

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

AND

IN THE MATTER OF An application by **Kin Foods Limited** under section 127(2) of the Sale and Supply of Alcohol Act 2012 for the **renewal** of an **Off-licence** in respect of premises situated at **Shops 9-11 Kena Kena Shopping Centre, Donovan Road, Paraparaumu Beach** and known as **Kena Kena Four Square**.

BEFORE THE KAPITI COAST DISTRICT LICENSING COMMITTEE

Chair: Mr Nigel Wilson

Members: Ms Julia Palmer

Mr Bede Laracy

HEARING at Kāpiti Coast District Council offices, Paraparaumu, on Wednesday 6 August 2025 at 9.30am. Reconvened at Kāpiti Coast District Council offices, Paraparaumu, on Tuesday 19 August 2025 at 10am.

APPEARANCES

Applicant:

Michael Newman

Michelle Newman

Reporting Agencies:

Licensing Inspector: Antoinette Bliss

Police: Sergeant Manu Leuluai

Te Whatu Ora: Chris Speakman

Te Whatu Ora: Faifaiese Tuputala

Te Whatu Ora: Anoop Gopalakrishnan

Te Whatu Ora (Team Leader): Vaseti Sopoaga

INTRODUCTION

1. An application by **Kin Foods Limited** under section 127(2) of the Sale and Supply of Alcohol Act 2012 (the 'Act') to the Kapiti Coast District Licensing Committee for the **renewal** of an **Off**-licence in respect of premises situated at **Shops 9-11 Kena Kena Shopping Centre, Donovan Road, Paraparaumu Beach** and known as **Kena Kena Four Square**.

BACKGROUND

2. The Kāpiti Coast District Licensing Committee (DLC) having considered the papers in relation to the application by Kin Foods Limited have determined the applicant shall have the opportunity to present the application to a hearing of the Kāpiti Coast DLC.
3. The Kāpiti Coast District Licensing Inspector, Antoinette Bliss, raised a number of issues in relation to the application, opposed the renewal of the licence and recommended the DLC consider the application via a public hearing.
4. The Police opposed the renewal of the licence and recommended the DLC consider the application via a public hearing.
5. The Medical Officer of Health opposed the renewal of the licence and recommended the DLC consider the application via a public hearing.
6. At issue is the applicant's refusal to accept two conditions the Licence would be subject to. These conditions relate to the sale of single serve units of 500ml or less, and to the requirement for the applicant to report sales via the Kāpiti Coast District Council provided template.
7. A third condition relating to any delivery of alcohol sales requiring proof of age has been accepted by the applicant.
8. The Police have expressed concern regarding the placement of alcohol in the store and its proximity to the serving counter.
9. The Kena Kena Four Square has been operated under a grocery store style off-licence since 23 November 2006. The applicant took over the business on 30 March 2009 with a new off-licence which has been renewed five times.
10. The premises are located in an existing commercial building which forms part of a complex of five shops. The complex was built in 1963 and has undergone several alterations since. On 5 January 2012 building consent BC110645 was granted for the store to extend into the adjoining shop.
11. The premises meet the criteria under section 32 of the Act for the kinds of premises that can hold an off-licence, as the general nature of the premises is that of a grocery store; the principal business being the sale of food products.
12. The licence expired on 30 March 2025 but has remained valid as an application for its renewal was lodged prior to this date. The applicant has not sought any changes to the conditions of the licence.
13. The owners of the property, Kaldelis Melpo and Horsley Michael Antony, have given written consent to the applicant to hold an alcohol licence for the premises, in a letter dated 11 March 2009.

14. The application falls within the medium cost/risk rating under sections 5 to 7 of the Sale and Supply of Alcohol (Fees) Regulations 2013, under the category off-licence – Grocery store, having licensed trading hours finishing at 10pm or earlier, and having no recorded enforcement holdings within the last 18 months.

EVIDENCE FROM THE APPLICANT

15. The applicant provided in written evidence the following documentation:
 - Price comparison of 500ml cans
 - DLC hearing decision from Mill St. Pak n Save
 - Signed witness statement from Duty managers
 - Copy of email sent to Antoinette regarding sales figures
16. Michael Newman told the hearing they had operated the store for 16 years.
17. Mr Newman said as well as the normal range of products they also stocked low and no-alcohol options as well as 500ml cans for single serve.
18. Mr Newman said their customers (for alcohol products) were mostly mums and dads, and tradespeople. He said the 18–25-year-olds largely do not shop with them.
19. Mr Newman said most alcohol sales were between 4pm to 6pm and were tradespeople.
20. Mr Newman said in his view customers would likely consume more alcohol if there was not a single serve option. He said there were no issues of homeless or vulnerable people in their area.
21. Mr Newman told the committee that alcohol from his store is not being consumed in the area outside the store.
22. In relation to prices Mr Newman said these were set by Foodstuffs. He provided evidence to show their prices were higher than several supermarkets. He said reduced prices would be anti-competitive and a breach of the Commerce Act.
23. Mr Newman said under the law single sales of 500ml or less is not restricted and cited a Dunedin DLC decision where police had sought a condition under section 117 of the Act to prohibit single sales. He said in that case the Dunedin committee found in favour of the single sales and the condition was seen to be a negation and not in accordance with the Act.
24. Mr Newman said they provide comprehensive training to their staff and use the Foodstuffs Quiz and Video.
25. He said Police have provided no evidence that alcohol has been a problem in the area.

26. Mr Newman said the view of Health in assessing the area at decile 8 was a personal view in relation to their store. He said their customers are not the homeless and the vulnerable.
27. Mr Newman said youth are not buying from them. He said alcohol was in clear view in the store as they are a small store.
28. Mr Newman said alcohol is not a main driver of sales and they are not in competition with the liquor store (adjacent) and they have different customers.
29. Mr Newman noted that in the last week single sales were 6% of total alcohol sales and this was a typical percentage. He said for their store it was not about the volume of sales but about offering a range of products.
30. Mr Newman said he did not see any evidence that single sales cause more consumption and social issues. He said it was more likely that purchasing more would mean consuming more.
31. Mr Newman told the hearing he has held a manager's certificate for 27 years and the objection from Health feels personal.
32. He said the grocery industry is highly regulated and they revisit training regularly. He said it was not for Health to determine what they can sell.

Template

33. Mr Newman told the hearing Foodstuffs are unable to provide the data Council requires for its template. He said the work required to comply would be huge.
34. Mr Newman said their chartered accountants are not employed by Foodstuffs. He said this whole process has been stressful and said Council should look at each individual business.
35. Mr Newman said it feels like the agencies are targeting stores then applying general conditions.
36. Mr Newman said he has agreed to the delivery of alcohol sales requiring proof of age condition but cannot agree to the other two conditions.

Questions from the Committee

37. Ms Palmer asked about terms of the franchise contract and whether under the arrangement the store can get products sourced from retailers other than Foodstuffs. Mr Newman said they can but it is unlikely. He said they can source from small local suppliers. No products of any sort are sold that don't have a bar code.
38. Ms Palmer asked what goods are in the \$500,000 'Other' category. Mr Newman said he didn't know of the top of his head but it definitely did not include alcohol.

39. Mr Laracy asked what quantity of craft beer was sold. Mr Newman said they did not sell craft beer. He said he didn't want to push a product he didn't like and customers don't ask for craft beer.
40. Mr Laracy asked about the quantity of single serve sales and the applicant's objection to the condition relating to single sales. Mr Newman said they were a small part of sales at around 6%. He said his view was someone taking one unit home is less of a problem than buying a multiple pack. Mr Newman said, while they objected to the condition they would be happy to accept the single sale condition if everyone else had the same condition.
41. Mr Laracy asked if young people came in to purchase single units. Mr Newman said young people don't come in to buy single units generally.
42. Ms Palmer referred to page 41 of the Inspector's written evidence where the applicant had signed a voluntary undertaking not to sell single units of mainstream beer, dated 18 May 2022. Further the Inspector's report states: The applicant has **not** agreed to the addition of the following discretionary condition, in an email dated 5 May 2025 – that being – No single sales of beer in containers of 500mls or less in volume may occur except for craft beer. Mr Newman said that was correct and that they would not sell singles from a pack that was broken up.
43. Mr Laracy said the Inspector's evidence refers to alcohol consumed in a car and had Mr Newman experienced that. Mr Newman said that was not something he had seen.
44. Mr Laracy asked, in reference to the Health submission relating to suitability of the licensee, if the applicant accepted enhanced suitability was required given the store was in a high deprivation area. Mr Newman said they don't take the licence as a right. He said the high deprivation area applies to all of Paraparaumu. He said 'we are only 300m from Manly St which is not a poor area. Kotuku Park and Guildford Drive are all in our catchment and they are not deprived areas.'
45. The chair noted the current licence is for sales from 7am and what was the volume of sales before 9am. Mr Newman said there were very few sales before 9am.
46. The chair noted the proximity of the premises to a large primary school and the alcohol being on open display between 7am and 9am when school children would be in the store. Mr Newman said there were not many kids in the store in the morning. He said he wouldn't object to having the alcohol covered before 9am. Mr Newman said there had not been any Controlled Purchase Operations (CPO) issues and Foodstuff check quarterly and failing a check incurred a \$500 first offence fine, twice was \$2000, and a third offence \$5000.

Evidence from the Alcohol Licensing Inspector Antoinette Bliss

47. Ms Bliss told the committee that she has over five years' experience as an Alcohol Licensing Inspector at the Kāpiti Coast District Council.
48. The applicant has applied for renewal of an off-licence for premises situated at 4 Donovan Road, Paraparaumu Beach known as Kena Kena Four Square.
49. Ms Bliss reported on 19 May 2025, on the application from Kin Foods Limited, received on 31 January 2025. She opposed the renewal of the licence. The objections were under sections 131, 105 (1) (a), and 105 (1) (b) of the Act.

The law

50. The 2024 amendments to the Sale and Supply of Alcohol Act 2012 were intended to create a robust enforcement regime under which 'licences will be hard to get and easier to lose'.
51. As Clark J observed in *Medical Officer of Health (Wellington Region) v. Lion Liquor Retail Limited ("Lion Liquor")*, 'There is no presumption that an application for a licence will be granted or that a licence will be renewed.'

The Agencies' position

52. Section 295 of the Act mandates the collaboration of the three reporting agencies working together to develop and implement strategies for the reduction of alcohol related harm, and this collaborative effort directly informs the policies that govern alcohol licensing within a community.
53. Ms Bliss said this collaboration is crucial for the development and implementation of Local Alcohol Policies (LAPs), as the agencies involved are responsible for identifying areas of concern and developing strategies to address them.
54. As of 9 October 2024, the three agencies agreed to develop a strategy aimed at a consistent regional approach. In May 2025, the three reporting agencies drafted a Memorandum of Understanding (MoU) relating to a number of additional discretionary conditions sought in order to help reduce alcohol related harm in the Kāpiti Coast District area.
55. Ms Bliss accepted that the MoU does not have the weight of a local alcohol policy. It is not a matter to which the DLC must have regard pursuant to s105(1)(c) of the Act.
56. However, her view is that the MoU is a harm reduction strategy developed under s295 and a matter which is dealt with in a report from the agencies pursuant to s105(1)(k). Ms Bliss submitted that the DLC can and should have regard to the agencies' agreed position.
57. She observed the approach taken by the Alcohol Regulatory & Licensing Authority (the Authority or ARLA) since at least 1995 when the Authority's predecessor said in *Tonto Investments Ltd LLA Decision No 1210/95*, 12 June 1995 "Where Licensing Inspectors, the local Police, the Medical Officer of Health ... have presented an agreed view towards a particular application, we have been slow to reject it."

58. The Inspector reported the applicant was presented with a number of additional conditions and undertakings sought by the agencies and has not agreed to them all (refer to Attachment 1 page 15 of the Inspector's Report).
59. Ms Bliss has opposed the renewal of the off-licence application on the following grounds.
- Section 131(1)(d) - the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised or promoted alcohol.
 - Section 105(1)(b) - suitability of the applicant
 - Section 105(1)(a) - the object of the Act.

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

60. That the sale, supply and the consumption of alcohol is done safely and responsibly, and the outcome is the minimisation of alcohol related harm not just to an individual but also the community.
61. As per the agency MoU, Health New Zealand will take the lead on 'single serve sales' and provide research and evidence in relation to how alcohol impacts our community and how the agreed interagency strategies could be developed to encourage responsible consumption and minimise alcohol related harm in our community.

Section 131(1)(d) - the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised or promoted alcohol.

62. Ms Bliss said she had researched information around single serve sales and adds the following in support of Health New Zealand.
63. She noted that, when initially discussing the 'single serve sales' condition, applicants are advised that the agencies are seeking to apply consistency across the Kāpiti Coast District area and the majority of applicants have indicated that they would agree to the condition if those in close proximity also agreed, to create a level playing field.
64. Research shows that affordability of alcohol has been shown to be an important determinant of alcohol consumption in New Zealand. Therefore, limiting the availability of inexpensive, often high- strength and chilled, single alcohol containers is considered a targeted measure to address the affordability of these high-risk products that commonly appeal to vulnerable drinkers, including daily drinkers, street drinkers, low income drinkers, and students.
65. Single serves typically relate to containers of ~500mL size or less. This includes bottles and cans of high-strength beer, as well as products intended to be sold individually and/or have been removed from their larger-size packaging (e.g., a single Ready to Drink (RTD) removed from a four- pack). Key concerns regarding these alcohol products are:

- Low price per container – single serves are often sold at pocket money prices in New Zealand.
- Chilled, ready-to-consume - single alcohol products may be sold chilled, ready for consumption. This practice enables immediate consumption. Furthermore, single alcohol cans cannot be resealed, providing an implicit message that they are intended to be consumed in one sitting.
- Standard drinks per container - a high number of standard drinks per container is particularly problematic for high- strength beers. The high strength and large volume nature of these products means that they contain a high number of standard drinks.
- Preloading - there is a venue within the vicinity that privates hire for functions and allows BYO.
- Drink driving - members of the public may buy one or two cans and consume the contents in the car prior to driving off.

66. Ms Bliss noted that Dang and Daughters Limited trading as Thirsty Liquor an off-Licence bottle store, a few doors down from the premises, has already agreed to the additional conditions on 10 October 2024.

Section 105(1)(b) – Suitability of the applicant

67. Ms Bliss agreed with the position of Health New Zealand around the suitability of the applicant, given Mr Newman’s expressed views on the impact of single serve sales.

Error in Inspector’s report

68. Ms Bliss noted that there was an error in her report, on page 5, where the following wording has been included in error in relation to a signed undertaking:

Single serve sales

69. The applicant had signed a voluntary undertaking not to sell single units of mainstream beer, dated 19 May 2022 (held on file)’.
 • ‘Single units of mainstream beers under 500ml are not sold. In accordance with the district-wide initiative that the Inspectorate has been implementing since April 2014 (with support from the NZ Police)’.

The following statement is what was agreed by the applicant on 19 May 2022. Ms Bliss attached a copy for all parties’ information (refer to Appendix 1) *‘We, the applicants and intended licensee of the off-licensed premises located at 4 Donovan Road, Paraparaumu Beach and known as Kena Kena Four Square, undertake not to break up retail ready packaging of mainstream beer and ready-to-drink (RTD) products, and therefore will prohibit the sale of single units of RTDs and standard sizes of mainstream beer (such as those in 330ml servings), on or from the premises. This includes the bundling of individual bottles or cans into a pack of two or three units. Sales of single bottles or cans of boutique or craft beers of any size, or appropriate products (those that are not likely to encourage excessive or inappropriate consumption) designed to be sold individually (such as in*

servings of 500mls or more) will not be subject to this undertaking (are permitted).'

Additional condition and undertakings around delivery of alcohol sales requiring proof of age

70. The applicant agreed to the addition of the following discretionary condition, in an email dated 5 May 2025:
- All deliveries of alcohol must be signed for by a person aged 18 years or older. Signs of intoxication on the part of the recipient would result in non-delivery.
- It is noted in my report that the following 'undertaking' was omitted from the email sent to the applicant seeking confirmation for agreement to the condition.
71. Undertaking from applicant re delivery of restricted goods:
- a. Alcohol is considered a restricted good. We are unable to leave restricted goods unattended at an address, and if there is no one aged 18 years or older to receive the delivery, we will not leave it. Alcohol purchases must be received by someone who is aged 18 years or older. In order to take the delivery, valid and current identification must be shown to the person/s delivering the goods. If the deliverer considers the person receiving the delivery to be intoxicated, the alcohol will not be delivered. This identification must include the following: Full name, date of birth, photo and signature.
- b. When we engage a courier company to make our deliveries, we will only use a company that can provide sufficient reassurance that their drivers will always adhere to the requirement to obtain a signature and proof of ID showing that the recipient is over 18 years of age. A signed written agreement between the courier and applicant will be provided to the tri-agencies.

Requirements for statements of annual sales revenue (existing businesses)

72. In an email dated 5 May 2025, the applicant has not agreed to use a template to provide the statement of gross annual sales revenue.
73. The Sale and Supply of Alcohol Regulations 2013 require that the breakdown of sales needs to demonstrate that 'food products' are the largest single category of a grocery store's gross sales revenue (excluding GST). Ms Bliss said she does not dispute the figures submitted by the applicant, they do indeed indicate that 'food products' are the largest category, therefore meeting the requirements of the Regulations.
74. It is the Inspector's opinion that, in order for consistency across our district, the requested Council template is used for the ease of agency reporting, as had been in the past and the approach seems to have been changed by Foodstuffs. She said they have started to see a number of similar off-licensed premises in the area submitting accounts where 'other' is the largest category, which leads the agencies to question what is the 'principal purpose of that business', and

whether it is that of a grocery store or whether it is becoming a convenience store.

75. Agencies are not chartered accountants, therefore, if the applicant chooses to not show food as the 'principal purpose of business', they will be required to submit further information to the DLC to determine via a hearing if the applicant is meeting that component of the Regulations. The use of the requested template which breaks categories down to a greater level of detail, shows how the business is operating and will assist the applicant to meet the requirements of the Act and Regulations.
76. An email from Tatiana Valdes, Regulatory Specialist, Foodstuffs, dated 9 April 2025, was presented as evidence for another DLC hearing for the premises known as Waikanae Four Square, quoting the following and noting some information has been redacted for privacy reasons and the applicant was in attendance at this hearing (refer to Appendix 2):
- 'It's important to note that the statement of annual sales revenue is just one of the components the licensing committee will take into account, as outlined in Section 33 of the Sale and Supply of Alcohol Act. If the statement does not clearly demonstrate that the principal business of the store is the sale of food (for example, due to food items being incorrectly recorded under 'other'), you may need to provide additional data or supporting information to establish compliance.'*
77. Ms Bliss said it's crucial to reduce the use of the 'other' category key. In the most recent report, sales recorded under 'other' still accounted for nearly 40% of sales - a significant concern, especially given the 2016 hearing outcome, which emphasised that this process should be improved.'
78. The applicant has presented an email, dated 6 November 2024, from Tatiana Valdes, Regulatory Specialist, that 'Foodstuffs North Island use the same process and template for all its stores because it is automatically linked to their point of sale systems and ensures consistency.' Ms Bliss confirmed from recent discussions with other councils around the North Island that any premises that is considered a 'grocery store' are required to use the requested template, which has been listed on Councils' websites as a requirement to be submitted with the application, refer to a few examples below:
- Wellington City Council Statement of annual sales revenue - existing business
 - Hutt City Council Grocery store info pack and annual sales revenue statement
- A recent application for renewal of off-licence from a Four Square grocery store in Paraparaumu, has included the 'requested template' version of accounts. This information has come from a Foodstuffs chartered accountant, noting information has been redacted for privacy reasons.

Summary

79. The applicant has agreed to the following condition around delivery of alcohol sales requiring proof of age via email on 5 May 2025:

- All deliveries of alcohol must be signed for by a person aged 18 years or older. Signs of intoxication on the part of the recipient would result in non-delivery.

80. The applicant has further agreed to the following conditions around a proposed alcohol licensed area and defining an approved alcohol licensed area and single alcohol area via email on 16 May 2025:
- The licensed premises situated at 4 Donovan Road, Paraparaumu Beach, are more precisely identified as outlined in the plan date stamped as approved by the District Licensing Committee on 2 April 2026 displayed alongside this licence and held on DLC file OFF827.
 - The single alcohol area (the only permitted area for the promotion and display of alcohol) is defined on the attached plan, approved on 2 April 2026, and encompasses the right-hand wall of the retail area.

Conclusion

81. The Committee may also consider instructing the applicant to:
- use the 'Statement of Gross annual Revenue' provided by Council when applying to renew the licence
 - stop selling single serves of mainstream beer
 - agree to the delivery of alcohol sales requiring proof of age undertaking
- 82. Single serve sales for Supermarkets / Grocery stores Condition:**
- No single serve sales of beer, except for craft beer, in containers of 500mls or less in volume.
- 83. Undertaking from applicant:**
- As part of a commitment to responsible alcohol sales, the applicant shall agree that:
Beer in containers of 500mls or less in volume will not be sold in quantities of less than four bottles/cans (except for craft beer). Excessive discount will not be applied to the four pack.
- 84. Delivery undertaking:**
- Alcohol is considered a restricted good. The applicant agrees that they are unable to leave restricted goods unattended at an address, and if there is no one aged 18 years or older to receive the delivery, they will not leave it. Alcohol purchases must be received by someone who is aged 18 years or older. In order to take the delivery, valid and current identification must be shown to the person/s delivering the goods. If the deliverer considers the person receiving the delivery to be intoxicated, the alcohol will not be delivered. This identification must include the following: Full name, date of birth, photo and signature.
 - When the applicant engages a courier company to make deliveries, they will only use a company that can provide sufficient reassurance that their drivers will always adhere to the requirement to obtain a signature and proof of ID showing that the recipient is over 18 years of age. A signed written agreement between the courier and applicant will be provided to the tri- agencies.

85. Ms Bliss said while accepting the MOU was not mandatory the DLC should have regard to the MOU position.

86. Ms Bliss noted Thirsty Liquor (the adjacent store) had agreed to the conditions.

87. Ms Bliss said in determining whether this was a grocery store or a convenience store the 'Other' category could sway this.

Questions from the Committee

88. Mr Laracy asked about the consumption of alcohol in cars. Ms Bliss replied Duty managers have observed consumption.

89. Mr Laracy referred to pricing and how each of the Four Squares can set their own prices. Mr Newman said their store couldn't because of the system they use.

90. Ms Palmer suggested that the template required totals rather than a specific breakdown. Mr Newman said that providing this the cost breakdown would be on the owner and not Foodstuffs.

91. Ms Palmer asked Mr Newman for more details about the single sales. Mr Newman said they are all 500ml but the alcohol content varies between 4% and 7%. There were also 650ml bottles.

Evidence from the Medical Officer of Health

92. Brief of evidence submitted by Faifaiese Tuputala in opposition to the renewal of an off-licence application by Kin Foods Limited.

93. Mr Tuputala is employed by the National Public Health Service (NPHS) within their Capital, Coast, Hutt Valley & Wairarapa District Office as a Health Promotion Advisor. The NPHS is a directorate within Te Whatu Ora/Health NZ. He has have worked in his role as Health Promotion Advisor at NPHS since February 2024 and as part of that role, inquires into alcohol licence applications on behalf of the Medical Officer of Health (MOoH), with responsibilities under the Act.

Background

94. The Medical Officer of Health (MOoH) filed a report on 13 November 2024 stating the grounds for their opposition to the renewal of this off-licence under the Act as:

- Section 131(1)(d) - the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised or promoted alcohol.
- Section 105(1)(b) - Suitability of the applicant
- Section 105(1)(a) - The object of the Act.

95. As of 9 October 2024, the Medical Officer of Health, Police and the Licensing Inspectors in the Wellington Region have agreed to a strategy aimed at a consistent regional approach to minimise alcohol related harm in conjunction with Local Alcohol Policies.

The object of the Act is so that the sale, supply and the consumption of alcohol is done safely and responsibly, and a key outcome is the minimisation of alcohol related harm.

96. Based on the research and evidence, strategies could be developed to encourage responsible consumption and to minimise the prevalence of alcohol related harm.

97. The single sales strategy is one of the initiatives to encourage responsible alcohol consumption and to minimise alcohol related harm as well as address our concerns regarding the alcohol related harm resulting from single sales.

98. Our strategy is as follows: to include a single sales condition to all new and renewed off-license applications in the Wellington region by packaging or bundling beer cans together instead of selling them individually.

99. This initiative was developed with the intention to minimise alcohol related harm by including a single sales condition that can then eventually be considered or reviewed for all Local Alcohol Policies in the Wellington region.

Section 105(1)(a) – object of the Act

100. As part of reviewing this application, most of the Medical Officer of Health's evidence is on matters relating to s105(1)(a). Here, the Committee "must have regard to ... the object of this Act".

101. In s4(2) 'harm caused by the excessive or inappropriate consumption of alcohol' is defined in very broad terms in:

- s4(2)(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 generally, in terms of:

- s4(2)(b) - 'any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a)'.

102. Information and data are not collected in a systematic way for all aspects of 'harm' as described above. The MOoH has provided evidence and specialist advice on a subset:

- Disease
- Illness
- Injury
- And this will be confined to the direct effect (rather than indirect effect) on the individual. It is possible to provide information on "harm to society or the community generally" through information of the burden of disease, illness or injury by Domicile Codes as used by the Ministry of Health's health Information Service.

Alcohol-related harm

103. A key outcome for the Act is the minimisation of alcohol related harm.

National level

104. While alcohol is legal and socially accepted, its widespread use contributes to a higher burden of harm across the population, with its accessibility and cultural normalisation masking the extent of its negative impact. Alcohol is still a drug with a psychoactive effect and is now known to be New Zealand's most harmful drug (more harmful than methamphetamine, synthetic cannabinoids, cocaine, cannabis, heroin and every other drug).

105. The New Zealand Drug Harm Ranking Study, published in the Journal of Psychopharmacology, employed a multi-criteria decision analysis to evaluate 23 substances across 17 harm categories. Alcohol was ranked as the most harmful overall (to both users and to others) with the highest scores in categories such as drug-related mortality and community impact. This ranking remained consistent even among youth, where alcohol was identified as the most harmful substance overall, particularly concerning its effects on others, including family and community members. In line with other studies, alcohol was ranked as the most harmful drug.

106. For youth specific rankings, alcohol again ranked highest for overall harm with most of this harm being experienced by others (e.g. family, peers, wider community). When looking at harm to the young person using alcohol specifically, it was still ranked as the fourth most harmful substance considering each of the broad harm categories.

Local Levels of Alcohol Related Harm

107. Four Square Kena Kena is located in a decile 8 deprivation area, as defined by the New Zealand Deprivation Index, indicating it is among the most socioeconomically vulnerable areas in the country. In line with that the premises itself are very close to Paraparaumu North Beach meaning there is a high risk of consumption of single sales at this beach location.

108. The 2023/24 NZ Health Survey indicates that adults residing in the most deprived areas are 1.56 times more likely to engage in hazardous drinking behaviours compared to those within the least deprived areas (after accounting for age, sex, and ethnicity).

109. In 2013, ARLA decided, (with respect to a proposed liquor store on Fantame Street in Cannons Creek, Porirua) that the applicant needed to meet a higher level of suitability given the vulnerability of the local community.

110. Thanks to cases such as these, it is now well established in case law that localities in high deprivation areas are particularly vulnerable to alcohol related harm and that applicants must meet the criteria of “enhanced suitability.”

Section 131(1)(d) - the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised or promoted alcohol.

111. ‘Single sale’ refers to a single unit of alcohol being purchased for consumption off-site. This is not defined by the Act but is a term familiar to and used by the Reporting Agencies, DLCs and ARLA. Common examples of single sales are single units of beer, wine, ciders and RTDs.

112. Selling single cans or bottles of alcohol (rather than in packs or bundles) encourages impulse buying and frequent, small purchases. Evidence, including the 2011 Law Commission report and international research, indicates that the sale of single units is associated with higher rates of alcohol-related violence and criminal activity.

113. Single units also tend to be favoured by heavy or dependent drinkers, as well as those who are price sensitive. And so, reducing single sales can be considered an evidence-based strategy to reduce availability and minimize potential harm.

114. There are several other risks and concerns to consider with just the presence of single unit alcohol present such as:

- The appeal to youth especially those that are price sensitive.
- The potential for preloading.
- The risk of public consumption leading to a reduction to amenity and good order.
- The potential for a breach of licence.

115. Under s295 of the Act “The Police, inspectors, and Medical Officers of Health within each territorial authority’s district must work together to develop and implement strategies for the reduction of alcohol-related harm”.

116. As a result, the MOoH is actively working with Police and licensing inspectors across the Greater Wellington Region to implement a single sales condition on all off-licences, aligned with the World Health Organisation’s (WHO) SAFER strategy (targeting availability, affordability, and promotion of alcohol).

117. This universal approach is supported by the most recent caselaw from ARLA (Huntly Grocer Limited T/A Fresh Choice Huntly 2025 NZARLA 167) where it is stated:

“If single sales is an issue of such wide concern, then it should be addressed by local authorities when considering or reviewing their LAPs so that there is a consistency in approach for a particular region.”

118. As the Kāpiti Coast District has no such Local Alcohol Policy (LAP), the ‘consistency in approach’ in this case can be achieved instead through the collaboration of the reporting agencies as set out above.

119. In 2018, the WHO launched the SAFER initiative in relation to reducing alcohol related harm. The SAFER initiative comprises of five key policy interventions to reduce alcohol related harm that are based on evidence of health impacts and cost-effectiveness. The Policy Interventions are listed below:

- S Strengthen restrictions on alcohol availability
- A Advance and enforce drink-driving countermeasures
- F Facilitate access screening to brief interventions and treatment
- E Enforce bans or comprehensive restrictions on alcohol advertising, sponsorship, and promotion
- R Raise prices on alcohol through excise taxes and pricing policies.

Through these policy interventions we see that from the WHO’s perspective addressing alcohol ‘availability’ and ‘pricing’ are effective ways in reducing alcohol related harm.

120. In line with this, our strategy includes a single sales condition to all new and renewed off-licence applications within the Greater Wellington Region. It aims to encourage applicants to consider packaging or bundling beer cans together instead of selling them individually.

121. This approach follows the precedent set from Dharma Enterprises Limited [2023] NZARLA 79, with the condition as shown below:

No single sales of:

- (i) beer or ready to drink spirits (RTDs) in bottles, cans or containers of 500mls or less in volume may occur except for craft beer; and (ii) shots or premixed shots.

122. A Memorandum of Understanding is in place with the Wellington City Licensing inspectorate and this is currently in development for the other areas of Wellington, including the Kāpiti Coast District Licensing inspectorate.

123. As of 2025 approximately 93 premises that have applied for a new or a renewal of an off-licence application have included a single sales condition as part of their licence. Nearly half of the off-licence premises in Wellington City alone have a single sale condition or undertaking applied to their licence since the implementation of the Single Sales Strategy. Here is a breakdown of this within the wider region:

- Wellington City Council 73
- Hutt City Council 5
- Upper Hutt City Council 1
- Porirua City Council 7
- Masterton City Council 6
- South Wairarapa Council 1
- Total 93

Section 105(1)(b) – Suitability of the applicant

124. The MOoH has no direct issues with the applicant, however, in relation to the purpose and object of the Act, it is imperative that both the agencies and the applicant ensure that the outcomes of the licensing process remain aligned with the Act's intent.

125. As shown, there's a well-established and ongoing concern regarding single sales and their contribution to alcohol-related harm.

126. Through the MOoH's past communications with the applicant, they stated their concerns regarding the alcohol related harm resulting from single sales and intentions to ask all off-licences to include a single sales condition as a part of the strategy to encourage responsible consumption and to minimise the prevalence of alcohol related harm.

127. The applicant then stated that they "don't believe that these single cans contribute to excessive or more consumption" as well as "from their observations on the customer trends in store and who is buying these cans, they believe it actually reduces the amount that people are drinking and that customers are being more responsible around their consumption".

128. This perspective is concerning, as it overlooks and dismisses the broader, well-documented national impact of single sales on alcohol-related harm and the impacts on high deprivation areas.

129. The MoOH believes the applicant's stance is inconsistent with the object of the Act, which aims to minimise harm caused by the excessive or inappropriate consumption of alcohol. Consequently, they believe this mindset raises questions about the applicant's suitability to hold a licence and demonstrates that the applicant does not meet the requirement for "enhanced suitability."

Personal Observations

130. As of 16 July 2025 these are the MoOH's personal observations from visiting the premises. The premises itself is located within the heart of a residential area and is close to a Primary School, a Kindergarten and a Sports Club.

131. The premises is also next door to a Liquor Store (Thirsty Liquor Paraparaumu) which has already agreed to the single sales condition.

132. Upon entering the premises, it is immediately apparent the premises is operating as a grocery store; however, the alcohol area (especially the single sold items) is in full clear view of the entry way as well as the checkout point and is paired together with the convenience and snack items.

133. The MOoH observed a few tradesmen come through but the majority of those observed were just run of the mill, general members of the public who showed familiarity with the store, indicating they were locals.

134. The MOoH's main point of concern is that given the evidence of the impact of alcohol related harm from single sales, residential areas that include sensitive sites with Tamariki and Rangatahi are the last places one would want to expose to the potential of such harm.

135. Another concern is that allowing the premises to be able to sell single cans of beer will create an unfair competitive advantage over the liquor store next door and could potentially lead to a price war between the businesses. Given that this is a universal condition they are looking to apply on all off-licences irrespective of being a liquor store, supermarket or a grocery store it could be viewed as such. Especially given that the Thirsty Liquor next door (Dang and Daughters Limited) had already agreed to a single sale condition in November 2024.

Conclusion

136. The area in which the premises sits (as according to the New Zealand Deprivation Index) has a high deprivation score of 8 leading to concerns regarding higher levels of alcohol related harms experienced within such areas.

137. In such a highly deprived area, any applicant must meet the criteria for 'Enhanced Suitability'.

138. The applicant has exhibited a mindset that ignores the deprivation of the area, the impacts of the determinants of health and the wider picture of alcohol related harm to this community.

139. Therefore, the MOoH believes the applicant does not meet the criteria for enhanced suitability required for this sensitive area, therefore, the application cannot be granted. If minded to granting the licence, they ask the DLC to take into consideration, the addition of the single sales condition as shown below:

No single sales of beer in bottles, cans or containers of 500mls or less in volume may occur except for craft beer.

This would be consistent with other license holders in the Wellington region, including the Kāpiti Coast District, and strengthens a strategy which will reduce alcohol related harm in the Greater Wellington region.

140. Mr Tuputala said Health was not at the hearing to deny the applicant the ability to sell alcohol. He said the store was near a primary school, the concerns of health aren't abstract and their role is harm minimisation. He said their objection was not about prohibition – it is about protection.

Questions from the Committee

141. Ms Palmer referenced the Agencies' MOU and asked for a view on unintended consequences of not allowing single sales which could encourage buying more and therefore consuming more. Mr Tuputala said the evidence is that single sales cause more harm.

142. Ms Palmer asked if the system of prohibiting single sales was working. Mr Tuputala said their data does show harm from single sales but there is no data yet on the policy.

143. The Chair asked if other DLCs had bought into the single sale policy. Mr Tuputala said it was a case by case approach as new or renewal applications came up. He said Porirua have implemented it into their LAP and it was being reviewed. Mr Tuputala said they were taking a collaborative approach.

144. Mr Laracy asked how craft beer was defined. Mr Tuputala said they didn't really have a definition and it was up to DLCs to define it on a case by case basis.

145. Mr Laracy asked about nationwide data of harm from sales to younger people and those in higher deprivation areas and whether there was data in this particular instance. Mr Tuputala said Health wanted to take a generally preventative approach.

146. Ms Palmer asked if Mr Tuputala could elaborate on their questioning the suitability of the applicant to hold a licence. Mr Tuputala said Health did not have an issue with the applicant beyond not accepting the MOU.

147. Ms Palmer noted there had been no public objections to this specific outlet. Mr Tuputala said it would be up to the DLC to consider objections to any application.

148. Mr Laracy asked if Health had a view about sales before 9am. Mr Tuputala said they would support no alcohol sales before 9am.

Evidence from Police: Sergeant Manu Leuluai

149. Police Sgt. Manu Leuluai said all three agencies opposed the renewal of the licence and that Police are still opposed after reviewing evidence.

150. Sgt. Leuluai said the Committee would benefit from referring to Section 112(1) of the Act, where it states the purpose of sections 113 and 114 is to limit (so far as is reasonable and practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.

151. Sgt. Leuluai said police have emphasised their concern for the applicant's display of alcohol in the vicinity of the checkout.

152. Sgt. Leuluai said the Police request that if the off-licence is granted by the Committee, that the single area for alcohol is repositioned and moved away from the checkout to an area that is not in breach of section 114(1)(b)(ii) of the Act. He said the alcohol display in the store could lead to beer impulse buying due to the close proximity to the checkout. He said alcohol should not be near the checkout as this normalises alcohol.

153. Police point to Section 112(3) of the Act which states that upon renewal of an off-licence for premises that are a grocery store, any single-area condition imposed when the licence was issued (or last renewed) expires. Sgt. Leuluai said this gives the Committee the opportunity to request a reposition of the single area.

154. Sgt. Leuluai's evidence is that in light of these facts, Police believe it is a reasonable request of the applicant to show a positive mindset and a willingness to help reduce alcohol related harm in their community.

155. Sgt. Leuluai said Police reaffirm their evidence that alcohol related harm exists in this community. He states there have been at least 70 Police recorded alcohol-related occurrences and incidents within a 500-metre radius of the applicant's premises in the last three years.

Questions from the Committee

156. Ms Palmer asked if the harm issues referred to were specific to this store. Sgt. Leuluai said there were no links of alcohol harm issues back to these premises.

157. Mr Laracy asked for a view on the single sales 500ml size. Sgt Leuluai said the size was 330ml so the 500ml set a new standard. He said the Police position on single sales related to strength as well and how many standard drinks equivalent in one can.

158. Ms Palmer asked for Sgt. Leuluai to elaborate on Police issues relating the applicant suitability. Sgt. Lueluai said Health had taken the lead on this. He said Police concerns related to how alcohol was sold and displayed and noted the applicant is best suited to change this. He said under the Act – the applicant is not suitable in that sense. He said low prices were also a concern, saying \$4.99 a can is cheap.

The Hearing recessed until 19 August 2025 for the parties to submit written closing statements.

The hearing reconvened at 10am, 19 August 2025 at the Kāpiti Coast District Council.

Licensing Inspector – Antoinette Bliss

159. Ms Bliss' evidence is that she opposed the renewal of the licence and supports the stance the other agencies have taken in this matter.

160. Ms Bliss states: The object of the Act is to ensure that the sale, supply, and consumption of alcohol are undertaken safely and responsibly, and to minimize the harm caused by the excessive or inappropriate consumption of alcohol. This involves promoting responsible drinking practices and minimizing negative impacts on individuals, communities, and society.

161. Ms Bliss outlined that the agencies have developed a MoU and in order to achieve the objectives of this MoU, the reporting agencies have collaborated and agreed on a consistent

approach to discretionary conditions to be recommended to the DLC as is appropriate in each case.

162. She said Health New Zealand have provided the Committee information from a national level, that alcohol's widespread use contributes to a higher burden of harm across the population, with its accessibility and cultural normalisation masking the extent of its negative impact. Alcohol is now known to be New Zealand's most harmful drug.

163. NZ Police have confirmed that alcohol related harm does occur in this area of our community.

164. Ms Bliss cited the case of "Medical Officer of Health (Wellington Region) v Lion Liquor Retail Limited", where the High Court clarified that the Act focuses on minimising alcohol-related harm, not eliminating it, and that generalised evidence can be sufficient to establish a real risk of harm, without needing to directly link that harm to the specific premises. The key is to show that the premises, in its operation, contributes to a real risk of harm.

165. She said this case marked a significant shift in the legal interpretation of the Act, emphasising the importance of proactively addressing potential harm rather than solely relying on proof of direct causation.

166. Ms Bliss noted regarding the Statement of Chartered Accounts that the Sale and Supply of Alcohol Regulations 2013 require that the breakdown of sales data needs to demonstrate that 'food products' are the largest simple category of a grocery store's gross sales revenue (excluding GST).

167. She said the DLC noted at the hearing that the percentages between food and convenience food were a 1.73% difference. From the figures provided she is unable to determine exactly what other items are coded to the 'other' sales total figure.

168. Ms Bliss said the DLC commented that applicants could complete the 'total' section for each category of the template, it would be preferred if applicants completed the template correctly, in particular 'Other Revenue' where a detailed breakdown 'Other (please specify)' is required.

169. Ms Bliss noted the template has been used nationwide since 2012, it would be expected that the premises should and would have the necessary systems in place to allow their own accountants to complete this, and evidence of another premises doing this has been provided.

170. Ms Bliss recommended that the DLC implement the requirement for use of this template for all grocery stores applying for alcohol licences.

Conclusion

171. Ms Bliss recommended that the following conditions and undertakings are added to the licence, if granted.

- No single serve sales of beer, except for craft beer, in containers of 500mls or less in volume.
- All deliveries of alcohol must be signed for by a person aged 18 years or

older. Signs of intoxication on the part of the recipient would result in non-delivery.

- The licensed premises situated at 4 Donovan Road, Paraparaumu Beach, are more precisely identified as outlined in the plan date stamped as approved by the District Licensing Committee on 2 April 2026 displayed alongside this licence and held on DLC file OFF827.
- The single alcohol area (the only permitted area for the promotion and display of alcohol) is defined on the attached plan, approved on 2 April 2026, and encompasses the right-hand wall of the retail area.
- As part of a commitment to responsible alcohol sales, the applicant agrees that: Beer in containers of 500mls or less in volume will not be sold in quantities of less than four bottles/cans (except for craft beer). Excessive discount will not be applied to the four pack.
- Alcohol is considered a restricted good. The applicant agrees that they are unable to leave restricted goods unattended at an address, and if there is no one aged 18 years or older to receive the delivery, they will not leave it. Alcohol purchases must be received by someone who is aged 18 years or older. In order to take the delivery, valid and current identification must be shown to the person/s delivering the goods. If the deliverer considers the person receiving the delivery to be intoxicated, the alcohol will not be delivered. This identification must include the following: Full name, date of birth, photo and signature.
- When the applicant engages a courier company to make deliveries, they will only use a company that can provide sufficient reassurance that their drivers will always adhere to the requirement to obtain a signature and proof of ID showing that the recipient is over 18 years of age. A signed written agreement between the courier and applicant will be provided to the tri-agencies.

Closing Submission submitted by Faifaiese Tuputala for MOoH

173. Mr Tuputala said the issue before the Committee is straight forward, but it's also an important one. Will this licence, without the addition of the single sales condition, be consistent with the object of the Act.

174. He noted section 4 of the Act states clearly that the object of the Act is:

- 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.

This is the test the committee must apply.

175. Mr Tuputala said during the hearing, the DLC heard their evidence regarding their position on the matter, and their stance was based on the following:

- Alcohol related harm nationwide and how single sales units contribute to that
- The vulnerability of the locality and how that relates to the risks of alcohol related harm
- The need of enhanced suitability
- The importance of consistency within the tri-agency strategy

Alcohol Related Harm

176. He said the facts and evidence are clear, alcohol is not an ordinary commodity, and national data and studies (such as the NZ Drug Harm Ranking Study) prove that it is the most harmful substance in NZ, resulting in various types of alcohol related harm.

177. The 2011 Law Commission Report and international studies establish the link between single sold units of alcohol (mainly beer and RTD's) and higher rates of alcohol-related violence and crime. This again calls back to section 4 of the Act stating that : the object of the Act was to make sure the sale, supply and consumption is undertaken safely and responsibly and that 'harm' caused through the excessive or inappropriate consumption of alcohol is minimised.

178. Mr Tuputala cited the ARLA decision Dharma Enterprises Ltd [2023] NZARLA 79. He noted that the decision not only created the baseline condition on which their strategy condition is modelled, it also brought to light that single sale units are a recognised risk factor in alcohol related harm.

This means that the Dharma Enterprises Ltd [2023] NZARLA 79 decision has set a precedent that acknowledges alcohol related harm caused from single sold units, and in order to be consistent with the object of the Act the Committee must seek to minimise the harm caused through the excessive or inappropriate consumption of single sold units and make sure they are sold, supplied and consumed safely and responsibly. The best way to achieve this is to limit accessibility and availability.

179. The applicant stated in evidence that they agree with the evidence for alcohol related harm and its issues within communities, and they also acknowledge that they have a role to play within its reduction, however, they believe the evidence of harm and the strategy made to address that harm is a 'generalisation' that does not apply specifically to their premises.

180. In relation to the NZHC Lion Liquor Retail Limited [2018] decision, it is understood that the Act aims to minimise alcohol related harm rather than eliminate it entirely. The Court also clarified that establishing a direct, premises-specific link to harm isn't a necessity; rather, evidence demonstrating a real and significant risk of harm is sufficient. The key consideration is whether the manner in which the premises operates contribute to that genuine risk.

181. Mr Tuputala said he believes that the applicant has failed to fully understand 'their role' in relation to the Act and its object, and that their responsibilities does not stop at the extent of their premises or to just their own customers but also extends to the wider picture of alcohol related harm especially within the community.

When looking through the lens of the object of the Act, taking on that wider responsibility and being able to understand and accept 'their role' is crucial.

Local Harm and Vulnerability

180. The 2023/24 NZ Health Survey shows indications that adults in highly deprived areas are almost twice as likely to engage in problematic drinking behaviours.

181. The area the premises is situated in is classed with a Deprivation score of 8 by the NZ Deprivation Index, which indicates it is among the most socioeconomically vulnerable areas in NZ.

182. Mr Tuputala says this talks to s105(1)(h), s105(1)(i) and s106 regarding amenity and good order of the locality, it talks to the overall state of the area where the licensed

premises is located and encompasses both physical and intangible aspects, leading to the conclusion that 'enhanced suitability' is required of any applicant in such an area (as discussed in respect to the Fantame Street Liquor Store). He said the applicant has spoken on the locality and has acknowledged the deprivation score of the area and yet their response appears to ignore this, contending that "our customers are generally families or retirees, working individuals, people who have money and can afford to pay a little extra and understand that things will be slightly more expensive at a 4 Square than Pak n Save or Woolworths."

183. The applicant (in evidence) showed a belief that the issues talked on are a 'generalisation' and does not apply specifically to their premises.

184. The applicant also advises that "these were observations made about our customers and not the whole wider community. In fact, the conversations I have had with customers who purchase these, friends and family, have all been along the same lines."

185. Mr Tuputala said he believed this to be a double standard on the applicant's part, in order to address the generalisation of the locality of the area they themselves have generalised it to their experiences with only their own customers (which include friends and family). He said failing to consider the wider community further brings into question how seriously the applicant takes their role and responsibilities under the Act.

Suitability of the Applicant

186. Mr Tuputala said he spoke on the suitability of the applicant having come into question due to the applicant's views and mindset towards single sales and its contribution to alcohol related harm and then transitioned that further into talking on the applicants need to meet an 'enhanced suitability' given the higher vulnerability of the locality.

187. He says caselaw describes 'suitability' in broad terms, it doesn't only consider whether an applicant has been or could be successful in operating a premises but whether or not an applicant's past and present conduct shows they will act consistently within the Act. Not only that but it is also now well established in caselaw that localities in high deprivation areas are deemed particularly vulnerable to alcohol related harm and so applicants must meet the criteria of "enhanced suitability." 'Enhanced suitability' requires acknowledging that harm and given the higher vulnerability of the locality, being ready to take action to minimise that harm.

188. The evidence establishes the area as highly deprived, the presence of sensitive sites nearby as well as the proximity to the beach means there is increased risk and vulnerability to the locality meaning the DLC must apply the principle of enhanced suitability.

189. Mr Tuputala says the applicant has consistently failed to acknowledge this vulnerability, brushing it off as simply "not directly connected to their small grocery store", they would have the committee believe that the issues and concerns backed by evidence and research just simply does not happen with their premises.

Design and layout

190. Mr Tuputala said his personal observations describes the design and layout of the single alcohol area as being "in full clear view of the entry way as well as the checkout point".

Tri-Agency Strategy and regional consistency

193. The application was opposed by all three agencies. The agencies have agreed on a collaborative strategy aimed at creating a consistent regional approach to alcohol related harm specifically to address the minimization of that harm.

194. This collaboration falls under s295 which states:

The Police, inspectors, and Medical Officers of Health within each territorial authority's district must -

- a) establish and maintain arrangements with each other to ensure the ongoing monitoring of licences and the enforcement of this Act; and*
- b) work together to develop and implement strategies for the reduction of alcohol- related harm.*

195. Evidence presented has shown nearly half of the off-licence premises in Wellington City alone have a single sale condition or undertaking applied to their licence.

196. Ninety-three premises in the wider region now have a single sales condition as part of their new or renewed off-licence. This shows that responsible applicants are more than willing to work with the tri-agencies and accept the single sales condition as a part of their licence in the interest of reducing alcohol related harm in their communities.

Conclusion

197. Mr Tuputala said if minded to granting this licence, they ask the DLC to take the precautionary approach and include a single sales condition as shown below:

No single sales of beer in bottles, cans or containers of 500mls or less in volume may occur except for craft beer.

198. This would be consistent with other license holders in the Wellington region, including the Kāpiti Coast District, and strengths a strategy which will reduce alcohol related harm in the Greater Wellington region.

Closing Statement from police – Sgt. Manu Leuluai

199. Police Sgt. Manu Leuluai said all three agencies opposed the renewal of the licence and that Police are still opposed after reviewing evidence.

200. Sgt. Leuluai said the Committee would benefit from referring to Section 112(1) of the Act, where it states the purpose of sections 113 and 114 is to limit (so far as is reasonable and practicable) the exposure of shoppers in supermarkets and grocery stores to displays and promotions of alcohol, and advertisements for alcohol.

201. Sgt. Leuluai said the Police request that if the off-licence is granted by the Committee, that the single area for alcohol is repositioned and moved away from the checkout to an area that is not in breach of section 114(1)(b)(ii) of the Act. He said the alcohol display in the store could lead to beer impulse buying due to the close proximity to the checkout. He said alcohol should not be near the checkout as this normalises alcohol. Sgt. Leuluai said police have emphasised their concern for the applicant's display of alcohol in the vicinity of the checkout. He said there should be no alcohol in the vicinity of the counter and all alcohol should be in a specific alcohol area.

202. Sgt. Leuluai's said Police have great concerns over the category 'Other' and it is the responsibility of the applicant to accurately report sales and be certain no alcohol is included in this category.

203. Sgt. Leuluai said Police reaffirm their evidence that alcohol related harm exists in this community. He stated there have been at least 70 Police recorded alcohol-related occurrences and incidents within a 500-metre radius of the applicant's premises in the last three years.

Closing statement for Kin Foods Ltd.

204. Mr Newman reiterated his opening statement that they have presented enough evidence that their licence should be renewed without the conditions sought by the three agencies other than the condition around delivery of alcohol sales requiring proof of age which they have already agreed to.

205. Mr Newman said they know their customers well and limiting their choice of products should not be up to the agencies when these can be freely purchased elsewhere and are in the scope of the Act.

206. He said they have tight controls on the sale of liquor and provide robust training to staff so they can meet our obligations under the Act.

207. Mr Newman said they have provided sales data concluding that 500ml cans are a small part of their sales mix and that the type of customers who are purchasing these are only purchasing one or two.

208. He said they do not have issues with homeless or vulnerable people. Mr Newman said there have been no incidences directly relating back to their store related to alcohol harm.

209. He said they have provided several cases of other stores in low decile deprivation areas where the local DLC have granted the licence where it has been challenged because of the 500ml single sales.

210. Mr Newman said they have provided a breakdown of their sales mix from Foodstuffs that clearly shows that they are a grocery store and are meeting the requirements of the Act with this format and should not be forced to use a form not fit for purpose especially if he is told from head office, they cannot do it. He said they have also provided evidence of our other breakdown – being non-food items - with \$435,048.33 being hardware, toiletries, toilet paper, petfood etc, \$70,100.76 being Tobacco excise free- filters, e-cigarettes and pods and only \$2,4781.39 has been categorised towards the non-specific department key.

211. Mr Newman said they have a long history of managing liquor having operated their store for 16 years and having held a Managers Certificate for over 35 years proving that they are suitable for holding a licence.

212. He said after listening to the agencies reports about exposure to the checkouts that they have looked at how they can mitigate this. It has always been their intention to replace aging refrigeration, and they have started a process with Foodstuffs as to how they can reconfigure the single alcohol area so that it is less visible from the checkout.

213. Mr Newman said whilst this will take some time and considerable investment, they will make a commitment to get it done although due to unknown time restraints and costs involved it should not be a condition of this renewal.

214. He said that they are a local small community store supporting their local customers with their grocery needs and should be able to continue to provide the products their customers want.

COMMITTEE'S DECISION AND RATIONALE

1. The Kāpiti Coast District Licensing Committee, having considered the papers in relation to the application by Kin Foods Limited and having heard all of the evidence in the hearing of 6 August 2025, and the reconvened hearing of 19 August 2025, found four primary issues of contention on which to rule: the single sales (relating to the tri-agencies MOU); the suitability of the applicant; the use of a Kāpiti Coast District Council template; and the store layout regarding the display and sale of alcohol.
2. On the first issue of single sales of beer in bottles, cans or containers of 500mls or less in volume except for craft beer which the agencies want prohibited, the committee considered the following;

Under the Act, s295 outlines a duty to collaborate:

The Police, inspectors, and Medical Officers of Health within each territorial authority's district must—

(a) establish and maintain arrangements with each other to ensure the ongoing monitoring of licences and the enforcement of this Act; and

(b) work together to develop and implement strategies for the reduction of alcohol-related harm.

3. The Committee considers the MOU provided by the agencies is the result of significant co-operation as described in s295 and the Committee found it sufficiently robust to have standing in the decision-making process. An issue within the MOU that will require clarification is what constitutes craft beer.
4. The agencies report that ninety-three premises in the wider region now have a single sales condition as part of their new or renewed off-licence. We agree with their expressed view that this shows that responsible applicants are more than willing to work with the tri-agencies and accept the single sales condition as a part of their licence in the interest of reducing alcohol related harm in their communities.
It was also noted during the hearing that the liquor store next to the applicant's premises has recently renewed their licence, agreeing to the single sales condition.
5. Mr Newman provided evidence of a Dunedin DLC hearing decision that found against a condition imposing a restriction on single sales. The Committee noted this case and others and was also mindful of a recent ARLA appeal decision [2025] NZARLA 405-406 in which Judge RLB Spear upheld the single sales condition modified to read:

That single sales units of beer and ready to drink spirits (RTDs) in cans/containers of 500mls or less or premixed shots are not to be sold from the premises. This does not include craft beer or cider.

6. That condition related to a decision based on the same MOU as applied in this application. Also, the condition related to a Liquor store as opposed to a grocery store. The DLC can impose this condition under section 117 of the Act.

Suitability of the applicant – Section 105(1)(b) –

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) 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) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—

(i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but

(ii) it is nevertheless desirable not to issue any further licences:

(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.

(2) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

6. The Committee noted that all three agencies opposed the licence on the basis that the applicant was not suitable to hold the licence.

The Committee noted that the Inspector's primary opposition under Section 105(1)(b) was that the applicant had not agreed to the single sales condition.

The MOoH, Mr Tuputala, said he spoke on the suitability of the applicant having come into question due to the applicant's views and mindset towards single sales and its contribution to alcohol related harm and then transitioned that further into talking on the applicant's need to meet an 'enhanced suitability' given the higher vulnerability of the locality. Mr

Tuputala said caselaw describes 'suitability' in broad terms, it doesn't only consider whether an applicant has been or could be successful in operating a premises but whether or not an applicant's past and present conduct shows they will act consistently within the Act.

7. He said it is also now well established in caselaw that localities in high deprivation areas are deemed particularly vulnerable to alcohol related harm and so applicants must meet the criteria of enhanced suitability.

He said 'enhanced suitability' requires acknowledging that harm and given the higher vulnerability of the locality, being ready to take action to minimise that harm. He expressed the view that the evidence establishes the area as highly deprived, the presence of sensitive sites nearby as well as the proximity to the beach means there is increased risk and vulnerability to the locality. This means the DLC must apply the principle of enhanced suitability.

Mr Tuputala further stated the applicant has consistently failed to acknowledge this vulnerability.

The Police position relating to suitability came in answer to a question from Ms Palmer when she asked for Sgt. Leuluai to elaborate on Police issues relating the applicant suitability. Sgt. Leuluai said Health had taken the lead on this. He said Police concerns related to how alcohol was sold and displayed and noted the applicant is best suited to change this. He said under the Act, the applicant is not suitable in that sense. He said low prices were also a concern, saying \$4.99 a can is cheap.

8. In considering the question of suitability of the applicant, the Committee accounted for the 35 years of alcohol management experience, and the 16 years of operating this particular store. The Committee further considered section 105 of the Act. We noted that on the basis that suitability for the opposing agencies largely rested on the applicant not agreeing with the single sale condition that would not be sufficient to persuade the Committee to deny the application. Until the MOU was broadly promulgated in 2025 the applicant had not been considered unsuitable. The Committee notes the MOU, while robust, is still in parts a work in progress, and we do not believe a negative view of it is sufficient to constitute a breach of section 105.

To the point raised by Police regarding the placement of single sales alcohol, the committee believe there is a willingness on the part of the applicant and the agencies to resolve this in a timely manner, and this will be discussed further.

Notwithstanding any views on the applicant's opposition to proposed single sales, and the template use to report on 'other' sales, the Committee finds Michael and Michelle Newman to be of good character who are contributing positively to the community in which they have successfully conducted their business for the last 16 years. The Committee considers the applicant suitable under Section 105(1)(b) of the Act.

Template: for Statement of Gross annual Revenue

9. The Committee considered the requested condition relating to the use of the Kāpiti Coast District Council 'Statement of Gross annual Revenue' template. This condition was not part of the MOU. However, it is noted that in evidence Police considered the 'Other' category problematic and a matter of concern if any alcohol products might be included in the absence of a breakdown of sold items.
10. Mr Newman told the committee, that Foodstuffs are unable to provide the data Council requires for its template. He said the work required to comply would be significant. Mr Newman said their chartered accountants are not employed by Foodstuffs. He said this whole process has been stressful and said Council should look at each individual business. At

the hearing, Mr Newman said it feels like the agencies are targeting stores then applying general conditions.

11. The Sale and Supply of Alcohol Regulations 2013 require that the breakdown needs to demonstrate that 'food products' are the largest single category of a grocery store's gross sales revenue (excluding GST).
12. The Inspector did not dispute the figures submitted by the applicant and said they do indeed indicate that 'food products' are the largest category, therefore meeting the requirements of the Regulations.
13. However, it is the Inspector's view that, in order for consistency across the district, the requested template is used for the ease of agency reporting, as it had been in the past and seems to have been changed by Foodstuffs. The Inspector noted a number of similar off-licenced premises in the area are submitting accounts where 'other' is the largest category, which leads the agencies to question whether the 'principal purpose of that business' is that of a grocery store or a convenience store.
14. For the Committee this is not just a matter of alcohol sales potentially being listed as 'other', but also convenience items being listed as 'other', that on balance may jeopardise the status of a 'grocery store' under the Act and thereby inhibit the sale of alcohol.
15. The Committee considered the need to balance the cost (financial and material) of compliance with the use of the Council template against its value as a reliable reporting mechanism in contrast with the currently used reporting system. The very fact that there is agency discomfort with the current reporting suggests the current reporting of the Statement of Gross annual Revenue is not adequate. Similarly, the DLC has registered concern regarding the substantial amount listed as 'other' without adequate explanation.
16. The DLC has had two hearing decisions recently where the applicant has been required to use the Council template for the Statement of Gross annual Revenue. In two other recent instances grocery stores have agreed to use that system.
17. The Committee noted the Inspector's view that agencies are not chartered accountants, and therefore if the applicant chooses to not show food as the 'principal purpose' of business, they will be required to submit further information to the DLC to determine via a hearing whether the applicant is meeting that component of the Regulations. The use of the requested template which breaks categories down to a greater level of detail, shows how the business is operating and will assist the applicant to meet the requirements of the Act and Regulations.
18. The Inspector provided an email from Tatiana Valdes, Regulatory Specialist, Foodstuffs, dated 9 April 2025, which was presented as evidence for another DLC hearing for the premises known as Waikanae Four Square, quoting the following and noting some information has been redacted for privacy reasons and the applicant was in attendance at this hearing:

'It's important to note that the statement of annual sales revenue is just one of the components the licensing committee will take into account, as outlined in Section 33 of the Sale and Supply of Alcohol Act. If the statement does not clearly demonstrate that the principal business of the store is the sale of food (for example, due to food

items being incorrectly recorded under 'other'), you may need to provide additional data or supporting information to establish compliance.

The Inspector had further noted the importance of reducing the use on the 'other' department key. She had stated in the most recent report, sales recorded under 'other' still accounted for nearly 40% - a significant concern especially given the 2016 hearing outcome, which emphasised that this process should be improved.

Store layout and proximity of alcohol to the serving area.

19. It was noted during the hearing that the proximity of the single alcohol area to the serving counter was a matter of concern to the agencies.

Accounting for s114(1)(b)(ii) of the Act it is reasonable to assess the current location of the alcohol in the store as in breach. Mr Tuputala said his personal observations describes the design and layout of the single alcohol area as being "in full clear view of the entry way as well as the checkout point".

The Committee heard from Mr Newman an acknowledgement that the current location was problematic, and he stated that the store had started a process to relocate the alcohol area in the store. The Committee accepts this statement from Mr Newman at face value.

However, given that all parties agree this is an issue requiring resolution the Committee considered using section 115(2) of the Act to set a specific time period by which this would be completed.

The Committee further considered the applicant's request that this condition not be part of the decision. Section 115 allows the Committee to impose a condition of relocation over a given time period (no longer than 18 months).

The Committee came to the view that the issues as they relate to section 114 are best left with the parties to determine. It is the strong recommendation of this Committee that urgent consideration be given to the location of the alcohol area and timelines established for implementation.

A condition relating to the delivery of alcohol sales requiring proof of age has been agreed by the parties

In making its decision the Committee particularly considered the following sections of the Act: s4(2) (a) (b), s32, s33, s105, s105(1)(a) (b) (c) (h) (i) (k), s106, 112 (1) (3), s113, s114, s114(1) (b) (ii) s115(2), s117, s127(2), s131(1)(d), s295.

DECISION

The District Licensing Committee Commissioner, acting pursuant to the Sale and Supply of Alcohol Act 2012, approves the application by **Kin Foods Limited** trading as **Kena Kena Four Square** under section 127(2) of the Sale and Supply of Alcohol Act 2012 to the Kāpiti Coast District Licensing Committee for the renewal of an off-licence under section 127(2) of the Sale and Supply of Alcohol Act 2012 (the Act), to sell alcohol for consumption off the premises, situated at Shops **9-11 Kena Kena Shopping Centre, Donovan Road, Paraparaumu Beach**, known as Kena Kena Four Square.

This licence will be issue for the period of three years from the date of expiry of the current licence. The decision and is subject to standard conditions and the addition of the following conditions and undertakings:

Conditions

- That single sales units of beer and ready to drink spirits (RTDs) in cans/containers of 500mls or less or premixed shots are not to be sold from the premises. This does not include craft beer or cider.
- That the applicant adopt and implement the KCDC Statement of Gross Annual Sales Revenue: Grocery Store – Existing Business Declaration template as requested by the Licensing Inspectorate.
- All deliveries of alcohol must be signed for by a person aged 18 years or older. Signs of intoxication on the part of the recipient would result in non-delivery.

Undertakings

- Beer in containers of 500mls or less in volume will not be sold in quantities of less than four bottles/cans (except for craft beer) and with excessive discount applied.
- Alcohol is considered a restricted good. We are unable to leave restricted goods unattended at an address, and if there is no one aged 18 years or older to receive the delivery, we will not leave it. Alcohol purchases must be received by someone who is aged 18 years or older. In order to take the delivery, valid and current identification must be shown to the person/s delivering the goods. If the deliverer considers the person receiving the delivery to be intoxicated, the alcohol will not be delivered. This identification must include the following; full name, date of birth, photo and signature.
- When we engage a courier company to make our deliveries, we will only use a company that can provide sufficient reassurance that their drivers will always adhere to the requirement to obtain a signature and proof of ID showing that the recipient is over 18 years of age. A signed written agreement between the courier and applicant will be provided to the tri-agencies.

DATED at Paraparaumu on 2 April 2026.



Nigel Wilson
Commissioner
Kapiti Coast District Licensing Committee