

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the grant of a licence and authority
APPLICANT:	Haigh Rural Enterprises Pty Ltd
PROPOSED PREMISES:	Athelle Outback Hideaway 2879 Cavenagh Road Anmatjere NT 0872
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> - Part 3 and 4
DECISION OF:	Southern Region Manager – Licensing & Compliance
DATE OF DECISION:	17 June 2024

DECISION

1. As a delegate of the Director of Liquor Licensing, I approve the application by Haigh Rural Enterprises Pty Ltd for the grant of a liquor licence with a special venture authority, for the premises known as the Athelle Outback Hideaway, 2879 Cavenagh Road, Anmatjere.
2. The grant of the licence is for the provision of liquor to bona-fide residents of the Athelle Outback Hideaway, and guests pre-registered for events to be held at the premises, for consumption on the premises only.
3. The licence is granted in pursuance of section 60 of the Act, with reference to section 47(1)(i) of the Act, being a special venture authority.
4. The operating conditions in relation to the special venture authority are in accordance with regulations 91, 92 and 93 of the *Liquor Regulations 2019* (the Regulations) and the following special conditions:
 - a) All liquor is to be sold in open containers, with a maximum of six (6) individual items per person per day;
 - b) The items available for sale are as per the Drink Menu provided with the application and identified as Schedule 1 of the liquor licence, or such other menu as approved in writing by the Director of Liquor Licensing or their delegate;

- c) Bottles of spirits, cartons or beer or pre-mixed spirits, or bottles other fortified products are not to be sold to patrons;
- d) Liquor may only be sold to bona-fide residents of the premises or registered attendees of events, for consumption on the premises;
- e) No takeaway liquor is to be sold to any person.

BACKGROUND

5. Pursuant to section 52 of the Act, Mrs Danyelle Haigh a joint shareholder of Haigh Rural Enterprises Pty Ltd, lodged an application for a licence with a **special venture authority** on 10 February 2024.
6. This application was incomplete with the remaining materials provided on 4 April 2024.

CURRENT SITUATION

7. The application is for a licence to allow for the sale of liquor to residents of the premises who are registered guests for the licensee's accommodation services or special events which may be held from time to time.
8. The sale of liquor is not a primary element, it is complementary to the overall services provided to the guests of the rural enterprise, which include tours, farm stay activities and other cultural events at which food and drinks may be provided.
9. The sale of liquor is not intended for the general public, or casual visitors.
10. The applicant has provided the material prescribed in section 52 of the Act including:
 - an affidavit made under section 54;
 - evidence necessary to satisfy the onus specified in section 51; and
 - the application fee.
11. A Drinks Menu has been provided and is to be included as Schedule 1 of the licence.

NOTIFICATIONS, PUBLIC NOTICES AND OBJECTIONS

12. Amendments to the Act in November 2021 inserted section 57(2A) which provides the Director with a discretion to exempt an applicant from the public notice requirements if the Director is of the opinion that the application discloses no public interest issues.
13. Accompanying the application was a request by Mrs Haigh to exempt the applicant from the public notice requirements in pursuance of section 57(2A) of the Act.

14. I reviewed the materials provided and was satisfied the application did not disclose sufficient public interest to warrant public notices to be issued.
15. The restrictive nature of the proposed business, and limited services is evidence of the minimal nature of the public interest and low risk of harm or adverse impact on the community in this matter.
16. Accordingly, I exercised my discretion to exempt the applicant as requested, but noting the notification provisions prescribed in section 56(4) of the Act.
17. In pursuance of section 56(4) of the Act the application was notified to the Commissioner of Police and the Chief Executive Officers of the Department of Health (Health) and Central Desert Regional Council.
18. Although not a statutory requirement, as is practice, notification of the application was sent to the Northern Territory Fire and Rescue Service (NTFRS).
19. Neither Police nor Health opposed the application.
20. No responses were received from any stakeholder.
21. It is noted similar applications have likewise received no response from the Council, and given the remote location NTFRS have traditionally advised they are unable to provide comment.

APPLICATION

22. The applicant has provided a suitable suite of materials in support of the application including all materials prescribed by the Act.
23. The authority sought by the applicant is in pursuance of section 47(1)(i) of the Act.
24. The determination of applications under section 60(1) of the Act has been conditionally delegated by the Liquor Commission to the Director of Liquor Licensing. The limitation including the authorities which may be granted under delegation being a special venture authority.
25. The Director further delegated these powers to me by instrument.

DISCLOSURE OF PERSONS

26. 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.
27. I am satisfied with the materials provided by the applicant in relation to this requirement and note the applicant is the licensee for a number of other substantial premises.

RESULTS OF INVESTIGATION

28. 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.
29. A fulsome Business Plan was provided detailing the exclusive nature of the premises and services to be offered.
30. The services are complementary to the rural operations, not a significant attractor.

FINANCIAL STABILITY

31. I am satisfied with the materials provided of the financial stability and business reputation of the applicant.

FIT AND PROPER PERSON

32. 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.
33. The applicant provided materials in support of this and Mrs Haigh is to be the licensee's nominee in pursuance of section 53(3) of the Act.
34. Having considered the materials provided I am satisfied the applicant and Mrs Haigh is a fit and proper person to hold a licence and be the nominee.

PUBLIC INTEREST AND COMMUNITY IMPACT

35. 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.

36. The first branch of the requirement has already been addressed.
37. 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.
38. In determining whether there would be a "significant adverse impact on the community" section 49(3) of the Act prescribes the decision maker "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.
39. 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.
40. 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 *Liquor Act 2019*, and are taken to be community impact assessment guidelines issued under section 50 of the Act.
41. Those matters remain as previously published in numerous decisions by the Liquor Commission and I am guided by these decisions.

CONSIDERATION CRITERIA

42. Consideration must be made of the applicant's affidavit, the results of any investigation, objections and responses, the suitability of the premises along with the appropriateness of the applicant to be a licensee.
43. With regards to the matters raised in section 49(2) of the Act, I note the following:
- a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised:

I am satisfied the provision of liquor is complementary to the primary activities of the rural enterprise and is not the significant attractor.

Conditions have been placed on the limitation of products available for service.
 - b. ensuring liquor is to be sold, supplied, served and consumed, on or in licensed premises in a responsible manner:

Having considered all the material, it is unlikely any liquor sold, supplied, served and consumed will be done so in an irresponsible manner. As written previously the sale of liquor has been limited to not more than six (6) drinks per person per day.
 - 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:

The remote location and restricted patronage of the facility makes it improbable that public order and safety are likely to be jeopardised by the operation of the licence, also the licensee has prepared a suitable business plan including processes to safeguard against harm.

- d. protecting the safety, health and welfare of people who use licensed premises:

The policies developed by the applicant applicable to the premises are considered to adequately protect the safety, health and welfare of people who are likely to use the licensed premises during its hours of operation.

- e. increasing cultural, recreational, employment or tourism benefits for the local community area:

The primary intention of the premises is to provide a rural and cultural experience, not simply the sale of liquor.

- f. promoting compliance with this Act and other relevant laws of the Territory:

There are no materials provided which would suggest the applicant will not comply with the Act and any other relevant laws.

- g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business:

I am satisfied the applicant will appropriately manage and supervise service staff.

- h. preventing the giving of credit in sales of liquor to people:

No issues have been raised to suggest there is any concern in relation to this objective.

- i. preventing the practices that encourage irresponsible drinking:

No issues have been raised to suggest there is any concern in relation to this objective.

- j. reducing or limiting increases in anti-social behaviour:

No issues have been raised to suggest there is any concern in relation to this objective.

44. Turning to the matters under section 49(3):

- 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:

There are no materials to suggest there is a significant risk of undue offence, annoyance, disturbance or inconvenience likely to be caused by the granting of these authorities. The premises are remote and a destination, not one on a general thoroughfare.

- b. the geographic area that would be affected:

There are no other residents within the immediate vicinity of the premises and therefore no adverse impact will result from this licence.

- c. the risk of harm from the excessive or inappropriate consumption of liquor:

As previously indicated, there are no materials to suggest there will be excessive consumption of liquor.

The sale of products is limited to six (6) per person per day. It necessarily follows the likelihood of a person being intoxicated through the sale of liquor by this licensee is negligible.

- d. the people or community who would be affected:

Given the remote location of the premises it is unlikely there will be significant adverse impact on the community by the granting of this licence.

- e. the effect on culture, recreation, employment and tourism:

I see there to be no issue in relation to this matter.

- f. the effect on social amenities and public health:

It is unlikely there will be any significant adverse impact on the social amenities and public health by the granting of this licence to the applicant.

- g. the ratio of existing liquor licences and authorities in the community to the population of the community:

This consideration of no matter as the premises are not within close proximity of other licensed premises and not open to the general public for casual consumption.

- h. the effect of the volume of liquor sales on the community:

The minimal nature of the operation is unlikely to significantly increase the volume of liquor sales in the wider Central regional area.

- i. the community impact assessment guidelines issued under section 50:

These have been considered and referred to earlier in this notice.

- 45. Having regards to the foregoing, I am satisfied that the issuing of the licence as sought is in the public interest and will not have an adverse effect on the community.

REVIEW OF DECISION

- 46. 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.
- 47. The Director delegated the determination of applications made under section 52 of the Act by instrument to the person from time to time holding, acting in or performing the duties of the position listed in the Schedule of that instrument. This decision was made by a person referred to in that schedule.

48. 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.

49. Accordingly, the affected persons in relation to this decision are Haigh Rural Enterprises Pty.



Mark Wood
Southern Region Manager – Licensing & Compliance
Delegate of the Director of Liquor Licensing

17 June 2024

NOTE: With reference to [4] above - SCHEDULE 1 follows below.



ATHELLE
OUTBACK
HIDEAWAY

Drink Menu

Non-Alcoholic

Slushies (Raspberry & Blue Lagoon) – Reg \$5 each
Cans 375ml (Coke, Coke Zero, Solo, Lemonade, Fanta) - \$4 each
Juice Poppers (Apple, Orange, Tropical) - \$2.50 each

Mocktails - \$15

Shirley Temple - Ginger ale or lemon-lime soda, Grenadine, Maraschino cherry for garnish
Virgin Mojito - Fresh mint leaves, Lime juice, Simple syrup, Soda, Lime wedge & mint sprig for garnish
Arnold Palmer - Iced tea, Lemonade, Lemon slice for garnish
Roy Rogers – Cola, Grenadine, Maraschino cherry for garnish
No Tequila Sunrise - Orange juice, Grenadine, Orange slice for garnish
Virgin Mule - Ginger beer, Lime juice, Simple syrup, Mint leaves and/or lime for garnish

Alcoholic Pre Mix 375ml Cans

Smirnoff Vodka Cruiser - \$9
Bundaberg Rum - \$9
Gordons Pink Gin - \$9
Jim Beam - \$9
Canadian Club & Dry - \$9
Johnnie Walker Red Label - \$9
XXXX- \$6
Great Northern- \$6
VB- \$6
Alice Springs Brewing Co (Summer Ale, Pale Ale, Centralian Ale, Specificale) - \$9

Alcoholic Mix

Bundaberg Rum & Coke glass - \$8
Smirnoff Vodka & Soda glass - \$8
Gordons Pink Gin & Soda glass - \$8
Gin & Tonic glass - \$8

Wine & Champagne

Janz Sparkling - \$36 750ml bottle / \$6 a glass
Brown Brothers Prosecco - \$28 750ml bottle / \$5 a glass
Oyster Bay Marlborough Sauvignon Blanc - \$30 750ml bottle / \$6 a glass
Jacob's Creek Chardonnay - \$20 750ml bottle / \$4 a glass
Jacobs Creek Sauvignon Blanc - \$25 750ml bottle / \$5 a glass
Jacobs Creek Shiraz - \$25 750ml bottle / \$5 a glass

Cocktails - \$22

Cosmopolitans – Vodka, Cointreau, Cranberry Juice, Lime Juice
Mojito – Fresh mint leaves, white rum, lime juice, simple syrup
Manhattan – whiskey, sweet vermouth, Angostura bitters
Mimosa – champagne, orange juice
Long Island Iced Tea – gin, white rum, tequila, vodka, triple sec, sour mix / lemon juice
Sex on the Beach – vodka, peach schnapps, orange juice, cranberry juice
White Russian – vodka, Kahlua, heavy cream
Pina Colada – rum, pineapple juice, coconut cream
Espresso Martini – vodka, coffee liquor, espresso, simple syrup