

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

AND

IN THE MATTER of an application for the renewal of an  
on-licence pursuant to s. 127 in respect  
of premises situated at 47-55 Main  
Road, Fox Glacier and known as The  
Last Kitchen by Deepa Limited.

### **DECISION OF THE WESTLAND DISTRICT LICENSING COMMITTEE ON AN UNCONTESTED APPLICATION**

#### **Authority:**

Pursuant to section 191(2) of the Sale and Supply of Alcohol Act 2012 and a Council resolution dated 28 November 2013, the functions, powers and duties of the Westland District Licensing Committee are delegated to the committee chairperson where no objection has been filed, and no matters of opposition have been raised by the Police, the Medical Officer of Health or an Inspector. There is no Local Alcohol Policy in place for the District.

#### **Summary of Evidence**

I am in possession of a copy of the complete file relating to this application.

Deepa Limited was granted an on-licence in March 2018 in respect of premises at 47-55 Main Road Fox Glacier which operate primarily as a restaurant.

The application is detailed and appears to have been made with conviction. The application includes a document titled "Deepa Limited Host Responsibility Policy" which purports to be designed to ensure that people attending the premises will be looked after.

The days and hours sought are Monday to Sunday during 10.00am until 10.00pm.

The Inspector has reported and has concluded that the applicant is suitable to continue to hold a licence, the hours proposed are satisfactory and that the nature of the premises is satisfactory.

The Police have no objection to the grant of this new on-licence.

The Medical Officer of Health has not reported on this application.

#### **Evaluation of Evidence and Reasons**

I have considered the application on the basis of the uncontested reports received and I have noted that there have also been no public objections. The matter can, therefore, be dealt with on the papers.

The renewal application requests a change to the current hours which are 10.00am to 12.00 midnight. The change sought requests a reduction in the hours to 10.00 am to 10.00 pm. The request for the change is readily approved but as an observation, the licensee needs to be aware that the change is permanent and not just for a quieter time of the year. The new hours will apply to the next busy tourist season and even if the dining room is full to capacity the time to cease the sale and supply of alcohol will be 10.00 pm. I hope that the licensee has thought the logistics through and appreciates the effect of approving the request for a reduction in the hours of operation.

There are no compelling reasons to impose designations.

I do note from the report of the Inspector that there are some management issues that have come to the attention of the Inspector in the nature of a conflict in areas involving an off-licence and the on -licence which is the subject to this application. From what I can understand from the Inspector's report it would appear that the Company has unilaterally made an alteration to the floor layout and the has increased the point of sale area for the off-licence to be extended into the on-licence area. I can understand how the licensee might regard the tweaking of the layout to be of little importance but the reality is that the statutory

environment is such that layout of areas and points of sale are important in terms of the purpose and object of the Act and what is put in place by a licence is not subject to the whim of a licensee. I would hope that the explanations given to the inspector by the licensee will be the end of unilateral alterations to the layout of the premises. I note that the Inspector has also highlighted a supervision issue that the licensee needs to use initiative on.

The application includes a copy of the premises Host Responsibility Policy. I am uncertain if the policy has changed at all since the grant of the original licence. I certainly expect such a document to change as circumstances and experience change. I acknowledge that the Policy is a clear indication to all concerned that the licence Holder is taking responsibility for the day to day management of the premises and this is to be commended. In the case of the Policy accompanying the application the time is ripe for a close look at the wording for correctness. I would hope that the Inspector is able to assist the applicant in this regard.

As a general observation it would be worthwhile if the Licensee took serious note of the contents of this decision and the Inspector's report. My expectation that those matters that have been highlighted should be quickly addressed and not be part of the commentary when the licence comes up for renewal again. It is generally regarded that licenses will be renewed for a period of three years but I proffer the suggestion that where a continued transgression (even a minor one) is identified then a licensee can look forward to a lesser period for renewal on the basis that the license needs to be kept under surveillance to ensure that the requirements of the Act are continued to be met. The way in which a licence is managed will dictate procedures for the future.

### **Decision**

I am satisfied as to those matters provided for in s.105 of the Act.

The application is granted on the papers pursuant to s.202 (1) of the Act as Decision Number **042-2018** and I direct that a licence be issued pursuant to s.64 of the Act.

The terms and conditions will be:

(a) Alcohol may be sold only on the following days and during the following hours:

Monday to Sunday from 10.00AM to 10.00 pm.

Except when the licensee also holds a special licence for the premises no alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person who is not—

(i) residing or lodging on the premises; or

(ii) present on the premises to dine.

(b) the following steps must be taken to promote the responsible consumption of alcohol:

(i) There shall be a "Host Responsibility Policy", similar to that which accompanied the renewal application dated 26<sup>th</sup> November 2018, in place at all times.

(d) The Principal Entrance is to be described as "The entrance off Sullivan Road".

(e) Pursuant to section 110(2)(c) of the Act, drinking water shall be freely available to all customers at the bar and on all dining tables at all times that the licence is being exercised.

### **Duration**

Subject to the requirements of the Act relating to the payment of fees, and to the provisions of the Act relating to the suspension and cancellation of licences, this licence continues in force—

(a) either—

(i) until the close of the period for which it was last renewed; or

- (ii) if it has never been renewed, until the close of the period of 12 months after the day it was issued; but
- (b) if an application for the renewal of the licence is duly made before the licence would otherwise expire, either—
  - (i) until the close of the period of 3 years after the period for which it was last renewed; or
  - (ii) if it has never been renewed, until the close of the period of 4 years after the day it was issued.

Dated at Hokitika this 11<sup>th</sup> day of April, 2018.

  
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Chairperson, Westland District Licensing Committee

