

DECISION NUMBER

0052/2022

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **JH THOMAS ENTERPRISE 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 9 Hill Road, Bay View, Napier and known as “Bay View Four Square”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for renewal of Off-Licence was advertised in the Hawkes Bay Today on the 26 October and 2 November 2022 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 9 Hill Road, Bay View, Napier is currently operating as an off licence ‘Grocery Store Style Off-licence’ (030/OFF/0052/2019) and this application is to renew the licence. This is the licensee’s second renewal.

(2) The application to renew was made on the 20 October 2022 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 ‘Grocery Store Style Off-Licence’.

(3) The inspectors report contained an examination of the applicant’s status as a grocery store within the definitions contained within section 33 of the Act and Regulation 12 of the Sale and Supply of

Alcohol Regulations 2013. I accept the inspector's analysis and determination that this premise is a premises for which off-licences may be issued in terms of s. 33 of the Act.

- (4) The complete file that I received included –
- The application
 - Floor plan showing single alcohol display area
 - Sales revenue notice from applicants accountant
 - Draft renewal advertisement
 - Fire evacuation scheme declaration from owner
 - Permission letter from owner
 - Photos from interior of shop taken by the inspector
 - 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 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 single alcohol area.
- The Inspectors report stated that the single area currently in use, and as marked on the plan, complies with the s. 112 to 114 requirements.

(11) This area in question, in my view, is outside –

- the most direct pedestrian route between the entrance to the premises and the general point of sale.
- the most direct pedestrian route between the main body of the premises and the general point of sale.

This is a requirement of s.113 (5)(b).

(12) The reporting agencies have all enquired into the application, offered no opposition to the Single Alcohol Area or the substantive licence. Therefore on balance based on the information supplied within the complete file, I am of the opinion that the proposed Single Alcohol Area as shown on the 'file' floor plan and currently in use, is compliant with s. 112 – 115 requirements.

Sections 105/131 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. It is noted that the premise has not come to the notice of the authorities in an adverse way during the renewal period. 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 no changes to structure noted during renewal period. The applicant supplied four names of certified managers to be employed on the premises, which is seen as adequate for this type of licensed premise.

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

(15) any relevant local alcohol policy:

The licence 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 existing hours:

Monday to Sunday 7.00am to 10.00 pm.

These hours are within the national trading hours and same as the hours contained in the current licence. These are considered fit for purpose and have operated without incident in the past.

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

No CPTED assessment received with the application but as it's an existing licence with no issues reported 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 four managers of varied experience and skills. The inspector notes the applicant maintains excellent levels of staff training and performance.

Reporting Agencies

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

(21) **Police** – Report received on 7 November 2022, of no opposition.

(22) **Medical Officer of Health** - Report received on 2 November 2022, of no opposition.

(23) Licensing Inspector

Full report dated 28 November 2022. 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 renewal on the conditions presently attached to the licence, with addition of a single area condition as requested and currently in use.

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. 105/131 criteria under the Act to be granted renewal of an off-licence for the premise situated at 9 Hill Road, Bay View, Napier, to be known as ‘Bay View Four Square’.

(25) Accordingly the application is **approved** for renewal for three years subject to the existing conditions and payment of any outstanding fees, if any.

(26) Finally the applicant seeks that the annual revenue statement be treated confidentially and not be subject to any request for information under LGOIMA. Accordingly the Committee makes an order under s. 203(3) of the Act prohibiting the publication or release of this applications annual revenue statement.

Dated at Napier District this 10 day of December 2022.

Signed



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Stuart Hylton

Napier District Licensing Commissioner