

Decision Notification

Application Details

Application no.	210081
Licence No.	57318721
Licence Class	Restaurant & Catering
Premises Name	Lavricks Roadhouse
Premises Address	Olympic Way Olympic Dam SA 5725
Applicant	Cove View Holdings Pty Ltd
Application Type	Application for a Liquor Licence
Representative	Patrick Connelly - Clelands Lawyers

Outcome

Decision	Granted
Effective Date	02 Sep 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:

- Scott Thomas Rowlands (80215)

Determination Details

Submissions from the following persons or corporate entities were received and taken into consideration when determining this application: Olympic Dam Football Club Inc and BHP Olympic Dam Corporation Pty Ltd
Under section 77(2)(a) of the *Liquor Licensing Act 1997* (the Act) Olympic Dam Football Club Inc and BHP Olympic Dam Corporation Pty Ltd have submitted that to grant the restaurant and catering licence would be inconsistent with the objects of the Act and would be contrary to the Act.

The Olympic Dam Football Club Inc have made the following submissions in support of this:

- Section 3(1)(a), as an object of the Act is to ensure the sale of liquor occurs in a manner that minimises the harm and potential harm of excessive or inappropriate consumption of liquor. Section 3(1a)(b) of the Act provides that harm includes "the adverse economic, social and cultural effects on communities".
- The Club is located on leased land from BHP within the Olympic Dam Village precinct at Roxby Downs and since it started in 1987 the Club has become a vital part of the Olympic Dam community providing its patrons with bar and meal facilities, hosts numerous club and community events with all proceeds being reinvested into the community, in particular football and cricket and also with providing assistance for netball. The applicant's premises are adjacent to the Club's facilities on the only freehold land in the immediate locality. All other land

nearby is leased to BHP. The Club objects to the applicant's application as if granted the licence it may substantially impact on the Club's potential finances and therefore its ability to continue to support the local community both economically and socially.

The applicant's representative, has provided a written response to the Commissioner addressing the concerns raised by the Olympic Dam Football Club Inc in the response the applicant submits that:

- The Club has seemingly tried to justify its submission on economic grounds by reference to the words “adverse economic...effects on communities” in section 3(1a)(b) of the Act. However, this reference is, having regard to the balance of section 3(1a) of the Act, a reference to economic effects caused by the excessive or inappropriate consumption of alcohol. There is no evidence (nor any suggestion by the Club) that our client’s application will result in excessive or inappropriate consumption of liquor and as such no issue in relation to our client’s application as far as the objects of the Act are concerned.

In addition to this the applicant provides reference to the discretionary powers of the licensing authority, in particular section 53(1) of the Act which states:

Subject to this Act, the licensing authority has an unqualified discretion to grant or refuse an application under this Act on any ground, or for any reason, the licensing authority considers sufficient (but is not to take into account an economic effect on other licensees in the locality affected by the application).

BHP Olympic Dam Corporation Pty Ltd provided the following information in relation to a recently (July 2021) implemented Minerals Australia Alcohol Management Standard (BHP Alcohol Standard):

- The BHP Alcohol Standard is to ensure the health, safety and wellbeing of our workforce, and to help educate to reduce the short and long term risks associated with drinking alcohol. All BHP employees and contractors at Olympic Dam accommodation facilities are required to comply with the BHP Alcohol Standard, which, among other things, limits the consumption of alcohol to mid strength drinks to a maximum of 4 drinks in 24 hours, and imposes an alcohol curfew of 9.30 pm.
- The BHP Alcohol Standard is in line with the National Health and Medical Research Council’s Australian Guidelines to Reduce Health Risks from Drinking Alcohol, which state that healthy adults should drink no more than four standard drinks per day in order to reduce the risk of immediate harm from alcohol consumption. The BHP Alcohol Standard was designed to protect BHP’s workforce and reflect the health advice from the Australian Government to limit the risk of harm from alcohol. In addition to promoting health and wellbeing. These changes have been brought into effect to reduce the risk of people hurting themselves or others through accidents, property damage, assault or disrespectful behaviours, which we know increase with excessive or inappropriate consumption of alcohol. The values and goals of the BHP Alcohol Standard are consistent with the objectives of the Act.

BHP Olympic Dam Corporation Pty Ltd asserts that:

- The customers of the licenced facilities in the location, including the existing Lavricks Roadhouse, are (with the occasional exception) BHP employees and contractors working at Olympic Dam and associated facilities, and residing at the Olympic Dam Villages.
- The licenced facilities within the Olympic Dam Village and Olympic Dam South Village operate in line with the BHP Alcohol Standard. BHP is working with the Olympic Dam Sporting Club, to align its practices with the BHP Alcohol Standard to provide a consistent, aligned and safe environment for the Olympic Dam community.

Pursuant to section 77(2)(a) of the Act, BHP Olympic Dam Corporation Pty Ltd submit that the application is inconsistent with the objects of the Act as set out in section 3 of the Act for the following grounds:

- The application should be assessed having regard to the context in which the premises will operate and in particular the public that it intends to service. The public that Lavricks Roadhouse services, and intends to continue to service, is almost entirely BHP employees and contractors working at Olympic Dam and associated facilities. While working or residing at BHP owned and operated facilities these employees and contractors are subject to elevated requirements in relation to behaviour, safety and the consumption of liquor, compared to the general public elsewhere in the State. As such, BHP believes these unique circumstances are significantly different to an application for a liquor licence at a premises in, for example, Metropolitan Adelaide.
- The granting of a restaurant and catering licence to Lavricks Roadhouse authorising it to sell or supply liquor to the Olympic Dam community, which is currently a unique and highly controlled environment in terms of the sale of alcohol, is contrary to the objects of the Act. In particular, the sale of liquor by Lavricks Roadhouse is far less regulated than other licensed premises in the Olympic Dam community and will undermine the effectiveness and implementation of BHP's Alcohol Standard.

The applicant submits the following in response to the submission:

- It is not the case that our client's customers are 'almost entirely' BHP employees or contractors subject to the Standard. As a roadhouse, our client regularly attracts locals from nearby towns such as Andamooka who, for example, attend the premises for a meal and return home. As one of the last main roadhouses as you head towards far north South Australia, our client also regularly has transport operators, freight drivers, campers and tourists visiting nearby tourist attractions (i.e. the many lakes and "tracks" surrounding Olympic Dam) attending the premises. It is entirely reasonable that our client be permitted to sell liquor to these persons together with a meal on normal terms without these persons being subject the Standard.

The applicant has compared the proposed licence conditions of their restaurant and catering licence application to the other licensed premises in Olympic Dam and submit that the licences for these premises provide for far greater trading rights for the following reasons:

- Sale of liquor without meals and allow patrons to stand whilst consuming liquor
- Trading hours until either midnight and into the early hours of the morning
- The general and hotel licences allow for carry off (consumption off)
- The capacities of the premises are far greater

In addition to this the Standard does not form part of the liquor licence conditions for any of the licensed premises in Olympic Dam, notwithstanding BHP's submission that the Hotels "operate in line with" the Standard. On this basis, we respectfully submit there is no basis for the Standard to form part of our client's licence conditions either.

The applicant has also drawn attention to the fact that the inherent condition of a restaurant and catering licence is that the supply of meals must at all times be the primary service provided to the public.

Decision

Although the Olympic Dam Village should be praised for the implementation of such a standard, it is not a requirement of the *Liquor Licensing Act 1997*, *Liquor Licensing (General) Regulations 2012* (the Regulations) or the Commissioners Codes of Practice (the Code).

As stated by the applicant all BHP employees and contractors at Olympic Dam accommodation facilities are required to comply with the BHP Alcohol Standard. The Olympic Dam and Olympic Dam South facilities have located within their boundaries a general and hotel licence each.

This is a private arrangement/agreement and not one the licensing authority needs to have regard to. In addition to this I note that there are no such restrictions on the licences in Olympic Dam.

As stated by BHP Olympic Dam Corporation Pty Ltd this standard has been implemented for the safety of their employees. Lavricks roadhouse is not responsible for providing a safe work environment for employees of the mine site or for their associated conduct.

I note that the general and hotel licence, held at Olympic Dam and Olympic Dam South village are not open to the general public and are restricted by condition to residents and invited guests and other personnel associated with the mining operations. The roadhouse will service the general public.

A restaurant and catering licence restricts the licensee to providing liquor only to persons with a meal, seated at a table, or attending a function. This licence class will not allow the applicant to operate a 'bar'.

In addition to this section 35(2) of the Act states:

A restaurant and catering licence is subject to the condition that business must be conducted at the licensed premises such that the supply of meals is at all times the primary service provided to the public at the premises, except as otherwise allowed by a condition of the licence.

I note that BHP Olympic Dam Corporation Pty Ltd have submitted that a number of conditions should be imposed on the licence in the event the application is granted. In my view there is no proper basis to impose the conditions proposed, as a number of them are not within ambit of the Act (e.g. planning matters and traffic management), whilst other proposed conditions are already covered by the Act or the Code and therefore do not need to be replicated on the licence.

I note that if licensed the applicant is required to be compliant with the Act, Regulations and the Code.

The Code stipulates that a licensee must ensure that all staff engaged by the licensee have successfully completed nationally accredited responsible service of alcohol training by a Registered Training Organisation approved by the Commissioner.

In addition to this the licensee would be required to have an approved responsible person on the premises in accordance with section 97 of the Act.

Further to this it is a requirement of the Code that licensees develop a licensee risk assessment and management plan template. The licensee must provide to all staff involved in the service or supply of liquor on the licensed premises, training in relation to the management plan to be implemented to address the risks associated with the operational practices. The training must be provided to all staff on induction and at least once in each subsequent period of two years.

After considering the submissions lodged I am of the opinion that the application should be granted as sought.

Premises

New Premises

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

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 at the site of a function off the licensed premises authorised

Trading hours

The following are the approved trading hours

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

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
02 Sep 2021