

Off Licence Renewal

Sections 17 to 20, and 64, Sale and Supply of Alcohol Act 2012

Pursuant to the Sale and Supply of Alcohol Act 2012 (the Act), **HB ENTERPRISES LIMITED** (the licensee) is authorised to sell alcohol on the premises situated at **33 JELlicoe Street, Te Puke** and known as **THE BOTTLE O**, to any person for consumption off the premises and to supply alcohol free, as a sample, for consumption on the premises. The licensee is also authorised to sell alcohol on or from the premises and deliver it somewhere else.

The authority conferred by this licence must be exercised through a manager or managers appointed by the licensee in accordance with Subpart 7 of Part 2 of the Act.

CONDITIONS

This licence is subject to the following conditions:

1. Alcohol may be sold on, or delivered from, the premises for consumption off the premises, or supplied free as a sample for consumption on the premises, only on the following days and hours:
Monday to Sunday 9.00am to 10.00pm;
2. No alcohol is to be sold on, or delivered from, the premises on Good Friday, Easter Sunday or Christmas Day or before 1.00 pm on Anzac Day.
3. While alcohol is being supplied free as a sample, water is to be provided to patrons free of charge at the place where the samples are being supplied.
4. The whole of the premises is designated as a **Supervised Area**;
5. The Licensee must have available for consumption off the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages.
6. A properly appointed certificated or Acting or Temporary Manager must be on duty at all times, within the licensed area, when the premises are open for the sale and supply of alcohol and their full name must be on a sign prominently displayed in the premises.
7. **There is to be no single sales of mainstream beers and RTDs under 500mls and/or those not designed by the manufacturer to be sold as single serves.**
8. **No light spirits up to 1125ml and up to 13.9% abv are to be sold under this licence.**
9. **All cans of high alcohol (over 6% abv) beverages 500ml or over are to be marked with a single indelible black line on the bottom of the can. This condition does not apply to craft beer;**
10. The Licensee must display:
 - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
 - b. At the principal entrance to the premises, so as to be easily read by people immediately outside the premises, a sign stating the ordinary hours of business during which the premises will be open for sale of alcohol;
 - c. A copy of the licence attached to the inside of the premises so as to be easily read by people entering each principal entrance.

DURATION

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force—

- (a) until the close of the period for which it was last renewed; or
- (b) if an application for the renewal of the licence is duly made before the licence would otherwise expire, until the close of the period of 3 years after the period for which it was last renewed.

This licence replaces licence no. 022/OFF/9/11 and this licence continues in force until 15 December 2021 unless again renewed.

Dated at Tauranga on the 31st day of July 2019

Secretary
District Licensing Committee
Western Bay of Plenty District Council



Decision number: 22/RENOFF/7445/2019

IN THE MATTER of the Sale and Supply of
Alcohol Act 2012 (the Act)

AND

IN THE MATTER of an application
by **HB Enterprises Limited**
pursuant to s.127 of the Act
for the renewal of an OFF
Licence for premises situated
at 33 Jellicoe Street, Te Puke
known as "Te Puke Bottle-O"

**DECISION OF THE WESTERN BAY OF PLENTY DISTRICT LICENSING
COMMITTEE**

Chairman: Murray Clearwater
Member: James Davison
Member: Arthur Wilkinson

HEARING at Tauranga on the 17th of June 2019

APPEARANCES

Mr John Young - for the Applicant HB Enterprises Limited ("the applicant")
Mr Simranjeet Singh – for the Applicant
Mr Dougal Elvin – Western Bay of Plenty Alcohol Licensing Inspector ("the Inspector")
– in opposition
Sergeant Trevor Brown – Police Alcohol Harm Prevention Co-Ordinator (AHPC) – to
assist
Ms. Dawn Meertens- for the Medical Officer of Health (MOoH) – in opposition

RESERVED DECISION OF THE COMMITTEE

Introduction

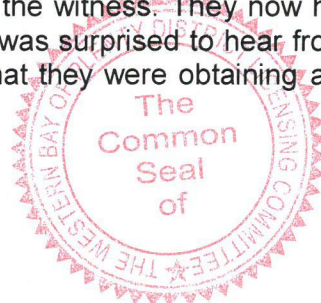
1. By an application received on the 14th of November 2018, HB Enterprises Limited applied for the renewal of an off-licence in respect of premises situated at 33 Jellicoe Street, Te Puke known as "Te Puke Bottle-O."



2. The current licensed days and hours are Monday to Sunday 9.00am to 10.00pm. These hours were within the default national maximum trading hours for off licences and within the operative Tauranga and Western Bay of Plenty Local Alcohol Policy that came into force on the 16th of November 2015.
3. The application was duly advertised and was reported on by the agencies. The delegated officer for the Medical Officer of Health opposes the renewal on the belief that the applicant sells 'single serves' of mainstream products from a premises that is within an Alcohol Ban Area.
4. The Inspector has opposed the renewal as he believes the business is contributing to a problem with street drinkers in the town. He cites violence, disorder, littering and public drunkenness.
5. The Police do not oppose the renewal but have provided, via the Inspector, an alcohol related Crime Profile for Te Puke.
6. The application was set down for a formal hearing as the Committee needed to hear the concerns of the MOoH on single sales, and those of the Inspector about the apparent adverse effect on the amenity and good order of the area.

Applicant's Evidence

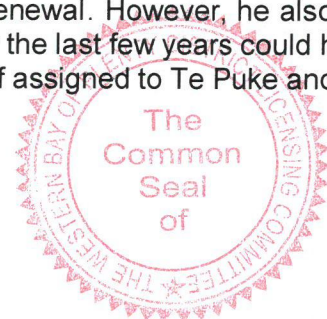
7. We heard from Mr Simranjeet Singh, who told us he works for, and with, his father Jaspal Singh to operate a number of licensed premises throughout Tauranga and Western Bay of Plenty.
8. He told us he was aware of the problem with street drinkers after the Inspector raised it with him about a year ago.
9. He believed they were doing all they could and had verbally trespassed 2-3 persons from their premises. They had a folder with photos under the counter of persons they would not serve.
10. He identified one of their managers by name, Michael Franicevic, whom he had reservations about. He said Michael sometimes struggled with refusing to serve these people just because they might be homeless.
11. He informed the Committee that Michael Franicevic no longer works in any of the family businesses.
12. He advised the Committee that they had stopped selling single serves of beers and RTDs. He said they only continued to sell them after their last renewal because "*the DLC did not have an issue with it when we last renewed.*"
13. Recently he had a meeting with the Police and was given the names and photos of 4 people of concern. Three were already known to the witness. They now have 6 persons trespassed from the bottle shop. Mr Singh was surprised to hear from the Police that the street drinkers had told the Police that they were obtaining alcohol from his store and from the others in town.



14. He said it was hard to identify if other people were buying for the street drinkers and they have now developed some procedures to minimise the risk. He works at the store 3-4 times a week now and constantly reminds staff not to serve the street drinkers.
15. The licensee has upgraded their CCTV to obtain better quality pictures. They are taking a firm line with others who they suspect are on-supplying the street drinkers. They have also removed signage from the front window to give them greater visibility of the street frontage.
16. He said they have removed light spirits such as Kristov 62 from their range as it had been identified by the Inspector as a drink of choice for the street drinkers. They have ceased selling single serves of mainstream beers and RTDs despite their competitors continuing to do so. He would welcome a united position on the issue from the other stores if that could be arranged.
17. He said he was concerned that the owner of a nearby business had reported to the Inspector that he had seen street drinkers gaining access to alcohol from Bottle-O. He said he wished to make contact with this business owner and exchange contact details.
18. Mr Singh said he wanted to work with the agencies to do whatever was possible to minimise the problem of street drinking in the township.
19. Mr Singh was cross-examined by the agencies and questions were asked by the Committee. He confirmed that he had been aware of the street drinking problem for about a year and he stopped making single sales of RTDs and mainstream beers in April 2019.
20. He acknowledged that they still stocked Kingfisher Strong in 500ml cans at 7.2% and 8.1% alcohol. He said he had other regular customers who liked that product. He accepted that he had them prominently displayed at eye level in the main chiller cabinet.
21. He told us that Bottle-O head office dictated the prices that they offered. He was asked what the annual cost to NZ was in alcohol related harm. He thought it would be about \$20 million and appeared surprised to be told it was in excess of \$4000 million.

Police Evidence

22. At the request of the Committee Sergeant Trevor Brown took the stand and reconfirmed the Police stance of no opposition to the renewal. However, he also put his hands up for the Police and said their response over the last few years could have been better but now there were new and committed staff assigned to Te Puke and the



Police response would change. He said he would also be more personally involved in his role as the Alcohol Harm Prevention Co-Ordinator.

23. The recent death of one of the street drinkers had brought the issue to a head and he was keen to see progress on the problem. He agreed with a suggestion from the Committee that the Te Puke licensees should form an Off Licence Alcohol Accord. He said the Police would be actively involved in the set up and on-going support for such an accord.
24. He believed the applicants were genuine in their concern about the issue and that they would participate in any initiatives undertaken for the town.

Medical Officer of Health Evidence

25. By email on the 3rd of December 2018 the delegated officer for the Medical Officer of Health, Dawn Meertens, advised the application was opposed citing concerns relating to Section 4 and in particular single serve sales of mainstream beers and RTDs.
26. At the hearing she produced a substantial brief of evidence relating to the consequences of single sales viz. violence and general crime and disorder.
27. She also attempted to introduce additional evidence around a number of health surveys on density and social health indicators linking outlet density and alcohol related harm. We will discuss the weighting we apply to this material later in this decision.
28. Ms. Meertens was allowed some latitude as the applicant had not strongly objected to the late filing of the additional material. She spoke to her Brief and submitted her supporting documents.
29. She happily conceded that the part of her opposition relating to single sales of mainstream beers and RTDs had been satisfied. She also struck out the part of her brief recommending the renewal be refused.
30. Ms. Meertens also committed her support to an Alcohol Accord for Te Puke should one be set up.

Inspectors Evidence

31. Mr Dougal Elvin is the Alcohol Licensing Inspector for Western Bay of Plenty. He told us about the 24/7 Alcohol Ban area for the Te Puke township and the problem with street drinkers he had been grappling with for over one year.
32. He said there was a small number of street drinkers who gathered, sometimes on a daily basis, and consumed alcohol in public places within the alcohol ban area. In doing



so they were at times abusive to passerby, created litter and behaved offensively whilst relieving themselves in nearby gardens and fixtures.

33. He has approached all of the town's off-licensed premises and asked them not to sell to the street drinkers. Yet the problem persists as when the individuals get refused service, they invariably find someone else to purchase for them.
34. The Inspector has noted that the type of alcohol sought by the street drinkers is either cheap and/or potent i.e. high in alcohol percentage.
35. As part of his evidence the Inspector produced a 2018 Police Crime Report that was prepared for the Alcohol Control Bylaw review for Te Puke that showed that of the 108 offences recorded in the Alcohol Control Area 66% were alcohol related. The Police supported the retention of the Alcohol Control Bylaw for Te Puke.
36. Whilst conducting his investigation and reporting on this renewal the Inspector had an unsavoury altercation with some of the street drinkers. He provided a statement to the police over this incident. He reports that the street drinkers are often intimidating to the public and leave their trash all around the town.
37. The Inspector has met with the Police and other support agencies in the community and there is agreement that affirmative action is required.
38. Whilst suggesting to the Committee that the High Court decision involving Lion Liquor is applicable to this case, he does not ask us to refuse the licence. Instead he seeks acknowledgement from this applicant, and the Committee, that there is a problem in Te Puke and the off licensed premises need to be part of the solution.
39. He too, thought an Alcohol Accord involving all the off-licensed premises of the town was a good idea and he would support its set up and on-going activities.
40. The Inspector then called three witnesses in support of his stance on this problem.

Evidence of Sue Hammond

41. First, we heard from Sue Hammond who told us she is the Reserves and Facilities Officer for Te Puke. She has been in the role for 13 years and Jubilee Park is within her area of control.
42. She said she has many interactions with the street drinkers as she performs her audits and inspections. On one occasion in April 2019 she was challenged and abused by the street drinkers to the point where she left the area without completing her task. She had called the Police about it but was told there was only one officer on duty and they could not help.



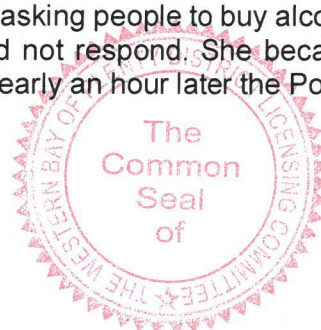
43. She said the lack of support from the police in recent years has not helped resolve the issues. On the popular market days there are drunks wandering around and lying comatose on the ground while the market goes on around them. Market volunteers are scared to approach the drinkers for safety reasons.
44. She was asked about the cost to council for the clean-up but was unable to put a monetary figure on it as it is all part of the maintenance contract they have with a provider.

Evidence of Leigh Bartosh

45. Next, we heard from Leigh Bartosh who owns Anann Pineapple Bar diagonally across the road from the Bottle-O. He used to work in a bottle store in Te Puke in 2015 and was aware then of the street drinking problem.
46. He now owns the Anann Pineapple Bar and continues to have unpleasant interactions with this group. He sees them most days of the week and particularly on Thursdays. They start off OK in the morning but by lunchtime they are drunk and become abusive to people in the street and asking for cigarettes or money or trying to enter licensed premises.
47. Mr Bartosh has had to remove some of them from his premises after they have started harassing his customers or himself. He sees constant breaches of the alcohol ban and urination and abusive behaviour.
48. He has kept a log of incident for the last few years and as recently as April 2019 he has seen allegedly intoxicated persons entering Bottle-O and coming out with alcohol.
49. He told us these behaviours are bad for business and bad for the town. He asks that all licence holders to be made accountable for their part in the problem.

Evidence of Sharon Connolly

50. We then heard from Sharon Connolly who is the Te Puke Bylaws and Parking Officer. She told us that when she has been monitoring the car parks, she has witnessed customers of Bottle-O being shoulder-tapped by the street drinkers to purchase alcohol for them.
51. On 10 May 2019 she was directed to a man sleeping in the doorway of the empty Mitre 10 store. He was one of the street drinkers she was familiar with and he had an open bourbon can next to him. She had seen him earlier in the day drinking alcohol from large red cans with other men.
52. She recognised him as one of the men she regularly saw asking people to buy alcohol for him. She cautiously tried to speak to him, but he did not respond. She became concerned about his well-being and phoned the Police. Nearly an hour later the Police



phoned her back to say they were too busy to attend and transferred the call to the Ambulance service.

53. Two hours later the man came around and spoke to Ms. Connolly. He said he was OK and staggered off saying he didn't want the ambulance. Ms. Connolly phoned ambulance and stood them down. The next day his body was found out the back of Commerce Lane.

Closings

54. In closing the Police said they will step up on this issue and they have taken away several action points from the hearing.
55. Sergeant Brown acknowledged that historically, the police should have been doing more to identify and tackle this problem. However, there is now a new Police team based in Te Puke and with Sgt Brown's input there will be changes.
56. Inspector Elvin said the issue needed to be effectively addressed. He believed an Alcohol Accord would be a good idea and he wanted to get involved with that.
57. The MOoH were also on board with affirmative action and wanted to see an effective condition on the licence banning single sales of at-risk products.
58. Mr Young, for the applicants, acknowledged that the renewal of a licence is not a forgone conclusion and must be earned with exemplary behaviour in as much as an operator can do.
59. He said his clients needed assistance from the agencies and were happy to be involved in any initiatives that were imposed across the town's off-licensed premises.
60. They had started the process by refusing single sales of mainstream products and RTDs and had upgraded their CCTV capabilities.
61. They have trespassed the main offenders and are prepared to ban more if they are identified as street drinkers.
62. Mr Young urged the Committee, if they were thinking of some other restrictive conditions on the licence that they consider issuing an interim decision as they have done elsewhere recently.
63. The applicant and the agencies could then consider and respond to the proposed suite of conditions.

Relevant legislation

64. Section 3 of the Sale and Supply of Alcohol Act 2012 ("the Act") states the purpose



of the Act as follows:

- (1) **The purpose of Parts 1 and 3 and the schedules of this Act is, for the benefit of the community as a whole, –**
 - (a) **to put in place a new system of control over the sale and supply of alcohol, with the characteristics stated in subsection (2); and**
 - (b) **to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.**
- (2) **The characteristics of the new system are that–**
 - (a) **It is reasonable; and**
 - (b) **Its administration helps to achieve the object of this Act.**

65. Section 4 states the object of the Act as follows:

- (1) **The object of this Act is that –**
 - (a) **The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and**
 - (b) **The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.**
- (2) **For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes –**
 - (a) **Any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and**
 - (b) **Any harm to society generally or the community, directly or indirectly caused, or directly and indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).**

66. Sections 131 of the Act provides the criteria that the licensing committee must have regard to in deciding whether to approve a renewal of the licence:

131 Criteria for renewal

(1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

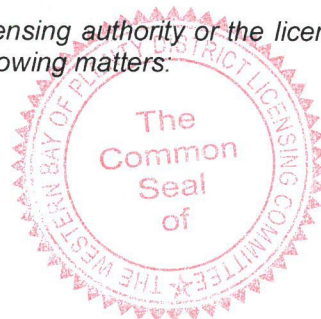
- (a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1);*
- (b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence;*
- (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129;*
- (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*

The clauses in 105 that we must consider are:

105 Criteria for issue of licences

(1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

- (a) the object of this Act:*



- (b)the suitability of the applicant:
- (c)any relevant local alcohol policy:
- (d)the days on which and the hours during which the applicant proposes to sell alcohol:
- (e)the design and layout of any proposed premises:
- (f)whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
- (g)whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:
- (h).....
- (i).....
- (j)whether the applicant has appropriate systems, staff, and training to comply with the law:
- (k)any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.

Discussion

67. The Act requires that when deciding whether to renew a licence, or not, the licensing committee must have regard to the matters contained in sections 131 of the Act. We now consider them in greater depth.

131 Criteria for renewal

(1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:

(a)the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):

Section 105(1)(a) The Object of the Act

68. This section requires the licensing committee to have regard to the object of the Act and in particular that the sale, supply and consumption of alcohol should be undertaken safely and responsibly **and** that the harm caused by the **excessive or inappropriate consumption of alcohol** should be minimised.

69. There was little compelling evidence that the company had not been selling alcohol in a safe and responsible way, but we did have strong evidence that harm is being caused by the excessive or inappropriate consumption of alcohol in the adjacent locality.

Section 105(1)(b) Suitability of the Applicant

70. The applicant must be a suitable entity to hold an Off-licence. The applicant has



acknowledged that there is an issue from the on-supply and consumption of alcohol in the town but largely they are accepted as suitable to hold a licence.

Section 105(1)(c) Relevant Local Alcohol Policy

71. The application complies with the operative Tauranga and Western Bay of Plenty LAP.

Section 105(1)(d) The days and hours of operation of the licence

72. The days and hours of the current licence are within the default national maximum trading hours for off-licensed premises.

Section 105(1)(e) The design and layout of any proposed premises

73. The Committee is aware of the design and layout of the premises. The applicant has cleared more of the frontage to allow for better visibility of the street and has upgraded their CCTV cameras. We noted that there was buckets of shots adjacent to the counter and a full shelf of Kingfisher Strong prominently positioned at eye level in the store.

Section 105(1)(f) Whether the applicant is engaged in or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods

74. No goods other than alcohol, low-alcohol beverages, non-alcoholic refreshments, snack items and tobacco products are sold on the premises.

Section 105(1)(g) Whether the applicant is engaged in or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, and good, and if so, which services.

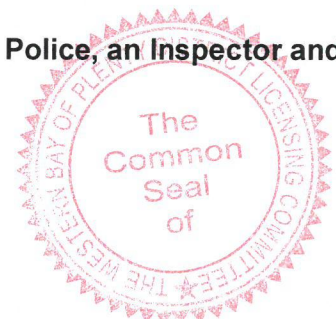
75. No other services are offered.

Section 105(1)(j) Whether the applicant has appropriate systems, staff, and training to comply with the law

76. The applicant advises that there are several staff with manager's certificates attached to the business and that they hold regular training sessions.

77. They have developed a trespass notice folder and refuse service to known street drinkers.

Section 105(1)(k) Any matters dealt with in any report of the Police, an Inspector and the Medical Officer of Health under Section 129



78. The Police have not opposed the renewal. The Medical Officer of Health opposes the renewal due to the now discontinued practice of single sales of mainstream beers and RTDs. The Inspector opposes the renewal believing the applicant needs to do more to ensure the street drinkers are not obtaining alcohol from their store and thereafter degrading the amenity and good order of the locality.

(b)whether (in its opinion) 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:

79. Because we are satisfied that all of the off-licensed premises contribute to the issue with the street drinkers it would be unfair to single out this licence under this criteria. If we were to refuse the renewal the street drinkers would obtain their alcohol from the other nearby stores.

(c)any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:

80. The reports and views of the agencies are discussed in depth elsewhere.

(d)the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.

81. We are satisfied that there is evidence that alcohol has been sold from these premises to the street drinkers and to others who have then on-supplied that alcohol to the street drinkers.

82. The agencies, and the applicant, and indeed the Committee are of the view that a permanent solution is required and not a one-off punitive action.

Reasons for the Decision

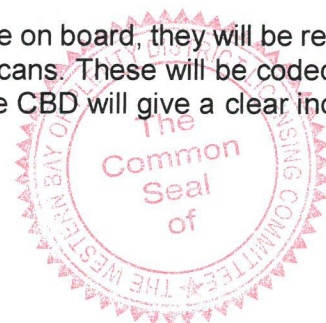
83. Section 3 of the Act requires us to act reasonably in the exercise of our duties and to regulate with the aim of contributing to the Object of the Act.

84. The submission of the MOoH that this application 'was not an application for the licence to be refused' is helpful and we thank the officer for the pragmatic position. As she will see below, we intend to restrict the sale of mainstream singles and RTDs and look at controls for other high alcohol products such as Kingfisher Strong.

85. Banning single sales from premises located within an Alcohol Control Area is a no-brainer in our view. Especially when you also have a vulnerable high-risk transient group of street drinkers such as the one Te Puke has. We draw a deep line in the sand for this store and for the other stores in the CBD of Te Puke.



86. We encourage the other off licences in town to put a voluntary restriction in place now and not sell single serves of mainstream beers and RTDs. Such products are to be sold in 4-packs as a minimum service size. Broken packs can be repackaged as 4-packs or 6's or returned to the supplier.
87. Several concessions have been made by the applicant including no single sales of mainstream beers or RTDs, improved visibility at the front of the store and an upgraded CCTV system.
88. Due to the serious and graphic nature of the problem in the Te Puke CBD we expect the applicant to do more. They should have been all over it in 2015 when it was first raised as a problem. They should have enlisted the support of the agencies and set up an Alcohol Accord years ago. All the information and guidelines are available on the Health Promotion Agency website www.hpa.org.nz
89. Why have they waited until this renewal hearing to think about contacting neighbouring businesses to enlist their help and support or to share information?
90. However, it was pleasing to see the commitment coming forward now from the agencies and the applicant to tackle the issue. Without overstating it, it is sad that it has taken a tragic and foreseeable death, and a renewal of licence, to galvanise the applicant into action.
91. We intend to impose a suite of conditions on the renewal that will steer the applicant in the right direction. We expect them to go door knocking, if they haven't already done so, to the other off-licensed premises in town and asking them to come on board and voluntarily adopt the discretionary conditions we intend to apply on this licence and to become actively involved in the Off Licence Alcohol Accord.
92. Some of the measures may upset some 'good' customers, but we say this, sometimes we all might have to accept a little inconvenience in our lives for the greater good of the community. **Alcohol is no ordinary commodity.** Selling and supplying alcohol comes with serious responsibilities. It is not 'just about operating a business.'
93. We are not happy with the prominent position that Kingfisher Strong is displayed in this store. Its current positioning is in a prime location. We would prefer the applicant not to stock this product, or similar items of single serve 500ml high alcohol percentage beverages. If they are to be stocked, they should be placed in a low-profile display area in the store and **each can is to have an indelible black line drawn across the bottom of the can prior to being placed on sale.**
94. Once the other bottle stores and the supermarkets are on board, they will be required to place 2, 3, 4 or 5 black lines on the bottom of the cans. These will be coded back to the store and if found dumped in the reserve or the CBD will give a clear indicator



back to the source store. This information should not be used for punitive action but will indicate where additional resources and measures may need to be directed.

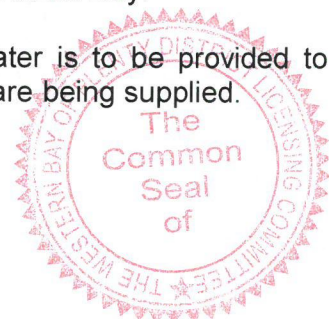
95. However, should sale and supply issues continue to arise from, or in, the vicinity of this premises we would expect to see firm enforcement action undertaken by the agencies. Shoulder-tap purchases by members of the public who buy alcohol for banned people must be dealt with firmly. The agencies can set up a mini-operation and catch a few such purchasers and make an issue about it by charging them with the offence of supplying an intoxicated person and/or trespassing them from the off-licensed accord members premises.
96. The message needs to be driven home that the sale and supply, **and the on-supply of alcohol**, to intoxicated persons is a serious offence and will not be tolerated.
97. We did consider a truncated renewal to further drive home to the applicant that they can, and must, do more to restrict the supply of alcohol to the street drinkers. We have stopped short of that action at this point in time but remind the applicant that we can re-hear any application we have determined at any time if we think it is necessary.
98. We would not be slow to do so if we are not satisfied with progress and an ongoing commitment to resolve this serious issue.
99. Finally, we record that our proposed suite of conditions has been put to the applicant, and the agencies, via memorandum, and the final versions are acceptable to all parties.

The Decision

The Licence will renewed for three (3) years from the expiry of the current licence on standard conditions and a number of discretionary conditions as negotiated and confirmed with the applicant post hearing.

The following conditions are to apply:

1. Alcohol may be sold on, or delivered from, the premises for consumption off the premises, or supplied free as a sample for consumption on the premises, only on the following days and hours: **Monday to Sunday 9.00am to 10.00pm**;
2. No alcohol is to be sold on, or delivered from, the premises on Good Friday, Easter Sunday or Christmas Day or before 1.00 pm on Anzac Day.
3. While alcohol is being supplied free as a sample, water is to be provided to patrons free of charge at the place where the samples are being supplied.



4. The whole of the premises is designated as a **Supervised Area**;
5. The Licensee must have available for consumption off the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages.
6. A properly appointed certificated or Acting or Temporary Manager must be on duty at all times, within the licensed area, when the premises are open for the sale and supply of alcohol and their full name must be on a sign prominently displayed in the premises.
7. **There is to be no single sales of mainstream beers and RTDs under 500mls and/or those not designed by the manufacturer to be sold as single serves.**
8. **No light spirits up to 1125ml and up to 13.9% abv are to be sold under this licence.**
9. **All cans of high alcohol (over 6% abv) beverages 500ml or over are to be marked with a single indelible black line on the bottom of the can. This condition does not apply to craft beer;**
10. The Licensee must display:
 - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
 - b. At the principal entrance to the premises, so as to be easily read by people immediately outside the premises, a sign stating the ordinary hours of business during which the premises will be open for sale of alcohol;
 - c. A copy of the licence attached to the inside of the premises so as to be easily read by people entering each principal entrance.

DATED at TAURANGA this 12th day of July 2019



Murray Clearwater
Commissioner
For the Western Bay of Plenty District Licensing Committee



NOTE

Sections 152 to 155 relating to the right to appeal this decision are in effect. This decision shall have no effect until 10 working days after the date on which notice of this decision is given to the parties.