

Decision	19/045/2023
<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 TK 2019 Limited for renewal of an off-licence in respect of the premises at 89 Rora Street, Te Kuiti known as Super Liquor Te Kuiti pursuant to section 127 of the Act

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The off-licence 019/OFF/002/2020 in respect of the premises situated at 89 (also known as 91) Rora Street, Te Kuiti and known as Super Liquor Te Kuiti is renewed for a further period of 2 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 from 9.00am to 10.00pm Monday to Sunday.
 - 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) The display or sale of games, toys or accessories promoting excessive or inappropriate consumption of alcohol is prohibited.
 - d) No single sales of beer, cider, or spirits priced at, or less than \$6.00 per unit are to be displayed or sold.
 - e) The area where alcohol is to be sold is described in the plan date stamped as received by District Licensing Committee on 28 June 2023.
 - f) The entire premises is designated as a supervised area (no persons under 18 can be in the area unless with their parent or legal guardian).
 - g) 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.
 - h) A manager's register (as required by s.232 of the Act) is to be maintained and available on site.

- i) The licensee must ensure all staff receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012.
- j) 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.
- k) Drinking water must be freely available and displayed whenever alcohol is being supplied by way of complimentary tastings.
- l) 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

- m) Alcohol may be sold remotely at any time, on any day.
- n) 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.
- o) 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.
- p) The outside of the delivery package must contain a label with the following words:
 - CONTAINS ALCOHOL
 - Do not deliver to intoxicated persons or persons under 18 years of age.
- q) A copy of the licence must be displayed on the Super Liquor Te Kuiti internet site in a prominent place.

REASONS

1. This is an application by TK 2019 Limited for renewal of an off-licence in respect of the premises situated at 89 Rora Street, Te Kuiti known as Super Liquor Te Kuiti. This bottle store has been operating from its present site under the current management since 2019.
2. The application was advertised, and no objections were received from members of the public. The Licensing Inspector and Police have provided reports and do not oppose the application. The Medical Officer of Health opposed the application grounds of suitability of the applicant, systems, staff and training and the Object of the Act. This was as a result of the name duty manager not being on-site during an inspection. The application was set down for a public hearing.
3. On 24 May 2024, we received a supplementary report from the Medical Officer of Health withdrawing opposition to the application. Ms Adesanya accepts the evidence provided from the duty managers involved in the incident and the evidence from National Operations Manager for Super Liquor Holdings Limited explaining the compliance and audit process for TK 2019 Limited. On the basis of this information, Ms Adesanya has withdrawn her opposition. Accordingly, the hearing was vacated and the matter is decided on the papers (s 134).

4. 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). In deciding whether to renew an off-licence the licensing committee must have regard to sections 105 and 131 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. Section 132 provides that the licensing committee may vary or cancel any conditions applying to the licence before its renewal.

Does the applicant have appropriate systems, staff and training to comply with the law?

6. The licensing committee is satisfied that TK 2019 Limited is a suitable applicant to hold an off-licence. The company director has experience managing an off licence, has no conviction and has demonstrated compliance with the Sale and Supply of Alcohol Act 2012. TK 2019 Limited has an appropriate Host Responsibility Policy and staff training programme.
7. The Medical Officer of Health initially raised concerns about systems and staff training. During a site visit, the duty manager whose name was on display (Kiri Brown) was not on-site and the person on-site was not a certificated manager (Ana Hera Ormsby). This is a breach of section 214 of the Act and a condition of the licence. A manager (Sandra Maree Addy) was subsequently called from the adjacent Super Value store, also operated by the applicant, as the duty manager in place of Kiri Brown. We have reviewed the Briefs of Evidence provided by the applicant and considered the seriousness of the incident. We find the explanations compelling, and staff have undergone additional training in response to the incident to ensure it does not happen again. There are 4 Duty Managers employed to ensure compliance with the Act.
8. The premises has a suitable design and layout to meet the requirements of the Act. The premises is formed from a well-stocked retail area and a large walk-in-chiller to the rear. The point of sale is located next to the principal entrance. It is well appointed and able to be monitored effectively by the staff of the premises and 8 CCTV cameras. It has adequate street lighting for the safety of both patrons and staff.
9. The Licensing Inspector reports that the application does comply with the Waitomo District Local Alcohol Policy.
10. 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 of any nuisance, vandalism or noise problems associated with this premises in the past three years. Alcohol is sold, displayed and promoted in a responsible manner and in accordance

with the requirements of the Act. The only external advertising is the two A1 posters on the front door.

Should the licence be renewed?

11. Standing back and considering the criteria for renewing a licence and the evidence received, we are satisfied that one breach of conditions, in the absence of any other aggravating circumstances, cannot reasonably warrant a refusal to renew the off-licence. In addition, the actions of Mr Xing in accepting responsibility for the breach and requiring staff to undergo further training demonstrates an excellent attitude.
12. Weighing up all of these factors, the application for the renewal of the off-licence is granted subject to the following discretionary conditions:

Remote sales

13. 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. We acknowledge that TK 2019 Limited does not currently have a website or offer remote or click and collect sales but may do so in the future. We have formed a view that there is a benefit in adding remote sale conditions that repeat statutory requirements because they draw the licensee's attention to the statutory requirements and serve as a useful reminder and training tool for staff.

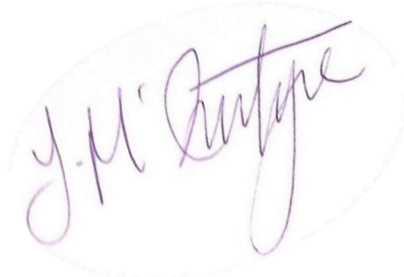
Single sales /drinking game restrictions

14. We are pleased to note that TK 2019 Limited does not sell low cost/high strength single sale and has stopped selling beer pong products. We have formalised these practices in discretionary conditions. Low-cost alcohol is more accessible to underage individuals and can contribute to early onset of drinking and the high alcohol content of these products and drinking game paraphernalia can increase the likelihood of engaging in risky behaviours. Recent decisions by the Waitomo District Licensing Committee have introduced similar restrictions to reduce alcohol-related harm associated with access to high-strength, low-cost alcohol.
15. TK 2019 Limited have consented to these conditions.

Conclusion

16. Therefore, the application for the renewal of the off-licence is granted for a truncated period of two years. This serves as a reminder for TK 2019 Limited that their operation remains under close observation by the reporting agencies and gives more time to demonstrate that improved staff, systems and training are in place.

Dated at this 28th day of May 2024



Tegan McIntyre
Commissioner
Waitomo District Licensing Committee