

IN THE MATTER

of the Sale and Supply of Alcohol Act
2012

AND

IN THE MATTER

of an application by **E and R Eateries Limited** for an On- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 23A Victoria Avenue, Whanganui and known as “Spice Guru Restaurant and Bar”.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The application for a new On-Licence was advertised in the River City Press on the 11 and 18 April 2019; together with statutory signage on the building. No objections were received. No matters of opposition were raised under section 102 and 103 reports; therefore the matter was considered by the Whanganui District Licensing Commissioner on the papers contained in the full file provided by the secretary in accordance with the provisions of s.202 (1) and 191(2) of the Sale and Supply of Alcohol Act 2012.

Commissioner: Stuart Hylton

RESERVED DECISION OF THE WHANGANUI DISTRICT LICENSING COMMITTEE

Application

(1) The application was made on the 9 April 2019 on the prescribed form. The application seeks to establish a new license for the established Spice Guru Restaurant and Bar in the premise situated at 23A Victoria Avenue, Whanganui. The premise is existing with a change of ownership occurring requiring the procurement of a new licence. The applicant has been operating on the site for a couple of months under a Temporary Authority. The applicant has obtained the necessary resource consent and lease to operate and hold a Liquor Licence.

(2) The premises at 23A Victoria Avenue, Whanganui is owned by Old Town Properties Limited who have confirmed by way of supporting letter that the applicant has a 4 year lease for the premise including the ability to be licensed.

(3) The applicant is an incorporated company (2019) with one director and two shareholders.

(4) The premise will continue to be known as the ‘Spice Guru Restaurant and Bar’ and is seeking to be undesignated which is usual for licensed restaurants. The principal entrance is located at the front of the entrance to the premises off Victoria Avenue. The certificate of compliance from the Whanganui District Council, has stated a maximum number of patrons as being 75-80.

The applicant provided a statement that the restaurant is exempt from having an evacuation plan.

- (5) The complete file that the District Licensing Committee received included –
- The application
 - Certificate of incorporation
 - Floor plan
 - A s. 100(f) RMA/ Building Act compliance letter from Council
 - Letter from applicant’s landlord agreeing to the application to be licensed.
 - Letter from applicant attesting to not having to have an evacuation scheme
 - Copy of public notice on the building
 - Host Responsibility Policy
 - Copy of supporting letter from landlord
 - Licence to Occupy details (WDC)
 - Full menu
 - Public Advert wording
 - Reports from Police, Medical Officer of Health and Inspector

Decision Making

(6) In considering this application for On-Licence the District licensing Committee (here in after referred to as the ‘Committee’) had regard to the criteria specified under s. 105 of the Act.

(7) the object of this Act:

This is a new licensee within an existing restaurant where the sale and consumption of alcohol on the premise should be minor and complimentary compared to the Restaurant’s general business. The previous licensee operated the licence and premises without any known issues.

The applicant provided a Host Responsibility Policy that shows how alcohol will be sold in a responsible manner under the licence. If followed this should ensure the object of the Act continues to be complied with. The applicant has the initial first year to show that they can operate the licence in accordance with the Act and the licence conditions.

(8) the suitability of the applicant:

The applicant, E and R Eateries Limited, is an incorporated company with one director and two shareholders. The director has an interest to ensure the licence is a success and the statutory responsibilities are adhered to.

Two certified managers are named on the licence application and others are intending to seek their certificates. This is seen as sufficient by the inspector.

(9) The inspector and reporting agencies do not challenge suitability of the applicant and neither do I.

(10) any relevant local alcohol policy:

No local policy is currently in place.

(11) the days on which and the hours during which the applicant proposes to sell alcohol:

The applicant has applied for the following days and hours –

- **Monday to Sunday, 10.00am to 1.00am the following day**

These hours seem reasonable for the activity. The premise also includes a licence to occupy over the public land at the front of the premise as shown on the application floor plan. This part of the premise will have the hours below to reflect the Licence to Occupy and consistent with other licensees in the CBD with licensed public areas.–

- **Monday to Sunday, 10.00am to 11.00pm**

(12) the design and layout of any proposed premises:

The application included a floor plan showing premise layout, area to be licenced and principal entrance.

This relatively simple and small layout should assist compliance management. It includes the public area out front of the building.

The whole of the licensed premise is to be undesignated.

(13) 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:

No.

(14) 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:

This premise is an existing licensed restaurant located within the commercial business precinct.

Within the agency reports there are no concerns about the possible reduction in amenity and good order from any licence issue.

(15) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—

(i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but

(ii) it is nevertheless desirable not to issue any further licences:

No concerns raised.

(16) whether the applicant has appropriate systems, staff, and training to comply with the law:

If the host responsibility policy is followed the licence holder should have no problems with compliance.

Reporting Agencies

(17) The following reports were received under section 103 of the Act.

(18) **Police** – Report received on 11 April 2019, offering no opposition.

(19) **Medical Officer of Health** - Report received on 30 April 2019, offering no opposition.

(20) Licensing Inspector

Full report dated 8th May 2019. The inspector provided a comprehensive report into the application, has met the applicant and concluded that the application is complete, appears to meet the criteria for a new on-licence and therefore there has no opposition to the application.

Committees Decision and Reason

(21) Based on the evidence provided to me within the complete file, lack of opposition from the relevant agencies, my assessment above, I conclude that the application meets the s. 105 criteria under the Act to be granted an on-licence for the premise situated at 23A Victoria Avenue, Whanganui and known as “Spice Guru Restaurant and Bar”.

(22) Accordingly the application is **approved** for issue for one year subject to the following conditions and payment of any outstanding fees, if any.

(23) The licence will be subject to the following conditions:

- (a) The licensee must have available for consumption on the premises, at all times when the premises are open for the sale of alcohol, at reasonable prices, a reasonable range of non-alcoholic drinks and low alcohol drinks.
- (b) The licensee must have free drinking water available for customers at each bar whilst open for business.
- (c) Liquor may only be sold only on the following days and during the following hours:

Interior: Monday to Sunday, 10.00am to 1.00am the following day,

Exterior: Monday to Sunday, 10.00am to 11.00pm

EXCEPT THAT on Good Friday, Easter Sunday, and Christmas Day, or before 1pm on Anzac Day, no alcohol is to be sold or supplied on the premises unless the buyer is a person who is present on the premises to dine.

- (d) Food must be available for consumption on the premises at all times when the premises are open for the sale of alcohol in accordance with the menu submitted with the application, or variations of that menu of a similar range and standard.
- (e) The licensee must ensure that, at any time customers are lawfully on the premises,—

- (i) there is readily available to the customers, free, comprehensive, and accurate information about the forms of transport from the premises that are available at that time; and
 - (ii) there are on the premises, and readily accessible to the customers, staff able to give them comprehensive and accurate information about the forms of transport from the premises that are available at that time; and
 - (iii) those staff will on demand give any customer appropriate advice free.
- (f) The licensee must ensure that for each principal entrance to the premises there is displayed at all times a sign attached to the inside or outside of the premises, so as to be easily read by people immediately outside the entrance, stating the ordinary hours of business during which the premises are open for the sale of alcohol
- (g) The licensee must ensure that at all times a copy of the licence, together with a statement of all conditions subject to which it is issued, is displayed—
- (a) attached to the inside of the premises concerned; and
 - (b) so as to be easily read by people entering each principal entrance.
- (h) The licensee must implement and maintain the steps proposed in the application for the licence aimed at promoting the responsible consumption of alcohol.
- (i) The licensee and managers on duty must ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed and must display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of liquor to minors and the complete prohibition on sales to intoxicated persons.
- (j) The whole of the licensed premises is undesignated.

3 Decision

Accordingly the application is **Approved** for issue.

Dated at Whanganui District this 8th day of May 2019.

Signed



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Stuart Hylton
Whanganui District Licensing Commissioner