

OTOROHANGA DISTRICT LICENSING COMMITTEE

Application	018-0024
<u>IN THE MATTER</u>	of the Sale and Supply of Alcohol Act 2012
<u>AND</u>	
<u>IN THE MATTER</u>	of an application by General Distributors Limited for renewal of an off-licence pursuant to section 127 of the Act in respect of the premises situated at 123 Maniapoto Street, Otorohanga, known as Countdown Otorohanga

DECISION OF THE DISTRICT LICENSING COMMITTEE

1. The off-licence 018/OFF/004/14 in respect of the premises situated at 123 Maniapoto Street, Otorohanga, and known as Countdown Otorohanga is renewed for a further period of 3 years. The licence may issue upon payment of the annual fee.
2. The present conditions of the licence are replaced as follows:
 - a) Alcohol may be sold only on Monday to Sunday from 7.00am to 10.00pm.
 - b) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day.
 - c) No alcohol may be sold other than:
 - (i) Beer that complies with the appropriate New Zealand food standard for beer; or
 - (ii) Mead that complies with the appropriate New Zealand food standard for mead; or
 - (iii) Fruit or vegetable wine that complies with the appropriate New Zealand food standard for fruit and vegetable wine; or
 - (iv) Grape wine that complies with the appropriate New Zealand food standard for grape wine; or
 - (v) A food flavouring, prepared for culinary purposes, that is unsuitable for drinking undiluted.
 - d) The area where alcohol is to be sold is described in the plan date stamped as received by the District Licensing Committee on 25 May 2017. The only area permitted within that plan, as an area for the display and promotion of alcohol pursuant to section 112 is the area marked in red diagonal hatching in aisle 5.

- e) The entire premises is undesignated.
- f) The holder of a manager's certificate or a properly notified manager shall be on duty and on the premises at all times alcohol is sold. If a duty manager is not present then there must be no alcohol sales and a notice displayed advising the public of this fact.
- g) A manager's register (as required by s.232 of the Act) is to be maintained and available on site.
- h) A Host Responsibility Policy must be maintained and displayed at all points of sale and the Licensee must ensure all staff receive training in their responsibilities and obligations under the Sale and Supply of Alcohol Act 2012
- i) There must be no sale or supply of alcohol to minors or intoxicated persons and there must be displayed at every point of sale appropriate signs detailing these restrictions
- j) Drinking water must be freely available and displayed whenever alcohol is being supplied by way of complimentary tastings.
- k) The Licensee must ensure the following are displayed;
 - i) A sign to be seen from outside the principal entrance stating the ordinary hours of business during which the premises will be open for the sale of alcohol.
 - ii) A copy of the original licence with all the conditions, just inside the principal entrance so persons entering can read it.
 - iii) A sign in a prominent place identifying the duty manager.

REASONS

The Application

1. This is an application by General Distributors Limited for the renewal of an off-licence in respect of the grocery store known as Countdown Otorohanga. This application was filed on 25 September 2014, 20 working days before the expiry of the off-licence as required by section 127(2)(b). The application was put on hold following an ARLA direction that supermarket off-licence applications be adjourned pending the outcome of appeals (Vaudrey) relating to single alcohol areas. These appeals have now been determined, therefore this application can be decided.
2. The application was advertised and no objections were received from members of the public. The Licensing Inspector and Police do not oppose the application. The Medical Officer of Health initially opposed the application, however this opposition was withdrawn on 7 June 2017, after an amended plan was submitted showing changes to the single alcohol area. Accordingly, the application is decided on the papers (s 202(1)).

Does Countdown Otorohanga meet the criteria in section 105?

3. The purpose of the Act is to put in place a new system of control over the sale and supply of alcohol (s 3). The object of the Act is to ensure that the sale and supply of alcohol is undertaken safely and responsibly and the harm caused by excessive or inappropriate consumption of alcohol is minimised (s 4).

4. In deciding whether to renew an off-licence the licensing committee must have regard to sections 131 and 105 of the Act. Therefore this committee must consider the following questions within the framework of the purpose and object of the Act:
 - a) Is the applicant suitable?
 - b) Are the days and hours during which the applicant proposes to sell alcohol reasonable?
 - c) Is the design and layout of the premises suitable?
 - d) Does the applicant propose to engage in the sale of goods or provision of services other than those directly relating to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments and food?
 - e) Does the applicant have appropriate systems, staff and training to comply with the law?
 - f) Have the police, inspector and medical officer of health raised any relevant considerations?
 - g) Will the amenity and good order of the locality be increased by more than a minor extent by the effects of a refusal to renew the licence?
 - h) Has the applicant sold, displayed, advertised or promoted alcohol in a responsible manner?
 - i) Does the application comply with the Otorohanga District Local Alcohol Policy?
5. In forming an opinion on whether the amenity and good order of the locality would be likely to be increased by more than a minor extent by the effects of a refusal to renew the licence, the licensing committee must consider the current and possible future noise, nuisance and vandalism levels (section 106(2)).
6. The licensing committee is satisfied that General Distributors Limited meets the criteria in sections 131 and 105. General Distributors Limited is a suitable applicant to hold an off-licence. The company has demonstrated compliance with the Sale and Supply of Alcohol Act 2012. The supermarket currently has licensed hours from 7.00am to 12.00 midnight. However, General Distributors Limited has agreed to amend the trading hours to 7.00am to 10.00pm Monday to Sunday in order to comply with the Otorohanga District Local Alcohol Policy.
7. The licensing committee is satisfied that the premises has a suitable design and layout to meet the requirements of the Act. It is well appointed and able to be monitored effectively by the staff of the premises and closed circuit television cameras.
8. The licensing committee is satisfied that General Distributors Limited has an appropriate Host Responsibility Policy and staff-training programme. There are seven Duty Managers employed to ensure compliance with the Act. It is expected that General Distributors Limited will provide evidence of staff-training conducted with each renewal application.
9. The licensing committee is satisfied that the renewal of the off-licence will not reduce the amenity and good order of the locality by more than a minor extent. There have been no reports, from the Police or members of the public living in this community, of any nuisance, vandalism or noise problems associated with this premises in the past three years. The licensing committee is satisfied that alcohol is sold, displayed and promoted in a responsible manner and in accordance with the requirements of the Act.

Does the application contain an appropriate single alcohol area?

10. When issuing an off-licence for a grocery store, the licensing committee must impose a condition on the licence describing one area within the premises “as a permitted area for the display and promotion of alcohol” (section 112(2)). The single alcohol area must (so far

as is reasonably practicable) “limit the exposure of shoppers in supermarkets ... to displays and promotions of alcohol” (section 112(1)). It may not be situated in an area “through which the most direct pedestrian route between the entrance to the premises and main body of the premises” or an area “through which the most direct pedestrian route between the main body of the premises and any general point of sale passes” (section 113(5)). No display or promotion of alcohol is permitted outside the alcohol area (section 114(1)(a)). A licensee must not display, promote or advertise non-alcohol products in a single alcohol area that does not contain sub-areas (section 114(1)).

11. The Inspector reports that the single alcohol area is contained within aisle five and does not include any end of aisle displays. The Inspector concludes that while the alcohol display can be partially seen from the nearest check-out, the location does limit the exposure of shoppers to the display of alcohol. This is because exposure is minimised with the display of non-alcohol products at the end of the aisle.
12. The licensing committee is satisfied that the single alcohol area is not in a prohibited area and the location does limit the exposure of shoppers to displays of alcohol. If a person does not wish to buy alcohol, they do not need to go through the single alcohol area, and will only be exposed to a limited amount of alcohol as they walk past aisle 5. Therefore, the application does contain an appropriate single alcohol area.
13. The conditions for this licence have been replaced to ensure that they are consistent with licences issued since the commencement of the Sale and Supply of Alcohol Act 2012. The new conditions include information about the statutory obligations to display signage, single alcohol areas and the maintenance of a manager’s register.

Conclusion

14. Therefore, the application for the renewal of the off-licence is granted.

Dated this 31st day of August 2017



Sara Brown
Commissioner