

NORTHERN TERRITORY LIQUOR COMMISSION
REASONS FOR DECISION

MATTER: APPLICATION FOR LIQUOR LICENCE

REFERENCE: LC2022/028

APPLICANT: Tamara Allen Pty Ltd

PREMISES: Stoked Bar
45 Stokes Hill Road
Darwin NT 0800

LEGISLATION: Part 3 Division 4 of the *Liquor Act 2019*.

HEARD BEFORE: Mr Russell Goldflam (Acting Deputy Chairperson)
Mr Bernard Dwyer (Health Member)
Ms Christine Hart (Community Member)

DATE OF HEARING: 26 May 2022

DATE OF DECISION: 26 May 2022

Decision

1. On 26 May 2022, the Northern Territory Liquor Commission (**the Commission**) issued the following decision:
 - a. In accordance with section 48 of the *Liquor Act 2019* (NT) (**the Act**) the Commission has determined to issue a licence to Tamara Allen Pty Ltd (**the applicant**).
 - b. The licence will be issued with a restaurant bar authority.
 - c. The conditions of the licence will be those authority conditions set out in Part 4 Divisions 1 and 16 of the *Liquor Regulations 2019* (**the Regulations**).
 - d. The following additional conditions are fixed:
 - i. Liquor may only be sold or consumed in accordance with the dates, terms and conditions of any permit, lease or right of occupation or use issued to the applicant over premises at Stokes Hill Wharf, Darwin.
 - ii. Liquor in glass containers must not to be taken onto or consumed on the ferris wheel operated in conjunction with the licence.

- e. The licensed premises is the area bounded in red depicted in Attachment J at page 44 of the brief of evidence exhibited at the hearing of the application (**the licensed premises**).
 - f. The licence will be issued immediately following the publication of this decision notice.
2. The Commission now fixes the following further condition:
- The hours of operation for the licensed premises are from 11:00 to 22:00 each day.
3. The Commission now approves the appointment of Ms Tamara Allen as the licence nominee.
 4. The Commission stated that it would publish reasons for this decision. It now does so.

Reasons

The Application

5. The applicant proposes to establish a licensed pizza bar (**Stoked Bar**) in the tourism and entertainment precinct at Stokes Hill Wharf, Darwin, in conjunction with Xtra Ordinary Events, which operates a Ferris wheel and mini-golf attraction on the wharf over the dry season. On 5 May 2022 the applicant, which has not previously held a liquor licence in the Northern Territory, applied for a liquor licence with a bar restaurant authority.

Consultation

6. On May 2022, in compliance with section 57 of the Act, at the direction of the Director of Liquor Licensing (**the Director**) notices of the application were published in the NT News and on the Director's website.
7. In accordance with section 56 of the Act, notification was given to the Department of Health (**DOH**), NT Police and the Northern Territory Fire and Rescue Service (**NTFRS**).
8. The Director informed the Commission that no objections had been received to the application, and that none of the stakeholders who had been notified had opposed the application.

The referral

9. On 24 May 2022, pursuant to section 59 of the Act, the Director referred this application to the Commission to be determined by way of a public hearing. Notice was subsequently given to the Applicant that the matter would be listed

for a public hearing on 26 May 2022. The hearing was listed at unusually short notice for the convenience of the applicant, who wished to start trading immediately.

10. The Director provided the following documents to the Commission with the referral (**the brief**):
 - a. Affidavit and Declaration of Associates pursuant to section 54 of the Act;
 - b. Public Interest and Community Impact Assessment summary pursuant to sections 49 to 52 of the Act;
 - c. Applicant's financial reports and records;
 - d. Probity documents for the proposed nominee;
 - e. Letter of support from Darwin Waterfront Corporation (**the Corporation**); and
 - f. Various photographs and plans.

The hearing

11. Pursuant to section 23 of the Act, the Commission is not bound by the rules of evidence and may inform itself in any manner it considers appropriate. Section 21(2) provides that a hearing must be conducted in public unless the Commission is of the opinion it is not appropriate. No submissions were made to the Commission that a hearing should be conducted in private.
12. On 26 May 2022, the application proceeded as a public hearing. Ms Tamara Allen appeared on behalf of the applicant with Ms Jones, who represented Xtra Ordinary Events. Mr Verinder appeared for the Director. The Commission thanks them for their attendance and assistance.
13. The brief was tendered and admitted into evidence without objection. No other evidence was adduced.

ASSESSMENT OF THE APPLICATION

14. In accordance with section 59 of the Act, the Commission has considered:
 - a. the applicant's affidavit required by section 54;
 - b. the suitability of the premises to be licensed, having regard to any law of the Territory regulating the sale, supply, service or consumption of liquor or the location, construction or facilities of those premises;
 - c. the financial stability and business reputation of the body corporate;
 - d. the general reputation and character of the secretary and executive officers of the body corporate;
 - e. whether the applicant, including the nominee designated by an applicant, is a fit and proper person to hold a licence;

15. In accordance with section 49 of the Act, the Commission has also considered whether issuing the licence is in the public interest, and whether the licence will have a significant adverse impact on the community.

The applicant

16. The Commission finds that the applicant complies with section 53(1) of the Act, which requires that a body corporate shall not hold a licence unless it is a corporation.
17. The applicant has provided satisfactory documentation regarding its operations and financial circumstances.

The applicant's associates

18. Section 54 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. The Commission is satisfied that the applicant has complied with the disclosure requirements of section 54.
19. The Commission does not consider that it is appropriate to consider whether any person other than the proposed licence nominee is a fit and proper person to be an associate of the applicant.

The suitability of the applicant's premises

20. The Commission assesses the premises as suitable for the supply and consumption of liquor in the manner set out in the application.

The financial stability, general reputation and character of the body corporate

21. The Commission assesses the applicant as having a satisfactory business reputation and as being financially stable.

The general reputation and character of the applicant's secretary and executive officers

22. Having been provided with appropriate evidence regarding her reputation, character and work history, the Commission assesses the general reputation and character of the applicant's sole shareholder, director and secretary, Ms Tamara Allen, to be satisfactory.

Whether the applicant is a fit and proper person to hold a licence

23. The Commission assesses the applicant to be a fit and proper person to hold a licence.

Whether the licensee's nominee is a fit and proper person to hold a licence

24. The applicant has nominated Ms Tamara Allen as the licence nominee. The Commission assesses Ms Allen, who holds current RSA certification and has provided appropriate documentation of her reputation, character and work history, to be a fit and proper person to hold the licence.

Public notice and consultation

25. The Commission is satisfied that public notice of the application was given and consultation was undertaken in accordance with section 57 of the Act.

Whether issuing the licence is in the public interest

26. To determine whether the issue of the licence is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in section 49(2) of the Act:

- (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
- (b) ensuring liquor is 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 practices that encourage irresponsible drinking;
- (j) reducing or limiting increases in anti-social behaviour.

27. Having considered each of these objectives, and having particular regard to the limited scope of the proposed licence, the Commission is satisfied that it is in the public interest to issue the licence, which the Commission considers to be at low risk of causing alcohol-related harm.

Whether the issue of the licence will have a significant adverse impact on the community

28. To determine whether it is satisfied that the issue of the licence will not have a significant adverse impact on the community, the Commission must have considered the matters set out at section 49(3) of the Act:
- (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.
29. The Commission notes there are no such “other” matters prescribed by regulation.
30. The applicant bears the onus of satisfying the Commission of the relevant matters. Even if there are no objections, the applicant must still satisfy this Commission of those matters. The onus is on the applicant: section 50(3) states that the “mere addition of a new licence or licensed premises in a community is not taken to be a benefit to the community”.
31. The Commission finds that the applicant has discharged that onus, and is satisfied that the grant of the licence will not adversely impact the community.
32. Having considered all of these matters, the Commission is satisfied, in accordance with section 49 of the Act, that:
- a. the applicant is a fit and proper person; and
 - b. issuing the licence or authority is in the public interest; and
 - c. the licence or authority will not have a significant adverse impact on the community.

Other matters

33. The application was restricted in scope in that it only sought a licence for the 2022 dry season, namely from May to November 2022. On behalf of the

Director, however, it was submitted that a more convenient course would be to grant a licence that extends to future dry season operations, thereby saving both the applicant and the community the cost of making, processing and disposing of repeated similar applications. The Commission agrees.

34. Mr Verinder further submitted that following an amendment in 2021 to section 85 of the Act, the Commission has no power to fix a term of the licence. Without expressing a view as to the correctness of that submission, the Commission has determined not to fix a term of the licence, but to instead fix the condition set out at paragraph 1(d) above, the effect of which is to restrict the operation of the licence to those periods approved by the Corporation, the statutory authority responsible for the management of the precinct in which Stokes Hill Wharf is located. The Commission notes that the Corporation has granted a permit to the applicant to operate from 23 May 2022 to 11 November 2022.
35. When notified of the application, the NTFRS response was that although it had no objections to the licence being issued, NTFRS would inspect the premises to ensure compliance with the *Fire and Amersy Act 1996* and associated regulations. Section 91 requires all licensees to comply with these requirements, and accordingly the Commission considers that it is unnecessary to fix a specific condition to address this concern.

The objects of the Act

36. Finally, section 3(4) of the Act provides that in performing its function to decide whether to issue the licence, the Commission must have regard to the primary and secondary purposes of the Act. The Commission considers that the issue of the licence and authorities with the conditions imposed is consistent with the purposes of the Act.
37. For these reasons, the Commission has determined that the application should be granted, and that a licence and authorities be issued on the conditions set out at the commencement of this Decision Notice.



Russell Goldflam

ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
9 June 2022

On behalf of Commissioners Goldflam, Dwyer and Hart