

DECISION NUMBER

ON1473

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012

AND

IN THE MATTER

of an application by **KOLACHI EATERY (2020) LIMITED** for a new On- Licence pursuant to section 100 of the Sale and Supply of Alcohol Act 2012, in respect of the premises situated at 147 Emerson Street, Napier South, Napier, to be known as “Kolachi Eatery”.

BEFORE THE NAPIER DISTRICT LICENSING COMMITTEE

The application for a new On-Licence was advertised in the Hawkes Bay Today on the 30 November and 7 December 2020; together with statutory signage on the building. No objections were received and no s. 103 reports noted any opposition.

Therefore, the matter is considered by the Napier 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 NAPIER DISTRICT LICENSING COMMITTEE

Application

- (1) The application was made on the 24 November 2020 on the prescribed form. The application seeks to establish a new license for an existing premise that let its previous licence lapse. The applicant has obtained the necessary resource consent and lease to hold and manage a Liquor Licence. The general nature of the business will continue to be that of a ‘restaurant style’ ON licence.

Note: The Inspector in his report rightly notes a history sequence of this licensee both failing to renew their licence and operating without a duty manager on site. Whilst the inspector notes no enforcement action has been taken in the past in respect of this non-compliance and this application is not opposed, future misdemeanors are likely to result in enforcement/opposition to licence applications. This Committee believes the Inspector is being extremely lenient and this continued non-compliance brings into question the applicants suitability to hold a licence. Hopefully the licensee takes note of this warning and rectifies past issues resulting in these matters not coming to the attention of this Committee again.

- (2) The premises at 147 Emerson Street, Napier South, Napier is owned by Richard Snijders who have given permission for this application. The licensed area is to include the general café premise as well as outdoors table and chairs area, as demarcated on the application’s floor plan dated stamped 24 November 2020. The principle entrance is that off Emerson Street, Napier.
- (3) The applicant is an incorporated company with two directors/shareholders. The applicant was the same entity which held the previous licence on the premises.

- (4) The premise will continue to be known as ‘Kolachi Eatery’ and is seeking to remain ‘undesigned’ throughout.
- (5) The complete file that the District Licensing Committee received included evidence that the following was provided as part of the application –
 - 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 landlord representative as having the necessary evacuation scheme
 - Copy of public notice on the building
 - Host Responsibility Policy
 - 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 licence of an existing licensed premise that forgot to renew their previous licence. 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’s chequered history is highlighted above and within the Inspectors report and needs to change.

- (8) **the suitability of the applicant:**

The applicant, Kolachi Eatery (2020) Limited, is an incorporated company with two directors and two shareholders.

One certified manager is named on the licence application. This is commented on by the applicant as insufficient given that persons other commitments and needs to be addressed by the applicant. I expect the enforcement agencies will be monitoring this situation.

- (9) The inspector and reporting agencies do not challenge suitability of the applicant and neither do I albeit noting my concerns noted previously in this decision.

- (10) **any relevant local alcohol policy:**

The application accords with the Napier LAP.

- (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, 8.00am to 2.00am the following day,**

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

The application included a floor plan that shows the area to be licensed including the outside areas subject to a licence to occupy. This is an existing licensed footprint. The whole of the licensed premise is to be undesignated which is supported by the inspector.

(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:**

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

The premise is surrounded by other food and beverage premises within the Central Business Commercial zone which should ensure the amenity and good order of the locality are not effected by more than a minor extent.

(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. The applicant appears to be taking their licensing responsibilities seriously which should assist the premise to be run in a compliant manner.

Reporting Agencies

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

(18) **Police** – Report received on 3 December 2020, offering no opposition.

(19) **Medical Officer of Health** - Report received on 26 November 2020, offering no opposition.

(20) **Licensing Inspector**

Full report dated 21 December 2020. 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 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 147 Emerson Street, Napier South, Napier and known as 'Kolachi Eatery'.
- (22) Accordingly the application is **approved** for issue for one year subject to the conditions outlined in the Inspectors report and payment of any outstanding fees, if any.

Decision

Accordingly the application is **Approved** for issue from this date.

Dated at Napier District this 22 December 2020.

Signed



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Stuart Hylton
Napier District Licensing Commissioner