DISTRIBUTION:

Elected Members:

His Worship the Mayor
Cr D A Adams
Cr J M Bubb
Cr B A Gordon
Cr G A Harris
Cr P H Keall
Cr G R Leonard
Cr M P McLean
Cr P A Milner
Cr H T Shepherd
Cr D H Swales
Cr J H Thorp
Cr A A Tubman

Committee:

Cr P A Milner
Cr G R Leonard
D M Carmine
D Taylor
J Goodman

Staff:

P A Thom
R Bierre
L Franks
I Taylor

Public copies:

Paeroa Office
Plains Area Office
Waihi Area Office

DISTRICT LICENSING COMMITTEE

AGENDA

DATE: Thursday, 10 September 2015

TIME: 10.00am

VENUE: Council Chamber
William Street
PAEROA

MEMBERS: Cr P A Milner (Chairperson)
Mrs D M Carmine
Mr D Taylor

L D Cavers
Chief Executive
HAURAKI DISTRICT COUNCIL

DISTRICT LICENSING COMMITTEE

NOTICE IS HEREBY GIVEN THAT A MEETING OF THE DISTRICT LICENSING COMMITTEE WILL BE HELD IN THE COUNCIL CHAMBERS, WILLIAM STREET, PAEROA ON THURSDAY 10 SEPTEMBER 2015 COMMENCING AT 10.00AM

L.D. Cavers
Chief Executive

SCHEDULE OF HEARINGS

<table>
<thead>
<tr>
<th>Time</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.00am</td>
<td>Knapper Holdings Limited (trading as New World, Waihi) – Application for Renewal of Off-Licence</td>
</tr>
</tbody>
</table>

ORDER OF BUSINESS

1. **Apologies**

2. **Welcome and Introductions**

3. **Declaration of Conflict of Interest**

   Members of the committee are to confirm whether they have a conflict of interest in relation to the application.

4. **Overview of the Proceedings**

   The Chairperson will outline the process for the hearing of evidence from the parties.

5. **Application by Knapper Holdings Limited**

   The following papers are provided in relation to the application:

   Application Information – (1408318, 1408316)

6. **Objections**

   Ministry of Health (Population Health – Waikato District Health Board)
The Hauraki District Council District Licensing Committee holds hearings to consider appeals and objected or opposed licence and manager's certificate applications referred to it by district licensing agencies.

As a party to this hearing, you will need to be present for the complete duration of the hearing. If you do not appear in person or by counsel, the matter may be heard and determined in your absence.

Speaking at a Hearing

All parties or their legal representatives can appear and speak at the hearing. They can also call, examine and cross-examine witnesses. ‘Parties’ include the person applying for a licence or manager’s certificate.

During a hearing, the person applying for a licence or manager’s certificate will give his other evidence first. Anyone appearing at a hearing should provide a typed statement of his or her objection, and copies of any supporting documents, to the Committee and all other parties on the day of the hearing.

What happens at a Hearing

The hearing gives you the chance to explain your objection to the District Licensing Committee, and present evidence that supports your objection. You will have the chance to read out a written statement, and to present evidence that supports your objection. The Committee and other parties might ask you questions about your objection, your statement, or your evidence.

The statement you read out at the hearing should expand on the points you’ve made in your written objection. Someone else can read out your statement for you if you want. Your statement might include examples that illustrate some of the points in your objection. You can also just read straight from your statement.

Cross Examination

Cross-examination means being asked questions by other parties. All parties with speaking rights at the hearing will have an opportunity to ask questions of the party giving evidence.

All parties will be asked to take an oath or affirmation prior to presenting evidence.

How to do well on the day

You want to make a good, strong presentation. You want the Licensing Committee to focus on your statement and on your evidence. Keep your statement simple, make your key points clear, speak clearly, and be yourself. Read your statement clearly and slowly enough to be understood. Speak clearly and try not to repeat yourself.

---

1 Evidence is anything that backs up your statement. Evidence can be oral, written or visual – you can use photographs and drawings as evidence. Evidence should focus on facts, not emotions, and be directly relevant to your objection.
Hauraki District Licensing Committee
C/- Hauraki District Council
Application for Off-Licence or Renewal of Off Licence (for premises) – Form 4
Sections 100 & 127(2) Sale and Supply of Alcohol Act 2012

To: The Secretary
Hauraki District Licensing Committee
PO Box 17
PAEROA 3640

Application for an off-licence or renewal of an off licence is made in accordance with the particulars set out below.

Endorsements
State (by type) every endorsement sought or sought to be renewed

Details of applicant

Full legal name or names to be on the licence

Knappe Holdings LTD.

Is a licence already held for the premises or conveyance concerns [if 'yes' please state kind of licence] Yes ☑ No ☐

Applicant status
[state, by reference to section 28 of Sale and Supply of Alcohol Act 2012, the status of the applicant (for example, natural person or persons or body corporate or department of State)]

For applicant that is a natural person or persons, details: [for each person]

Male ☐ Female ☐

Full legal name: (including any aliases)

Usual residential address
Full legal name (including any aliases)

Address

Date and place of Birth

Designation

Face value of shares

For a partnership, legal names and addresses of partners [please state]

Details or Premises (if not conveyance)

Address 35 Kenny Street, Waihi

Any name, trading name, or name of building

New World Waihi

If not owned by applicant

Tenure [state whether to be held as leasehold, or under tenancy agreements or licence]

Full legal name and address of owner

National Trading Company, 60 Eema Road, Auckland

Type [state whether grocery, hotel retail shop (Other than grocery) or tavern]

Grocery

Whether licence is conditional on completion of building work. If "yes" please state details. Yes ☐ No ☑

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<tr>
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<th>FRED 648109</th>
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</thead>
<tbody>
<tr>
<td>Responsibility: Peter Thom</td>
<td>Date Issued: 18/12/2013</td>
</tr>
<tr>
<td>Location: Hauraki District</td>
<td>Review date: 10/01/2015</td>
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Page: 8 of 8
Details of conveyance

Type (state ship, railway carriage, bus etc)

Tenure (state whether owned by applicant, or to be operated under charter, lease or licence)

If not owned by applicant, full legal name and address of owner (please state)

Any registration number(s) (state)

Any home base address (state)

Any name used or proposed for conveyance (state)

Whether licence is conditional on completion of building work. If “yes” please state details. Yes ☐ No ☐

Details of Manager(s)

For each Manager or proposed Manager, please complete the following

Male ☑ Female ☐

Full legal name: (including any aliases) Rogel Mark Krapper

For each Manager or proposed Manager, please complete the following
Male ☐ Female ☑

Full legal name: (including any aliases) Linda Karen Leach

Number and expiry date of Manager Certificate 12/CERT/29/2015 exp 16 April 2018

For each Manager or proposed Manager, please complete the following
Male ☑ Female ☐

Full legal name: (including any aliases) Thomas Bennett Eden Staffurel

Number and expiry date of Manager Certificate 012/CERT/15/2014 exp: 30 April 2017

For all additional Managers or proposed Managers, please provide their details on a separate page.

Business Details

Whether sale of alcohol intended to be principal purpose of business [state] Yes ☐ No ☑

If 'No', please state intended principal purpose of business Supermarket

Whether applicant engaged, or intending to be engaged, in the sale or supply of any goods other than alcohol and food, or in the provision of any services other than those directly related to the sale of supply of alcohol and food Yes ☑ No ☐

If "Yes", nature of other goods or services General Grocery Retail

Days and hours of proposed sale of alcohol [state] Monday to Sunday, 7am til 9pm

Conditions

Experience and training of applicant [state]
4 years retail experience (supermarket)

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<td>Page: 8 of 8</td>
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</table>
Steps taken to prevent sale and supply of alcohol to prohibited people [describe]

Training Checkout staff, Checkout supervisors, Checkout manager, duty managers. Regular re-freshing of training with key staff every six months.

Appropriate signage in liquor area and at Checkout department.

Any other steps the applicant proposes to promote the responsible consumption of alcohol [describe]

All alcohol located in a single area of the store.

Other systems (including training systems), and staff in place (or to be in place) for compliance with the Act [describe]

All new checkout staff have an alcohol block preventing sale without supervisor override. Block stays on for a minimum of 3 months.

Attachments (premises that are not a conveyance)

- Copy of planning certificate consent
- Copies of all relevant building certificate consents
- Where it must be determined whether the premises are grocery store, the statement of annual sales revenue required by regulation 12 or 13 (as the case requires) of the sale and Supply of Alcohol Regulations 2013
- Floor plan showing any proposed permitted area for the display and promotion of alcohol, and any proposed sub-areas.

- For body corporate application, copy certificate of incorporation (or equivalent documents)
Further details where applicant is a partnership

Full legal name (including any aliases)

Address

Date and place of Birth

Signature of each partner required below

Dated at _________ this _________ day of _________ 20_______

(location) (day of month) (month) (year)

_________________________ __________________________
Signature of partner Signature of partner

_________________________ __________________________
Signature of partner Signature of partner

Applicants signature

For all licence applications, one of these options must be ticked, and the statement signed and dated:

☑ That the owner of the building in which the premises are situated provides and maintains an evacuation scheme as required by section 21B of the Fire Service Act 1975; or

☑ Because of the building's current use, its owner is not required to provide and maintain such a scheme; or

☐ Because of the nature of the building, its owner is exempt from the requirement to provide and maintain such a scheme.

_________________________ 17-06-2015
Signature and full name Date
Notes

1. This form must be accompanied by the prescribed fee.

2. Within 20 working days after filing this application with the District Licensing Committee (or 10 working days if it is an application for renewal), the applicant must give public notice of it in Form 7. The notice must be given in compliance with regulation 36, 37 or 38 of the Sale and Supply of Alcohol Regulations 2013 (whichever applies to this application).

3. Except in the case of a conveyance, within 10 working days after filing this application with the District Licensing Committee, the applicant must ensure that notice of this application in Form 7 is attached in a conspicuous place on or adjacent to the site to which this application relates (unless the Secretary of the District Licensing Committee agrees that it is impracticable or unreasonable to do so.)
Attachments (conveyance)

☒ Floor plan showing area to be designated as a supervised area or restricted area, and indicating whether supervised or restricted area;
☒ For body corporate application, copy certificate of incorporation (or equivalent documents)

Further details where applicant is a company

Full details of each person who holds 20% or more of the shares, or of any particular class of shares, issued by the company

Full legal name (including any aliases) Trusted Services Limited

Address 1108 Pukaki Street, Rotorua

Date and place of Birth

Designation Shareholder

Face value of shares 475,000
Any internet sites:  
Preferred mode of contact:  

Date and place of birth:  
Occupation:  

For applicant that is a body corporate, authority under which incorporated:  
*state* Limited Company.  

For applicant that is NOT a natural person or persons, details of contact person:  

Full legal name: *(including any aliases)* *Knapp Holdings LTD.*  
Telephone number or numbers: 07 863 7880  
Any fax numbers: 07 863 6163  
Preferred mode of contact: Phone  
Any internet sites: N/A  
Postal Address for Service: P.O. Box 193 Waitakaruru  

Business Details  
*[describe principal business, any other businesses]*  
Supermarket.  

Criminal convictions  
*[state all convictions for offences against provisions of the Land Transport Act 1998 not contained in Part 6, and offences to which the Criminal Records (Clean Slate) Act 2004 applies]*  
Nil.  

For a company  
*(whether incorporated under the Companies Act 1993 or equivalent foreign legislation), full legal names of directors*  
Roger Mark Knapp.  

For a Private Company incorporated under the Companies Act 1993 [state authorised capital, paid-up capital, and the following]:  

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To the District Licensing Agency

This letter serves as a certificate for the purposes of Section 31(1)(e) of the Sale of Liquor Act 1989.

The premises known as Waihi New World located at 35 Kenny Street, Waihi, Hauraki District legally described as SEC: 11 TWN: Town of Waihi is in the Town Centre zone of the Hauraki District Council’s Operative District Plan, and the Town Centre zone of the Proposed District Plan, in which zone Retail and Business activities, subject to certain performance standards, are Permitted activities.

Accordingly the proposed use of the building meets the requirements of the Resource Management Act 1991.

The building is an existing building that will not have a change of use and as such meets the requirements of the New Zealand Building Code to the extent required by the Building Act 2004.

Signed for and on behalf of the Council:

Peter Thom
Planning & Environmental Services Manager

06 July 2011
File LIQUOR LICENCE

20th June 2011

The Manager
District Licensing Agency
Hauraki District Council
PO Box 17
PAEROA 3640

Attn: Ingrid Barratt,

Dear Ingrid,

FIRE SAFETY AND EVACUATION OF BUILDINGS REGULATIONS 2006
Applications for Off Licence, (Renewal) New World Waihi, 36 Kenny Street, Waihi.

Thank you for your letters dated 16th June 2011 in regard to the renewal of the off licence applications for the above building.

We have perused our computer information and will in some instances visit the buildings for better clarification of its location and layout.

New World Waihi, has an approved evacuation Scheme and complies with the current Evacuation Regulations and section 21A of the Fire Service Act.

The New Zealand Fire Service has no issues with this building and no objections to the renewal of their off licence.

Thank you for allowing the New Zealand Fire Service the opportunity of being involved in the Licensing process.

Should you require any further information please feel free to contact this office.

Yours faithfully,

Ken McKeagg
Senior Fire Risk Management Officer
Bay of Plenty Coast Area
NZ Fire Service
Tauranga

COPY
General Managers Certificates New World Waihi

Roger Knapper
Expiry: 17/03/2018  Number: 12/CERT/10/2015

Stefan Couper
Expiry: 20/09/2015  Number: GM 012/16/2011

Keri Lithgow
Expiry: 02/12/2015  Number: GM 012/25/2011

Alana Simmonds
Expiry: 06/08/2016  Number: GM 012/19/2009

Dawn Smith
Expiry: 08/08/2016  Number: GM 012/5/2000

Thomas Stafford
Expiry: 30/04/2017  Number: 012/CERT/15/2014

Andrew Taylor
Expiry: 04/11/2017  Number: 12/CERT/56/2014

Linda Leach
Expiry: 16/04/2018  Number: 12/CERT/29/2015
Certificate of Incorporation

KNAPPER HOLDINGS LIMITED
3292208
NZBN: 9429031200479

This is to certify that KNAPPER HOLDINGS LIMITED was incorporated under the Companies Act 1993 on the 2nd day of March 2011.

Mandy McDonald
Registrar of Companies
17th day of June 2015

For further details relating to this company check http://www.companies.govt.nz/co/3292208
Certificate generated 17 June 2015 11:02 AM NZST
Company Extract

KNAPPER HOLDINGS LIMITED
3292208
NZBN: 9429031200479

Entity Type: NZ Limited Company
Incorporated: 02 Mar 2011
Current Status: Registered
Constitution Filed: No
Annual Return Filing Month: August

Ultimate holding company: [Not specified]

Company Addresses

Registered Office
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

Address for Service
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

Directors

KNAPPER, Roger Mark
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

Shareholdings

Total Number of Shares: 500,000
Extensive Shareholdings: No

475,000 2349389
1108 TRUSTEE SERVICES LIMITED
1108 Pukaki Street, Rotorua, NZ

KNAPPER, Giselle Ruth
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

KNAPPER, Roger Mark
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ
Company Extract
KNAPPER HOLDINGS LIMITED
3292208
NZBN: 9429031200479

25,000
KNAPPER, Giselle Ruth
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

KNAPPER, Roger Mark
176 Seaforth Road, Waihi Beach, Waihi Beach, 3611, NZ

For further details relating to this company, check http://www.companies.govt.nz/co/3292208
Extract generated 17 June 2015 11:04 AM NZST
EMERGENCY EXIT ROUTES

GROUNDFLOOR

EMERGENCY EVACUATION PROCEDURE

1. WHEN THE ALARM SOUNDS PLEASE LEAVE THE PREMISES IMMEDIATELY BY THE NEAREST EXIT.

2. REPORT TO THE ASSEMBLY AREA: CARPARK AT LIGHT POLE

N.B. ONLY IF CONDITIONS PERMIT SHOULD ATTEMPTS BE MADE TO EXTINGUISH A FIRE.
Operation of the business

Waihi New World is a supermarket which has been granted membership as a franchise of Foodstuffs North Island Limited (Foodstuffs). We are open from 7am until 9pm and sell a variety of grocery products and merchandise.

Because Waihi New World is a supermarket and we sell a variety of groceries and merchandise, our target market is the everyday consumer shopping for household items. The majority of alcohol sold in my supermarket is purchased as part of a customer’s main order shop.

Steps proposed to be taken to prevent the sale and supply of alcohol to prohibited people

To prevent the sale and supply of alcohol to prohibited people, I have the following systems in place to ensure that alcohol is not sold to minors or people who are intoxicated:

1. My staff will check the identification of everyone who looks under 25 years of age.

2. We only accept a valid passport, drivers licence and a Hospitality NZ 18+ card as proper identification to purchase alcohol.

3. We will refuse to sell alcohol if identification cannot be produced.

4. If a customer is buying in a group, and one (or more) of that group looks under 25, we will refuse to sell alcohol unless all members of the group can produce identification.

5. Any person who appears intoxicated will be refused the sale of alcohol. We assess intoxication by observing appearance, behaviour, co-ordination or speech. If any of these seem impaired by alcohol, drugs or other substances then checkout staff will refuse the sale of alcohol.

Other systems in place to promote the responsible consumption of alcohol

The following systems have been put in place to ensure that my store is a responsible retailer of alcohol:

1. The store’s point of sale system will be restricted by Foodstuffs so that sales of alcohol cannot occur outside liquor licence hours.

2. The store only sells beer and wine. We do not sell spirits or RTDs.

The nature of my business means that the risk that the operation of my business contributes to unrest as a result of alcohol sales at my store is extremely low. As mentioned above, the majority of alcohol purchased is part of a normal grocery shop and is intended to be consumed at home. Also we do not sell RTD’s or spirits which I believe are the main contributors to vandalism and unrest in the community.

Because my store is only open for limited hours (14) the likelihood that alcohol sales from my business will contribute to vandalism or unrest is extremely low. Most vandalism and unrest caused by alcohol is likely to take place late at night, well after my store has closed.

If there is any ever rubbish or graffiti in my store’s car park or perimeter then I always ensure that my staff promptly remove this.
Staff Training

The store has eight senior employees who have all been trained and have their General Manager's Certificates.

When any staff are first employed at the store, as part of their induction, we provide training on the policies of the store which they need to adhere to when they are selling alcohol. This is a Foodstuffs requirement. Before I allow staff to sell alcohol to customers, I ensure that all my staff understand and comply with their responsibilities under the Sale and Supply of Alcohol Act.

In addition to the training that Foodstuffs requires my staff to undertake, I also make sure that staff undertake refresher courses on current liquor legislation when they are carrying out their check-out operator training.

Additionally, we are part of Foodstuffs' independent programme where all stores are 'mystery shopped' to ensure proof of age compliance is being adhered to. There are heavy penalties for liquor audit fails, which include fines, additional training programmes and referring repeat offenders to Foodstuffs' Board of Directors which can result in a store owner's franchise agreement with Foodstuffs being terminated.

There are strict protocols in place at store level to ensure that the liquor laws are observed at all times. Furthermore, as noted above, by being a Foodstuffs' franchisee, Foodstuffs provide training, audits and fines (including potential termination of my franchise agreement) if any laws are not observed. I make sure my staff understand and observe their obligations as I am ultimately responsible for their actions.
Ingrid Taylor

From: Giselle Knapper [Giselle.Knapper@nw.co.nz]
Sent: Tuesday, 7 July 2015 10:35 a.m.
To: Ingrid Taylor
Subject: RE: New World Waihi Liquor Licence
Attachments: 20150707103617781.pdf

Thanks for that Ingrid.

I have attached the newspaper entries.

Regards

Giselle Knapper
Administrator New World Waihi
Ph: 07 863 7880  Fax: 07 863 6663

From: Ingrid Taylor [mailto:Ingrid@hauraki-dc.govt.nz]
Sent: Tuesday, 7 July 2015 9:57 a.m.
To: Giselle Knapper
Subject: RE: New World Waihi Liquor Licence

Good morning Giselle

As your renewal application was lodged prior to the expiry date, the expiry date is not relevant.

It was sent to the Police and Medical Officer of Health for their review and comment 01/07/2015.

They have 15 working days by law in which to respond. After that date we may progress the application.

Please supply copies (full page) of the public notices to the Council as soon as practicable.

Regards

Ingrid Taylor  |  Consents Officer (Processing)
dtl: (07) 862 5037  |  email: Ingrid@hauraki-dc.govt.nz

Hauraki District Council  |  William Street Paeroa 3600  |  PO Box 17 Paeroa 3640  |  NZ
ph: (07) 862 8609 or 0800 734 834 (from within district)  |  fax: (07) 862 8607
web: www.hauraki-dc.govt.nz  |  email: info@hauraki-dc.govt.nz  |  HDC Libraries
 onBackPressed please consider the environment before printing this email

From: Giselle Knapper [mailto:Giselle.Knapper@nw.co.nz]
Sent: Tuesday, 7 July 2015 9:53 a.m.
To: Ingrid Taylor
Subject: New World Waihi Liquor Licence
Good Morning Ingrid,

Can you please let me know what is happening with our Liquor Licence renewal as it expired yesterday 06/07/2015.

Many thanks

Giselle Knapper  
Administrator New World Waihi  
Ph: 07 863 7880  Fax: 07 863 6663

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#this message was scanned for compliance with Foodstuffs North Island email policies
#this message was scanned for compliance with Foodstuffs North Island email policies
Ingrid Taylor

From: KNIGHT, Rex [Rex.Knight@police.govt.nz]
Sent: Wednesday, 1 July 2015 9:22 a.m.
To: Ingrid Taylor
Subject: RE: Renewal of Off Licence - New World Waihi

Ingrid, no objections

Rex Knight
Senior Sergeant
Response Commander
Hauraki/Piako (based at Waihi)
DDI 07-8633704 ext 78704
0211912427

-----Original Message-----
From: Ingrid Taylor [mailto:Ingrid@hauraki-dc.govt.nz]
Sent: Wednesday, 1 July 2015 09:08
To: KNIGHT, Rex
Subject: Renewal of Off Licence - New World Waihi

--------------------------------------------------------------------------------
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Morning Ingrid
Please see attached
Regards
R

Ross Henderson | Health Protection Advisor | Waikato District Health Board | P +64 (7) 8382669 | m +64 (21) 858841 | f 04 (7) 8382382 | e ross.henderson@waikatodhb.health.nz

From: Ingrid Taylor [mailto:Ingrid@hauraki-dc.govt.nz]
Sent: Wednesday, 1 July 2015 9:07 a.m.
To: L.Licensing
Subject: Renewal of Off Licence - New World Waihi

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17 July, 2015

The Secretary
Hauraki District Licensing Committee
Hauraki District Council
P O Box 17
PAEROA 3640

APPLICATION FOR: RENEWAL OF AN OFF LICENCE
APPLICANT: KNAPPER HOLDINGS LIMITED
TRADING NAME: NEW WORLD WAIHI
ADDRESS: 39 KENNY STREET WAIHI
OUR REF: LIQ/OFF/2016/074
YOUR REF: LQR-021.2011.00003739.001

RECOMMENDATION: APPLICATION OPPOSED

REASON:

The applicant has identified, on a submitted floor plan of the premises, a proposed single alcohol area. It is the view of the Medical Officer of Health that this does not comply with Sections 112 to 114 of the Sale and Supply of Alcohol Act.

1. The applicant has identified a perimeter of a single alcohol area as required by section 113(2)(b)) but has shown end of aisle displays that appear to be mainly accessible from outside the single alcohol area. However, a customer should only be able to access alcohol if they are present in the alcohol area, this being a principle that applies with respect to other designations and to licensed areas generally. The area is therefore non-compliant.

2. The end of aisle identified by the applicant as being part of the proposed single alcohol area is seen as being contrary to Section 113(5)(b)(ii) in that it is immediately adjacent to the checkout area.

3. Because the proposed single alcohol area occupies a significant space directly adjacent to the checkout area it is virtually impossible to do a household shop without being confronted by alcohol displays. It is our view that this is inconsistent with the single alcohol area provisions of the Act, the purpose of which is set down in Section 112(1).

Yours faithfully

Ross Henderson
For Medical Officer of Health
Report

To: The Chairman – District Licensing Committee
From: Russell Bierre – Chief Licensing Inspector
Date: 22nd July 2015
File reference: 1389812
Subject: Off Licence renewal application – New World Waihi.

Recommendation:

THAT the report be received, and
THAT the application made by Knapper Holdings Ltd, National Trading Company of New Zealand Ltd for an Off licence renewal for the premises known as New World Waihi be granted under the provisions of Section 17 of the Sale and Supply of Alcohol Act 2012 authorising the sale and supply of liquor for consumption off the premises.

This is an application to the District Licensing Committee for the renewal of an Off licence (Off/012/2/2011) for premises known as New World Waihi 39 Kenney Street Waihi.

There are no objections to the goods and/or services that the applicant is engaged in with relation to the principal activity of the business and there is no reason to believe that the applicant is not suitable to continue to hold a liquor licence.

The applicant has the appropriate systems, staff, and training to comply with the law.

The following are the nominated certificated managers:

- Roger Knapper - 012/Cert/10/2015
- Stefan Couper - GM012/16/2011
- Keri Lithgow - GM012/25/2011
- Alana Simmonds - GM 012/19/2009
- Dawn Smith - GM 012/5/2000
- Thomas Stafford - 012/Cert/15/2014
- Andrew Taylor - 12/Cert/55/2014
- Linda Leach - 012/Cert/29/2015

Planning and Building certificates have previously been issued.

The premises is situated at 39 Kenney Street, Waihi. The premises is located in close proximity to nearby residential and commercial properties. There has been no reported nuisance, loitering, nor vandalism over the previous 12 months that could be attributed to the activities of the premises. There is no evidence to suggest that the amenity and good order of the locality has been reduced to more than a minor extent by the effects of the existing licence. The police have not raised any issues in this regard nor to the application.
The application was publicly notified in the Hauraki Herald on the following dates:

- First Notice - 25th June 2015
- Second Notice - 2nd July 2015

The Medical Officer of Health has raised an objection to the application with respect to the layout of the proposed single alcohol area. It is my opinion that if one takes a strict interpretation of section 113 of the Sale and of Supply of the Alcohol Act 2012, supported by the decision of the Authority in J & C Vaudrey Ltd, the submission of the MOH cannot be justified. The proposed floor plan attached to the application dated 10/6/2003 in my opinion complies with the critical section of the Act with respect to the requirement for a single alcohol area, namely section 113 and in particular section 113(5) of the Sale and Supply of Alcohol Act 2012, in that the area is configured so that there is no direct pedestrian route between the entrance to the premises and the main body of the premises and also the general point of sale. However unless the MOH is prepared to withdraw their objection the matter must be decided at a hearing of the Committee.

A statement as required by section 21B of the Fire Services Act 1975 to satisfy the requirements of section 127(2)(e) of the Sale and Supply of Alcohol Act has been provided.

There is no change requested to the existing conditions or hours of operation

Conclusion

The criteria found at section 105 of the Sale and Supply of Alcohol Act 2012 will apply to this application. The applicant seeks the same terms and conditions as the licence currently in force on the premises. Section 102(4) of the Sale and Supply of Alcohol Act 2012 is therefore deemed to apply. I consider that the sale and supply of liquor under these conditions is consistent with the purpose of the Act and meets the criteria at section 105 of the Sale and Supply of Alcohol Act 2012.

Recommendation

I recommend that the application made by Knapper Holdings Ltd, National Trading Company of New Zealand Ltd for an Off licence renewal for the premises known as New World Waihi be granted under the provisions of Section 17 of the Sale and Supply of Alcohol Act 2012 authorising the sale and supply of liquor for consumption off the premises.

Russell Bierre
Chief Licensing Inspector
Ingrid Taylor

From: Ross Henderson [Ross.Henderson@waikatodhb.health.nz]
Sent: Friday, 14 August 2015 11:39 a.m.
To: Ingrid Taylor, roger.knapper@foodstuffs.co.nz
Cc: Richard Wall; DALZIELL-KERNOHAN, James; Rex.Knight@police.govt.nz
Subject: Report

Hi Ingrid
Please see attached supplementary report for New World Waihi.

Hi Roger
As discussed.

Regards
Ross Henderson

Ross Henderson | Health Protection Advisor | Waikato District Health Board | P +64 (7) 8382569 | m +64 (21) 358641 | f +64 (7) 8382382 | e ross.henderson@waikatodhb.health.nz

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14 August, 2015

The Secretary
Hauraki District Licensing Committee
Hauraki District Council
P O Box 17
PAEROA 3640

APPLICATION FOR: RENEWAL OF AN OFF LICENCE
APPLICANT: KNAPPER HOLDINGS LIMITED
TRADING NAME: NEW WORLD WAIHI
ADDRESS: 39 KENNY STREET WAIHI
OUR REF: LIQ/OFF/2015/074
YOUR REF: LQR-021.2011.00003739.001

Please receive the following supplementary report provided under the provisions of the Sale and Supply of Alcohol Act (2012).

1. Introduction

On 1 July, 2015, this office received a copy of an application for the renewal of an off-licence for the above premises.

Subsequently, on 17 July, 2015 an interim report was submitted opposing the application on the basis of the applicant's proposed single alcohol area.

2. Background to the single alcohol area provisions of the Sale and Supply of Alcohol Act

Interpretation of the sections of the Act relating to alcohol areas has occurred in the vacuum of a lack of precedent set by either the Authority or the High Court.

What is not in dispute are the concerns expressed to and by the Law Commission which were the drivers for these provisions. The Commission noted the “unhealthy pressure on vulnerable groups” represented by its (alcohol’s) prominence. The Commission included children and young people as vulnerable groups but also expressed concern at the plight of those with alcohol dependency problems saying “Life is made much harder for those with alcohol addictions when they are unavoidably confronted with alcohol displays during their necessary visits to the supermarket”.

The Law Commission and subsequently Parliament concurred with the view that harm to vulnerable groups could reasonably be mitigated if “people do not have to walk through aisles with alcohol if they are not intending to purchase”.

This is reflected in Sections 112 to 114 of the Act

112 Compulsory conditions relating to display and promotion of alcohol in single area in supermarkets and grocery stores
(1) The purpose of this section and sections 113 and 114 is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.
Section 113(1) spells out the mandatory duty of the Authority or licensing committee to have regarded the above [section 112] purpose when forming an opinion.

113 Describing alcohol areas
(1) The licensing authority or licensing committee concerned must have regard to section 112(1)—
(a) when describing an alcohol area; and
(b) when taking any other action under this section; and
(c) when forming any opinion for the purposes of this section.

As the purpose of these sections is the protection of vulnerable people from serious harm caused by an addictive drug, attempts to thwart the purpose would be seen as contrary to Section 4(1)(b), the object of the Act and could reasonably be seen as reflecting negatively on suitability to hold or operate a liquor licence.

3. Problems with the applicant's proposal

Given the above purpose of the single alcohol area provisions of the Act, there are problems with the alcohol area identified by the applicant. (refer fig. 1 below)

Fig. 1: Store layout plan submitted by applicant and showing proposed single alcohol area.
3.1 Location on direct pedestrian route / adjacent to point of sale

The District Licensing Committee will wish to consider the implications of Section 113 (5) below

113 Describing alcohol areas

(5) The authority or committee must describe an alcohol area within the premises only if, in its opinion,—

(a) it is a single area; and

(b) the premises are (or will be) so configured and arranged that the area does not contain any part of (or all of)—

(i) any area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises passes; or

(ii) any area of the premises through which the most direct pedestrian route between the main body of the premises and any general point of sale passes.

Sub section 6 defines what constitutes a “point of sale”. However, the Act does not define “main body of the supermarket” or “direct pedestrian route”.

Logically, there is no single point to which a shopper can go that forms the main body of the supermarket. Rather it is a collective term for the various locations that offer the staple grocery items (such as fruit/vegetables, dairy items, bread, meat, eggs, toilet paper and frozen foods). The most direct route would be defined by the one taken by a significant proportion of customers purchasing these items.

In most stores this will include the first aisle as customers enter the supermarket en route to the main body of the supermarket which generally contains staples such as fruit and vegetables, and the final aisle where products such as meat, dairy items or frozen goods are located prior to the checkout.

The layout of the supermarket or grocery store is designed to facilitate pedestrian flow that takes in the main body of the premises without unnecessary duplication.

In this case, the areas proposed by the applicant would be unacceptable with even a very narrow interpretation of Section 113 (5). The alcohol is located immediately adjacent to a point of sale and it is impossible to approach the point of sale without exposure to the alcohol display. (refer figures 3, 4 and 5 below)

The single alcohol area identified by the applicant is seen as being contrary to Section 113(5)(b)(ii) and therefore the Committee is, in the view of the Medical Officer of Health, precluded in law from including it as a single alcohol area in the conditions of the licence.
Fig. 2: Store layout plan showing proposed single alcohol area and customer flow.

Fig. 3: Display areas where alcohol can be accessed from outside the single alcohol area.

Fig. 4: View of points of sale (checkouts) from single alcohol area (photograph: 11 August, 2015)

Fig. 5: Proximity of single alcohol area to point of sale (checkout) (photograph: 11 August, 2015)

Fig. 6: View of points of sale (checkouts) and single alcohol area from final aisle (photograph: 11 August, 2015)

Fig. 7: Alcohol displays "B" and "C" (photograph: 11 August, 2015)
3.2 *Some alcohol only accessible from outside the single alcohol area*

The end of aisle displays identified as areas B, C and D in fig.3 above are located so that alcohol is accessible to customers outside the single alcohol area. In the case of areas marked B and C, the end of aisle alcohol is only accessible from outside the single alcohol area. However, a customer should only be able to access alcohol if they are present in the alcohol area, this being a principle that applies with respect to other designations and to licensed areas generally. This anomaly is central to the plan submitted by the applicant so that the plan is effectively unworkable.

For this reason also, it is our view that an alternative plan is necessitated if this application is to proceed.

3.3 *Section 113 (5) does not constrain Committee further*

The Medical Officer of Health also urges the Committee to look beyond the specificity of Section 113(5). While this section clearly outlines a course of action that the Committee may not take, it does not constrain the Committee from imposing other measures that are consistent with the purpose as set out in Section 112 and with the object of the Act as set out in Section 4. In fact, section 113(5) serves to further clarify the purpose of sections 112 to 114 by underlining proximity to direct pedestrian routes and unavoidable locations within the store as being unsuitable for designation as single alcohol areas.

In this respect the Committee can note the location of essential household items in the final aisle of the store immediately adjacent to the area “D” so that a household shop will necessitate proximity, and therefore exposure, to the single alcohol area (refer fig. 8).

![Fig. 8: Essential household products on last aisle and immediately adjacent to alcoholic products (photograph 11 August, 2015)](image)

4. *Interpreting “reasonably practicable”*

It is the view of the Medical Officer of Health that “reasonably practicable” should be viewed as an equation weighing up the likelihood and seriousness or degree of harm, on one hand, and the availability, suitability and cost of measures to minimise the risk of harm on the other.

In weighing these factors it is useful to consider the Law Commission’s commentary on clause 17 of the Health and Safety Reform Bill.

“*The Bill defines reasonable practicability as meaning that which is, or was, at a particular time reasonably able to be done (…) taking into account and weighing up all relevant factors including:*

- The likelihood of the hazard or risk eventuating – the greater the likelihood of a risk eventuating, the greater the significance this factor will have in determining what was reasonably practicable;
The degree of harm that might result — again, the greater the degree of harm possible if the risk eventuates, the greater the significance this factor will have”.

In this case the harm is certain to occur and costly to individuals, families and communities. It is also well documented in the aforementioned Law Commission report Alcohol in our Lives. This harm includes the long term implications of normalisation but includes also the more acute harm resulting from the exposure of vulnerable people to alcohol displays and marketing.

5. Discussion and conclusions

A successful store/alcohol area configuration or layout is one that addresses the above issues but also features other positive aspects, for example,

a) It should be achievable for the applicant.

b) It can be helpful if one or two sides of the alcohol area are on outside walls as these are often more suited for the placement of chillers for beer and wine.

c) Although shoppers taking the most direct route must not pass through the area and exposure must be minimised, it can be conveniently located to provide easy access and choice for those shoppers who do intend to purchase alcohol.

d) It should be reasonably easy for staff to monitor shoppers specifically entering the alcohol area (an important issue with respect to prohibited persons).

e) At times that the store is not entitled to sell alcohol, e.g. Easter, it should be practical for the applicant to screen off that area without restricting access to other products.

In this case the applicant has clearly identified a single alcohol area which lends itself to an effective “alcove style” solution to the problems posed by the provisions of sections 112 to 114 of the Act. However, because the area is immediately adjacent to a checkout or point of sale and because the end of aile display is accessible from outside the single alcohol area, some adjustment is necessitated if the area is to comply with the Act.

It is important to note that the applicant is not, at present, required to make any changes to the layout as there are currently no single alcohol area conditions on the licence.

Significantly, however, the single alcohol area proposed by the applicant is reflective of the status quo.

From one perspective this is understandable. Without established precedents to provide guidelines, any prudent business person is likely to be reluctant to commit to a potentially expensive course of action that may prove either unnecessary or inadequate.

Nonetheless, it is the role of the District Licensing Committee to impose conditions with respect to the single alcohol area and to do this the Committee needs an acceptable plan on which to base these conditions.
6 Recommendation

This application for the renewal of an off-licence is opposed.

However it is the view of the Medical Officer of Health, that it would be useful for the applicant to be given an opportunity to submit a further and revised plan before a final decision is made. Given the purpose set out in Section 112 (1) the Medical Officer of Health urges the Committee to seek a detailed proposal that spells out how exposure will be limited.

The Medical Officer of Health will seek to make further submissions when this matter is heard by the Committee.

Yours faithfully

[Signature]

Ross Henderson
For Medical Officer of Health