

DECISION

036/OFF/001/2022

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **Gunner Foods 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 374 Victoria Avenue, Whanganui and known as “*New World Supermarket*”.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The application for new of Off-Licence was advertised in the Whanganui Chronicle on the 24 and 31 March 2022 with no objections received. No matters of opposition were raised under section 128 and 129 reports; therefore the matter was considered by the Whanganui 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 WHANGANUI DISTRICT LICENSING COMMITTEE

Application

(1) The premises at 374 Victoria Avenue, Whanganui is currently operating as an Off-licence ‘Supermarket’ and this application is for a new licence due to change of ownership. The applicant is currently operating at the premises under a Temporary Authority. The principle entrance is off Victoria Avenue.

(2) The application was made on 22 March 2022 on the prescribed form. The application seeks to continue the same type of operation with similar existing conditions. The general nature of the business will continue to be that of a ‘Supermarket’.

(3) The applicant’s store is deemed to have status as an Off-licence supermarket under s. 32 (1)(e) of the Act for which an Off-licence may be issued. 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 s. 112 to 114 requirements. This is the same single alcohol area as the previous licensee enjoyed and also allows staff view of who is in the Single Alcohol Area.

(10) The Committee in considering this application made a site visit to the premises in question. The premise is a medium to large sized supermarket for Whanganui standards with the Single Alcohol Area located on the south front wall, furthest away from the premise entrance, away from the direct line of the check out and main thoroughfare of the store. The Single Alcohol Area has not changed from last licensee.

(11) This Committee concludes that whilst the Single Alcohol Area is not in an area that is furthestmost from the main thoroughfare, it is nevertheless in an area that most persons would not go to unless to shop for alcohol and associated goods. The Committee therefore concludes that the Single Alcohol Area, as submitted, is indeed compliant.

(12) This area, in the Committee's 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).

(13) 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 and my site inspection, 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:

(14) 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.

(15) the suitability of the applicant:

The applicant is a private company incorporated in 2020 with one director/shareholder. The supermarket manager is well experienced in the industry and has operated the temporary authority onsite without known issue.

The applicant supplied five names of certified managers to be employed on the premises.

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

(16) any relevant local alcohol policy:

The provisional local policy is currently in place has no effect on this application.

(17) 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 7.00am to 9.00 pm.

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

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

The application included a detailed CPTED assessment and 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. The site plan submitted with the application is dated 23 March 2022.

(19) 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.

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

The applicant has nominated five managers of varied experience and skills. The inspector notes the applicant maintains good levels of staff training and performance through a franchised system.

Reporting Agencies

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

(22) **Police** – Report received on 19 April 2022, of no opposition.

(23) **Medical Officer of Health** - Report received on 31 March 2022, of no opposition.

(24) Licensing Inspector

Full report dated 19th April 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 a new licence and consequently holds no opposition.

Committees Decision and Reason

(25) 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 374 Victoria Avenue, Whanganui, known as 'New World Supermarket'.

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

Dated at Whanganui District this 20 April 2022.

Signed



.....
Stuart Hylton
Whanganui District Licensing Commissioner

