

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by Te
Kauwhata Licensing Trust
pursuant to s.99 of the Act in
respect of premises situated at
20 Main Road, Te Kauwhata
known as Te Kauwhata Trust
Tavern

AND

of an application by Te
Kauwhata Licensing Trust for a
variation to an on licence
pursuant to s.120 of the Act in
respect of premises situated at
20 Main Road, Te Kauwhata
known as Te Kauwhata Trust
Tavern

BEFORE THE WAIKATO DISTRICT LICENSING COMMITTEE

Quorum: Chairperson: Andrew Baker
Members: Barry Smedts
Jason Howarth

HEARING at Ngaruawahia on 21st November 2025

PARTIES

Applicant

Mr James Hughes – on behalf of the Licensing Trust as applicant
Mr Scott Bovaird – Chairman of the Licensing Trust
Ms Pervinder Davies – legal counsel

Reporting Agencies

Ms Clare Sturzaker – Waikato District Council Licensing Inspector in opposition
Senior Sergeant David Hall – NZ Police in opposition.
Mr Byron Wipa – representative of the Medical Officer of Health (MOoH) not in opposition.

In Opposition

Mr John Cunningham – public objector to the application for variation to the on licence
Mr Stu Jefferis – public objector to both applications
Dr Grant Hewison – legal counsel for Mereana Peka, Eden Keung and Jenay Maihi who
were objectors to both applications.

Noted that Mereana Peka, Eden Keung and Jenay Maihi were in attendance.

DECISION

Introduction

[1] We have before us two applications by Te Kauwhata Licensing Trust for the premises situated at 20 Main Road, Te Kauwhata known as Te Kauwhata Trust Tavern.

[2] The applications are directly related with the application for variation to the underlying on licence, dependent on the outcome of the application for a new off licence. Accordingly, the matters were heard together in a joint hearing with the agreement of the applicant and other parties.

[3] It was made clear and acknowledged by all parties that should the application for a new off licence fail, the application for a new off licence would be withdrawn and the premises would continue to operate under the underlying on and off licence in existence.

[4] The positions of the reporting agencies are set out as follows:

- i. Inspector: opposed to both applications
- ii. Police: opposed to the off licence application, no opposition to the variation.
- iii. Medical Officer of Health (MOoH): reported without opposition.

[5] The applications were duly advertised and attracted the following objections:

- i. Off Licence: sixteen public objections and one submission in support of the application.
- ii. Variation: eight public objections

[6] The Committee notes that all public objections other than those of Mr Jefferis and Mr Cunningham were submitted by way of “Jotform” electronic documents, were all unsigned by the objectors and also sent to Communities Against Alcohol Harm of which Dr. Hewison is involved in a leadership role.

[7] One public objector who had submitted “Jotform” objections for both applications subsequently withdrew those objections.

[8] On 18th September 2025, the Committee Chair issued a formal pre-filing minute requesting the reporting agencies and any objector wishing to appear and give evidence at the hearing, to file their evidence by 4pm on 20th October 2025 to allow it to be circulated to the Committee and the applicant. The applicant was requested to file their evidence by 4pm on 31st October 2025.

[9] Mr Jefferis filed evidence in accordance with the direction from the Committee. Mr Cunningham submitted his evidence on 18th November 2025 whilst none of the objectors represented by Dr. Hewison filed or provided any evidence prior to the start of the hearing. The applicant filed in accordance with the Committee’s direction.

[10] Following receipt of a memorandum from the applicant’s legal counsel dated 19th November 2025, the Committee ruled that Mr Cunningham was unable to introduce matters that had not been included in his initial objection. The Committee’s Minute was clear that the pre-filing of evidence by all parties is to maintain procedural fairness and contravention of natural justice.

[11] On 19th November 2025, the Committee was provided by way of attachment to an email from Dr. Hewison, opening submissions for public objectors Mereana Peka, Eden Keung and Jenay Maihi. This document was date 18 November 2025.

[12] During the introduction at the hearing, the Committee ruled that the opening submissions would not be heard or accepted and furthermore, that the three objectors represented by Dr. Hewison would not be able to give evidence on the following basis:

- i. The objectors did not file their evidence in accordance with the pre-filing Minute dated 18th September 2025.
- ii. The opening submissions prepared and submitted by Dr. Hewison go further than being an initial statement setting the scene and providing a preview of the evidence to come.
- iii. The three objections concerned were all identical in wording and format within the “Jotform” document whilst the opening submission went into significantly more detail and was in the view of the Committee more evidentiary in nature.
- iv. Direction for pre-filing evidence is a tool to ensure procedural consistency and fairness, observing natural justice. It is the expectation of the Committee, in particular when parties are represented and advised by experienced and qualified professionals, that their directions through formal Minutes are observed and complied with.

Evidence of the Applicant

[13] Ms Davies made opening submissions with copies circulated.

[14] Mr. Hughes was sworn in and spoke to his previously filed brief of evidence highlighting the following:

- a) His role for the applicant and experience in the hospitality industry.
- b) The history of the Trust, tavern and the Trust’s role in and support of the Te Kauwhata community
- c) How the current off licence is an across the bar type facility and talked about why the change was sought including it being requested by customers and others in the community.
- d) How he had attempted to meet with objectors, contacting them all but only two – John Cunningham and Girlie Iwihora had turned up. He had wanted to show and explain what was being proposed face to face and answer questions they might have.
- e) Addressed an issue raised by the Inspector within her report advising a young girl observed on the premises was the daughter of a staff member who had come to meet her mother.

[12] When asked to explain the rationale for changing the licence structure from the status quo, Mr Hughes said that feedback from customers was that they wanted greater choice and that as the community was growing and changing, so were their needs. He went on to explain how they wanted to be able to find and shop for a greater range of products not currently available.

[13] He was asked about the accounting system used currently, explaining that they have two separate accounting systems for the current off and on sales and that a new off licence premises would continue to be separate.

[14] There was considerable discussion regarding the design and layout proposed. Mr Hughes stated there would be no direct access for the public between the bottle store and tavern areas but described an internal door from the bottle store chiller to the loading area which would be a shared staff only area. He said this was a practical way of bringing stock into the bottle store other than through the front door. Mr Hughes assured the Committee

that the public would not be able to access the staff only area and not be able to move between the on and off licensed areas through this chiller door.

[15] Mr Hughes was asked how he and the applicant minimised alcohol related harm in the community. He responded by saying he works in the community and understands what is going on. The Trust provides food parcels to people in need, working with the local iwi. He also explained how they don't serve minors and comply with the Act and licence.

[16] When asked how takeaway food which is currently served from the restaurant area in the tavern would be provided to minors to ensure no breaches of any restricted or supervised designation, he said they would create a pickup window so those picking up food would not need to enter the tavern area.

[17] He confirmed when asked that if the application for a new off licence to allow the enlarged bottle store was refused, the application for variation to change the lay out and design of the on licence tavern area would not be needed and that the Trust would continue to operate the premises with the existing off licence and on licence areas. He went on to explain it was his advice to the Trust that they would be better placed to apply for a new off licence to create a larger bottle store instead of just seeking a variation to the existing design and layout.

Evidence of the Inspector

[18] Ms Sturzaker was sworn in and asked that her report be accepted as read.

[19] She was asked a series of questions about the Local Alcohol Policy (LAP). She confirmed that she had assessed the application against the 2017 LAP as the latest 2025 LAP had not come into force until September 2025 after the applications had been lodged.

[20] She went on to say that she believes that based on comments from the High Court in a recent hearing regarding another application for a bottle store in Te Kauwhata, this application should be considered against the 2025 LAP. She confirmed when asked that the High Court is yet to deliver it's decision in that case so her comments were based on what she had heard during the hearing.

[21] Ms Sturzaker was asked to fully describe her issues with the plans for the premise. She said the current premise operated under s.32(1)(a) of the Act and that the changes meant it would fall under s.32(1)(b). She is concerned that the plans did not clearly show defined areas of the tavern and bottle store and that they did not show where designated areas would be. She went on to say that she was concerned about issuing a licence before any changes to the building had been properly drawn up and planned nor any building, planning and fire egress plans submitted or approved.

[22] She was asked, that after hearing the evidence of the applicant regarding staff levels and training whether she maintained her opposition to those criteria. She said she wanted to see two separate rosters for the two businesses and maintained her concerns.

[23] When asked if the issue involving an unaccompanied minor raised in her report had been taken to the Authority, she advised it had not.

Evidence of the Police

[24] S / Sgt Hall was sworn in and noted that he was not the reporting officer for these applications and that Sgt Hayden Martin as the author of the report had provided a sworn statement in evidence. Sgt Martin was unable to attend the hearing.

[25] S / Sgt Hall outlined the Police opposition to the application for a new off licence being:

- i. Lack of information regarding the staff and duty manager roster
- ii. Concerns about the uncertainty of the plans submitted and how things would transition from the current state to new state should the off licence be granted
- iii. Lack of a training plan and security plan

[26] He stated there were things the applicant could address that would mitigate Police concerns.

Evidence of the Medical Officer of Health

[27] The representative of the MOoH did not give evidence and remained without opposition.

Evidence of the Objectors

Stu Jefferis

[28] Mr Jefferis was sworn in and stated he was opposed to both applications on the basis of amenity and good order and design and layout of the premises.

[29] He stated he did not believe the proposed changes to the restaurant and garden bar was workable and was concerned about the proximity of diners to the public bar and gaming area. He later added during questions that he was concerned about exposing children in the restaurant to drinking in the public bar as well as his belief that the changes will not get a building code compliance certificate or pass the fire inspection.

[30] He spoke of a previous decision for an unrelated application for an off licence in a building he is the landlord of being declined and how litter was at the heart of the decision to decline that application. He said the same issues existed for this application. When asked by the committee if he had asked any of the previous submitters if they would be witness for this hearing, he said that he had not approached any of them.

[31] He went on to say that he had concerns about the possibility of single serve sales and did not want the current restaurant gone as it was important to the community.

[32] He was asked to better describe the situation with litter and in particular the type, location and frequency he noticed or dealt with it. He said that infrequently, about once a month normally on a Monday he would find two or three broken bottles near the ATM machine. He described the types of bottles as those available at both the current tavern off licence and also at the supermarket.

[33] Mr Jefferis was asked why he did not attend the meeting with the applicant to discuss the plans to which he replied it should have happened earlier.

John Cunningham

[34] Mr Cunningham was sworn in and noted that his evidence was restricted to those things contained within his original objection which was for the application for a variation to the underlying on licence for the premises.

[35] He outlined his history and positions held within the community of Te Kauwhata as well as his business experience. He added that he believed the tavern is a well liked by the community as a multi-purpose business.

[36] He explained his concerns being how the changes planned could be paid for, where the money required would come from and how it will proceed. He spoke of his concerns about the future of the Trust and the buildings should the tavern close. He expressed concerns that the bottle store could be sold off if it was separated from the tavern operation.

[37] Mr Cunningham said he was waiting for the High Court decision regarding a previous application in Te Kauwhata for a bottle store that was declined by the DLC. He said that the Community Committee had discussed this application but had not resolved any position on it as they had for other applications.

Adjournment

[38] The hearing was adjourned and timelines agreed for parties to provide written closing submissions. During the discussion regarding the adjournment and purpose of taking time to consider written closing submissions, the Committee stated the time should be used by the applicant to consider any response to issues raised during the hearing. No direction was given as to how the applicant would do this or respond to those concerns should they not be contained within closing submission.

[39] In a supplementary brief of evidence of Mr Hughes provided by his legal counsel dated 28 November 2025, issues raised within the hearing were clarified. This included a more detailed design and layout plan which had been specifically requested by the Committee.

Closing Submissions

[40] Written closing submissions were received from all reporting agencies, Stu Jefferis, John Cunningham, Dr Hewison on behalf of Mereana Peka, Eden Keung and Jenay Maihi and the applicant who was provided the opportunity to receive and respond to all closing submissions received.

[41] The Police withdrew their opposition to the application for an off licence as part of their closing submission.

[42] The MOoH submitted they had, following the hearing, changed their position from their initial report without opposition to one of the “application cannot proceed and should be refused by the Committee”.

[43] The contents of all closing submissions were considered by the Committee during deliberations.

Committee’s Considerations

Legislation the Committee must have, and have had regard to in this matter:

[44] Sections 3 and 4 of the Act describe the purpose and object of the Act.

[45] Sections 105, 106, 108, 119 & 120 of the Act define what the committee must have regard to when deciding whether to issue licences of this type.

[46] In regard to the criteria of s.105, having listened to the evidence and observed the applicant during this hearing, we deal with them as follows:

(a) The object of this Act – we are satisfied both the applications meet the object of the Act.

(b) The suitability of the applicant – There is no evidence provided that causes us to question the suitability of the applicant or find that they are not suitable. We acknowledge that the issue of extended suitability was raised in opposition however there was insufficient evidence presented in this matter to support the need to apply the principles of extended suitability.

(c) any relevant local alcohol policy – which LAP the Committee should consider is one of the main areas of conjecture in this matter and we deal with it in the following way:

- i. The applications are date stamped as being lodged with Waikato District Council on 23rd January 2025 (off licence) and 27th January 2025 (variation). At the time of lodging the 2017 LAP was operative.
- ii. The Inspector's reports that are submitted to the Committee with all available information including any objections or opposition are dated 27th August 2025 (variation) and 1st September 2025 (off licence). We note that the report for the variation explains the relationship with off licence application. Both reports state the 2017 LAP as being in force at the time the applications were lodged and reported on.
- iii. The Committee first received the reports and application files jointly on 16th September 2025. There was no evidence provided as to why it took that length of time between the Inspector reporting and the applications being forwarded to the Committee for direction, however we note that the 2025 LAP came into effect on 15th September 2025.
- iv. It has been argued by those in opposition that the Committee must assess the application against the 2025 LAP and in particular sections 5.3, 5.4 and 5.5 which deal with the location of new off licenses and bottle stores.
- v. The applicant argues that as is confirmed within the original reports of the Inspector, the Committee must assess the applications against the provisions of the 2017 LAP. However, the applicant also argues that if the applications are assessed against the 2025 LAP provisions, in particular those in sections 5.3, 5.4 and 5.5, the Committee is "entitled to proceed on the basis that the application is consistent with the district's policy framework".
- vi. S.108 of the Act describes how a licensing committee may refuse an application if it is contrary to the Local Alcohol Policy. We emphasise the word used in the Act is may which infers that the Committee is not compelled to refuse an application they believe is contrary to the LAP.
- vii. We have taken time to consider all the arguments and information including reference to case law. There are clear differences between the 2017 and 2025 LAPs however we are satisfied that whether we are

considering either version, the applications can be allowed and that the interpretation of the wording within clauses 5.3, 5.4 and 5.5 of the 2025 LAP relative to the circumstances here is not fatal for these applications.

(d) the days and the hours during which the applicant proposes to sell alcohol – we are satisfied the proposed days and hours meet the object of the Act.

(e) the design and layout of any proposed premises – is another criterion raised in opposition, and we deal with it as follows:

- i. S.100(f) of the Act requires any application to be accompanied by certificates from the territorial authority meets regulatory and building legislative requirements.
- ii. Both applications were accompanied by the required planning certificate whilst as the premises is an existing building with both on and off licenses in force, only imagery and basic plans as to what is proposed through interior renovation were included.
- iii. The applicant stated in evidence that the Waikato District Council cannot process the required Code Compliance Certificate (CCC) for future building work until that work and the building consent process has been completed. We accept that as obvious and the practice is, in our experience relatively common.
- iv. The applicant states they would not consider going to the significant cost of undertaking the renovations to accommodate a new retail bottle store as proposed if the licence application for that bottle store is refused. We acknowledge that as a pragmatic and ultimately sensible approach.
- v. We take guidance from Re NZ LNQ Ltd [2014] NZARLA 229 where the Authority acknowledges this very situation and prefer the position of the applicant than that of the Inspector. We accept that it is possible for the Committee to consider allowing the applications in the absence of any final building certificate albeit with a condition that the licence cannot be issued until the required CCC is issued as well as an assessment by the Inspector that the design and layout meet the object of the Act. It is our expectation that any such assessment undertaken by the Inspector would be completed in good faith.
- vi. However there are aspects of the future design and layout as described by the applicant that do cause the Committee concerns having listened to the evidence of the agencies and objectors. Our expectations follow and we will require these to be assessed by the Inspector.
- vii. Physical separation – the proposed door between the bottle store chiller and the loading dock area in the tavern is to be lockable and is not to be used by members of the public or customers to move between the on and off licensed areas of the premises. It shall be used for moving stock into the bottle store area from the loading dock.
- viii. Access to and from the dining area – we acknowledge the concerns raised regarding the existence of the public bar and garden bar areas with “supervised” designation and the new dining area between the two bar areas. Access to the dining area requires people including minors to navigate their way from the only public entrance to this part of the premise through the public bar. Similarly access to the toilets requires diners including minors to go into the public bar to enter the toilet area. This creates a potential challenge for the applicant in strict adherence to the Act regarding minors being accompanied or supervised at all times in areas with this designation. The updated plans provided by Mr Hughes does not

address those concerns. Accordingly, we direct that the applicant must show to the Inspector to their satisfaction within any updated building renovation plans how they are able to mitigate the risk of unaccompanied minors having access to the areas with supervised designation whilst moving around within the premises and in particular accessing the toilets. It will be the responsibility of the applicant to ensure this direction is complied with and the responsibility of the Inspector to assess, in good faith, any plans to ensure that compliance.

- ix. To make it clear, it is untenable to the Committee for unaccompanied minors to be expected or permitted to have access to the supervised bar area of the tavern at any time. Failure to address this will be fatal to the issuing of the variation application.

(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 – not in dispute so we make no further comment

(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 - not in dispute so we make no further comment

(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 – having listened to the evidence produced we are satisfied as to this criterion.

(j) whether the applicant has appropriate systems, staff, and training – having listened to the evidence produced we prefer the evidence of the applicant and are satisfied as to this criterion.

(k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103 – As previously mentioned, the Police withdrew their opposition when making closing submissions. Conversely the MOoH moved to a position of opposition when making closing submissions. We have considered the MOoH submission dated 5 December 2025 noting it has no name or signature within the body of the submission. Whilst acknowledging the author bases their change in position on what they describe as “new evidence” we are not satisfied as to that point and in the absence of anything other than generalised statements within the submission, prefer the initial report of no opposition from the MOoH. We do not believe there is anything within the Inspector’s report not already considered that requires further contemplation.

Committee’s decision

[47] This is a unique situation for several reasons. The application was lodged and reported on under a Local Alcohol Policy that was replaced by another version of the LAP one day prior to the applications and reports being provide to the Committee for direction.

[48] The applicant is the current holder of a tavern style on licence with an off licence for over the bar sales whereby the full range of alcohol products can be sold or supplied albeit

at a scale far less than a standard retail bottle store. It is the only such off licence currently in the locality with the other off licence being a supermarket which has restrictions of the products able to be sold. The current on and off licenses were renewed on the papers without agency opposition or public objection in 2024.

[49] The application for a variation to the underlying on licence is contingent on the allowing of the application for a new off licence as that would require the renovation of the interior of the current building. Should the off licence application be refused, the variation is not required and will be withdrawn.

[50] The applicant has not undertaken any building renovation work nor finalised any detailed plans on the basis they would continue to operate under their existing premise and licenses should these applications be refused. They have acknowledged they will be required if the applications are allowed, to provide appropriately detailed plans and achieve not only building code compliance certificate but also satisfy the inspector that the renovations and changes in layout and design meet the object of the Act. We have provided clear guidance as to what we believe is needed to mitigate concerns of those who have given evidence and opposed or objected to the application.

[51] We have carefully considered the evidence and submissions as presented by all parties. We have undertaken an evaluative approach when considering the application for the off-licence against the criteria set down in the Act including as mentioned previously the LAP and ultimately against the object of the Act. Standing back and assessing the application, we are satisfied that both applications meet the object of the Act.

[52] Accordingly we **GRANT** the application for the off licence with the following conditions:

- (a) No alcohol is to be sold or delivered on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day.
- (b) Alcohol may be sold under the licence only on the following days and during the following hours:
Monday to Sunday 10.00am to 10.00pm
- (c) The whole of the premises is designated as a supervised area.
- (d) Drinking water is to be freely available to customers immediately adjacent to any alcohol that is being supplied free as a sample on the premises.
- (e) The licensee must take the following steps to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
 - i. Display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (f) The licensee must take the following steps to ensure that the provisions of the Act relating to the management of the premises are observed:
 - (i) All staff will be trained in their responsibilities under the Act.
 - (ii) A sign shall be prominently displayed inside the premises, which identifies by name the manager on duty responsible for the management of the sale and supply of alcohol under the licence.
- (g) The sale or delivery of alcohol is authorised on the premises generally. The premises situated at 20 Main Road, Te Kauwhata, are more precisely identified in a plan date stamped as received by the Waikato District Council on a date to be determined upon receipt of a building code compliance certificate.

[53] The licence may issue upon:

- i. Provision of a building code compliance certificate relative to the off licence area
- ii. Completion of an inspection by the Licensing Inspector to their satisfaction that the design and layout of the premises meets the object of the Act and the requirements of paragraph [46] (e) vii.
- iii. Payment of any outstanding fee.

[54] We **GRANT** the application for variation of the underlying on licence with the following conditions:

- (a) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day to any person who is not present on the premises to dine.
- (b) Alcohol may be sold only while the premises are being operated as a tavern, and only during the following days and hours:
Monday to Saturday 9.00am to 1.00am the following day
Sunday 9.00am to 10.30pm
- (c) Food must be available for consumption on the premises when the premises are open for the sale of alcohol in accordance with the menu submitted with the application for the licence, or variations of that menu of a similar range and standard.
- (d) The licensee must have available for consumption on the premises, always when alcohol may be sold under the licence, a reasonable range of non-alcoholic and low-alcohol beverages.
- (e) Drinking water must be freely available on all occupied tables and at the bar.
- (f) The licensee must take the following steps to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
 - i. Display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (g) The public bar & garden bar, and the bottle store area are designated as a supervised area with the remainder of the premises un-designated.
- (h) The licensee must take the following steps to ensure that the provisions of the Act relating to the management of the premises are observed:
 - i. All staff will be trained in their responsibilities under the Act.
 - ii. A sign shall be prominently displayed inside the premises, which identifies by name the manager on duty or of the person responsible for the management of the sale and supply of alcohol under the licence.
- (i) The sale, supply and consumption of alcohol is authorised on the premises generally. The premises situated at 20 Main Road, Te Kauwhata, are more precisely identified in a plan date stamped as received by the Waikato District Council on a date to be determined upon receipt of a building code compliance certificate.

[55] The licence may issue upon:

- i. Provision of a building code compliance certificate relative to the off licence area
- ii. Completion of an inspection by the Licensing Inspector to their satisfaction that the design and layout of the premises meets the object of the Act and the requirements of paragraph [46] (e) vii, viii and ix.
- iii. payment of any outstanding fee

[56] We refer any party who wishes to appeal this decision or part of this decision to sections 154 through to 158 of the Act.

DATED at Auckland this 23rd day of December 2025.



Andrew Baker
Commissioner
Waikato District Licensing
Committee

On behalf of: Barry Smedts
Jason Howarth