

APPLICATION 17/OFF/004/2016

IN THE MATTER of the Sale and Supply of Alcohol Act 2012(The Act)

AND

THE MATTER OF an application by K-Beez Putāruru Limited pursuant to s127 of the Act for the renewal of an Off-licence in respect of premises situated at 6-12 Princes Street, Putaruru and known as K-Beez Putaruru

### **DECISION OF THE SOUTH WAIKATO DISTRICT LICENSING COMMITTEE**

Quorum: Jeff Gash JP

#### **INTRODUCTION**

On the 15<sup>th</sup> February 2016 K-Beez Putāruru Limited filed an application pursuant to s127 of the Sale and Supply of Alcohol Act 2012 for the renewal of an Off-licence in respect of premises situated at 6-12 Princes Street, Putaruru and known as K-Beez Putāruru.

The general nature of the business is that of a small provincial grocery store

The applicant has advised that there will be 2 certified manager's employed to provide monitoring and control of the premises.

The applicant seeks the following hours:

- **Monday - Sunday 9:00am to 9:00pm**

The application was publicly notified in the South Waikato News on the 2<sup>nd</sup> & 9<sup>th</sup> of March 2016. No objections were received.

No objection was received from the New Zealand Police.

The Inspector did not oppose the application.

To date no report has been received from the Medical Officer of Health.

#### **DISCUSSION**

The Inspector has filed a comprehensive report with the District Licensing Committee pursuant to s103(2) of the Sale and Supply of Alcohol Act 2012. The report does not need to be restated, it is clear and covers off the provisions of ss105, 106, 112, 113 & 114 of the Act.

The application is complete and contains all the supporting documents as required under s127 of the Act. It was duly advertised and no objection, opposition or notice of desire to be heard has been received.

The Liquor Licensing Inspector states that the premises meets the criteria of s32(1)f which relates to grocery stores.

The applicant has included a financial statement for a 12 month period that has been prepared and signed by a chartered accountant, the statement indicates that the principal business carried out on the premises is the sale of food.

In deciding whether to renew a licence, the licensing committee concerned must have regard to criteria set out in s131 of the Act:

1. the matters set out in paragraphs (a) to (g), (j), and (k) of s105(1);
2. whether (in its opinion) 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;
3. any matters dealt with in any report from the Police, an Inspector, or a Medical Officer of Health made by virtue of s129;
4. the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol;
5. The committee must not take into account any prejudicial effect that the renewal of the licence may have on the business conducted pursuant to any other licence.

Additional sections of the application must also be regarded to which relate to supermarkets and the requirement to comply with ss112, 113, & 114 of the Act.

**Section 112(1) – (2) provide:**

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.
2. The licensing authority or licensing committee concerned must ensure that, when it issues or renews an off-licence for premises that are a supermarket or grocery store, it imposes on the licence a condition describing one area within the premises as a permitted area for the display and promotion of alcohol.

**Section 113(1) – (5) then says:**

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.
2. An alcohol area must be described by means of a plan of the footprint of the premises concerned (or, in the case of premises on more than one level, a plan of the footprint of the level on which the area is or is to be located) showing—
  - a. the proposed configuration and arrangement (or, in the case of the renewal of a licence, the existing or any proposed new configuration and arrangement) of the premises or level; and
  - b. the perimeter of the area.
3. The area may be so described that it is divided into 2 or 3 sub-areas; and in that case,—
  - a. the perimeter of each sub-area must be separately described; and
  - b. the licensing authority or licensing committee concerned must designate one sub-area as the core area and one sub-area as the secondary area, and (if the area is divided into 3 sub-areas) must designate one sub-area as the overflow area.
4. The perimeter of the area or any sub-area may pass through the proposed locations (or, in the case of the renewal of a licence, any existing or proposed new locations) of any display units.
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)—
  - c. 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
  - d. 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.

**Section 114(1)(a) and 5(a)(i) read:**

1. Every single area condition takes effect as a condition that the licensee of the premises concerned must ensure that—
  - a. no display or promotion of, or advertisement for, alcohol occurs on the premises at any place outside the alcohol area; and
  - b. the premises are not reconfigured or rearranged in a way whose effect (whether intentional or not) is that the alcohol area contains—

- 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.
5. For the purposes of this section,—
  - a. neither of the following is a promotion of alcohol:
    - i. a sign (consistent with other general signage in the supermarket or grocery store concerned) giving directions to, or describing the location of, an area where alcohol is available for purchase;
    - ii. a newspaper, magazine, or catalogue containing a promotion of or advertisement for alcohol.

The applicant has submitted a floor plan clearly outlining the perimeter of the single alcohol area, the Licensing Inspector believes that the current Single Alcohol Area configuration meets the requirements under the Act.

## **CONCLUSION**

It appears the applicant has made reasonable steps to limit exposure of alcohol to shoppers;

The advertising of alcohol is minimal and is only undertaken from within the single alcohol area, signage is not inconsistent with the rest of the stores signage.

The single area described is not in an area of the premises through which the most direct pedestrian route between any entrance to the premises and the main body of the premises and any general point of sale passes.

The Inspectors report is both comprehensive and positive.

There is nothing in that report to suggest that the applicant has managed the Sale and Supply of Alcohol in an inappropriate manner during the currency of the Off-licence.

In this matter we believe that the criteria under s131 of the Act have generally been met given that:

- The Licensing Inspector does not oppose this application;
- The Police do not oppose this application;
- The Medical Officer of Health has not raised any matters of concern;
- The Fire Risk Management Officer does not oppose this application;
- The premises meets the requirements of the Resource Management Act 1991;
- The premises meets the requirements of the Building Code;
- It is believed that the Amenity & Good Order of Locality will not be depleted by the granting of this licence;
- The applicant duly advertised their intention to renew their off-licence, no objections were received;
- The premises is currently "undesigned" this is appropriate for this type of business
- Currently the South Waikato does not have a Local Alcohol Policy.

## **CONDITIONS**

Overall it appears that the applicant has satisfied the matters to which the Committee must have regard to and accordingly we the committee renew the applicants' Off-Licence (17/OFF/004/2016) in respect of the premises situated at 6-12 Princes Street, Putaruru and known as K-Beez Putaruru Limited subject to the following conditions:

1. No alcohol is to be sold or delivered on Good Friday, Christmas Day, or before 1 pm on Anzac Day;

2. Alcohol may be sold only on the following days and during the following hours:

**Monday - Sunday 9:00am to 9:00pm**

3. No alcohol is to be sold or delivered on Easter Sunday unless the alcohol is grape wine or fruit or vegetable wine made—
  - a. on the premises; or
  - b. from grapes or fruit harvested from land on which the premises are situated;
4. The licensee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the sale and supply of alcohol to minors and the complete prohibition on sales to intoxicated persons;
5. While alcohol is being supplied free as a sample, water is to be provided to patrons free of charge at the place where the samples are being supplied;
6. The area in which alcohol can be sold for sale and consumed off the premises is **"Undesignated"**;
7. Alcohol display is not to be undertaken in any other area other than the single alcohol area that has been described in the floor plan which was amended and dated stamped on the 15<sup>th</sup> February 2016;
8. A Certificated manager or duly appointed Acting or Temporary must be on duty within the licensed area at all times when the premises are open for the sale and supply of alcohol;
9. A daily duty manager register pursuant to section 232 must be maintained and kept onsite.
10. A copy of this licence must be displayed at the principal entrance to the premises;

DATED at TOKOROA this 16<sup>th</sup> August 2017



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Jeff Gash JP  
Chairperson  
South Waikato District Licensing Committee