



**Renewal of off-licence
Licensing Inspector Report**

To: The Secretary of the District Licensing Committee

Date: 3 February 2020

Applicant:	Alexander and Finucane Vineyards Limited
Application Type:	Application for renewal of off-licence with variation
Premises Trading name:	Alexander Vineyard
Property Address:	101 Hinekura Road, Martinborough
Principal Purpose:	Winery cellar door & Remote sales
Inspection Date:	14 November 2019
Category and Fee Annual Fee	Very Low (2) Application fee \$368.00 Annual fee \$161.00
Section of the Act:	Sections 105 and 127 of Sale and Supply Alcohol Act 2012
Licence Number	44/OFF/020/2016
Expiry Date	26 November 2019

1. Executive Summary

- 1.1 This renewal application was received on 16 October 2019 pursuant to section 127 of the Sale and Supply of Alcohol Act 2012 (the Act) from Alexander and Finucane Vineyards Limited trading as "Alexander Vineyard". The premises are located at 101 Hinekura Road, Martinborough.
- 1.2 The general nature of the premises is that of a winery cellar door, allowing the business to sell its wines from the cellar door to visitors, and to offer free tastings to potential buyers.
- 1.3 The purpose of the off licence is to allow for patrons to buy a bottle of wine to take home for consumption off the premises.
- 1.4 The applicant Company seeks a renewal with the same terms and conditions as the licence currently in force at the premises, except for a variation to the licensed area to include the external courtyard area for larger groups.
- 1.5 No opposition has been raised by any of the reporting agencies. No public objections have been lodged with the District Licensing Committee.
- 1.6 The Inspector considers that the sale and supply of alcohol under these conditions is consistent with the object of the Sale and Supply of Alcohol Act 2012 (the Act) and the

criteria of sections 105 & 127. Section 132 of the Act refers to the imposition of conditions on renewal.

2. The Current Licence

- 2.1 The current on-licence (44/OFF/020/2016) issued to Alexander and Finucane Vineyards Limited was due to expire on 26 November 2019. The applicant filed a renewal application on 16 October 2019; therefore, the current licence is still in force.

3. The Premises

- 3.1 The premises are located in the special rural zone of Martinborough. The premises consist of the winery building and cellar door. There is also an outdoor courtyard area which the applicant would like to include as a variation to their existing licensed area.
- 3.2 Sales are made from the counter at the premises, or through remote sales via the website or order form. Orders can be made via email as listed on the website.
- 3.3 The land surrounding the applicant is predominantly used by other viticulture or farming activities. There is no reason to believe that the granting of this type of licence, including the proposed variation, will disadvantage any neighbouring landowner or occupier.
- 3.4 The directors of the applicant company, Michael Roderick Finucane and Rosalind Ann Walker, are the owners of the land and buildings.

4. The website

- 4.1 During the interview, the inspector discussed with the applicant the requirement under Regulation 15 regarding the display of the licence on the website if sales are made from the website. A copy of the licence is not currently available on the website, and in discussion with the inspector and the applicant it was agreed this would be remedied on the issue of the replacement licence. The inspector has no objection to this.
- 4.2 With regard to Regulation 14, the inspector confirms that there is a two-step age check system on the website. The applicant has also supplied a copy of their courier company's policy relating to the delivery of alcohol to prohibited persons, and the applicant has also developed a sticker to be affixed to their items for delivery stating their product must be delivered to 18+ only.

5. Inspection

- 5.1 On 14 November 2019 an inspection was undertaken at the premises with the owner/operator Michael Finucane, to ensure compliance with the Act and the conditions as specified on the licence issued to Alexander and Finucane Vineyards Limited.
- 5.2 The premises complied with all the requirements of the Act and there was sufficient signage regarding host responsibility and prohibited persons.

6. Assessment Criteria for Renewals: Sections 105 and 131 - Sale and Supply of Alcohol Act 2012

- 6.1 In deciding whether to renew a licence, the South Wairarapa District Licensing Committee must have regard to the criteria set down in sections 131 and 105(1) paragraphs (a) to (g), (j) and (k) of the Act.
- 6.2 This report now addresses each of these matters.

7. Section 105 matters

The Object of the Act

- 7.1 The Inspector does not believe the renewal of this licence will increase alcohol harm more than minor amount. The applicant has demonstrated suitable measures to ensure responsible sale, supply and consumption of alcohol so that harm is minimised.

8. Suitability of the applicant

- 8.1 The applicant company Alexander and Finucane Vineyards Limited has two directors, Michael Roderick Finucane and Rosalind Ann Walker. Neither of these directors have adversely come to the attention of the Inspector or other agencies.
- 8.2 The applicants have met all licensing conditions since the licence was first issued. The company has a sufficient level of experience to operate an on and off licence premises.
- 8.3 A search of databases by the Inspector found no negative reports on compliance during the previous licensing inspections.
- 8.4 There are no adverse reports concerning the suitability of the licensee on Council records. No criminal convictions have been recorded against the applicant and the Police report does not identify any matters of concern with respect to the applicant's suitability.

9. Any Local Alcohol Policy (LAP)

- 9.1 The South Wairarapa adopted a LAP on 1st August 2018 and this came into force on 1st November 2018.
- 9.2 Pursuant to the LAP an off-licence has the maximum trading hours of 7:00 am to 10:00pm.

Proposed days and hours of operation

- 9.3 The applicant's existing licensing hours held under the off-licence were Monday to Sunday between 9:00am to 6:00pm.
- 9.4 The applicant requests the following:
Monday to Sunday between 9:00am to 6:00pm
- 9.5 The proposed hours fall within the default national maximum trading hours, and LAP hours to which there are no oppositions from the Inspector or the reporting agencies.
- 9.6 A remote sale can be made at any time of the day, as the restriction applies to the delivery of the alcohol, as discussed in the recommended conditions at the end of this report.

Design and layout of premises

- 9.7 The premises are located on Hinekura Road, Martinborough in the 100km zone as you head towards Hinekura/Longbush past the golf course.
- 9.8 The licensed area currently consists of the cellar door room. The applicant is proposing to vary the licensed area to include the courtyard area outside the cellar door, to accommodate seated tastings for larger groups on sunny days.
- 9.9 The applicant has provided a CPTED assessment of the premises.
- 9.10 The premises design and layout provides good surveillance of the premises. The Inspector is satisfied that the design and layout of the premises are suitable for the intended use.

Goods sold other than alcohol

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

- 9.11 The business is a winery cellar door. The sale of their wine product is their main principal business and they do not intend to engage in the sale of other goods

Services provided other than those associated with alcohol

Whether the applicant is engaged in, or proposes on the premises to engage in, the provisions 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.

- 9.12 The applicant is not engaged in any alternative services.

10. Staff training and systems

Whether the applicant has appropriate systems, staff, and training to comply with the law

- 10.1 There is one certificate holding manager for the site. The manager has held his manager's certificate for three years. The applicant has provided the following management plans, and/or supporting information to ensure compliance with the Act:

Staff training and development plan

- 10.2 There is one certificate holding manager for the premises. Due to the size and nature of the premises this is acceptable and the inspector has no opposition to this.

Managers Name	Certificate Number	Expiry Date
Michael Finucane	44/CERT/008/2018	7 th day October 2018

Monitoring systems for minors and intoxication

- 10.3 The applicant states that while minors and intoxicated persons are rare on the site, anyone who looks underage is asked for ID and not provided with alcohol if underage, and intoxicated persons are not served.
- 10.4 A review of the supporting information demonstrates that the applicant has appropriate systems, staff and training to meet the requirements of the Act.

11. Section 131(1) matters

Amenity and good order

Whether (in its opinion) the amenity and good order of the locality would likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence (Matters to consider include: e.g. Increase in noise levels greater than a minor extent, potential that levels of nuisance and vandalism increase, any changes to neighbouring land use).

- 11.1 At renewal, consideration is given to whether or not the amenity and good order of a location will be improved by more than a minor amount should the licence renewal be refused. If adjacent residents or communities were affected by noise, nuisance and vandalism attributed to the licensed premises then the amenity and good order of the location would increase or improve where the licence was not renewed.

- 11.2 The following areas have been considered with respect to the amenity and good order of the locality and the effect of the licensed premises:

Noise levels

- 11.3 A search of the Council data base showed no complaints about noise with the associated premises.

Levels of nuisance and vandalism

- 11.4 A search of Council's records shows that there have been no complaints in the immediate vicinity regarding nuisance and vandalism. An assessment of the immediate vicinity reveals no examples of graffiti/vandalism.

The number of premises for which the same kind of licences are already held

- 11.5 The premises is located in the special rural zone of Martinborough. There are multiple on licensed premises in the area.

Location of premises:



- 11.6 The amenity and good order of the locality would not change if the renewal was refused. On this basis, the amenity and good order of the locality would not likely to be increased, by more than a minor extent, by the effects of the refusal to renew this licence.

12. Planning and Building Certificates

- 12.1 Pursuant to section 100(f) of the Sale and Supply of Alcohol Act 2012, certificates stating that the proposed use of the premises meets the requirements of the Building code to the extent required by the Building Act 2004 and the proposed use of the premises by the applicant meets the requirements of the Resource Management Act 1991 have been received.

13. Reports

- 13.1 The NZ Police lodged its report on 25 October 2019 stating no opposition to this application.
- 13.2 The Medical Officer of Health (MoH) lodged its report on 7 January 2020 stating no opposition to this application.
- 13.3 The Inspector offers no opposition to the renewal of this off-licence

14. Alcohol Promotions and sale

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

- 14.1 The applicant has no advertising or promotional material of alcohol relating to their alcohol sales that would raise any concerns from the reporting agencies.

15. Other Matters

Premises Designation

- 15.1 Due to the nature of the business, the main clientele are over 18. However, occasionally patrons bring their children in with them while they sit down for a tasting. Accordingly, the designation of the premises is undesignated and the inspector has no opposition to this designation.

Public Notices

The Sale and Supply of Alcohol Act 2012 requires that:

- a) within 10 working days after filing the application, ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site which the application relates; and*
 - b) within 10 working days of filing the application, give public notice of the application.*
- 15.2 The applicant publicly notified the application in accordance with the Act, by placing an advertisement in the Wairarapa Times Age. The only notice was published on 12 November 2019.
- 15.3 Notice of the application was also attached to the premises as required by the Act. The advertisements did not generate any public objections to the application.

Statement of compliance with the Fire and Emergency New Zealand Act 2017

- 15.4 The applicant has provided a declaration stating "because of the building's current use, its owner is not required to provide and maintain such a scheme." This has been signed by Michael Finucane as both the owner of the building and the licensee on 15 October 2019.

16. Section 132 Imposition of conditions on renewal

(1) When renewing licence of any kind, the licensing authority or the licensing committee concerned –

- (a) may impose any conditions subject to which it may issue a licence of that kind; and*
- (b) must impose any conditions subject to which it must issue a licence of that kind; and*
- (c) may, whether consequentially or not, vary or cancel any conditions applying to the licence before its renewal (whether they are conditions subject to which the licence was issued or conditions imposed on some earlier renewal).*

(2) A condition imposed –

- (a) has the same effect as it would if it were a condition subject to which the licence was issued; and (in particular) a failure or refusal to comply with it has the same effect, and may result in the same consequences, as a failure or refusal to comply with a condition subject to which the licence was issued; and*
- (b) may be varied under section 120 as if it were a condition subject to which the licence was issued.*

(3) Subsection (1) applies to all renewals of licences, whether they were issued under this Act or a former licensing Act.

- 16.1 The current off licence (44/OFF/020/2016) issued to Alexander and Finucane Vineyards Limited currently has conditions placed upon it covering all matters required under section 110 of the Sale and Supply of Alcohol Act 2012, other than the requirement at section 47(2).

17. RECOMMENDED CONDITIONS

- 17.1 It is recommended that the licence be issued subject to following conditions:

- (a) Alcohol may be sold on, or delivered from the premises for consumption off the premises, or supplied free as a sample for consumption on the premises, only on the following days and hours

Monday to Sunday 9:00 am to 6:00 pm

- (b) No alcohol is to be sold on, or delivered from, the premises on Good Friday, Easter Sunday or Christmas Day or before 1:00 pm on ANZAC Day.
- (c) No alcohol is to be sold or delivered on Easter Sunday unless the alcohol is grape wine, or fruit, or vegetable wine made:
 - on the premises; or
 - from grapes or fruit harvested from land on which the premises are situated.
- (d) Drinking water is to be freely available to customers while alcohol is being supplied free as a sample, from the location at which the sampling occurs.
- (e) A properly appointed certified manager must be on duty at all times, within the licensed area, when the premises are open for the sale and supply of alcohol and their full name must be on a sign prominently displayed in the premises.
- (f) The licensee must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display:

- At each principal entrance to the premises, the ordinary operating hours during which the sale of alcohol is permitted.
- A copy of the licence and all conditions subject to which it is issued, to the inside of the premises so to be easily read by all people entering at each principal entrance.
- At every point of sale for alcohol, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons.

Remote Sales

- (g) A remote sale of alcohol may be made at any time on any day
- (h) No alcohol is to be delivered from the premises on Good Friday, or Christmas Day or before 1:00 pm on ANZAC Day.
- (i) No alcohol is to be delivered on Easter Sunday unless the alcohol is grape wine or fruit, or vegetable wine made:
 - on the premises; or
 - from grapes or fruit harvested from land on which the premises are situated.
- (j) The licensee must ensure that any alcohol sold by remote sale is not delivered to the buyer (or to any other person on the buyer's behalf) at any time after 11:00 pm on any day or before 6:00 am on the next day. Whether the alcohol is delivered by the seller or by some other person.
- (k) The licensee must follow the procedures set out in Regulations 14 of the Sale and Supply of Alcohol Regulation 2013 to ensure that neither the purchaser nor the person to whom alcohol is delivered is a minor.
- (l) The licensee must display on its website and/or catalogues and on every receipt issued for alcohol sold remotely;
 - i. The licence holder's name and licence number;
 - ii. The date on which the licence expires;
 - iii. A legible image of the licence or a clearly identified link to such an image.

18. Recommendation

- 18.1 The Licensing Inspector has no concerns about the operation of this premises or the suitability of the applicant company that would to any opposition to this application.
- 18.2 It is recommended that the renewal of the off licence held by Alexander and Finucane Vineyard Limited trading as "Alexander Vineyard" as detailed above, including the variation to the licensed area, be granted with the recommended conditions as stated above, for a duration of three years from the date of expiry (to expire on 26 November 2022) and that a replacement licence be issued.

For your consideration

Hazel Turner

Alcohol Licensing Inspector