

OFF LICENCE

Sections 17 to 20, and 64, Sale and Supply of Alcohol Act 2012

ARLA Ref: 59/OFF/097/2020

Pursuant to the Sale and Supply of Alcohol Act 2012 (the Act), **WINE PLUS GIFTS LIMITED** (the licensee) is authorised to sell or deliver alcohol on or from the premises situated at **25 Faulks Drive, Lincoln** and known as "**WINE PLUS**", to any person for consumption off the premises and to supply complimentary samples of alcohol on the premises.

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 – SECTION 116 (2)

- (a) No alcohol may be sold or delivered on Good Friday, Easter Sunday, Christmas Day or before 1pm on ANZAC Day or contrary to sections 49 or 59 (1) of the Act.
- (b) Alcohol may only be sold or delivered on the following days and during the following hours:

Monday to Sunday from 7.00am to 9.00pm

(d) The licensee must take steps to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed.

(e) The following step must be taken to ensure that the provisions of the Act relating to the management of the premises concerned are observed:

- Alcohol must only be sold and supplied from within the area marked on the plan submitted with the application.

ENDORSEMENT – SECTION 40

(f) The following information must be displayed on the internet site in a prominent place, in any catalogue used by the licence holder and on any receipt issued for any alcohol sold via the internet site:

- (i) The licence holders name, the licence number and the date on which the licence expires.
- (ii) A legible image of the licence, or clearly identified link to such an image must be displayed in a prominent place on the internet site.

(g) The following steps must be taken to verify that people are over the purchase age:

- (i) In the case of an order made using an internet site the prospective buyer must declare by ticking an on-screen box, that he or she is 18 years of age (and where the prospective receiver is involved, that the prospective receiver is also 18 years of age or over) –
- (ii) Once, when the prospective buyer first enters the internet site; and
- (iii) Again, immediately before the sale of any alcohol is completed.

(h) The following step must be taken to promote the responsible consumption of alcohol:

- The licensee must implement and maintain the steps proposed in their Host Responsibility Policy aimed at promoting the reasonable consumption of alcohol.

(i) No direct sales may be made from the premise.

OTHER RESTRICTIONS AND REQUIREMENTS

Section 59 – Requirements relating to remote sales by holders of off-licences

Section 214 – Manager to be on duty at all times and responsible for compliance

Section 215 – Circumstances where section 214 does not apply (for remote sales)

THE LICENSED PREMISES

The premises situated at 25 Faulks Drive, Lincoln are more precisely identified as outlined in a plan date stamped as received by the Selwyn District Licensing Committee on the 5th day of March 2020.

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 Faulks Drive is designated as the principal entrance.

DURATION

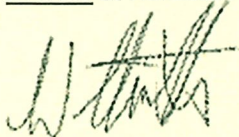
Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force -

- (a) either -
 - (i) until the close of the period for which it was last renewed; or
 - (ii) if it has never been renewed, until the close of the period of 12 months after the day it was issued; but
- (b) if an application for the renewal of the licence is duly made before the licence would otherwise expire, either –
 - (i) until the close of the period of 3 years after the period for which it was last renewed; or
 - (ii) if it has never been renewed, until the close of the period of 4 years after the day it was issued.

Subject to the requirements above, **the licence expires on the 8th of day April 2023**, unless again renewed.

NOTE: This licence replaces licence number 59/OFF/075/2018 issued by the Selwyn District Licensing Committee.

DATED at Rolleston this 21st day of April 2020



Secretary
Selwyn District Licensing Committee



Decision No. R/59/097/2020

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **WINE PLUS GIFTS LIMITED** for the renewal of an OFF Licence pursuant to s.127 of the Act in respect of premises situated at **25 Faulks Drive, Lincoln** and known as **"Wine Plus"**.

BEFORE THE SELWYN DISTRICT LICENSING COMMITTEE:

Chairman: S M Griffin

ON THE PAPERS DECISION

This is an application for the renewal of an off licence endorsed under section 40 of the Sale and Supply of Alcohol Act 2012. The applicant seeks the same terms and conditions as attached to the current licence.

The current licence is **59/OFF/075/2018**.

The premises are located in a residential dwelling at 25 Faulks Drive, Lincoln. There will be no direct sales from the premises. Sales will take place via the internet and this will be done through an office/storage area in the residence.

The application was duly advertised and no public objection, or notice of desire to be heard, has been received.

No matters have been raised in opposition in any reports as required by section 129 of the Act accordingly we deal with the matter on the papers.

The Alcohol Licensing Inspector reports that the company has traded for a year in a new residential part of Lincoln. The business sells gift boxes via a website. The gift boxes include an array of edible goods and bottles of wine or liqueur may be added. The gift boxes are couriered to the customer. If alcohol is included in the gift box precautions are in place to ensure the recipient is of the required age.

One of the company directors is a qualified manager.

The applicant has requested that the license continues to be endorsed under section 40 of the Sale and Supply of Alcohol Act 2012.

No designation is sought for the premises, which is appropriate for the type of premises.

We are satisfied as to the matters to which we must have regard as set out in s.105 and 131 of the Act and we grant the renewal of the off-licence pursuant to s.130(1) for 3 years. The endorsement under section 40 is included.

The applicant's attention is drawn to s.259 of the Act which makes it an offence to not comply with certain requirements and restrictions imposed by or under this Act. Specifically sections 46 to 63 and s.231(1).

The applicant must comply with all conditions specified on a licence.

The applicant's attention is also drawn to section 14 of the Regulations requiring procedures to be put in place in any ordering process to ensure that persons purchasing alcohol are over the minimum purchase age and that any prospective receiver of alcohol (if sent to another person) is also over the minimum purchase age. Once when first entering the site and again immediately before the sale of any alcohol is completed.

And in terms of section 15 the internet site must include a legible image of the licence or a clearly identified link to such an image. On every receipt or in every catalogue the Licence holder's name, the licence number and the expiry date of the licence must be printed.

The licence is specifically subject to sections 49 and 59 of the Act relating to times when alcohol must not be delivered and specific requirements on the holder of the licence relating to age verification and other requirements.

The licence will be subject to the following conditions and all other conditions as identified on the licence.

ENDORSEMENT (Remote Sellers of Alcohol):

Section 40 of the Act applies to the licence, the licensee is authorised to sell alcohol from the premises and deliver it somewhere else.

Section 59 - Conditions applying to all remote sales for the sale and supply of alcohol:

- (a) The following information must be displayed on the internet site in a prominent place, in any catalogue used by the licence holder and on any receipt issued for any alcohol sold via the internet site:
 - (i) The licence holders name, the licence number and the date on which the licence expires.
 - (ii) A legible image of the licence, or clearly identified link to such an image must be displayed in a prominent place on the internet site.
- (b) The following steps must be taken to verify that people are over the purchase age:
 - (i) In the case of an order made using an internet site the prospective buyer must declare by ticking an on screen box, that he or she is 18 years of age (and where the prospective receiver is involved, that the prospective receiver is also 18 years of age or over); and
 - (ii) Once when the prospective buyer first enters the internet site; and
 - (iii) Again, immediately before the sale of any alcohol is completed.

Section 116(2) - Compulsory conditions:

The following conditions are compulsory:

- (a) No alcohol is to be delivered on Good Friday, Easter Sunday, Christmas day or before 1pm on Anzac Day or contrary to sections 49 or 59(1) of the Act.
- (b) Alcohol may be sold on the following days and during the following hours:

Monday to Sunday from 7.00am to 9.00pm

Section 116(1) - Discretionary conditions – section 116(1):

- (a) The licensee must take steps to ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed.
- (b) The following step must be taken to ensure that the provisions of the Act relating to the management of the premises concerned are observed:
 - (i) Alcohol must only be sold and supplied within the area marked on the plan submitted with the application.

Section 117 – Other discretionary conditions:

- (a) The following step must be taken to promote the responsible consumption of alcohol:
 - (i) The licensee must implement and maintain the steps proposed in their Host Responsibility Policy aimed at promoting the reasonable consumption of alcohol.
- (b) No direct sales may be made from the premise.

Other restrictions and requirements:

Section 59 – Requirements relating to remote sales by holders of off-licences

Section 214 – Manager to be on duty at all times and responsible for compliance

Section 215 – Circumstances where section 214 does not apply (for remote sales).

THE LICENSED PREMISES

The premises are identified on the plan provided with the application for a licence.

DATED at CHRISTCHURCH this 31st day of March 2020.



Chairman
Selwyn District Licensing Committee





SALE AND SUPPLY OF ALCOHOL ACT 2012

RENEWAL OF OFF-LICENCE

LICENSING INSPECTORS REPORT PURSUANT TO SECTION 129 SALE AND SUPPLY OF ALCOHOL ACT 2012.

Application by **Wine Plus Gifts Limited**, trading as **Wine Plus**, for the renewal of Off-Licence pursuant to Section 127 of the **Sale and Supply of Alcohol Act 2012**

Inspector:	Malcolm Johnston
Application type:	Renewal of Off-Licence (Remote Sales)
Date of Application:	2 March 2020
Applicant:	Wine Plus Gifts Limited
Premises Address:	25 Faulks Drive, Lincoln
Trading Name:	Wine Plus
Principal purpose:	Off-Licence - Remote Sales.

1. EXECUTIVE SUMMARY:

- 1.1 Wine Plus Gifts Limited has applied for the renewal of their remote sales off-licence pursuant to section 127 of the Act for the premises known as Wine Plus, situated at 25 Faulks Drive, Lincoln. The premises are currently trading under an off-licence pursuant to licence number 59/OFF/075/2018, issued by this committee on 8 April 2019.
- 1.2 Wine Plus is located in a new residential part of Lincoln. Sales are made remotely with occasional courier pick-ups from the applicant's address. There is no reason to believe that the issue of this licence will disadvantage any neighbouring landowner or occupier.
- 1.3 The business has been in operation for a year now and has become very successful. The applicant is now seeking a three year renewal to continue

operating. The business involves customers purchasing gift boxes online. The gift boxes include an array of edible gifts such as chocolates and often includes bottles of wine or liqueur. The gift boxes are couriered to the customer. All precautions are taken to ensure the recipient is of the required age.

- 1.4 The applicant seeks the same terms and conditions as the licence currently in force on the premise. The current licence expires on 8 April 2020.

2. **SUITABILITY OF THE APPLICANT:**

- 2.1 Wine Plus Gifts Limited is a private company. Fay and Nicholas Lowry are the two directors and shareholders (50% each) of the company. Their company was incorporated on 8 February 2019.
- 2.2 I discussed the renewal application with the applicant on Wednesday 11 March 2020. Fay explained that only very rarely would a customer call to uplift wine themselves. By far the vast majority is couriered to the customers address. In my view the sale and supply of alcohol under these conditions is consistent with the purpose of The Act and meets the criteria of Section 131 of the Act.
- 2.3 Fay Lowry has a current manager's certificate 59/Cert/673/2019. She has completed her LCQ course and also undertook the online Serve-Wise Course.
- 2.4 The applicant's host responsibility policy is appropriate.

3. **LOCAL ALCOHOL POLICY:**

- 3.1 The application complies with the current local alcohol policy.

4. **DAYS AND HOURS SOUGHT:**

- 4.1 The applicant has sought the following hours:

Monday to Sunday from 7.00am to 9.00pm

5. **DESIGN AND LAYOUT OF THE PREMISES:**

- 5.1 The layout is indicated on the attached plan dated 5 March 2020, this complies with the requirements of Section 105 of the Act.
- 5.2 The applicant is reminded that alcohol can only be sold and supplied within the area marked on the plan.

6. **SALE OF GOODS OR SERVICES OTHER THAN ALCOHOL OR FOOD:**

- 6.1 Gift boxes.

7. **AMENITY AND GOOD ORDER:**

- 7.1 The applicant's property is situated in a residential area surrounded by residential houses.
- 7.2 Council and Police confirm there have not been any complaints for noise or nuisance. None are expected. The occasional courier van is the only traffic that neighbours may observe.

8. **SYSTEMS STAFF AND TRAINING:**

- 8.1 The applicant has supplied the following list of managers names:

Fay Michelle Lowry, Certificate: 59/CERT/673/2019

- 8.2 I consider Fay suitable to manage this business.

9. **REPORTS FROM POLICE AND MEDICAL OFFICER OF HEALTH:**

- 9.1 Neither Police nor Medical Officer of Health have any objection to this renewal being granted.

10. **RESOURCE MANAGEMENT AND BUILDING CERTIFICATE:**

- 10.1 The application and trading hours comply with the legislation in the Act.
- 10.2 The residence at 25 Faulks Drive has a certificate of compliance.
- 10.3 The applicant has completed the Fire Evacuation Statement advising that the premises does not require an evacuation scheme as outlined by Section 76 of the Fire and Emergency New Zealand Act 2017. Fire evacuations for private residences do not require evacuation schemes.

11. **PUBLIC NOTIFICATION:**

- 11.1 The appropriate public notice was placed on the Council Website, as well as a copy placed on site at the licensed premise. The notices remained in place for the minimum period of 10 business days.
- 11.2 No objections were received.

12. ASSESSMENT CRITERIA FOR RENEWALS - SECTIONS 105 AND 131:

S105(1)(a) Considering this application in light of the object of the Act will the granting of a licence as detailed in this application increase alcohol harm more than a minor amount?

ANSWER **The Object of the Act has two limbs and should be read together with the purpose when assessing an application. In assessing any application for a licence or the renewal of a licence the question must be asked will the granting of this application fit with the intent of the object of the Act.**

Heath J put in in *Re Venus NZ Ltd* [2015] NZHC 1377 at [20];

"Although the "object" of the 2012 Act is stated as one of 11 criteria to be considered on an application for an off-licence, it is difficult to see how the remaining factors can be weighed, other than against the "object" of the legislation. It seems to me that the test may be articulated as follows: is the Authority satisfied, having considered all relevant factors set out in s 105(1)(b) – (k) of the 2012 Act, that the grant of an off-licence is consistent with the object of that Act?"

Assessment can be summarised by the following evaluation of the two limbs:

Will the sale or supply of alcohol be undertaken safely and responsibly on this premises?

From the application and the documents filed with it and information available from my enquiries, I am satisfied that the applicant has provided sufficient information to satisfy that all the criteria are met. On assessing this information I consider that the proposed application is consistent with the safe and responsible sale and supply of alcohol.

Do we have confidence that the steps proposed will minimise, as far as possible, harm caused by the excessive or inappropriate consumption of alcohol?

After considering the information provided with the application and considering the suitability of the applicant, I have confidence that the applicant will comply with the licence conditions.

S105(1)(b). Is there any information available to show that the applicant is unsuitable to hold a licence?

ANSWER **No.**

S105(1)(c) Is there any conflict in what is being applied for with the requirements of the current Local Alcohol Policy?

ANSWER	No.
<u>S105(1)(d)</u>	<u>Are there any concerns relating to the days and hours sought during which it is proposed that alcohol will be sold?</u>
ANSWER	No concerns exist.
<u>S 105(1) (e)</u>	<u>Any additional comment about the design and layout of the premises?</u>
ANSWER	Design and layout is fine.
<u>S 105(1)(f)</u>	<u>Describe the nature of any goods, if any, the applicant intends to sell other than alcohol, low alcohol refreshment, non-alcoholic refreshments and food?</u>
ANSWER	Nil.
<u>S 105(1)(g)</u>	<u>Describe the nature of any services, if any, the applicant intends to provide, other than those directly related to the sale of alcohol, low alcohol refreshment, non-alcoholic refreshments and food?</u>
ANSWER	Nil.
<u>S 105(1)(j)</u>	<u>Does the applicant have the appropriate systems staff and training to comply with the law?</u>
ANSWER	Manager Fay Lowry has undergone appropriate training including serve-wise.
<u>S 105(1)(k)</u>	<u>Reports from the Police and Medical Officer of Health</u>
ANSWER	Police and Medical Officer of Health have reported within the statutory timeframe. They are not opposed.
<u>S131(1)(b).</u>	<u>Would the amenity and good order of the locality be increased by more than a minor extent by the effects of a refusal to renew the licence?</u>
ANSWER	No. There are no amenity and good order issues whatsoever.
<u>S131(1)(c).</u>	<u>Any matters dealt with in any report from the Police, an inspector, or a Medical Officer of health made by virtue of Section 129?</u>
ANSWER	Nil.
<u>S131(1)(d)</u>	<u>Are there any concerns about the matter in which the applicant has sold and supplied, displayed, advertised or promoted alcohol?</u>
ANSWER	No.

13. APPOINTMENT OF DUTY MANAGERS – RESPONSIBILITY OF LICENSEE:

- 13.1 The applicant is reminded that the duty manager is responsible for compliance with the conditions of the licence and enforcement of the Act at all times. The licensee is responsible for appointing duty managers.
- 13.2 The licensee must notify the District Licensing committee and the Licensing Sergeant of Police of the appointment or termination of employment of any certificate holding duty manager. This must be done using a 'Notice of Management Change Form'.

14. ACTING/TEMPORARY DUTY MANAGERS:

- 14.1 If you appoint an acting or temporary duty manager, their full name must be displayed. You must notify the agencies using the 'Notice of Management Change Form' if the appointment of an acting manager is for more than 48 hours. You must always notify the agencies of the appointment of a temporary duty manager.

15. RECORD OF APPOINTMENT OF DUTY MANAGERS:

- 14.1 A Licensee must keep a record of appointments in a form that is readable and retrievable and meets the information requirements under the Regulations made under this Act.

16. CONDUCT OF THE LICENCE:

- 16.1 An appropriate host responsibility plan was submitted.

17. RECOMMENDATION:

- 17.1 I recommend the application from **Wine Plus Gifts Limited**, trading as **Wine Plus**, for the renewal of their off-licence 059/OFF/075/2018, be granted with the following conditions for a duration of three years with a proposed expiry date of **8 April 2023**.

RECOMMENDED CONDITIONS.

Section 116(1) – Discretionary Conditions

(a)The licensee must take the following steps to ensure that the provisions of this Act relating to the sale and supply of alcohol to prohibited persons are observed:

- Appropriate signs must be displayed 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.

(b)The licensee must take the following steps to ensure that the provisions of this Act relating to the management of the premises concerned are observed:

- Alcohol must only be sold, supplied and consumed within the area marked on the plan submitted with the application.

Section 116(2) – Compulsory conditions

- (a) No alcohol is to be delivered on Good Friday, Easter Sunday, Christmas Day, or before 1pm on Anzac Day.
- (b) No alcohol is to be delivered contrary to Sections 49 and 59(1) of the Act.
- (c) Alcohol may only be sold or supplied on the following days and during the following hours:

Monday to Sunday from 7.00am to 9.00pm

- (d) Water must be freely available to customers, while alcohol is being supplied free as a sample on the premises.

Section 117 – Other discretionary conditions

- (a) The following step must be taken to promote the responsible consumption of alcohol:
 - The licensee must implement and maintain the steps proposed in their Host Responsibility Policy aimed at promoting the reasonable consumption of alcohol.

Section 119 – Restricted or supervised areas

Nil.

ENDORSEMENT – SECTION 40

Conditions applying to all remote sales for the sale and supply of alcohol:

- (a) The following information must be displayed on the internet site in a prominent place, in any catalogue used by the license holder and on every receipt issued for any alcohol sold via the internet site:
 - The licence holders name, the licence number, and the date on which the licence expires.
 - A copy of the licence or a clearly identified link to such an image must be displayed in a prominent place on the internet site.
- (b) The following steps must be taken to verify that people are over the purchase age:
 - i) In the case of an order made using an internet site, telephone order, or physical order the prospective buyer must declare that he or she is 18 years of age or over (and where the prospective receiver is involved that the prospective receiver is also 18 years of age or over) -
 - (i) once, when the prospective buyer first commences the order process; and
 - (ii) again, immediately before the sale of alcohol is completed.

Other restrictions and requirements to be noted on the licence

I recommend that the following restrictions and requirements be noted on the licence:

Section 56 – Display of signs

Section 57 – Display of licences

Section 59 - Requirements relating to remote sales by holders of off-licences.



Malcolm Johnston
Chief Licensing Inspector

12 March 2020