

IN THE MATTER

of the Sale and Supply of Alcohol
Act 2012

AND

IN THE MATTER

of an application by Mukesh
Holdings Limited for an on-licence
pursuant to s.100 of the Act in
respect of premises situated at 37
George Street, Tuakau known as
“The India Restaurant & Bar”

BEFORE THE WAIKATO DISTRICT LICENSING COMMITTEE

Quorum: Chairperson Andrew Baker
Members: Barry Smedts
 Jason Howarth

HEARING at Ngaruawahia on 18th February 2025

PARTIES

Ms Harpreet Kaur – Co director of applicant company
Mr Deep Purusram – Counsel for applicant

Reporting Agencies

Mr Anthony Pipe –Waikato District Council Licensing Inspector in opposition

DECISION

Introduction

[1] We have before us an application by Mukesh Holdings Limited for the granting of an on licence in respect of premises situated at 37 George Street, Tuakau known as “The India Restaurant & Bar”.

[2] The inspector has filed a report opposing the application. The Police and Medical Officer of Health are not opposed.

[3] The application was lodged on 21st June 2024. It is noted that the applicant has previously held an on licence for the premises however was one day late applying for a renewal creating the need to apply for a new on licence.

[4] The inspector’s opposition is regarding suitability (s.105 (b) of the Act) of Mukesh Sharma who at the time of lodging this application was the sole director and shareholder of the applicant company and who was convicted on alcohol related driving charges on 23rd October 2024 for offences committed on 25th July 2024. It is reported by the Inspector that the Police report with no opposition was received on 8th July 2024 prior to both the offence and conviction date and the report had not been updated post those dates.

[5] On 11th February 2025, Ms Harpreet Kaur, wife of Mukesh Sharma, was made a co-director of the applicant company joining Mukesh Sharma as a director with a notation within the special resolution of the directors that Ms Kaur is entrusted with the “*sole management and directorship powers and liquor licensing matters*” for the premises known as The India Restaurant & Bar.

[6] This change did not appear on the Companies Act register until late on 17th February 2025 and accordingly the inspector retained opposition to the application before us.

Opening Submissions for the Applicant

[7] Mr Purusram made opening verbal submissions whilst referencing a written submission provided to attending parties.

[8] He spoke of the relevance of the Police report and convictions to Mukesh Sharma and irrelevance to the applicant company now that Ms Kaur had taken on the directorship and complete management role.

[9] He said whilst the concerns of the inspector and police were significant regarding Mukesh Sharma, they will not affect the management of the premises regarding the Act.

Evidence of the Applicant

[10] Ms Kaur was sworn in and asked that her brief of evidence as provided be accepted as a true and correct statement.

[11] She confirmed her address as the Tuakau address contained within the application and within the updated records of the Companies Register.

[12] Ms Kaur explained that she had managed the day-to-day operation of the business for the past fourteen years and the reason why they had missed lodging the renewal application which occurred whilst she and Mr Sharma were in India seeking treatment for his illness which she went on to describe to the committee.

[13] She explained the effort undertaken to get the business to where it is today and the negative impact not having a licence has had since the expiry of the previous licence.

[14] When questioned by the committee, Ms Kaur confirmed that she and Mr Sharma were still married and were living at the same Tuakau address, explaining why there was a different address for Mr Sharma on the Companies Register.

[15] She described how she will be making all the decisions related to the business including managing the sale and supply of alcohol along with another certificate holding manager. She confirmed that Mr Sharma was a chef, normally working in the kitchen when able to and that there was no intention for him to seek to get a manager's certificate.

[16] She also stated that the applicant company had no debt to any entity and was under no financial pressure.

[17] Ms Kaur spent some time explaining her concerns for her husband's health and her plans to keep him away from the stressful environment of the business through having him at home minding their children and recovering with a long-term plan to involve him in other businesses.

[18] Through Mr Purusram, Ms Kaur advised she would accept a condition that Mukesh Sharma would not be involved in the sale and supply of alcohol stating the importance of holding a licence for the business.

Evidence of the Inspector

[19] Mr Pipe was sworn in and asked that his report be taken as read.

[20] He acknowledged that the business was well known and well regarded within the community and that there was no history of any licensing related issues in the time the premises had been licensed, some fourteen years.

[21] He described Ms Kaur as being knowledgeable and capable as a manager of the business.

[22] Mr Pipe referenced the statement of the Police Officer involved in the incident that resulted in the convictions for Mr Sharma and stated that these were serious and relevant due to Mr Sharma remaining as a director of the applicant company. He went on to explain that it was his opinion that Mr Sharma was not suitable to hold a licence and that the potential for him to influence Ms Kaur as she managed the premises was significant. A position he had discussed with the Council legal team.

[23] He confirmed when asked that his concerns were that Mr Sharma would be able to influence the way the sale and supply of alcohol was managed at the premises.

Closing Statements.

[24] The inspector had no closing statement, relying on his evidence and report.

[25] Mr Purusram reaffirmed that Ms Kaur will have the sole role of managing and running the business at the premises.

[26] He stated that there had been no ability to test via cross examination the statement off the Police Officer involved as neither the officer concerned was not called as a witness. He said it showed that Mr Sharma was obviously upset at the time.

[27] He submitted that Ms Kaur had proven over many years to be reliable and hardworking and that she had made it clear to the committee that Mr Sharma would have no role and no influence over the management of the premises as it related to the sale and supply of alcohol. He was now a silent partner in the company with his wife.

[28] He further submitted that Ms Kaur had managed the business without issue or incident whilst Mr Sharma had also worked there which showed she could run in it accordance with the law.

[29] He advised that Ms Kaur was willing to extend the condition offered earlier to one that stated that Mukesh Sharma would not work at The India Tuakau and would welcome random checks to test compliance with that condition

[30] Mr Purusram ended by saying that Ms Kaur could be relied upon and requested the licence be granted.

Committee's Considerations and Decision

Legislation the Committee must have and have had regard to in this matter:

[31] Sections 3 and 4 of the Act describe the purpose and object of the Act.

[32] Section 105 of the Act sets out the criteria the committee must have regard to when deciding whether to issue a licence.

[33] Section 117 allows the committee to impose any other discretionary condition.

[34] A significant number of previous cases as contained within the applicant's evidence bundle were presented by the counsel for the applicant which have been considered.

[35] In regard to the criteria of s.105, only the suitability of the applicant (s.105(1)(b)) was challenged by the inspector as the only agency in opposition. Accordingly, we are satisfied as to all other subsections of this section of the Act and deal with suitability in the following paragraphs.

[36] The concern of the inspector was the possible influence of Mukesh Sharma on Ms Kaur in her role of managing the sale and supply of alcohol within the premises. This is based on what the committee accepts as being serious alcohol related offences that Mr Sharma was convicted of in October 2024.

[37] We are tasked with determining if we believe there is the possibility that Mr Sharma will influence Ms Kaur as co-directors in particular regarding the sale and supply of alcohol and also whether we believe that influence will materially result in the purpose and object of the Act not being met should we grant the licence.

[38] We have carefully listened to the evidence of Ms Kaur and observed her during the hearing. We have heard the inspector describe Ms Kaur as "knowledgeable and capable" and advising us that there is no history of any alcohol related issues at the premises; which has been continuously licensed until the unplanned expiry of the previous licence.

[39] Whilst reference was made to the report of the Police Officer involved in the incidents leading to the convictions of Mr Sharma, we were unable to hear from that officer nor direct any cross examination to them regarding the incidents or Mr Sharma's behaviour as they did not appear as a witness.

[40] Having considered the evidence presented to us, we are satisfied as to the matters which we must have regard as set out in s.105 of the Act, and we are satisfied that the application meets the purpose and object of the Act.

[41] When considering the offer of the applicant to accept discretionary conditions regarding the involvement of Mr Sharma at the premises, we are not satisfied that they are required and conversely believe they may create more issues than those for which they are designed to mitigate.

[42] We accept the evidence that Mr Sharma is not in good health and unlikely to be in any position to resume any type of work for some time. We also accept that as a chef, he has previously had an active role within the business which has operated without incident for many years. Whilst Ms Kaur states she is reluctant to allow him to return to the stressful environment of the kitchen it is not possible to predetermine what if any role he might be able to have within the business.

[43] We prefer to accept the repeated assurances of Ms Kaur that as an experienced and capable manager, she will manage and take responsibility for ensuring the business operates in accordance with the purpose and object of the Act, noting that an application for renewal will be considered in one year.

[44] We grant the applicant an on licence with the following conditions:

- (a) No alcohol is to be sold on the premises on Good Friday, Easter Sunday, Christmas Day, or before 1.00 pm on Anzac Day to any person who is not present on the premises to dine.
- (b) Alcohol may be sold only while the premises are being operated as a restaurant, and only during the following days and hours:
Tuesday to Sunday 11.30am to 2.00pm and
Monday to Sunday 4:00 pm to 10.00pm
- (c) Food must be always available for consumption on the premises when the premises are open for the sale of alcohol in accordance with the menu submitted with the application for the licence or variations of that menu of a similar range and standard.
- (d) The licensee must have available for consumption on the premises, always when alcohol may be sold under the licence, a reasonable range of non-alcoholic and low-alcohol beverages.
- (e) Drinking water must be freely available on occupied tables or upon request to staff while the premises are open for business.
- (f) The licensee must take the following steps to ensure that the provisions of the Act relating to the sale and supply of alcohol to prohibited persons are observed:
 - i. Display appropriate signs adjacent to every point of sale detailing the statutory restrictions on the supply of alcohol to minors and the complete prohibition on sales to intoxicated persons.
- (g) The whole of the premises is un-designated.
- (h) The licensee must take the following steps to ensure that the provisions of the Act relating to the management of the premises are observed:
 - i. All staff will be trained in their responsibilities under the Act.
 - ii. A sign shall be prominently displayed inside the premises, which identifies by name the manager on duty or of the person responsible for the management of the sale and supply of alcohol under the licence.
- (i) The sale, supply and consumption of alcohol is authorised on the premises generally. The premises situated at 37 George Street, Tuakau, are more precisely identified in a plan date stamped as received by the Waikato District Council on 20 June 2024.

[45] The licence may issue upon payment of any outstanding fee.

[46] We refer any party who wishes to appeal this decision or part of this decision to sections 154 through to 158 of the Act.

DATED at Auckland this 20th day of February 2025.



A handwritten signature in black ink, appearing to read "A. Baker".

Andrew Baker
Commissioner
Waikato District Licensing Committee

On behalf of: Barry Smedts
Jason Howarth