

IN THE MATTER

of the Sale and Supply of
Alcohol Act 2012

AND

IN THE MATTER

of an application by **E and E
Eateries Limited** for a
renewal of On Licence
pursuant to section 127 of the
Supply of Alcohol Act 2012.

BEFORE THE WHANGANUI DISTRICT LICENSING COMMITTEE

The application for renewal of On Licence (036/ON/001/2019) was publically advertised in the River City Press on 14 May 2020 along with a display notice attached to the premise in accordance with the Regulations, with no objections received.

As 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.

Commissioner: Stuart Hylton

**RESERVED DECISION OF THE WHANGANUI DISTRICT LICENSING
COMMITTEE**

1. Application

On the 23 April 2020, **E and E Eateries Limited** on the prescribed form made application for renewal of an On-licence. This is the first renewal application by the licensee.

The application for renewal of On-Licence is in relation to the premises known as '*Spice Guru Restaurant and Bar*' situated at 23A Victoria Avenue, Whanganui.

The general nature of the business is that of an 'Indian Restaurant'. The renewal application seeks to renew with the same existing conditions. The premise has not come to the notice of authorities in an adverse manner during the renewal period.

The complete file included –

- The application
- Fire evacuation compliance statement
- Host Responsibility Plan
- Owner permission letter
- Food/Drinks list
- Floor plan
- Photo's
- Copy of draft public notice and public display
- Existing Licence
- Reports from Police, Medical Officer of Health and Inspector

2. Decision Making

In considering this application for On-Licence the licensing committee had regard to the criteria under section 131 and 105 of the Act. Section 105 assessments were made using the inspector's full report and own assessment. I accept the inspector's assessment and recommendations.

Key matters raised in complete file including the inspector's report were –

- The applicant is a private company who has operated the licence during the renewal period without apparent issue. The premise has been licensed for some time and the current licensee has operated the business since 2019. The applicant has named two managers for the licence which is seen as adequate for this type of licence.
- The premise has not come to the notice of authorities in an adverse manner during the renewal period. This is the first renewal application.
- The applicant provided a host responsibility plan that if followed should ensure the object of the act is met.
- The applicant appears to have appropriate systems, staff and training to comply with the law.
- There were no reports questioning suitability and neither do I.
- The inspector notes the applicant has agreed to a LAP discretionary condition although there is no evidence that this is in fact the case.
- The hours wanting to be renewed have been reduced somewhat from -

Monday to Sunday, between 8.00am to 1.00am the following day, to –

Monday to Sunday, between 10.00am to 10.30pm

- Floor plan provided works well for the general nature of the business held on the premises. The premises is to be ‘Undesignated’ which is suitable for this type of licence.
- No CPTED or amenity or good order issues raised with renewal. There is no reason to believe the amenity and good order of the locality would likely to be increased, more than a minor extent, by the effects of a refusal to renew the licence.
- The applicant has satisfactory systems for staff training and performance.
- The Whanganui LAP has been adopted and allows for discretionary conditions relating to On licences. The inspector has recommended that the following condition be placed on the renewal stating –
 - the licensee will record and maintain a register of significant alcohol related incidents and have that register available for inspection by an enforcement officer at any time during trading hours

The applicant has signalled they are happy with this condition to be included in the renewal. On this basis this seems a reasonable condition to include.

3 Reporting Agencies

The following reports were received under section 103 of the Act and taken into account during the decision.

3.1 Police – Report received on 12 May 2020, of no opposition. .

3.2 Medical Officer of Health – Report received on 28 May 2020, of no opposition.

3.3 Licensing Inspector – Full report dated 8 June 2020. The inspector has no opposition to the application and assessed the application against s. 105 matters with no matters of opposition raised. The inspector concludes that the

application is complete and appears to meet the criteria for renewal of the licence with existing conditions and the additional LAP condition.

4 Conclusion

Based on the evidence provided to me within the complete file, my assessment above of section 105 matters and the past operation of the premise/licensee, I conclude that the application by **E and E Eateries Limited** meets the statutory criteria to be granted a renewal of On-Licence under the Act for a period of three (3) years, from the expiry date of the previous licence.

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) Alcohol may only be sold on such days and during such hours as the premises are being operated as a Restaurant but not other than on the following days and hours:

Monday to Sunday, between 10.00am to 10.30pm

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 food list submitted with the application, or variations of that list of a similar range and standard.
- (e) The licensee must ensure that, at any time customers are lawfully on the premises,—
 - 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
 - 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

- 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, together with a copy of the floor plan: 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 licensee will record and maintain a register of significant alcohol related incidents and have that register available for inspection by an enforcement officer at any time during trading hours.

5 Decision

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

Dated at Whanganui District this 9 day of June 2020.

Signed

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Stuart Hylton
Whanganui District Licensing Commissioner

