

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application for an Off-licence
pursuant to s. 99 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 these applications.

Deepa Limited is the holder of an on licence at Fox Glacier at a premises known as "The Last Kitchen" which is a restaurant. The applicant is a company. The application seeks the establishment of an off-licence from the same premises.

The application appears to have been made with conviction. The application includes a document titled "Host Responsibility Policy" which purports to be designed to ensure that people attending the premises will be looked after. I have struggled with parts of the application as there is, for me, a clarity issue which seems to be associated with the applicant's use of English as a second language. I am unsure from the file if the off licence is to be conducted from the same premises or an adjoining premises. The plans accompanying the applications were less than desirable and do not seem to have photocopied well..

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 hold an off- licence, the hours proposed are satisfactory and that the nature of the premises is satisfactory.

The Police have no objection to the application.

The Medical Officer of Health has no opposition to the 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 Inspector's report is helpful and seems to clarify that the premises is a building with two distinctive parts. It seems that the restaurant is on the south of the building and the area to be used for off-sales is on the north. The Inspector has no concerns about the way in which the Last Kitchen has been operated and, with regard to the off-licence application, the Inspector holds the view that the application can be accommodated by the objective of the Act and that the addition of a further off-licence to the Fox Glacier community can be supported by the numbers of Tourists being accommodated in the township, and that the hours of 10.00am to 10.00pm on each day of the week are reasonable for the off -licence.

The police did have reservations about the application but it would appear that any opposition has been dealt with by assurances from the applicant. The Police now record no objection to the application.

The Medical Officer of Health also had initial concerns and after a site inspection and discussion with the applicant withdrew any opposition.

I have readily formed the view that there are no amenity and good order issues to be controlled and that the applicant has appropriate systems, staff and training to comply with the requirements of the Act.

The file does include commentary and a suggestion that the premises was taking on the identity of a "dairy".

From what I can gather from the application, the District Licensing Committee would not have such a concern. It does appear that the proposal is more in line with a dedicated off-sales outlet. The Police queried with Council staff the likelihood of a condition being attached to any granted Off-licence requiring the installation of an alarm system because there was an obvious burglary risk increase by virtue of the amount of alcohol and tobacco to be stored on the premises. I have given some thought to this aspect but have decided that the role of the Committee is principally aligned with the objective of the Act not the objective to lessen incidents of burglary.

I have not identified any imperative requiring designations.

I am satisfied as to those matters provided for in sections 105 and 131 of the Act.

Conditions

A licence may include conditions and must include certain conditions stipulated by the Act. In the case of this application the License will be subject to the required conditions only as I am satisfied that the applicant is suitable to hold the license without being required to have a multitude of conditions imposed which in addition to those general matters that are required to be addressed by a licence holder by virtue of the Act; In particular I observe that the application includes a Host Responsibility Policy which details those things that promote the responsible consumption of alcohol and the expected behavior on the premises. At the time of the renewal of the licenses I would expect that the Policy will have changed to reflect changing circumstances and experience. I regard such a policy as an important statement of commitment about how the premises are to be operated and my expectation is that the licensee will ensure that the policy is adhered to and is amended from time to time to accommodate changes that occur.

Decision

237 The application for an off-licence by Deepa Limited is granted pursuant to s.211 (1) of the Act as Decision Number ~~048~~-2018 and I direct that a licence is to be issued at the expiry of ten (10) working days from the date of this decision; that period of time is the time provided under s.155(1) of the Act for the lodging of a notice of appeal. The licence is to be issued for a 12 month period.

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 10.00PM.

~~Except when the licensee also holds a special licence for the premises~~ no alcohol is to be sold or delivered from the premises on Good Friday, Easter Sunday, Christmas Day, or before 1 pm on Anzac Day to any person.

- (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 application dated 11 June 2018, in place at all times.

- (ii) Pursuant to section 116(2)(c) of the Act, drinking water shall be freely available to all customers at each point of consumption while alcohol is being supplied free as a sample at all times that the licence is being exercised.
- (c) The Principal Entrance is to be described as "The public entrance into the premises off the deck at 47-55 Main Road, Fox Glacier"

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—

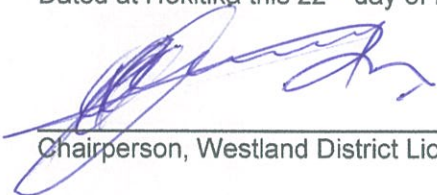
(a) either—

- (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 22nd day of December, 2018.



Chairperson, Westland District Licensing Committee

