

Decision Notification

Application Details

Licence No.	57002914
Licence Class	General & Hotel
Application no.	205150
Premises Name	Opal Inn
Premises Address	Hutchinson Street COOBER PEDY SA 5723
Licensee	The Opal Inn Pty Ltd
Application Type	Variation to conditions
Representative	Didier Vollerin - Australian Hotels Association (SA)

Outcome

Decision	Granted
Effective Date	31 Jan 2021

Procedural

I allow the applicant to vary their application as follows:

The licensee initially sought to remove the following condition:

"The licensee is only authorised to sell liquor for consumption off the premises between 11am and 8pm on any day. This condition does not apply to the sale of liquor for consumption off to the holder of some other current liquor licence."

In favour of the following condition:

"The licensee is only authorised to sell liquor for consumption off the premises between 8am and 10pm on any day. This condition does not apply to the sale of liquor for consumption off to the holder of some other current liquor licence."

The licensee has sought to amend their application to instead apply for the following condition:

"The licensee is only authorised to sell liquor for consumption off the premises between 8am and 9pm on any day. This condition does not apply to the sale of liquor for consumption off by wholesale."

Requirements

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

The application has been advertised

Conditions

The following conditions are added to the licence

- The licensee is only authorised to sell liquor for consumption off the premises between 8:00am and 9:00pm on any day. This condition does not apply to the sale of liquor for consumption off by wholesale.

Reasons for Decision

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

The licensee sought to amend a condition of the licence which restricted the sale of liquor for consumption off, other than by wholesale, to allow for greater hours of trade. The original condition restricted sales in this way to between 11:00am and 8:00pm. The licensee sought to extend this to between 8:00am and 10:00pm.

Section 51A of the *Liquor Licensing Act 1997* (the Act) sets out the types of applications that must be provided to the Commissioner of Police. Sub-section (2a) allows the Liquor and Gambling Commissioner (the Commissioner) to give a copy of any other application to the Commissioner of Police. Given the nature of the application and the locality of the premises, it was considered appropriate that the application be provided to the Commissioner of Police.

Pursuant to section 28AA of the Act, the Commissioner of Police intervened in the matter by way of a notice of intervention. Police indicated that they were opposed to the proposed variation and were of the view that if the variation were to be granted it would likely result in an increase in public disorder and disturbance. The Police also argued that the grant of the application would be contrary to the public interest.

Police undertook a review of licensed premises in Coober Pedy and indicated that they were of the view that there needed to be equity amongst licenced premises and a need for consistency with respect to the trading hours for the sale of liquor for consumption off the premises within the township.

I reviewed the register of licences and noted the following:

- there are two general and hotel licences in Coober Pedy – Opal Inn (57002914) and Desert Cave Hotel Motel (57005718). Both licences are authorised to trade in liquor for consumption off between 5:00am and midnight Monday through to Saturday, and between 8:00am and 9:00pm on Sunday. With respect to consumption off, both licences are also conditioned as follows:

"The licensee is only authorised to sell liquor for consumption off the premises between 11am and 8pm on any day. This condition does not apply to the sale of liquor for consumption off to the holder of some other current liquor licence."

- there are two packaged liquor sales licences in Coober Pedy – Miners' Store (57700669) and Carter's Coober Pedy Liquor (57701039). Both licences are authorised to trade in liquor for consumption off between 8:00am and 9:00pm daily.

Police have since advised that the Miners' Store is no longer trading. They have also brought to my attention that although Carter's Coober Pedy Liquor is authorised to trade between 8:00am and 9:00pm, their opening hours are 11:00am to 7:00pm daily. Nonetheless, the licensee of that premises is authorised by the licensing authority to trade in

liquor beyond their opening times if they so choose.

The licensee agreed to amend their application to seek a variation to their existing condition to allow for consumption off the premises between 8am and 9pm daily. These hours would align with the hours authorised by the licence held by Carter's Coober Pedy Liquor.

Police indicated that they did not object to the varied condition.

Pursuant to section 43 of the Act, I vary the following condition:

"The licensee is only authorised to sell liquor for consumption off the premises between 11am and 8pm on any day. This condition does not apply to the sale of liquor for consumption off to the holder of some other current liquor licence."

as follows:

"The licensee is only authorised to sell liquor for consumption off the premises between 8am and 9pm on any day. This condition does not apply to the sale of liquor for consumption off by wholesale."

I note that 'wholesale' is defined in section 4 of the Act as, "a sale is by wholesale if made to a liquor merchant". "Liquor merchant" is defined in that section as -

"(a) a person who holds a licence under this Act (except a person who holds only a short term licence); or

(b) a person who is authorised under the law of another State, or a Territory, of the Commonwealth to sell liquor".

Under Delegation from the Liquor and Gambling Commissioner



Natasha Kontzisionis
Manager, Liquor & Gambling
31 Jan 2021