

## ŌTOROHANGA DISTRICT LICENSING COMMITTEE

<b>Decision</b>	018-0524
<b><u>IN THE MATTER</u></b>	of the Sale and Supply of Alcohol Act 2012
<b><u>AND</u></b> <b><u>IN THE MATTER</u></b>	of an application by Jack Francis Walters for an off-licence in respect of the premises at 189 Kawhia Road, Ōtorohanga known as Pungent Pukeko pursuant to section 40 of the Act

### DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The application for an off-licence endorsed for the remote sale of alcohol by using an internet site (pursuant to section 40) is granted. The licence may issue upon payment of the annual fee.
2. This licence continues in force until the close of the period of 12 months after the day it is issued.
3. The licence is subject to the following conditions:
  - (a) Alcohol may be sold at any time, on any day, while always trading as a remote seller.
  - (b) Alcohol must not be delivered on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day, or between 11:00pm and 6:00am the following day.
  - (c) Alcohol sales are limited to only those manufactured by Jack Francis Walters trading as Pungent Pukeko.
  - (d) The licensed premises is described in the plan date stamped as received by the Hamilton District Licensing Committee on 11 October 2024.
  - (e) The licensee must take reasonable steps to verify that the buyer and the receiver of an alcohol delivery is not under 18 years of age, and that the receiver (where present) is not intoxicated.
  - (f) The outside of the delivery package must contain a label with the following words:  
CONTAINS ALCOHOL
    - Do not leave at destination without proof of delivery.
    - Do not deliver to intoxicated persons or persons under 18 years of age.
  - (g) A copy of the licence must be displayed on the Pungent Pukeko internet site in a prominent place.

- (h) Every receipt for the sale of alcohol by remote sale must contain the licence holder's name, licence number and the date on which the licence expires.

## **REASONS**

1. This is an application by Jack Francis Walters for an off-licence endorsed for the remote sale of alcohol by using an internet site in respect of the premises situated at 189 Kawhia Road, Ōtorohanga known as Pungent Pukeko. Jack Francis Walters is a natural person and is a part-time music teacher at Hamilton Boys High School. He has been distilling and fermenting alcohol following a late family member's recipe as a hobby for the last 3 years and recently has decided to turn the hobby into business. The premises and distillation processes has been audited and certified by Customs New Zealand and is complying with the Food Safety rules regulated by the Ministry of Primary Industry, including a Registration under a National Programme 3, audited by a verifier. The applicant produces gin (made from ingredients other than grapes) and brandy (made from grapes) of ABV 40 to 60%.
2. The application was advertised, and no objections have been received from members of the public. The Liquor Licensing Inspector, Police and the Medical Officer of Health have provided reports and do not oppose the application. Accordingly, the matter is decided on the papers (s 134).
3. The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol is minimised (s 4). In deciding whether to grant an off-licence endorsed for the remote sale of alcohol by using an internet site the licensing committee must have regard to sections 40, 49, 59 and 105 of the Act. Therefore, this committee must consider the following questions within the framework of the purpose and object of the Act:
  - a) Is the applicant suitable?
  - b) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
  - c) Does the applicant have appropriate systems, staff and training to comply with the law?
  - d) Does the applicant have a copy of the licence displayed in a prominent place on their internet site?
  - e) Does the applicant have the licence holder's name, licence number and the date on which the licence expires printed on each receipt for the remote sale of alcohol?
  - f) Has the applicant taken reasonable steps to ensure that alcohol is not sold to or received by persons under the age of 18 years?
  - g) Is the design and layout of the premises suitable?
  - h) Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
  - i) Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of licence?
  - j) Should it be a condition of the licence that a manager be on duty for particular days and times?
  - k) Have the police, inspector and medical officer of health raised any relevant considerations?
  - l) Does the application comply with the Ōtorohanga District Local Alcohol Policy?

### **Is the applicant suitable?**

4. The licensing committee is satisfied that Jack Francis Walters is a suitable applicant to hold an off-licence endorsed for the remote sale of alcohol by using an internet site. Jack has obtained the LCQ qualification and has made an application for a Manager's Certificate.

**Are the days and hours during which the applicant proposes to sell alcohol reasonable?  
Does the applicant have appropriate systems, staff and training to comply with the law?  
Does the applicant have a copy of the licence displayed in a prominent place on their internet site? Does the applicant have the licence holder's name, licence number and the date on which the licence expires printed on each receipt for the remote sale of alcohol?  
Does the application comply with the Local Alcohol Policy?**

5. Jack Francis Walters has applied for a licence with sales permitted at any hour. This is appropriate because the holder of a licence endorsed for remote sales can sell alcohol at any time (section 49). However, alcohol cannot be delivered on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day, or between 11.00pm and 6.00am the following day (section 59(1)).
6. The licensing committee is satisfied that once Jack Francis Walters obtains his Manager's Certificate she will be appointed as the duty manager for Pungent Pukeko and will ensure that all remote sales of alcohol comply with the Act.
7. The licensing committee is satisfied that Jack Francis Walters will display the licence on the internet site and will ensure that the appropriate details are displayed on receipts.
8. The application has been assessed against the Ōtorohanga District Local Alcohol Policy 2024 and complies with the policy. We have formed the view that the distillery is likely to be low risk in terms of alcohol related harm. Jack only seeks to sell his own gin products manufactured on his property. This will be marketed as a premium product and therefore appeal to a specialised market.

**Has the applicant taken reasonable steps to ensure that alcohol is not sold to or received by persons under the age of 18 years?**

9. Jack Francis Walters is taking appropriate steps to ensure no sales are made to or received by persons under the age of 18 years. When a customer enters the website, they will be asked to confirm that they are over 18 years of age. Age verification will also be required at the point of purchase.

**Is the design and layout of the premises suitable?**

10. The distillation process and alcohol products will be stored at the premises and in the garaging area. This is a rural property and there is no signage advertising alcohol on site. The licensing committee is satisfied that the design and layout of the premises is suitable for a remote sale operation.

**Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?**

11. Jack Francis Walters does not engage in the sale of goods or services other than those directly relating to the remote sale of alcohol.

**Will the amenity and good order of the locality be reduced to more than a minor extent by the effects of the issue of licence?**

12. The licensing committee is satisfied that the grant of an off-licence endorsed for the remote sale of alcohol by using an internet site to Jack Francis Walters will not have a negative effect on the good order of the locality.

### Remote sale conditions

13. Under Section 18(1) of the Act, the holder of an off licence is entitled to sell alcohol on or from the premises the licence is issued for and deliver it somewhere else.
14. The proposed remote sale conditions reiterate the provisions in sections 18 & 49 of the Sale and Supply of Alcohol Act 2012 and regulations 14 & 15 of the Sale and Supply of Alcohol Regulations 2013 in a general sense. The Licensing Committee has formed a view that there is a benefit in adding remote sale conditions that repeat statutory requirements because they draw the licensee's attention to the statutory requirements and serve as a useful reminder and training tool for staff. Therefore, remote sale conditions are included in the licence as a reminder about general obligations when providing this service.
15. Jack Francis Walters has consented to these conditions.

### Conclusion

16. Therefore, the application for an off-licence is granted.

Dated this 19th day of November 2024



Tegan McIntyre  
Commissioner  
Ōtorohanga District Licensing Committee