

Decision N° **OF0002**

**In the Matter**

of the Sale and Supply of Alcohol Act 2012

**And**

**In the Matter**

of an application by **Lal's Enterprises Limited** for the renewal of an Off licence pursuant to ss.100 and 127 of the Act in respect of premises situated at **111-115 Victoria Street, Dargaville, Kaipara District** known as **"Dargaville Four Square"**

**Before the Kaipara District Licensing Committee**

Chair: Mr Peter Winder

Members: Mr Gordon Lambeth, Mr Mark Vincent and Mr Mark Farnsworth

In Attendance: Governance Services Manager: Sean Mahoney  
General Manager Planning and Regulatory: Fran Mikulicic  
Regulatory Manager: Dean Nuralli  
Chief Licensing Inspector: Rachel Sheppard

**Decision (From the Hearing)**

This is for an application for the renewal of an Off licence to Lal's Enterprises Limited, 111-115 Victoria Street, Dargaville, Kaipara District known as "Dargaville Four Square".

This application was made under ss.100 and 127 of the Sale and Supply of Alcohol Act 2012 and determined by the District Licensing Committee under s.130 of the Act.

The applications were filed with the Territorial Authority on 10 March 2016 with public notification in the Kaipara Lifestyler on 16 March and 22 March 2016 which satisfies s.127 (3) of the Act.



No objection or notice of desire to be heard has been received from the members of the public.

Section 112 of the Act requires compliance with compulsory conditions relating to the display and promotion of alcohol in a single area in supermarkets and grocery stores. A joint agency site visit was undertaken on 21 March 2016 to ensure compliance with s.112 of the Act. Minor alterations were carried out by the applicant making the alcohol display area a destination for shoppers rather than alcohol being exposed generally to the public. It is considered that the single area layout complies so far as is reasonably practicable as prescribed by ss.112, 113 and 114 of the Act.

The applicant does not seek any changes to the conditions of the licence currently in force. The current trading hours for alcohol sales – Monday to Sunday 7.00am to 10.00pm, has attracted opposition from both the Medical Officer of Health and the Police. No objection has been received from the Inspector, however it is noted in the report that the existing hours of trade may increase the risk of alcohol related harm together with risk of exposure to the public in general.

The Police seek maximum hours of trade that fall within the Police National Policy of 9.00am and 9.00pm. The existing trading hours are 7.00am to 10.00pm.

The Medical Officer of Health seeks maximum hours of trade that fall within the Health Board National Policy of 9.00am to 10.00pm.

The application fits within the default national hours as specified under s.43(1)(b) of the Act of 7.00am to 11.00pm.

At the hearing the Licensing Committee heard from the applicant Mr Lal, from Dr Clair Mills (Medical Officer of Health, and Sgt H. Clement of the New Zealand Police.

The only objection to this application relates to the trading hours for alcohol sales. The hearing therefore focused on that issue.

In his evidence at the hearing Mr Lal elaborated on the actual opening hours of the store. This made it clear that the actual closing time for the shop varied through the year. The store closes earlier in winter than in summer and has longer trading hours immediately prior to Christmas. For significant parts of the year the store closes before 10.00pm. The current trading hours for alcohol sales provides Mr Lal considerable flexibility in operating his business and being able to meet customer demand whilst containing his operating costs.



In addition to the evidence that was presented at the hearing the Committee requested and received a further break down of sales data relating to the sale of alcohol before 9.00am. The data that was supplied relates to the period 01 January 2015 to 01 May 2016. Over this period there were on average fewer than 3 transactions per day that took place before 9.00am and involved the purchase of alcohol. On average fewer than one of these three transactions took place before 8.00am. In total sale of alcohol before 9.00am accounted for 0.73% of total sales revenue. This is a very small proportion of total alcohol sales from this store, given that the sale of alcohol accounts for 16% of total store revenue. Alcohol sold from this store prior to 9.00am is also a negligible proportion of total alcohol sales within Dargaville.

Dr Mills presented to the Committee considerable evidence relating to alcohol harm, the policy position adopted by the leadership of the Northland District Health Board and a range of research.

Sgt Clements presented no substantive evidence to support the opposition by the Police to the proposed 10.00pm closing time.

Having considered the actual opening hours of the store, the operational flexibility provided by the current 10.00pm limit on alcohol sales, the lack of opposition by the Medical Officer of Health to the 10.00pm limit on alcohol sales, and the negligible sales of alcohol that actually occur before 9.00am the majority of the Committee concluded that the hours requested by the applicant are reasonable and that reducing trading hours as requested by the Medical Officer of Health and the Police would have no real effect on alcohol harm within the Dargaville area.

We are satisfied as to the matters to which we must have regard as set out in s.131 of the Act and we grant the renewal of the Off licence under s.202(3).

The existing licence is deemed to be current under s.122 of the Act.

We renew the Off licence until 04 April 2019 pursuant to s.135(1) of the Act, that being the anniversary date of the licence and three years from the most current date of expiry and authorise the issue of a replacement licence and a notice of renewal.

The licensee's attention is drawn to condition (c) of replacement licence 03/OFF/004/2016 to ensure that potable drinking water is readily available and free of charge to customers at all times that the premises are offering complimentary tastings of alcohol. Signage directing people to drinking water must be prominently displayed on the premises at that time.



The licensee's attention is drawn to s.56 and s.57 of the Act obliging the holder of the off-licence to display:

- (i) A sign to the exterior of the premises, so as to be easily read by persons outside each principal entrance, stating the ordinary hours of business during which the premises will be open for the sale of alcohol; and
- (ii) A copy of the licence, and of the conditions of the licence, attached to the interior of the premises so as to be easily read by persons entering through each principal entrance; and
- (iii) A sign prominently displayed inside the premise, which identifies by name the manager for the time being on duty.

**DATED** at Dargaville this 14<sup>th</sup> day of July 2016



Peter Winder

Chair

Kaipara District Licensing Committee

