

**Application**

19/OFF/002/201

**IN THE MATTER**

of the Sale and Supply of Alcohol  
Act 2012

**AND**  
**IN THE MATTER**

of an application by  
AW & BL Mudaliar & Co Limited  
for renewal of an off-licence  
pursuant to section 127 of the  
Act in respect of the premises  
situated at 57 Moa Street, Piopio,  
known as Piopio Superette

**DECISION OF THE WAITOMO DISTRICT LICENSING COMMITTEE**

1. The off-licence 019/OFF/002/2019 in respect of the premises situated at 57 Moa Street, Piopio and known as Piopio Superette 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 continue to apply.

**REASONS**

**The Application**

1. This is an application by AW & BL Mudaliar & Co Limited for the renewal of an off-licence in respect of the grocery store known as Piopio Superette. 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)).

**Is the proposed Piopio Superette 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 it's 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. A food product does not include alcohol, confectionary, ready-to-eat prepared food or snack food or a drink in a container of 1 litre or less (section 33). Regulation 6 of the Sale and Supply of Alcohol Regulations 2013, provides that the principal business of a store can be calculated by deducting from the gross sales revenue of the business carried on the premises (for a period of 12 months ended no more than 90 days before the time at which the application is made);
  - a) GST
  - b) all revenue of lotto, keno, instant kiwi etc

and determining which group below has the largest proportion of the remainder of the revenue:

- a) the sale of foods products
  - b) the sale of alcohol
  - c) the sale of tobacco
  - d) the sale of convenience foods
  - e) other sources of revenue.
7. In other words, to be a grocery store, the sale of foods products must be the biggest category of revenue after GST and NZ lotteries revenue is deducted. If food products are not the biggest category, then the store is likely to be a dairy or convenience store that is not able to hold an off-licence.
  
  8. The licensing committee is satisfied that the Piopio Superette is a grocery store. The size and layout of the shop have the look and feel of a small supermarket. The Piopio Superette sells a range of food products and other household items. The Statement of Annual Sales Revenue prepared by a chartered accountant shows that food products form the greatest category of gross sales.

**Does Piopio Superette meet the criteria in section 105?**

9. 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).
  
10. 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?

11. 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)).
12. The licensing committee is satisfied that AW & BL Mudaliar & Co Limited meets the criteria in sections 131 and 105. AW & BL Mudaliar & Co Limited is a suitable applicant to hold an off-licence. The company has demonstrated compliance with the Sale and Supply of Alcohol Act 2012. The current trading hours are reasonable.
13. 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.
14. The licensing committee is satisfied that AW & BL Mudaliar & Co Limited has an appropriate Host Responsibility Policy and staff training programme. There are sufficient Duty Managers employed to ensure compliance with the Act.
15. 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?**

16. 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)).

17. The Inspector reports that the single alcohol area is unchanged and remains appropriate. The alcohol display is discreet and minimal. 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.

**Conclusion**

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

Dated this 9th day of December 2020

A handwritten signature in black ink, appearing to be 'S Grayson', written in a cursive style.

Sara Grayson  
Commissioner