

DECISION NUMBER

1288/2020

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **LDEAB Limited** for a new Off- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 537 Main North Road, Bay View, Napier and known as “*Bellatino’s Food Lovers Market*”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for new of Off-Licence was advertised in the Hawkes Bay Today on the 18 and 25 November 2020 with no objections received. 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 537 Main North Road, Bay View, Napier is currently operating a small boutique Grocery Store looking to sell primarily wine through this new license application. The applicant has a similar type of premise in Havelock North.
- (2) The application was made on 13 November 2020 on the prescribed form. The application seeks to sell primarily wines which is anticipated to amount to 3% of annual turnover. The general nature of the business will continue to be that of a ‘Grocery Store’.
- (3) The applicant’s store is deemed to have status as an off licence grocery store under s. 32 (1)(f) of the Act for which an off-licence may be issued. The Inspector visited the store along with Health officials and is satisfied that the store is indeed a Grocery Store by characteristic and therefore capable of obtaining a liquor licence. The premise has a certificate of building and planning compliance issued by the Council.
- (4) The complete file that I received included –
 - The application
 - Supplementary information from applicants agent
 - Site Plan
 - Certificate of Incorporation
 - List of duty managers
 - Floor plan showing single alcohol display area
 - Draft application advertisement
 - Store sales assessment
 - Permission letter from applicant
 - Fire evacuation scheme declaration from owner

- Copy of existing licence
- Reports from Police, Medical Officer of Health and Inspector

Decision Making

- (5) In considering this application for a new Off-Licence the District licensing Committee (here in after referred to as; the Committee) had regard to the criteria specified under s. 105 of the Act.
- (6) The Committee must also have regard to the stores display and promotion of alcohol and set a condition in relation to ‘single alcohol area/s’ in accordance with s. 112 of the Act. That section is copied for clarity:

s. 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.*
- (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.*
- (3) *On the renewal of an off-licence for premises that are a supermarket or grocery store, any single-area condition imposed when the licence was issued (or was last renewed) expires.*
- (4) *Subsection (3) is subject to [section 115\(4\)](#).*
- (7) Sections 113 to 115 go on to further describe the requirements when determining ‘single alcohol area/s’.
- (8) The purpose of a single alcohol area under the Act is to limit (so far as is reasonably practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol.
- (9) The application contained the following information to assist the Committee to make its decision on the s.112 matter:
 - A copy of a premise floor plan indicating a single alcohol area.
 - Inspector’s report that concludes that the single area as marked on the plan, complies with the Act as far as is practicable given the very small nature of the premise and the fact that the single alcohol area can be seen from every point in the store and every point of sale.
- (10) The premise is a very small grocery store for Napier standards with the Single Alcohol Area located on the right hand wall of the store as you enter the store.
- (11) The Committee therefore concludes that the Single Alcohol Area, as submitted, is indeed compliant, as far as practicably able.
- (12) The reporting agencies have all enquired into the application, offered no opposition to the Single Alcohol Area or the substantive licence. Therefore based on the information supplied within the complete file, inspectors and our assessment, I am of the opinion that the proposed Single Alcohol Area as shown on the ‘file’ floor plan, is compliant with s. 112 – 115 requirements.

Sections 105 Analyses:

(13) the object of this Act:

Both the Inspector and Medical Officer of Health inquired into the application seeking evidence that the object of the Act will be complied with under this licence. The applicant's Host Responsibility Policy, if followed correctly, should ensure that the object of the Act is complied with.

(14) the suitability of the applicant:

The applicant is a private company with two directors/shareholders. The applicant has experience in other licensed foodmarts. The applicant supplied two names of certified managers employed on the premises.

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

(15) any relevant local alcohol policy:

The applicant accords with the LAP.

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

Applicant has applied for the following hours which are the same as the current store hours:

Monday to Sunday 8.00am to 8.00 pm.

These hours are within the national trading hours. These are considered fit for purpose and have operated without incident in the past.

(17) the design and layout of any proposed premises:

The application included a detailed CPTED assessment and as it's an existing simple premise layout I see no issue with design and layout. Single Alcohol Area layout is discussed earlier in this report.

(18) 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 that if managed well this should continue.

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

The applicant has nominated two managers of varied experience and skills. The inspector notes the applicant maintains good levels of staff training and performance.

Reporting Agencies

(20) The following reports were received under section 103 of the Act.

(21) **Police** – Report received on 1 December 2020, of no opposition.

(22) **Medical Officer of Health** - Report received on 26 November 2020, of no opposition.

(23) **Licensing Inspector**

Full report dated 10th December 2020. The inspector provided, amongst other things, his assessment of the application in relation to the Act. He also assessed the application against s105 criteria. This assessment has been referred to in this report.

The inspector concluded that the application is complete and will likely meet the criteria for a new licence and consequently holds no opposition.

Committees Decision and Reason

(24) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies, my site inspection and my assessment above, I conclude that the application generally meets the s. 105 criteria under the Act to be granted a new off-licence for the premise situated at 537 Main North Road, Bay View, Napier, known as 'Bellatino's Food Lovers Market'.

(25) Accordingly the application is **approved** for one year subject to the conditions outlined in the Inspectors report and payment of any outstanding fees, if any.

Dated at Napier District this 15 day of December 2020.

Signed



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Stuart Hylton
Napier District Licensing Commissioner

