

Decision No. LIQ17/10712
ECM 7464382

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **WILSON
LIQUOR GROUP LIMITED** for an
Off Licence pursuant to s.100 of the
Act in respect of premises situated at
40 Leach Street East NEW
PLYMOUTH 4310 known as
"Super Liquor New Plymouth"

BEFORE THE NEW PLYMOUTH DISTRICT LICENSING COMMITTEE

Commissioner: Mr Alex Matheson
Members: Mr Peter Coles
Mr Paul Walden

HEARING at the **New Plymouth District Council** on Friday 30 June 2017

APPEARANCES: Applicant: Wilson Liquor Group Ltd
Mr Craig Wilson
Mr Steve McDowell, Greg Hoare and Craig Shearer

Tonia Hall – Licensing Inspector
Sergeant Bruce Irvine, NZ Police
Sergeant Terry Johnson
Ms Annabel Burley (TDHB)

OBJECTORS: Mr John Howes, Citizens Advice Bureau
Mr & Mrs Hall, Nearby residents
Te Kotahitanga o Te Atiawa Trust, Nearby Business House
Ms Teresa Gordon, YMCA
Ms Mary Allen, NP Women's Centre

**RESERVED DECISION OF THE NEW PLYMOUTH DISTRICT LICENSING
COMMITTEE / DECISION ON THE PAPERS**

We have before us an application by **SUPER LIQUOR NEW PLYMOUTH** dated 24th
January 2017 for a Special licence in respect of premises situated at **40 Leach Street East
NEW PLYMOUTH 4310**, known as "**SUPER LIQUOR NEW PLYMOUTH** "

Reports from the Police, Medical Officer of Health and the Licensing Inspector do not oppose
the issuing of the Off Licence.

Introduction

The applicant, Wilson Liquor Group applied for an Off Licence and evidence in support of the application was presented by Mr Steve McDowell together with representatives from Super Liquor.

Agencies were represented by Tonia Hall Licensing Inspector for the NPDC, Sergeant Bruce Irvine and Sergeant Terry Johnson for the NZ Police and Annabel Burley on behalf of the Medical Officer of Health.

All witnesses were sworn on oath or affirmation and subject to cross examination. The hearing was recorded on audio tape.

Applicant evidence

Mr Steve McDowell made introductory comments on administrative matters, the background to the application, and the scope of evidence he plans to call to cover the salient points required by the provisions of the Sale and Supply of Alcohol Act 2012.

Mr Greg Hoare as Operations Manager for Super Liquor Holdings Ltd gave evidence as per his brief on the background of the Super Liquor Group, the structure and operation of the company and their approach to marketing, including the safe and responsible sale of alcohol and the minimisation of harm.

In cross examination Mr Hoare detailed the procedure of dealing with customers who are suspected to be under age. He also covered the provision of CCTV cameras and lighting which are planned to be installed in the premises.

Mr Craig Wilson gave evidence as per his brief. He is joint owner, together with his wife, Katrina Dawn Wilson of the Wilson Liquor Group Ltd.

Mr Wilson outlined he and his wife owned and operated Super Liquor, Hawera for nearly 16 years and as such have considerable experience in this trade.

He also covered the systems he will put in place together with staff numbers and their training.

He is aware of his obligations under the Act.

Under cross examination he said his convictions for excess breath/alcohol occurred well before he operated the liquor store in Hawera.

He explained an Incident Book is kept at the store to record any untoward incidents and is useful for historical purposes and staff management. It can be inspected by Police, the Licensing Inspector and also subject to audit by Super Liquor Holdings.

On questioning Mr Wilson also covered the proposed CCTV cameras which will be installed and their operation. Data is kept for three months and always available for perusal by the Police or local authority.

In April of 2014 the Hawera store failed a Controlled Purchase Operation (CPO). Mr Wilson responded that the Duty Manager at the time was a 19 year old and as a result of this careless mistake a complete review of the systems and staff training was made. No further breaches have occurred.

On questioned by the Police Mr Wilson covered procedure for determining age of a customer and also where a level of intoxication is suspected.

Various questions were also asked of Mr Wilson as to the proposed staffing of the premises and the procedures to be followed in the event of disorder or a robbery. Where appropriate he was assisted in answering these questions by Super Liquor staff.

Ms Teresa Gordon, representing the YMCA asked about Self Exclusion Policies for his business. Mr Hoare of Super Liquor responded that those policies are presently not in place but has given assurance that he will ensure they are introduced as policy into the company.

Mr Craig Shearer introduced himself, as per his brief, as a principal in Ignition Group Ltd which specialises in consultancy services to the Alcohol Industry.

His evidence covered the suitability of the applicant to hold a licence and also Section 105 requirements of the Act with respect to the application.

He concluded that the applicant in his view, satisfied the requirements of the Act and as such is a suitable person for owning and operating an Off-Licence

In cross examination questions by the committee and submitters covered aspects such as drinking outside the store, CCTV cameras and the fact the premises would be outside the existing local authority Liquor Ban Area. In response assurance was given that matters such as this had been encountered at the Hawera shop and usually difficult people will be moved on without incident. Occasionally the Police have been called on to assist, but it was anticipated the Applicant's previous experiences equipped them to manage such situations.

Questions were also fielded on selling 'Single Shots' 'RTDs' and the ongoing concerns of the establishments, such as the YMCA, Community Advice Bureau, and Women's Centre which are in close proximity. Assurances were given that it is not policy for Super Liquor Groups to sell single shots 'singly', they are either sold as four or six packs.

Mr Wilson gave assurances that if there are issues such as alcohol related rubbish in the vicinity of their premises that would be dealt with by his staff. Additionally, he was anxious that an open and free dialogue would be established between the groups to deal with, and overcome any problems that may arise. A regular meeting protocol with these groups will be arranged. The Licensing Inspector also suggested that any disorder or alcohol related rubbish in the vicinity of their premises should be relayed to the NPDC so that these matters would be recorded.

Submitters evidence

The Chair reminded the hearing that neither the Police nor the Taranaki District Health Board had objections to the issue of the Off-Licence, although the Medical Officer of Health expressed disappointment that the proposed bottle store will be within some sensitive sites. This could have been an issue had the LAP been in force at the time of the application. The LAP came into effect on the 28th February 2017.

The offices of Te Kotahitanga o Te Atiawa Trust at 35 Leach Street are just across the road from the proposed premises. Opposition to the application was expressed as they considered the amenity and good order of the area would be reduced by more than a minor extent, also due the close proximity to organisations such as Budgeting Advice and a Women's Centre. Additionally there are other outlets in the vicinity who already serve/sell alcohol. This submitter did not wish to speak at the hearing.

The Fire Service did not oppose the application.

Mr John Howes of the Citizens Advice Bureau (CAB) read from his written statement which had been supplied. He additionally expressed concern for the vulnerable people who use the facilities in the area. He especially was concerned of the temptation for younger person to access RTD's and spirits.

In cross examination he agreed that most people accessing CAB services do arrive by car but commented that there are some who would walk. He acknowledged that the supermarkets close by did have significant alcohol displays in full view of young persons who had ready access to these shops and in general, the alcohol prices there are cheaper.

He also conceded that the applicant for the Off-Licence was an experienced and responsible person, however he was still strongly opposed to the issue of the licence.

Rodney and Carol Hall who live nearby to the proposed premises spoke to their brief which expressed a number of deficiencies and incorrect data in the application. The Chair pointed out that Section 208 of the Act allows the Chairperson to waive any such inconsistencies once satisfied they were not wilful or fatal to the proceedings.

Mr Hall continued that vandalism during the weekend in particular has affected neighbouring properties with pot plants for example being destroyed, and that either he or his wife are continuously picking up empty alcohol bottles off the street most weekends.

He failed to see where the grant of a further licence is of a benefit to the city or to meet a 'people friendly district'.

He added that we have a social responsibility not to provide further opportunity to at risk people. Also, issues will not occur at the proposed premises but to the surrounding neighbourhood and will impact on vulnerable people and their families. Mr Hall expressed concerns that the proposed premises are within 50m of the City Liquor Ban area which could further exacerbate antisocial behaviour on the street.

In cross examination Mr Hall in particular was quizzed as to the type and amount of rubbish that they cleaned up. He stated they were bottles, broken and whole, also food bags and containers. It was suggested that the clients at the Halls Bed and Breakfast establishment may contribute to the mess. This was not agreed to.

When questioned he agreed that the Wilson's are suitable people to hold a licence and the policies they have in place appear good for their premises only.

Ms Teresa Gordon on behalf of the YMCA oppose the application as the Off-Licence will be situated within 100m of their premises. Reading from her brief she explained the YMCA operates a number of programmes for both young people and youth. Also at various times of the day there are programmes involving sporting teams and recreation. The YMCA does open outside of normal business hours and operates seven days a week.

It is their view that already a number of liquor outlets are in close proximity and a further outlet merely makes it more accessible to youth and young adults. Concerns were also expressed that the YMCA car park could be an ideal place to preload, dump rubbish and vandalise. Health and Safety is the responsibility of the YMCA and time may have to be spent clearing away rubbish, glass etc outside their premises. Also, their vehicles are often left in the car park over night and there are risks damage may occur to them.

In cross examination Ms Gordon confirmed that lighting in this area is very limited and is not covered by CCTV cameras. Questions of the Police indicated that mobile patrols do, on occasion visit this area and it is known as a low to medium problem area.

Police also confirmed that crime/offending statistics are available for this area and so long as incidents are reported to the Police, twelve month comparisons could be made.

Ms Gordon accepted while the ratio of bottle stores in New Plymouth is quite low she expressed concern of the cumulative effect of yet another being approved.

She acknowledged that on occasion the YMCA does have events where alcohol is consumed but adds that they are very rare.

It was expressed that should a licence be issued the applicant is anxious to work with the groups in the area to deal with any problems they encounter. Ms Gordon responded she would be happy with that but wants the Burden of Proof to be with the applicant.

Mary Allen represents the New Plymouth Women's Centre at 32 Leach Street, premises within a short distance of the proposed liquor outlet.

Ms Allen read from her brief explaining many of the clients who visit their premises are people who have been adversely affected by alcohol during their lives. The premises are tucked away behind the proposed liquor outlet with no through traffic and little lighting at night. They have experienced the results of people who have frequented their premises overnight leaving their litter. Security is a concern which may be affected by an increase of alcohol in their secluded location.

During cross examination debate was centred around consumption of liquor close to points of sale. The Police conceded that that could be the case here but they were limited legally where people of age are found consuming liquor outside the Liquor Ban Area. Comment was made that the YMCA car park is on private land and moving people on through trespassing can prove difficult.

Decision and Reasons

At the conclusion of the verbal evidence Mr Steve McDowell, on behalf of the applicant, was called upon to summarise and the hearing closed at 12.15pm.

The evidence as heard by the Committee generated significant debate as to the concerns from the submitters and the close proximity of their respective premises. Given that the proposed premises are just outside the parameters of the recently implemented Local Alcohol Policy (LAP) concern was expressed that the amenity and good order of the area could be compromised. It was further agreed by the committee that had the application been made post-LAP implementation it could not have succeeded as it would have been within 100m of these sensitive sites.

The Committee however were in agreement as to the experience and competencies of the applicant, plus the administrative and documented oversight that the parent group, Super Liquor Holdings Ltd would provide. Additionally, Mr Wilson is anxious that to ensure the success of his business he is willing to convene regular meetings with the submitters and to endeavour to mitigate concerns that they have.

Prominent in the minds of the Committee were the probable effects on the good order and amenity of this area. It was however the concluding view of the Committee that the establishment of a further Off-Licence would have no more than a minor effect. It must be emphasised here however that there is a burden on the Applicant to ensure that the establishment of their premises does not further degrade the present good order that exists.

Subject to the required consents and oversight, as outlined by the Local Authority (NPDC) we are satisfied therefore as to the matters to which we must have regard as set out in the Act, and we grant the Applicant an Off-Licence at the premises of 40 Leach Street New Plymouth pursuant to s.100, on the following terms and conditions:

A. Conditions

Conditions
The application for the OFF Licence be approved for one (1) year from the date of this approval. However, the licence is not to be issued until the Inspector has advised in writing: a) That the Building Act 2004 certificate has been granted. b) That a final inspection has been undertaken by the Licensing Inspector.
Alcohol may be sold only on the following days and during the following hours: Monday to Sunday 9am to 9.30pm No alcohol is to be sold or delivered on the premises on Good Friday, Easter Sunday, Christmas Day or before 1pm on Anzac Day.
The whole of the premises is designated as a SUPERVISED area.
Drinking water is to be freely available to customers, while alcohol is being supplied free as a sample on the premises
The licensee must ensure that the provisions of the Act relating to the sale of alcohol to prohibited persons are observed and must display appropriate sign adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons
A certified manager must be on duty at all times during the sale and supply of alcohol

DATED at New Plymouth this 7th day of July 2017.



Alex Matheson
Commissioner
New Plymouth District Licensing Committee