

Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR VARIATION OF THE CONDITIONS OF LICENCE
REFERENCE:	LC2018/067
LICENCE NUMBER:	80316050
LICENSEE:	Globies Pty Ltd
PREMISES:	Globetrotters Lodge 97 Mitchell Street DARWIN NT 0800
APPLICANT:	Globies Pty Ltd
NOMINEE:	Mr Adrian Walsh
OBJECTOR/S:	Nil
LEGISLATION:	Section 32A, Part IV and V of the <i>Liquor Act</i> .
HEARD BEFORE:	Ms Jodi Truman (Deputy Chairperson) Dr Charles Douglas (Health Member) Mr Lindsay Carmichael (Community Member)
DATE OF HEARING:	22 June 2018
DATE OF DECISION:	22 June 2018

Decision

1. For the reasons set out below and in accordance with section 32A(7) of the Liquor Act the Commission has determined to vary the conditions of the liquor licence for the premises known as Globetrotters Lodge by :
 - a. Extending the trading hours for the area marked in red and attached to this Decision Notice within the existing liquor licence as follows:
 - i. from 0200 hours to 0600 hours on Sunday 24 June 2018;
 - ii. from 0200 hours to 0600 hours on Friday 29 June 2018;
 - iii. from 0200 hours to 0600 hours on Sunday 1 July 2018;

- iv. from 0200 hours to 0600 hours on Monday 2 July 2018;
 - v. from 0200 hours to 0600 hours on Tuesday 3 July 2018;
 - vi. from 0200 hours to 0600 hours on Wednesday 4 July 2018;
 - vii. from 0200 hours to 0600 hours on Saturday 7 July 2018;
 - viii. from 0200 hours to 0600 hours on Sunday 8 July 2018;
 - ix. from 0200 hours to 0600 hours on Wednesday 11 July 2018;
 - x. from 0200 hours to 0600 hours on Thursday 12 July 2018;
 - xi. from 0200 hours to 0300 hours on Monday 16 July 2018.
- b. That during the extended trading hours identified above, patrons may be permitted to enter into the cordoned off section of the pool area to access the toilets and for the purpose of smoking, however at no time shall any patron be permitted to enter into that cordoned off section with liquor.
 - c. That during the extended trading hours identified above there shall be no amplification of any music or noise relating to the broadcasting of the “2018 FIFA World Cup” into the pool area.
2. In accordance with section 32A(9) the variation of the condition of licence is to take effect as at Friday 22 June 2018.

Reasons

Background

- 3. Globies Pty Ltd (“the applicant”) currently holds a Tavern Liquor Licence authorising the sale of liquor for consumption on or at the licensed premises being Globetrotters Lodge. The licensee is the applicant and the nominee under the liquor licence is Mr Adrian Walsh.
- 4. On 30 May 2018 the applicant made application pursuant to section 32A of the Act for a variation to the licence conditions to cater for patrons watching the “2018 FIFA World Cup” (“The World Cup”). The current trading hours for the premises are from 1000 hours to 0200hours seven (7) days a week. The applicant is seeking to vary those trading hours for the purpose of showing key matches.
- 5. The applicant had selected 22 dates in its original application, however the application was not referred to the Commission until 18 June 2018, by which time 8 of the 22 dates had already occurred. The application before the Commission was therefore for the remaining 14 dates.
- 6. The variation sought is that for those specific dates identified, the hours of trade be extended by four (4) hours on each of the dates, i.e. to enable closing time to 0600 hours on each of the respective dates.

7. The Commission has been advised by the Director-General of Licensing (“the Director-General”) that “Licensing NT records indicate that there is no adverse compliance history relating to the applicant”.
8. The Commission notes that the applicant has submitted, and this was not disputed, that it “has successfully conducted these events over the past two decades, including every FIFA World Cup since 2006 as well as the European Cup and the Rugby Union Word Cup” and it therefore appears on the evidence before the Commission that the applicant has a proven and demonstrated capacity to be able to operate this venue and to comply with the conditions of its licence.

Disclosure of influential persons or potential beneficiaries

9. The Commission notes that section 32A(1A) of the Act now requires applicants to make an affidavit disclosing whether certain persons may be able to influence the applicant, or expect a benefit from the applicant, if the licence is granted. The applicant has filed such an affidavit.
10. Mr Michael Coleman is the principal executive officer of the applicant and pursuant to section 26A(2)(a) of the Act is the appropriate person to make the affidavit. Mr Coleman has disclosed as follows:

“... there are no other person/s other than the directors of Globies Pty Ltd who will by any lease, agreement or arrangement be able to influence any decision made by the director/s in relation to the sale of liquor or the sale and consumption of liquor”.

And further:

“...there is no other person/s other than the directors of Globies Pty Ltd who by any lease, agreement or arrangement may expect any benefit from Globies Pty Ltd in relation to the sale of liquor or the sale and consumption of liquor”.

11. The Act prescribes that upon the application being filed, together with the affidavit under section 26A, there must be investigations conducted by the Director-General in relation to the application. The Commission has received no information to indicate there have been any adverse matters discovered as a result of the investigation by the Director-General.

Advertising and Objections

12. The Commission was advised that due to the nature of the variation sought and “given that the event for which the extended trading hours are sought will be almost finished at the time at which the period for objections closes”, the Delegate of the Director-General had exercised her discretion under section 32A(2) and not required the applicant to publish a notice of the application.
13. It is noted that section 32A(5) of the Act requires that the Director-General must inform:
 - a. the Chief Executive Officer (“CEO”) of the Department of Health (“DOH”);

- b. the Commissioner of Police; and
 - c. if the application relates to premises within the area of a shire council or a regional council - the Chief Executive Officer (“CEO”) of the council.
14. That occurred with respect to this application. The Commission notes that the application was also forwarded to the Northern Territory Police, Fire and Emergency Services (“NTFRS”) for comment.
15. With respect to this application:
- a. The DOH made no adverse comment.
 - b. The NT Police made no objection but stated they “do not support alcohol consumption before 10.00am. Allowing the consumption of alcohol from 4-6am really goes against the efforts of NT Government agencies who are working towards reducing alcohol related harm”.
 - c. The City of Darwin acknowledged receipt of the email giving notice of the application but did not provide a response.
 - d. The NTFRS had “no objection”.
16. The Commission notes that the response from NT Police was provided to the applicant. In relation to the response the applicant stated:
- “The objection from NT Police is not unexpected and a matter we have addressed before. Previous objections have been on the basis that it affects the Police roster with them expecting issues to arise as a result of the late hour of trade. This time it would appear to be solely based on that it may offend policy/ however sometimes context is everything" if this doesn't occur we will be the only the capital city in Australia not able to show the World Cup and serve a beer at the same time. This in turn can affect tourism with the backpacker grapevine quick to warn others on the lack of any services they would normally expect to receive elsewhere around Australia.
- Globies has an excellent track record and been granted late licences every 2 years for World Cup or European Cup tournaments. This is not a usual late night event with football supporters there to watch the game and enjoy a social beer/ not engage in a /big/ night out. In fact/ many will ask for the lock out time and aim to arrive just prior to that from home. The offer of soccer and soccer commentary does not to appeal to many non-supporters and I would urge that the venue record of many previous trouble free events since 2006 be taken into consideration.
- Management are happy to meet with Police or other stakeholders to discuss any concerns they might have or address the Commission directly if required”.
17. The Commission notes there has been no formal objection lodged by NT Police with respect to this application. The Commission also notes that the response

from NT Police appears to be almost word for word the response provided with respect to a similar application lodged recently. As a result it appears that the response from NT Police is a policy response and not one directly related to this applicant. The matters raised by NT Police are not an “objection” as that term is understood, however the response will be considered as part of those matters to be considered by the Commission (where relevant) under section 6 and the Minister’s guidelines issued under section 6A of the Act.

Public Hearing

18. Pursuant to section 50 of the Act, the Director-General of Licensing (“the Director-General”) must refer, *inter alia*, applications under section 32A of the Act to the Commission. Therefore this application must be heard and determined by this Commission.
19. Pursuant to section 53 of the Act, the Chairperson of the Commission must fix the time and place for hearing and give notice to the relevant parties not less than 7 days before the hearing date. This application was not referred to the Commission until 18 June 2018. As earlier noted, by that time a number of the dates sought under the application had already passed. As a result the Commission exercised its discretion under section 127 of the Act to abridge time and a hearing was fixed for 9.15am on 22 June 2018 and notice was given to the applicant on 19 June 2018.
20. Pursuant to section 53 of the Act; the Commission is not bound by the rules of evidence and may inform itself in the manner it considers appropriate and conduct the hearing, or part of the hearing, by use of telephone or online facilities. A hearing must also be conducted in public unless the Commission considers that a public hearing is likely to cause undue hardship to a person. No such submission has been made to this Commission and there is no evidence to suggest any such hardship.
21. The public hearing commenced at 9.15am on 22 June 2018. Mr Justin Coleman, Mr Steve Dugan and Mr Adrian Walsh appeared on behalf of the applicant. Mr Mark Wood as representative for the Director-General of Licensing was also present to provide information and assistance to the Commission during the course of the hearing. The Commission thanks all persons for their assistance.

Assessment of the Application

22. As earlier noted, there were no objections to this application. Despite there being no objections made to the application lodged by the Applicant, the Act now clearly provides that the Director-General of Licensing must refer these types of applications to the Commission for decision. In addition, section 6B of the Act makes clear that it is the Applicant who bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test.
23. As is clear from section 6(1) of the Act; when considering or determining an application under the Act in respect of licensed premises, this Commission **must**

apply the public interest and community impact test as relevant to the application. Section 6(2) of the Act provides that:

“For subsection (1), the public interest and community impact test requires consideration of the following objectives:

- a. harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;
- b. liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
- c. public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;
- d. the safety, health and welfare of persons who use licensed premises must not be put at risk;
- e. noise emanations from licensed premises must not be excessive;
- f. business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;
- g. a licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:
 - i. by-laws made under the Local Government Act; and
 - ii. provisions of or under the Planning Act;
- h. each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;
- i. the use of credit in the sale of liquor must be controlled;
- j. practices which encourage irresponsible drinking must be prohibited;
- k. it may be necessary or desirable to limit any of the following:
 - i. the kinds of liquor that may be sold;
 - ii. the manner in which liquor may be sold;

- iii. the containers, or number or types of containers, in which liquor may be sold;
- iv. the days on which and the times at which liquor may be sold;
- l. it may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;
- m. it may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;
- n. it may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices;
- o. any sale of additional liquor due to the grant of a licence or the relaxation of restrictive conditions will not increase anti-social behaviour.”

24. In addition, pursuant to section 6(3), the Commission must:

- a. consider the potential impact on the community in the area that would be affected by the outcome of the decision to grant or refuse an application or the changing of conditions of a licence and, in doing so, must have regard to:
 - i. the harm that might be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor; and
 - ii. the cultural, recreational, employment or tourism impacts; and
 - iii. the social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and
 - iv. the density of existing liquor licences within the community area; and
 - v. the volume of alcohol sales within the community area, and any increase in volume within the community area arising from the licence the subject of the application; and
 - vi. any other prescribed matter; and
- b. apply the community impact assessment guidelines.”

25. On 6 March 2018, pursuant to section 6A of the Act, the Minister by Gazette notice published community impact assessment guidelines for determining whether or not an application being considered or determined under section 6(1) satisfies the

public interest and community impact test. Relevantly those guidelines are stated to

“... set out those matters that will be considered by the Commission when assessing the community impact of the application against the criteria set out in section 6A(1) of the Liquor Act”.

26. Those matters are identified as follows:

Criteria	Matters to be considered
<p>The potential harm or health impact that may be caused to people, or any group of people within the local community area, due to the availability and accessibility of an additional liquor outlet.</p>	<p>Are there any ‘at-risk’ groups or sub-communities within the locality? This may include –</p> <ul style="list-style-type: none"> • children and young people; • Aboriginal people normally resident within the locality and those Aboriginal people that might be likely to travel to the locality from a dry community; • migrant groups from non-English speaking countries; • people in low socio-economic areas; and/or • communities that experience high tourist/visitor numbers. <hr/> <p>Are there any community building, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • schools and educational institutions; • hospitals, drug and alcohol treatment centres; • accommodation or refuges for young or disadvantaged people; • child care centres; • recreational areas;

	<ul style="list-style-type: none"> • dry areas; and • any other area where young people may congregate or be attracted to. <p>What policies and procedures will the applicant implement to minimise any potential harm or health impacts to these 'at-risk' groups or sub-communities</p>
<p>Information about the location and area in which the premises is proposed to be so as to assess any social impact on the community. This includes information about the density of licensed premises within the community area.</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises.</p> <p>This could also include traffic and pedestrian impact and any plans developed to address these potential issues.</p>
<p>Volume</p>	<p>This may include projected sales volumes and marketing analysis, liquor type and customer demographic (where applicable this should be provided for both on and off premises sales).</p> <p>The Commission will consider information available to it about the current alcohol consumption rates for the community area.</p>
<p>Any cultural, recreational, employment or tourism benefits for the local community area.</p>	<p>Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?</p>
<p>Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.</p>	<ul style="list-style-type: none"> • What additional services will be provided other than simply an additional outlet for the sale of liquor – this may include accommodation or dining? • Will the proposed licensed premises provide additional choices of service

	<p>or products that are no available in the area?</p> <ul style="list-style-type: none"> • Will the proposed premises provide liquor in a manner known to be safe and to minimise adverse impacts? • Will it use existing premises improve or add to existing premises or is it a new premises?
--	---

27. As can be seen from the above, there are a large number of matters that this Commission must consider and that the Applicant must address (and satisfy the Commission of) under the new public interest and community impact test and guidelines. The guidelines do make clear however that:

“... the Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits”.

28. With respect to this application, the Commission considers it relevant to note that this is not an application for a new licence. This is an application to vary conditions of an existing licence and to do so for a period of only four (4) hours on 14 specific dates. As a result some of the matters which would be highly relevant to an application with respect to new premises (or what might otherwise be termed an “additional liquor outlet”) are not as significant with respect to an application such as this for a variation and material alteration.

29. The applicant provided written submissions addressing the public interest and community impact test and also the community impact assessment guidelines. Those submissions were detailed and extensive and were considered carefully by this Commission. Despite the short extended hours sought within this variation, the Commission notes a level of detail provided by the applicant within their application. It is clear from the application, and the compliance history of this applicant, that the conditions of licence are taken very seriously.

30. With respect to the submissions made addressing the public interest and community impact test and also the community impact assessment guidelines, the Commission considers it important to highlight some of those submissions which were considered particularly relevant to those tests:

“The Globies venue is a comparatively small venue and is contained indoors (with the exception of the smoking area). Late night games will be controlled internally and therefore no impact is expected to public order and safety”.

Further:

“As described above, all of the Globies licensed area is contained indoors (with exception of smoking area) and therefore noise will be controlled. Ambient noise will be at a minimum due to being restricted to game

commentary only. We do not foresee any adverse impact on our neighbours and security personnel will assist with an orderly dispersement (*sic*) from the venue”.

And:

“..the management of late night games is an adjacent service offering to the community – particularly visiting international tourists – and management of this extension will not lead to anti-social behaviour.

Our company has a long-standing record of being granted temporary variations for similar events over two decades including ensuring adherence to all regulatory requirements. It provides a much sought-after service offering for supporters – particularly international tourists who are visiting Darwin during the World Cup competition.

This support to watch their country of origin live is matched by the European and international ex-pat community who call the Territory home”.

31. It is apparent to the Commission that The World Cup is an event likely to be of interest to a large number of persons in the local community. It is apparent from the application that the relevant matches sought are likely to commence at 3.30am and conclude at approximately 5.30am. Mr Coleman advised the Commission that it was his experience that those persons who were attending the premises to watch the matches in fact arrived just prior to the commencement of the games, rather than “stayed on” from the “night before”. The Commission is satisfied that it is more likely than not that those persons attending at the premises during the extended hours of trade are persons who will be attending to view the relevant game.
32. There is no evidence that the applicant has been unable to comply with its conditions in the past. The applicant has agreed that patrons will only be able to utilise the area marked in red and attached to this decision and only a small section of the outside area for smoking and to access the toilets. The applicant has confirmed that the outside area will be managed by staff and that no persons shall be permitted to take alcohol into that area. Further, that the games will not be broadcast and/or amplified into that area.
33. It is noted that the application initially sought that there be an extension of the gaming licence as well. The Commission drew to the applicant’s attention the provisions of the *Gaming Machine Act* and *Regulations* which make clear that there is to be no gaming between 4.00 am and 10.00 am. The applicant confirmed that it would ensure compliance with those provisions.
34. The Commission also noted that the application initially sought an extension of the licence for Monday 16 July 2018 until 0600 hours. The Commission made further inquiries as to when that final match would in fact conclude on that date and as a result of that inquiry, the applicant stated it only sought an extension until 0300 hours.

35. In all of the circumstances, including the nature of the application, the processes put in place by the applicant to ensure appropriate service and consumption of alcohol at all times and that there is no evidence of any compliance issues or particular adverse impact upon the community; this Commission is, on balance, satisfied that it is appropriate to vary the conditions of the licence as sought.
36. Therefore, for the reasons outlined and having regard to the objects of the Act the Commission has decided to vary the conditions of the licence as outlined at the start of this Decision Notice.

Notice of Rights:

37. Section 120ZA of the Act provides that a reviewable decision is a Commission decision that is specified in the Schedule to the Act. A decision to vary the conditions of a liquor licence pursuant to section 32A of the Act is specified in the Schedule and is a reviewable decision.
38. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision.
39. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected person is the applicant.



JODI TRUMAN
Presiding Member
Deputy Chairperson