

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Ka Tahī Wines Limited** for a renewal of Off- Licence pursuant to section 127 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 91 Thames Street, Pandora, Napier and known as “Ka Tahī Wines Limited”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for renewal of off-Licence was advertised in the Hawkes Bay Today on the 17 February 2020 with no objections received. The required public notice to the exterior of the premises was also displayed in statutory compliance. No matters of opposition were raised under section 128 and 129 reports; therefore the matter was considered by the Napier District Licensing Commissioner on the papers contained in the full file provided by the secretary in accordance with the provisions of s.202 (1) and 191(2) of the Sale and Supply of Alcohol Act 2012.

Commissioner: Stuart Hylton

RESERVED DECISION OF THE NAPIER DISTRICT LICENSING COMMITTEE

Application

- (1) The premises at 91 Thames Street, Pandora, Napier and known as “Ka Tahī Wines Limited, is currently operating as a Remote Seller (Wines) Style Off licence (030/OFF/1273/2019) and this application is to renew the licence. This is the licensee’s first renewal.
- (2) The application to renew was made on 13 February 2020 on the prescribed form. The application seeks to renew with the same existing conditions. The general nature of the business will continue to be that of a ‘Remote Seller Style Off Licence’. The premises are undesignated and they trade via internet sales and remote dispatch and delivery.
- (3) The applicant has been operating for a year with no apparent compliance issues noted. The premises has not come to the notice of enforcement agencies during the renewal period.
- (4) The complete file that I received included –
 - The application
 - Certificate of incorporation
 - Licensed Premises Policy

- Copy of current licence
- Floor Plan
- Copy of renewal advertisement
- Letter stating the premise is exempt from having an evacuation of premises scheme
- Reports from Police, Medical Officer of Health and Inspector

Decision Making

(5) In considering this application for renewal of Off-Licence the District Licensing Committee (here in after referred to as “the Committee”) had regard to the criteria specified under s. 131 of the Act.

(6) **the object of this Act:**

The Inspector has inquired into the application seeking evidence that the object of the Act will be complied with under this licence. It is noted that the applicant has not failed any controlled purchase operation or committed any offence that would suggest renewing the licence would result in the object of the Act not be complied with. We agree. The applicant also has suitable policies and manuals that if followed should ensure the Act is complied with. See (12) below.

(7) **the suitability of the applicant:**

The applicant is a private company with no structure changes during the renewal period. There are no matters raised in the reports indicating any non-compliance issues over the renewal period.

The inspector and reporting agencies do not challenge suitability of the applicant and neither does the Committee.

(8) **any relevant local alcohol policy:**

The application accords to the Napier LAP.

(9) **the days on which and the hours during which the applicant proposes to sell alcohol:**

Applicant has applied for the same hours as previous which have operated without incident.

- **At any hour of any day (internet sales and delivery)**

(10) **the design and layout of any proposed premises:**

No changes to the premise layout which is shown in the plan date stamped by the Napier DLC on the 18th December 2019.

(11) **whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:**

I accept the inspectors assessment that there have been no complaints about nuisance type offences in the area in the past and in his opinion the amenity and good order of

the locality would unlikely to improve by more than a minor extent if the licence was not renewed.

(12) **whether the applicant has appropriate systems, staff, and training to comply with the law:**

The applicant has not supplied any named certified manager's to be employed to manage the licence.

The inspector in his report has raised this matter. In short it appears when the licence was first issued this matter was overlooked.

Section 212 of the Act requires the licensee to appoint a manager when holding an off-licence.

Section 215(1)(c) exempts a 'remote seller' licensee from having to have a manager **on duty at all times** which is practical for this type of licence. (Our emphasis)

Therefore the law clearly requires a manager to be appointed although that manager does not have to be **on duty at all times**.

The Committee endorses the inspectors recommendation that this matter is best practically dealt with on this renewal occasion by issuing a s. 208 waiver from the s. 212 requirement provided a certified manager can be appointed and listed upon next renewal. We will leave this to the inspector to communicate to the licensee.

Additionally the inspector has rightly raised in his report the issue of non display of licence number and expiry date by the licensee on their website. The Committee is satisfied this s. 15(4) of the Regulations oversight is being dealt with by the inspector directly with the applicant and should not preclude the renewal of the licence at this stage.

Reporting Agencies

(13) The following reports were received under section 103/129 of the Act.

(14) **Police** – Report received on 3 March 2020, offering no opposition.

(15) **Medical Officer of Health** - Report received on 13 March 2020, offering no opposition.

(16) **Licensing Inspector**

Full report dated 20 April 2020. The inspector provided, amongst other things, his assessment of the application in relation to the Act. The inspector also assessed the application against s105 criteria. This assessment has been referred to in this report and do not require further mentioning.

The inspector concluded that the application is complete and having regard to the required criteria together with the performance of the applicant, he has no opposition to the application being renewed.

Committees Decision and Reasons

- (17) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies and my assessment above, I conclude that the application meets the s. 105/131 criteria under the Act to be granted renewal of an Off-licence for the premise situated at 91 Thames Street, Pandora, Napier, to be known as 'Ka Tahi Wines Limited'.
- (18) Accordingly the application is **approved** for **renewal for three years from the date of expiry** subject to the existing conditions, a s. 208 waiver from the requirement to appoint a certified manager and payment of any outstanding fees, if any.

Dated at Napier this 24 day of April 2020.

Signed



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Stuart Hylton
Napier District Licensing Commissioner