

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A LIQUOR LICENCE

LICENCE NUMBER: LC2019/087

PREMISES: **Grill Me Crazy**
Lot 105
6/70 Todd Street
ALICE SPRINGS NT 0870

APPLICANT: **AVXY Pty Ltd**

NOMINEE: Mr Ashish Amrikal Batra

LEGISLATION: Part III of the *Liquor Act 1978*

HEARD BEFORE: Mr Russell Goldflam (Acting Deputy Chairperson)
Ms Pauline Reynolds (Health Member)
Ms Sandra Cannon (Community Member)

DATE OF HEARING: 29 July 2019

DATE OF DECISION: 29 July 2019

DECISION

1. For the reasons set out below and in accordance with section 29 of the *Liquor Act 1978* (the Act) the Commission has determined to issue a licence to AVXY Pty Ltd (the Applicant) authorising the sale of liquor for consumption ancillary to a substantial meal in the in-dining area of the Grill Me Crazy restaurant situated at 6/70 Todd Street, Alice Springs in the area delineated in red on the floor plan set out at page 123 of Exhibit One admitted at the hearing of the application (the licensed area), seven days a week between 11:00 hours and 22:00 hours.

REASONS

BACKGROUND

2. The Applicant is a registered Australian Proprietary Company limited by shares that operates under its registered business name Grill Me Crazy, a takeaway and dine-in family-friendly burger, pizza and Mexican restaurant in the Central Business District of Alice Springs on premises which had been previously occupied for many years by

another licensed restaurant. The Applicant seeks a licence authorising it to supply liquor ancillary to a meal to its dine-in guests.

3. In April 2019 the Applicant, having fitted out the premises and set up the business, commenced trading as a BYO restaurant. At the time of the hearing of the application, Grill Me Crazy was already operating as a going concern, albeit without supplying or selling liquor.
4. The Applicant lodged a completed application with Licensing NT on 25 March 2019, and, following community notification and consultation, and an assessment by Licensing NT of the application, on 17 June 2019 a Delegate of the Director-General of Licensing (the Director-General) referred the application to the Commission for hearing pursuant to sections 28(1) and 50(a) of the Act.
5. The Director-General provided the Commission with a brief of evidence (the brief) including:
 - Application for a liquor licence dated 9 March 2019
 - Affidavit for purposes of s26A of the Act deposited by Ms Yamini Ravinder Gauba (Ms Gauba) dated 3 May 2018
 - Community Impact and Public Interest Assessment statement in compliance with s6 and s6A of the Act
 - Extract from ASIC current and historical company register for applicant
 - Documents certifying identity, managerial capacity, financial stability and character of Ms Gauba
 - Documents certifying identity, managerial capacity, financial stability, character and RSA certification of Mr Ashish Amrikal Batra (Mr Batra)
 - Applicant's lease agreement, consent from landlord to apply for liquor licence and business plan
 - Certificate of applicant's registration as a food business dated 8 March 2019
 - Plan of proposed licensed area
 - Public notices of application for grant of a liquor licence, dated 5 and 9 April 2019
 - Correspondence between Licensing NT and: Department of Health (DOH); NT Police; NT Fire and Rescue Service (NTFRS); and Alice Springs Town Council (ASTC).

ADVERTISING AND NOTIFICATION

6. The first advertisement that appeared in the Centralian Advocate had the incorrect address. Details of the application were advertised in the Northern Territory News on 5 April 2019 and 9 April 2019. In addition, signage notifying the application displayed at the proposed premises for a period of 30 days. The objection period expired on 10 May 2019.
7. No objections to the application were lodged.

8. The Director-General informed the DOH, NT Police, NTFRS and ASTC of the application.
9. The Commission notes that the following responses were received:
 - a. The DOH made “no adverse comment”, but reminded the Applicant of the applicable smoking compliance requirements.
 - b. The NT Police advised that they had “no objections”, but requested the Applicant to install CCTV and ensure that security measures were in place to prevent the theft of liquor from the licensed area.
 - c. The NTFRS advised it had “no issues”.
 - d. The ASTC responded that it had “no objections”.
10. In reply to the request by NT Police, the Applicant informed the Director-General that it had installed CCTV to monitor both inside and outside the premises, as well as automatic rolling shutter doors to secure the front entrance and windows, and a crimsafe security screen and three locks on the rear door of the premises. In addition, the Applicant’s landlord has installed a padlocked gate to secure the rear access lane to the premises.

HEARING

11. The hearing was conducted in public on 29 July 2019. Ms Gauba and Mr Batra appeared on behalf of the Applicant. Mr Verinder appeared for the Director-General. The Commission thanks them all for their attendance and assistance. The Commission read the brief, which was tendered as the sole exhibit in the proceedings.

ASSESSMENT OF THE APPLICATION

12. The Commission has considered the application, the s26A affidavit of Ms Gauba, the results of the investigations conducted by the Director-General in relation to the application, and the application of the public interest and community test. Having done so, the Commission has determined to grant the application and issue a liquor licence to the Applicant, as detailed below.

THE APPLICANT’S PREMISES

13. The proposed licenced area was for many years an Alice Springs licensed pizza and pasta restaurant, La Casalinga, which closed down in about 2018. The premises are located in a retail precinct with numerous nearby restaurants, cafes, takeaway eateries and licensed premises, including a hotel. The Applicant has a commercial lease over the premises until 30 June 2024, and the owner supports the tenant’s application for a liquor licence. There is ample public parking nearby. The premises are protected against break-ins by appropriate security measures installed by the Applicant and the Applicant’s landlord, as well as police surveillance of the Alice Springs CBD by frequent patrols and an extensive CCTV network.
14. In accordance with s28(2)(a) of the Act, the Commission assesses the premises as suitable for the supply and consumption of liquor in the manner set out in the application.

THE APPLICANT

15. The Applicant has been a registered company since 13 February 2019. The sole Director, Company Secretary and sole shareholder is Ms Gauba, an Australian citizen. In accordance with s28(2)(c), the Commission assesses that both the business reputation and financial stability of the Applicant, and the general reputation and character of the Applicant's Executive Officer, Ms Gauba, to be satisfactory.
16. In accordance with s28(2)(e) of the Act, the Commission assesses the Applicant to be a fit and proper person to hold a licence.
17. Section 26A of the Act requires Applicants to depose an affidavit disclosing whether certain persons may be able to influence the Applicant, or expect a benefit from the Applicant, if the licence is granted. Ms Gauba, as the principal Executive Officer of the Applicant, affirmed in her affidavit deposed on 3 May 2019 that the only such person other than herself was a then Director and Shareholder who the Commission is satisfied subsequently, on 10 May 2019, relinquished his Directorship and transferred all his shares in the company to Ms Gauba. Accordingly, the Commission finds that there is no person referred to in the s26A affidavit who is an associate of the licensee for the purpose of s28(2)(f).
18. The Commission considers that Mr Batra, the husband of Ms Gauba, is an associate of the licensee, and that it is appropriate to assess whether he is a fit and proper person for the purpose of s28(2)(g). The Commission assesses Mr Batra, an Australian citizen who has resided for over ten years in Central Australia and has extensive experience at an executive level in the restaurant and catering industry, to be a fit and proper person to be an associate of the licensee.
19. The Applicant has nominated Mr Batra as its licence nominee. In accordance with s28(2)(h) of the Act, the Commission assesses Mr Batra, who holds current RSA certification, to be a fit and proper person to manage the licence.

PUBLIC INTEREST AND COMMUNITY IMPACT

20. Section 6B of the Act provides that the Applicant bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test set out in s6 of the Act. In considering and determining this application, the Commission has had regard to the objects of the Act and applied the public interest and community impact test by reference to the community impact assessment guidelines published by the Minister on 6 March 2018 pursuant to s6A of the Act. The guidelines are detailed and specific, but also state that:

The Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits.

21. The Commission assesses the impact of the licence on the community as being moderately beneficial, having regard to the following:
 - The premises have a lengthy and continuous history as a licensed restaurant, interrupted only when the previous licensee ceased to operate.

- Several of the businesses in the Gregory Terrace strip between Todd Street and Hartley Street have closed their doors in recent years, and the establishment of the enterprise should help to revitalise this retail, tourism and entertainment precinct.
- The business appears to have reasonable prospects: both the premises and the menu are fresh and distinctive, the nominee has an impressive record of achievement in the industry, and the licensee has the capacity to make the significant investment required to establish and operate the business until it achieves profitability.
- Liquor will only be served ancillary to a meal.
- Trading will cease at 22:00 hours.
- Appropriate measures have been implemented to mitigate the risk of break-ins after hours.

22. The Commission is satisfied that the Applicant has met the public interest and community impact test.

LICENCE CONDITIONS

23. The general conditions applicable to an **Authority – On Licence** licence shall apply. In addition, a condition is fixed that liquor may only be sold ancillary to a substantial meal.

24. The licence is issued effective from 29 July 2019.

NOTICE OF RIGHTS

25. Section 120ZA of the Act provides that a reviewable decision is a Commission decision that is specified in the Schedule to the Act. A decision to issue a licence pursuant to section 29 of the Act is specified in the Schedule and is a reviewable decision.

26. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision.

27. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected person is the Applicant.



RUSSELL GOLDFLAM
 ACTING DEPUTY CHAIRPERSON
 NORTHERN TERRITORY LIQUOR COMMISSION
 6 August 2019
 On behalf of Commissioners, Goldflam, Reynolds and Cannon