

# Decision Notification

## Application Details

Application no.	82908
Licence No.	57006120
Premises Name	Strathmore Hotel
Licensee	DRS Hotels Pty Ltd
Premises Address	129 North Terrace ADELAIDE SA 5000
Application Type	Application to Vary Gaming Trading Hours
Representative	Didier Vollerin - Australian Hotels Association (SA)

## Outcome

Decision	Granted
Effective Date	13 Aug 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	11:00 am to Midnight
Sunday	Midnight to 5:00 am	11:00 am to Midnight

## Conditions

The following conditions are added to the licence

- On New Year's Eve trade is authorised midnight to 4am and 2pm to midnight.

## Reasons for Decision

The licensee has applied to the Liquor and Gambling Commissioner (the Commissioner) to vary their authorised gaming trading hours. Except for the gaming hours authorised on Saturday, 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 6:00am and 3:00am daily. The licensee's current authorised gaming hours are between 9:00am and 3:00am on Monday to Friday, between 11:00am and 5:00am on Saturday and between 11:00am and 3:00am on Sunday.

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 on Monday to Friday and between 11:00am and 4:00am on Sunday. 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 Monday to Friday and on Sunday, but would not allow for the sale or supply of liquor during those hours. The proposed variation does not offend the requirements of section 27(7) of the Act.

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 by one hour on most days, I am of the view that only sub-section (iv) is relevant to the application. I note that the City of Adelaide has been consulted and has advised that the extended hours proposed

exceed the hours of operation for licensed premises desired by Council in its Liquor Licensing Policy. Council has indicated that they are not supportive of the application on this basis, however, acknowledge that the policy relates to the operation of liquor licences rather than gaming operations. The Council has also indicated concerns regarding antisocial behaviour of patrons within and around the premises during late night operations. These concerns appear to be related to conduct under the liquor licence will be dealt with by the Commissioner separately. With respect to the proposal to extend the gaming hours under the licence, I am of the view that it is unlikely to cause 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.

The licensee has also applied to extend the trade authorised by the licence on New Year's Eve. The licence is currently subject to the following condition:

"On New Year's Eve trade is authorised midnight to 3am and 2pm to midnight".

The licensee seeks to amend that condition so that it reads:

"On New Year's Eve trade is authorised midnight to 4am and 2pm to midnight".

The proposed variation does not offend the requirements of section 27(7) of the Act.

I have had regard to the matters set out in section 15(5)(a) of the Act and, given there is no change to the authorised trade under the licence other than the extension of trade by one hour on New Year's Eve, I am of the view that only sub-section (iv) is relevant to the application and that the grant of the variation is unlikely to cause 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 condition is granted.

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 abovementioned condition of the licence is granted.

## Under Delegation from the Liquor and Gambling Commissioner



Natasha Kontzionis  
Manager, Liquor & Gambling  
13 Aug 2021