

ENFORCEABLE UNDERTAKING

Liquor Act 2019
Section 159(3)

The commitments in this undertaking are offered to the Director of Liquor Licensing by:

Ryan Lucas
Director
For and on behalf of
DARWIN BREWING CORPORATION PTY LTD
ACN: 641 400 160
1/18 Totem Road, Coconut Grove NT

BACKGROUND:

1. The Director of Liquor Licensing (the Director) is charged with various functions under the *Liquor Act 2019* (the Act), including inviting a licensee to give an enforceable undertaking to prevent a risk of potential harm even if no contravention of the Act has occurred or is alleged to have occurred.
2. On 10 July 2024 as a result of discussions between the Director of the Darwin Brewing Corporation Pty Ltd, an applicant for a liquor licence with a producers' authority and a representative of the Director, the applicant wrote to the Director consenting to the installation of the identification scanning system known as a BDR system into their premises in the event the licence was granted.
3. The applicant is registered as a wholesaler of liquor WLL1064 for the premises, and has sought the producers' authority to complement the wholesaler registration, and expansion of the business.
4. The producers' authority provides for a licensee to sell liquor produced by themselves on the premises for consumption on or off the premises.
5. Although the producers' authority provides a limited form of takeaway liquor sales, it is not an authority prescribed by regulation 106(1) of the *Liquor Regulations 2019* (the Regulations).
6. Regulation 106(1) of the Regulations prescribes those authorities which must use and maintain the identification system (the BDR) established by the Minister.

THE DIRECTOR'S CONCERNS

7. Discussions between Licensing NT personnel and the applicant have identified a potential risk of harm, despite no contravention of the Act having occurred or is alleged to have occurred at this time. For completeness, there is also no materials at this time, to suggest this applicant would engage in conduct contrary to Act or any conditions placed upon their licence if granted.
8. As there are restrictions placed on members of the public in the Northern Territory prohibiting them from accessing liquor, the identification system in place at licensees operating under a takeaway authority and general store authority, would assist in enforcing those prohibitions, and provide a mechanism to the licensee to refuse service as appropriate.
9. The licensee has consented to the implementation of the identification system referred to in Part 6, Division 1 of the Act, as a means of assisting with the sale of liquor only to those not otherwise prohibited from the purchase or consumption of liquor.
10. The focus of the operation is to be the provision of boutique craft products, and it is not the intention of the applicant to be a bottleshop or general takeaway outlet.
11. Although supportive of the request, it is the Director's belief any implementation of the identification system must be subject to the operational provisions of section 130 and section 131 of the Act.
12. Those sections prescribe the operation of the identification system and the penalty provisions in the event of non-compliance with section 130 of the Act.
13. The Director acknowledges the need for a mechanism to ensure the efficient and proper use of the identification system, and prevent an unintentional contravention of the Act.

ACKNOWLEDGEMENT OF CONCERNS

14. The Darwin Brewing Corporation Pty Ltd acknowledges the Director's concerns and believes that they are reasonably held.

UNDERTAKING:

15. Under section 159(3) of the Act, the Darwin Brewing Corporation Pty Ltd has offered, and the Director has agreed to accept, in an effort to prevent the risk of harm to individuals under a banned drinker order from purchasing liquor for consumption away from the premises, the undertaking set out in this Enforceable Undertaking.

NON-COMPLIANCE

16. Should the Director believe that either party has failed to materially comply with the Enforceable Undertaking as described in clause 15 she will write to the parties setting out the concerns regarding non-compliance.
17. The parties will have 14 days from the date of the Director's letter referred to in clause 16 to provide evidence satisfactory to the Director that it has remedied such non-compliance.
18. The provisions of clause 16 and 17 notwithstanding, the Director reserves the right to take disciplinary action against the licensee in accordance with the Act for any non-compliance with this undertaking.
19. Prior to exercising any reserved right, the licensee will be advised of the Director's intention and their rights in relation to this exercise.

ACKNOWLEDGEMENTS

20. The parties acknowledge that the Director, in accordance with section 159(6) of the Act, will record this Enforceable Undertaking in the Register of Enforceable Undertakings.
21. The parties also acknowledge, in accordance with section 159(7) of the Act that it may vary or withdraw this Enforceable Undertaking only with the consent of the Director.

COMMENCEMENT DATE:

22. This Enforceable Undertaking will commence operative force from the date it is accepted by the Director.

PROVISION OF DOCUMENTS:

23. The address for providing the Director with any document or notice is:

The Director of Liquor of Licensing
GPO Box 1154
DARWIN NT 0801
DirectorLiquorLicensing.DITT@nt.gov.au

24. The addresses for providing Darwin Brewing Corporation Pty Ltd with any document or notice is:

Darwin Brewing Corporation Pty Ltd
1/18 Totem Road
Coconut Grove NT 0810
ryan@darwinbrewing.co

SIGNED BY:



Ryan Lucas
Director

For and on behalf of Darwin Brewing Corporation Pty Ltd (ACN 641 400 160)

Dated this *24th* day of *July* 2024.

Accepted by the Director of Liquor Licensing under section 159(5) of the
Liquor Act 2019.



Melissa Garde
Director of Liquor Licensing

Dated this 24 day of July 2024.