

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF CONDITIONS OF LICENCE

REFERENCE: LC2018/161

LICENCE NUMBER: 80802930

LICENSEE: **AFL Northern Territory Ltd**

PREMISES: AFL Northern Territory Ltd
Traeger Park
ALICE SPRINGS NT 0870

APPLICANT: Andrew Craig Hood, nominee

LEGISLATION: Section 32A, *Liquor Act*.

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

DATE OF HEARING: 8 January 2019

DATE OF DECISION: 9 January 2019

Decision

1. For the reasons set out below and in accordance with section 32A of the *Liquor Act*, the Commission has determined to approve:
 - a. a permanent variation of a condition of Liquor Licence 80802930 ("the licence") as sought by the Applicant; and
 - b. a temporary variation of conditions for "Big Bash" cricket matches on 12 January, 13 January and 9 February 2019.

Permanent Variation

2. The Special Condition of the licence headed "Additional Liquor Booths" is varied by omitting the word "football" and substituting the word "sporting", as follows:

Application may be made to the Director-General of Licensing at least 72 hours prior to any major sporting fixture for up to three (3) additional liquor booths.

Temporary Variation

3. The Applicant is authorised to sell liquor from two public bars on the licensed premises during the following periods ("the temporary trading periods"):
 - Saturday 12 January 2019 from 1000 hours to 1430 hours
 - Sunday 13 January 2019 from 1000 hours to 1430 hours
 - Saturday 9 February 2019 from 1000 hours to 1630 hours
4. During the temporary trading periods, the following additional licence conditions will apply:
 - a. The licensee is only authorised to sell the following types of liquor:
 - Mid-strength beer and light beer; and
 - Wine (including sparkling wine).
 - b. Wine (including sparkling wine) must not be sold in containers with a capacity of greater than 150 ml.
 - c. All liquor must be sold in open plastic containers.
 - d. On 12 and 13 January 2019, not less than 12 licensed Crowd Controllers are required to be in attendance between 0900 hours and 1500 hours.
 - e. On 9 February 2019, not less than 50 licensed Crowd Controllers are required to be in attendance between 0900 hours and 1730 hours.
 - f. Snack food is required to be available for purchase at all times.
 - g. Complimentary "tap" water is required to be available at all times.
5. In the event of any inconsistency between the conditions applicable during the temporary trading periods and the usual conditions of the licence, the temporary conditions shall prevail.

Reasons

Background

6. The Applicant operates a liquor licence at a major sporting facility in Alice Springs, "Traeger Park", an established Australian Football League ("AFL") venue. The current licence conditions were formulated so as to permit additional bars to be operated for major football events such as national AFL fixtures, subject to the approval of the Director-General of Licensing.
7. The Applicant, in company with, among others, the South Australian Cricket Association, now proposes to extend this arrangement to another sport, namely cricket, and specifically, the Rebel Women's Big Bash League, and the KFC Big Bash League. Three matches involving interstate teams from these two leagues have been scheduled in January/February 2019.
8. Accordingly, on 14 December 2018, the Applicant lodged an application headed "Application for a Temporary Variation of existing liquor licence conditions", seeking the licence variation set out at paragraph 2 above. On 17 December 2018, a delegate of the Director-General of Licensing referred the application to the Commission.

9. The Applicant's standard trading hours permit the sale of liquor from a single public bar between 1000 hours and 2359 hours. The Applicant seeks to operate an additional public bar during the three Big Bash League matches. Each match will take about two and a half hours to play, but the Applicant seeks to operate the additional public bar for a rather longer period on the days in question.
10. The Applicant estimates that up to 600 patrons will attend each of the matches on 12 and 13 January 2019, and that up to 5,000 patrons will attend the match on 9 February 2019.
11. Licensing NT has informed the Commission that the Applicant has a good history of compliance with its liquor licence and the *Liquor Act*.
12. Pursuant to s 6A of the Act, a s 32A applicant is required to satisfy the Commission that the approval of the application meets the public interest and community impact test set out in s 6(2), and to that end the applicant prepared and submitted a statement addressing the relevant elements of the test.
13. To minimise the associated risk of harm, the Applicant has proposed some specific measures which have been incorporated into the conditions set out at paragraphs 3 and 4 above.

Consultations

14. Pursuant to s 32A(2) of the Act, the Director-General's Delegate did not require the applicant to publish notice of the application.
15. As required by s 32A(5) of the Act, the Director-General notified the Chief Executive Officer of the Department of Health (DOH) and the Commissioner of Police of the application. Although not required to do so, the Director-General also consulted with the Northern Territory Fire and Rescue Service and the Alice Springs Town Council.
16. None of these agencies (or indeed, any other person) raised any concerns or objected to the application.

Public Hearing

17. Pursuant to s 50 of the Act, the Director-General must refer applications under s 32A of the Act to the Commission. Therefore, this application must be heard and determined by this Commission, and it proceeded by way of a public hearing conducted at Alice Springs on 8 January 2018.

18. Mr Jervis appeared at the hearing on behalf of the Applicant and Mr Timney appeared, with leave, by telephone from Darwin on behalf of Licensing NT. The Commission is grateful for their assistance.
19. Pursuant to s 6 of the *Liquor Commission Act*, the Commission "has the power to do all things that are necessary or convenient to be done for, or incidental to, the performance of its functions." The Commission considered that it was convenient in this instance to treat the application as an application in part for a permanent variation (see paragraph 2 above) and in part for a temporary variation (see paragraphs 3 and 4 above) of licence conditions, and has proceeded accordingly.

Assessment of the Application

20. In considering the application, the Commission has had regard to the objects of the Act (s 3), the application of the public interest and community impact test (s 6), the community impact assessment guidelines issued by the Attorney-General and Minister for Justice on 2 March 2018 pursuant to s 6A, and the onus on the applicant to satisfy the Commission that the approval of the application meets the public interest and community impact test (s 6B).
21. Based on the evidence presented to it, the Commission finds on balance that the sale, supply and consumption of liquor as a consequence of either the permanent or temporary variation sought is unlikely to cause harm or adversely impact the health of people, or any group of people within the local community area.
22. The Commission is satisfied that the approval of the application meets the public interest and community impact tests and accordingly the Commission has decided to approve the application.

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 vary conditions of licence pursuant to s 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 s 120ZB(1)(b) and (c) of the Act, the affected person is the Applicant.



Russell Goldflam
ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
9 January 2019

On behalf of Commissioners Goldflam, Reynolds and McFarland