

**IN THE MATTER**

of the Sale and Supply of Alcohol  
Act 2012

**AND**

**IN THE MATTER**

of an application by JB & JM  
Williams Limited, pursuant to  
Section 105 and 106 of the Act for  
a NEW Bottle Store style OFF  
Licence in respect of the premises  
situated at the corner of Ranui  
Avenue and State Highway 1 in  
Timaru and is to trade as Henry's  
Beer, Wine and Spirits –  
Northtown Mall

**BEFORE THE TIMARU DISTRICT LICENCING COMMITTEE**

Commissioner Sharyn Cain  
Member Cr Peter Burt  
Member Cr Dave Jack

**BY WAY OF PUBLIC HEARING**

Timaru District Licensing Committee hearing was held in the Conference Room, Comfort  
Hotel Benvenue, 16 / 22 Evans Street, Timaru on Wednesday 1 March 2017 at 9.30am.

**APPEARANCES**

Mr Jason Williams – Applicant  
Mr Malcolm Couling – Representative for the Applicant  
Mrs Ruth Swale – on behalf of Anglican Care South Canterbury – in opposition  
Mr Dennis Veal – on behalf of Alcohol Action South Canterbury – in opposition  
Mrs Alison Gray – on behalf of Alcohol Action South Canterbury – in opposition  
Mr Paul Cooper – on behalf of Sharon Hoogenraad, Chief Licensing Inspector, Timaru  
District Council  
Sergeant Mylen Hamilton – Alcohol Harm Reduction Officer, New Zealand Police  
Mr Shayne Broughton, Liquor Licensing Health Promotor, Canterbury District Health Board

**RESERVED DECISION OF THE TIMARU DISTRICT LICENCING COMMITTEE**

**Information**

1. This application is for a NEW Bottle Store style OFF Licence. The criterion found at section 105 and 106 of the Sale and Supply of Alcohol Act 2012 (the Act) applies to this application.
2. The application is in respect of the premises situated at the corner of Ranui Avenue and State Highway 1 in Timaru and is to trade as Henry's Beer, Wine and Spirits – Northtown Mall.

3. The application for a Bottle Store style OFF Licence was received by the Timaru District Licensing Committee on 27 October 2017.
4. The applicant is a private company: JB & JM Williams Limited, which was incorporated under the Companies Act 1993 On 14 September 2000. The Directors and Shareholders of the company are: Jason Brian Williams, and Joanne Marion Williams.
5. The application was publicly notified in the Timaru Herald on 5 November 2016 and 12 November 2016, and resulted in two objections being received within the statutory reporting time. These objections were from the following:

Mrs Ruth Swale – Anglican Care South Canterbury  
Mr Dennis Veal – Alcohol Action South Canterbury

6. At a meeting of the Timaru District Licensing Committee held on 3 February 2017, the Committee considered the Licensing Inspector's Report dated 6 January 2017, which did not oppose the application. The Committee noted that the New Zealand Police reported on 2 November 2016, and did not oppose the application; and the Committee further noted that the Medical Officer of Health reported on 17 November 2016, and did not oppose the application. The Committee reviewed the two objections received within the statutory timeframe following notification of the application, being from Anglican Care South Canterbury and Alcohol Action South Canterbury. After due consideration, the Committee agreed that the application would require a public hearing to determine the outcome of the application.

## **THE HEARING EVIDENCE AND SUBMISSIONS – IN SUMMARY**

### **Counsel for the Applicant – Mr Couling**

7. The directors are Mr Williams, and his wife Joanne Williams. They are also the current owner / operators of Timaru Pak 'n' Save and in addition they have a little café within the Northtown Mall called Sticky Café. Mr Williams has been involved in the supermarket industry for the majority of his working life and has considerable experience in the retail and supply and sale of alcohol. He has an exemplary track record, he has never had any issues, never had any negative holdings, determined against his company. If the licence is granted, Mr Williams has advised that it is anticipated that the Henry's store will be open in and around September 2017. The hours that are sought as part of the application are the standard hours, 7.00am to 9.00pm which is in accordance with the Local Alcohol Policy hours and also is consistent and mirrors the hours that are operated by Mr Williams other business, Timaru Pak 'n' Save. There is no opposition raised by any of the reporting agencies, none by the inspector, by the Police or by Mr Broughton on behalf of the Medical Officer of Health. Nobody, other than the two community groups, have lodged any objections.

### **The Applicant – Mr J Williams**

8. Mr Williams and his wife are the current owners and operators of Timaru Pak 'n' Save, which they have owned and operated for the past eight years. Prior to that they owned and operated New World Kaikoura for six and a half years. In total they have been in the supermarket industry for the past 32 years. Mr Williams has held his manager's certificate for over 16 years. In his years' running Timaru Pak 'n' Save they have never had any issues relating to the sale and supply of alcohol, there have been no prosecutions for sales to minors or to people who are intoxicated. The Timaru District Council has issued a certificate confirming that the premise meets all the requirements

of the Building Act and Building Code. In addition, resource consent was granted by the Timaru District Council on 18 October 2016 in accordance with the Resource Management Act 1991. The premises are located in the Northtown Mall on the corner of Evans Street and Ranui Avenue. In total there are eight other commercial businesses operating from the mall including Westpac Bank, a Hair Salon, a Chemist, and a Café, which they also own. For the purposes of managing the sale and supply of alcohol from the premises, Mr Williams will be running the business along with four other certified managers who will be employed as duty managers to oversee the day to day management of Henry's Northtown. Mr Williams explained the range of beverage and food options that would be available, and the availability of complementary services such as glass provision and party supplies for events. They will be operating the premises between the hours of Monday to Sunday 7.00am to 9.00pm if granted a licence in accordance with the relevant Local Alcohol Policy (LAP). The aisles will be wide, clean and clear, the shelves and stock are proposed to be no higher than eye level and the windows free of signage and clutter. All Henry's BWS premises are well lit, warm and inviting and have very good visibility in and out of the windows. Henry's BWS operate a policy of no foreign signage or branding, which means that all stores have a consistent and tidy look about them. There will only be one entrance and exit area, which is adjacent to the two checkouts. The use of the one way entrance into the store will allow for greater security and observation by the duty manager and staff. Mr Williams noted the staff training and employment regimes, with regard to obligations under the Act, and also spoke of his awareness around the current legislation and its requirements. Both the inside and outside of the premises will be saturated with CCTV surveillance and monitoring. In addition to the extensive CCTV surveillance, the car park will also be saturated in lighting. The car park will be fully landscaped with low garden plots in keeping with all other Henry's BWS stores. In addition, security staff will be employed from time to time if required. Over the years operating the Timaru Pak 'n' Save Mr Williams believes he has built up a very good rapport with the Police and that he actively engages with Police to reduce and eliminate any anti-social issues. The premises are approximately 1.7km away from the Timaru town centre, and the Northtown Mall and in particular the Henry's Northtown premises, is surrounded by a predominantly commercial centre with residential dwellings located further away across the carpark. Neighbouring homes are also buffered by the roading network as well as the other commercial operators and businesses within the area. Mention was also made of the distance to sensitive sites.

### **Cross Examination of Applicant**

9. The applicant was questioned with regard to pricing, which he concluded would be set mid-market for the new premise, with Pak 'n' Save positioned cheaper.

### **Objector – Mrs Ruth Swale**

10. Anglican Care South Canterbury is part of an umbrella organisation, Anglican Care Trust Board, based in Christchurch, including the Christchurch City Mission, which oversees the Home Detoxification service and youth counselling with addicted teenagers. In her work, Mrs Swale is actively involved with the Marchwiell-Waimataitai community and states she sees first-hand the detrimental effects of alcohol in this area. She has spoken with members of the community re the proposed new bottle store at Northtown, and the consensus is that there is no need for another liquor outlet in this area and they do not want it. Pak 'n' Save supermarket, and Super Liquor across the road in Evans Street, are already drawing customers from the same community and from families with limited financial resources. Research has shown a clear link between density of liquor outlets and alcohol-related harm, and that is also a concern for many living in this area.

### **Cross Examination Of Mrs Swale**

11. Mrs Swale was questioned on a number of items noting that it would have been helpful for those she had spoken to, to have written their own objections. She felt this may have been too complex for the demographic she was speaking with. Within her work, and census maps, she is aware of pockets of deprivation and felt that those people would not be comfortable in this (hearing) situation. When asked where her research was referenced from, Mrs Swale was unable to provide a direct source but noted she had read them in a number of places. She was not aware of any specific instances of anti-social behaviour and / or violent crime related to this area.

### **Objector – Mr Dennis Veal**

12. Alcohol Action South Canterbury is an ad hoc organisation which is devoted to reducing alcohol harm in the community. They are local people concerned about the effects of a national problem in our district. They are not against alcohol per se, their goal is effective regulation, to combat the deleterious effects of alcohol in our community. Nationally, the cost of alcohol damage to our communities is significant. 25% of New Zealand drinkers are heavy drinkers. One third of Police apprehensions involve alcohol. Half serious violent crimes relate to alcohol. Up to 75% of adult presentations at emergency departments Thursday to Saturday nights are alcohol related. Over 500 serious and fatal injury related traffic accidents involve alcohol. Over 1,000 alcohol related deaths every year. As many as 3,000 born brain damaged each year. Over 70,000 alcohol related physical and sexual assaults each year. Oversupply of alcohol is a significant contributing factor, therefore limiting sale and supply of alcohol will limit related harm. There has been a decline of 14 in the number of off licences in the district in the last two years, indicating a reduction in demand. There are already 30 off licences in this district.

### **Cross Examination of Mr Veal**

13. Under questioning Mr Veal admitted that the process (of objecting) took some work but that it was not a valid reason not to object. Mr Veal could not provide direct evidence, or adequate referencing for the statistics quoted within his submission. He did not have statistics for this particular area as he submits that the crime statistics do not get broken down far enough in to specific areas. Mr Veal concluded that the main issue was one of oversupply, rather than to Mr Williams as an applicant.

### **Chief Licencing Inspector – Mr Paul Cooper on Behalf of Sharon Hoogenraad**

14. The Inspector noted no objection to the application. No pertinent questions were asked of Mr Cooper.

### **New Zealand Police – Sergeant Mylen Hamilton**

15. Sergeant Hamilton noted no objection to the application. No questions were posed to Sergeant Hamilton.

### **Medical Officer of Health – Shayne Broughton**

16. Mr Broughton reiterated that Health had no objection to the application. No questions were posed to Mr Broughton

## **Site Visit – Commissioner Cain, Cr Dave Jack, And Cr Peter Burt**

17. Immediately following the hearing a site visit was undertaken to familiarise the committee members with the proposed premises location, surrounding area, and location of other licenced premises and sensitive activities.

### **SECTION 105 and 106 (1) [a] [b]**

#### **Criteria for issue of licences**

- 1) *In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*
  - a) *the object of this Act:*
  - b) *the suitability of the applicant:*
  - c) *any relevant local alcohol policy:*
  - d) *the days on which and the hours during which the applicant proposes to sell alcohol:*
  - e) *the design and layout of any proposed premises:*
  - f) *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:*
  - g) *whether the applicant is engaged 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:*
  - h) *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:*
  - i) *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:*
  - j) *whether the applicant has appropriate systems, staff, and training to comply with the law:*
  - k) *any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.*
- 2) *The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.*

#### **Considering effects of issue or renewal of licence on amenity and good order of locality**

- 1) *In forming for the purposes of section 105(1)(h) an opinion on whether the amenity and good order of a locality would be likely to be reduced, by more than a minor extent, by the effects of the issue of a licence, the licensing authority or a licensing committee must have regard to—*
  - a) *the following matters (as they relate to the locality):*
    - i. *current, and possible future, noise levels:*
    - ii. *current, and possible future, levels of nuisance and vandalism:*
    - iii. *the number of premises for which licences of the kind concerned are already held; and*
  - b) *the extent to which the following purposes are compatible:*
    - i. *the purposes for which land near the premises concerned is used:*
    - ii. *the purposes for which those premises will be used if the licence is issued.*

## **RELEVANT SECTIONS 105 AND 106 ADDRESSED**

18. **Suitability of applicant** – None of the reporting agencies or objectors raised any issues as to the suitability of the applicant.
19. **Any relevant local alcohol policy** – The Timaru District Licencing Committee has regard to the joint Local Alcohol Policy of the Timaru, Waimate, and Mackenzie District Councils. In summary, no matters have been identified that conflict with the Local Alcohol Policy.
20. **Days and hours** – The application has requested hours of Monday-Sunday 7.00am-9.00pm. The times requested are within the applicants Resource Consent, and the Local Alcohol Policy requirements.
21. **The design and layout of the premises** - The Inspector raised no issues as to the design and layout of the premises, neither did either of the objectors.
22. **Other goods or services** – The reporting agencies raised no issues under this provision, neither did either of the objectors
23. **Any matters dealt with in any report from the Police, an Inspector, or a Medical Officer of Health made under section 103** - None of the reporting agencies opposed these applications, or raised any matters under section 103
24. **Amenity and good order – 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** - Amenity and good order was the principal focus in the hearing. In terms of 131(1) (b), the expression “amenity and good order” is defined in the Act (s.5) as meaning: “the extent to which, and ways in which, the locality in which the premises concerned are situated is... pleasant and agreeable.” No matters of objection were raised by the reporting agencies, under this section of the Act.
25. **Potential for an increase in vandalism and anti-social behaviour** – neither the Police or the Timaru District Council have received complaints or reports of anti-social behaviour (i.e. loitering or graffiti) in connection with this applicant, or property.
26. **Noise** - No noise complaints have been received by Police or the Timaru District Council in connection with this applicant, or property.
27. **Amenity and Good Order – 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

28. The perceived proliferation of licenced premises within this area is the major concern of both objectors. The Licencing Inspectors report notes that the neighbouring businesses are a combination of residential properties and retail/commercial premises. There is one OFF licence located in the complex, being Timaru Pak 'n' Save (supermarket). There is also the Timaru Indoor Bowls Association Stadium and Community Centre (Club Licence) located approximately 90 metres from the premise. Between 100-150 metres there is also the Super Liquor Evans Street (OFF Licence – Bottle Store), Tandoor Restaurant (ON Licence), Koji Japanese Restaurant and Sushi Bar (ON Licence), and Golden Palace (ON Licence).
29. There is a historical licenced premise located to the rear of the property called the Northtown Tavern that holds an ON Licence (Tavern) which expires 19 December 2017, however the premise has been closed since August 2015. The Inspectors Report further notes that Ashbury Park is located approximately 100 metres East of the premise on the opposite side of State Highway 1. Waimataitai Free Kindergarten is located approximately 250 metres South East of the property, also on the opposite side of State Highway 1.
30. The Committee considers that there has been no relevant evidence supplied by the objectors with regard to proliferation, in this particular area. The committee also notes that there was no objection received from the Reporting Agencies with regard to this matter.
31. **Systems, staff, and training to comply with the law** - The Committee is satisfied that the Applicant has sufficient systems, staff, and training to comply with the law.
32. **Reporting agencies** - the reporting agencies' positions have been discussed above.

### **DECISION OF COMMITTEE**

33. The Committee have considered the matters provided for in s.105, including s.106 (1)[a] and [b], and we consider that those matters have been satisfied by the Applicant in this case.
34. Having reviewed all of the evidence before us we are mindful that we should stand back and consider the Act's object as contained in s.4, which states 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" (with "harm" being defined widely and incorporating the harm (direct or indirect) caused by the excessive or inappropriate consumption of alcohol).
35. On all the documentation before us, we consider there is no evidence demonstrating a link between the proposed premises, and alcohol-related harm. We are also not convinced that the refusal to grant this off-licence would improve the amenity and good order of the locality to a more than minor extent.
36. Overall, we are satisfied as to the matters to which we must have regard in s.105 and s.106 of the Act, and we are satisfied that this application meets the purpose and object of the Act. Accordingly, we consider that the application should be granted pursuant to s.105 of the Act.
37. We grant the Off Licence for a period of 12 months from the date the licence is issued, with the whole premises designated as SUPERVISED.
38. The days and times of the Licence being Monday to Sunday 7.00am to 9.00pm.

39. We refer any party who wishes to appeal this decision, or part of this decision, to sections 154 through to 158 of the Act. This decision does not have any effect until 10 working days from the date of the decision.

Dated at Timaru, on this 16<sup>th</sup> day of March 2017

  
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Sharyn Cain  
**Commissioner**  
**Timaru District Licensing Committee**