

Application	19/099/2023
<u>IN THE MATTER</u>	of the Sale and Supply of Alcohol Act 2012
<u>AND</u> <u>IN THE MATTER</u>	of an application by Te Kuiti Holdings Limited for renewal of an off-licence pursuant to section 127 of the Act in respect of the premises situated at 95 Rora Street, Te Kuiti known as Te Kuiti Supervalue

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The off-licence 19/OFF/005/2020 in respect of the premises situated at 95 Rora Street, Te Kuiti and known as Te Kuiti Supervalue 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 10.00pm.
 - 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 28 November 2023. 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 southern corner of the store and is shaded blue 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. If a duty manager is not present, then there must be no alcohol sales and a notice displayed advising the public of this fact.

- 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 and there must be appropriate signs detailing these restrictions 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 Kuiti Supervalu internet site in a prominent place.

REASONS

The Application

1. This is an application by Te Kuiti Holdings Limited for the renewal of an off-licence in respect of the grocery store known as Te Kuiti Supervalu. The shop currently has licensed hours from 7.00am to 10.00pm. This application was filed on 20 working days before the expiry of the off-licence as required by section 127(2)(b).
2. The application was advertised, and no objections were received from members of the public. The Licensing Inspector, Police and the Medical Officer of Health have provided reports and do not oppose the application. Accordingly, the application is decided on the papers (s 202(1)).

Is the proposed Te Kuiti Supervalu a grocery store?

3. In deciding whether to renew an off-licence the licensing committee must be satisfied that the shop is one of the categories than an off-licence can be granted for. An off-licence cannot be granted for a petrol station, garage, dairy, convenience store or a shop within a shop (section 36). However, an off-licence can be granted for a grocery store.

4. In deciding whether a shop is a grocery store the licensing committee must decide whether the shop (section 33(1)):
 - a) has the characteristics normally associated with shops commonly thought of as grocery stores?
 - b) sells a range of food products and other household items?
 - c) sells food products as its principal business?

5. In making this decision the licensing committee must have regard to (section 33(2)):
 - a) the size and layout of the store.
 - b) a statement of annual sales revenues of the premises.
 - c) the number, range, and kinds of items on sale.
 - d) any relevant matters.

6. The licensing committee is satisfied that the Te Kuiti Supermarket is a grocery store. The size and layout of the shop have the look and feel of a small supermarket. A range of food products and other household items are sold. The Statement of Annual Sales Revenue prepared shows that food products form the greatest category of gross sales. grant the order prohibiting publication of the Statement of Annual Gross Sales Revenue. This means the reporting agencies are restricted from disclosing this information to any third party outside of the agencies. This restriction is in place due to the sensitive commercial nature of the evidence provided.¹

Does Te Kuiti Holdings Limited meet the criteria in section 105?

7. The object of the Act is 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 (s 4).

8. In deciding whether to renew an off-licence the Licensing Committee must have regard to sections 105 and 131 of the Act. Therefore, we must consider the following questions within the framework of the purpose and object of the Act:
 - a) Is the applicant suitable?
 - b) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
 - c) Is the design and layout of the premises suitable?
 - d) Does the applicant 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 the applicant 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 applicant sold, displayed, advertised, or promoted alcohol in a responsible manner?
 - i) Does the application comply with the Waitomo District Local Alcohol Policy?

9. In forming an opinion on whether the amenity and good order of the locality would be likely to be increased by more than a minor extent by the effects of a refusal to renew the licence, the licensing committee must consider the current and possible future noise, nuisance, and vandalism levels (section 106(2)).

¹ Sections 203(5) and (6) Sale and Supply of Alcohol Act 2012

10. The licensing committee is satisfied that Te Kuiti Holdings Limited meets the criteria in sections 131 and 105. Te Kuiti Holdings Limited is a suitable applicant to hold an off-licence. The company has demonstrated compliance with the Sale and Supply of Alcohol Act 2012 and the sole director, Mr Xing, holds a current manager's certificate. The current trading hours are reasonable.
11. The Licensing Inspector reports that the application does comply with the Waitomo District Local Alcohol Policy.
12. The licensing committee is satisfied that the premises has a suitable design and layout to meet the requirements of the Act. It is well appointed and able to be monitored effectively by the staff of the premises and CCTV cameras.
13. The licensing committee is satisfied that Te Kuiti Holdings Limited has an appropriate staff training programme. There are 5 Duty Managers employed to ensure compliance with the Act.
14. The licensing committee is satisfied that the renewal of the off-licence will not reduce the amenity and good order of the locality by more than a minor extent. There have been no reports, from the Police or members of the public living in this community, of any nuisance, vandalism or noise problems associated with this premises in the past three years. The licensing committee is satisfied that alcohol is sold, displayed and promoted in a responsible manner and in accordance with the requirements of the Act.

Does the application contain an appropriate single alcohol area?

15. When issuing an off-licence for a grocery store, the licensing committee must impose a condition on the licence describing one area within the premises "as a permitted area for the display and promotion of alcohol" (section 112(2)). The single alcohol area must (so far as is reasonably practicable) "limit the exposure of shoppers in supermarkets ... to displays and promotions of alcohol" (section 112(1)). It may not be situated in an area "through which the most direct pedestrian route between the entrance to the premises and main body of the premises" or an area "through which the most direct pedestrian route between the main body of the premises and any general point of sale passes" (section 113(5)). No display or promotion of alcohol is permitted outside the alcohol area (section 114(1)(a)). A licensee must not display, promote or advertise non-alcohol products in a single alcohol area that does not contain sub-areas (section 114(1)).
16. The Inspector reports that the single alcohol area is located in the front southern corner of the store. The area is 11metres long by approximately 4.2 metres wide but cannot be seen from the checkouts. The licensing committee is satisfied that the single alcohol area is not in a prohibited area and the location does limit the exposure of shoppers to displays of alcohol. Therefore, the application does contain an appropriate single alcohol area.

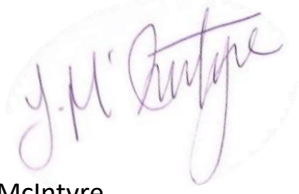
Remote Sales

17. Under Section 18(1) of the Act, the holder of an off licence is entitled to sell alcohol on or from the premises the licence is issued for and deliver it somewhere else. Therefore, remote sale conditions are included in the licence as a reminder about general obligations when providing this service. Te Kuiti Holdings Limited have consented to these new conditions.

Conclusion

18. Therefore, the application for the renewal of the off-licence is granted.

Dated at this 29th day of October 2024



Tegan McIntyre
Commissioner
Waitomo District Licensing Committee