

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A LICENCE

LICENCE NUMBER: LC2019/018

PREMISES: Barramundi Adventures Darwin
1612 William Road
BERRY SPRINGS NT 0838

APPLICANT: Barramundi Adventures Darwin Pty Ltd

NOMINEES: Dorian Lorne Rondot
Damien Thomas Ralph

LEGISLATION: Section 26, Part III, Part IV, Part V of the *Liquor Act*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Dr Phillip Carson (Health Member)
Ms Amy Corcoran (Community Member)

DATE OF HEARING: 19 March 2019

DATE OF DECISION: 19 March 2019

DECISION

1. For the reasons set out below and in accordance with section 29 of the *Liquor Act 1978* ("the Act") the Commission has determined to issue a licence authorising the sale of liquor for consumption on or at the premises, being the bar and adjoining terrace area of the recreational land based fishing facility situated at section 1612 William Road, Berry Springs NT.
2. The hours of operation of the licence are from 10:00am to 11:59pm every day of the year apart from Christmas day. The licence is subject to the conditions that liquor may only be sold to persons who are attending the premises as part of a group that has purchased a pre-booked fishing or function package and if liquor is sold after 8:00pm it must be ancillary to a meal.
3. Pursuant to section 31 of the Act the sale of liquor is prohibited until such time as the Licensee supplies relevant Fire Compliance certification and Building Certification in writing, to the satisfaction of the Director-General of Licensing.

REASONS

BACKGROUND

4. The applicant is a registered Australian Proprietary Company limited by shares that operates Barramundi Adventures Darwin, a tourism venture and associated land based fishing operation which is centred around an aquaculture facility at Berry Springs.
5. The applicant is seeking an “On-Authority” liquor licence with proposed liquor trading hours and conditions being:
 - Monday to Sunday 10:00 hours to 23:59 hours
 - Liquor trade 365 days of the year, including all public holidays
 - No meals provided, light snack food only
 - Only patrons for the recreational fishing activity will be able to access alcohol
6. The application was accompanied by an affidavit regarding influential persons or potential beneficiaries as required by section 26A of the Act.
7. The applicant company is Barramundi Adventures Darwin Pty Ltd and it is currently registered with ASIC. A review of the company indicates that it has a total of 4 shares with Dorian Rondot holding 2 shares and Damian Ralph holding 2 shares.

Dorian Rondot and Damian Ralph are both listed as directors with Damian Ralph listed as secretary. Both directors have provided a range of probity documents. Dorian Rondot has provided the following documents;

- National Police Certificate
- Resume
- 2 personal references
- 2 professional references
- Copy of photographic identification
- RSA certificate

Damian Ralph has provided the following documents:

- National Police Certificate
- Resume
- 2 personal references
- 2 professional references
- Copy of photographic identification
- RSA certificate

8. The business name is Barramundi Adventures Darwin. This business name is registered with ASIC and registered to Barramundi Adventures Darwin Pty Ltd.
9. The applicant has provided a financial report with projections to the end of 2018 indicating it will be of sound financial health.
10. The applicant has provided a copy of the lease for the property. Also provided was a letter from the landlord giving permission for a liquor licence to be held at the property.

11. The application is to have Dorian Rondot and Damian Ralph as dual nominees. Both persons have provided the appropriate documentation to be appointed as a nominee as outlined in paragraph 5. Mr Rondot has been identified as being the primary point of contact.
12. The applicant has also provided the following documents in support of the application:
 - Site Plan
 - Business Plan – Property Operations Overview
 - Community Impact Assessment
 - Public Interest Criteria
 - Development Consent Authority Approval
 - Registration of Food Business
 - Smoking Management Plan

ADVERTISING AND NOTIFICATION

13. The application was published by way of two public notices being placed in the NT News on the 24 March 2018 and the 28 March 2018.
14. The applicant also displayed a “green sign” at the premises for the required period of time and has provided a statement of display and a photograph of the sign “in situ”.
15. As a result of the public advertising of the application, no objections were received from the public.
16. Pursuant to section 41(3) of the Act, the Director-General has sought comments from:
 - The Chief Executive Officer of the Department of Health;
 - The Commissioner of Police; and
 - CEO of Litchfield Town Council
 - Whilst not legislatively required, stakeholder advice was also sought from NT Fire and Rescue Service as this is a new liquor licensed venue.
17. The Department of Health ask for patron and community safety and amenity to be considered when determining this application. They also request the venue displays signage for the smoking areas. The signage has already been provided to the applicant.
18. NT Police did not object to the application but made 3 suggestions for consideration, they being:
 - Propose the licensed area to be contained to the bar proper area or the area contained for recreational fishing. (They further make comments about functions and temporary variations.)
 - Consider the provision of low and mid-range alcohol products only
 - Restriction of days and hours and alcohol ancillary to those partaking in activities at the premises.
19. Litchfield Council objected to the grant of the licence raising concerns that “the proposal appears to allow service of alcohol to customers that are not customers of the tourism

venture". The Counsel also raised concerns about patron safety "for ventures related to the use of quad bikes" and possible noise impact on adjacent residents from amplified music.

20. The NT Fire and Rescue Service did not support the application because of outstanding issues relating to the certification of buildings. The Director-General referred this application to the Commission despite the proper certification approvals remaining outstanding on the basis that any approval be subject to a condition in accordance with Section 31 of the Act, prohibiting sale of liquor until the applicant supplies relevant Fire Compliance Certification and Building Certification in writing to the satisfaction of the Director-General or the Commission.

HEARING

21. The hearing was conducted in public on 19 March 2019. Both Mr Rondot and Mr Ralph appeared on behalf of the applicant. They were assisted by Malcolm Richardson, a friend and mentor. Mr Jeff Verinder appeared on behalf of the Director-General. The Commission thanked all concerned for their assistance.
22. The Commission directed a number of questions to both Mr Rondot and Mr Ralph as to the nature of the business being operated and why a liquor licence was required. The photographs of the facilities which had been reproduced in the Director-General's referral did not serve the applicant well. So the Commission agreed to view a number of photographs of the resort which were stored on Mr Ralph's phone. From these pictures we were able to get a much better appreciation of the extent and quality of the premises from where it is sought to provide liquor. Although not luxurious, the premises consists of an adequate, rustic style bar surrounded by attractive decking which overlooks the extensive fish ponds. The applicant has been holding pre-booked functions and fishing tours at the resort for several months now. These have been conducted on a BYO liquor basis with the food provided by professional caterers or the attendees themselves. There are barbeque facilities at the resort and we were told that a local spit hire business has been a popular choice for the more significant functions such as weddings or corporate events.
23. The Commission was impressed with the commitment of Messrs Rondot and Ralph to developing this new tourist enterprise. They are marketing the facility at those time poor visitors who have a dream of catching one of our iconic barramundi. These people will pay about \$90.00 each for a two hour fishing adventure and if they are lucky enough to catch a fish and want to keep it, they will pay an additional per kilo cost for the fillets they take home. This type of fishing tourism has proved popular elsewhere in Australia and the applicant hopes it will catch on here. Their other market is for corporate and celebratory functions which might include some fishing or just take advantage of the facilities and scenic vista. There are signs on the gate to the property that entry is only available by pre-arranged booking and the applicant is prepared to have such a restriction included as a condition of its licence. The applicant also agreed that it would only sell liquor to patrons after 8.00pm if they had an opportunity to partake in a substantial meal.

ASSESSMENT OF THE APPLICATION

24. Section 6B of the Act provides that the Applicant bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test set out in s6 of the Act. In considering and determining this application, the Commission has had regard to the objects of the Act and applied the public interest and community impact test by reference to the community impact assessment guidelines published by the Minister on 6 March 2018 pursuant to s6A of the Act. The guidelines are detailed and specific, but also state that:

the Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits.

25. Having heard from the applicant, the Commission is satisfied that any initial misgivings we may have had about the merits of the application have been resolved. We are also confident that the fears raised by Litchfield Council that the premises may become a de-facto tavern are not a realistic risk given the licence conditions that the applicant is willing to accept. The suggestion by Police that low and mid-strength alcohol products only be sold might be sufficient for those patrons that are solely focussed on catching a fish, however it may not be a reasonable restriction on those who have booked the venue for a private function and have arranged to be bussed in and out.

26. In all the circumstances the Commission is satisfied that the conditions we are proposing to impose on the licence will ensure that the provision of liquor at the premises will be supplied in a manner that is ancillary to the primary focus of the enterprise which is fishing and show casing the Northern Territory's natural scenery.

27. The Commission is satisfied that the Applicant has met the public interest and community impact test and that it is appropriate to grant the licence on the conditions set out in paragraph 1.

NOTICE OF RIGHTS

28. Section 120ZA of the Act provides that a reviewable decision is a Commission decision that is specified in the Schedule to the Act. A decision to issue a licence pursuant to section 29 of the Act is specified in the Schedule and is a reviewable decision.

29. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision.

30. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected persons are the applicant and the objector, the Litchfield Town Council.



RICHARD COATES
Presiding Member
Chairperson

29 March 2019