

Application	19/051/2020
<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 MB & HG Limited for renewal of an off-licence pursuant to section 127 of the Act in respect of the premises situated at 39 - 51 Rora Street, Te Kuiti, known as Te Kuiti New World

DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE

1. The off-licence 019/OFF/003/2017 in respect of the premises situated at 39 - 51 Rora Street, Te Kuiti, and known as Te Kuiti 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:
 - (i) Beer that complies with the appropriate New Zealand food standard for beer; or
 - (ii) Mead that complies with the appropriate New Zealand food standard for mead; or
 - (iii) Fruit or vegetable wine that complies with the appropriate New Zealand food standard for fruit and vegetable wine; or
 - (iv) Grape wine that complies with the appropriate New Zealand food standard for grape wine; or
 - (v) A food flavouring, prepared for culinary purposes, that is unsuitable for drinking undiluted.
 - d) The area where alcohol is to be sold is the single alcohol area described in the plan date stamped as received by the Waitomo District Licensing Committee on 3 November 2017.
 - 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) A Host Responsibility Policy must be maintained and displayed at all points of sale and 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 displayed at every point of sale appropriate signs detailing these restrictions.
- 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.

REASONS

The Application

1. This is an application by MB & HG Limited for the renewal of an off-licence in respect of the premises trading as Te Kuiti New World. This application was filed 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)).

Does Te Kuiti New World meet the criteria in section 105?

3. The purpose of the Act is to put in place a new system of control over the sale and supply of alcohol (s 3). 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).
4. In deciding whether to renew an off-licence the licensing committee must have regard to sections 131 and 105 of the Act. Therefore this committee 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?
5. The licensing committee is satisfied that MB & HG Limited meets the criteria in sections 131 and 105. MB & HG Limited is a suitable applicant to hold an off-licence. The company has demonstrated compliance with the Sale and Supply of Alcohol Act 2012.
 6. The current trading hours are Monday to Sunday, from 7.00am to 10.00pm. The Licensing Inspector advises that there was an error in the 23 November 2017 District Licensing Committee decision because the hours applied for were Monday to Sunday, from 7.00am to 9.00pm. The licensing committee acknowledges this error and corrects it in this decision by changing the hours to Monday to Sunday from 7.00am to 9.00pm. These are the licensed hours applied for and the existing hours of the store.
 7. 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 closed-circuit television cameras.
 8. The licensing committee is satisfied that MB & HG Limited has an appropriate Host Responsibility Policy and staff training programme. There are sufficient Duty Managers employed to ensure compliance with the Act. MB & HG Limited maintains a manager's register as required by section 232 of the Act.
 9. 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?

10. When issuing an off-licence for a supermarket, 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)).
11. The Inspector reports that no changes have been made to the perimeter of the single alcohol area. There are no end of aisle displays of alcohol in the area. However, there is an

extra shelf in the area. The applicant is entitled to change the configuration of the single alcohol area (Medical Officer of Health v G & B Hasler [2018] NZHC 1208), provided that the exposure of shoppers to displays of alcohol is limited so far as is reasonably practicable. The Licensing Inspector raises the possibility that this does increase the exposure of shoppers to displays of alcohol. However, if the shelf were not there, shoppers would still be able to see the alcohol displays on the rear shelf and on the middle shelves depending on where they are standing. Therefore, the licensing committee does not think that this has made a significant difference. In conclusion, the premises continues to have an appropriate single alcohol area.

12. The conditions for this licence have been replaced to correct the trading hours and to make a slight change to condition (f) about duty managers. The new condition (f) more accurately reflects the options for temporary and acting managers under sections 229 and 230.

Conclusion

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

Dated this 13 day of November 2020



Sara Grayson
Commissioner
Waitomo District Licensing Committee