

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR LIQUOR LICENCE

REFERENCE: LC2020/

APPLICANT: Redrock Cattle Company Pty Ltd

PREMISES: Tobermorey Roadhouse
Tobermorey Station
Plenty Highway
Anatye NT 0872

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

HEARD BEFORE: Mr Russell Goldflam (Acting Deputy Chairperson)
Ms Pauline Reynolds (Health Member)
Mr Blair McFarland (Community Member)

DATE OF HEARING: 25 June 2020

DATE OF DECISION: 5 August 2020

Decision

1. For the reasons set out below and in accordance with section 60 of the *Liquor Act 2019* (NT) (**the Act**), the Northern Territory Liquor Commission (**the Commission**) has determined to issue a liquor licence with a small bar authority.
2. The licence is subject to the small bar authority conditions set out in Division 17 of the Liquor Regulations 2019.
3. In accordance with section 85 of the Act, the Commission fixes a licence term of 25 years.
4. The licence will be issued immediately following the publication of this decision notice.

Reasons

BACKGROUND

The Application

5. On 16 January 2020, the Redrock Cattle Company Pty Ltd (**the applicant**) lodged an application (**the application**) for a liquor licence to operate at the Tobermorey Roadhouse (**the premises**), a small tourist enterprise run by the owners of Tobermorey Station, which is adjacent to the Northern Territory/Queensland border on the unsealed Plenty Highway about halfway between the South Australian border and the Gulf of Carpentaria. The closest town to Tobermorey is Boulia (Queensland), 250 km to the south-east. The nearest Northern Territory police station is at Harts Range, 460 km to the south-west. The nearest licensed premises is the Dangi Pub at Urandangi (Queensland), 95 km to the northeast. To say that Tobermorey is off the beaten track is an understatement.
6. The applicant is a registered company owned and directed by Margaret and John Speed, a married couple. The applicant is the sole trustee of the J G Speed Trust, the primary beneficiaries of which are Margaret and John Speed.
7. Tobermorey Station is owned by Tarlton Downs Pty Ltd as trustee for two family trusts controlled by and for the benefit of members of the Speed family. Tarlton Downs Pty Ltd has instructed its solicitors to transfer ownership of Tobermorey Station to an entity solely controlled by John Speed. Tarlton Downs Pty Ltd is aware of and supports the application.
8. The applicant seeks to operate a bar in a garden area of the premises for passing tourists and station workers, who will also be able to purchase pizzas and light meals. The garden area can accommodate up to 100 patrons.

Consultation

9. As required by section 57 of the Act, notices of the application were published, in the Centralian Advocate, on 14 and 18 February 2020.
10. In accordance with section 56 of the Act, notification was given to the Department of Health (**DOH**), NT Police and the Central Desert Shire. The Director also consulted with the Northern Territory Fire and Rescue Service.
11. None of these agencies commented adversely on the application, and no objections were made to the application.

The hearing

12. On 14 April 2020 the Director of Liquor Licensing (**the Director**) referred the application to the Commission, which, following delays resulting from the COVID-19 pandemic, conducted a public hearing of the application on 25 June 2020. Ms Margaret Speed appeared on behalf of the applicant. Mr Wood and Ms Free of Licensing NT appeared for the Director. The Commission thanks them for their attendance and assistance.
13. The brief that had been provided by the Director to the Commission with the referral was admitted into evidence. No other evidence was given.
14. The brief included the following documents:
 - The application
 - Affidavit of Margaret Speed
 - Statutory Declaration of John Speed
 - Statutory Declaration of Bill Speed (brother of John Speed)
 - Public interest and community impact statement
 - Material in support of the character, qualifications and experience of Margaret Speed, John Speed, Tannas Godfrey and Hugh Godfrey
 - Financial Statements for the J G Speed Trust (the two primary beneficiaries of which are John Speed and Margaret Speed)
 - The Deed of Trust establishing the J G Speed Trust
 - Premises smoking management plan
 - Certificate of Registration of a Food Business
 - Details of public notification and consultations regarding the application

ASSESSMENT OF THE APPLICATION

15. 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; and
 - (f) if the Commission considers it appropriate – whether each associate of the applicant is a fit and proper person to be an associate of a licensee.

16. 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

17. 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. The applicant is a company registered with ASIC. Its only shareholders are Margaret and John Speed, who are also the company directors.

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 considers that it is appropriate to consider whether each of the following persons, each of whom is an associate of the applicant for the purpose of section 55, is a fit and proper person to be an associate of the applicant:

- Margaret Speed (an executive officer of the applicant)
- John Speed (an executive officer of the applicant)
- Tannas Godfrey (an employee of the applicant)
- Cameron Godfrey (an employee of the applicant)

20. Having had regard to the ample material tendered by the applicant attesting to the character, experience and qualifications of the above-named persons, the Commission finds that each of them is a fit and proper person to be an associate of the applicant.

21. The Commission does not consider that it is appropriate to consider whether any other person is a fit and proper person to be an associate of the applicant.

The suitability of the applicant's premises

22. The Commission assesses the premises to be 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

23. The Commission assesses the applicant to have a satisfactory business reputation and to be financially stable.

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

24. The Commission assesses the general reputation and character of the applicant's executive officers, Margaret and John Speed, to be satisfactory. The applicant does not have a registered company secretary.

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

25. The Commission is satisfied that the applicant is a fit and proper person to hold a licence.

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

26. The applicant has proposed Margaret Speed, Tannas Godfrey and Cameron Godfrey as joint licence nominees. The Commission assesses each of them to be a fit and proper person to be a licence nominee.

27. However, the Commission considers that, although there has been a long-standing practice of nominating more than one person to be joint managers of a liquor licence, there is doubt as to whether this is authorised by section 53 of the Act, which provides that "a body corporate that applies for a licence or an authority *must designate an individual* to be the licensee's nominee" (emphasis added).

28. Not having heard submissions on this point, and without having formed a concluded view on the issue, the tentative view of the Commission is that the licensee must designate only one individual to be its nominee. Accordingly, the Commission directs the licensee to notify the Director which one of the three persons it has proposed is to be the designated nominee for the purpose of section 53(3) of the Act.

29. The Commission notes that section 76 of the Act authorises the licensee to appoint a person other than the designated nominee to act on its behalf to conduct the licensee's business in the absence of the nominee for a period of up to 42 days, during any 12-month period, or, if the Director so determines, a longer period.

Public notice and consultation

30. 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

31. In order 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.

32. Having considered each of these objectives, and having particular regard to the applicant's public interest and community impact statement, the limited nature of proposed trading in liquor, and the isolated locality of the premises, the Commission is satisfied that it is in the public interest to issue the licence.

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

33. 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 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;
- (j) any other matter prescribed by regulation.

34. Having considered each of these matters, noting that the nearest place of worship, child care centre and hospital are at Mt Isa, 280 km away, and that the nearest school is at Urandangi, 95 km away; and having particular regard to the applicant's public interest and community impact statement, the limited nature of proposed trading in liquor, and the isolated locality of the premises, the Commission is satisfied that the issue of the licence will not have a significant adverse impact on the community.

Authority and conditions

35. The applicant seeks to be issued with a small bar authority. The Commission considers that this is appropriate in the circumstances of this application, and so orders. The Commission notes that accordingly, the conditions set out at Regulation 85 and Regulation 86 of the *Liquor Regulations 2019* will be incorporated into the licence. The Commission notes that the applicant has not sought a takeaway authority to sell liquor for consumption away from the premises. In any event, section 84(3) of the Act would prohibit the Commission from issuing a takeaway authority to the applicant.

Licence Term

36. Section 85 of the Act now requires the Commission to fix a licence term. The Commission is satisfied that the applicant has secure tenure over the property on which the premises are located. In all the circumstances of the applicant and the application, the Commission considers that it is appropriate to fix a term of 25 years for the licence, the same term as the Commission recently fixed for a liquor licence issued for premises at Bullo River Station.

The objects of the Act

37. 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.

38. Throughout its consideration of this application, the Commission has steadily kept the purposes in section 3 of the Act in mind. The Commission is satisfied that the issue of the licence is consistent with the purposes of the Act.

39. For these reasons, the Commission has determined that the application should be granted, and that a licence and small bar authority be issued.

NOTICE OF RIGHTS

40. 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* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.

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



Russell Goldflam

ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
5 August 2020

On behalf of Commissioners Goldflam, Reynolds and McFarland