

Decision No. 45/2026/045 Reference OFF639

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

AND

IN THE MATTER OF An application by **Tran Vu Limited** trading as **Waikanae Beach Four Square** under sections 120(2) and 127(2) of the Sale and Supply of Alcohol Act 2012 to the Kapiti Coast District Licensing Committee for the renewal and variation of conditions of an Off licence under sections 120(2) and 127(2) of the Sale and Supply of Alcohol Act 2012 (the Act), to sell alcohol for consumption off the premises, situated at 28 Tutere Street, Waikanae Beach, known as Waikanae Beach Four Square.

BEFORE THE KAPITI COAST DISTRICT LICENSING COMMITTEE

Chair: Mr Nigel Wilson

Members: Ms Julia Palmer

Ms Susie Mills

HEARING at Kapiti Coast District Council offices, Paraparaumu, on Friday 9 May 2025 at 9.30am.

APPEARANCES

Applicant:

Ms Thuy Vu

Mr Nick Robbens

In support of Applicant:

Mr Ben Shaw – Chartered Accountant

Ms Jenny Seddon

Mr Michael Newman – Owner/Operator Four Square Kena Kena

Reporting Agencies:

Licensing Inspector: Antionette Bliss

Police: Sergeant Luke Taunton

Medical Officer of Health: Nicola Campbell

Medical Officer of Health: Vateti Sopoaga

INTRODUCTION

1. An application by **Tran Vu Limited** trading as **Waikanae Beach Four Square** under sections 120(2) and 127(2) of the Sale and Supply of Alcohol Act 2012 to the Kapiti Coast District Licensing Committee for the renewal and variation of conditions of an Off licence under sections 120(2) and 127(2) of the Sale and Supply of Alcohol Act 2012 (the Act), to sell alcohol for consumption off the premises, situated at 28 Tutere Street, Waikanae Beach, known as Waikanae Beach Four Square was received on 11 July 2024.

BACKGROUND

2. The Kapiti Coast District Licensing Committee (DLC) having considered the papers in relation to the application by Tran Vu Limited have determined the Applicant shall have the opportunity to present the application to a hearing of the Kapiti Coast DLC.
3. The Kapiti Coast District Licensing Inspector, Antionette Bliss, raised a number of salient issues in relation to the application and recommended the DLC consider the application via a public hearing.
4. On the 26th June 2024, Police conducted a Controlled Purchase Operation (CPO) at the premises of Tran Vu Limited trading as Waikanae Beach Four Square. During the CPO alcohol was sold to a person under the purchase age in breach of s239 of the Act. Police submitted applications to ARLA (Alcohol Regulatory and Licensing Authority) for the suspension of the Off Licence and Manager's Certificate. As a result, the off-licence for Tran Vu Limited was suspended for 7 days and the applicant's Managers Certificate was suspended for 28 days.
5. Thuy Vu's name was displayed as the Duty Manager at the time of the CPO. The staff member involved in the sale to the minor pushed the call button on two different occasions to request the attendance of the Duty Manager. It took some time for the applicant to appear, and she stated she was in the back room ticketing vegetables. This area was not within the approved licensed premises and given the time taken to appear, it would seem unlikely she was in this area at the time. The Licensing Inspector opposed the application and requested a public hearing.

6. **Police** were not opposed to the application as they consider the matter has been dealt with by way of ARLA suspending the Applicant's manager's certificate as a result of a failed CPO, however Police noted the Committee might wish to consider a truncated licence period.
7. In addition to the renewal of the off-licence the applicant further sought a variation of the premises' alcohol licensed area to incorporate an office area at the rear of the premises.
8. The premises have had an associated grocery store style off-licence since at least 1994 (earliest records on file) when they were licensed to sell only wine, prior to beer being permitted to be sold in grocery stores under the Sale of Liquor Amendment Act 1999. The Premises have had a grocery store style off-licence in the current form since 1999, when the premises were known as the Four Square Discount Mini-Market.
9. The applicant has operated an alcohol licence on these premises since 8 August 2011.
10. Structural alterations were undertaken in 2019 under resource consent RM18895 and building consent BC170832 to extend the grocery store. During that time, alcohol was sold under a Temporary Licence (45/OFF/019/2019), valid from 17 October 2019 to 1 December 2019. The Temporary Licence was required to enable alcohol to be sold from the new part of the premises while the existing retail area was being refurbished. The licensed area relating to the permanent licence was varied, and a replacement licence issued on 29 November 2019 with no change to the expiry date of 8 August 2021.
11. The director and shareholder of the licensee company is also the owner of the premises, having purchased the property at the time the initial licence was granted in 2011.
12. 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.
13. The licence expired on 8 August 2024 but has remained valid as an application for its renewal was filed prior to this date.
14. The conclusion of the Inspectors Report stated: Based on my discussions with the applicant, represented by Thuy Hong Thi Vu, my inspection of the premises, the supplementary documentation accompanying the application and the reports filed, it is my opinion that, although the applicant claims to be aware of their responsibilities under the Act and Regulations, their suitability is in question due to issues raised earlier in this report.

EVIDENCE OF THE APPLICANT

15. For the applicant, counsel Mr Nick Robbens stated the applicant was very disappointed the Ministry of Health (MoH) were not attending and thanked the community members in attendance for supporting the application.
16. Mr Robbens said three items needed to be clarified: Single Sales; Floor Plan; and Accounts - the contention relating to the large percentage of 'Other'.
17. Mr Robbens said under Section 131(d) the applicant is allowed to sell single sales.

18. In response to MoH comment (in submitted evidence) regarding low prices, Mr Robbins said their prices were determined by Foodstuffs and their pricing is 50cents to \$1 more than Pak N Save and other alcohol outlets. He said the applicant does not advertise alcohol.
19. Mr Robbins contended that only the Government can determine the size and type of alcohol sold and that they can continue to sell single sales.
20. Mr Robbins cited a Dunedin District Licensing Committee case where Police sought no single sales (except craft beer). He said under section 117 of the Act any District Licensing Committee's conditions must be reasonable. He contended in that case the District Licensing Committee found the sale of high-strength single-serve beer at a South Dunedin supermarket (Pak n Save) can continue after police failed to convince commissioners it contributes to alcohol-related harm. The committee said *"it would not impose the condition sought by police, because of a lack of evidence that showed the sale of single-serve units of beer contributed to alcohol-related harm."* The decision further stated that *'to the contrary, banning the sale of such units could actually increase alcohol-related harm.'* The decision stated *"The sale of a single unit of beer or cider could be considered a form of reducing alcohol-related harm."* And on the requested condition *"Such a condition would force customers to purchase multi-packs of alcohol, which would allow them to consume several units of alcohol if not the whole pack, compared with the single unit if the condition was not imposed."* The decision was written in July 2023.
21. Mr Robbins said the agencies would remove their objections if the applicant agreed to stop selling single sales and he asked if there was any evidence that single sales made by the applicant had caused harm.
22. In relation to the suitability of the licensee, Mr Robbins said the licensee had 27 years experience, with well trained staff. He said the Police were not opposed to the licence renewal and the Inspector had said the applicant has a good record of host responsibility. He said the applicant has a record of supporting the local community.
23. Mr Robbins said the applicant complied with section 105(j) of the Act and had adequate staff training systems in place.
24. He said under section 33(1) of the Act it is a grocery store where the main business is food sales.
25. Michael Newman then gave evidence on behalf of the applicant in relation to the reporting system used. Mr Newman is the Owner/Operator of Four Square Kena Kena.
26. Mr Newman said his store used the SAP system which had specific buttons for every item. He said the system had operated in his store for 8 years and thought all Four Squares would have the system within 12 months. He said the threshold for using the SAP system was a weekly turnover of about \$60,000. He said the system called Cheeky Charlie was out of date and Foodstuffs needed to work this out.

27. Mr Robbins added the threshold was high, and that the applicant's premises did not use the SAP system so their breakdown of sales items is very limited.
28. In relation to the breakdown of 'Other' Mr Robbins said this may appear high as any discounted item is in that category and the \$400,000 of 'Other' items consists of non-edibles such as hats, towels, jandals, and washing powder.
29. Mr Ben Shaw of Active Chartered Accountants spoke in support of the applicant. Mr Shaw said he had known the applicant for 15 years and had acted as the business' accountant for that period.
30. Mr Shaw said the financial report showed that alcohol sales were at \$526,000 and no alcohol sales were included in the 'Other' category.
31. Mr Shaw attested to the good character of the applicant.
32. Questioned by Ms Mills on the suitability of the Kapiti Coast District Council template Mr Robbins said it was not fit for purpose and they are unable to use it in their current accounting system. He said they had used a SMS system but when the store merged with Foodstuffs the system changed. He said the SMS drilled down to a lot more detail. Mr Robbins said he wished they could produce better reporting and they would if they could. He said the applicant does weekly reports and had supplied six months' worth of these weekly reports.
33. Mr Newman said Foodstuffs have said not to use the Council template because Foodstuffs cannot break down other than broad categories. He said even with the SAP system they cannot meet the requirements of the template.
34. Ms Mills asked if the weekly reports show a more accurate percentage of alcohol sales. Mr Shaw replied that perhaps the weekly reports could be incorporated into the template.
35. Ms Mills asked if the weekly report can be produced monthly and the applicant replied that it could not.
36. Ms Mills asked what percentage of customers buy single sales and Mr Robbins replied a very small percentage. Ms Mills asked if there was a breakdown between wine and beer sales. The applicant relayed that is not known.
37. The chair Mr Wilson asked what process was in place to ensure there were no more failed CPOs. The applicant said they used to employ mainly young people and now they employ more mature people. They also intended to have more staff qualified as duty managers.
38. Speaking in support of the applicant Ms Jenny Seddon said she had recently moved to Waikanae Beach. Ms Seddon said the applicant worked very long hours and was very community oriented. She said alcohol is hidden well in the shop whereas in supermarkets alcohol is very obvious. Ms Seddon said the sale of craft beer also supports locals. She said the shop was run by good people with good character.

POLICE EVIDENCE

39. Police had responded in relation to the hearing scheduled for 9th May 2025 for OFF639 (Tran Vu Limited): *Police will not be submitting a Brief of Evidence. We will provide a brief opening statement at the hearing which confirms our opposition and support for the Medical Officer of Health. They are acting as the lead agency in relation to the issue of single serve sales (the matter on which our opposition is based). Police will be available to provide any assistance to the Committee as able and requested by them.*
40. Sergeant Luke Taunton told the hearing that Police would withdraw opposition if the conditions were agreed to by the applicant.
41. Sgt Taunton said Police only opposed single sales and there was some confusion about whether this had been agreed to by the applicant.
42. Sgt Taunton said the agencies had worked collectively regarding conditions. He said section 295 of the Act gave agencies a duty to collaborate for the safe sale and supply of alcohol which included no single sales under 500mls. Sgt Taunton said the Police strategy was to reduce alcohol harm and he said the DLC is empowered to adopt these conditions.
43. In response to a question from Ms Mills about alcohol related incidents in the area, Sgt Taunton said there are incidents of alcohol harm but not at a level to oppose a licence renewal. He said there are also two bars close by.
44. Mr Wilson asked Sgt Taunton if the Police had a view about cider single sales. Sgt Taunton said at present beer was the focus and this was a step-by-step process.
45. Mr Wilson asked for a view on the single sales of craft beer. Sgt Taunton said the focus was on beer sales under 500ml and the Police view was at this stage craft beer would be exempt from a single sales condition.

INSPECTOR'S EVIDENCE

46. The Inspector Antionette Bliss said she had over five years' experience as an Alcohol Licensing Inspector at Kapiti Coast District Council.
47. **Inquiry into the application:** The Inspector reported on 14 February 2025, on the application from Tran Vu Limited, received on 11 July 2024, for renewal and variation of conditions of an off-licence to sell alcohol for consumption elsewhere, as defined on the licence, from the premises situated at 28 Tutere Street, Waikanae Beach known as Waikanae Beach Four Square.
48. **The law:** The changes implemented in the Sale and Supply of Alcohol Act 2012 (the Act) were intended to create a robust enforcement regime under which 'licences will be hard to get and easier to lose'. 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.'
49. **Duty Manager not being present on the approved alcohol licensed area:** The Inspector has recently provided a number of 'caselaw' examples, for the manager's certificate application hearing for 'Thuy Vu', the principal of Tran Vu Limited. Caselaw provided shows ARLA has a view that licensees must

have the required systems in place to allow the duty manager to adhere to the requirements of the Act.

50. **s214 Manager to be on duty at all times and responsible for compliance:**
(4) At all times when alcohol is being sold or supplied on licensed premises the licensee must take all reasonable steps to enable the manager to comply with this section.

The Inspector draws the Committee's attention to previous monitoring and compliance inspections during which the Inspector and NZ Police have, a number of times, addressed the importance of the responsibility of the licensee to enable the duty manager to comply with the Act. The agencies had been advised that a duty manager would be on the approved licensed premises at all times and have the ability to comply with the of the Act.

51. **Variation of conditions:** The applicant is proposing a variation of the premises' alcohol licensed area to incorporate an office area at the rear of the premises. The applicant is seeking this variation to allow the duty managers to work in the office area. This appears to be an attempt to get around the requirement to have the duty manager at or near the point of sale.

There is no clear line of sight to the entire shop including the single alcohol area and point of sale. The applicant advises that monitoring is done via cameras but, given the recent incident of selling alcohol to a minor, we have evidence that the systems in place have failed.

When processing a manager's certificate application for on-licensed premises, where the applicant has indicating they are a chef, that applicant is required to sign an undertaking not to use their manager's certificate while in the kitchen cooking as they have no clear line of sight of the premises and other priorities take them away from the responsibilities of a duty manager. Therefore, due to the nature of the incident that occurred with the sale to a minor, consideration should be given to a similar undertaking for off-licensed premises.

The caselaw mentioned above includes reference to the ARLA stating that they are aware that a duty manager at times is required to briefly leave the premises, but if the duty manager is not able to undertake responsibilities required that there are ways and means to ensure cover is in place via Acting and Temporary Managers and always ensuring adequate staffing in place.

No Crime Prevention Through Environmental Design (CPTED) assessment of the premises has been undertaken by the applicant, which would assist the applicant with the management of vulnerable areas located in the store.

Therefore, the Inspector recommends that the District Licencing Committee visit the site to assist in determining if the proposed area should be included in the 'approved alcohol licensed area'. Noting this is done via a discretionary condition under s117 of the Sale and Supply of Alcohol Act.

52. Additional discretionary conditions

Single Sales

The applicant agreed to an undertaking that prohibited the sale of single bottles or can of 330mls or less, on the 31 August 2015.

The inspector strongly supports the Medical Officer of Health's request for a new condition and undertakings from the applicant around single sales. The three agencies are currently developing a Memorandum of Understanding to look at ways of working together to minimise alcohol-related harm in our community, the single sales condition forms part of this.

Section 295 of the Sale and Supply of Alcohol Act outlines:

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.*

Where the agencies will:

- *collaborate (“work together”);*
- *develop strategies for the reduction of alcohol-related harm; and*
- *implement those strategies as appropriate for their community and locality.*

53. Delivery

Noting the applicant agreed to the following additional discretionary condition around delivery of alcohol, email dated 11 February 2025.

Condition:

- 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.

54. Principal purpose of business

The renewal application included a statement from a Chartered Accountant that indicates that 'other revenue' is the principal purpose of business. The agencies are not able to breakdown and verify what constitutes 'other revenue' via any further information submitted.

The Sale and Supply of Alcohol Regulations require that the breakdown needs to demonstrate that 'food products' are the largest simple category of a premises' gross sales revenue (excluding GST):

12 Requirements for statements of annual sales revenue (existing businesses)

(b) a statement assigning the remainder of that revenue to the following categories:

(i) the sale of food products:

(ii) the sale of alcohol:

(iii) the sale of tobacco:

(iv) the sale of convenience foods:

(v) other revenue; and

(c) a statement from a chartered accountant verifying the figures given as correct according to prepared accounts.

The Inspector included information for the Committee on the criteria to determine whether the premises is a grocery store and the Westlaw associated synopsis commentary.

The Inspector acknowledges that in terms of being a shop, having the characteristics normally associated with grocery stores and having a range of food products and other household items being sold, the premises do meet (i) and (iii) of section 33 of the Sale and Supply of Alcohol Act, but it is not reflected in the 'principle' business shown in the accounts as we are not able to determine what the 'other revenue' is as required in (ii), which the licensing committee must have regard to.

In an email dated 19 August 2024, the Inspector advised the applicant that we would be seeking for all 'grocery stores' in the Kapiti region to use a template provided by Council.

The Inspector is still of the opinion that the applicant is not fully aware of the requirements of the Act and incorrect till procedures and systems are contributing to this. The inspector has had a number of conversations with representatives from Foodstuffs North Island in relation to other Four Square off-licence renewal applications, where similar issues are occurring. These representatives have stated that the business owner is choosing to not set up their till systems correctly, the use of the 'Other' function keys for food related products should be for 'rare occurrences' such as a scan not working while the shop is busy with customers.

The Foodstuffs representatives have stated they have been working with the business owner to try and make them understand Foodstuffs' process and to use the till system correctly. Foodstuffs Regulatory Specialists have confirmed that each Four Square business owner is able to contact Foodstuffs customer support team at any time and they are there to assist with the programming of their till systems, should they have purchased products from other suppliers outside Foodstuffs.

When asked how long this would take to do, they stated that it would not take long, as they have a large number of customer support team members. In following the process Foodstuffs have outlined, the applicant would be able to submit chartered accountant sales figures that clearly reflect the business operation and, if coded correctly, 'food products' would show as the principal purpose of the business. The 'Other revenue' category should comprise of those items listed on the Statement of Annual Sales Revenue Grocery Store template.

From the information provided by the applicant, the inspector is not able to tell if alcohol has been purchased from suppliers other than Foodstuffs.

55. The Inspector Concluded:

Therefore, consideration must be given to:

- What is the role of the 'principal' of the business??
- What is the role of staff appointed as a duty manager?
- Is it such that, as previously referenced in caselaw, their role and

responsibilities dilute the duty manager's position and compromise the ability to fulfil that role by requiring them to be away from the point of sale and oversight of the sale of alcohol?

- Will the inclusion of the variation of the licence area be of any benefit to the applicant?

Given the issues identified, the Committee may consider it appropriate to truncate the renewal period of the offlicence to give the applicant an opportunity to provide evidence of compliance with the Act.

The Committee may also consider to instruct the applicant from this point forward to use the 'Statement of Gross annual Revenue' provided by Council when applying to renew the licence and also seek agreement from the applicant to the addition of the discretionary conditions and undertakings in relation to 'single sales' and delivery being added to their licence, if granted, in terms of s 32(1)(f) are "grocery store" premises.

56. Ms Palmer asked the Inspector if any of the proposed conditions had been agreed to. Ms Bliss said the applicant had agreed to withdraw the application for a variation. Ms Bliss also said the applicant has also agreed not to sell single sale beer under 500ml. The delivery condition has also been agreed to.
57. Ms Palmer asked if the applicant met the requirements under section 33 of the Act to trade as a grocery store. Ms Bliss said the clauses 1 and 3 were met.
58. Ms Palmer asked for some clarification relating to the template. Ms Bliss said she has had conversations with Foodstuffs who assert some stores chose to not use the system properly.
59. Ms Palmer asked about the criteria for assessing the business as 'medium risk' and how might negative holdings affect that status. Ms Bliss said the risk category was imposed by Council. She said negative holdings such as a truncated licence would raise the risk category. *It is noted that the 'negative holding' came into effect as of 13 August 2024, after the licence expiry date. When an application is made for renewal of a licence, the 'weighting' of fees is calculated on the number of enforcement holdings in the last 18 months.*
60. Ms Mills asked if the template is too onerous regarding detailed definitions. Ms Bliss said this reflected the former Act and there are more food types now. Ms Bliss added that a template is used by a majority of councils.

BRIEF OF EVIDENCE OF MEDICAL OFFICER OF HEALTH

61. A brief of evidence was provided by Mr Vateti Sopoaga – Team Lead, Community and Whānau Wellbeing.
62. Mr Sopoaga is employed by Health New Zealand – Te Whatu Ora, in the National Public Health Service (NPHS) Capital Coast, Hutt Valley, and Wairarapa District Office. His job title is Community and Whānau Wellbeing Team Lead – Tobacco, Alcohol, and other Drugs. He has been employed in this role for 2 years. He leads a team of advisors that carry out responsibilities in the alcohol and tobacco control portfolios.
63. Regarding alcohol licensing matters, the Medical Officer of Health (MOoH) has delegated to Mr Sopoaga the functions and powers under Section 151 of

the Sale and Supply of Alcohol Act 2012 (the “Act”). Part of his role requires him to inquire into alcohol licence applications under the Act.

64. The MOoH did not oppose the variation.
65. The MOoH filed a report on the 19 August 2024 stating the grounds of opposition for the application for this renewal of an off-licence. Since then, the MOoH has reviewed its grounds for opposition and engaged with the licensee.
66. On 8th April 2025, the applicant was advised via email that the MOoH has withdrawn the following grounds for opposition:
 - Section 105(1)(b) - Suitability of the applicant
 - Section 105(1)(j) - whether the applicant has appropriate systems, staff, and training to comply with the law.
 - Section 33(1) - Determining whether premises are grocery store
67. The failed Controlled Purchasing Operation (CPO) that occurred on 26 June 2024, has been dealt with through the Alcohol Regulatory Licensing Authority (ARLA), resulting in a suspension of the off-licence and a manager’s certificate.
68. In terms of determining whether the premises is a grocery store, we believe the licensing inspector should be the lead on this.

69. Matters in opposition:

The MOoH opposes the 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 131(1)(c) - any matters dealt with any report from the Police, an inspector, or Medical Officer of Health
 - Section 105(1)(a) - The object of the Act
70. We remain opposed due to the sale of single cans of beer. At the time of our opposition, the MOoH’s approach was focused on high strength single cans of beer. However, our approach is now to reduce alcohol related harm from all single sales of beer in containers of 500mls or less in volume, except craft beer.
 71. The MOoH is concerned about alcohol-related harm resulting from single sales of alcohol.
 72. Under s295 “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”.
 73. The MOoH is working with Police and licensing inspectorates across the Greater Wellington region to implement the following single sale condition for all off-licences.

All off-licence applicants are advised about the single sale condition during the 15-day reporting period.

Taken directly from the MOoH brief of evidence: The single sale condition from Dharma Enterprises Limited [2023] NZARLA 79, states: *No single sales of beer, except for craft beer, in containers of 500mls or less in volume.* With an undertaking that states:

As part of a commitment to responsible alcohol sales, I 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.”

74. The single sale strategy is being implemented across all off-licences in the Greater Wellington region. 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 Kapiti Coast District.
75. At the time of writing, the applicant had not confirmed with us if they agree to the single sale condition, thus the MOoH remains opposed.
76. **Single Sales:** The World Health Organisation in 2018 launched the SAFER initiative to reduce alcohol related harm. The SAFER initiative comprises 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*

Restricting the availability of alcohol, such as physical availability of alcohol (density) is a strong policy lever to reduce alcohol related harm.

Addressing the low price and high affordability of alcohol has the strongest evidence for reducing alcohol related harm.

Purchasing a single can of beer, is cheaper than purchasing a pack.

According to the 2011 Law Commission report, selling single cans of beer, rather than in packs, encourages impulsive purchases because it allows small but frequent alcohol purchases.

Prohibiting the sale of single alcoholic serves (also known as single sales) is supported by evidence.

Research has documented the association between single sales and alcohol-related violence and crime.

Furthermore, an intervention to reduce single sales was found to reduce rates of alcohol-related ambulance attendances among 15 to 24 year olds.

Single units of alcohol are likely to be favoured by those who are heavy drinkers and also price sensitive; namely adolescents and young adults, and those with an alcohol dependence.

Restricting single sales can also reduce pre-loading or side-loading at nearby licensed premises. There is an alcohol-free zone in place in the Waikanae area every day from 9pm to 6am. Restricting the availability of easily accessible single cans of beer can assist with adherence to the alcohol-free zone.

Potential harms from single sales:

- A customer purchasing a single alcoholic drink and then opening it immediately and drinking in public may reduce the amenity and good order.
- A person may buy a single sale to drink on their way to an on-licence which increases the risk of intoxication and alcohol related harm.
- The low price of small quantity alcohol purchases may appeal to young people with limited money. Youth drinking increases the risk of alcohol related harm encompassing poor mental health (including suicide), crime, violence, injury, and future alcohol dependence.

77. The off-licence is located at 28 Tutere Street, Waikanae. At the time of writing the opposition (19/08/2024), only NZDep2018 was available, and the site was situated in an SA1 block within SA2 Waikanae Beach with a deprivation of decile 3. The updated deprivation with the new NZDep2023, released on 31/10/2024, for the SA1 block is decile 5. Research shows that disadvantaged social groups experience greater alcohol related-harm per drink when compared to individuals from advantaged areas.

78. Alcohol related harm – national level

The New Zealand drug harms ranking study was published in 2023 and evaluated 23 drugs scored against 17 harm criteria.

For alcohol, high rankings were observed across half of the harm criteria, and the highest contributing criteria were drug-related mortality and community damage.

The study showed that alcohol was ranked as New Zealand's most harmful drug.

When separately considering harm to those who use it and harm to others, alcohol remained the most harmful drug. For youth-specific rankings (aged 12-17), alcohol was also ranked the highest for overall harm.

79. Conclusion:

If the licence were to be granted, the addition of the single sale condition would be consistent with the implementation of the tri-agency strategy under s295, to reduce alcohol related harm in the Greater Wellington region.

Given the evidence of harm from single sales, an applicant who chooses not to sell single sales is demonstrating responsible sale of alcohol and meeting the object of the Act.

The parties were given an opportunity to summarise their positions.

80. The Inspector, Ms Bliss, said she was pleased the conditions had been agreed to regarding single sales and delivery, and the licensed area variation had been withdrawn. Ms Bliss said she was happy to leave it to the Committee to determine if a truncated licence period was appropriate.

81. Sgt Taunton said the Single Sales issue comes from the agencies duty to collaborate for the safe sale and supply of alcohol which included no single sales under 500mls. Sgt Taunton said he was disappointed that the applicant feels this condition is pushed upon them and that they are reluctant to adopt it.

82. For the applicant Mr Shaw said they could now see the importance of the definition as a grocery store. He said as a chartered accountant his view of materiality and principles under the Act it is clear that this is a grocery store. Mr Shaw said he was disappointed Health were not attending the hearing. He said he agreed with the agencies strategy to reduce alcohol harm. Mr Shaw said there needs to be more discussion around the issue of single sales. He said the single sales condition will have a real impact on the business.
- Mr Shaw said there is confusion around definitions and it promotes 500ml plus and not lesser volumes such as 300ml. He said it did not make logical sense.
- Mr Shaw concluded by saying Thuy (applicant) is a good person who has high suitability to be a licensee.
83. Mr Robbins said alcohol sales were not included in the 'Other' category. He said the applicant feels the 500ml single sales condition has been pushed on them. He said it appears the agencies want them to sell 4packs and 6packs rather than single sales. He said going away from single sales could create more harm. He said nothing from Health denotes a single sales issue and it was more about alcohol in general.
- Mr Robbins said to the Inspector we have agreed in principle to using the template but feel they cannot comply.
- Regarding the deprivation index Mr Robbins said they don't think Waikanae Beach is a deprived area.
- Mr Robbins said they were right behind the agencies in reducing alcohol harm. He said as a small store they cannot use the template. He said 'we can produce monthly reports, no problem.'
- Mr Robbins said the applicant submitted to include the office space in the licensed area but have, in principle, removed this.
- He said, as per Foodstuffs prices, they do not sell cheap product.
- Mr Robbins said they will agree in principle to no single sales. He said health need a foundation and framework to explain their reasoning. He said 'we have hopefully proven there is no alcohol sales in 'Other'.
- Mr Robbins said they feel there should be no opposition to a licence renewal for a three-year period.
84. Thuy Vu, licensee, said she knew what the customers want and need and Police, the Inspector and Health don't.
- Ms Vu said the hearing was about three key issues – single sales, our process, and definition as a grocery store.
- She said it should be put into law about no single sales and presently there is no provision.
- Ms Vu said they now have multiple staff doing the duty manager training and noting they have to be at the point of sale at all time and they have already done that.
- Ms Vu said they are definitely a grocery store. She said the 'Other' category is misunderstood and no alcohol is in there.
- She said food dominates their sales and meets the criteria to be a grocery.

COMMITTEE'S DECISION AND RATIONALE

1. On the 26 June 2024, Police conducted a Controlled Purchase Operation (CPO) at the premises of Tran Vu Limited trading as Waikanae Beach Four Square. During the CPO alcohol was sold to a person under the purchase age in breach of s239 of the Act. Police submitted applications to ARLA (Alcohol Regulatory and Licensing Authority) for the suspension of the off-licence and Manager's Certificate. As a result, the off-licence for Tran Vu Limited was suspended for 7 days and the applicant's Managers Certificate was suspended for 28 days.
2. The Committee considered a breach of s239 of the Act to be a serious error, however the Committee shared the view of Police in evidence that considered this matter had been dealt with sufficiently by the ARLA ruling. The committee noted ARLA, in its decision, has already determined there was a breach of the Act and the applicant is aware of the Negative Holdings under ss288-290 of the Act and the serious consequences of a further breach.
3. Suitability of the Applicant: Notwithstanding the breach of s239 and issues related to reporting, the Committee is satisfied the conditions in this decision and remedial actions taken by the applicant, meet the criteria required under s105(b) of the Act.
4. The Committee is satisfied that the parties are in agreement that the application for variation to the layout of the current licensed premises is withdrawn.
5. Single Sales: The Committee considered the decision made by the Dunedin District Licensing Committee (refer to (20) above). however the Committee were not persuaded by that outcome. The Committee was of the view the remedy sought by the three agencies should apply.
6. Statement of Gross annual Revenue: The Committee heard the Inspector is still of the opinion that the applicant is not fully aware of the requirements of the Act and incorrect till procedures and systems are contributing to this. The Committee shared the concerns raised in the hearing relating to the quantity of goods categorised as 'Other' and is of the view the applicant from this point forward will use the 'Statement of Gross annual Revenue' provided by Council.
7. In making its decision the Committee particularly considered the following sections of the Act: s120(2) and s127(2), 239, s32(1)(f), s151, s105(1)(a)(b)(j), s131(c) (d), s117, s33(2)(a)(i)(ii)(iii), s295,s24, ss288-290.
8. The Committee considered a truncated license period as suggested by the Inspector and Police, however it also considered the conditions in this decision as well as actions already taken by the applicant and came to the view a truncated licence period would not be required.

DECISION

The District Licensing Committee Commissioner, acting pursuant to the Sale and Supply of Alcohol Act 2012, approves the application by **Tran Vu Limited** trading as **Waikanae Beach Four Square** under sections 120(2) and 127(2) of the Sale and Supply of Alcohol Act 2012 to the Kapiti 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 28 Tutere Street, Waikanae Beach, known as Waikanae Beach Four Square.

This licence will issue for the period of three years from the expiry date of the previous licence and is subject to standard conditions and the addition of the following conditions:

Conditions

- A properly appointed Certificated, or Acting or Temporary, Manager must be on duty, at or nearby the point of sale, at all times when the premises are open for the sale and supply of alcohol.
- No single 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.
- That the applicant adopt and implement the Kapiti Coast District Council Statement of Gross Annual Sales Revenue: Grocery Store – Existing Business Declaration template as requested by the Licensing Inspectorate.

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. The applicant is 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 a courier is engaged to make deliveries, the applicant 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 11 February 2026.



Nigel Wilson
Commissioner
Kapiti Coast District Licensing Committee

