

DECISION NUMBER

1299/2021

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 Hawkes Bay Airport, 111 Main North Road, Westshore, Napier and known as “Bellatinos”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for new of Off-Licence was advertised in the Hawkes Bay Today on the 13 and 20 November 2021 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 application seeks to obtain a new off-licence for a new premises currently undergoing construction and fit out within a newly revamped part of the Napier Airport terminal building.

(2) The application was made on 11 November 2021 on the prescribed form. The application seeks the general nature of the business will be that of a ‘Grocery Store’ type off-licence i.e. s. 32 (1)(f) of the Act for which an off-licence may be issued.

(3) The applicant intends to sell gourmet products featuring a number of Hawkes Bay artisan supplies, including wines and boutique beers. The bulk of the supplies will reflect the applicants existing grocery stores. 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 also considered the claim that the premises and proposed trade is a premises which qualifies to hold an off-licence pursuant to s. 32(1)(f) of the Act, as contended by the applicant. In this regard the application included description of goods to be sold, pictures of the applicants other like-minded stores, a statement of projected annual sales revenue based on the other stores and an artist's impression what the premises will look like.

(7) Additionally the application was reported on by all three statutory reporting agencies with no objection raised. The Inspector enquired into the specifics of s. 32(1)(f) compliance and concluded "*I have no concerns relating to the design and layout of the premises, but I will inspect this premises to be sure it is indeed trading as a Grocery Store.*"

(8) Whilst this store may not look like a typical grocery store, it does sell a range of products normally associated with grocery shops as defined under the Act and furthermore is not, on face value of application, a premise of the type listed under s.36 of the Act for which an off-licence must not be issued.

(9) For the reasons noted above I conclude that the application qualifies to hold an off-licence pursuant to s. 32(1)(f) of the Act.

(10) 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\(4\)](#).

(11) Sections 113 to 115 go on to further describe the requirements when determining 'single alcohol area/s'.

(12) 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.

(13) 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 most points in the store and every point of sale.

(14) The premise is a very small grocery store for Napier standards with the Single Alcohol Area located on the left hand wall of the store as you enter the store.

(15) The Committee therefore concludes that the Single Alcohol Area, as submitted, is indeed compliant, as far as practicably able.

(16) 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 105Analyses:

(17) 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.

(18) the suitability of the applicant:

The applicant is a private company with two directors/shareholders. The applicant has operated two other similar type off-licences in the region without any apparent issues. The applicant supplied three names of certified managers to be employed on the premises. This is seen as adequate.

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

(19) any relevant local alcohol policy:

The application accords with the LAP.

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

Applicant has applied for the following hours:

Monday to Sunday 7.00am to 10.00pm.

These hours are within the national trading hours. These are considered fit for purpose.

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

A simple small construction, well lit, bright and easy to monitor by staff. I see no issue with design and layout. Single Alcohol Area layout is discussed earlier in this report. It's suitable that the premises is 'undesignated' due to its type and low risk nature.

(22) 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. The application included an environmental assessment and is considered “low risk”.

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

The applicant has nominated three managers of varied experience and skills to meet the Acts obligations and has offered an extensive induction package to all staff. The applicant has one year before renewal to show reporting agencies that the licence can be operated within the object of the Act and conditions of the licence.

Reporting Agencies

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

(25) **Police** – Report received on 17 November 2021, of no opposition.

(26) **Medical Officer of Health** - Report received on 19 November 2021, of no opposition.

(27) Licensing Inspector

Full report dated 6 December 2021. 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

(28) 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 generally meets the s. 105 criteria under the Act to be granted a new off-licence for the premise situated at Hawkes Bay Airport, 111 Main North Road, Westshore, Napier and known as “Bellatinos”.

(28) 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 7th day of December 2021.

Signed



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Stuart Hylton

Napier District Licensing Commissioner