

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF CONDITIONS OF A LICENCE

LICENCE NUMBER: 80802996

REFERENCE: LC2019/098

PREMISES: **Arunga Park Speedway**
Herbert Heritage Drive
ALICE SPRINGS NT 0870

APPLICANT: **Arunga Park Speedway Association Incorporated**

LEGISLATION: Section 32A(1) of the *Liquor Act 1978*

HEARD BEFORE: Mr Russell Goldflam (Acting Deputy Chairman)
Ms Pauline Reynolds (Health Member)
Mr Blair McFarland (Community Member)

DATE OF HEARING: 10 July 2019

DATE OF DECISION: 10 July 2019

DECISION

1. For the reasons set out below and in accordance with section 32A of the *Liquor Act 1978* (NT) ("the Act") the Northern Territory Liquor Commission ("the Commission") has determined to approve an application to vary conditions of a liquor licence at the Arunga Park Speedway ("the premises") held by the Arunga Park Speedway Association Incorporated ("the Applicant") as follows.
2. The licence is varied to authorise the sale, supply and consumption of liquor on the premises on Saturday 13 July 2019 from 12:00 hours to 17:00 hours, on the following conditions:
 - a. No more than 4 drinks may be served in a single transaction
 - b. All liquor is to be served in open containers
 - c. Liquor may not be served in glass containers

REASONS

BACKGROUND

3. The applicant operates a liquor licence at the premises with an “On licence” Authority. The premises include a speedway track, a go kart track and clubrooms. The licensee is authorised to sell liquor during various periods specified in the licence from:
 - a. two kiosks adjacent to the speedway track on speedway competition days;
 - b. the clubrooms, to members and their guests; and
 - c. a kiosk adjacent to the go kart track on Sundays between 12:00 hours and 17:00 hours “only in conjunction with a bona fide Sunday Karting Club Meeting”.
4. The applicant is hosting the NT Dirt Titles on Saturday 13 and Sunday 14 July 2019, a go karting event that will be conducted on the go kart track.
5. The current licence conditions permit the sale of liquor on the second day of the event, but not the first day. The applicant now seeks to temporarily extend its trading hours to permit it to sell liquor from 12:00 hours to 17:00 hours on Saturday 13 July 2019, for patrons attending the first day of the event.
6. The applicant estimates that 500 people will attend the event, a family-oriented affair in which most competitors will be juniors.
7. The applicant lodged an application with Licensing NT on 4 July 2019, only 9 days prior to the event. However, on 5 July 2019 the applicant provided an apologetic explanation for the lateness of the application, which was due to a recent change in membership of the applicant’s Committee and office bearers, who overlooked the matter.
8. Commendably, Licensing NT officers expedited the processing of the application, and that day urgently referred it to the Commission, in accordance with s32A(6AA) of the Act. The Commission finds that the explanation provided by the applicant is satisfactory. Accordingly, and having regard to the limited and apparently uncontentious nature of the application, pursuant to s127(1) of the Act, the Commission abridged the notification period of seven days provided for in s53(1)(a)(ii) of the Act, and fixed the public hearing of the application for 10 July 2019.
9. The Director-General, in the exercise of her discretion pursuant to section 32A(2) of the Act, did not require the applicant to publish notice of the application.
10. No objections to the application were lodged.
11. The Director-General informed the Department of Health, Northern Territory Police, NT Fire and Rescue Service and the Alice Springs Town Council of the application.
12. The Commission notes that the following responses were received:
 - a. The Department of Health made “no adverse comment”.
 - b. NT Fire and Rescue Service advised it had no objection.

13. Given the lack of notice to Police and the Alice Springs Town Council, the Commission readily accepts that they had no reasonable opportunity to respond. However, in all the circumstances, the Commission considered that it could and should proceed to determine this matter despite not having heard from these agencies.
14. The Director-General informed the Commission that that the applicant has no adverse compliance history in relation to its licence.
15. The Director-General provided the Commission with a brief of evidence ("the brief") including:
 - Application for a variation of conditions of liquor licence dated 4 July 2019
 - The applicant's liquor licence number 80802996
 - Affidavit for the purposes of s26A of the Act deposed by David Craig Anderson, president of the applicant association, dated 4 July 2019
 - Community Impact and Public Interest Assessment statement in compliance with s6 and s6A of the Act
 - Correspondence between Licensing NT and the Department of Health, NT Police, NT Fire and Rescue Services and the Alice Springs Town Council.

HEARING

16. At the public hearing, Mr Anderson appeared on behalf of the applicant, and Mr Verinder appeared for the Director-General. The Commission thanks them for their attendance and assistance.
17. The brief was tendered and admitted into evidence without objection. In addition, Mr Verinder tendered a GoogleEarth satellite photograph of the premises.

ASSESSMENT OF THE APPLICATION

18. Section 6B of the Act provides that the Applicant bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test set out in s6 of the Act. In considering and determining this application, the Commission has had regard to the objects of the Act and applied the public interest and community impact test by reference to the community impact assessment guidelines published by the Minister on 6 March 2018 pursuant to s6A of the Act. The guidelines are detailed and specific, but also state 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.

19. The Commission notes that in the material provided in support of its application, the licensee has taken appropriate steps to minimise the risk of alcohol-related harm at the event. For example, the applicant requires that all racers and anyone in "the pit area" have a BAC of 0.00%, and proposes that all liquor be sold in open containers. The Commission assesses the impact on the community of the proposed variation as low.

20. In the view of the Commission, the extension of the applicant's trading hours supports the purpose of the Act set out at s3(2)(a), to enhance community amenity, social harmony and wellbeing through the responsible supply and consumption of liquor.
21. The Commission is satisfied that the Applicant has met the public interest and community impact test, and that, having regard to the objects of the Act as set out in section 3 of the Act, the conditions of the licence should be varied in the terms of the application, together with the additional conditions set out at paragraph 2 above, which Mr Anderson readily agreed were appropriate.
22. The application to vary the conditions of the applicant's licence is granted.

NOTICE OF RIGHTS

23. 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 issue a licence pursuant to section 32A of the Act is specified in the Schedule and is a reviewable decision.
24. 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.
25. 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.



RUSSELL GOLDFLAM
ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION

29 July 2019

On behalf of Commissioners, Goldflam, Reynolds and McFarland