

# Decision Notification

## Application Details

Application no.	80837
Licence No.	57002875
Premises Name	Old Bushman Hotel
Licensee	J-Poka Pty Ltd
Premises Address	10 Cowan Street GAWLER SA 5118
Application Type	Application to Vary Gaming Trading Hours
Representative	David Tillett - DBH Lawyers

## Outcome

Decision	Granted
Effective Date	23 Feb 2021

## Requirements

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

The application has been advertised

## Trading hours

The following are the approved trading hours

Monday	Midnight to 4:00 am	10:00 am to Midnight
Tuesday	Midnight to 4:00 am	10:00 am to Midnight
Wednesday	Midnight to 4:00 am	10:00 am to Midnight
Thursday	Midnight to 4:00 am	10:00 am to Midnight
Friday	Midnight to 4:00 am	10:00 am to Midnight
Saturday	Midnight to 4:00 am	10:00 am to Midnight
Sunday	Midnight to 4:00 am	10:00 am to Midnight

## Reasons for Decision

The licensee has applied to the Liquor and Gambling Commissioner (the Commissioner) to vary their authorised gaming trading hours. The current authorised gaming trading hours as fixed by the licence are within the authorised liquor trading hours which authorise the licensee to trade in liquor between 5:00am and 3:00am Monday to Saturday, and between 8:00am and 3:00am on Sunday. The licensee's current authorised gaming hours are 9:00am to 3:00am daily.

In November 2019, as part of a reform to liquor licensing in South Australia, a consequential amendment was made to section 27 of the *Gaming Machines Act 1992* (the Act) which removed sub-section (7)(a) which had stated:

"(7) In fixing (or varying) the hours during which gaming operations may be conducted pursuant to a gaming machine licence, the Commissioner -

(a) cannot fix hours that are outside the hours during which the licensed premises are authorised to be open for the sale of liquor"

The result of the amendment is that the Commissioner may authorise gaming trading hours that fall outside the hours fixed by the licensee's liquor licence.

The licensee has applied to vary their authorised gaming trading hours to between 10:00am and 4:00am daily. The licensee is aware that the grant of this application would result in the licensee being authorised to allow gaming in the premises between 3:00am and 4:00am, but would not allow for the sale or supply of liquor during those hours.

Section 27AA(4) of the Act states that the Commissioner may, after receiving an application for variation of a gaming machine licence, determine that the application is to be a designated application for the purposes of section 17A of the Act. The Commissioner had regard to that provision but considered that, on this occasion, the applicant should only be required to advertise the application to give the community an opportunity to make submissions, including as to whether the grant of the application would be inconsistent with the objects of the Act. No submissions were received.

Section 27AA(7) of the Act requires me to have regard to the matters set out in section 15(5)(a) of the Act, to the extent they are relevant to the application, in determining an application for a variation to a gaming machine licence.

Section 15(5)(a) of the Act states that a gaming machine licence will not be granted unless:

"(a) the applicant for the licence satisfies the Commissioner, by such evidence as the Commissioner may require—

(i) that the proposed gaming area, or gaming areas, within the premises in respect of which the licence is sought is or are suitable for the purpose; and

(iii) that the arrangements proposed for the security of the premises, each gaming area and the gaming machines, and of the gaming operations generally, are adequate; and

(iv) that the conduct of the proposed gaming operations on the premises would be unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises; and

(vi) that the conduct of the proposed gaming operations on the premises would not detract unduly from the character of the premises, the nature of the undertaking carried out on the premises or the enjoyment of persons ordinarily using the premises (apart for the purpose of gaming); and

(vii) that no proposed gaming area is so designed or situated that it would be likely to be a special attraction to minors; and

(viii) that the proposed gaming area is within a place or area that is enclosed as defined by the *Tobacco and E-Cigarette Products Act 1997* (see section 4(3) and (4))".

I have considered the above matters and, given there is no change to the authorised trade under the licence other than the extension of trade to 4:00am daily, I am of the view that only sub-section (iv) is relevant to the application. I have had regard to that matter and I am satisfied that the grant of this application would not cause any undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises.

Pursuant to section 24(3) of the Act, I am satisfied that the grant of this application would not be contrary to the public interest.

Pursuant to section 27AA of the Act, the application to vary the authorised gaming hours is granted.

## Under Delegation from the Liquor and Gambling Commissioner



Natasha Kontzisionis  
Manager, Liquor & Gambling  
23 Feb 2021