

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the grant of a licence and authority
APPLICANT:	Discovery Holiday Parks Pty Ltd
PROPOSED PREMISES:	Delamere Air Weapons Range 5445 Buntine Highway Buntine NT
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> - Part 3 and 4
DECISION OF:	Manager Licensing - Liquor, Gambling & Racing
DATE OF DECISION:	15 February 2022

DECISION

1. As a delegate of the Director of Liquor Licensing, I approve the application by Discovery Holiday Parks Pty Ltd for the grant of a liquor licence with a catering authority, for the premises known as the Camp One Expansion at the Delamere Air Weapons Range, 5445 Buntine Highway, Buntine.
2. The grant of the licence is for the Camp One Expansion, providing accommodation and catering services to the workers and contractors who reside and work at the Range.
3. The licence is granted in pursuance of section 60 of the Act, with reference to section 47(1)(m) of the Act, being a catering authority.
4. The operating conditions in relation to the catering authority are in accordance with regulations 34, 35 and 36 of the *Liquor Regulations 2019* (the Regulations) and the following special conditions:
 - a) The hours of operation are to be between 18:00 and 21:00 seven (7) days a week;
 - b) The sale of liquor is restricted to light and mid-strength liquor, being liquor with an alcohol by volume content of not more the 3.99%. For the avoidance of doubt, the restriction is only on alcohol content, there is no product limitation

and therefore mid-strength pre-mix spirits and the like may be sold at the licensee's discretion;

- c) The sale of liquor is limited to four (4) items per person, per day and all liquor must be opened at the point of sale;
- d) The sale of liquor is restricted to bona-fide residents of the accommodation facilities and workers and contractors authorised to be on-site;
- e) The licensee is to have available information materials in relation to the National Health and Medical Research Council's "Building a Healthy Australia – Alcohol Guidelines" for all residents.

BACKGROUND

5. Pursuant to section 52 of the Act, Mr Andrew Giles of HWL Ebsworth as counsel for the applicant Discovery Holiday Parks Pty Ltd, lodged an application for a licence with a **catering authority** on 1 February 2022.

CURRENT SITUATION

6. The application is for a licence to allow for the sale of liquor to residents of the site who are employed as workers and contractors for the civil infrastructure project at the Range.
7. As described, these patrons are resident and the licensee is contracted to provide the village reception, accommodation management, catering, cleaning and janitorial and recreational services to the residents.
8. The sale of liquor is not a primary element, it is complementary to the overall services provided to the residents of the village, in particular the meal and food services.
9. Access to the site is restricted to workers and contractors, as well as invited guests, with the general public being prohibited from entry.
10. The Range itself is a defence facility which would ordinarily be exempted from the requirement to be licensed under section 43(1) of the Act, however this wet mess is for the contractors, not the defence personnel and therefore the exemption does not apply.
11. 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.
12. A comprehensive range of food and snacks will be provided as part of the accommodation services and non-alcoholic products will be provided.

13. The provision of liquor is ancillary and complementary to the primary business of management of the camp and accommodation facilities.

NOTIFICATIONS, PUBLIC NOTICES AND OBJECTIONS

14. 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.
15. Accompanying the application was a request by Mr Giles to exempt the applicant from the public notice requirements in pursuance of section 57(2A) of the Act.
16. I reviewed the materials provided and was satisfied the application did not disclose sufficient public interest to warrant public notices to be issued.
17. The restrictive nature of entry to the facility, prohibiting the general public is evidence of the minimal nature of the public interest in this matter.
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 Victoria Daly 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. Police did not oppose the application and noted the applicant "...already has similar licences and has volunteered suitable conditions that should mitigate any issues".
22. On behalf of Health, Mr David Scholz, Director – Clinical Policy and Planning, Mental Health, Alcohol and Other Drugs Branch whilst stating an opposition to the application, noted the proposal:

"...as it stands produces a health risk by exceeding safe drinking guidelines if they are on-site for more than 3 consecutive days...(and) would result in between 3.2 and 4 standard drinks per day which is on the daily limit but exceed the recommended weekly limit".
23. Ms Scholz suggested safe drinking guidelines should be displayed in the licensed area and other harm minimisation measures should apply such as mandatory food, the promotion of water and soft drinks and "strong" responsible service of alcohol.

24. Station Officer Matthew Francis of NTFRS advised that due to the remote location and lack of resources the NTFRS could not provide comment on this matter.
25. These comments were provided to Mr Giles who responded on 11 February 2022 noting the following in relation to the comments from Health:
 - the comments did not rise to the level of an objection and should be accepted as one;
 - the applicant is well experienced as a licensee, without incidents or any adverse matters, with all requisite precautions and safeguards in place to minimise the risk of harm;
 - the licensee will ensure suitable materials promoting safe drinking practices are displayed and have included a fulsome service plan including harm mitigation processes.
26. Mr Giles further submitted as the comments by Mr Scholz did not meet the requisite threshold of an objection, the matter could be determined by the Director under delegation.
27. The Victoria Daly Regional Council did not provide any response to the notification.

APPLICATION

28. The applicant has provided a comprehensive suite of materials in support of the application including all materials prescribed by the Act.
29. The authority sought by the applicant is in pursuance of section 47(1)(m) of the Act.
30. 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 **catering authority**.
31. The Director further delegated these powers to the Manager Licensing – Liquor, Gambling and Racing by instrument dated 29 November 2021.
32. The applicant volunteered several restrictive conditions in support of their application, including the limitation on products to light and mid-strength beer only. Such a restriction historically is not uncommon, however the range of non, low and mid-strength liquor products has grown significantly in recent times.
33. Their acceptance mirrors this expansion and whilst I applaud the applicant for their proposed restriction on products, I am not minded to impose such a restriction to only beer. The Liquor Commission has recently varied a number of remote liquor licences to allow for an expansion on products, whilst still maintaining the restriction on strength.

34. I therefore leave the option open for the licensee to offer a wider range of products to their patrons at their discretion.

DISCLOSURE OF PERSONS

35. 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.

36. 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

37. 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.

38. A fulsome Business Plan was provided detailing the exclusive nature of the premises and comprehensive services to be offered, with the general public prohibited from the site.

39. Services include accommodation and other residential services such as laundry and cleaning, all meals and recreational activities as well as the limited bar facilities.

FINANCIAL STABILITY

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

41. As written previously, the applicant operates several other licensed premises within the Territory, and is a national company with numerous facilities throughout Australia.

42. The applicant separate from their tourist activities, is a major provider of corporate and workforce accommodation throughout Australia.

43. The applicant is considered one of the largest facilities management organisations in Australia.

FIT AND PROPER PERSON

44. 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.

45. The applicant provided materials in support of this and Mr Brendan Andrew Bopping is to be the licensee's nominee in pursuance of section 53(3) of the Act.
46. Having considered the materials provided I am satisfied the applicant and Mr Bopping are fit and proper persons to hold a licence and act as nominee.

PUBLIC INTEREST AND COMMUNITY IMPACT

47. 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.
48. The first branch of the requirement has already been addressed.
49. 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.
50. 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.
51. 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.
52. 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.
53. Those matters remain as previously published in numerous decisions by the Liquor Commission and I am guided by these decisions.

CONSIDERATION CRITERIA

54. 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.
55. 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 overall facilities management provision associated with the proposal and is not the significant attractor.

The applicant has volunteered several restrictive conditions on the licence including limitations on the number of drinks as well as the prohibition on full-strength products.

- 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 voluntarily been limited to not more than four (4) drinks per person per day, and a prohibition on full-strength products.

As written previously, the consumption of liquor will only be complementary to the other services provided by the licensee and will be done during limited hours each 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 accommodation and recreational services to the workforce responsible for the construction of the civil works at the Range.

- 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.

With reference to the comments by Health and the response of Mr Giles, the applicant states the premises complies with the requirements of the *Tobacco Control Act* and there is nothing to suggest there will be non-compliance with the provisions of the *Fire and Emergency Act*.

As an existing licensee the applicant has demonstrated their ability to comply with the requirements of the Act and I have no concerns this will change in the granting of this licence.

- 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.

56. 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 site is remote and access is restricted.

- 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.

Mr Scholz did propose the possibility of a health risk whereby residents may exceed the recommended weekly drinking guidelines. Whilst this is a potential, patrons are not compelled to consume the maximum amount each day, and full meals are provided along with non-alcoholic products.

Mr Scholz submitted a harm minimisation measure including "strong RSA" should apply. The generally accepted principles of the responsible service of alcohol assists the licensee to apply harm-minimisation strategies that reduce the likelihood customers will become intoxicated, by identifying those who are consuming alcohol irresponsibly or showing signs of intoxication, stopping service to them.

The sale of products is limited to four (4) per person per day, and full-strength products are prohibited. 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 Range is restricted and the sale of liquor is not open to the general public.

- 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 Katherine regional area.

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

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

57. Section 85 of the Act previously required a term of the licence to be fixed and it is to remain 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.

58. 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

59. 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.

60. The Director delegated the determination of applications made under section 199 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.

61. 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.

62. Accordingly, the affected persons in relation to this decision are Discovery Holiday Parks Pty Ltd, Police, the Department of Health and the NTFRS.

A handwritten signature in blue ink, appearing to read 'Mark Wood', is positioned above the printed name and title.

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

16 February 2022