

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for a liquor licence with a community club authority
APPLICANT:	Trepang Services Pty Ltd
PREMISES:	Bladin Accommodation Village 1235 Channel Island Road Weddell NT
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> - Part 3 and 4
DATE OF DECISION:	17 June 2022

DECISION

1. On the basis of the information provided in relation to this matter and with reference to sections 48 and 60 of the *Liquor Act 2019* (the Act), I have determined to approve a liquor licence with a community club authority, for the licensee Trepang Services Pty Ltd, for the premises located at 1235 Channel Island Road, Weddell, NT.
2. The grant of the licence is conditional upon the licensee surrendering their existing liquor licence for the same premises, 80818807 which is a lodging authority.
3. Additionally, the following condition is placed on the licence to prevent 24 hour operations:
 - the licensee is to provide to the Director no later than seven (7) days before commencement of each rotation, a schedule of bar operational hours and curfew hours. The Director reserves the right in their sole discretion, to place additional restrictions on the hours of operation in circumstances where it is considered appropriate.

BACKGROUND

4. Trepang Services Pty Ltd is the licensee for liquor licence number 80818807, with a lodging authority, for premises known as Bladin Accommodation Village located at 1235 Channel Island Road, Weddell.

5. Pursuant to section 52 of the Act, Mr Peter Walkington on behalf of Trepang Services Pty Ltd lodged an application for a new liquor licence with a community club authority for the premises situated at 1235 Channel Island Road, Weddell.

CURRENT SITUATION

6. A problem arose recently where the licensee sought to have the trading hours extended for licence 80818807.
7. After consideration of the circumstances it was acknowledged the Act and *Liquor Regulations 2019* (the Regulations) did not provide the coverage, in terms of hours of trade, sought by the licensee. It was also acknowledged given the nature of the operation, the authority may not be the most suitable for this licence.
8. In considering the matter it was identified the prescribed conditions for a community club authority did provide the necessary flexibility, and better matched the nature of the operation at the premises. Regulation 45 of the Regulations states the "...hours of operation for a community club authority are the hours specified in the authority issued to the licensee".
9. It necessarily follows there is wide discretion provided in relation to the hours of trade for such an authority, one that better fits the nature of the operation.
10. It was also submitted by the licensee, in the event a licence is granted with the community club authority, licence 80818807 will be surrendered.
11. The licensee has provided the following materials in support of the application:
 - an affidavit made under section 54;
 - community impact assessment
 - public interest criteria
 - proposed site plan
 - the application fees.

ADVERTISING AND OBJECTIONS

12. In pursuance of section 57(2A) of the Act, as a delegate of the Director of Liquor Licensing I determined the application disclosed no public interest issues, and exercised my discretionary power to exempt the matter from public notice.
13. As the application was exempt from public notice no objections were received from the public.
14. The exemption notwithstanding, the application was notified to the Commissioner of Police, the Chief Executive Officer of the Department of Health and the Chief Executive Officer of the Litchfield Shire Council in pursuance with section 56(4) of the Act.
15. No stakeholder provided any response to their notifications.

APPLICATION

16. The applicant has provided a comprehensive suite of materials in support of the applications including all materials prescribed by the Act.
17. The authority sought by the applicant is in pursuance of section 47(1)(l) of the Act.
18. The applicant has sought the following liquor trading times and volunteered special conditions of:
 - liquor trading hours of 00:00 hours to 24:00 hours seven days per week;
 - takeaway sales from Bladin Accommodation Village are not permitted;
 - liquor for sale at the bar area must be sold in opened containers;
 - sales may be made of unopened containers of no more than six (6) 375ml cans of beer, pre-mixed spirits or a combination of both, per person, per day;
 - unopened containers may be taken to accommodation rooms for consumption.
19. The licensee has sought a 24 hour licence, albeit there is no intention to trade 24 hours a day, and even if that was their intention no such approval would be given. For completeness, a condition is to be placed on the licence to prevent such a possibility.
20. The applicant has provided a fulsome application and supporting documents as requested by the Liquor Act and the Director of Liquor Licensing.

DISCLOSURE OF PERSONS

21. 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.
22. I am satisfied by the materials provided by the applicant in relation to this requirement.

RESULTS OF INVESTIGATION

23. 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

24. The applicant is an existing licensee and previously undergone probity in regards to this point and I am satisfied they meet the requirements in relation to financial stability.

FIT AND PROPER PERSON

25. 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.
26. As an existing licensee and nominee having previously undergone probity investigations by the Director of Liquor Licensing, I am satisfied both meet the requirements.

PUBLIC INTEREST AND COMMUNITY IMPACT

27. 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.
28. The first branch of the requirement has already been addressed and satisfied.
29. 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:
 - a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - b. ensuring liquor is to be sold, supplied, served and consumed on or in licensed premises in a responsible manner;
 - c. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
 - d. protecting the safety, health and welfare of people who use licensed premises;
 - e. increasing cultural, recreational, employment or tourism benefits for the local community area;
 - f. promoting compliance with this Act and other relevant laws of the Territory;
 - g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
 - h. preventing the giving of credit in sales of liquor to people;
 - i. preventing the practices that encourage irresponsible drinking;
 - j. reducing or limiting increases in anti-social behaviour.

30. In determining whether there would be a "...significant adverse impact on the community" section 49(3) of the Act requires the Commission to 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.
31. 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.
32. 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* and in force immediately before the commencement of the Act, and are taken to be community impact assessment guidelines issued under section 50 of the Act.
33. Those matters remain as previously published in numerous decisions by the Liquor Commission.

CONSIDERATION

34. The Act requires the decision maker to take into account sections 49 to 51 of the Act and other matters as prescribed.
35. With regards to the matters raised in sub-sections 49(2) and (3) of the Act, and taking all of the materials including pre-existing information into account, coupled with previous compliance reports of the licensee, I am satisfied this application meets the statutory criteria.

36. This meeting of the criteria is important in that a recent decision by the Northern Territory Civil and Administrative Tribunal affirmed the issue:

“...under consideration is not (should a licence be granted); rather, it is whether (the applicant’s) application for a licence and late night authority satisfies the statutory criteria.”¹

37. As written earlier, the trading hours are *prima facie* excessive, however the restrictive nature of the special conditions, coupled with the venue’s accommodation policies provides comfort the hours are appropriate.

38. The intention is to provide flexibility and better reflect the ever changing roster and rotation of personnel. All workers must return a 0.00% BAC breath test at the commencement of their shift and are subject to immediate eviction if they breach the accommodation policy. This includes funding their own return home, wherever that may be in Australia or overseas.

39. Different companies will accommodate their workforce at the site for various lengths of time and working different shift times and patterns over a 24 hour period. By permitting the trading hours as applied for, the licensee will have the ability to adjust their liquor trading times to suit the end of shifts throughout the year, and importantly avoid the administrative burden for all of applying for variations to the licensed trading hours.

40. Liquor will not be served 24 hours a day. The authority will however provide the applicant with the ability to change the times that liquor is served, and to align with the meal times provided at the premises.

41. The site is full fenced and secured with 24 hour security services on the entry points.

42. It is noted the premises previously served as a detention centre, hence the high level of security fencing.

43. Only registered workers with accommodation are permitted into the premises, members of the public are not permitted. Registered workers residing at the accommodation will automatically have membership to the community club.

44. The premises are not open to the general public.

45. I am satisfied that the licensee has relevant policies and plans put in place to comply with legislation and minimise any potential for public harm.

46. Having regards to the foregoing, I am satisfied that the granting of the licence and authority as sought is in the public interest and will not have an adverse effect on the community, further it satisfies the statutory criteria.

¹ *SGRD Pty Ltd v Northern Territory Liquor Commission & Director of Liquor Licensing for the Northern Territory* (2022) NTCAT 5 [40].

REVIEW OF DECISION

47. 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.
48. The Director delegated the determination of applications for a community club authority made under section 52 of the Act by instrument dated 17 February 2021. This decision was made by a person referred to in that schedule and is made on the condition 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.
49. 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.
50. Accordingly, the affected persons in relation to this decision is Trepang Services Pty Ltd.



Mark Wood
Delegate of the Director of Liquor Licensing

17 June 2022