

*Transport Licensing Authority Sitings*Decision No. 3/86
BRO. 84/85, 90/85

PURSUANT to the Transport Act 1962, the Auckland Transport Licensing Authority, the No. 2 Transport District Licensing Authority and Harbour Ferry Licensing Authority (J. M. Foster), gives notice of the receipt of the following applications and will hold public sittings in the Conference Room, Ninth Floor, Customhouse, Quay Street, Auckland at the time and date stated to hear evidence for or against granting them

Monday, 3 March 1986 at 10 a.m.

P2/47 Johnstons Blue Motors Ltd.: Amend Passenger Transport Service Licence No. 18166 by adding as a special condition the following new service—Airport Terminal—old Papatoetoe—Manukau City Centre—Motorcamp and Ryan Place—Hunters Corner—Walkers Travel Otahuhu—Domestic Terminal—International Terminal.

The full details of route and timetable are available for sighting at the office of the Secretary, Transport Licensing Authority, Ministry of Transport, Ninth Floor, Customhouse Building, Quay Street, Auckland.

P2/48 Howick and Eastern Buses Ltd.: Amend Passenger Transport Service Licence No. 15666 by adding Special Condition (C). The licensee is authorised to operate on a trial basis a scheduled route service between Howick and Penrose. Depart Howick 6.25 a.m. 7.40 a.m. Depart O'Rourke Road 4.20 p.m. 5 p.m. (The trial period is to end 10 August 1986.) The full description of the route proposed to be travelled may be sighted at the office of the Secretary, Transport Licensing Authority.

T2/39 Ernest Bruce Cleghorn: Transfer Taxicab Service Licence No. 12237 to Murray Francis Mabbett and Raewyn Gail Mabbett.

T2/43 David Henry Clark: Transfer Taxicab Service Licence No. 9291 to Stephen Phillip Duder.

T2/4 Javeta Arthur: Transfer Taxicab Service Licence No. 9217 to Christopher James Holmes Hill.

T2/922 Ueli Ah Chong and Fealofai S. Burgess: Transfer Taxicab Service Licence No. 12404 to Ueli Ah Chong.

T2/38 Estate of the late Lawrence Desmond Dell: Lease Taxicab Service Licence No. 9709 to Lindsay Gordon Johnston.

T2/19 Thomas Albert: Transfer Taxicab Service Licence No. 12428 to Paul Michael Albert.

T2/49 Frank Dun Robin Findlay: Transfer Taxicab Service Licence No. 12515 to Emere Sone Paula and Jacob Tafafao Schuster.

Monday, 3 March 1986, at 2 p.m.

G2/34 Dominion Breweries Ltd.: Amend Goods Transport Service Licence No. 15756 by adding a special condition to exempt one motor vehicle from section 109 (1) of the Transport Act 1962 to carry throughout New Zealand a wagon for display purposes with horses.

G2/983 James Verdon Mantell: A new Goods Transport Service Licence.

G2/960 David John Cunningham: A new Goods Transport Service Licence.

G2/704 Terangi Isaia Woonton: A new Goods Transport Service Licence.

G2/931 Roger Steven Brydone: A new Goods Transport Service Licence.

Dated at Auckland this 4th day of February 1986.

J. H. McCARTHY, Secretary.

Transport Licensing Authority.

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Transport Licensing Authority Sitting

PURSUANT to the Transport Act 1962, the Auckland Transport Licensing Authority, the No. 2 Transport District Licensing Authority and Harbour Ferry Licensing Authority (J. M. Foster), gives notice of the receipt of the following applications and will hold a public sitting in the Conference Room, Ninth Floor, Customhouse, Quay Street, Auckland at the time and date stated to hear evidence for or against granting them.

Tuesday, 4 March 1986 at 10 a.m.

T2/50 Mark Selwyn Rota: A New Taxicab Service Licence to operate from within the South Auckland taxi area—one public hire cab authority.

Dated at Auckland this 4th day of February 1986.

J. H. McCARTHY, Secretary.

Transport Licensing Authority.

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Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of applications by the BROADCASTING CORPORATION OF NEW ZEALAND in respect of 1ZM (AM-19/1ZM):

Chairman: B. H. Slane.

Member: Robert Boyd-Bell.

Hearing: Auckland, 28 January 1986.

Counsel: M. J. O'Brien Q.C. and B. Hudson for the Broadcasting Corporation of New Zealand.

S. P. Bryers for Hauraki Enterprises Ltd.

A. C. Sorrell for Stereo FM Ltd.

B. H. Giles and P. J. Spring for Independent Broadcasters Association Inc.

B. G. Impey for Metropolitan FM Ltd.

J. D. Shale for Southern County Road Ltd.

APPLICATIONS FOR ADJOURNMENT—REASONS FOR DECISION

THE Broadcasting Corporation of New Zealand (BCNZ) applications were for—

(1) The recommercialisation of 1ZM by deleting the present condition which made the station non-commercial but with the right to limited sponsorship, and

(2) The conversion of the station from AM to FM.

Mr Sorrell had applied for a special sitting of the Tribunal for the purpose of considering an adjournment of the application, the grounds for which he set out in a letter. The Tribunal did not consider it necessary to convene specially to hear the application and dealt with the request for adjournment on 17 January 1986 in a minute which was issued to all parties.

When the hearing of the BCNZ applications was to commence, Mr Shale sought an adjournment. Applications for adjournment were also made by Mr Sorrell and Mr Impey and were supported by Mr Giles. The applications for adjournment were opposed by Mr O'Brien.

The Tribunal heard and considered the question of adjournment anew. After retiring to consider the arguments presented to the Tribunal, the requests for adjournment were declined but the Tribunal indicated that the reasons would be given in writing.

The arguments put to the Tribunal can be summarised briefly as follows:

Mr Shale

1. That the BCNZ applications had been set down pursuant to the notice from the Minister. (The Chairman informed Mr Shale that this was not correct.)

2. The Minister's notice was not a direction to the Tribunal and the Tribunal had misconstrued the legal effect of the notice and had failed to distinguish the notice (which publicised a statement of Government policy) from a direction in writing with which it must comply.

3. That in correspondence with the Registrar the applicant had been told there was no need to lodge an application and it had therefore been prejudiced.

4. Similar information had been given to others.

5. Thus priority had been gained over others by the present applicant. Nobody should be entitled to steal a march.

6. To proceed now would be in breach of the principles of natural justice.

7. Despite the Tribunal's statement in its minute that the parties would be aware of the application by the BCNZ, Mr Shale was unaware that the BCNZ intended to make such an application.

8. The notice indicates that the young adult programme is to be developed in conjunction with the Concert Programme, not as a prerequisite as stated by the applicant. The YC-FM application ought to have been considered.

9. There is only one frequency available at the present time and the assignment of that frequency would prejudice other applicants.

10. If the notification is a direction by the Minister, then it is defective because it interferes with the duty of the Tribunal to act judicially.

11. It is wrong to take the view that the matter has to be disposed of and to deal with this application by way of priority—

(a) Was not in accordance with natural justice;

(b) The Tribunal would not be acting judicially; and

(c) Would not enable all parties to have an equal opportunity.

He sought an adjournment of the application until all applications could be dealt with concurrently.