

## Delegate of the Director of Liquor Licensing

### Decision Notice

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<b>MATTER:</b>	Application for the grant of additional liquor authority
<b>APPLICANT:</b>	BevCo SBB Pty Ltd
<b>PREMISES:</b>	Snapper Rocks Bar & Kitchen Tenancy B2 7 Kitchener Drive, Darwin Waterfront, NT.
<b>OBJECTORS:</b>	Nil
<b>LEGISLATION:</b>	<i>Liquor Act 2019</i> – Part 3 and 4
<b>DECISION OF:</b>	Melissa Garde – Delegate of Director of Liquor Licensing
<b>DATE OF DECISION:</b>	23 December 2021

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#### BACKGROUND

1. BevCo SBB Pty Ltd is the licensee for liquor licence number FLL1029 for premises known as Snapper Rocks Bar & Kitchen located at tenancy B2, 7 Kitchener Drive, Darwin Waterfront. This licence includes a Restaurant Bar and Catering Authority.
2. On the 11 November 2021, Mr David Robinson on behalf of BevCo SBB Pty Ltd lodged an application pursuant to section 52 of the *Liquor Act 2019* (the Act), for a **producers authority** to be added to their existing liquor licence.
3. The additional authority is sought to allow for onsite and online retail sales of liquor produced on the premises.

#### CURRENT SITUATION

4. The applicant has provided the material prescribed in section 52 of the Act including:
  - an affidavit made under section 54;
  - declaration of associates;
  - financial reports;
  - evidence necessary to satisfy the onus specified in section 51;
  - a summary of the evidence suitable for publication;
  - landlord approval;
  - letter of support from Darwin Waterfront Corporation;
  - various supporting documents; and
  - the application fees.

## ADVERTISING AND OBJECTIONS

5. The application was published in the NT News on 8 December 2021, with a notice also being erected at the proposed premises. The application was also advertised on the Director Liquor application web page.
6. No objections were received from the public in relation to the application.
7. The application was notified to the Commissioner of Police, the Chief Executive Officer of the Department of Health in accordance with the statutory requirements. No council was notified as the Darwin Waterfront is not regulated by a council.
8. No stakeholder provided any adverse comments or objections to the application. It is noted that Darwin Waterfront Corporation did provide a letter of support that was included in the application supporting documents.

## APPLICATION

9. The applicant has provided a comprehensive suite of materials in support of the application including all materials prescribed by the Act.
10. The authority sought by the applicant is in pursuance of section 47(1)(j) of the Act.
11. The applicant has sought the following conditions:
  - Liquor trading hours of 10:00 hours to 22:00 hours every day of the year except Good Friday and Christmas Day
  - No change to the standard conditions of a producers authority as per the Liquor Regulations.
  - No other changes to the existing liquor licence conditions.
12. The proposed hours of trade are that as prescribed in Division 13 of the *Liquor Regulations 2019* and no extra conditions are sought.
13. The applicant has provided a fulsome application and supporting documents as requested by the Act and the Director of Liquor Licensing.

## DISCLOSURE OF PERSONS

14. Section 54 of the Act requires the applicant to make an affidavit disclosing each person who, if the licence is issued, may:
  - a. be able to influence the applicant; or
  - b. expect a direct or indirect benefit from the applicant.
15. I am satisfied by the materials provided by the applicant in relation to this requirement.

## RESULTS OF INVESTIGATION

16. Section 58 of the Act enables the Director to conduct an investigation into an application as considered appropriate. No materials have been discovered or provided to indicate there are any adverse matters in relation to this application.

## FINANCIAL STABILITY

17. The applicant is an existing licensee and previously undergone probity. As part of the application they did provide current financial information. I am satisfied they meet the requirements in relation to financial stability.

## FIT AND PROPER PERSON

18. Section 59(3)(g)(i) of the Act requires the decision maker to consider whether the applicant and as the applicant is a body corporate, their nominated licensee, are fit and proper to hold a licence.
19. Being an existing licensee and nominee, which has previously undergone probity investigations by the Director of Liquor Licensing, I am satisfied they meet the requirements.

## PUBLIC INTEREST AND COMMUNITY IMPACT

20. Section 49 of the Act requires the decision maker to be satisfied the applicant is fit and proper, the licence or authority is in the public interest and will not have a significant adverse impact on the community.
21. The first branch of the requirement has already been addressed.
22. It remains to consider whether the application is in the public interest, to do so consideration must be given to the objectives prescribed in section 49(2) of the Act which include:
  - c. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
  - d. ensuring liquor is to be sold, supplied, served and consumed on or in licensed premises in a responsible manner;
  - e. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
  - f. protecting the safety, health and welfare of people who use licensed premises;
  - g. increasing cultural, recreational, employment or tourism benefits for the local community area;
  - h. promoting compliance with this Act and other relevant laws of the Territory;
  - i. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
  - j. preventing the giving of credit in sales of liquor to people;
  - k. preventing the practices that encourage irresponsible drinking;
  - l. reducing or limiting increases in anti-social behaviour.

23. In determining whether there would be a “significant adverse impact on the community” section 49(3) of the Act requires the Commission must consider the following:
- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;
  - b. the geographic area that would be affected;
  - c. the risk of harm from the excessive or inappropriate consumption of liquor;
  - d. the people or community who would be affected;
  - e. the effect on culture, recreation, employment and tourism;
  - f. the effect on social amenities and public health;
  - g. the ratio of existing liquor licences and authorities in the community to the population of the community;
  - h. the effect of the volume of liquor sales on the community;
  - i. the community impact assessment guidelines issued under section 50;
  - j. any other matter prescribed by regulation.
24. The Act is clear in that the applicant bears the onus of satisfying the decision maker of the relevant matters, irrespective of whether no objections were received as is the case in this matter.
25. In relation to the issue of the community impact and public interest, those matters have previously been published under section 6A of the *Liquor Act 1978*, in force immediately before the commencement of the *Liquor Act 2019*, and are taken to be the community impact assessment guidelines issued under section 50 of the Act.
26. Those matters remain as previously published in numerous decisions by the Liquor Commission.

## CONSIDERATION CRITERIA

27. The Act requires the decision maker to take into account Section 49-51 of the Act and other matters as prescribed.
28. With regards to the matters raised in section 49(2) and 49(3) of the Act, and taking all of the application material and pre-existing information into account, including previous compliance reports of the licensee and prior proven adherence to all liquor legislation, I determine that this application meets all of the requirements.
29. Having regards to the foregoing, I am satisfied that the granting of the authority as sought is in the public interest and will not have an adverse effect on the community.

## DECISION

30. On the basis of the information provided in relation to this matter and with reference to sections 48 and 60 of the Act, I have determined to approve an additional liquor authority, being a **producers authority** for the licensee, BevCo SBB Pty Ltd, for the premises listed above. This authority will be attached to the existing liquor licence number FLL1029.
31. The conditions applicable to the **producers authority** are in accordance with the relevant regulations and the hours of trade are to be 10:00 hours to 22:00 hours every day of the year except Good Friday and Christmas Day. For full clarity, liquor sales for consumption off the premises can only be undertaken during 10:00 hours to 22:00 hours on the days permitted.
32. For full clarity, the authority conditions, days, trading times or any other condition of restaurant bar and catering authority of liquor licence FLL1029 do not apply to this **producers authority**.

## REVIEW OF DECISION

33. Section 27 of the Act provides for the applicant or a person who made a submission the subject of the decision, to seek a review of a decision made by the delegate of the Director.
34. The Director delegated the determination of applications for a **producer authority** made under section 52 of the Act by instrument dated 29 November 2021. This decision was made by a person referred to in that schedule and is made on the proviso that there have been no objections or contentious matters raised or where the applicant has not been the subject of disciplinary action under a current or former licence.
35. An application for review must be lodged with the Director within 28 days after written notice of the decision is given to the person and must be in the form approved by the Director, stating the grounds for the review and the facts relied on to establish the grounds.
36. Accordingly, the affected persons in relation to this decision is, BevCo SBB Pty Ltd.



Melissa Garde  
Delegate of the Director of Liquor Licensing

23 December 2021