

APPLICATION

037/OFF/0006/2014

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **Rees Foods Limited** for renewal of an Off- Licence pursuant to section 127 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 112-114 Hautapu Street, Taihape and known as “Taihape New World”.

BEFORE THE RANGITIKEI DISTRICT LICENSING COMMITTEE

The application for renewal of Off-Licence was advertised on Council’s website from 10 November to the 1 December 2017 with no objections received.

No matters of opposition were raised under section 129 reports; therefore the matter was considered by the Rangitikei District Licensing Commissioner on the papers contained in the full file provided by the secretary in accordance with the provisions of s.202 (1) and 191(2) of the Sale and Supply of Alcohol Act 2012.

Commissioner:Stuart Hylton

RESERVED DECISION OF THE RANGITIKEI DISTRICT LICENSING COMMITTEE

Application

(1) The applicant is currently trading an off licence ‘Supermarket’ at 112-114 Hautapu Street, Taihape and has done so for four years. There are no changes sought to the licence conditions through this renewal.

(2) The application for renewal off-license was made on 10th November 2017 on the prescribed form. The application seeks similar conditions to the previous licence. The general nature of the business will continue to be that of a ‘Supermarket’.

(3) The inspectors report contained advice that the business is an approved type for which off-licences may be issued in terms of s. 28 and 32(1) (e) of the Act.

(4) The complete file that I received included –

- The application
- List of Managers Certificates
- Host Responsibility Plan
- Floor plan
- Photo of renewal advertisement
- List of non-alcoholic drinks
- In-house reports and incident sheets
- Fire evacuation scheme declaration from owner
- Reports from Police, Medical Officer of Health and Inspector

Decision Making

(5) In considering this application for a renewal of an Off-Licence the District Licensing Committee (here in after referred to as “the Committee”) had regard to the criteria specified under s. 105/131 of the Act.

(6) The Committee must also have regard to the stores display and promotion of alcohol and set a condition in relation to ‘single alcohol area/s’ in accordance with s. 112 of the Act. That section is copied for clarity:

s. 112 Compulsory conditions relating to display and promotion of alcohol in single area in supermarkets and grocery stores

(1)The purpose of this section and [sections 113](#) and [114](#) is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.

(2)The licensing authority or licensing committee concerned must ensure that, when it issues or renews an off-licence for premises that are a supermarket or grocery store, it imposes on the licence a condition describing one area within the premises as a permitted area for the display and promotion of alcohol.

(3)On the renewal of an off-licence for premises that are a supermarket or grocery store, any single-area condition imposed when the licence was issued (or was last renewed) expires.

(4)Subsection (3) is subject to [section 115\(4\)](#).

(7) Sections 113 to 115 go on to further to describe the requirements when determining ‘single alcohol area/s’.

Justice Gendall in his High Court judgement, CIV-2015-409-000098 (2015) NZHC 2749 dated 6 November 2015, reviewed the requirements of the Act in relation to the approval process with regard to a single alcohol area for supermarkets or grocery stores in accordance with sections 112-114 of the Act.

Judge Gendall said at (61)(a):

“In the case of an off-licence which is also a supermarket or grocery store, the relevant body must impose a single alcohol area condition if it grants a licence. This entails an evaluative exercise requiring the relevant body to:

- be satisfied that the proposed area is a single area;
- be satisfied that the proposed area complies with s 113(5)(b);
- consider whether the proposed area plan limits, so far as reasonably practicable, the exposure of shoppers to displays, promotions and advertisements of alcohol;”

(8) The purpose of a single alcohol area under the Act is to limit, so far as is reasonably practicable, the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol.

(9) The application contained the following information to assist the Committee to make its decision on the s.112 - 114 matters:

A copy of a premise floor plan indicating the area where alcohol is to be displayed, and Inspectors report that discusses the proposed ‘single alcohol area’, and suggests that the existing area is ‘compliant’. The Committee notes that the Single Alcohol Area has changed slightly from last licence issue but not materially to affect compliance.

(10) The Committee in considering the aspect of single alcohol area took into account that the proposed single alcohol area is away from the main customer counters and compared with the store as a whole, the display is not large or unnecessarily extravagant.

(11) This single alcohol area, in my view, is outside –

- the most direct pedestrian route between the entrance to the premises and the general point of sale.
- the most direct pedestrian route between the main body of the premises and the general point of sale.

This is a requirement of s.113 (5)(b). This being my finding and with all agency reports not offering any opposition the single alcohol area as proposed on the application is deemed compliant.

Sections 105 Analyses:

(12) the object of this Act:

The Inspector inquired into the application seeking evidence that the object of the Act will be complied with under this licence. The applicant provided a host responsibility policy that if followed should ensure statutory compliance. Two monitoring inspections resulted in statutory compliance with the premise been found to be operating in accordance with the Act.

(13) the suitability of the applicant:

The applicant is a private company incorporated in 2013 with two directors and shareholders. The applicant supplied names of seven certified managers to be employed on the premises, which is seen as appropriate.

The inspector and reporting agencies do not challenge suitability of the applicant and neither do I.

(14) any relevant local alcohol policy:

No local policy is currently in place.

(15) the days on which and the hours during which the applicant proposes to sell alcohol:

Applicant has applied for the following hours –

Monday to Sunday 7.00am to 8.00 pm.

These hours are within the national trading hours and same as the hours contained in the current licence that has operated without reported incidents. These are considered reasonable.

(16) the design and layout of any proposed premises:

The premise is an existing historical premise with no alterations envisaged. It's requested the whole store be 'undesignated' which is normal for a supermarket.

(17) 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 accept the inspectors assessment that there have been no complaints about nuisance type offences in the area in the past and that if managed well this should continue with no or little reduction in amenity due to the issue of the licence.

(18) whether the applicant has appropriate systems, staff, and training to comply with the law:

The applicant has nominated seven managers of varied experience and skills. The inspectors report notes the store has appropriate plans in place and staff receive formal inductions and training in their responsibilities. Systems are used well it seems at this premise.

Reporting Agencies

(19) The following reports were received under section 103 of the Act.

(20) **Police** – Report received on 17th November 2017, of no opposition.

(21) **Medical Officer of Health** - Report received on 28th November 2017, of no opposition.

(22) Licensing Inspector

Full report dated 20th February 2018. The inspector provided, amongst other things, her assessment of the application in relation to the Act. The inspector also assessed the application against s105 criteria. This assessment has been referred to in this report.

The inspector concluded that the application is complete and meets the criteria for renewal of licence. No opposition raised within the inspectors report.

Committees Decision and Reason

(23) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies and my assessment above, I conclude that the application meets the criteria under the Act to be granted renewal of off-licence for the premise situated at 112 -114 Hautapu Street, Taihape, to be known as 'Taihape New World'.

(24) Accordingly the application is **approved** for issue for three years subject to the following conditions and payment of any outstanding fees, if any.


(25) The following conditions will apply to the licence:

- No alcohol is to be sold or delivered from the premises on Good Friday, Easter Sunday or Christmas Day or before 1.00pm on Anzac Day
- Alcohol may only be sold or delivered on the following days and during the following hours: **Monday to Sunday 7.00am to 8.00pm.**
- The licensee must ensure that for each principal entrance to the premises there is displayed at all times a sign attached to the inside or outside of the premises, so as to be easily read by people immediately outside the entrance, stating the ordinary hours of business during which the premises are open for the sale of alcohol.
- The licensee and managers on duty must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of liquor to minors and the complete prohibition on sales to intoxicated persons.
- The licensee must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, is displayed—
 - attached to the inside of the premises concerned; and
 - so as to be easily read by people entering each principal entrance.

- Drinking water must be freely available to customers while alcohol is being supplied free as a sample on the premises and signage directing people to drinking water must be prominently displayed on the premises at that time.
- No alcohol is to be sold on the premises unless it contains no more than 15% ethanol by volume measured at 20°C and is—
 - (a) beer that complies with the appropriate New Zealand food standard for beer; or
 - (b) mead that complies with the appropriate New Zealand food standard for mead; or
 - (c) fruit or vegetable wine that complies with the appropriate New Zealand food standard for fruit or vegetable wine (however that product may be described in the standard); or
 - (d) grape wine that complies with the appropriate New Zealand food standard for grape wine (however that product may be described in the standard); or
 - (e) a food flavouring, prepared for culinary purposes, that is unsuitable for drinking undiluted.
- In accordance with s. 113 of the Act, the Single Alcohol Area, as delineated on the application renewal file lodged 10th November 2017, is a permitted area for the display and promotion of alcohol.
- The whole of the premises is **‘undesigned’**.

Dated at Rangitikei District this 25th day of February 2018.

Signed



.....

Stuart Hylton
Rangitikei District Licensing Commissioner