

HAURAKI DISTRICT COUNCIL

DISTRICT LICENSING COMMITTEE

MINUTES OF A MEETING OF THE DISTRICT LICENSING COMMITTEE HELD IN THE COUNCIL CHAMBERS, WILLIAM STREET, PAEROA ON THURSDAY 10 SEPTEMBER 2015 COMMENCING AT 10.00AM

PRESENT

Cr P A Milner (Chairperson), Mrs D M Carmine and Mr Denis Taylor

IN ATTENDANCE

Messrs P A Thom - District Licensing Committee Advisor (Planning and Environmental Services Manager), Michelle Lankow – District Licensing Committee Advisor, Russell Bierre - Advisor

In attendance:

(Applicant) Roger Knapper (Knapper Holdings Ltd)
Giselle Knapper (Knapper Holdings Ltd)
(Submitters) Rob Cooper (Witness for Waikato DHB)
Ross Henderson (Waikato DHB)
Nicole Petterson (Waikato DHB)

APOLOGIES

There were no apologies.

Declaration of Conflict of Interest

There were no declarations.

Overview of the Proceedings

The Chairperson outlined the process for the hearing of evidence from the parties involved.

The Chairperson advised that a site visit had not been carried out as all the panel members had individually visited the premises recently and stated that the committee would decide if one was required before the hearing closed.

The Chairperson opened the hearing at 10.10am.

APPLICATION FOR OFF-LICENCE (FOR PREMISES):

The following papers were provided in relation to the application:

Application Information – as per the agenda

The Chair advised that a site visit was not required for this application as the Committee Members were familiar with the premises.

Reporting Agencies Reports

Ministry of Health (as per the agenda).

Applicant's (presentation of evidence)

Mr Knapper read his statement of evidence. Mr Knapper asked for the Committee's attention to be drawn to the first page of his evidence. Mr Knapper stated that he would be making a statement as the applicant and would refer to himself as the applicant throughout the proceedings. Mr Knapper outlined key points of his evidence

- That Waihi New World is franchised to Foodstuffs North Island New Zealand Limited.
- That the application had been publicly notified and that there had been no objections received.
- Mr Knapper had been advised by Foodstuffs Lawyers that his application complied with the Act in particular with the single alcohol area (SAA).
- That the Police and Licensing Inspector had no objection to granting of this application for renewal of off licence.
- That the Medical Office of Health raised concerns of the SAA, which was in contrast to the advise he had received from Foodstuffs Legal Representatives.
- The Authority has made it clear that shoppers may stand outside the SAA and reach into it to pick alcohol from the shelf. If it was required that shoppers were required to stand in the SAA to reach items displayed at its perimeter that would have the unintentional consequence of requiring the SAA to be large and providing more area for displaying, advertising and promoting alcohol products.
- Mr Knapper provided in his evidence floor plans of other New World stores showing there SAAs.
- That the Authority does not have any requirement that alcohol must be able to be avoided entirely on a shopping trip. And that alcohol is allowed to be visible from other parts of the store provided it is physically located and displayed in the SAA.
- Mr Knapper believes he is complying with the requirements of Parliament imposed to set a balance between various points of view.
- Mr Knapper respectively requested that the Committee granted his application for a Renewal of an Off Licence.

Cross Examination

Ross Henderson of WDHB questioned the applicant that the licenses provided in his evidence has gone to the High Court and decisions made may be altered at the High Court. Mr Knapper agreed that the High Court may alter these licences at a later day and that he would be content to take advice if the High Court rulings altered the SAA layout of these stores.

The Chair questioned Ross Henderson if there had been any issues with Waihi New World in the years that it had operate?

Mr Henderson advised that there had no issues with the store.

The Chair asked Mr Henderson if the location of the alcohol area was where it was due to the need for staff to be able to monitor the area.

The Chair questioned Mr Henderson as to what items would be preferred to be near the alcohol area?

Mr Henderson advised the only thing that should not be there was items that kids would have a high interest.

Mr Taylor of the Committee questioned the statement that you have to go through the single alcohol area to do a standard shop.

Mrs Carmine questioned the figure 5 and the use of the two end checkouts.

Mr Knapper advised that the two end checkouts are only used in high peak times (Christmas).

Ms Carmine questioned that the statement about shopper traffic flow was misleading that all customers had to go through the alcohol area.

The Chair called for any further questioning of the applicant, and asked the applicant if that was all the evidence that would be provided.

No more questions were asked of the applicant at that point.

Submitters (presentation of submission)

Ross Henderson of WDBH made an introduction and advised that submission was not about the suitability of the applicant to hold a licence and was about the interruption of the licensing law when it comes to single alcohol areas. That this area of law is a contentious part of the act and has competing imperatives with the health imperative is not always compatible with the commercial interests of the supermarkets. Mr Henderson then referred to his report (as per the agenda). Mr Henderson restated that there is a delay with the High Court providing guidance with applications. Mr Henderson then called a witness Mr Rob Cooper.

Rob Cooper of Paeroa gave evidence (as per written statement) as a witness for the WDBH. Mr Cooper made a personal statement about who he is and how it affects that addiction as a recovering alcohol had on his life and that he providing his point of view regarding single alcohol area provisions in supermarket in general and had no objection to Mr Knapper holding an off licence. Mr Cooper believed that supermarkets weren't achieving what the act was requiring for SAA and that he saw the display of alcohol in New World Waihi is just before the checkout so it is impossible to avoid.

Dennis Taylor Committee Member questioned Mr Cooper as to how many times he had shopped at Waihi New World since the introduction of the new act.

Mr Cooper responded that he had only shopped three times at New World in the past twelve months.

Mr Henderson then read from his written submission and referred to his report of 14th August 2015 (as per agenda). Mr Henderson stated there was a real danger when engage in debate about semantics of the wording of the Act that we lose sight of the purposes and what the Act is trying to achieve. That Mr Cooper has reminded us of what the Act is trying to achieve and that it is not good to have the alcohol next to the lollies and that children, young people and vulnerable people should be protected from the exposure to alcohol display and marketing. Mr Henderson read further from his report which was directly from his report of the 14th August 2015 which is included in the agenda.

The Chair question Mr Henderson if he thought the area was an area that could be monitored as it currently is.

Mr Henderson responded that there was different types of monitoring and that this wasn't what the Act was about and that the MOH wasn't requiring the SAA to be moved but that it be modified.

Questioning and cross examination concluded.

Counsel Closing Statement

No other comments given by the District Licensing Inspector.

Applicant's Closing Statement

The applicant had no closing statement to make and thanked the Committee for their time.

The committee decided that a site visit was not required as the photographic evidence provided and accompanying explanations were sufficient.

The Chairman closed the hearing / at 11.25 am and advised that the committees decision was reserved until it had considered all relevant matters.

The meeting adjourned at 11.25 am

The meeting re-convened at 12.00 noon for deliberations.

Committee's Decision and Reasons

There was no evidence raised that the locality, amenity and good order would be adversely affected.

Based on the evidence provided, and cross examination of the applicant under oath, the District Licensing Committee was satisfied that the issues raised had been addressed.

Having considered the evidence in relation to the criteria specified in sections 105 and 106 of the Sale and Supply of Alcohol Act 2012, the Committee was satisfied that the evidence satisfies the object of section 4 of the Sale and Supply of Alcohol Act 2012 and the application be **granted**.

RESOLVED

THAT the application for Renewal of Off Licence be granted.

DLC15/01

Milner/Carmine

CARRIED

The meeting closed at 1.00 pm

DECISION:



Off-Licence – Form 10

Doc: 1410822 – LQR-021.2011.00003739.001

Licence Number: 12/OFF/4/2015

Sections 17 to 20, and 64, Sale and Supply of Alcohol Act 2012

Pursuant to the Sale and Supply of Alcohol Act 2012 (the **Act**), **Knapper Holdings Ltd** (the licensee) is authorised to sell alcohol on the premises situated at **35 Kenny Street, Waihi** and known as **Waihi New World**, to any person for consumption off the premises and to supply alcohol free, as a sample, for consumption on the premises.

If this licence is not endorsed under section 40 of the Act, the licensee is also authorised to sell alcohol on or from the premises and deliver it somewhere else.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Subpart 7 of Part 2 of the Act.

Conditions

This licence is subject to the following conditions:

- (a) no alcohol is to be sold or delivered on Good Friday, Christmas Day, or before 1 pm on Anzac Day;
- (b) no alcohol is to be sold or delivered on Easter Sunday unless the alcohol is grape wine or fruit or vegetable wine made—
 - (i) on the premises; or
 - (ii) from grapes or fruit harvested from land on which the premises are situated;
- (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 or 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) alcohol may be sold only on the following days and during the following hours:
Monday to Sunday 7.00 am to 9.00 pm.
- (e) the whole of the premises is designated as a supervised area;
- (f) the only area delineated on the plan submitted with the application is a permitted area for the display and promotion of alcohol:

Duration

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force—

- (a) either—
 - (i) until the close of the period for which it was last renewed; or
 - (ii) if it has never been renewed, until the close of the period of 12 months after the day it was issued; but
- (b) if an application for the renewal of the licence is duly made before the licence would otherwise expire, either—

- (i) until the close of the period of 3 years after the period for which it was last renewed;
or
- (ii) if it has never been renewed, until the close of the period of 4 years after the day it was issued.

DATED at PAEROA this 10th day of **September 2015**

Delegated Secretary

Hauraki District Licensing Committee

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, the licence expires on the 6th day of **July 2018**.

Note: this licence replaces licence number **12/OFF/2/2011** issued by the Hauraki District Licensing Committee.

P A Milner
Chairperson