

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A LICENCE

LICENCE NUMBER: LC2019/004

PREMISES: **Uluru Segway Tours**
Uluru Walking Point, Mala Carpark
Within Uluru – Kata Tjuṯa National Park
ULURU NT 0872

APPLICANT: **Three Segways Pty Ltd**

NOMINEE: Alexandra Dye

LEGISLATION: Section 26, Part III, Part IV, Part V of the *Liquor Act*

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

DATE OF HEARING: 18 February 2019

DATE OF DECISION: 25 February 2019

DECISION

1. For the reasons set out below and in accordance with section 29 of the *Liquor Act* (“the Act”) the Commission has determined to issue a licence authorising the sale of liquor for consumption on or at the premises (“Uluru Segway Tours”) to Three Segways Pty Ltd (“the Applicant”).

REASONS

BACKGROUND

2. The applicant is a registered Australian Proprietary Company limited by shares that operates Uluru Segway Tours, a tourist enterprise. The applicant seeks a licence authorising it to supply sparkling wine, along with non-alcoholic beverages and light food, to adult members of small groups (maximum twelve participants) while watching the sunset at the end of a 5 hour guided walking/Segway tour of the Mutitjulu Waterhole Walk and Mala Walk at Uluru.

3. The applicant proposes to serve alcohol for a period of approximately 45 minutes, before driving guests back to their accommodation at the nearby Yulara resort. The liquor provided will be supplied to guests as part of their tour package, and will not be sold separately. The applicant proposes to provide one bottle of sparkling wine to be shared between three adult guests.
4. The applicant lodged a completed Application with Licensing NT on 20 September 2018, and, following community notification and consultation, and an assessment by Licensing NT of the application, on 15 January 2019 a Delegate of the Director-General of Licensing ("the Director-General") referred the application to the Commission for hearing pursuant to sections 28(1) and 50(a) of the Act.
5. The Director-General provided the Commission with a brief of evidence ("the brief") including:
 - Application for a liquor licence dated 16 July 2018
 - Affidavit for purposes of s26A of the Act deposed by Richard Black dated 29 June 2018
 - Community Impact and Public Interest Assessment statement in compliance with s6 and s6A of the Act
 - Extract from ASIC current and historical company register for applicant
 - Documents certifying identity, managerial capacity, financial stability and character of Richard Black, Mark Swindells and Alexandra Dye
 - Applicant's Balance Sheet and Business Plan
 - Commercial Activity Licence Agreement between Director of National Parks and the applicant dated 30 September 2016, granting the applicant an exclusive licence to operate Segway tours in the Uluru-Kata Tjuta National Park until 31 October 2021
 - Certificate of applicant's registration as a food business dated 9 February 2018
 - Plan of proposed premises
 - Public notices of application for grant of a liquor licence, dated 25 and 28 September 2018
 - Correspondence between Licensing NT and: Department of Health; NT Police; NT Fire and Rescue Service; Central Land Council and Uluru – Kata Tjuta National Park

HEARING

6. The hearing was conducted in public on 18 February 2019. Mr Black, a Director of the applicant company, appeared on behalf of the applicant. Mr Wood appeared for the Director-General. The Commission thanks both Mr Black and Mr Wood for their attendance and assistance. The Commission read the brief. No further evidence was adduced.

THE APPLICANT'S PREMISES

7. The proposed premises are an open-air paved area known as the Mala Carpark or Uluru Climb Site at the base of the western face of Uluru.
8. In accordance with s28(2)(a) of the Act, the Commission finds that the premises are suitable for the purpose of the application.

THE APPLICANT

9. The applicant has been a registered company since 2016. It has two Directors and equal shareholders, Richard Black and Mark Swindells. Mr Black and Mr Swindells have provided evidence of their probity and financial stability to the satisfaction of the Director-General. In accordance with s28(2)(c), the Commission finds that the business reputation and financial stability of the applicant and the applicant's executives are satisfactory. In accordance with s28(2)(e) of the Act, the Commission finds that the applicant is a fit and proper person to hold a licence.
10. Section 26A of the Act requires applicants to depose 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. Richard Black on behalf of the applicant, affirms in his affidavit that there is no such person.
11. The applicant has nominated Alexandra Dye as its licence nominee. In accordance with s 28(2)(h) of the Act, the Commission finds that Alexandra Dye is a fit and proper person to manage the licence.

ADVERTISING AND NOTIFICATION

12. Details of the application were advertised in the Centralian Advocate on 25 and 28 September 2018. In addition, signage notifying the application displayed at the proposed premises for a period of 30 days. The objection period expired on 29 October 2018.
13. No objections to the application were lodged.
14. As required by s27(3) of the Act, the Director-General informed the Chief Executive Officer ("CEO") of the Department of Health ("DOH") and the Commissioner of Police of the application.
15. The Director-General also invited comment about the application from the Northern Territory Fire and Rescue Service (NTFRS), the Central Land Council (CLC) and Uluru – Kata Tjuṯa National Park.
16. The Commission notes that the following responses were received:
 - a. The DOH made "no adverse comment".
 - b. The NT Police advised that they had "no objections".
 - c. The NTFRS advised it had "no concerns".
 - d. The CLC advised that it had "no jurisdiction", but noted that "alcohol is a sensitive issue in the community there".
 - e. The Acting Park Manager of the Uluru – Kata Tjuṯa National Park stated that "the park is fully supportive".
17. The Chief Executive Officer of Tourism Central Australia provided a letter in support of the application.

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.

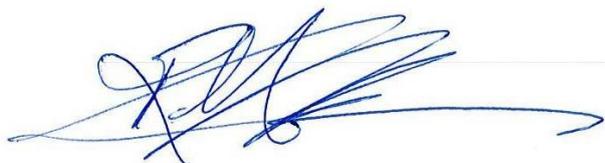
19. The Commission is satisfied that the Applicant has met the public interest and community impact test, and notes that by agreement with the Uluru – Kata Tjuta National Park, a proportion of the turnover is paid to the Park and the local Aboriginal community. Noting that the applicant estimates that on average 11 guests will be offered liquor per day in the first year of operation of the licence, the Commission assesses the impact of the licence on the community as being low.

NOTICE OF RIGHTS

20. 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 29 of the Act is specified in the Schedule and is a reviewable decision.

21. 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.

22. 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

25 February 2019

On behalf of Commissioners, Goldflam, Reynolds and McFarland