

NORTHERN TERRITORY LIQUOR COMMISSION
AMENDED DECISION NOTICE

MATTER: APPLICATION FOR A LICENCE

REFERENCE: LC2018/035

LICENSEE: The Darwin Film Society Incorporated

PREMISES: Deckchair Cinema

Lot 3480
Jervois Road
DARWIN, NT 0800

APPLICANT: Alice Body and James Parker on behalf of **The Darwin Film Society Incorporated**

LEGISLATION: Section 24 and 29 Part III of the *Liquor Act*.

HEARD BEFORE: Mr Russell Goldflam (Acting Deputy Chairperson)

Ms Pauline Reynolds (Health Member)

Mr Blair McFarland (Community Member)

DATE OF HEARING: 18 May 2018

DATE OF DECISION: 29 May 2018

Decision

1. For the reasons set out below and in accordance with section 29 of the Liquor Act, the Commission has determined to approve the application for a licence as sought by the Applicant.

Reasons

Background

1. The Darwin Film Society Incorporated (“the applicant”) was originally an Association from 1973 and in 1996 became an Incorporated Association under the Associations Incorporation Act 1963 as amended with Corporation Registration Number 00275C. Its Constitution makes it clear that it is a non-profit making, non-political and non-sectarian film appreciation society. The Deckchair Cinema’s Business Name was registered in 1994.

2. The applicant has had Special Licences since 1996, and has operated at the current premises since 2002. The applicant currently holds a Special Licence to sell Liquor No. SLL1228 (“the licence”) authorising the sale of liquor for consumption on or at the licensed premises issued on 19 April 2018 by Mark Wood, Delegate of the Director-General of Licensing, valid to 31 May 2018. The following special conditions apply – Special Liquor Licence trading hours are for the purpose of film screenings only; Crowd Controllers are to be employed where warranted, at the discretion of the licensee.
3. On 18 October 2017, the Darwin Film Society Incorporated lodged an application with the Director-General of Licensing for a Liquor Licence under section 26(1) of the Liquor Act.
4. At the time of lodgement, the application was deemed incomplete. Further materials were therefore sought, and these were received on 19 February 2018.
5. The substance of the application is for a Liquor Licence for the Deckchair Cinema, an independent outdoor cinema adjacent to the Darwin Harbour. The applicant proposes to sell liquor from the existing kiosk and when required from an additional temporary point of sale within the lawn and kiosk area of the existing premises. The Applicant requests access and freedom of movement of children within the venue will not be impeded by the conditions of the licence. The applicant seeks a Licence instead of the annual Special Licences it has been receiving since 1996 to reduce red tape for both the applicant and Licensing NT.
6. The applicant proposes trade on Monday to Thursday between 17.30 and 2100 hours, Friday and Saturday 1730 to 2300 hours, and Sunday 1730 to 2200 hours. No request was made to trade on Good Friday or Christmas Day.
7. The applicant’s Principal Executive Officer Jeff Coulter lodged a sworn affidavit in accordance with section 26A of the Act stating there are no other persons of influence in relation to the conduct of business or the proposed site.
8. The proposed dual nominees in the application as required by section 25(2) were Ms Alice Body, General Manager and James Parker, Operations Manager.
9. Pursuant to s 6A of the Act, a s 26 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 detailed statement addressing the relevant elements of the test.

10. Pursuant to the Act section 28(2) documents were provided that addressed the required criteria to the satisfaction of the Commission, as follows:

- a. the suitability of the premises as per s 28(2)(a):
 - i. masterplan of Deckchair Cinema
 - ii. evidence of title and lease
 - iii. letter of support from Crown Land Management – the Lessor
 - iv. the Registration of a food business from the NT Health Department Environmental Health Branch

- b. the business reputation and financial stability of the applicant body corporate and the general reputation and character of the secretary and executive officers of the body corporate as per s 28(2)(c):
 - i. letter from Accountant and Financial report year ending 31 December 2016
 - ii. positive references from Bullseye Trading and Zip Print, two trading partners of the body corporate
 - iii. list of Management Committee and brief outline of their qualifications for the role

- c. that the nominated manager under s 25(2) is a fit and proper person to be the manager - CV, National Police Certificate issued 13 July 2017 indicating No Disclosable Court Outcomes or outstanding matters within Australia, four referee letters and evidence of the nominated manager's attainment of Provide Responsible Service of Alcohol SITHFAB201, issued 2015.

Advertising and Objections

11. Pursuant to s 27(1) of the Act, details of the application were advertised in the NT News on Saturday 11 November 2017 and on Wednesday 15 November 2017. Signage was displayed at the premises for a period of 30 days. The objection period ended on 15 December 2017. A statement of display form has been completed.

12. No objections were lodged under s 47F of the Act.

13. The Director-General of Licensing invited the following stakeholders for feedback on the application via email on 21 November 2017:

- NT Police, Fire and Emergency Services
- NT Department of Health
- NT Fire and Rescue Service
- Development Consent Authority
- CEO City of Darwin

14. With respect to this application:

- a. The NT Police raised no objections to the application.
- b. The DOH made no adverse comment.
- c. Northern Territory Fire and Rescue Service made no objection to the application.
- d. Development Consent Authority raised no objections to the application.
- e. The Darwin City Council advised that the matter was considered at the Ordinary Council meeting 12 December 2017 and could see no grounds for an objection.

Public Hearing

15. Pursuant to s. 28(1) and 50(a) of the Act, the Director-General of Licensing (“the Director-General”) referred this application under s 26A of the Act to the Commission on 27 April 2018. This application was heard and determined by this Commission on 18 May 2018 at the Alice Springs Court House in Alice Springs NT.

16. Ms Alice Body General Manager of Deckchair Cinema appeared by conference phone at the hearing on behalf of the Applicant and Mr Mark Wood, Manager Licensing – Liquor, Gambling, Racing, Licensing NT, provided information and assistance to the Commission during the hearing.

17. There was discussion about the applicant’s applying for a licence rather than continuing to apply for Special Licences. Mr Wood explained that the Special Licences were meant for one off events rather than an ongoing enterprise. This application allows for probity and other examinations to take place. When asked by the Commission, Mr Woods reported there were no negative issues in relation to the Deckchair Cinema and described it as a “good operator”.

18. There was discussion as to the effect of a Special Licence on an existing Licence or whether a Variation of the Licence might be a better option should any events arise that fall outside the proposed licence, and it was suggested that this issue be explored at a policy level on some other occasion.

Assessment of the Amended Application

19. In considering the amended 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).

20. The Commission read the statement provided by the Applicant addressing the Community Impact Assessment. The document was thorough and was particularly helpful in demonstrating that the sale of liquor was not the primary purpose of the Deckchair Cinema.
21. Based on the evidence presented to this Commission, the Commission finds on balance that there is no evidence to suggest any potential harm or health impact may be caused to people, or any group of people within the local community area, due to the availability and accessibility of liquor as a consequence of the licence sought.
22. The Commission finds that the proposed licence will authorise the sale of liquor from those premises under a more appropriate licence than the Special Licences that have been issued to date.
23. The Commission is satisfied that the approval of the application meets the public interest and community impact tests and the Commission has for the reasons outlined decided to approve the licence sought with the following conditions:
- a. Licence hours Monday to Thursday between 17.30 and 2100 hours, Friday and Saturday 1730 to 2300 hours, and Sunday 1730 to 2200 hours. Not to trade Good Friday or Christmas Day. Trading hours are for the purpose of film screenings only
 - b. Liquor to be sold from kiosk bar during normal operation
 - c. Liquor may be sold from a temporary bar on the deck or lawn during special events
 - d. Access and freedom of movement of children within the venue will not be impeded by the conditions of the licence
 - e. Crowd Controllers are to be employed where warranted, at the discretion of the licensee.
24. As required by section 25(5) dual nominees Ms Alice Body and Mr James Parker will be endorsed on the licence as well as the name of the body corporate The Darwin Film Society Incorporated.

Notice of Rights:

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

26. 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.

27. 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
29 May 2018

On behalf of Commissioners Goldflam, Reynolds and McFarland