

APPLICATION

037/OFF/0016/2019

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **B and T Holdings Limited** for a new Off- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 92-102 Bridge Street, Bulls and known as “Bulls Four Square”.

BEFORE THE RANGITIKEI DISTRICT LICENSING COMMITTEE

The application for a new Off-Licence was advertised on the District Council website from the 17th January to the 1st February 2019 with no objections received. A copy of the notice was placed on the outside of the building in statutory compliance as witnessed by the inspector.

No matters of opposition were raised under section 103 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 application for new licence is a result of the current licensee allowing the base licence to lapse inadvertently. Essentially this application is to reinstate the current licence with existing conditions. The application is in relation to Bulls Foursquare trading at 92-102 Bridge Street, Bulls.

(2) The application for new off-license was made on 8th January 2019 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’ which has operated on site for a number of years.

(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

- Certificate of incorporation
- Social Responsibility Plan
- Floor plan
- Location Plan
- Statement of annual sales
- Photos of interior, exterior and principal entrances
- Photo of renewal advertisement
- Fire evacuation notice from owner
- Building and Planning Certificates
- Reports from Police, Medical Officer of Health and Inspector

Decision Making

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

- (i) be satisfied that the proposed area is a single area;
- (ii) be satisfied that the proposed area complies with s 113(5)(b);
- (iii) 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

(10) The Committee in considering the aspect of single alcohol area took into account that this supermarket is relatively small in nature with few aisles and therefore compliance with section 112-114 matters are a little different than can be expected from a mega supermarket. However the principles and object of the provision must be taken into account when determining the single alcohol area.

The proposed single alcohol area is away from the main customer counters. 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.

(13) the suitability of the applicant:

The applicant is a private company incorporated in 2010 with two Shareholders/Directors.

The applicant supplied names of five 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 10.00 pm.

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

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

The premise is an existing 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 five managers of varied experience and skills. The inspectors report notes the store has appropriate plans in place and staff receive training in their responsibilities.

Reporting Agencies

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

(20) **Police** – Report received on 14th January 2019, of no opposition.

(21) **Medical Officer of Health** - Report received on 15th January 2019, of no opposition.

(22) Licensing Inspector

Full report dated 8th February 2019. 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 will likely meet the criteria for a new 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, my site inspection and my assessment above, I conclude that the application generally meets the s. 105 criteria under the Act to be granted a new off-licence for the premise situated at 92-102 Bridge Street, Bulls, to be known as 'Bulls Four Square'.

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

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

- (a) 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
- (b) Alcohol may only be sold or delivered on the following days and during the following hours: **Monday to Sunday 7.00am to 10.00pm.**
- (c) 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) In accordance with s. 113 of the Act the Single Alcohol Area as delineated on the application file plan date stamped 28 September 2017, is a permitted area for the display and promotion of alcohol.
- (i) The whole of the premises is 'undesigned'.

Dated at Rangitikei District this 12th day of February 2019.

Signed



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Stuart Hylton
Rangitikei District Licensing Commissioner