

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by Majha
Holdings Limited for an off-
licence pursuant to s.100 of the
Act in respect of premises
situated at 46 Main Street
HUNTLY known as “Blackbull
Liquor Huntly”.

BEFORE THE WAIKATO DISTRICT LICENSING COMMITTEE

Commissioner: Andrew Baker

DECISION

BEFORE THE WAIKATO DISTRICT LICENSING COMMITTEE

Quorum: Chairperson Andrew Baker
 Members: Dr Patsi Davies
 Jason Howarth

HEARING at Ngaruawahia on 11th March 2025

PARTIES

Mr Jobandeep Singh – Director of applicant company
Ms Sarah Rawcliffe – Counsel for applicant
Ms Anna Suckling – assisting counsel

Reporting Agencies

Ms Clare Sturzaker – Waikato District Council Licensing Inspector reporting in opposition
Sgt Hayden Martin – NZ Police reporting in opposition
Ms Dawn Meertens – Representing the Medical Officer of Health (MOoH) – no report
received

DECISION

Introduction

[1] We have before us an application by Majha Holdings Limited for the granting of an off
licence in respect of premises situated at 46 Main Street, Huntly known as Blackbull Liquor
Huntly.

[2] The applicant purchased the business at this premises with settlement occurring on
17th June 2024 and has been operating by way of temporary authority with the first issued
on 8th May 2024.

[3] Mr Singh is the director of another company that holds an off licence for a premises in Huntly known as Thirsty Liquor and he is also the holder of a manager's certificate. Both the renewal of the off licence for Thirsty Liquor and his manager's certificate have been opposed by the inspector and Police with a hearing scheduled to take place.

[4] The inspector and Police have filed a report opposing this application for Blackbull Liquor. The Medical Officer of Health did not report within the required timeframe but were in attendance to assist the Committee.

[5] On 5th February 2025, the Chair issued a pre-filing minute stating: "The evidence of the Inspector and Police in opposition, any other reporting agency wishing to give evidence and any witnesses including briefs of evidence and any supporting evidence is to be pre-filed with the Waikato District Licensing office no later than 4pm on Thursday 21st February 2025."

[6] The minute also directed that: "The applicant is required to prefile their evidence and those of any witnesses including briefs of evidence and any supporting evidence with the Waikato District Licensing office no later than 4pm on Friday 28th February 2025." This date was extended upon request by the applicant's legal counsel until 12.00noon on Thursday 6 March 2025 due to an administrative omission by Licensing Office staff. Notice was given to all other parties of this change, and no issues were raised subsequently.

[7] On 10th March 2025, the Inspector sought leave through the District Licensing Office, to provide by way of email an urgent supplementary report regarding a recent matter involving Blackbull Liquor. The Committee Chair advised that it was inappropriate to deal with the matter in that way and that the inspector should if so desired, make any request at the outset of the hearing which would allow the applicant to understand the request and respond accordingly.

[8] During email correspondence following a request through the District Licensing Office by the Chair, the Inspector advised they had not pre-filed any evidence and would be "relying on my report as at the time of the direction for submissions as all the evidence (decisions) have been included within my report."

Request by the inspector

[9] In accordance with the direction of the Chair on 10th March 2025, the inspector requested that a supplementary report outlining a matter occurring on 8th March 2025 involving Blackbull Liquor be admitted as evidence in support of the opposition of the agencies. The inspector advised that no standard follow up action including interviewing the applicant or investigation had been undertaken and thus no consideration of further action considered.

[10] Ms Rawcliffe submitted that the report should not be allowed as the matter was at this stage an allegation with firstly no opportunity provided to the applicant to discuss with the agencies making the allegation and secondly that the matter had not been tested through the standard process by the Alcohol and Regulatory Licensing Authority (ARLA).

[11] The hearing was adjourned, and the Committee considered the inspector's request and response from Ms Rawcliffe. Upon reconvening, it was ruled that neither the report nor any reference to the matter were able to be produced during this hearing on the basis that the applicant has, in accordance with the New Zealand Bill of Rights Act 1993 s25 (c) which states that everyone charged with an offence has 'the right to be presumed innocent

until proved guilty according to law'. Furthermore, the responsibility of hearing and determining guilt or innocence in such matters sits with ARLA and not the District Licensing Committee.

Opening Submissions for the Applicant

[12] Ms Rawcliffe submitted that the agency opposition was based on the operation of another premises; Thirsty Liquor; and not this premises.

[13] She expressed frustration on behalf of Mr Singh that the applications for the renewal of Thirsty Liquor's off licence and his manager's certificate. She submitted that the off licence renewal was lodged on 2nd November 2022 and there "have been significant delays by Waikato District Council in the processing" of that application.

[14] She submitted that "the agencies were awaiting a response to a set of conditions that may have alleviated concerns and avoided the need for a hearing, however the document provided at Appendix A of the Police report was never provided to the Applicant or its Counsel". Going on to say that these issues could have been resolved a year ago and would therefore have no impact on this application.

[15] She noted that the applicant has agreed to the conditions requested by the agencies and that Mr Singh accepted there are questions regarding systems, training and suitability that he will address in his evidence.

Evidence of the Applicant

[16] Mr Singh was sworn in read his statement of evidence as provided to attending parties.

[17] That evidence included describing his background and experience including in 2015, purchasing the Thirsty Liquor business by way of another company for which he is director and shareholder. The business was managed on a day-to-day basis by his brother who has held a manager's certificate since 2011.

[18] Mr Singh stated he had held a manager's certificate himself since January 2016 but had only worked part time at Thirsty Liquor whilst having fulltime employment in another industry which he resigned from in June 2024. He settled the purchase and took possession of Blackbull Liquor on 17th June 2024 after securing a temporary authority (TA). This was six weeks later than originally planned and thus the same period into the term of the TA.

[19] He explained that during the period of the first TA, he applied for a licence for the premises with all required reports on but had to apply for a second TA due to the delay in settlement.

[20] He said that the inspector and Police opposed the second TA due to concerns that he did not have enough staff while the staffing issue had been resolved, and the TA granted. He talked of continued frustration that the reports from the inspector were not presented earlier and this resulted in both 3rd and 4th TA applications being made which were opposed by both the inspector and Police.

[21] Mr Singh spoke of the personal toll on his life and mental health caused by the delays and uncertainty regarding this application.

[22] He gave evidence regarding the infringement issues at Thirsty Liquor in 2020 and 2022 noting that these had occurred a number of years prior to this application. He spoke the discussions he had with the inspector and Police stating he had tried to do his best to “engage and work with the Police about Thirsty Liquor and also the Licensing Inspector who was copied into those emails.”

[23] Evidence was given that he now has seven duty managers across both his stores and referred to rosters for those staff to mitigate concerns about who was working where. He also gave evidence regarding the immigration status of two certificated employees allowing them to transfer from working at Thirsty Liquor to Blackbull Liquor.

[24] Mr Singh gave evidence regarding his suitability explaining his experience over the ten years owning Thirsty Liquor while acknowledging and accepting responsibility for prior infringements at that premises in 2020 and 2021 saying he was a responsible seller of alcohol and suitable to hold an off licence for Blackbull Liquor.

[25] He gave evidence regarding the staff, systems and training including detail of policies in place and use of not only internal training for staff but use of external expert training providers including his legal counsel's company.

[26] Mr Singh, when questioned by the Committee in regard to their observations of single items being for sale with low prices during a site visit, replied that he was selling things in accordance with the current licence as required by the Temporary Authority where there were no restrictions on such sales.

[27] He was asked to clarify the immigration issue for the staff who had been required within their visa conditions to work for his other company but were listed to work at Blackbull Liquor. He stated that he was the director of both companies, and he had received advice from an immigration advisor that they could work at different premises as long as they were still being paid by the company specified in their visa, which they were. He stated a variation to the visas was a tidier way of dealing with the situation which has now been completed.

[28] Mr Singh was asked why in the actual application for this licence, there was no mention under “experience and training of the applicant” of the issues at Thirsty Liquor in 2020 and 2021, especially when he had mentioned that business as being “operated in a responsible fashion and there has been no issues with Compliance, failed CPO or other related problems”

[29] He replied that he was sorry for that omission, was sorry for the incidents and had put in place changes since then which was a long time ago. He added that he had not tried to hide the facts in the hearing and he had spoken about them in his evidence.

[30] When asked if he considered the historic incidents at Thirsty Liquor were failings in training and systems, he admitted they were and that he has made changes since then and also that he will participate in the training provided by external experts.

[31] Mr Singh was also asked if he was comfortable accepting the proposed conditions by the agencies. He stated the conditions had originally been for Thirsty Liquor but that he was happy to agree to the same conditions for Blackbull Liquor.

Evidence of the Inspector

[32] Ms Sturzaker was sworn in and asked that her report be taken as read with nothing to highlight.

[32] She was asked by the Committee to explain how the proposed conditions were arrived at and how they were presented to the applicant. She replied that they were emailed to Mr Singh as a proposal, referring to the emails attached within the file pack.

[33] When asked if she was now satisfied that the immigration visa issue had been rectified, she advised she was following confirmation from immigration officials.

[34] Ms Sturzaker was asked if her opposition to this application was completely based on the performance of Thirsty Liquor to which she replied it was and that as Mr Singh had, in his application, referenced Thirsty Liquor and the way it had been operated, she believed that based on the historic incidents, the Committee should have those incidents brought to their attention. She added she had concerns about getting external training and would like to see more internal training from the licensee if granted.

[35] When asked if there had been any issues at Blackbull Liquor resulting in applications being made to the ARLA during the period of the TA, she replied none that she was aware of.

[36] When asked if she was satisfied with the duty manager rosters provided as part of Mr Singh's evidence, Ms Sturzaker stated there seemed to be enough duty managers for the premises.

[37] She was asked to explain what she expected when assessing a training policy and went on to outline those expectations related to aspects of control under the Act.

[38] When asked if, following the evidence of Mr Singh, there was any change in her position, she replied that the evidence had simply been in response to her opposition and that if the applicant had sincerely been committed to making change, those changes would have been made already. So, her opposition or position remained unchanged

[39] Ms Sturzaker was asked how Mr Singh could have demonstrated the changes she sought to which she replied they would have been noted as part of an inspection.

[40] It was suggested to her that it would have been difficult for her to assess the changes then as she had given evidence that she had not been back to the premises to carry out an inspection. She replied it would be assessed in a future KPI test.

Evidence of the Police

[41] Sgt Martin was sworn in and asked that his brief of evidence be accepted as read and highlighted the following points:

- i. What he considered were risky business practices including the immigration status of Mr Singh's employees
- ii. These things were only rectified or addressed after they were raised by the Police. He referred to Patels Superette 2000 Limited – Aro Liquor v Muir [2019] NZARLA 75 as contained within his brief.

iii. Changes to the conditions.

[42] He was asked if he still had matters of opposition, replying that while the “triangulation issue” with duty managers and immigration status was concerning, the visa’s had been resolved.

[43] He advised that he had not made a site visit to Blackbull Liquor.

[44] He stated that he retained concerns regarding the fact that Mr Singh was the same director overseeing the companies responsible for both Thirsty Liquor and Blackbull Liquor and that there had been historic issues requiring police intervention with Mr Singh at Thirsty Liquor.

Closing Statements of the Agencies.

[45] The inspector had no closing statement, relying on her evidence and report.

[46] The Police made the following submissions:

- i. There has been no evidence of change from Mr Singh other than apologies for previous mistakes that had only been acknowledged after Police intervention.
- ii. Mr Singh has taken responsibility for the actions of his staff and thus must be held accountable.
- iii. Mr Singh had limited personal training and understanding of the Act
- iv. Mr Singh was “putting profit ahead of the object of the Act.”
- v. Mr Singh had knowingly used staff at Blackbull Liquor in contravention of their immigration visas.

[47] The Medical Officer of Health requested under s.204 to provide a closing submission which was agreed to. Ms Meertens submitted that based on the evidence provided today, she supported the other agencies when questioning the suitability of the applicant and was concerned at possibility of cheap sale of alcohol which would increase the likelihood of alcohol related harm.

[48] She concluded by advising she supported the proposed conditions should a licence be granted.

Closing Statements of the Applicant

[49] Ms Rawcliffe advised she would provide by email, formal written closing statements which was agreed to.

[50] She went on to make verbal statements as well highlighting numerous points:

- i. The applicant is frustrated at delays regarding the renewal of the licence for Thirsty Liquor and that it should have been heard prior to this hearing to allow the issues raised regarding that premise to be tested.
- ii. He could not understand the criticism by the inspector of the training records or her opposition to the use of expert external trainers
- iii. The incidents upon which the opposition of the agencies is based occurred around five years ago and there has been no incidents or matters of concern since
- iv. There were comprehensive documents provided to mitigate the concerns of the agencies
- v. The proposed conditions are readily agreed to

- vi. The applicant understands the link between having a successful business and the need to adhere to the Act
- vii. That all systems and training will comply with and meet the requirements of the Act and that the applicant has committed to go beyond the normal standard of training by using external training providers which should be celebrated not criticised.

[51] Written submissions from the applicant dated 11 March 2025 were subsequently received and circulated to all parties. The Committee has read and considered those submissions.

[52] These were comprehensive and went into further detail of the matters raised in the verbal submissions referencing the criteria within s.105 of the Act with particular focus on the suitability of the applicant (s 105(1)(b)) and Systems, Staff and Training (s 105(1)(j)) which were those issues raised by the agencies in opposition.

[53] The counsel for the applicant concludes “without minimising anything, it is submitted that evidence has been provided to prove that the Applicant is able to operate the premises in such a way as to achieve the Object of the Act” and “that the matters relating to suitability have been addressed in the evidence. The regrettable mistakes at another premises, it is submitted, do not make the applicant unsuitable nor does it prevent the applicant from operating this business in a compliant and responsible manner.”

Committee’s Considerations and Decision

Legislation and other matters the Committee must have and have had regard to:

[54] Sections 3 and 4 of the Act describe the purpose and object of the Act.

[55] Section 105 of the Act sets out the criteria the committee must have regard to when deciding whether to issue a licence.

[56] Section 117 allows the committee to impose any other discretionary condition.

[57] A number of previous cases as contained and or referred to within the evidence of the applicant and agencies have been considered.

[58] In regard to the criteria of s.105, the attention of the agencies in opposition was focussed on the suitability of the applicant (s.105(1)(b)) and Systems, Staff and Training (s 105(1)(j)) and accordingly the object of the Act (s.105(1)(a).) and matters dealt with in any report from the Police or inspector (s.105(1)(k).)

[59] Having heard and read the evidence, we are satisfied that the other criteria of s.105 namely:

- Relevant alcohol policy (c)
 - Days and hours (d)
 - Design and layout (e)
 - Whether applicant is engaged in or proposes to engage in the sale of good other than alcohol (f)
 - Whether applicant is engaged in or proposes to engage in the provision of services other than those directly related to sale of alcohol etc (g)
 - Amenity and good order (h) & (i)
- have been met and will not comment further on them.

Deliberations and decision of the Committee

[60] When considering the evidence and the opposition of the inspector, we acknowledge the frustration of the applicant in the time it has taken to process the renewal of Thirsty Liquor, that matter is progressing with a hearing date now set. We acknowledge the information provided relating to that premise has not been tested by the DLC, however the applicant has accepted that breaches had occurred. Accordingly, the committee gives some weight to applicants' previous history with operating a licensed premises.

[61] The renewal application of Thirsty Liquor is not a matter to be considered as part of this hearing.

[62] We are satisfied that the concerns raised by the agencies regarding the immigration status of some of the employees have been resolved and we accept the evidence of the applicant that he had followed the advice of an immigration advisor.

[63] We are also satisfied that regarding this application, the applicant has appropriate systems, staff and training noting it is adequate to meet the requirements of the Act but do acknowledge his commitment to utilise at his own expense, external training providers. The Committee holds an expectation that the applicant will meet the commitments he has made during this hearing which will be tested upon any future application for renewal.

[64] When considering the suitability of the applicant, we acknowledge the concerns of the reporting agencies based on his performance at his other premises and accept those concerns are based on what has in the past been a pattern of behaviour that has resulted in action by ARLA.

[65] Our findings as to suitability are very finely balanced between what has occurred previously and Mr Singh's assertion that is a well experienced and good operator. On this occasion, having listened to and observed Mr Singh, we are prepared to provide him the opportunity to put his best foot forward and consistently demonstrate all the requirements of a suitable operator. Again, we anticipate he will come under appropriate scrutiny during the following twelve months and any future application for a renewal will be thorough in the assessment of suitability.

[66] We note and accept the agreement for discretionary conditions and will include them. However, as agreed with the applicant will use wording recently adopted by ARLA in ARLA TKS (2025 ARLA 25).

[67] Having considered the evidence presented to us, we are satisfied as to the matters which we must have regard as set out in s.105 of the Act, and we are satisfied that the application meets the purpose and object of the Act.

[68] We grant the applicant an on licence with the following conditions:

- (a) No alcohol is to be sold or delivered on Good Friday, Christmas Day, Easter Sunday, or before 1.00 pm on Anzac Day.
- (b) Alcohol may be sold under the licence only on the following days and during the following hours:
Monday to Sunday 9.00am to 10.00pm
- (c) The whole of the premises is designated as a supervised area.

- (d) Drinking water must be freely available to customers at the following places while alcohol is being supplied free as a sample on the premises:
In the body of the premises near to where the samples are being provided.
- (e) The licensee must take the following steps to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
 - i. Display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (f) The licensee must take the following steps to ensure that the provisions of the Act relating to the management of the premises are observed:
 - i. All staff will be trained in their responsibilities under the Act.
 - ii. A sign shall be prominently displayed inside the premises, which identifies by name the manager on duty or of the person responsible for the management of the sale and supply of alcohol under the licence.
- (g) No single sales of RTDs / Beer or Cider originating from larger multi packs, however, if the packaging is damaged or broken it may be repackaged as a minimum of a 4 pack.
- (h) No sales of single beers 499ml and less in size or 6% and above ABV
- (i) No sales to students in school uniform.
- (j) No transactions may take place using Afterpay or similar "buy now, pay later" payment methods.
- (k) The sale or delivery of alcohol is authorised on the premises generally. The premises situated at 46 Main Street, Huntly, are more precisely identified in a plan date stamped as received by the Waikato District Licensing Committee on 2s August 2024.

[69] The licence may issue upon payment of any outstanding fee.

[70] We refer any party who wishes to appeal this decision or part of this decision to sections 154 through to 158 of the Act.

DATED at Auckland this 26th day of March 2025.



Andrew Baker
Commissioner
Waikato District Licensing

Committee

On behalf of: Dr Patsi Davies
Jason Howarth