

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE AND REASONS FOR DECISION

CITATION: *FANNIE BAY SUPER PIZZA APPLICATION FOR RESTAURANT BAR AUTHORITY* [2024] NTLiqComm 48

REFERENCE: LC2024/044

APPLICANT: Gold Impression Pty Ltd

PREMISES: Fannie Bay Super Pizza
4 Fannie Bay Place
FANNIE BAY NT 0832

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

HEARD BEFORE: Mr Greg Shanahan (A/Deputy Chairperson)
Ms Elizabeth Stephenson (Health Member)
Mr Denys Stedman (Community Member)

DATE OF DECISION: 6 November 2024

DECISION

1. Pursuant to section 21 of the *Liquor Act 2019* (NT) (**the Act**), having formed the opinion that a public hearing is not appropriate in the circumstances of this application, the Northern Territory Liquor Commission (**the Commission**) has determined to conduct the hearing of this application by way of written submissions only.
2. For the reasons set out below and in accordance with section 48 of the Act, the Commission has determined: -
 - (a) to issue Gold Impression Pty Ltd (**the Licensee**) a restaurant bar authority on the conditions prescribed by Division 16 of the *Liquor Regulations 2019* (**the Regulations**) save and except for the following special conditions to be imposed onto this licence:
 - i. the hours of operation of this authority will be from 11:00 hours to 23:59 hours every day of the year, except Good Friday and Christmas Day.
 - ii. The hours of operation on Good Friday and Christmas Day will remain in accordance with s 82 of the Regulations.
 - iii. The premises shall at all times have the appearance of and shall trade predominantly as a restaurant.

- iv. Patrons to be seated at a table or at the bar provided that meals shall be available for consumption at all parts of the bar where liquor is served.
 - v. Snack foods will be available at all times.
 - vi. The word “Bar” shall not be used in any advertising or signage.
 - vii. The licensee or an employee of the licensee must exclude or remove from the premises anyone who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (aka bikie gang), or ask police to remove them if they feel unsafe doing so themselves.
- (b) to remove the existing restaurant authority.
3. The licence will be issued immediately following the publication of this decision notice.

REASONS

Background

- 4. On 22 June 2016, Mr Neal Adams (**Mr Adams**), director of Brewery Place Pty Ltd was granted a liquor licence for Fannie Bay Super Pizza, 4 Keith Lane, Fannie Bay NT 0820 (**the premises**) under the *Liquor Act 1978*. Upon the commencement of the *Liquor Act 2019*, the licence was converted to a restaurant authority with a BYO authority.
- 5. On 4 May 2021, the liquor licence, 80519197, was transferred to the interrelated company Gold Impression Pty Ltd, of which Mr Adams was the sole Director and shareholder.
- 6. On 23 June 2021, the liquor licence was varied to include Mr Adams and Mr Karlo Juan Suzaro (**Mr Suzaro**) as joint nominees. Mr Adams and Mr Suzaro are both Directors and shareholders of the Licensee.

The Application

- 7. On 13 August 2024, Ward Keller lodged an application on behalf of the licensee and accompanying materials for a new restaurant bar authority to be included in the licence together with additional hours of trade for the premises.
- 8. The application was to change the restaurant authority to a restaurant bar authority and to increase the hours of trade to Monday to Sunday 11:00 to 23:59 hours (currently 17.00 to 23.59 hours), except Good Friday and Christmas Day which will remain in accordance with regulation 82 of the Regulations.

Consultation

- 9. As required by section 57 of the Act, the application was advertised in the NT News on 14 September 2024 and also on the Director of Liquor Licensing’s (**the Director**) webpage. A green advertising sign was erected at the premises for the course of the advertising period. The Director is satisfied that the Licensee has complied with the requirements of public notice of the application.

10. In accordance with the Act, the following were notified of the application:
 - The Chief Executive Officer of the Department of Health (**DoH**)
 - The Commissioner of Police
 - CEO, City of Darwin
11. Although not a statutory requirement, the Director also notified the Northern Territory Fire and Rescue Services (**NTFRS**) of the application.
12. The Director informed the Commission that at the time of consideration, no response was received from the City of Darwin or NTFRS.

Objections

13. On 17 September 2024, the DoH provided the following comments:

“It is unclear why the applicant is requesting to operate under a bar authority where food is not required to be purchased, and suggest consideration be given to ensuring food is purchased with alcohol to minimise any potential harms.”
14. There were no other objections to the application.

The licensee’s record of compliance

15. There are no compliance issues for this licensee, nor the previous licensee, Brewery Place Pty Ltd.

The referral

16. On 25 October 2024, pursuant to section 59 of the Act, the Director referred this application to the Commission.
17. Pursuant to s 21 of the Act the Commission may direct that a hearing be conducted by way of written submissions if the Commission is of the opinion that it is not appropriate in the circumstances to conduct a public hearing because to do so would not be worthwhile or if the matter is not controversial. The Commission, having formed that opinion, determined to conduct the hearing by written submissions.
18. The Director provided the following documents to the Commission with the referral:
 - a. Liquor licence 80519197 issued 4 May 2021 and 23 June 2021
 - b. Application for a new liquor licence
 - c. Declaration of Associates
 - d. Affidavit in accordance with Section 54 of the Act
 - e. Business Plan
 - f. Confirmation of financial stability

- g. Copy of lease of the premises
- h. Probity documents for Karlo Suzara and Neal Adams, joint nominees
- i. Statutory Declarations for Karlo Suzara and Neal Adams, joint nominees
- j. Public Interest Criteria Summary
- k. Community Impact Statement Summary
- l. Record of registration of business name
- m. Confirmation of public notice
- n. Stakeholder notification and responses
- o. Company extract.

ASSESSMENT OF THE APPLICATION

19. In accordance with section 59 of the Act, the Commission has considered:
- a. the applicant's affidavit required by section 54;
 - b. the results of any investigation conducted into the application under section 58;
 - c. any objection to the application made under section 61;
 - d. any response provided by the applicant under section 62;
 - e. 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;
 - f. if the applicant is an individual – the financial stability, general reputation and character of the applicant;
 - g. if the applicant is a body corporate:
 - i. the financial stability and business reputation of the body corporate; and
 - ii. the general reputation and character of the secretary and executive officers of the body corporate;
 - h. if the applicant is a federation of unincorporated bodies:
 - i. the financial stability and business reputation of each constituent body; and
 - ii. the general reputation and character of the secretary and executive officers of each constituent body;
 - i. whether the applicant, including the nominee designated by an applicant, is a fit and proper person to hold a licence;

- j. 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.
20. 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

21. Mr Adams and Mr Suzara remain the directors of the Licensee and joint nominees of the premises. The Licensee and both nominees have previously undergone probity examinations and the Director confirmed they are presently fit-and-proper persons.
22. The Commission accepts that no further probity was undertaken and notes both nominees provided statutory declarations.

The applicant's associates

23. 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.

Objections

24. There were no objections to the application except the comment from the DoH requesting consideration be given to ensuring food is purchased with alcohol to minimise potential alcohol-related harms.
25. The Licensee responded that the basis for the application is to cater for tourists wanting to enjoy a drink in the premises without ordering food and for local businesses to conduct daytime meetings without the need to partake in a meal. Additionally, customers will also be able to purchase an alcoholic beverage while waiting for their takeaway food.

Public notice and consultation

26. 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

27. 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.
28. The Commission is satisfied that the business model of the premises will remain predominantly the same. The premises is and will remain a restaurant, albeit with extended liquor trading hours and an option to have an alcoholic beverage without the need to purchase food.
29. Having considered each of these objectives, the Commission is satisfied that there will be minimal harm caused to the community and that it is in the public interest to issue the licence provided that the licence conditions are adhered to so as to ensure liquor is served in a responsible manner.

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

30. 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.
31. 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.
32. The applicant provided a comprehensive report to the Commission addressing each of these factors and the Commission is satisfied that the issue of the licence will not have a significant adverse impact on the community.
33. 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.

Conditions

34. The Commission has determined to fix the additional conditions set out at paragraph 2(a) above.

The objects of the Act

35. 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.
36. 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 the licence be varied on the conditions set out at the commencement of this Decision Notice.

NOTICE OF RIGHTS

38. 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.

39. 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.



Greg Shanahan
ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
7 November 2024

On behalf of Commissioners Shanahan, Stephenson, Stedman