

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the granting of a liquor licence with a community club authority
APPLICANT:	The Road Transport Historical Society Incorporated
LEGISLATION:	Part 3, Division 4 of the <i>Liquor Act 2019</i>
DECISION OF:	Manager Licensing - Liquor, Gambling & Racing
DATE OF DECISION:	22 October 2021

DECISION

1. For the reasons set out below and in accordance with section 60 of the *Liquor Act 2019* (the Act), as a delegate of the Director of Liquor Licensing I have determined to grant the application for a liquor licence with a **community club authority** to The Road Transport Historical Society Incorporated (the applicant) for the sale of liquor to members of a club operated by the licensee, guests of members and visitors to the club, for consumption on or in the licensed premises.
2. The premises approved under this licence are situated at NT Portion 03390, 98 Norris Bell Ave, Arumbera, Alice Springs.
3. With reference to regulation 45 of the *Liquor Regulations 2019* (the Regulations), the days and hours of operation of the licence are:

Monday to Sunday 11:00 hours to 23:59 hours

There will be no trade on a public holiday

4. In accordance with regulation 46 of the Regulations, the operational conditions of this community club authority are:
 - A reasonable range of non-alcoholic beverages must be available for purchase by patrons during the hours of operation.
 - Complimentary tap water must be available to patrons during the hours of operation.

5. In addition to the prescribed conditions, the following conditions are imposed on the licence in pursuance of section 49(4) of the Act, and are as proposed by the applicant:
 - Entry to the premises is upon payment of an entrance fee which entitles the patron to membership of the association.
 - Liquor is restricted to pre-packaged beer, wine and pre-mixed spirits, with no individual poured spirits available.
 - The licensee will provide a suitable range of mid and low-strength alcoholic beverages for purchase.
6. The applicant is also reminded of their obligations in relation to regulation 47 of the Regulations relating to club functions.

BACKGROUND

7. The Road Transport Historical Society Incorporated (RTHSI) is a community-based volunteer organisation dedicated to the preservation of Australia's unique road transport heritage. The concept was borne out of concern that most trucks from yesteryear were rusting away on rural properties and cattle stations.
8. Work commenced on the creation of the premises in 1992, with the premises formally opening on 31 July 1995 as a museum with modest catering facilities.
9. The facilities have been expanded throughout the years, with the premises offering a number of options for not only meals and drinks to daily visitors, but catering and meeting facilities for groups, corporate events and other such functions.
10. The applicant provides guided tours of the museum and also provides the following facilities to patrons:
 - Barbeques
 - Caravan and camping facilities
 - Picnic areas
 - Gift shop
11. It features in Tourism NT promotional material and is described as:

“...a unique museum showcasing the rich and important history of the road and transport industry and the essential role it’s played in servicing remote areas of Australian and the Outback.”
12. The premises also includes a presentation on the history of the Ghan Railway with preserved carriages on site.
13. It should be acknowledged a statutory manager was appointed for the Association by the then Acting Director-General of Licensing, as a result of ongoing matters involving the Association on 22 July 2019.

14. The statutory manager remains in place and has worked to stabilise the Association and bring them into compliance under the *Associations Act*.

CURRENT SITUATION

Publication of the application

15. The application was published online through the Alice Springs News website on 18 and 20 September 2021, a copy of the substantive application, public interest and community impact submissions also being published on the Director of Liquor Licensing's website.
16. Signage was also placed at the premises in the usual manner advising the public of the application, its details and how an objection may be lodged.
17. No objections were received in relation to this application.

Consultation

18. Section 56(4) of the Act states within 14 days of accepting an application, the Director must inform the following that an application has been made and accepted:
 - (a) the Chief Executive Officer of the Agency administering the *Public and Environmental Health Act 2011*;
 - (b) the Commissioner of Police;
 - (c) the Chief Executive Officer of the local council.
19. In accordance with the requirements of section 56(4) of the Act, parties were notified of the application on 14 September 2021.
20. Notification was also sent to the Northern Territory Fire and Rescue Service (NTFRS) as part of the investigation in to the application undertaken by Licensing NT.
21. On 20 September 2021 the Department of Health provided their standard response in relation to smoking, and do not oppose the application.
22. No responses were received from either Police or the Alice Springs Town Council.
23. The lack of response from the council notwithstanding, it is noted a letter of support for Mr Nick Prus-Mroczkowski as the proposed nominee was provided by His Worship the Mayor of Alice Springs, Mr Damien Ryan, Mayor at the time of the application.
24. In his letter Mr Ryan stated he supported the application for a liquor licence for the premises.

Referral to the Liquor Commission

25. On 17 December 2020 the Liquor Commission delegated *inter alia* the determination applications for a community club authority to the Director of Liquor Licensing, with the Director further delegating the determination by instrument.
26. Further, the delegation of the determination of this application is conditional upon there being no objections or contentious matter raised, or where the applicant has not been the subject of disciplinary action under a former licence.
27. This applicant has held special licences under the previous Act, as well as special event authorities under the current Act, there were no objections nor contentious matters and they have not been the subject of disciplinary action for previous events.
28. Accordingly this application may be determined under delegation without referral to the Liquor Commission, or a public hearing.

Results of Investigation

29. 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.

ASSESSMENT OF THE MATTER

30. In accordance with section 59 of the Act, I have considered:
 - (a) the applicant's affidavit required by section 54;
 - (b) the results of an investigation into the applications conducted by Licensing NT personnel;
 - (c) in the absence of objections, the responses of the stakeholders to which notification was provided;
 - (d) the suitability of the proposed premises; and
 - (e) the financial stability and general reputation and character of the applicant.

Whether the applicant is a fit and proper person to hold a liquor licence

31. The RTHSI has held various licences for previous events, including large functions and celebrations, with no adverse outcomes and as an incorporated association, now appears compliant under the *Associations Act* under the direction of the statutory manager.
32. The RTHSI has provided documents attesting to their financial position, and I am satisfied with what has been provided.
33. There are no matters in the materials provided that would suggest the RTHSI is not a fit and proper person to hold a liquor licence.
34. The RTHSI has proposed Mr Nick Prus-Mroczkowski as the nominee for the licence. Mr Prus-Mroczkowski has previously been the nominee for the Alice Springs Golf Club between March 2019 and August 2020.

35. It should be noted during this period as nominee that licensee was subject to disciplinary action by the Liquor Commission for selling liquor to a person who was intoxicated.
36. Whilst the matter was initially contested by Mr Prus-Mroczkowski, upon his departure the licensee subsequently conceded the breach and was issued a financial penalty by the Commission.
37. This matter is raised for completeness and was noted in the investigation of the Application by Licensing NT personnel. This breach by an unrelated licensee whilst Mr Prus-Mroczkowski was nominee notwithstanding, there are no matters to suggest the applicant, nor their proposed nominee are not fit and proper.

The applicant

38. The applicant complies with section 53(2) of the Act, which restricts a community club authority to an association incorporated under the *Associations Act 2003*.

The applicant's associates

39. Section 54 of the Act requires applicants to depose an affidavit disclosing certain persons who may be able to influence or expect a benefit from the applicant if the licence is granted. I am satisfied the applicant has complied with these requirements and find no issue with any person disclosed.

Suitability of the premises

40. I am satisfied the premises are suitable for the supply and consumption of liquor in the manner set out in the application, noting the applicant has been granted numerous licences for events previously.

The financial stability, general reputation and character of the association

41. As written earlier the applicant was placed under the control of a statutory manager in 2019 who remains in place.
42. Significant work has been undertaken by the applicant, the manager and government to place the applicant into a more stable and compliant position.
43. I am therefore satisfied the applicant is in a satisfactory position to be granted a licence at this time.

Whether issuing the licence is on the public interest

44. Section 49(2) of the Act requires me to determine whether issuing the authority is in the public interest and how it will advance the following objectives:
 - (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - (b) ensuring liquor is 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 practices that encourage irresponsible drinking;
- (j) reducing or limiting increases in anti-social behaviour.

- 45. Having considered each of these objectives, and having particular regard to the nature of the operation, events and controls placed on the consumption of liquor, I am satisfied that it is in the public interest to issue the authority to the licensee.
- 46. The impetus behind this application clearly meets the objectives including increasing cultural, recreational and tourism benefits for the local community area.
- 47. It should also be noted when the statutory manager was appointed in 2019 it was a very real possibility the premises may close. This generated significant public concern and interest given the esteem in which the premises is held in the local community and the importance to the overall NT tourism industry.
- 48. The granting of the licence will allow the applicant to grow the premises and provide certainty in the years to come.

Whether the issue of the authority will have a significant adverse impact on the community

- 49. Section 49(3) of the Act prescribes the matters which must be considered when determining whether the issuing of the authority would have a significant adverse impact on the community.
- 50. These include:
 - (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.

51. The applicant also bears the onus of satisfying me of the relevant matters, irrespective of whether any objections were received.
52. I am satisfied the conditions placed on the approval, along with the conditions prescribed by the Regulations will ensure liquor is consumed in an appropriate manner, the risk of harm is minimal and there is no apparent significant adverse impact on the community.
53. The RTHSI has held numerous events over the past few years with no issues arising.
54. In considering this application I am obliged to consider the purposes prescribed in the Act, primary being, to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale and consumption of liquor.
55. Secondary purposes include, a protection of the community amenity and wellbeing, regulation of the sale of liquor in a way that contributes to the responsible development of the industry and associated businesses, and of particular relevance, facilitating a diversity of associated services for the benefit of the community.
56. It also includes stimulation of the tourism and hospitality industries.
57. I am satisfied the application is in line with the purposes of the Act, particularly in providing a diversity of services for the benefit of the community, and is an important part of the tourism industry in Central Australia.
58. As a result of the matters outlined above, I am on balance, satisfied that the approval of this application is appropriate, in the public interest and will not have a significant adverse impact on the community.
59. Section 85 of the Act requires a term of the licence to be fixed and it is to remain in force until it expires or is abandoned, surrendered or otherwise dealt with.
60. The Act is silent as to the nature or format of that term to be fixed.
61. The premises are held by the applicant under a Crown Lease In Perpetuity (01982).
62. Accordingly, the period of that lease is in perpetuity, a period prescribed in section 26(b) of the *Crown Lands Act 1992* (NT) as being a lease that continues indefinitely.
63. In the absence of further prescribed definition, The Macquarie Dictionary provides the natural meaning of the word *indefinite* as including "...without fixed or specified limit".

64. The Liquor Commission has also considered this issue and taken the position a liquor licence cannot be granted in perpetuity, but must have a calendar date fixed to it's life.
65. Most recently the Commission has granted licences to licensees with pastoral leases in perpetuity, a similar circumstance to this applicant with a Crown Lease In Perpetuity. In those matters the Commission has fixed a term of 25 years to the licence, those being Tobermorey Roadhouse and Bullo River Station.
66. In accordance with the Commission's position, I likewise fix a period of 25 years to this licence.

REVIEW OF DECISION

67. Section 26 of the Act requires a delegate of the Director to as soon as practicable after making a decision, to give a written notice of the decision to an affected person, being a licensee, applicant or person who made a submission, complaint or objection, the subject of the decision.
68. Section 11 of the Act provides for the Director to delegate powers and functions under this Act by instrument, to a person from time to time holding, acting in or performing the duties of the position specified in that instrument. This decision was made by a person referred to in such an instrument. .
69. Section 27 of the Act provides that an affected person for a delegate decision may apply to the Director for a review of the decision. This application for review must be made within 28 days after written notice of the delegate decision is given to the affected person, or within any additional time that the Director allows.
70. Accordingly the affected persons in relation to this decision are The Road Transport Historical Society Incorporated, and the Department of Health.



Mark Wood
Manager Licensing - Liquor, Gambling & Racing
Delegate of the Director of Liquor Licensing

22 October 2021