

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR A LICENCE

REFERENCE: LC2019/056

PREMISES: **Charlies of Darwin**
First Floor, 56 Smith Street
Darwin NT 0800

APPLICANT: **TNP Holdings Pty Ltd**

NOMINEE: Ms Rebecca Bullen

OBJECTOR/S: Nil

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

HEARD BEFORE: Mr Richard Coates (Chairperson)
Mr Kenton Winsley (Health Member)
Ms Amy Corcoran (Community Member)

DATE OF HEARING: 21 May 2019

DATE OF DECISION: 11 June 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 to TNP Holdings Pty Ltd (**the Applicant**) authorising the sale of liquor for consumption on or at the proposed premises to be known as “Charlies of Darwin” located on the first floor of the building at 56 Smith Street in Darwin (**the Premises**).
2. In accordance with section 31 of the Act, the licence shall be subject to the following specific conditions (in addition to those general conditions of all such licences):
 - a. The liquor shall be sold pursuant to an authority as a “Public Bar Authority” authorising the sale of liquor for consumption on or at the premises.
 - b. The trading hours shall be as follows:

Sunday to Monday inclusive: 10.00am to 2.00am the following day;

Exceptions
No trade on Good Friday and Christmas Day.

- c. The licence shall be subject to and inclusive of such additional conditions as may at any time be:
 - i. Requested in writing by the Licensee;
 - ii. Approved by the Liquor Commission, as the case may require, or imposed by the Liquor Commission as a condition of the granting of such a request by a Licensee; and
 - iii. Notified in writing by the Director-General to the Licensee.
 - d. Those conditions set out at the conclusion of these reasons in addition to the general conditions included in a 'Public Bar' authority.
3. The licence will be issued immediately following the publication of this decision notice and in accordance with section 31(1) of the Act is subject to the following conditions:
 - a. The Applicant will not commence trade in the sale of liquor under the licence until such time as construction of the proposed premises is completed and a certificate of occupancy under the *Building Act* has been issued to the licensee, authorising it to conduct the business of a tavern at the premises;
 - b. The Applicant must obtain the necessary approvals from the Development Consent Authority; and
 - c. The Applicant must obtain the usual approvals from the Northern Territory Fire Rescue Service in respect of patron capacity and fire safety issues prior to commencing trade.
4. The licence will become operative, subject to the special conditions identified above and the normal conditions associated with a Public Bar liquor licence once the Applicant has presented evidence to the satisfaction of the Director-General that the Premises have been satisfactorily constructed and the appropriate statutory approvals, including the issue of a certificate of occupancy, have been obtained by the Applicant.

Reasons

Background

5. On 14 December 2018 an application was lodged by TNP Holdings Pty Ltd seeking a liquor licence for premises proposed to be known as "Charlies of Darwin" and located on the first floor of the building at 56 Smith Street in Darwin. This location is commonly known as "The old Woolworths building".
6. This liquor licence application is also made pursuant to section 26(2) of the Act, in that it relates to premises which are to be constructed or are under construction. Whilst the Premises actually exists, the Applicant is planning on spending a considerable amount of money to re-model the building including removing sections of the roof and undertaking other building works. The Applicant is concurrently applying for appropriate building approvals and permits and accordingly, any liquor licence granted will be subject to section 31(1) of the Act requiring a range of certificates and compliance evidence to be provided prior to liquor trade being approved to commence.

7. The Applicant is seeking a 'tavern' liquor licence to establish a "sophisticated cocktail and rooftop bar" incorporating a gin distillery with proposed trading hours of:
 - 1100 hours to 0200 hours the following day;
 - Liquor trading 7 days per week including all public holidays;
 - Sale and consumption of liquor not ancillary to a meal; and
 - Light meals and tapas produced on the premises available at all times the business is open for trade.
8. On 23 April 2019 pursuant to sections 28(1) and 50(a) of the Act the Acting Deputy Director General (Operations) referred this application to the Commission to be determined by way of a public hearing whether to issue a licence subject to any conditions or to refuse the application.

Disclosure of influential persons or potential beneficiaries

9. The Commission notes that section 26A(1) of the Act now requires applicants to make 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 Applicant has filed such an affidavit.
10. The Applicant is TNP Holdings Pty Ltd (ABN 17 136 524 537) who is currently registered with ASIC. A review of the company shows that Rebecca Bullen and Patrick McDonald are directors. The company has 100 shares that are fully owned by Rebecca Bullen.
11. The Applicant has applied to register the business name "Charlies of Darwin" with ASIC.
12. The Applicant has provided probity documents in support of the application including special purpose financial statements for year ended 20 June 2018 prepared by Archer Business and Accounting Services Pty Ltd dated 21 August 2018.
13. The Applicant has sworn an affidavit in accordance with section 26A of the Act, stating that there are no other persons of influence apart from the Directors in relation to the conduct of the business or the proposed licence.
14. The Act prescribes that upon the application being filed, together with the affidavit under section 26A, there must be investigations conducted by the Director-General in relation to the application.
15. The Director-General informed the Commission that Rebecca Bullen is also the nominee of the Darwin business 'Stone House Wine and Kitchen' that holds a 'tavern' liquor licence. The licensee company is Northern Wines Pty Ltd where Ms Bullen is also the director and shareholder. The Commission is advised that this licence was issued in 2015 at which time the Director-General received and considered a range of probity documents as part of the application process. At that time the Director-General determined that Ms Bullen, as an executive officer of the applicant was of sufficiently good repute and character to issue the licence. No matters have come to the attention of the Director-General since that time which would alter this position. Consequently,

and in accordance with divisional practice, the same probity documentation has not been required by the Director-General for Ms Bullen in this matter.

16. Patrick McDonald is a director and the secretary of the Applicant Company. The Commission has been advised that he is based in country Victoria and is involved mainly for bookkeeping and WH&S requirements. Mr McDonald has no direct influence over the operation and conduct of the business and as such a delegate of the Director-General determined that no further probity documents were required for him.
17. The Commission received no other information to indicate there have been any adverse matters discovered as a result of the investigation by the Director-General.

Advertising and Objections

18. Details of the application was published in the NT News on Saturday 26 January 2019 and Wednesday 30 January 2019. The Applicant also displayed the “Green Liquor Sign” at a prominent external area of the proposed premises for a 30 day period coinciding with the notices published in the NT News.
19. It is noted that section 27(3) of the Act requires that the Director-General must inform:
 - a. The Chief Executive Officer (**CEO**) of the Department of Health (**DOH**);
 - b. The Commissioner of Police; and
 - c. If the application relates to premises within the area of a shire council or a regional council - the Chief Executive Officer of the council.
20. That occurred with respect to this application and the following responses were received:
 - a. The DOH made “no adverse comment”.
 - b. The City of Darwin advised that it “has not identified any grounds for objection under Section 47F (2) of the *Liquor Act* for the Application for a New Liquor Licence from TNP Holdings Pty Ltd t/a 'Charlies of Darwin' for a yet to be built premises at 1st Floor, 56 Smith Street, Darwin”.
21. Commissioner of Police advised by email dated 15 March 2019 that the NT Police do not support Good Friday and Christmas Day trade. Whilst not technically submitted as an objection in accordance with Section 47F of the Act, the comments of Police were forwarded to the Applicant seeking a comment. The Applicant responded by email dated 15 March 2019 stating “*we won't if they don't want us to.*”
22. Notice of the application was also provided to the Northern Territory Fire and Rescue Service (“NTFRS”) who responded that they had “no objections” to the application.
23. The Deputy Director advised that the Commission that “consultation with the Northern Territory Fire and Rescue Service (**NTFRS**) will be undertaken at a later stage if this application is approved and upon the finalisation of building and fit out works. It is envisaged that this would be incorporated into any condition placed upon an approved licence pursuant to Section 31 of the Act”.

Public Hearing

24. Pursuant to section 50 of the Act, the Director-General must refer *inter alia* applications under sections 26 of the Act to the Commission. Therefore these applications must be heard and determined by this Commission.
25. As earlier noted, on 23 April 2019 the Director General referred this application to the Commission. Pursuant to section 53 of the Act, the Chairperson of the Commission must fix the time and place for hearing and give notice to the relevant parties not less than 7 days before the hearing date. This was done and notice sent to the applicants on 2 May 2019 advising of the hearing scheduled to take place on 21 May 2019 at 11.00am.
26. Pursuant to section 53 of the Act; the Commission is not bound by the rules of evidence and may inform itself in the manner it considers appropriate and conduct the hearing, or part of the hearing, by use of telephone or online facilities. A hearing must also be conducted in public unless the Commission considers that a public hearing is likely to cause undue hardship to a person. No such submission has been made to this Commission and there is no evidence to suggest any such hardship.
27. The public hearing commenced at 11.19am on 21 May 2019. Ms Rebecca Bullen attended in person along with her “mentor and structural engineer”, Mr Philip Gardener. Mr Jeff Verinder, as representative for the Director-General, was also present to provide information and assistance to the Commission during the course of the hearing.

Assessment of the Application

28. As earlier noted, there were no objections to this application. This is despite the fact that the Applicant undertook their obligations with respect to public advertisement and consultation in accordance with the ordinary notice provisions required under the Act. The objection process is specifically provided for under the Act at section 47F. That section clearly identifies those persons *who* may make an objection, the specific *kinds* of applications that may be objected to, the *grounds* upon which an objection can be made and *how* the objection is to be made.
29. Although no objections under that section were made it is important to recall at all times that the Act makes clear under section 6B that it is the Applicant who bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test. Even if there are no objections, the Applicant must still satisfy this Commission of those matters.
30. As is clear from section 6(1) of the Act; when considering or determining an application under the Act in respect of a licence, this Commission **must** apply the public interest and community impact test as relevant to the application. Section 6(2) of the Act provides that:

“For subsection (1), the public interest and community impact test requires consideration of the following objectives:

- a. Harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;
- b. Liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
- c. Public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;
- d. The safety, health and welfare of persons who use licensed premises must not be put at risk;
- e. Noise emanations from licensed premises must not be excessive;
- f. Business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;
- g. A licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:
 - i. By-laws made under the Local Government Act; and
 - ii. Provisions of or under the Planning Act;
- h. Each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;
- i. The use of credit in the sale of liquor must be controlled;
- j. Practices which encourage irresponsible drinking must be prohibited;
- k. It may be necessary or desirable to limit any of the following:
 - i. The kinds of liquor that may be sold;
 - ii. The manner in which liquor may be sold;
 - iii. The containers, or number or types of containers, in which liquor may be sold;
 - iv. The days on which and the times at which liquor may be sold;
- l. It may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;
- m. It may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;
- n. It may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices;
- o. Any sale of additional liquor due to the grant of a licence or the relaxation of restrictive conditions will not increase anti-social behaviour.”

31. In addition, pursuant to section 6(3), the Commission must:

- a. Consider the potential impact on the community in the area that would be affected by the outcome of the decision to grant or refuse an application or the changing of conditions of a licence and, in doing so, must have regard to:
 - i. The harm that might be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor; and
 - ii. The cultural, recreational, employment or tourism impacts; and

- iii. The social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and
 - iv. The density of existing liquor licences within the community area; and
 - v. The volume of alcohol sales within the community area, and any increase in volume within the community area arising from the licence the subject of the application; and
 - vi. Any other prescribed matter; and
- b. Apply the community impact assessment guidelines.”

32. On 6 March 2018, pursuant to section 6A of the Act, the Minister by Gazette notice published community impact assessment guidelines for determining whether or not an application being considered or determined under section 6(1) satisfies the public interest and community impact test. Relevantly those guidelines are stated to

“Set out those matters that will be considered by the Commission when assessing the community impact of the application against the criteria set out in section 6A(1) of the Liquor Act”.

33. Those matters are identified as follows:

Criteria	Matters to be considered
<p>The potential harm or health impact that may be caused to people, or any group of people within the local community area, due to the availability and accessibility of an additional liquor outlet.</p>	<p>Are there any ‘at-risk’ groups or sub-communities within the locality? This may include –</p> <ul style="list-style-type: none"> • Children and young people; • 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. <hr/> <p>Are there any community building, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • Schools and educational institutions;

	<ul style="list-style-type: none"> • 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. This includes information about the density of licensed premises within the community area.</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises.</p> <p>This could also include traffic and pedestrian impact and any plans developed to address these potential issues.</p>
<p>Volume</p>	<p>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).</p> <p>The Commission will consider information available to it about the current alcohol consumption rates for the community area.</p>
<p>Any cultural, recreational, employment or tourism benefits for the local community area.</p>	<p>Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?</p>

<p>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.</p>	<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?
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34. As can be seen from the above, there are a large number of matters that this Commission must consider and that the Applicant must address (and satisfy the Commission of) under the public interest and community impact test and guidelines. The guidelines do make clear however 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”.

35. In addition to those matters, section 28(2) of the Act also provides as follows:

“The Commission must consider an application for a licence, the accompanying affidavit made under section 26A and the results of investigations conducted in relation to the application and make an assessment of the following matters:

- (a) The suitability of the premises in respect of which the application is made, having regard to any law of the Territory which regulates in any manner the sale or consumption of liquor or the location, construction or facilities of premises which are used for that purpose;
- (b) If the Applicant is a natural person – the financial stability, general reputation and character of the applicant;
- (c) If the Applicant is a body corporate – the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;
- (d) If the Applicant is a federation of clubs – the business reputation and financial stability of each constituent club and the general reputation and character of the secretary and executive officers of each constituent club;
- (e) Whether the Applicant is a fit and proper person to hold a licence;
- (f) If a person is referred to in the affidavit under section 26A – whether that person is a fit and proper person to be an associate of a licensee;

- (g) If the Commission considers it appropriate – whether any other associate of the applicant is a fit and proper person to be an associate of a licensee;
- (h) If the Applicant has nominated a person under section 25(2) to be its manager – whether that person is a fit and proper person to be the manager”.

36. Further the Act requires under section 28(3) as follows:

“In assessing whether an Applicant is a fit and proper person to hold a licence, the Commission must have regard to any matters prescribed by the Regulations relevant to that assessment”.

37. The Commission notes there are no such matters prescribed by the Regulations.

38. Although there are many matters for the Commission to consider, like any application, some of the matters are highly relevant to this application whilst others are not as significant.

39. The Commission notes that there is no suggestion, nor any evidence to suggest, that the Applicant is not fit and proper persons to hold the licence as sought.

40. The Commission further notes that there is nothing to suggest that the plans for the proposed premises appear unsuitable.

41. There are no issues of concern in relation to the business reputation and financial stability of the Applicant. It is noted that the Applicant is a company just in the early development stage of a new business. However, there is evidence outlining the good business reputation of Ms Bullen and her management of her other licensed business in Darwin and special purpose financial statements have been provided.

42. In relation to the matters to be considered under the public interest and community impact test and the community impact assessment guidelines; the Applicant provided written submissions as follows:

“This document addresses items outlined in Section 6 and 6A of the Liquor Act:

A) Harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;

We minimise harm caused by the sale of alcohol at the premises by:

- Following the responsible service of alcohol (RSA) guidelines strictly.
- Ensuring that our staff members have RSA certification within a month of employment from an accredited service provider as approved by the commissioner.
- Keeping an up to date register of staff RSA.
- Reminding the staff of RSA principles at staff meetings.
- Ensuring that duty managers are monitoring our staff during service to ensure that RSA principles are strictly adhered to.

B) Liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;

We ensure that Liquor is sold and consumed responsibly by:

- Following the responsible service of alcohol guidelines strictly (see section A).
- The business model is to promote a responsible and sophisticated drinking culture based around the appreciation of quality premium beverages. This sophistication will be reflected in the price, fitout and service ethos that we provide.
- Prohibiting drinking games.
- Prohibiting irresponsible alcohol prices and promotions.
- Monitoring our patrons for alcohol intoxication, have reasonable discussions and if we determine that a patron is intoxicated we refuse them alcohol service, instead only offering them non-alcoholic options or ask them to vacate the premise.
- Only serving alcohol in open containers and monitoring the exits to ensure alcohol is not taken off the licenced premises.
- While free tastings may occur, this will be small samples for educational purpose and guided by a knowledgeable professional.
- Offering a range of food at all times.

C) Public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;

We ensure not to jeopardise public safety by:

- Having a strict limit on the number of patrons allowed in with controlled access.
- Our duty managers and staff are trained in fire and evacuation procedures.

D) The safety, health and welfare of persons who use licensed premises must not be put at risk;

We ensure that the safety, health and welfare of patrons is not put at risk by:

- We will comply all requirements of the liquor commission, NTFRS, health authorities and Police and any relevant responsible authorities.
- Having a Directors risk management meeting each quarter to assess, evaluate and mitigate risks.
- We ensure that incident report forms are completed for incidents and near misses. Risks identified through the incident report forms are added to the risk register.
- Trained staff will ensure that patron numbers are kept to the venue capacity and that a friendly/safe and secure environment is maintained.
- As with Stone House we are proposing not to engage dedicated security personnel, rather using early intervention from trained staff that are working

with the patrons, monitoring behaviour at a personal level to prevent incidents before they occur.

E) Noise emanations from licensed premises must not be excessive;

We ensure that that noise emanating from the premises is not excessive by:

- Working with our neighbours - for instance when live music is arranged we consult with our immediate neighbours.
- Planting and maintaining trees and shrubs to reduce noise leaving and entering the venue.
- To implement sound baffling where required in fit out and furnishing.
- Staff trained in good practice for noise control.
- Patrons reminded to leave the premises quietly at exit points.
- Any amplification will be directed towards patrons to minimise spill beyond the premise.

F) Business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;

We ensure not to offend, annoy, disturb or inconvenience persons in the vicinity to our premises by:

- The location of our premises is either not in the vicinity of any of the institutions described above, or is not operating at a time when they are open.
- The bar strives not to be offensive to any person or group of person.
- No explicit entertainment such as stripper or lingerie shows will be permitted.

G) A licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:

- (i) By-laws made under the Local Government Act; and**
- (ii) Provisions of or under the Planning Act;**

The premises complies with the provisions in the act and all laws described above by:

- Ensuring correct licencing through discussions with licencing NT.
- Complying with all conditions of our licence.
- Complete staff training on relevant conditions of licence and planning.
- Once received, the conditions of the planning permit will be adhered to.
- Ensuring that all building works have all the required certification including planning permission and certificates of occupancy.

H) Each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;

Each staff member will be trained in their role through:

- Induction to the business including all safety, fire and evacuation procedures.
- Independent RSA Certification to ensure that they comply with RSA legislation.
- On the job training, through shadowing experienced staff members and being shadowed by experienced staff members.
- Regular refreshers focusing on different areas of the role during but not limited to, staff meetings, memos and staff communication portal.
- Access to the staff handbook and the operations manual at all times and updated as required if a perceived risk has been identified.
- The management have an annual budget for personal development to train in areas beneficial to their role.
- Leading by example from management.

I) The use of credit in the sale of liquor must be controlled;

The premises will not offer credit in any form to patrons any further than when they complete their visit.

J) Practices which encourage irresponsible drinking must be prohibited;

Practices that encourage irresponsible drinking are prohibited. Please see section B.

K) It may be necessary or desirable to limit any of the following:

(i) The kinds of liquor that may be sold;

It is the intention with approval that all manner of premium spirits, wine, beer and cocktails are to be sold. The spirits may be served neat, but not marketed as "shots" more as a discerning sipping to appreciate some of the more detailed nuances of a particular spirit without the additions of masking tonics/colas.

(ii) The manner in which liquor may be sold;

Liquor is sold from either table service or at bar with RSA guidelines adhered to.

(iii) The containers, or number or types of containers, in which liquor may be sold;

Alcohol is only served in standard measures:

- Beer is served in either 355ml or 375ml bottles/can depending on its origin if served from bottle or if from table in imperial pints or 335ml glasses.
- Wine will be served in a glass or carafe.
- Cocktails will be served in appropriate glassware.

(iv) The days on which and the times at which liquor may be sold;

Request that the Sale of liquor to be permitted between 11am to 2 am the following day, 7 days a week, 365 days a year in keeping with nearby liquor licences.

- L) It may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;**

Trained staff will manage patron numbers in compliance with the limits set by the NTFRS and any other relevant authority. As the venue is a predominantly a seated venue, managing numbers is not difficult.

- M) It may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;**

Refer E & F above.

If one of our neighbours contacted us with a noise complaint we would address it immediately.

- N) It may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices;**

This restriction should not apply to our licence because:

- Promotions are closely monitored by the management and based upon education.
- Promotions are always applied in a responsible manner.
- We would very rarely offer free drinks; for example to VIP's at special events with high profile guests or we offer complimentary champagne to celebrate a milestone - for example the 1st birthday of the stone house we offered a glass of champagne with fairy bread and party pies.
- Our business model prefers to offer great service at full price, rather than happy hours and discounted drinks to increase patronage.

- O) Any sale of additional liquor due to the grant of a licence or the relaxation of restrictive conditions will not increase anti-social behaviour.**

The grant of this liquor licence will not increase antisocial behaviour as a result of additional liquor sales because:

- We believe that the granting of this licence will have the opposite effect to anti-social behaviour with passive observation from the rooftop of a known problem spot of Raintree Park.
- We also believe we will activate the Austin Lane area further.

- As a premium establishment, we do not attract antisocial behaviour through pricing & culture.
- I have run the Stone House and my other bar business responsibly (and have done for many years) and would address any antisocial behaviour issues immediately if they arose.”

43. In relation to the criteria to be considered under the community impact assessment guidelines; the Applicant submitted a detailed submission addressing the criteria and matters to be considered which has been set out below.

“Community Impact Statement - Darwin Supper Club & Roof Top

Address: 1 st floor, 56 Knuckey Street, Darwin, NT, known as "Old Woolies"

Sale of liquor to be permitted between 11am to 2 am the following day 7 days a week, 365 days a year in keeping with nearby liquor licences including the Stone House Wine Bar at which myself, the applicant, Rebecca Bullen, is the owner & manager.

For the purpose of the CIS the area of immediate impact is defined as being bordered by Edmunds and Knuckey Street (including Raintree Park) and Smith and Cavenagh Street, with the broader area between Esplanade and Cavenagh Street, and Bennett and Edmonds Street of lesser significance.

The 1st floor of the site is currently disused and attractive to squatters.

Concept

The lounge, dining and al fresco facilities will be the prime activity for the sale of liquor on premise only. Entertainment will be both live and recorded music. Light meals and tapas will be available at all times while the business is open for trade. Noise will be such as not to unreasonably affect the neighbours. Naturally there will be soft drinks, juices, mocktails, beer and wine for those who want to start or finish with something different.

The distillery will use uniquely Northern Territorian botanicals where possible, to attract a more discerning cocktail drinker. The roof top will be more casual in nature with a lush green alfresco area.

The rooftop will have a mobile bar that can be moved to suit the space. This will most likely be in the form a repurposed 20ft shipping container (or perhaps a caravan).

Licence Type

We are applying for an in-principle liquor licence as the lease for the premises is subject to successful granting of all permits required to run a sophisticated supper club with gin distillery.

Target Market

The typical price point of the beverages and the ambience will be such as not to encourage excessive consumption. Music at a background level, lighting neither too bright nor too dim. Personal interaction with customers. (A venue for conversation and mature social enjoyment.)

There will be table service and patrons will also be encouraged to sit at the bar and speak with the friendly bar staff. At the Stone House we find this element is a great way to a way to connect with fellow customers, for education, to monitor behaviour and to offer a friendly social interaction in an ever increasing socially isolated world. This can be particularly true in Darwin where there are many fife's and temporary residents. We have found that sitting at bar is less intimidating for solo customers.

The Area

The following information about the location and area in which the premises is proposed to be is provided so as to assess any social impact on the community. This includes information about the density of licensed premises within the community area.

The relevant premises and gathering locations within this area are outlined as follows;

In the vicinity there are NO:

- schools and educational institutions;
- hospitals, drug and alcohol treatment centres;
- accommodation or refuges for young or disadvantaged people;
- child care centres;
- dry areas;

Within the vicinity there are ifitness which operates 24/7 based on the ground floor of the "Old Woolies" building at 56 Smith Street and with its entry facing Smith Street. The users of this facility are not considered to be an at risk group.

A potential at-risk group congregate opposite in Raintree Park. The Park is used both as a recreational area and a gathering place for indigenous people who could be traveling to the area from a dry community but also the community as a whole, with the Darwin boutique markets and other community events. These are normally held during the day outside the busy times for this venue.

There are numerous other licenced premises with closer proximity to the park at street level. Our first floor venue also has its entry off Austin lane, around the corner from Knuckey Street and the park.

We also confirm that the premises will be managed at all times by responsible trained staff with appropriate experience and qualifications (RSA) to identify and respectfully deal with any at risk patrons and influence behaviour. Policies and procedures will deal with refusal of service, ejection and ultimately requests for police intervention. Our service ethos and operational procedures will give staff the

training and obligation to monitor behaviour of patrons in regards to intoxication, antisocial behaviour and illicit drug taking.

We will minimise the harm or ill health caused to people or groups of people by the consumption of alcohol with the following strategies;

- The RSA guidelines will be strictly adhered to and all staff will be required to have a current certificate and undertake refresher training as mandated. The holder of the licence will comply with the "Industry Code of Practice for the Promotion of Liquor", provide a safe drinking environment, prevent irresponsible or excessive consumption of liquor, ensure complimentary tap water is available at all times and ensure all staff are properly instructed to watch for and prevent drink spiking

The proposed venue will promote a Premium High class drinking culture and serve quality imported and boutique wine, spirits and beer, with many cocktails made in house using local ingredients both alcoholic and non-alcoholic and aimed to please a sophisticated palate. We aim to create a venue that is;

- Attractive to a demographic that does not binge drink
- Has on premise consumption of liquor only
- Is on a rooftop, not immediately accessible and somewhat removed from ground plane. I.e. a conscious decision must be made to go to the entrance up the stair/lift to second floor and past a manned reception.
- Passive surveillance of both Raintree Park and the taxi rank on Knuckey Street from the roof top will improve security of these areas.

It is our intention to reflect the liquor licence hours of the bar immediately opposite us and in line with council's preferred operating hours for bars in the CBD.

As the owner of the Stone House, located in the immediate vicinity, I can confirm that Police attendance has been negligible in the two years the premises has been operating – Police have attended twice for minor issues. No break-ins have been recorded and no liquor licence breaches. We envisage that this proposed venue would also have similar performance.

We also note the requirements that the holder of the licence or employee of a holder shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang). This has never occurred at the Stone House but we confirm we understand our obligations to comply with this direction.

Traffic and pedestrian impacts will be minimal.

In a recent snap poll of Stone House wine bar customers of 23 people on a Thursday night, only 5 had driven, with 3 of those having driven in that morning for work purposes. The rest had walked from their near by apartments or from their place of work.

The central CBD location is perfect for pedestrian access and increased pedestrian flow in the streets and lanes should be considered a benefit to security for both people and property.

Density of licenced premises in the area

In the area defined as the immediate vicinity there are currently:

2 tavern licences –

Stone House - 10am to 1:00am

Sinsations/Bar 3 – 11.00am to 04:00am

On Premise licenses-

Frankie's pizza joint – Trading Hours 10:00 to 02:00

6 Restaurant licenses

Little Miss Korea Korean restaurant – Trading Hours 11.30am-23.59

Moorish Cafe – Trading hours - 11.30 to 02.00

PM Eat Drink - Tuesday to Saturday - 11:30 to 23:59

Good thanks – 12:00 to 0:200am (Friday & Saturday)

Ruby's – 11.30- 23.59

Tandoori Vibes –11:00 to 23:59

It could be suggested that the current density would work against another licence venue in the Darwin CBD. However, in argument to this the council is wanting to stimulate and activate the Darwin Central Business District. The supper club and rooftop will offer something that is unique and give residents and visitors alike a destination with the other bars and restaurants centred round the proposed premises. Experience in other cities like Melbourne shows that aggregating venues into an entertainment precinct adds to vitality and promotes business activity. There is also expected to be improvements in behaviour and this certainly makes police monitoring of venues easier.

The area is currently unused, squatters have already ruined the lift shafts by stealing the copper connectors, revitalising this building can only be a positive for the area. There is also evidence that off premise (or packaged) outlet density is a greater contributor to violence although studies that use data on alcohol sales find that the volume of sales rather than the number of outlets is what matters for harm rates. (<https://www.vichealth.vic.gov.au/-/media/ResourceCentre/PublicationsandResources/alcohol%20misuse/Social-harms-of-packaged-liquor2013.ashx>)

In a recent decision it has stated that while the Liquor Commission has been directed to focus more clearly on addressing the harmful consequences of the Territory's entrenched drinking culture. However the addition of alternative entertainment venues where alcohol is available does not necessarily exacerbate our current societal malaise. Experience has shown in cities such as; Melbourne and Adelaide that the rise of inner city bars that offer diverse entertainment, quality wines and cocktails as well as innovative dining options has encouraged a more responsible drinking culture".

It is the above statement from the Liquor Commission that motivates me to apply for a licence for something that meets these criteria of diversity and quality with a high class image, yet affordable to all.

Amenities

There may also be concerns with:

- Disturbance to the neighbourhood from the proposed venue or patrons
- Alcohol-related crime or anti-social behaviour
- Alcohol-related health problems
- More pedestrian or motor traffic
- More domestic violence linked to alcohol
- Litter and other pollution generated by your venue.

As the proposed venue aims to be of a high quality, where the RSA conditions are adhered to, we believe that the above concerns will be addressed. In fact, more pedestrian activity would be a good thing to activate the city. The passive observation from the 2nd floor would help with security, just like the recent NT police City Safe Cameras that were parked directly in front of Raintree Park in October 2018.

The Licensee shall comply with such requirements for and in relation to camera surveillance as per the Commission. However as with the Stone House, we believe that having CCTV is a must for the operations of the bar, safety of staff and patrons, security and general running and fully intend to do the same in these premises.

The proposed entrance on Austin Lane will be pedestrian only and further contributes to the activation of the laneways in the CBD area.

The busy times at the venue will not coincide with peak traffic flows. It is also likely that people both locals and tourists staying in nearby hotels would walk to the venue.

If there were to be a private function attended by many people there is the option to open another entry door on Knuckey Street to get direct access to the rooftop bar. This could be used to manage traffic flow. We could also use this as necessary to give access for patrons to the taxi rank on Knuckey Street and to ensure only invited guests are admitted.

We do not believe we will contribute to litter and pollution.

In a Vichealth study it was found that Pre-mixed and bottled spirits were the most commonly found alcohol-related detritus items at night or during the day. We are seeking an on premise licence only and will not be selling these items.

<https://www.vichealth.vic.gov.au/-/media/ResourceCentre/PublicationsandResources/alcohol%20misuse/Social-harms-of-packaged-liquor2013.ashx>

Evidence that the grant of this application is in the public interest and how the additional liquor outlet will benefit the local and broader community.

And if there are concerns from the above issues these are offset by offering the following Community benefits:

- New social and recreational choices - Gin distilling classes
- More opportunities for live music and other artists – there will be a piano in the supper club and we will open in up the rooftop top garden to be part of community events such as yoga classes, art shows, Darwin festival and similar uses,
- The intention is to employ the equivalent of 10- 15 Full Time staff, not to mention all the ancillary services such as rubbish removal, power water, local and & liquor suppliers, transport companies, maintenance contractors thereby increasing CBD employment and economic activity
- Use of locally brewed beers and distillations
- Use of indigenous botanicals gathered from remote communities in the NT to use in our menu and distillery
- The Stone House Wine Bar has featured in many national magazine as a destination for wine whilst in the NT, we expect that this will be similar with the proposed venue. Examples of media exposure include the Australian Financial Review, Gourmet Traveller, Silk Air in-flight magazine
- We are also proud sponsors of number of charities based in the NT

There has only been positive feed back from all of those that I have talked to about establishing this business. The idea of having a quality place to lounge in comfort, catch up with friends and business associates is one that they are looking forward to. There was also interest in the opening hours with flight attendants looking forward to the "classy place to go to when I land in Darwin at midnight".

We are also receptive to feedback from our neighbours and the local community and want to work with everyone to make Darwin a great place to live and visit. We also commit that the premises will have appropriate furniture and other fittings to ensure the continued comfort of patrons over a long period. The rooftop bar will also have lots of greenery that will only add to the attractiveness of the Darwin CBD streetscape and also make a contribution to lessening the heat island effect. The Applicant has a good compliance history with Licensing NT and has demonstrated it can successfully operate its licensed premise in a responsible manner and contribute to the community and economy of Darwin."

44. The Applicant informed the Commission that the first floor of the building where the proposed premises is proposed to be developed is "currently disused and attractive to squatters" who "have already ruined the lift shafts by stealing the copper connectors, revitalising this building can only be a positive for the area." In the current tough economic times of Darwin, there has been a concerted push from businesses and Government at both local and Territory level for the revitalisation or "reactivation" of Darwin City including filling vacant shop fronts to attract more people to the City and provide greater offerings to tourists and reduce anti-social behaviour. This unique concept of a roof top bar/restaurant and gin distillery is not only a new offering for

locals and tourists but will also provide a new use to an otherwise derelict part of the “Old Woollies” building.

45. What was not entirely clear from the application was the type of food that will be available for patrons at the Premises and during what times. The application stated “light meals and tapas would be available at all times” however, Ms Bullen informed the Commission at the hearing that the Premises will have a full kitchen and a menu that will offer more substantial meals. Ms Bullen named meals such as ‘steaks’ and chicken cordon bleu as examples, however, she was still in the process of deciding the exact style of cuisine. It was clear from Ms Bullen’s comments that meals and not just ‘snacks’ would be readily available at the Premises. Ms Bullen also advised the Commission she is intending to serve meals “until close” as there was limited late night dining options available in Darwin.
46. Having heard and considered all of the evidence presented to the Commission and noting there are no objections to the application for a liquor licence, the Commission finds on balance that there is no evidence to suggest any potential harm or health impact may be caused to people, or any group of people within the local community area, due to the availability and accessibility of liquor as a consequence of the licence sought.
47. The Commission is satisfied that the Applicant has in place appropriate measures to ensure liquor is sold in a responsible manner. There is no evidence before the Commission to suggest there is likely to be an impact upon law and order, community safety or public amenity by virtue of this application to warrant it being refused.
48. The Commission is satisfied that noise emanating from the Premises will not be excessive in the circumstances such as to warrant this application being refused, or that the business to be conducted at the Premises will cause undue offence, annoyance, disturbance or inconvenience to the neighbourhood. The Premises is located in the Central Business District of Darwin City and there are no residential apartment blocks in immediate proximity.
49. In granting a licence there will be an increase to the number of licensed premises in the area, however given the proposal is for “sophisticated supper club, with a focus on world class cocktails, gin distillery in a unique roof top setting along with a fully equipped kitchen with substantial food offerings; the Commission considers this outweighs the fact of the increase and will provide an enhanced dining and entertainment experience in Darwin city which is different to the current offerings.
50. It is noted that during the course of the hearing the Applicant confirmed that due to the Commissioner of Police’s concerns with trading on Good Friday and Christmas Day, it would be happy to forego those days of trading.
51. It is as a result of the matters outlined above that the Commission is, on balance, satisfied that the approval of the application for a public bar authority meets the public interest and community impact tests. As outlined at the start of this Decision Notice, the licence will include the general conditions of a “public bar” authority liquor licence and will also include the following conditions:

Consumption of Liquor	Liquor to be sold to patrons for consumption on the licensed premises.
Camera Surveillance Requirement	The Licensee shall comply with such requirements for and in relation to camera surveillance as the Director shall at any time notify to the Licensee in writing as being applicable to the licensed premises.
Crowd Controllers	The Licensee shall keep a record of the full name, residential address and licence number of each licensed crowd controller employed at the licensed premises, which shall be immediately provided on request to an Inspector of Licensed Premises or an Inspector appointed under the <i>Private Security Act</i> .
Non-alcoholic drinks to be kept	The Licensee shall maintain a reasonable range and stock of soft drinks and fruit juices to the satisfaction of the Director.
Meals on Request	Meals will be available on request between the hours of 12.00 noon and 2.00pm and again between the hours of 6.00pm and 9.00pm seven days per week.
Snack Foods	Snacks will be made available at all times the licensed premises are open for trade.

Notice of Rights:

52. 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.
53. 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.
54. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected person is the Applicant.



RICHARD COATES
 Presiding Member
 Chairperson

11 June 2019