

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the grant of a licence and authority
APPLICANT:	Sound Knowledge Pty Ltd
PROPOSED PREMISES:	Delamere Accommodation Camp 4554 Buntine Highway Delamere NT 0852
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> - Part 3 and 4
DECISION OF:	Southern Region Manager – Licensing & Compliance
DATE OF DECISION:	19 February 2024

DECISION

1. As a delegate of the Director of Liquor Licensing, I approve the application by Sound Knowledge Pty Ltd for the grant of a liquor licence with a catering authority, for the premises known as the Delamere Accommodation Camp at the Delamere Air Weapons Range, Lot 3413, 4554 Buntine Highway, Delamere.
2. The grant of the licence is for the construction camp workers employed to undertake the works at the defence facility. It is to provide 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 15:30 and 23:59 seven (7) days a week;
 - b) The sale of liquor is restricted to no more than six (6) items per person, per day;

- c) The sale of liquor is restricted to bona-fide residents of the accommodation facilities and workers and contractors authorised to be on-site;
- d) Persons under the age of 18 years are prohibited from entry;
- 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 Marc Russo a director of Sound Knowledge Pty Ltd, lodged an application for a licence with a **catering authority** on 11 January 2024.
6. This application was incomplete with the remaining materials provided on 8 February 2024.

CURRENT SITUATION

7. 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.
8. As described, these patrons are resident and the licensee is contracted to provide the village reception, accommodation management, and catering, cleaning and janitorial and recreational services to the residents.
9. 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.
10. Access to the site is restricted to workers and contractors, as well as invited guests, with the general public being prohibited from entry.
11. 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.
12. 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.
13. A comprehensive range of food and snacks will be provided as part of the accommodation services and non-alcoholic products will be provided.

14. The provision of liquor is ancillary and complementary to the primary business of management of the camp and accommodation facilities.
15. This is similar to a number of other similar work camps throughout the Territory, all of who provide a full suite of services, one of which being catering to the clients who are not their own employees.

NOTIFICATIONS, PUBLIC NOTICES AND OBJECTIONS

16. 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.
17. Accompanying the application was a request by Mr Russo to exempt the applicant from the public notice requirements in pursuance of section 57(2A) of the Act.
18. I reviewed the materials provided and was satisfied the application did not disclose sufficient public interest to warrant public notices to be issued.
19. The restrictive nature of entry to the facility, prohibiting the general public is evidence of the minimal nature of the public interest and low risk of harm or adverse impact on the community in this matter.
20. Accordingly, I exercised my discretion to exempt the applicant as requested, but noting the notification provisions prescribed in section 56(4) of the Act.
21. 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.
22. Although not a statutory requirement, as is practice, notification of the application was sent to the Northern Territory Fire and Rescue Service (NTFRS).
23. Neither Police nor Health opposed the application.
24. No responses were received from the Victoria Daly Regional Council or the NTFRS.
25. 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

26. The applicant has provided a comprehensive suite of materials in support of the application including all materials prescribed by the Act.
27. The authority sought by the applicant is in pursuance of section 47(1)(m) of the Act.
28. 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.
29. The Director further delegated these powers to me by instrument.
30. As written above, the application is not for a traditional catering business, nor a traditional bar and restaurant, it is to provide a comprehensive suite of catering services, one of which includes the service of liquor as a part of their overall hospitality services.

DISCLOSURE OF PERSONS

31. 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.
32. 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

33. 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.
34. 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.
35. This is also similar to their existing operation of FLL1427, at the Sawfish Camp in Limmen.
36. 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

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

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

FIT AND PROPER PERSON

39. 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.
40. The applicant provided materials in support of this and Mr Russo is to be the licensee's nominee in pursuance of section 53(3) of the Act.
41. Having considered the materials provided I am satisfied the applicant and Mr Russo remains a fit and proper person to hold a licence and act as nominee.

PUBLIC INTEREST AND COMMUNITY IMPACT

42. 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.
43. The first branch of the requirement has already been addressed.
44. 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.
45. 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.
46. 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.
47. 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.
48. Those matters remain as previously published in numerous decisions by the Liquor Commission and I am guided by these decisions.

CONSIDERATION CRITERIA

49. 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.

50. 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.

- 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 six (6) drinks per person per day.

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.

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.

51. 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.

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. It is also well accepted, the operators of these facilities take swift action to remove any person from their employ and the site if their behaviour is not acceptable.

- 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.

52. 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

53. 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.

54. 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.

55. 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.

56. Accordingly, the affected persons in relation to this decision are Sound Knowledge Pty Ltd, Police, the Department of Health and the NTFRS.



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

19 February 2024