

28/ON/002/2024 & 28/OFF/002/2024

**IN THE MATTER**

of the Sale and Supply of Alcohol Act 2012 (the Act')

**AND**

**IN THE MATTER**

of an application by **Tenfold Investments Limited** for the renewal of the ON & OFF Licences pursuant to s.127 of the Act in respect of premises situated at 4 Sutton Street, Frasertown, known as the "Frasertown Tavern."

**BEFORE THE WAIROA DISTRICT LICENSING COMMITTEE**

Chairman: Mr. Murray Clearwater  
Member: Mr. Sam Jackman  
Member: Rev Chaans Tumataroa-Clarke

**HEARING** at Wairoa on Monday 28 April 2025

**APPEARANCES**

Ms. Lynley KELSEY– for the applicant Tenfold Investments Limited  
Mr. Tony TAYLOR for the applicant  
Mr. Stephen DOOLE for the applicant

Mr. Chase COOK – Alcohol Licensing Inspector – to assist  
Sergeant Isaac NGATAI– Police Alcohol Harm Prevention Officer (AHPO) – to assist  
Mr. Matt RADFORD- the Medical Officer of Health (MOoH)- to assist.

Mr. Jasper SONTIER for the objector  
Ms. Maria CAIRNS objector

## **RESERVED DECISION OF THE COMMITTEE**

### **Background**

1. The **Frasertown Tavern** was purchased by the Tenfold Group only a few days before the COVID lockdowns began.
2. Since then, it has only opened a few days a week for occasions like Thirsty Thursday and special events such as prize givings, birthday parties and the like.
3. Earlier in 2024 the applicants sought to relocate the gaming machines from the Ferry Hotel in Wairoa to the Frasertown Tavern. The request was denied by the Wairoa District Council and there was significant media and public interest in this process.
4. As a result, this renewal application drew 34 public objections many of which objected to the prospect of gaming machines in Frasertown and a belief that an extension of hours was also being sought.
5. Some objectors said they had been fights and loud noise emanating from the premises.
6. The DLC set the renewals down for a public hearing to assess the concerns of the objectors.

### **Applicant's Evidence**

7. Business Manager, Lynley Kelsey, opened the case for the applicant by telling us about the history of the property and its tenure by Tenfold Investments about 5 years ago. Collectively, the company officers have 21 years' experience in hospitality.
8. They own the Clyde Hotel and the local Wairoa Liquor Centre and recently sold The Ferry Hotel.
9. They have at least 10 certificated managers working across their properties.
10. She advised the Committee that at the time of lodging the renewal applications they had sought to relocate the 12 gaming machines that were in The Ferry Hotel to the Frasertown Tavern. This was refused by Council but the resulting publicity, and the perception that they were seeking longer hours, spawned a number of objections from local townsfolk and from the Community Against Alcohol Harm (CAAH) network via their online portal.
11. Ms. Kelsey said the OFF licence was barely utilised and they sold a couple of boxes a week.

12. In regard to the 'extra' hours being sought Ms. Kelsey confirmed that only the existing licensed hours were sought to give them the flexibility to open on various days, by request, for functions like unveilings, birthdays and prize givings.
13. They do intend to continue to open for a few days a week but would open more often if the demand was there.
14. In response to questions from the Committee Ms. Kelsey advised that Frasertown had a resident population of about 300 and many of their customers were local farmers, shearers and the rugby club players.
15. They operate a courtesy van on the busy nights to get their patrons home safely.
16. It was put to her that there were allegations of noise emanating from the premises late at night. She said they do have a speaker system though which play music and on occasions patrons had turned it up requiring the staff to intervene.
17. She was questioned at length about intoxication and the assessment of patrons. She suggested that if a patron can't put their eft-Pos card in the machine and enter their PIN number then they are deemed to have had too much to drink.
18. We made it clear that in our view that set the bar too high for refusal of service. Fortunately, she said they were open to obtaining some external training sessions through Hospitality NZ as they are members of that organisation.
19. In closing for the applicant, she offered to reduce the closing time from 1.00am to 12.00 midnight and also withdrew the application for the renewal of the OFF Licence if that would help the Committee in our decision-making on whether to renew the licence or not.

### **Inspector's Evidence**

20. The Inspector's report was taken as read and Mr. COOK had nothing further to add other than he believed there were sufficient experienced managers appointed to the business for it to operate safely and responsibly.
21. He agreed with the Committee's inference that the Applicant and it's staff could well do with some additional training around the assessment of intoxication.
22. He noted that despite more than 30 public objections that were received, only 3 indicated a desire to be heard and only one had turned up to the hearing.
23. He confirmed that there had been no noise complaints lodged and substantiated

in recent years.

### **Police Evidence**

24. Sergeant Ngatai appeared for the Police and confirmed that The Frasertown Tavern was not on the Police radar, but they were aware of the young ones and the 'hangers-on's who are drawn to the car park and its surrounds to drink and play up.
25. He confirmed that Frasertown and its catchment area is a vulnerable community and there were two major gang factions domiciled in the district.
26. He was concerned with drug taking and intoxication generally but not specifically related to the Frasertown Tavern.

### **Medical Officer of Health Evidence**

27. Mr. Matt Radford, the Medical Officer of Health for the District, did not oppose the renewal of the licences.
28. We thank him for his, and his teams, attendance on the day.

### **Objector Evidence**

29. Mr. Jasper Sontier appeared as counsel for the sole public objector to attend the hearing.
30. He helpfully took the Committee through the legal principles that are applicable and submitted that to hold a licence is a privilege, not a right and that the applicant must 'put its best foot forward' at renewal time.
31. He told the Committee that Frasertown is a low socio-economic area with high unemployment, low incomes and with many whanau struggling to get by.
32. He touched on suitability and the amenity and good order of the area and that a number of objectors had complained about noise emanating from the premises.
33. He called Ms. Maria Cairns to speak to her objection. Ms. Cairns told us she used to drink at Frasertown but no longer does so. She said there had been fights in the car park and the base noise affected her as she said she lived only 20 metres from the tavern. (This was disputed by the applicant)

34. She also queried why there needed to be an 'extension of hours' and she was concerned for the safety of local whanau and young people generally.
35. In closing for the applicant Mr. Sontier said the district was made up of vulnerable populations, and an elevated mantle existed when considering suitability and the actual, and potential, alcohol related harms arising from licensed premises.
36. If the DLC was minded to approve a renewal the objector sought an assurance that improved staff training and monitoring of the car park would occur, and that the applicant would maintain the courtesy van.

## Relevant legislation

### Section 5 Interpretation

***Tavern- means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public;***

Section 3 of the Act states the purpose of the Act as follows:

- (1) ***The purpose of Parts 1 and 3 and the schedules of this Act is, for the benefit of the community as a whole, –***  
(a) ***to put in place a new system of control over the sale and supply of alcohol, with the characteristics stated in subsection (2); and***  
(b) ***to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.***
- (2) ***The characteristics of the new system are that–***  
(a) ***It is reasonable; and***  
(b) ***Its administration helps to achieve the object of this Act.***

Section 4 states the Object of the Act as follows:

- (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 and indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).***

37. Sections 131/132 of the Act provides the criteria that the licensing committee must have regard to in deciding whether to **approve a renewal** of the licence:

### **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.*

**The clauses in 105 that we must consider are:**

### **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).....*

*(i).....*

*(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.*

### **The Reasons for the Decision**

38. As the Alcohol Regulatory Licensing Authority (ARLA) has said in **Auckland Medical Officer of Health v Birthcare Auckland Ltd [2016] NZARLA 287**<sup>1</sup> we are required to

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<sup>1</sup> Auckland Medical Officer of Health v Birthcare Auckland Ltd [2016] NZARLA 287

***“step back and consider whether there is any evidence to suggest that granting the licence will be contrary to the object of the Act contained in s 4(1), namely that the sale, supply and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.”***

39. In regard to objectors who do not appear before us; The Liquor Licensing Authority said in GRAMMADE ENTERPRISES LIMITED LLA PH648-649/03<sup>2</sup> ***“The objections will have little probative value if those making the allegations in the objection are not able, or prepared, to appear at the hearing to affirm, or swear, to the truth of what they are saying. By not appearing, their opinions and concerns cannot be tested by cross-examination by the applicant or questioned by members of the Authority.”***
40. For the reasons outlined above in Grammade Enterprises, we put reduced weight to the contents of the objections raised by those who chose not to appear before us.
41. We thank Mr. Sontier and Ms. Cairns for making the effort to appearing before us and expressing their concerns. There were other objections from local organisations and the Whetu Marama Marae that appeared to have valid concerns but apparently chose not to support them before us.
42. Many of the objections related to the erroneous belief that the pokie machines were going to be installed in the Tavern and increased hours were being sought. This is not the case.
43. This DLC will always be supportive of members of the community who want to express their concerns. But as we have said in other jurisdictions the blanket ‘Jot Form’ objections promoted by CAAH are very often not evidence based, unsupported, and detract from the real concerns of local people.
44. The Object of the Act must be read in conjunction with the Purpose of the Act, i.e.; that alcohol should be undertaken safely and responsibly, and the administration of the Act is reasonable and benefits the community as a whole. We return to these criteria after we have considered the remaining criterion.
45. Suitability is not established in a vacuum. On paper the applicant company is an experienced licensee with an entourage of experienced certificated managers.
46. In respect of section 105(1)(c) of the Act there is Local Alcohol Policy currently in the Wairoa District. The application and the hours sought are within the parameters of the Act and the LAP.

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<sup>2</sup> GRAMMADE ENTERPRISES LIMITED LLA PH648-649/03

47. The applicant now seeks the days and hours of **Monday to Sunday 9.00am to 12.00 midnight**. This is a 1 hour **decrease** in hours and from the high-risk end of the day.
48. The applicant is no doubt disappointed that it could not transfer the gaming machines to the tavern. They are now committed to operate as a country tavern, (as they have been), and they are principally in the business of providing alcohol and other refreshments.
49. We were told they have done some renovations and plan to do more, i.e. re-roof the building and enhancing the menu and maybe even look at offering a brunch menu for the locals.
50. In regard to training and systems it was clear to the Committee that the applicant, and its staff would benefit from some refresher training from an external training provider. We expect to see recorded evidence of that training at the next renewal.
51. We are prepared to approve a renewal of the licence for three years, with a reduced finish time of no later than 12.00 midnight. We confirm that the application for a renewal of the OFF licence was withdrawn by the applicant and there is no decision for the DLC to make on the OFF licence.
52. The OFF Licence is now deemed to be expired.
53. Overall, we believed that approving the renewal of the ON Licence with the reduction of hours will meet both the Purpose and the Object of the Act.

### **The Decision**

**The Wairoa District Licensing Committee**, acting pursuant to the Sale and Supply of Alcohol Act 2012, **approves** an application by **Tenfold Investments Limited** for the **renewal and variation** of the ON Licence in respect of premises situated at 4 Sutton Street, Frasertown, known as the **Frasertown Tavern, subject to conditions**.

**We have refreshed the licence conditions to reflect best practice.**


**The Licence is renewed for three (3) years from the expiry of the current licence and a Replacement Licence is to be issued on the conditions stated below:**

1. Alcohol may be sold or supplied for consumption on the premises only on the following days and hours: **Monday to Sunday 9.00am to 12.00 midnight**;



2. No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1pm on Anzac Day to any person other than a person who is on the premises to dine;
3. The whole of the premises is designated as a **Supervised Area**;
4. Drinking water is to be provided to patrons free of charge from a water supply prominently situated on the premises;
5. The Licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages,
6. Food must be available for consumption on the premises at all times the premises are open for the sale and supply of alcohol, in accordance with the sample menu supplied with the application for this licence or menu variations of a similar range and standard. Menus must be visible, and food should be actively promoted,
7. A properly appointed certificated or Acting or Temporary Manager must be on duty at all times when the premises are open for the sale and supply of alcohol, and their full name must be on a sign prominently displayed-in the premises,
8. The Licensee must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises including the courtesy van,
9. The Licensee must display:
  - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
  - b. At the principal entrance to the premises, so as to be easily read by people immediately outside the premises, a sign stating the ordinary hours of business during which the premises will be open for sale of alcohol;
  - c. A copy of the licence attached to the premises so as to be easily read by persons attending the premises.

**DATED** at Wairoa this 15<sup>th</sup> day of May 2025

A handwritten signature in black ink, appearing to be 'Abraham', written over a horizontal line.

Murray Clearwater  
Commissioner  
For the Wairoa District Licensing Committee

**NOTE**

**Sections 152, 154 and 155 of the Act relating to the right to appeal this decision are in effect. This decision has no effect for 10 working days after the date on which notice of this decision is given to the objector.**

28/ON/002/2024  
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## **ON-LICENCE**

(For Premises)

Sections 14 and 64, Sale and Supply of Alcohol Act 2012

PURSUANT to the Sale and Supply of Alcohol Act 2012 (the Act) **TENFOLD INVESTMENTS LIMITED** is authorised to sell and supply alcohol on the premises situated at **4 SUTTON STREET, FRASERTOWN** and known as "**FRASERTOWN TAVERN**", for consumption on the premises to **any person who is present on the premises** and to allow the consumption of alcohol on the premises by any such person.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Subpart 7 of Part 2 of the Act.

### **CONDITIONS**

This licence is subject to the following conditions:

1. Alcohol may be sold or supplied for consumption on the premises only on the following days and hours: **Monday to Sunday 9.00am to 12.00 midnight;**
2. No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1pm on Anzac Day to any person other than a person who is on the premises to dine;
3. The whole of the premises is designated as a **SUPERVISED AREA;**
4. Drinking water is to be provided to patrons free of charge from a water supply prominently situated on the premises;
5. The licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages;
6. Food must be available for consumption on the premises at all times the premises are open for the sale and supply of alcohol, in accordance with the sample menu supplied with the application for this licence or menu variations of a similar range and standard. Menus must be visible, and food should be actively promoted;
7. A properly appointed certificated, or Acting or Temporary, manager must be on duty at all times when the premises are open for the sale and supply of alcohol and their full name must be on a sign prominently displayed in the premises;
8. The licensee must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises.
9. The Licensee must display:
  - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons.
  - b. At the principal entrance to the premises, so as to be easily read by people immediately outside the premises, a sign stating the ordinary hours of business during which the premises will be open for sale of alcohol.
  - c. A copy of the licence attached to the premises so as to be easily read by persons attending the premises.

### **THE LICENSED PREMISES**

In terms of Section 5 of the Sale and Supply of Alcohol Act 2012, the sale, supply, or consumption of alcohol is authorised in the whole of the premises. The premises, situated at 4 Sutton Street Frasertown, is more precisely identified as outlined in a plan date stamped as received by the Wairoa District Licensing Committee on 4 November 2024.

### **DISPLAY OF LICENCE AND PRINCIPAL ENTRANCE/S**

A copy of this licence must be displayed at the principal entrance to the premises. The entrance from Sutton Street is designated as the principal entrance.

### **DURATION**

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force until the close of the period for which it is renewed.

Renewed and varied at Wairoa this 6<sup>th</sup> day of June 2025



.....  
COMMISSIONER  
WAIROA DISTRICT LICENSING COMMITTEE

Rating: **MEDIUM**



This licence expires on: **12 August 2027**