

DECISION OF DIRECTOR OF LIQUOR LICENSING

APPLICANT: AUSTRALIA RUN PTY LTD

PREMISES: STOCK ROAD CENTRAL LIQUOR STORE

PREMISES ADDRESS: UNIT 10/40 PORT PIRIE STREET, BIBRA LAKE

APPLICATION ID: A000252405

MATTER: APPLICATION FOR CONDITIONAL GRANT OF A LIQUOR STORE LICENCE

DECISION OF: PETER MINCHIN
DIRECTOR LIQUOR CONTROL AND ARBITRATION

DATE OF DETERMINATION: 20 FEBRUARY 2018

Introduction

- 1 This is an application by Australia Run Pty Ltd (the applicant) for the conditional grant of a liquor store licence for premises to be located at Unit 10, 40 Port Pirie Street, Bibra Lake and to be known as the Stock Road Central Liquor Store. The application is made pursuant to ss 47 and 62 of the *Liquor Control Act 1988* (the Act).
- 2 The application was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing. There were no objections or intervention to the grant of the application.
- 3 The application will be determined on the written submissions of the applicant as permitted under ss 13 and 16 of the Act. Further, this decision has been prepared, and should be read, in the context of high-volume liquor jurisdiction which is to act as speedily and with as little formality and technicality as is practicable.¹

Determination

- 4 The proposed liquor store will be located within the Stock Road Central Shopping Centre (the Centre) and will cater to the requirements of consumers in the locality and provide a service to patrons who frequent the Centre, an amenity that recently ceased due to the closure of the Stock Road Market Tavern and liquor store in 2016.
- 5 The store will be modest in size with a browse area of 264m². It is proposed to offer a standard range of liquor products.
- 6 In accordance with the requirements of the Director of Liquor Licensing, the applicant lodged a Public Interest Assessment (PIA) to support its application. The PIA included details on:

¹ Refer s 16(7) of the Act.

- the demographic profile of the locality surrounding the proposed liquor store;
 - the venue and manner of operation;
 - existing alcohol-related harm in the area;
 - consultation with the local community; and
 - likely impact on the amenity of the locality.
- 7 Pursuant to s 38(2) of the Act, the applicant must satisfy the licensing authority that the grant of the application is in the public interest. In determining whether the grant of an application is 'in the public interest' I am required to exercise a discretionary value judgment confined only by the scope and purpose of the Act.²
- 8 The factual matters which I am bound to consider when determining this application are those relevant to the primary and secondary objects of the Act as set out in s 5.³
- 9 The primary objects of the Act are:
- to regulate the sale, supply and consumption of liquor;
 - to minimise harm caused to people, or any group of people, due to the use of liquor; and
 - to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.
- 10 The secondary objects of the Act are:
- to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State;
 - to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act to facilitate the use and development of licensed facilities, including their use and.
- 11 I have considered the applicants PIA and the documents accompanying the application. Based upon the evidence submitted by the applicant, I find that the grant of the application would promote objects 5(1)(c) and 5(2)(a) of the Act. I also note that the proposed liquor store will fill the void in packaged liquor facilities in the local community following the closure of the Stock Road Market Tavern.
- 12 There is no evidence that the locality is suffering from above average rates of alcohol-related harm or that the operation of the proposed liquor store would unacceptably

² *Water Conservation and Irrigation Commission (NSW) v Browning* (1947) 74 CLR 492; *O'Sullivan v Farrer* (1989) 168 CLR 210; *Palace Securities Pty Ltd v Director of Liquor Licensing* [1992] 7WAR 241; and *Re Minister for Resources: ex parte Cazaly Iron Pty Ltd* (2007) WASCA 175.

³ *Woolworths v Director of Liquor Licensing* [2013] WASCA 227.

contribute to an increase in this harm. I therefore find that the grant of the application will not conflict with the harm minimisation object of the Act.

13 Consequently, I am satisfied that the applicant has discharged its burden under s 38(2) of the Act and the grant of the application is in the public interest. Therefore, a liquor store licence is conditionally granted to the applicant subject to the following:

- (a) a Certificate under s 39 of the Act being lodged before the operation of the licence;
- (b) compliance with the *Local Government Act 1995, Health (Miscellaneous Provisions) Act 1911* and any written law relating to the sewerage and drainage of these premise;
- (c) all work being completed within 12 months in accordance with the plans and specifications dated 8 December 2017.
- (d) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements being satisfactorily completed and the Director of Liquor Licensing being notified in writing at least 21 days prior to applicant wishing to trade under the licence;
- (e) a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed; and
- (f) the applicant seeking confirmation of the grant on or before **19 February 2019** pursuant to s 62(4)(c) of the Act.

Conditions to be imposed on the issue of the licence

Trading hours

The permitted trading hours are those prescribed in s 98D of the Act.

Trading

The licensee is authorised to sell and supply packaged liquor in accordance with the provisions of s 47 of the Act.

Tasting condition

Pursuant to s 47(2) of the Act, the licensee is authorised to supply liquor, by way of free sample, for consumption within the licensed premises, subject to the following conditions:

- (a) Tastings must be conducted under the full responsibility and supervision of the licensee or approved manager at all times.
- (b) Tastings cannot be supplied to juveniles.
- (c) Glasses to be used for tastings are to be washed in accordance with the provisions of the Standards of Licensed Premises Policy of the Director of Liquor Licensing unless single use disposable containers are used.
- (d) Compliance with the *Food Act 2008* at all times.

(e) Tastings per sample must not exceed the following measures:

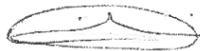
- (i) Wine – 50 mls
- (ii) Beer – 100 mls
- (iii) Spirits – 15 mls.

(f) Free drinking water must be made available at all times that samples of liquor are available for tasting.

Compliance with harm minimisation policy

The licensee is to have a House Management Policy, Code of Conduct and Management Plan developed for these premises in accordance with the Harm Minimisation Policy. These documents must be retained on the licensed premises and produced to any Authorised Officer if required.

- 14 Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
- 15 The applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.
- 16 This matter has been determined by me under delegation pursuant to s 15 of the Act.



Peter Minchin
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING