

Decision

19/050/2025

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND
IN THE MATTER

of an application by
Te Kūiti Supermarket Limited for the
renewal of an off-licence in respect to the
premises at 39-51 Rora Street, Te Kūiti,
and known as Te Kūiti New World

HEARING held on 20 March 2026 at Railway Building 3, Rora Street, Te Kūiti

WAITOMO DISTRICT LICENSING COMMITTEE

Chairperson: Ms T McIntyre
Members: Mr R Murphy, Mr R Johnson

APPEARANCES

Mr D Jones - Director, Te Kūiti Supermarket Limited
Mr I Thain - Legal counsel for the applicant
Ms J Brueck - Licensing Inspector (to assist)
Mrs M Fernandez – Licensing Inspector (in support of Ms Brueck)
Mr B Wipa - Medical Officer of Health delegate (to assist)

DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE

1. The off-licence 19/OFF/005/2022 in respect of the premises situated at 39-51 Rora Street, Te Kūiti and known as Te Kūiti New World is renewed for a further period of 3 years. The licence may issue upon payment of the annual fee.
2. The present conditions of the licence are replaced as follows:
 - a) Alcohol may be sold only on Monday to Sunday from 7.00am to 9.00pm.
 - b) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.

- c) No alcohol may be sold other than: beer, mead, fruit, vegetable or grape wine, that complies with the appropriate New Zealand food standards; or a food flavouring, prepared for culinary purposes, that is unsuitable for drinking undiluted.
- d) The area where alcohol is to be sold is described in the plan date stamped as received by the District Licensing Committee on **8 August 2025**. The only area permitted within that plan, as an area for the display and promotion of alcohol pursuant to section 112 is located at the front right corner of the store and is highlighted on the plan.
- e) The entire premises is undesignated.
- f) A properly appointed certificated, acting or temporary manager must be on duty and on the premises at all times when the premises is open for the sale and supply of alcohol.
- g) A manager's register (as required by s.232 of the Act) is to be maintained and available on site.
- h) The Licensee must ensure all staff receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012
- i) There must be no sale or supply of alcohol to minors or intoxicated persons. Appropriate signage outlining these restrictions must be clearly displayed at every point of sale.
- j) Drinking water must be freely available and displayed whenever alcohol is being supplied by way of complimentary tastings.
- k) The Licensee must ensure the following are displayed;
 - i) A sign to be seen from outside the principal entrance stating the ordinary hours of business during which the premises will be open for the sale of alcohol.
 - ii) A copy of the original licence with all the conditions, just inside the principal entrance so persons entering can read it.
 - iii) A sign in a prominent place identifying the duty manager.

Remote Sale Conditions

- l) Alcohol may be sold remotely at any time, on any day.
- m) 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.
- n) 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.
- o) A copy of the licence must be displayed on the Te Kūiti New World internet site in a prominent place.

REASONS

The Application

1. Te Kūiti Supermarket Limited (the applicant) has applied to renew the off-licence for the premises situated at 39-51 Rora Street, Te Kūiti known as Te Kūiti New World.
2. The application was initially set down for a public hearing for 20 February 2026 due to opposition from the Medical Officer of Health based on the store's single sales of high strength, low volume beer products.
3. The Medical Officer of Health and Te Kūiti Supermarket Limited communicated, and on 19 February 2026 confirmed that Te Kūiti Supermarket Limited would accept a condition on its licence to prohibit single unit sales of beer 7% ABV and above in containers of 500ml or less (excluding craft beer). On this basis, the Medical Officer of Health withdrew opposition.
4. Notwithstanding the withdrawal of opposition, the Committee considered the most appropriate course was to continue to proceed with a hearing. While the parties agreed to the proposed single sales condition, the Committee must independently determine whether the condition satisfies the requirements of s 117.
5. The Committee sought the opportunity to test the Medical Officer of Health's evidence, clarify the identified risk and its connection to this specific premises, and to inquire into the applicant's product range policy. We must ensure that any condition imposed is properly evidence-based, connected to the harm identified, and is reasonable. Recent decisions have reinforced that discretionary conditions under s 117 should be grounded in evidence and that any condition imposed must demonstrate a rational connection to an identified risk and establish a link between the harm relied upon and the specific premises concerned¹. Proceeding by way of hearing was considered necessary to have enough evidence to decide whether to include a condition or modify the wording of the proposed condition and to make sure that any decision was both procedurally fair and well founded.
6. As a result, the application was set down for a public hearing before the District Licensing Committee for Friday 20 March 2026. A site visit was undertaken by the Committee immediately prior to the hearing.
7. At the request of Te Kūiti Supermarket Limited, publication of the financial statement showing 2025 sales revenue for Te Kūiti New World is prohibited pursuant to section 203(5). **The public copy of the application and hearing file will be redacted accordingly.**

Relevant Law and Approach

8. In deciding whether to renew a licence, the Licensing Committee must have regard to the criteria in s105 and s131 of the Act. The Committee must consider the following questions within the framework of the purpose and object of the Act:

¹ Kawerau District Licensing Committee, *Goldstar Investments 2019 Ltd (Kawerau Super Liquor)* DLC Decision No. 24A/24141/2023, 21 November 2025; NZARLA 167 Huntly Grocer Limited

- a) Is Te Kūiti Supermarket Limited suitable?
 - b) Are the days and hours during which they propose to sell alcohol reasonable?
 - c) Is the design and layout of the premises suitable?
 - d) Does Te Kūiti Supermarket Limited 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?
 - e) Does Te Kūiti Supermarket Limited have appropriate systems, staff and training to comply with the law?
 - f) Have the Police, Inspector and Medical Officer of Health raised any relevant considerations.
 - g) Will 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?
 - h) Has the Te Kūiti Supermarket Limited sold, displayed, advertised or promoted alcohol in a responsible manner?
 - i) Does the application comply with the Waitomo District Local Alcohol Policy?
9. An application for the renewal of an off-licence requires us to have regard to all of the criteria above, and then stand back to determine whether granting the application is consistent with object of the Act² 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.
10. There are no concerns regarding the suitability of the applicant to hold an off-licence. The company director, Mr David Jones, has significant industry experience, particularly within supermarkets in the wider region. He has no convictions and holds a current Manager's Certificate. We are satisfied that he is likely to properly carry out the responsibilities associated with the holding of a licence³.
11. The premises meets the requirements of section 32(1)(e) and is therefore considered a supermarket. The proposed hours of operation are reasonable, and the design and layout of the premises are suitable to meet the requirements of the Act. The premises is well appointed and capable of being effectively monitored by staff. We are satisfied that the location of the Single Alcohol Area appropriately limits shoppers' exposure to alcohol displays. During the site visit, we observed that the Single Alcohol Area is clearly demarcated by different coloured flooring, does not include end-of-aisle displays, and products are not stacked on the floor between aisles. There are no concerns regarding systems, staff training, or amenity and good order. In addition, the Licensing Inspector has confirmed that the application complies with the Waitomo District Local Alcohol Policy.
12. It was therefore agreed by all parties that the key issue for the Licensing Committee is the manner in which alcohol is sold and promoted, with particular regard to the availability of high-strength, low-volume beer products as single-unit sales. The Medical Officer of Health also noted that the low cost of these products as a contributing concern.

² Re Venus NZ Limited [2015] NZHC 1377, [2015] NZARLA 1315

³ Re Sheard [1996] NZAR 61

13. To address this concern, the Medical Officer of Health proposed a condition to ‘*prohibit single unit sales of beer 7% ABV and above in containers of 500ml or less (excluding craft beer)*’. Although Mr Jones has accepted the proposed condition, the Committee must independently determine if such a condition is necessary, appropriate in scope, based on evidence, proportionate and reasonable⁴.

Has the applicant sold, displayed, advertised or promoted alcohol in a responsible manner? Should the Licensing Committee impose a discretionary condition(s)?

14. The store is located at 39–51 Rora Street, Te Kūiti, within the Business Zone under the current Waitomo District Plan. The surrounding area includes residential housing and a range of commercial premises, including a petrol station, a Postie store, a local fruit and vegetable shop, and the Maniapoto Whānau Ora Centre.
15. In the wider context, NZDep Index data presented by the Medical Officer of Health, indicates that approximately 90% of the Te Kūiti population resides in areas with a socioeconomic deprivation decile of 9 or 10 (NZDep 2023). This is based on Census variables such as income, employment, home ownership, family demographics, qualifications, living conditions, and access to communication. The NZDep Index measures relative deprivation, meaning it compares areas rather than individuals⁵.
16. Therefore, it can reasonably be inferred from this, that the store operates within a community experiencing high levels of socioeconomic deprivation which may increase vulnerability to alcohol-related harm.

The Medical Officer of Health’s Evidence

17. During a site visit on 2 September 2025, the Medical Officer of Health observed alcohol products with the volume of 500ml and alcohol percentage of 7.2% being sold at less than \$5.00 per unit. These products included by way of example:
- Carlsberg Elephant beer 500ml (7.2%)
 - Kingfisher Stong 500ml (7.2%)
 - Haagen Premium Malt Lager 500ml (7.2%)
 - Bavaria 8.6 Extreme 500ml (10.5%)
 - Bavaria Black special Dark 500ml (7.9%)
18. Mr Wipa submits that, in communities where higher social economic deprivation is experienced such as Te Kūiti, the way a licensee operates a licensed premises is either going to contribute to increasing or minimising alcohol related harm in the community. He raises concerns that the availability of these high-strength, low-volume products, particularly when sold as single units, may increase accessibility for vulnerable populations and contribute to hazardous drinking and alcohol related harm.

⁴ NZARLA 167 Huntly Grocer Limited

⁵ Wipa, B. (13 Feb 2026) Breif of Evidence of Bryon Wipa, Medical Officer of Health, Te Whatu Ora

19. He explained that the proposed condition targets alcohol content by volume, rather than price, on the basis that it is the high alcohol strength of these products that underpins the risk of harm. By setting the threshold at products 7% and above, he emphasised his intention was to minimise harm not to prohibit single sales in general.
20. While the data he presented paints a concerning picture of socio-economic harm and alcohol related harm in the Te Kūiti area, we acknowledge that it represents general trends in the area related to drinking behaviour and/or alcohol availability rather than any clear evidence of harm specifically caused by single alcohol sales or Te Kūiti New World.
21. Furthermore, the data in Table 2 shows that alcohol-related visits to the Emergency Department by Te Kūiti residents have declined over time (with the exception of a spike in 2023). Presentations to Te Kūiti Hospital decreased from 36 visits in 2020 to 22 visits in 2024. Similarly, presentations to Waikato Hospital fell from 26 visits in 2020 to 10 visits in 2024.

The Licensing Inspector's Evidence

22. The Licensing Inspector is unaware of any complaints in relation to how the premises is operated, noise or vandalism. She confirms that the site inspection she undertook in September 2025 did not identify any issues with rubbish (general or alcohol related), vandalism or general tidiness of the carpark and surrounding area, intoxicated people or people consuming alcohol in the area.
23. While she noted that products listed in paragraph 17 were available for sale, she noted no evidence of harm, disorder, or reduction in amenity associated with these sales. It was Ms Brueck's view that the applicant has good systems and training in place to ensure responsible sale of alcohol, including ID checks and delivery controls. Ms Brueck accepts that the potential for harm exists in theory, however the evidence does not indicate a material risk in this instance.
24. In response to the Committee's questions, Ms Brueck clarified that there are 11 off-licences in the Waitomo District. Te Kūiti itself has five off-licences; two of these are supermarkets and the remaining three are bottle stores. Only one of these five off-licences has a 'singles sales' condition imposed on its licence. The renewal application was determined at a hearing due to opposition from the Medical Officer of Health and the condition imposed as a result breaches of the Act and to address specific issues of alcohol related harm known with its customer base. The applicant had a 'no single sales' store policy and the condition sought to formalise it.
25. We note this is a very different situation to Te Kūiti New World which has a wider customer base, no known customer issues, and no history of non-compliance.

The Applicant's Evidence

26. Mr Jones brings extensive experience in the supermarket sector, with a long-standing history in the operation and management of retail grocery stores. His 26 years of experience include roles as duty manager, grocery manager, floor manager, and store manager across a variety of New World and Pak n Save stores. Four of these years were spent as the owner/operator of New World Ngaruawahia, a store operating in a similar socio-economic environment. So he

has some experience operating in a vulnerable community. He has held a Manager's Certificate for over 20 years, and we heard that he is actively involved in the day-to-day operations of the Te Kūiti store.

27. Mr Jones submits that there are strong systems and processes to ensure alcohol is sold responsibly. The store adheres strictly to established policies and procedures, including those set by the wider Foodstuffs network. Staff are trained to identify signs of intoxication, verify identification, and refuse sales where appropriate. These practices are consistently applied across all points of sale, including in-store and online transactions. The store maintains a pool of ten certified duty managers to ensure compliance with the Act.
28. Mr Jones explained that the store has a system in place where staff are also trained to recognise and refuse service to customers attempting to make multiple purchases of single units in the same day. Although he acknowledged this wasn't a formally documented policy and relied on staff awareness, it prevented those with drinking issues continually feeding their habit. Mr Jones employs a predominantly local workforce, most of whom have more than five years of service and are therefore familiar with the customer base. All incidents are recorded in an incident book, discussed at staff meetings, and escalated where necessary, including through issuing trespass notices.
29. Mr Jones noted that for the majority of his customers, alcohol is generally purchased as part of a full grocery shop. It is his personal observation that single-can purchases are typically made by 'working-class' customers or tradespeople and are often bought alongside other grocery items. He noted that, in many cases, customers purchase single cans to just try a new product.
30. Mr Jones confirmed that product pricing is set centrally, limiting his ability to influence purchasing behaviour through price adjustments. The store operates under strict Foodstuffs alcohol sales policies, with non-compliance potentially resulting in significant consequences, including termination of the franchise agreement. In this context, the primary measure available to him is to de-range products, which he has undertaken. Following discussions with the Medical Officer of Health, he has de-ranged six products, representing 20–40% of the single-can beer range. He advised that, irrespective of whether a condition is imposed, he intends to continue excluding the Bavaria 8.6 Extreme 500ml (10.5%), noting that it contains the equivalent of more than three standard drinks and is not, in his view, a responsible product to stock. When asked about the remaining five products with an alcohol content of 7% and above, he indicated a willingness to consider continuing to de-range, but acknowledged this may be influenced by financial implications and customer demand, neither which were known at the time of the hearing.
31. Mr Jones acknowledged the vulnerability of the area in which his store operates and overall we found his evidence to reflect a proactive and responsible approach to the sale of alcohol, including a preparedness to take practical steps within his control to minimise the availability of higher-risk products.

Discussion

32. The Committee has carefully considered the evidence before it, together with the statutory framework and relevant case law. Our task is to assess this application on its particular facts,

having regard to the purpose of the Act, which is to ensure the sale and supply of alcohol is undertaken safely and responsibly and that harm is minimised.

33. We acknowledge the genuine concerns raised by the Medical Officer of Health and accept his evidence that Te Kūiti is a community experiencing a high level of socioeconomic deprivation, and that such communities are more vulnerable to alcohol-related harm. We also accept that high-strength, low-volume alcohol products sold as single units may, in general terms, present an increased risk of harmful consumption due to their affordability and accessibility.
34. However, the Act requires more than the identification of a generalised risk. Any condition imposed under s 117 must be reasonable, proportionate, and demonstrably connected to the risks it seeks to guard against⁶.
35. In this case, the evidence does not show a clear link between the sale of these products at Te Kūiti New World and alcohol-related harm in the area. Mr Wipa's evidence focused on general trends and potential risks across the wider community, rather than harm caused by, or connected to, this store. There have been no complaints, no signs of disorder, and no evidence of concerning purchasing behaviour linked to the premises. The Licensing Inspector confirmed that the store is well managed and not associated with any amenity or compliance issues. Overall, the evidence shows that the premises is operated responsibly, with appropriate systems and practices in place. This supports the view that the risk of harm arising from this premises is likely to be lower.
36. We have also had regard to the nature of the proposed condition. It is a targeted restriction, focused on a particular category of product, and we accept that it is directed at a legitimate harm minimisation objective. However, even a targeted condition must be supported by a sufficient evidential foundation⁷. In the absence of evidence linking the identified risk to this premises, we are not satisfied that imposing the condition would result in a meaningful reduction in alcohol-related harm, rather than addressing a generalised concern more appropriately considered at a policy level.
37. We also note that other licensed premises in the district operate without such conditions, and that where conditions have been imposed, they have been in response to identifiable compliance concerns or demonstrated harm.
38. We have also considered whether the precautionary principle is warranted. The High Court has recognised that taking a precautionary approach may be appropriate where there is a reasonable likelihood of reducing harm, even in the absence of definitive proof⁸. But this does not remove the need for conditions to be reasonable. In this case, given the absence of evidence linking harm to this premises, the applicant's strong systems, and the lack of opposition from Police or the Licensing Inspector, we consider the proposed condition would be disproportionate.

⁶ Christchurch Medical Officer v J and G Vaudrey Ltd [2015] NZHC 2749

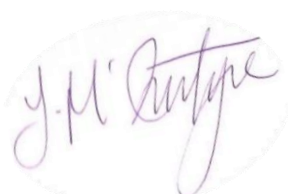
⁷ NZARLA 167 Huntly Grocer Limited

⁸ Woolworths New Zealand Ltd v Auckland Council [2023] NZSC 45 at [84]-[85].

Conclusion

39. In making our decision, we have considered all relevant criteria under sections 105 and 131 of the Act and the purpose of the Act, which is to ensure that the sale and supply of alcohol is undertaken safely and responsibly and that alcohol-related harm is minimised. The key issue is whether a discretionary condition restricting the sale of single units of higher-strength beer is necessary and appropriate in this case.
40. We accept that conditions of this kind may, in some cases, be a proportionate way to reduce harm. District Licensing Committees can impose discretionary conditions, including those proffered or agreed to by an applicant⁹. But those conditions must still be reasonable. Direct evidence of harm is not required, but there must be a sound basis to conclude that the condition would address a risk linked to the operation of this store.
41. In this case, the evidence does not show how or whether the availability of these products at Te Kūiti New World is contributing to alcohol-related harm. The concerns raised by the Medical Officer of Health remain at a general, population level and are not sufficiently connected to this premises. As a result, it is our view that imposing the proposed condition would be disproportionate. In reaching this decision, we have also taken into account the applicant's comprehensive systems, sound staff training, and willingness to remove certain higher risk products.
42. Accordingly, the application for renewal of the off-licence is granted, with no changes to the existing conditions.

Dated this 2nd day of April 2026



Tegan McIntyre
Commissioner
Waitomo District Licensing Committee

⁹ National Brands Ltd v Alcohol Regulatory and Licensing Authority [2025] NZHC 3980