

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the grant of additional liquor authority
APPLICANT:	Sloaney Pty Ltd
PREMISES:	Berry Springs Tavern 795 Cox Peninsula Road, Berry Springs, NT.
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> – Part 3 and 4
DECISION OF:	Principal Licensing Officer– Liquor, Gaming & Racing
DATE OF DECISION:	13 May 2021

BACKGROUND

1. Sloaney Pty Ltd is the licensee for liquor licence number 80318712 for premises known as Berry Springs Tavern located at 795 Cox Peninsula Road, Berry Springs, NT, 0838. This licence has a Takeaway, Public Bar and Late Night Authority attached to the licence.
2. Pursuant to section 52 of the *Liquor Act 2019* (the Act), on the 22 February 2021 Mr Ian Sloan on behalf of Sloaney Pty Ltd lodged an application for an extra liquor authority seeking a **catering authority** to be added to their existing liquor licence.
3. The additional authority is sought to allow for catering services of food and liquor by the licensee to various customers off-site from the tavern.

CURRENT SITUATION

4. The applicant has provided the material prescribed in section 52 of the Act including:
 - an affidavit made under section 54;
 - a draft notice of the applications;
 - evidence necessary to satisfy the onus specified in section 51;
 - a summary of the evidence suitable for publication; and
 - the application fees.

ADVERTISING AND OBJECTIONS

5. The application was published in the NT News on 7 April 2021 and 10 April 2021, with a notice abeing erected at the proposed premises.
6. No objections were received from the public in relation to the application.
7. The application was notified to the Commissioner of Police, the Chief Executive Officer of the Department of Health and the Chief Executive Officer of the Litchfield Shire Council in accordance with the statutory requirements.
8. No stakeholder provided any adverse comments or objections to the application.

APPLICATION

9. The applicant has provided a comprehensive suite of materials in support of the applications including all materials prescribed by the Act.
10. The authority sought by the applicant is in pursuance of section 47(1)(m) of the Act.
11. The applicant has sought the following conditions:
 - Liquor trading hours of 11:30 hours to 24:00 hours seven days per week
 - No change to the standard conditions of a catering authority as per the Liquor Regulations.
 - No other changes to the existing liquor licence conditions.
12. The proposed hours of trade are that as prescribed in Division 5 of the Liquor Regulations and no extra conditions are sought.
13. The applicant has provided a fulsome application and supporting documents as requested by the Liquor Act and the Director of Liquor Licensing.

DISCLOSURE OF PERSONS

14. 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.
15. I am satisfied by the materials provided by the applicant in relation to this requirement.

RESULTS OF INVESTIGATION

16. 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

17. The applicant is an existing licensee and previously undergone probity in regards to this point and I am satisfied they meet the requirements in relation to financial stability.

FIT AND PROPER PERSON

18. 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.
19. Being an existing licensee and nominee, which has previously undergone probity investigations by the Director of Liquor Licensing, I am satisfied they meet the requirements.

PUBLIC INTEREST AND COMMUNITY IMPACT

20. 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.
21. The first branch of the requirement has already been addressed.
22. 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.
23. In determining whether there would be a "significant adverse impact on the community" section 49(3) of the Act requires the Commission "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.
24. 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.
25. 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* are taken to be community impact assessment guidelines issued under section 50 of the Act.
26. Those matters remain as previously published in numerous decisions by the Liquor Commission.

CONSIDERATION CRITERIA

27. The Act requires the decision maker to take into account Section 49-51 of the Liquor Act and other matters as prescribed.
28. With regards to the matters raised in section 49(2) and 49(3) of the Act, and taking all of the application material and pre-existing information into account, including previous compliance reports of the licensee and prior proven adherence to all liquor legislation, I determine that this application meets all of the requirements.
29. I further note that the use of a catering authority would almost invariably take place in or upon private landholdings but do note that it could also take place in public spaces. I am satisfied that where it takes place in a public space that the licensee has relevant policies and plans put in place to comply with legislation and minimise any potential for public harm.
30. Section 85 of the Act requires 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. As this is linked to an existing licence, this requirement is a moot point.
31. Having regards to the foregoing, I am satisfied that the granting of the authority as sought is in the public interest and will not have an adverse effect on the community.

DECISION

32. On the basis of the information provided in relation to this matter and with reference to sections 48 and 60 of the Act, I have determined to approve an additional liquor authority, being a **catering authority** for the licensee, Sloaney Pty Ltd, for the premises listed above. This authority will attach to the existing liquor licence number 80318712.
33. The conditions applicable to the catering authority are in accordance with the relevant regulations and the hours of trade are to be 11:30 hours to 24:00 hours seven days per week.
34. For full clarity, the authority conditions, days, trading times or any other condition of takeaway, public bar and late night authority of liquor licence 80318712 do not apply to this catering authority.

REVIEW OF DECISION

35. 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.
36. The Director delegated the determination of applications for a **catering authority** made under section 52 of the Act by instrument dated 17 February 2021. This decision was made by a person referred to in that schedule and is made on the proviso that there have

been no objections or contentious matters raised or where the applicant has not been the subject of disciplinary action under a current or former licence.

37. 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.
38. Accordingly, the affected persons in relation to this decision are, Sloaney Pty Ltd, NT Police, the Department of Health and CEO Litchfield Shire Council.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Jeff Verinder
Principal Licensing Officer – Liquor, Gaming & Racing
Delegate of the Director of Liquor Licensing

13 May 2021