

Decision number: 048/2023/HCDLC/103

IN THE MATTER of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER of an application by Phanthakan &
Family Limited pursuant to s.14 to
16 and 64 of the Act for an On
Licence renewal in respect of
premises situated at 149 Jackson
Street, Petone, Lower Hutt known
as Smile Elephant Thai Restaurant

BEFORE THE HUTT CITY DISTRICT LICENSING COMMITTEE

This is an application by Phanthakan & Family Limited for an On Licence renewal in respect of premises situated at 149 Jackson Street, Petone, Lower Hutt, known as Smile Elephant Thai Restaurant.

The application was duly advertised and no objection, opposition or notice of desire to be heard has been received. Accordingly I deal with the matter on the papers.

Pursuant to the Sale and Supply of Alcohol Act 2012, the application by Phanthakan & Family Limited for an On Licence renewal is **granted** subject to conditions.

I am satisfied as to the matters to which we must have regard as set out in s.105 and s.106 of the Act.

STATUTORY CRITERIA

Sale and Supply of Alcohol Act 2012

105 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.*

106 *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.*

(2) *In forming for the purposes of [section 131\(1\)\(b\)](#) an opinion on whether the amenity and good order of a locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew a licence, the licensing authority or a licensing committee must have regard to the following matters (as they relate to the locality):*

- (a) *current, and possible future, noise levels:*
- (b) *current, and possible future, levels of nuisance and vandalism.*

131 *Criteria for renewal*

- (1) *In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*
 - (a) *the matters set out in paragraphs (a) to (g), (j), and (k) of [section 105\(1\)](#):*

- (b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:
 - (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of [section 129](#):
 - (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.
- (2) The authority or committee must not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.

REASONS FOR THE DECISION

No objections raised by reporting agencies.

DECISION

The District Licensing Committee Chair, acting pursuant to the Sale and Supply Of Alcohol Act 2012, and under the provisions of the Hutt City Local Alcohol Policy, **grants** an application by Phanthakan & Family Limited for an On Licence renewal for the premises at 149 Jackson Street, Petone, Lower Hutt, trading as Smile Elephant Thai Restaurant, subject to conditions.

Furthermore, the District Licensing Committee Chair grants the applicant a waiver for the advertising error in accordance with section 208 of the sale and Supply of Alcohol Act 2012.

The licence is approved for renewal until 8 December 2025

Conditions:

The licence is subject to the conditions listed on licence no. 048/ON/0037/22

DATED at LOWER HUTT this 22nd day of March 2023



**Simon
Edwards**

Digitally signed by Simon
Edwards
Date: 2023.03.21
21:17:02 +13'00'

**Melissa Grace
Harward**

Digitally signed by
Melissa Grace Harward
Date: 2023.03.23
09:41:01 +13'00'

**Granted by: Simon Edwards
Chair**

**Approved by: Melissa Harward
Secretary**