

Decision Notification

Application Details

Application no.	208067, 208068
Licence No.	57008229
Licence Class	General & Hotel
Premises Name	Carrapateena Camp
Premises Address	Carrapateena Camp, Pernatty Station Road, THE RANGES VIA PT AUGUSTA SA 5700
Applicant	ISS INTEGRATED SERVICES PTY LIMITED
Application Type	Application for a Liquor Licence, Application for the Approval of Profit Sharing Agreement

Outcome

Decision	Granted
Effective Date	15 Dec 2021

Requirements

The following requirements in support of the application have been satisfied:

- Landlord's consent has been obtained
- The application has been advertised
- All approvals, consents or exemptions have been obtained

People

Position of Authority

The following persons are approved to occupy any position of authority in the entity holding the licence:

- Stuart Rose (167006)
- Ian Scanlon (167007)

Premises

New Premises

The licensed area is outlined in red on the approved plan.

Capacity

The capacity of the venue is set at 100.

Community Impact Assessment

The application is a designated application for the purposes of section 53A of the Act.

ISS Integrated Services Pty Ltd (**the Applicant**) have applied for a General and Hotel liquor licence in respect of premises situated at Carrapateena Camp, Pernatty Station Road, THE RANGES VIA PT AUGUSTA SA 5700, to be known as Carrapateena Camp (**the Camp**).

As part of the application the Applicant has submitted a Community Impact Statement (**CIS**). It is the content of the CIS made to the licensing authority (**the Authority**), that my decision is based on.

This application may only be granted if the Authority is satisfied that the grant of the application is in the community

interest. In determining this application under section 53A(2) of the *Liquor Licensing Act 1997* (the Act), I must have regard to:

- the harm that might be caused (whether to a community as a whole or a group within a community) due to the excessive or inappropriate consumption of liquor;
- the cultural, recreational, employment or tourism impacts; and
- the social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and
- the nature of the business conducted or to be conducted under the licence (as prescribed)

I must also apply the Community Impact Assessment Guidelines (the Guidelines), which states: "*The onus is on the applicant to satisfy the licensing authority that the grant of the application is in the community interest and to provide relevant evidence and submissions to discharge this onus.*"

The Guidelines generally impose an obligation upon an applicant to include with the application a community impact submission that, if relevant, is expected to address a range of matters, including: the applicant's products/services in terms of key features and potential customers; business/professional experience, in particular relevant knowledge, experience and competency in relation to the service of liquor; general description of facilities and services; relevant construction details (e.g. materials, finishes, acoustic treatment, etc.); details of any food, including menu; liquor services (e.g. bar) and range of liquor; types of entertainment; types of accommodation; a statement as to whether the community supports the proposed business, including providing evidence of such support; and a statement as to why the granting of the application is in the community interest.

Applicants are also required to provide, where applicable: a map and report regarding the locality generated through Consumer and Business Services' Community Impact Portal; a business plan/plan of management; and a site or property plan, floor plan and/or photographs/artists impressions of the site/building.

Pursuant to section 3(2) of the Act, when deciding whether or not to grant this application, I must have regard to the objects of the Act as set out in section 3(1) of the Act.

Section 3(1) of the Act provides that:

(1) The object of this Act is to regulate and control the promotion, sale, supply and consumption of liquor -

(a) to ensure that the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the excessive or inappropriate consumption of liquor; and

(b) to ensure that the sale, supply and consumption of liquor is undertaken safely and responsibly, consistent with the principle of responsible service and consumption of liquor; and

(c) to ensure as far as practicable that the sale and supply of liquor is consistent with the expectations and aspirations of the public; and

(d) to facilitate the responsible development of the licensed liquor industry and associated industries, including the live music industry, tourism and the hospitality industry, in a manner consistent with the other objects of this Act.

(1a) For the purposes of subsection (1)(a), harm caused by the excessive or inappropriate consumption of liquor includes -

(a) the risk of harm to children, vulnerable people and communities (whether to a community as a whole or a group within a community); and

(b) the adverse economic, social and cultural effects on communities (whether on a community as a whole or a group

within a community); and

(c) the adverse effects on a person's health; and

(d) alcohol abuse or misuse; and

(e) domestic violence or anti-social behaviour, including causing personal injury and property damage.

The Judgment of His Honour Judge Gilchrist in the Licensing Court of South Australia in the matters of Liquorland (Australia) Pty Ltd (Parkholme) [2020] SALC 37 (**Parkholme**) and Hove Sip n Save [2021] SALC 7 (**Hove**) set out the matters to be considered when determining whether or not a designated application should be granted. Whilst Parkholme and Hove were decisions in relation to applications for Packaged Liquor Sales Licences, the principles in Parkholme and Hove are clearly applicable and relevant to determining this application.

The Applicant must also satisfy the Authority that the pre-requisites in section 57 of the Act have been met, in relation to such matters such as: the suitability of the premises; the potential for them to cause undue offence, annoyance, disturbance or inconvenience to nearby residents, workers and worshippers in the vicinity; prejudice to the safety or welfare of children attending nearby kindergartens and schools in the vicinity of the premises; and whether the appropriate approvals, consents and exemptions, in respect of the proposed premises have been obtained.

Nature of the proposed business

The Applicant previously held a General and Hotel licence at the location from 18 September 2018 to 15 May 2020. Prior to this the licence was held by another licensee between 2013 to 2018. The conditions of the licence restricted the sale and supply of liquor to employees and personnel of the mine site.

The applicant has advised this licence was surrendered as the mine site had been shut down. The applicant now seeks to licence the Camp again as the Camp and mine site are operational again.

The proposed premises is located approximately 250 km south-east of Prominent Hill, 160 km north of the regional centre of Port Augusta, in South Australia and cannot be accessed by members of the public.

The applicant holds an Agreement for the Provision of Village Operations and Maintenance Services (the Agreement) with OZ Minerals Carrapateena Pty Ltd and OZM Carrapateena Pty Ltd, referred to collectively as "OZ Minerals".

The Agreement provides "All profits (revenue less operating and management expenses) from the Wet Mess are to go to OZ Minerals for the purpose of improvement in and around the Village and Camp".

The Applicant submits that the licence at the Camp, if granted, will be of the same category, held by the same licensee and on the same condition, that the General and Hotel licence will be restricted to the sale and supply of liquor to employees and personnel of the mine site. The applicant also submits that they operate many liquor licences around Australia and is experienced in the management of licensed premises.

The Applicant has stated that the licence is sought as it is required to provide a supply of services to those onsite at the Camp. These services are outlined in Schedule 19 of the Agreement (the Services).

As part of the Services, ISS is required to provide a catering service onsite, which includes the service of alcoholic beverages to residents, invited guests and other personnel associated with the mining operations conducted by OZ Minerals. The service of liquor is intended to be restricted to the wet mess building and beer garden as described in the Agreement and as outlined on the plans provided to the licensing authority. OZ minerals has granted permission for ISS to apply for a General & Hotel Licence for the purposes of providing the Services outlined in the Agreement. ISS, as part of its application, has sought a condition that the licensed premises shall not be open to the general public and will be

restricted to employees and personnel authorised by OZ Minerals.

A summary of the overall facilities at the Camp is outlined in the Agreement . As outlined in the application, there will be accommodation at the Camp. This accommodation is restricted to the residents, invited guests and other personnel associated with the mining operations conducted by OZ Minerals.

The Agreement states that ISS will sell a range of liquor beer, pre-mixed spirits or cider, wine (including port). In addition, residents will only be allowed to purchase a maximum of four 375ml of beer, premix, cider or one bottle of 750ml wine (including port) for takeaway. Takeaway liquor is to be consumed within their own personal room (residence) and not in public spaces within the Camp.

I am satisfied that the Applicant has provided relevant details to the Authority in relation to its business plan, layout, and the premises.

Locality

The Guidelines provide a guide for applicants in relation to the 'locality' applicable to their application, and states that applicants are required to identify the geographic area from which they expect to draw customers having regard to the intended nature of the business of the licensed premises.

The Guidelines speak of the locality as referring "*to the area surrounding the licensed premises / proposed licensed premises and is the area most likely to be affected by the grant of the application*".

The Guidelines recommend that for premises located in a regional area that: "*Where a premises/proposed premises is remotely located, the applicant should, as part of their Community Impact Submission, choose an appropriate locality to address in their submission, keeping in mind that the locality of a premises is the area most likely to be affected by the grant of the application.*" (Schedule 2, page 6, Guidelines).

Applicants are also required to provide to the licensing authority, where applicable: "*a map and report regarding the locality generated through the Consumer and Business Services' (CBS) Community Impact Portal*" page 3, Guidelines.

The Applicant has attempted to provide location and area reports using the Community Impact Portal, the Applicant has used the location of the premises to create the reports and has reported that the portal produces "*no results*".

This has been reviewed by the licensing authority and confirmed to be consistent with the Applicant's statement. It has been determined that this is due to the remote location of the camp.

The Applicant has therefore requested that the requirement for the reports be waived. I note that the proposed premises will be restricted to residents, invited guests and other personnel associated with the mining operations conducted by OZ Minerals and will not be open to the public.

I consider that "*other special circumstances*" exist as per the Community Impact Assessment Guidelines, and I therefore vary the requirement of the Community Impact Submission and waive the requirement for the applicant to lodge location and area reports.

Due to the remote location of the proposed premises and the proposed condition of the licence that the premises will not be open to the public, the Applicant has determined that the locality to be restricted to the Camp.

Given that public access to the proposed offering is restricted, it is clear that some people residing within (or passing through) the locality will not be able to enter the site and purchase alcohol from the Camp. The Camp customers will be restricted to Camp residents, invited guests and other personnel associated with the mining operations (as opposed to the public at large). Given the unusual circumstances and nature of the proposed offering (i.e. it will be located in a

remote area, in premises within a site where both the site and the personnel are highly regulated, with no access by members of the public or community groups), consideration of locality is more straightforward than is ordinarily the case.

I am satisfied that the Applicant has adequately identified the locality likely to be affected by the grant of the application.

Potential Harm

The application summary contains reference to the village rules and curfews. The village rules and curfews includes the OZ Minerals Drug & Alcohol Management Plan, which is relevant to the consideration of the potential for alcohol related harm.

The Applicant has provided to the licensing authority the OZ Minerals Drug & Alcohol Management Plan, of which OZ Minerals employees and contractors (including ISS) are subject to. ISS holds an Agreement for the Provision of Village Operations and Maintenance Services (the Agreement) with OZ Minerals. OZ Minerals is the landlord of the Camp. Given the nature of the business, the mining operations are subject to strict Work Health Safety (WHS) requirements, which are regulated by Chapter 10 of the *Work Health and Safety Regulations 2012* (SA).

The OZ Minerals Drug & Alcohol Management Plan includes a zero-tolerance alcohol policy for workers. Under this policy, all workers must comply with requests to undertake breath testing (or other forms of drug and alcohol testing) on site. In light of its zero-alcohol tolerance policy, the reading for the breath test must return a reading of 0.00 for BAC in order for workers to undertake work onsite. This is enforced by a random breath and drug testing regime. The testing regime is equally applied to both OZ Minerals personnel and contractors OZ Minerals.

The OZ Minerals Drug & Alcohol Management Plan includes the training of employees regarding the hazards associated with alcohol and drugs, along with the training of supervisors to better identify employees under the influence of alcohol and/or drugs. Employees will be provided with information regarding the potential impact of alcohol and drug consumption on the ability to work safely. All employees will be provided with access to an Employee Assistance Program. OZ Minerals will assist with any rehabilitation efforts where it is considered practicable and are dedicated to treating personnel fairly and with dignity.

The Agreement restricts the sale of liquor for take away to a maximum of four 375ml of beer, premix, cider or one bottle of 750ml wine (including port). Takeaway liquor is to be consumed within personnel's own private rooms (residence) and not in public spaces within the Camp.

These procedures also significantly limit any risk of excessive drinking presents to: (a) personal injury and property damage; and (b) effects on a person's health through alcohol abuse or misuse and minimises the potential from harm associated with the excessive and the inappropriate consumption of alcohol.

The Applicant submits that the site will not be able to be accessed by members of the public and that access will be restricted to residents, invited guests and other personnel authorised by OZ Minerals as opposed to the public at large, (as would ordinarily be the case with this class of licence), and that consequently:

- (a) access to alcohol through this licence to at-risk or vulnerable groups is therefore unlikely;
- (b) there is unlikely to be any adverse economic, social and cultural effects on nearby communities as a result of internal policies and procedures onsite which restricts access to the site; and
- (c) schools in the locality will not be impacted.

It is noted that due to the location of the proposed premises there are no drug and alcohol treatment centres,

accommodation or refuges for young or disadvantaged people located near the site, and no nearby recreational or dry areas within the locality.

The Applicant has provided policies and procedures specific to the proposed site and OZ Minerals personnel and operations that are relevant to considering how the risk of alcohol related harm will be minimised and mitigated.

The Outback Communities Authority have not objected to the application.

SAPOL have not objected to the application.

Having considered the application, the location and nature of the of the business, the restricted class of persons who will be able to access the premises, the risk mitigation measures to be adopted by the Applicant, and the various OZ Minerals personnel and WHS policies and procedures identified by the Applicant in their submissions, I am of the view that if the licence were to be granted, the risk of any harm which may be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor is low and will be satisfactorily managed and mitigated by the Applicant and OZ Minerals.

Cultural, recreational, employment or tourism impacts

The Applicant submits that in the event the application is granted that there will be an increase in employment for the local area. The Agreement requires ISS to stock South Australian wines for sale in the wet mess and to source and stock where available South Australian products.

In addition to this ISS works closely with the Kokatha Aboriginal Corporation in Port Augusta, who are the traditional owners of the land to develop opportunities for local people.

Therefore, it is anticipated that the provision of the licence may provide employment opportunities on site, and through supporting local businesses to provide services (i.e. supply of goods).

I am satisfied that if the application were to be granted it may result in an increase in employment in the locality, and that some of those employment opportunities are likely to be provided to people and businesses within the local community.

The grant of the application will have no, or negligible, cultural, recreational and tourism impacts on the locality.

Social impact and impact on the amenity of the locality

The Applicant submits that the grant of the application will not have a negative social impact on the locality due to the location and nature of the premises.

I agree with this submission.

Additionally, I am of the view that reducing the need for Camp residents, invited guests and other personnel associated with the mining operations to drive off site to consume and/ or purchase takeaway liquor may have a positive impact on road safety in the locality.

Decision

I have considered and have had regard to the objects of the Act, as required by section 3(2) of the Act, in determining the application.

Harm minimisation is a key component of the community interest test, underpinned by the first object of the Act: "*to ensure the sale and supply of liquor occurs in a manner that minimises the harm and potential for harm caused by the*

excessive or inappropriate consumption of liquor."

I note that SAPOL and the Outback Communities Authority have not objected to the application.

I have considered the harm that might be caused (whether to a community as a whole or a group within a community) due to the excessive or inappropriate consumption of liquor, and I am satisfied on the material before me that the risk of harm posed by the proposed licence is low.

The Applicant has identified a number of risk mitigation measures that will be utilised, along with various OZ Minerals personnel policies, procedures, and risk mitigation measures which I consider will adequately mitigate the risk of harm to the Applicant's customers and to vulnerable members of the community. I note that the customer base for the proposed offering will be limited and that the premises will not be open to the public at large.

The proposed premises will provide some employment opportunities and it is likely that some of these opportunities will be for the benefit of members of the relevant local community.

Applying the evaluative exercise that the Act requires, involves weighing the positive aspects of the proposed application with the negative aspects in order to determine whether granting the application is in the community interest. I am of the view that the positives of this application outweigh any negatives, and that the proposed offering is in the community interest.

There is no reason why the application should be refused on the basis of the matters outlined in s 57 of the Act such as the suitability of the premises; the potential for them to cause undue offence, annoyance and the like to nearby workers, residents and worshippers in their vicinity; or prejudice to the safety or welfare of children attending nearby kindergartens and schools. I am satisfied that the relevant consents and development approvals are in place in relation to the proposed premises. I am satisfied that the premises are or will be of a sufficient standard for the purpose of properly carrying on business under the licence.

In my view there is no reason why the application should be refused under the broad discretion available in s 53 of the Act. I do not consider that granting the application would be contrary to the public interest. I do not consider that granting the application would be inconsistent with the objects of the Act.

I am satisfied that granting the application is in the community interest. Consequently, the application for a General and Hotel Licence is granted.

I impose the following conditions on the licence:

- 1) The licensed premises shall not be open to the general public and is restricted to residents, invited guests and other personnel associated with the mining operations conducted by OZ Minerals
- 2) The sale of liquor for consumption off is restricted to a maximum of 4 x 375ml containers of beer, premixed spirits or cider or 1 x 750ml of wine (including port) per person per day.
- 3) Any liquor purchased for consumption off the licenced premises must not be removed from the Carrapateena Camp.

Conditions

The following conditions are added to the licence

- The licensed premises shall not be open to the general public and is restricted to residents, invited guests and other personnel associated with the mining operations conducted by OZ Minerals.
- The sale of liquor for consumption off is restricted to a maximum of 4 x 375ml containers of beer, premixed spirits or cider or 1 x 750ml of wine (including port) per person per day.
- Any liquor purchased for consumption off the licensed premises must not be removed from Carrapateena Camp.

Authorisations

The following authorisations/restrictions are added to the licence

- Sale of liquor for consumption on the licensed premises authorised
- Sale of liquor for consumption off the licensed premises authorised
- Profit sharing agreement approved

Trading hours

The following are the approved trading hours

	Consumption on premises	Consumption off premises
Monday	5:30 am to 9:30 pm	8:00 am to 8:00 pm
Tuesday	5:30 am to 9:30 pm	8:00 am to 8:00 pm
Wednesday	5:30 am to 9:30 pm	8:00 am to 8:00 pm
Thursday	5:30 am to 9:30 pm	8:00 am to 8:00 pm
Friday	5:30 am to 9:30 pm	8:00 am to 8:00 pm
Saturday	5:30 am to 9:30 pm	8:00 am to 8:00 pm
Sunday	5:30 am to 9:30 pm	8:00 am to 8:00 pm

Profit Sharing Agreement

I approve the agreement between ISS Integrated Services Pty Ltd and OZ Minerals Carrapateena Pty Ltd and OZM Carrapateena Pty Ltd subject to the following conditions:

- Nothing in this approval or in the terms of the Agreement between the parties shall relieve the licensee of its duties or liabilities under the Act.
- The approval is for the period specified in the agreement and there shall be no changes or alterations to the agreement without the prior approval of the Licensing Authority.
- Nothing in this approval or in the terms and conditions of the agreement between the parties shall relieve the unlicensed entity of its duties and liabilities under the law of South Australia.
- It is a requirement under section 99(3) of the Act that the business conducted under the Agreement be conducted under the personal supervision and management of a natural person approved by the licensing authority.
- The licensee will maintain accounts and records in accordance with the Act and its Regulations for inspection by an authorised officer.

I am satisfied that the agreement is likely to assist the liquor industry and industries with which it is closely associated and is in the public interest. I am also satisfied that the agreement does not adversely affect the rights and reasonable

expectations of persons presently in employment.

Reasons for Decision

In reaching my determination, I have had regard to the objects of the *Liquor Licensing Act 1997*.

Under Delegation from the Liquor and Gambling Commissioner



Jane Widdowson
Hearings Delegate
15 Dec 2021