

Delegate of the Director of Liquor Licensing Decision Notice

MATTER:	Application for the grant of a licence and authority
APPLICANT:	Hoberts Pty Ltd (ACN 629 593 559) as Trustee for Hopper Roberts Family Trust (ABN 72 556 140 031)
PROPOSED PREMISES:	The Roastery DuYu Coffee 9 Hele Crescent Ciccone NT 0870
OBJECTORS:	Nil
LEGISLATION:	Part 3, Division 4 of the <i>Liquor Act 2019</i>
DECISION OF:	Senior Director Racing & Gaming
DATE OF DECISION:	30 March 2023

DECISION

1. As a Delegate of the Director of Liquor Licensing (Director), I approve the application by Hoberts Pty Ltd (ACN 629 593 559) as Trustee for Hopper Roberts Family Trust (ABN 72 556 140 031) for the grant of a liquor licence with a community event authority, for the premises known as The Roastery, DuYu Coffee, 9 Hele Crescent, Ciccone NT 0870.
2. The application is for a licence to allow for the sale of liquor at regular but infrequent events organised by the applicant at DuYu Coffee.
3. The licence is granted pursuant to section 60 of the *Liquor Act 2019* (Act), with reference to section 47(1)(p) of the Act, being a community event authority.
4. The operating conditions in relation to the community event authority are in accordance with section 50 of the Liquor Regulations 2019 (the Regulations).
5. In accordance with section 49 of the Regulations and section 47(1)(p) of the Act the hours of operation will be:
 - Monday: 12:00 hours (midday) to 01:00 hours (the following day)
 - Tuesday: 12:00 hours (midday) to 01:00 hours (the following day)
 - Wednesday: 12:00 hours (midday) to 01:00 hours (the following day)
 - Thursday: 12:00 hours (midday) to 01:00 hours (the following day)
 - Friday: 12:00 hours (midday) to 01:00 hours (the following day)
 - Saturday: 12:00 hours (midday) to 01:00 hours (the following day)
 - Sunday: 12:00 hours (midday) to 01:00 hours (the following day)

BACKGROUND

6. Pursuant to section 52 of the Act, Ms Estelle Roberts, on behalf of Hoberts Pty Ltd as Trustee for Hopper Roberts Family Trust, lodged an application for a liquor licence with a **community event authority** on 28 October 2022.
7. The original application was refused on 08 December 2022 due to the applicant failing to provide a full and complete application and the required documents.
8. The application was resubmitted on 16 February 2023.

CURRENT SITUATION

9. The grant of the licence is for the Hoberts Pty Ltd as Trustee for Hopper Roberts Family Trust to be able to sell, serve and supply alcohol at exhibition openings and other small events held at The Roastery, DuYu Coffee.
10. The Roastery, DuYu Coffee, also known as DuYu Coffee Roasters is a small batch coffee bean roastery that primarily sells coffee beans to a variety of local retailers and cafes situated primarily in Alice Springs.
11. The premises also contains a shopfront for coffee bean sales direct to the public, a café, and exhibition space and headquarters that can be hired for exhibition openings, private parties and events.
12. The applicant expects to hold approximately 12 events per year and would like to streamline the application process by securing a community event authority licence rather than applying for a special event authority licence for each event.
13. The applicant has previously been approved for five liquor licences with special event authorities for events held between 2021 and 2022.
14. 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.

NOTIFICATIONS, PUBLIC NOTICES AND OBJECTIONS

15. Section 57(2)(a) of the Act provides the Director with discretion to exempt an applicant from the public notice requirements if the application is for a licence with only a community event authority.
16. Accompanying the application was a request by Ms Roberts to exempt the applicant from the public notice requirements in pursuance of section 57(2)(a) of the Act.
17. As a Delegate to the Director, I reviewed the materials provided and was satisfied the application was for a liquor licence with only a community event authority.
18. Accordingly, I exercised my discretion to exempt the applicant as requested, but noting the notification provisions prescribed in section 56(4) of the Act.
19. 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 the Chief Executive Officer of the MacDonnell Regional Council.
20. Although not a statutory requirement, as is practice, notification of the application was sent to the Northern Territory Fire and Rescue Service.
21. No objections were lodged in relation to this matter, nor were there any adverse comments from any stakeholder.
22. As no objections, nor adverse matters were raised I am able to determine this matter under delegation rather than referring the matter to the NT Liquor Commission.

APPLICATION

23. The applicant has provided all the necessary materials in support of the application including all materials prescribed by the Act.
24. The authority sought by the applicant is pursuant to section 47(1)(p) of the Act.
25. The determination of applications under section 60(1) of the Act has been conditionally delegated by the NT Liquor Commission to the Director of Liquor Licensing. The limitation including the authorities which may be granted under delegation being a community event authority.
26. The Director further delegated these powers to the Senior Director Racing and Gaming by instrument dated the 07 February 2023.

DISCLOSURE OF PERSONS

27. 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
28. I am satisfied with the materials provided by the applicant in relation to this requirement.

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.

FINANCIAL STABILITY

30. I am satisfied with the materials provided of the financial stability and business reputation of the applicant.
31. As written previously, the applicant's primary business and income source is the sale of roasted coffee beans.
32. As per section 47(1)(p) the applicant will only be permitted to sell, supply, serve liquor during events organised by the licensee at the licensed premises on a regular but infrequent basis.
33. The applicant's main source of income will not be through the sale, supply or service of liquor and a liquor licence is merely complimentary to the operations of the existing business, allowing the applicant to expand their business offerings through gallery and event space hire.

FIT AND PROPER PERSON

34. 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.
35. The applicant provided materials in support of this and Ms Roberts is to be the licensee's nominee pursuant to section 53(3) of the Act.
36. Having considered the materials provided I am satisfied the applicant and Ms Roberts are fit and proper persons to hold a licence and act as nominee.

PUBLIC INTEREST AND COMMUNITY IMPACT

37. 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.
38. The first branch of the requirement has already been addressed.

39. 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.
40. 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.
41. 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.
42. 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.
43. Those matters remain as previously published in numerous decisions by the NT Liquor Commission and I am guided by these decisions.

CONSIDERATION CRITERIA

44. 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.

45. 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 primary operation and purpose of the premises and that it is not a significant attractor.

The applicant has applied for a community event authority which limits the sale of alcohol to regular but infrequent events hosted by the licensee at the licenced premises.

The applicant has also expressed that they often limit the sale of alcohol products to wine by the glass and beer in addition to offering complimentary snacks, non-alcoholic beverages and a full menu.

- 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 with the primary focus being on the event held and not the sale, supply or service of liquor.

- 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:

It is unlikely that public order and safety will be effected by the issue of a liquor licence as the premises is located in a light industry zone with very few nearby residences.

It is probable that persons attending events held would more likely improve the community and social atmosphere of the area and potentially be a deterrent to anti-social behaviour whilst providing a safer neighbourhood.

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

By following responsible service of alcohol guidelines it is conceivable that the applicant will 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:

It is evident that DuYu Coffee is an emerging business that is continuing to grow and contribute to the local community through local employment and training opportunities and providing unique cultural, recreational and tourism offerings.

- 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, supervise and train and additional service staff that may be required in the future.

- 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:

I am satisfied that the limited opportunities to trade, permitted under section 47(1)(p) of the Act, in addition to the applicant's strong stance on following responsible service of alcohol and the provision of delivering adequate training will reduce or limit any anti-social behaviour.

46. 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 this licence and authority. The site is located in a light industrial area and the events can only occur on a regular but infrequent basis, with the requirement that Licensing NT be notified 14 days prior to the event.

- b. The geographic area that would be affected:

There are a small number of nearby residents that often attend events hosted by the applicant and are unlikely to be affected negatively by any event held

- 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.

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

Given the light industrial 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 matter requires little consideration as the community event authority which the applicant has applied for does not permit daily trade and the applicant only plans to hold approximately 12 events per year which would meet the definition of a community event authority liquor licence as specified in section 47(1)(p) of the Act.

- 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 Alice Springs area.

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

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

47. Section 85 of the Act previously required 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. That provision has also been amended to remove the requirement for a term to be stated. A licence simply remains in force until it expires or is abandoned, surrendered, suspended or cancelled.

48. 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

49. Section 27 of the Act provides for the applicant or a person who made a submission the subject of this decision, to seek a review of the decision made by the Delegate of the Director.
50. The Director delegated the determination of applications made under section 199 of the Act by instrument to me on the 07 February 2023.
51. 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 review and the facts relied on to establish the grounds.
52. Accordingly, the affected persons in relation to this decision are Hoberts Pty Ltd as Trustee for Hopper Roberts Family Trust, Northern Territory Police, Northern Territory Fire and Rescue Service and The Department of Health.



Melissa Garde
Senior Director Racing and Gaming
Delegate of the Director of Liquor Licensing
30 March 2023