

NORTHERN TERRITORY LIQUOR COMMISSION
REASONS FOR DECISION

MATTER: APPLICATION FOR A NEW LIQUOR LICENCE

REFERENCE: LC2022/029

APPLICANT: Janes Hospitality Group Pty Ltd

PREMISES: The Boardroom Private Lounge Bar
5/51 Marina Boulevard
CULLEN BAY NT 0820

LEGISLATION: Section 52 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)

Mr Phillip Carson (Health Member)

Ms Amy Corcoran (Community Member)

DATE OF HEARING: 7 June 2022

DATE OF DECISION: 7 June 2022

DECISION

1. For the reasons set out below and in accordance with section 48 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission has determined to issue a licence to Janes Hospitality Group Pty Ltd (**the Applicant**).
2. The licence will be issued with a restaurant bar authority and late night authority (until 2:00am on Friday and Saturday evenings) to apply in respect of the premises at 5 / 51 Marina Boulevard, Cullen Bay with the following liquor trading days and times:

Monday 11:30 hours to 23:00 hours

Tuesday 11:30 hours to 23:00 hours

Wednesday 11:30 hours to 23:00 hours

Thursday 11:30 hours to 23:00 hours

Friday 11:30 hours to 02:00 hours

Saturday 11:30 hours to 02:00 hours

Sunday 11:30 hours to 23:00 hours

The authorities' conditions are otherwise those prescribed in Part 4, Division 1 and 16 of the Liquor Regulations (**the Regulations**) in respect of the restaurant bar authority and Part 4, Division 10 of the Regulations in respect of the late night authority.

3. The licence will also be issued with a catering authority on the terms and conditions prescribed by Part 4, Division 5 of the Regulations.

REASONS

BACKGROUND

THE APPLICATION

4. An application was lodged by Mr Peter Janes on behalf of the Applicant seeking a new liquor licence with a catering authority plus a late night authority to 2 am on Friday and Saturday evenings.
5. The application was published by way of a notice in the NT News on 9 April 2022. The application was also published on the Director of Liquor Licensing's (**the Director**) applications webpage during the course of the advertising period. A green advertising sign was erected at the premises for the course of the advertising period and signed statement of display of the green sign has been supplied. Copies of the NT News, photographs of the green sign erected in-situ and a signed statement of display have been retained by Licensing Officers.
6. Due to a misunderstanding between Licensing Officers and the Applicant, the matter was advertised as a late night authority in conjunction with a catering authority whereas section 47(1)(s) of the Act restricts its operation to the various restaurant bar and club authorities. Following further discussions with Licensing Officers, the Applicant confirmed on 24 May 2022 that it wished to amend the application to include a restaurant bar authority over its premises at 5 / 51 Marina Boulevard, Cullen Bay.
7. As there was no material change to the proposed business model and the substantiative application had already been advertised, the Delegate of the Director did not require the Applicant to further advertise the amended application.
8. The Applicant is Janes Hospitality Group Pty Ltd. This company is registered with ASIC where Peter Janes is listed as the Director and Secretary. This company has two shares both issued to Peter Janes.
9. Peter Janes, as Company Director has supplied an affidavit in accordance with section 54 of the Act.
10. The name of the proposed premises is The Boardroom Private Lounge Bar. This business name is registered with ASIC.
11. Peter Janes is proposed to be the nominee. In support of this he has provided;

- Photographic identification
- National Police Certificate
- RSA Certificate
- Resume
- References
- Statutory Declaration.

12. The application was accompanied by;

- Community Impact Assessment Summary
- Draft Public Notice
- Declaration of associates
- Landlord Consent
- Lease
- Photographs of proposed licensed premises
- Proposed licensed area site plan.

PUBLICATION AND CONSULTATION

13. As a result of the advertisement of the original application, no objections were received from the public.

14. In accordance with the Act, the following were notified of the application. They were notified originally on the 4 April 2022 and again on the 24 May 2022 with details of the amended application.

- The Chief Executive Officer of the Department of Health
- The Commissioner of Police
- CEO, Cullen Bay Marina Management Corporation

15. Being a new liquor licence application, the NT Fire & Rescue Service was also notified.

16. The Department of Health did not make any response to the original notification but replied via email dated 25 May 2022, stating they have reviewed the application (including the additional authority) and have no objections.

17. The NT Police replied via email dated 5 April 2022, stating it supported the application but with a few queries. They further replied on the 25 May 2022, stating they support the application noting the additional authority being sought.
18. The Cullen Bay Marina Management Corporation replied via email dated 8 April 2022 stating it has no objection. They further replied on the 25 May 2022 stating they have no objection.
19. The NT Fire & Rescue Service did not make any response to their notification.

THE REFERRAL

20. On 25 May 2022, pursuant to section 59 of the Act, the Director referred this application to the Commission. On 1 June 2022, the Applicant was notified by the Commission that the matter was listed for a public hearing on 7 June 2022.

THE HEARING

21. On 7 June 2022, Mr Peter Janes appeared on behalf of the Applicant and Mr Jeff Verinder appeared for the Director. The Commission is grateful for their assistance and expressed its thanks to both representatives for agreeing to appear at an earlier time on the day than had been scheduled.
22. The Director's referral brief was tendered into evidence and additional evidence was provided by Mr Janes in support of the application.

ASSESSMENT OF THE APPLICATION

23. 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 to this effect.
24. 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 applicant body corporate;
 - (d) The general reputation and character of the secretary and executive officers of the applicant body corporate;
 - (e) Whether the applicant is a fit and proper person to hold a licence; and
 - (f) Whether the nominees designated by the applicant are fit and proper persons to hold a licence.

25. 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

26. 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.
27. The Applicant has provided appropriate documentation regarding its operations, activities, financial circumstances and plans.
28. 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.

THE SUITABILITY OF THE APPLICANT'S PREMISES

29. These premises have in the past been operated as a licensed restaurant. Photographs and plans were included in the referral brief which indicate that the premises have been fitted out as a high quality restaurant bar and Mr Janes confirmed that the kitchen contains all the necessary equipment to produce meals for events both for consumption at functions on the premises and at external events. In fact, the Applicant has been utilising the premises and its commercial kitchen for its catering and meal preparation businesses for some time.
30. It is highly relevant to all aspects of this application that the Applicant has already been operating its business in the manner proposed for some significant time through the use of one off special event licences both at this premises and other external venues. Mr Verinder conceded that his office had encouraged this application for an ongoing licence at the premises as a means of providing future certainty for the Applicant's business aspirations as well as removing the need for the department to process multiple special event licence applications throughout the year in respect of this expanding catering enterprise.
31. These premises have been used by the Applicant on a number of occasions in the past to hold licensed functions under a special event licence without any adverse incidents or complaints. The premises do not directly abut a residential area apart from a small balcony and the remainder of the premises are completely enclosed so noise disturbances is unlikely to be an issue of significant concern to local residents.
32. The Commission is satisfied that the proposed premises are suitable to be used as a restaurant bar.

THE FINANCIAL STABILITY, GENERAL REPUTATION AND CHARACTER OF THE BODY CORPORATE

33. The Commission notes that the Applicant has established a strong business reputation. In addition, the Applicant's sole Director and the proposed nominee have a good general business reputation, are of good character, and the Applicant is financially stable.
34. The Commission assesses the Applicant to be a fit and proper person to hold a licence.
35. The Commission notes that Mr Janes holds a current RSA certification and based on his history within the hospitality industry is assessed to be a fit and proper person to be the nominee of the licence.

WHETHER ISSUING THE LICENCE IS IN THE PUBLIC INTEREST

36. 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.
37. The Commission has considered each of these objectives. Mr Janes is a widely recognised successful chef who developed his catering skills whilst serving with the Airforce and later as Head Chef at Government House in Canberra. On returning to Darwin, he has established Janes Hospitality Group which has

become a very successful catering and meal preparation business. Although the restaurant bar authority would enable the Licensee to open the premises to the general public, that will not occur under the business model that is currently proposed. The premises will only be open for private functions so the potential for harm is reduced when compared to restaurants and bars that are operating seven days a week. The Commission is also satisfied that there will be significant recreational, tourism and employment benefits associated with the proposed licence.

38. Having considered all the matters required by section 49(2) of the Act, the Commission is satisfied that it is in the public interest to issue the licence and authorities sought.

WHETHER THE ISSUES OF THE LICENCE WILL HAVE A SIGNIFICANT ADVERSE IMPACT ON THE COMMUNITY

39. 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 consider the following 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.

40. Regulation 123 of the Regulations provides that the community impact assessment guidelines published under section 6A of the *Liquor Act 1978* and in force immediately before the commencement of the Act are taken to be community impact assessment guidelines issued under section 50, which are as follows:

Criteria	Matters to be considered
The potential harm or health impact that may be caused to people, or any	Are there any 'at-risk' groups or sub-communities within the locality? This

<p>group of people within the local community area, due to the availability and accessibility of an additional liquor outlet.</p>	<p>may include – children and young people;</p> <ul style="list-style-type: none"> • Aboriginal people normally resident within the locality and those Aboriginal people that might be likely to travel to the locality from a dry community; • Migrant groups from non-English speaking countries; • people in low socio-economic areas; and/or • communities that experience high tourist/visitor numbers. <p>Are there any community buildings, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • schools and educational institutions; • hospitals, drug and alcohol treatment centres; • accommodation or refuges for young or disadvantaged people; • child care centres; • recreational areas; • dry areas; and • any other area where young people may congregate or be attracted to. <p>What policies and procedures will the applicant implement to minimise any potential harm or health impacts to these 'at-risk' groups or sub-communities?</p>
<p>Information about the location and area in which the premises is proposed to be so as to assess any social impact on the community.</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises.</p>

This includes information about the density of licensed premises within the community area.	This could also include traffic and pedestrian impact and any plans developed to address these potential issues.
Volume	This may include projected sales volumes and marketing analysis, liquor type and customer demographic (where applicable this should be provided for both on and off premises sales). The Commission will consider information available to it about the current alcohol consumption rates for the community area.
Any cultural, recreational, employment or tourism benefits for the local community area.	Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?
Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.	<ul style="list-style-type: none"> • What additional services will be provided other than simply an additional outlet for the sale of liquor – this may include accommodation or dining? • Will the proposed licensed premises provide additional choices of service or products that are no available in the area? • Will the proposed premises provide liquor in a manner known to be safe and to minimise adverse impacts? • Will it use existing premises improve or add to existing premises or is it a new premises?

41. 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.

42. 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.

43. At the conclusion of the hearing, the Applicant was advised that its application would be approved.

NOTICE OF RIGHTS

44. Section 31(1) read with section 60(3) of the Act provide that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (**NTCAT**). Section 94(3) of the *NTCAT Act 2014* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.

45. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Applicant and Director.



Richard Coates

CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
16 June 2022

On behalf of Commissioners Coates, Carson and Corcoran