropriate systems, staff and training to comply with the law?
- Is the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol appropriate?
- Have the Police, the Medical Officer of Health or an Inspector raised any relevant considerations?

7. Is the object of the Act met or likely to be met?

There is no opposition from the agencies and all documentation convinces the committee there are no concerns regarding the potential for alcohol related harm.

8. Is the applicant suitable?

The licensing committee is satisfied that Chick Company Limited is a suitable entity to hold this licence. The directors are of good character and have demonstrated their ability that they can comply with the Sale and Supply of Alcohol Act 2012.

9. Are the requirements of any relevant local alcohol policy met?

The licensing committee is satisfied there are not matters contrary to the Ruapehu local alcohol policy.

10. Are the days on which and the hours during which the applicant proposes to sell alcohol reasonable?

Chick Company Limited proposes to continue to operate with the hours of 10.00 am to 12.00 midnight for the interior and 10.00 am to 10.00 pm for the exterior. The committee is satisfied that these hours are appropriate for this operation.

11. Is the design and layout of the premises suitable?

The licensing committee is satisfied that Chick Company Limited has a suitable design and layout to meet the requirements of the act. It is well appointed and able to be monitored by the staff on duty. The entire premises is undesignated. The licenced areas include the restaurant and the footpath and there is a valid outdoor permit in place.

12. Does the applicant engage in, (or proposes on the premises to engage in), the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services?

Chick Company Limited does not engage in the sale of goods or services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food.

13. Is the amenity and good order of the locality likely to improve if we refuse to renew the licence?

There are no concerns regarding the operation of this restaurant.

14. Does the applicant have appropriate systems, staff and training to comply with the law?

The licencing committee is satisfied that Chick Company Limited has an appropriate Host Responsibility Policy. Following a hearing in March 2018 the applicant provided a staff training plan moving forward. For the 2020 renewal we noted that this appears to have been maintained with regular training undertaken in that renewal period.

15. For this 2023 renewal that was not the case. The inspector reported that the on-going training over the preceding three years had been ad-hoc at best, but there had been some completed and evidence produced. It was also clear that communication with the directors has been challenging. Also they sell very little alcohol and there has never been any evidence of harm.

16. To avoid the necessity of expensive hearings we gave the applicant the opportunity to "get up to date" as outlined earlier. Documented proof of training has now been provided and the inspector reports; *To recap and update; the applicant submitted a training record (attached) reflecting a "full" training sessions for all current staff members as required by the DLC's direction on 30 January, just prior to the deadline of 31 January provided for in the direction. This training took place on 20 January.*
17. *Following the submission several emails were exchanged between one of the company directors, Simon Chick and Licensing Inspector Flora Tavish to establish the exact nature of the training that took place. For pragmatic reasons the premises was visited by Chief Licensing Inspector Phoebe Harrison (rather than Inspector Tavish) on 9 February. Both Simon and Chanita Chick were present for this meeting. The training on 20 January, as well as other sessions that have taken place, utilized the HPA publication 'Creating a Responsible Drinking Environment'. From the worn, but acceptable, condition of the resources it is evident that these have been well used. Additionally, following discussion with Ms Harrison I am satisfied the applicant has provided a bona fide account.*
18. *The applicants have been provided with an improved template and have provided that they will use this moving forward, with all staff receiving training on a six-monthly basis. The template is much clearer than those which were submitted as part of the renewal application. Whilst Mr Chick can be somewhat challenging to communicate with from a regulatory perspective, I do believe that the specified training session on 20 January took place to the required standard and staff have received training over the last licensing period, albeit in a more ad hoc manner than is desirable.*
19. The Inspector went on to recommend that the On Licence is renewed for the standard period of three years as she believes that the applicant has met the basic mandatory requirements, and the shortcomings of the applicant fall short of the threshold for a formal hearing. This is acceptable to the committee.

The applicant advises that there are three managers appointed.

20. **Is the manner in which the applicant sold, supplied, displayed, advertised and promoted alcohol been appropriate?**
The licensing committee is satisfied that there have been no issues regarding compliance. There have been no promotions or advertising of alcohol that contravene section 237. All displays have been appropriate.
21. **Have the Police, the Medical Officer of Health or an Inspector raised any relevant considerations?**
The Police, Inspector or MOH have raised no other issues regarding any of the above criteria therefore the Committee now has no concerns.
22. **The Licensing Committee is satisfied as to the matters to which must be regarded as set out in the Act and grant the renewal application for three years on the existing conditions.**

DATED this 11th day of February 2024



Ross Murphy
Commissioner
Ruapehu District Licensing Committee