

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF CONDITIONS OF LICENCE

REFERENCE: 2020/015

LICENCE NUMBER: FLL1048

LICENSEE: OMAD (NT) Pty Ltd

PREMISES: Coolalinga Village Tavern
Pad 6, 425 Stuart Highway
COOLALINGA NT 0839

APPLICANT: OMAD (NT) Pty Ltd

LEGISLATION: Section 110 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Mr Bernard Dwyer (Health Member)
Ms Sandra Cannon (Community Member)

DATE OF HEARING: 16 April 2020

DATE OF DECISION: 16 April 2020

Decision

1. For the reasons set out below and in accordance with section 112(2)(a) of the *Liquor Act 2019* (“the Act”) the Commission has determined to vary the conditions of the liquor licence of OMAD (NT) Pty Ltd (“the Licensee”) for the premises known as Coolalinga Village Tavern by extending its trading hours on Fridays and Saturdays from 10:00 hours until 02:00 hours the following day. All other conditions of the existing licence continue to apply.
2. In accordance with section 112(4) of the Act the variation of the conditions of licence is to take effect as of the date of this Decision Notice.

Reasons

Background

3. On 28 February 2020, an application for a permanent variation of licence conditions was lodged pursuant to section 110(3) of the Act by DNS Specialist

Services on behalf of the Licensee, for the premises known as Coolalinga Village Tavern situated at Pad 6, 425 Stuart Highway, Coolalinga.

4. The Licensee is the holder of liquor licence number FLL1048 with Authority - Tavern.
5. The Licensee is seeking to extend the trading hours on Fridays and Saturdays to close at 02:00 hours instead of 01:00 hours. There is no application to change any other conditions of licence.
6. The following documents have been provided to support the application:
 - Affidavit in accordance with section 54 of the Act;
 - Community Impact Assessment in accordance with section 51 of the Act relating to the permanent variation application;
 - Public Interest Criteria in accordance with section 49 of the Act.

Background of Original Licence Application

7. The current application needs to be viewed in the context of the earlier application by the developer of this site, Gwelo Investments Pty Ltd (“the Initial Applicant”). On 22 June 2017, Mr Even Lynne, sole Director of the Initial Applicant applied to the Director-General of Licensing (“Director-General”) pursuant to section 26 of the *Liquor Act 1978* for the grant of a tavern liquor licence for the premises known as Coolalinga Village Tavern which was yet to be built. The application was advertised in the NT News. In addition, comments on the application were sought from key stakeholders including NT Police, the Department of Health, Litchfield Council, NT Fire and Rescue Services and the Development Consent Authority.
8. The original application outlined that the requested liquor trading hours were:
 - Sunday 10:00 hours and Sunday 23:59 hours
 - Monday 10:00 hours and Monday 23:59 hours
 - Tuesday 10:00 hours and Tuesday 23:59 hours
 - Wednesday 10:00 hours and Wednesday 23:59 hours
 - Thursday 10:00 hours and Thursday 23:59 hours
 - Friday 10:00 hours and Saturday 02:00 hours
 - Saturday 10:00 hours and Sunday 02:00 hours
9. During the advertising period NT Police supported the application with the trading hours curtailed to a closure at 01:00 hours on Fridays and Saturdays.
10. During the advertising period Litchfield Council supported the application with the trading hours curtailed to a closure at midnight rather than 02:00 hours on Fridays and Saturdays.
11. On 5 June 2017 the Director-General granted Liquor Licence number 80319462 with the following trading hours:

- Sunday 10:00 hours and Sunday 23:59 hours:
 - Monday 10:00 hours and Monday 23:59 hours
 - Tuesday 10:00 hours and Tuesday 23:59 hours
 - Wednesday 10:00 hours and Wednesday 23:59 hours
 - Thursday 10:00 hours and Thursday 23:59 hours
 - Friday 10:00 hours and Saturday 01:00 hours
 - Saturday 10:00 hours and Sunday 01:00 hours.
12. In the period after the issue of the licence, the premises were built and a tenant found. By way of a liquor licence transfer application, signed 10 April 2018, Damian O'Brien on behalf of OMAD (NT) Pty Ltd applied to the Director-General for the transfer of the liquor licence.
 13. This application was processed and approved, noting that Mr O'Brien was the nominee at the Virginia Tavern and the proposed licensee company also the licensee at the Virginia Tavern. Upon approval of the liquor licence transfer application, a fresh liquor licence was issued on the 10 August 2018 showing the new licensee and nominee. However due to an administrative error, the licence was issued incorrectly and stated that the liquor trading hours concluded at 02:00 hours on Saturday and Sunday, rather than 01:00 hours as had been determined by the Director-General.
 14. Licensing Officers subsequently became aware that the licence had been incorrectly issued and that by trading until 02:00 hours on Saturdays and Sundays that the Licensee was operating in contravention of the original decision notice.
 15. Upon being advised that the licence would be amended to reflect the correct trading hours as had been determined in the Director-General's decision, the Licensee lodged this application for a permanent variation.
 16. It is relevant that in her decision to restrict weekend trading to 01:00 hours the Director-General indicated that she would be prepared to entertain a further application to extend the trading until 02:00 hours once the venue had been operating for 12 months and there had been an opportunity to gauge whether it was causing any harm within the local community.

Publishing of application and consultation

17. On 14 March 2020 the requirement for advertising was considered by the Director of Liquor Licensing ("the Director"). As the application for the initial licence which included a 2:00am close on Saturday and Sunday mornings was not the subject of public objections, the Director determined to waive the requirement for public advertising on the grounds that there is no public interest in advertising the application. In determining not to hold a public hearing the Commission had regard to the facts that the application had not been opposed by NT Police or the Litchfield Council, it is not complex nor contentious and there is a public health benefit in reducing the number of occasions on which people need to gather together whilst the pandemic crisis exists.

18. As the application was not published, there were no objections from the public.
19. In accordance with section 111(3) of the Act notification was made to
- CEO of Department of Health;
 - Commissioner of Northern Territory Police;
 - NT Fire and Rescue Service;
 - Litchfield Council.
20. The Department of Health (Health) advised via email dated 11 March 2020 that they had no adverse comment on the application but asked that the Director “*to consider patron and community safety and amenity when determining this application. The trading hours are consistent with Health Policy on trading hours in suburban areas of Weekdays closing no later than 23:59 hours and weekend trading to 02:00 hours (the following day). Health provides the comment on the understanding the applicant is aware of their responsibility with regard to smoking compliance at the venue*”.
21. The Northern Territory Police advised via email dated 23 March 2020 that they had no objections to the application.
22. NT Fire & Rescue Service advised via email dated 11 March 2020 indicating they support the application.
23. Litchfield Council advised by letter dated 19 March 2020 that it supports the application and that support was given “*on the understanding of the validity of the applicant’s claim of “no complaints, infringements or disturbances” since the extended trading hours have been in place in 2018*”.

Compliance History

24. A check of the records held at Licensing NT indicate no compliance issues in relation to the licensed premises.

The Hearing

25. The application for variation of conditions of licence was referred to the Commission by the Director on 7 April 2020.
26. On 16 April 2020, the Commission convened and determined pursuant to section 21(2)(d) of the Act that conducting a public hearing would not be worthwhile and in accordance with section 21(3) it was appropriate to conduct the hearing in private by way of written submission.

Assessment of the Application

27. The tavern has now been operating for over a year without any complaints of community disruption or anti-social behaviour arising as a result of late night trading on the weekends. Those stakeholders that had originally expressed concerns over the premises being permitted to trade until 02:00 hours on Saturdays and Sundays are now generally supportive of this application. There is no suggestion that the amenity of local residents is being adversely impacted by the Tavern's operations, to the contrary one of the Commissioners is aware of the positive reputation the premises has established amongst the local community as a well-run family friendly venue.
28. There is a taxi rank within a one minute walk from the premises which is likely to mitigate the risks of patrons driving home intoxicated. It is also likely that a not insignificant proportion of the Tavern's late night clientele will be there to play the gaming machines rather than indulge in excessive drinking.
29. The Commission is also mindful of the fact that most other comparable venues in the general vicinity of these premises are entitled to trade until 02:00 hours on the weekends. Maintaining the existing limit on trade until 01:00 hours could be seen as giving the Licensee's competitors an unfair advantage. In all the circumstances, on the evidence before us the Commission is satisfied that there is no risk of significant harm that will arise as a result of granting the application and that the Licensee has satisfied the community impact and public interest requirements of the Act. Accordingly we have determined to vary the conditions of the licence in the terms outlined at the commencement of this Decision Notice.

Notice of Rights

30. Section 31 of the Act provides for any decision of the Commission for which a decision notice is required under the Act is reviewable by Northern Territory Civil and Administrative Tribunal.
31. Section 113(4) of the Act requires the Commission to give a decision notice, after making a decision under subsection (3), to the Licensee.



RICHARD COATES
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
17 April 2020
On behalf of Commissioners Coates, Dwyer and Cannon