

Delegate of the Director-General of Licensing

Decision Notice

MATTER:	Application for the grant of a liquor licence.
PROPOSED PREMISES:	Event Cinemas Palmerston
APPLICANT:	Birch Carroll and Coyle Ltd
PROPOSED NOMINEE:	TBA
OBJECTORS:	Department of Health NT Police
LEGISLATION:	Section 26 of the Liquor Act
DECISION OF:	Delegate of the Director-General of Licensing
DATE OF DECISION:	10 January 2017

BACKGROUND

1. On 22 March 2016, Ms Lyn Bennett, Consultant for Minter Ellison, submitted an application to the Director-General of Licensing on behalf of Birch, Carroll & Coyle Ltd for an "On" Liquor Licence. The application relates to premises known as Event Cinemas Palmerston located at the Gateway Shopping Centre, Cnr Stuart Highway, Roystonea Avenue and Yarrowonga Road, Palmerston NT. Construction of the premises is yet to be complete.
2. The Gateway Shopping Centre will house up to 60 different retail stores and food outlets.
3. The four Directors of the applicant company are Mr Mathew Robert Duff, Mr Matthew John Della Vedova, Mr David Christopher Seargeant and Mr Gregory Charles Dean and all are known to the Director-General.

CURRENT SITUATION

4. The Applicant seeks a liquor licence that authorises the sale and consumption of alcohol on the premises in addition to permission to install two (2) mobile bars for special events in the foyer.
5. The applicant is a successful national company and business with a successful business in operation in the Northern Territory.
6. In accordance with section 26(3) of the Act, the Applicant has addressed the criteria relevant to the application, as set out in section 6(2) of the Act, and submits that the grant of the licence will be in the public interest.

7. The Applicant submitted an affidavit in accordance with section 26A of the Act, attesting that there are no other persons able to influence the conduct of the business under the liquor licence if the application is successful.
8. The application was advertised in the Northern Territory News on 31 August 2016 and 2 September 2016. The objection period expired on 3 October 2016.
9. Two (2) objections were submitted: one from the Department of Health and the other from the Northern Territory Police.
10. The applicant initially sought authorisation for the sale of alcohol from 10:00am until 11:59pm seven days per week. However, the Applicant subsequently amended the application such that the proposal was to have authority to commence trade from 12:00 noon until 10:00pm.

ASSESSMENT OF MATTER

11. I have reviewed all the available material submitted in relation to the application and note there were no objections or submissions received by members of the general public.
12. The NT Police and Department of Health fall within the recognised category of persons, organisation or groups that may make an objection as prescribed in section 47F(3)(e).
13. The relevant submissions were made in the manner prescribed by section 47F.
14. In summary, NT Police objected to the trading hours and the use of glass drinking vessels inside the cinema.
15. In response, the applicant indicated a willingness to reduce the trading hours sought and to limit the use of glass vessels to the service of wine only.
16. The objection from the Department of Health refers to a perceived risk of patrons being intoxicated, fighting in or outside the premises, the increased risk of drink driving and concerns that children may be exposed to people drinking.
17. In that regard, it is relevant to note that the main business of Events Cinemas Palmerston is the screening of movies. The service of alcohol is intended to add to the movie viewing experience, not to provide a 'drinking venue' where entertainment is ancillary to the service of alcohol.
18. Staff engaged in the service of alcohol will be trained in the responsible service of alcohol and it is intended that liquor will only be available in the foyer areas.
19. There are various licenced entertainment venues in the Northern Territory where children attend and are exposed to people drinking in a responsible manner. There is no evidence in this case to indicate that the proposal creates an unacceptable risk of harm to children or others in the community.

CONSIDERATION CRITERIA

20. It is apparent that the objection and submission made by NT Police was considered by the applicant and to its credit, the applicant amended its application to address the valid concerns raised.
21. I am not satisfied that there is sufficient evidence to find that the proposed operation will place members of the public at undue risk or have a significantly negative impact on children at the venue who might observe adults consuming alcohol in the intended environment.

22. All other matters specified in the Act, particularly sections 6(2), 26, 26A and 28 have been considered and I am satisfied that there are no issues arising from the proposal which ought to prevent the approval of this application.

SUMMARY

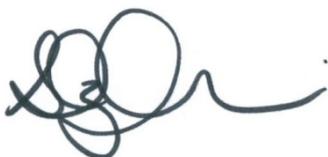
23. There is no evidence to suggest that the grant of the liquor licence in this case is adverse to the public interest and in my view, granting this licence presents minimal risk given the nature and type of the intended business operation.
24. The premises are suitable for the category of liquor licence requested and there is no apparent reason to refuse the (amended) application.

DECISION

25. In the present circumstances I am satisfied that the application ought to be granted.
26. In accordance with section 29(1)(a) of the Act, I have determined to grant an 'On Licence' to the applicant.
27. In accordance with section 31(3) of the Act the licence will be subject to the following conditions:
- (i) The sale and/or supply of liquor is not permitted under the licence until a certificate of occupancy under the *Building Act* is issued to the licensee for the specified area;
 - (ii) The sale and/or supply of liquor is not permitted under the licence until confirmation is received from Northern Territory Fire Safety Compliance specifying maximum patron numbers and that such notification is provided to the Director-General;
 - (iii) The sale and/or supply of liquor is not permitted under the licence until a Nominee is properly appointed; and
 - (iv) The sale and/or supply of liquor is not permitted under the licence until written approval is given by the Director-General.
28. Additionally, the following conditions will apply:
- Sale and/or supply of alcohol**
- (v) The sale and/or supply of liquor is restricted to those persons attending at the venue for the purpose of cinema entertainment and with the purchase of a ticket or other entry token for an event.
- Advertising and Signage**
- (vi) The word "bar" shall not be used in any advertising or signage.
- Glass Vessels**
- (vii) Glass drinking vessels are only permitted in the cinemas for the service of still or sparkling wine.
- Mobile Bars**
- (viii) The maximum of 2 mobile bars may be erected in the foyer areas only for special events.
29. Advertising of the fact the Cinema is licensed to sell alcohol is prohibited.

REVIEW OF DECISION

30. Section 8 of the *Licensing (Director-General) Act* prescribes that a delegate decision is a decision, under any Act, of the Director-General that is made by a delegate of the Director-General.
31. By Instrument dated 22 June 2016, the Director-General delegated the power to issue licences in accordance with section 29(1)(a) of the Act to the person from time to time holding, acting in or performing the duties of the positions specified in Schedule 2 of that instrument. This decision is made by a person referred to in that schedule.
32. Section 10 of the *Licensing (Director-General) Act* provides that an affected person for a delegate decision may apply to the Director-General for a review of the decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person, or within any additional time that the Director-General allows.
33. Section 9 of the *Licensing (Director-General) Act* prescribes that an affected person for the purpose of section 10 is the applicant and a person who made a submission, complaint or objection (however described) during the process that resulted in the decision being made.
34. The affected persons in relation to the present application are Birch Carroll and Coyle Limited, the Northern Territory Police and the Department of Health.



Sally Ozolins
Deputy Director-General (Operations)
Date: 10 January 2017