

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF CONDITIONS OF LICENCE

LICENCE NUMBER: FLL1036

REFERENCE: LC2021/010

LICENSEE: Beaver Brewery Pty Ltd

PROPOSED PREMISES: BEAVER BREWERY
2/14 Tang Street
COCONUT GROVE NT 0810

LEGISLATION: Sections 110 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Mr Kenton Winsley (Health Member)
Ms Sandra Cannon (Community Member)

DATE OF HEARING: 4 March 2021

DATE OF DECISION: 4 March 2021

Decision

1. For the reasons set out below and in accordance with section 110 of the *Liquor Act 2019* (“the Act”), the Northern Territory Liquor Commission (“the Commission”) has determined to vary the conditions of Beaver Brewery Pty Ltd (“the Licensee”), at the premises of Beaver Brewery, 2/14 Tang Street, Coconut Grove, NT, 0810 to align its trading hours and conditions of trade for the sale of liquor for consumption on the premises and away from the premises to those prescribed by Division 13 of the Liquor regulations 2019 (“the Regulations”) in respect of a Producer’s Authority. It is a further condition of this authority that no liquor be sold from these premises unless a sign is displayed in a prominent place near the entrance alerting members of the public that the premises are open for the sampling of the beer that has been produced by the Licensee.
2. The Licence is subject to the following special condition:

“Other forms of liquor as well as the beer produced by the Licensee may be sold between Monday to Sunday from 10:00 hours to 24:00 hours for a special event

at the licensed premises, provided the Licensee has notified the Director of Liquor Licensing (“the Director”) of the event via email transmitted during business hours not less than 48 hours prior to the event and provided that no beer produced by the Licensee is sold for consumption off the premises after 22:00 hours.

Reasons

Background

3. Beaver Brewery Pty Ltd (the Licensee) is the holder of liquor licence number FLL1036 for premises known as Beaver Brewery situated at 2/14 Tang Street, Coconut Grove.
4. On 19 November 2020 an application was lodged by Mr Christopher Brown on behalf of the Licensee seeking a permanent variation to the liquor licence. The application is to extend the liquor licensed trading days and hours and to add a special condition.
5. The current liquor trading hours are Friday 17:00 hours to 22:00 hours, Saturday 12:00 hours to 22:00 hours, no trading on Christmas Day.
6. The proposed variations are:
 - To change the liquor trading hours and days to 10:00 hours to 24:00 hours seven days a week
 - To add a special condition stating *“Liquor, other than beer produced by the licensee may be sold for on premises consumption between Monday to Sunday 10:00 hours to 24:00 hours for a special event at the licensed premises, provided the licensee has notified the Director of Liquor Licensing of the event via email transmitted during business hours not less than 48 hours prior to the event.”*
7. The application was accompanied by;
 - Affidavit in accordance with Section 54 of the Act.
 - Cover letter
 - Community Impact Assessment
 - Partial copy of lease

Publication and Consultation

8. The application was published by way of two notices in the NT News on the 23 and 27 January 2021. A green advertising sign was also erected at the premises for the course of the advertising period.
9. As a result of the public advertising no objections were received.

10. In accordance with the Act, the following were notified of the application.
 - The Chief Executive Officer of the Department of Health
 - The Commissioner of Police
 - CEO, City of Darwin
11. The Department of Health replied via email dated 27 January 2021 stating it had no adverse comments.
12. The NT Police replied via email dated 23 February 2021 stating it had no objections.
13. The City of Darwin replied via email dated 10 February 2021 stating it has no comment on the application and supports the due process of the Liquor Commission.

Compliance

14. A check of records held at Licensing NT show that there have been no negative or adverse compliance issues recorded against the Licensee or venue. It is also noted that the Licensee also is a registered wholesaler with no negative compliance history recorded against that registration.

Public Hearing

15. On 26 February 2021 the Director referred this application to the Commission.
16. On that same day the Commission notified the Licensee that the matter would be heard at a public hearing on 4 March 2021.
17. On 4 March 2021, the matter proceeded as a public hearing where Mr Christopher Brown appeared for the Licensee and Mr Jeff Verinder appeared on behalf of the Director. The Commission thanks them both for their assistance.
18. The brief was tendered and admitted into evidence without objection. No further documentary evidence was adduced.
19. Mr Brown told the Commission that while he is currently only trading on Friday evenings and only every second Friday during the wet season he wanted the flexibility to be able to open on other days in response to requests by tourist groups and other customers for whom Friday evenings might not be convenient. He said that he had no intention of trading 7 days a week and any additional trading days would have to be balanced against his ongoing family commitments.
20. Mr Brown also said that he had hosted a small number of special events at his premises over the past few years such as charity fund raisers where liquor other than his own beer products was provided to patrons. For each of these events he had to obtain a special licence (under the old Act) or special event authority (under the current Act) which was time consuming, both for him and Licensing NT. When asked by the Commission why he had not considered applying for a Small Bar Authority to cover these events he said that on some of the past occasions there had been slightly more

than the 100 patrons permitted by that form of authority. He said it was not feasible for him to be counting people in and then turning away people who had been specifically invited to the event by the charity or group that was sponsoring the function.

21. Mr Verinder on behalf of the Director submitted that it was preferable that licence conditions remained standard and that the Licensee should have identified another authority that would cover these events and that should attach to the license. However as the Commission has observed on a number of occasions in the past, the current range of authorities are deficient in that they do not cover the range of legitimate needs that arise within the hospitality industry. The Commission has made submissions to Government on this issue with a view to the scope of some authorities being clarified or broadened in the technical review of the Act. In the meantime however the Commission must strive to address the needs of licensees, in a manner that is consistent with the purposes of the Act, by the use of special conditions, where it is appropriate in the circumstances.

Assessment of the Application

22. The applicant submitted comprehensive, well-argued Community Impact and Public Interest Statements in support of the application.
23. The premises are in an industrial area of Darwin and there have been no compliance issues or suggestions that the business has had any adverse impact on neighbouring residents or businesses.
24. The Licensee has developed a reputation for producing high quality craft beers and providing a convivial environment for sampling the brewery's product within the parameters of "responsible service of alcohol". It has made a positive contribution to promoting an appreciation of craft beer and has had positive impacts on recreation, culture and tourism.
25. The Commission is satisfied on the evidence that the proposed special events will be held infrequently and should not have any significant adverse impact on the brewery's neighbours. The Commission believes that it is appropriate in the particular circumstances of this matter to exercise its discretion to impose a special condition on the licence to permit these special events to take place in addition to those rights the licensee has under its producer's authority.
26. The application to extend the normal hours of operation are no more nor less than that which is now permitted under a Producer's Authority. So to that extent there is benefit in having the terms of this licence more closely aligned with those conditions prescribed by the regulations.
27. Having regard to the purposes of the Act (Section 3), the application of the public interest and community impact test (section 49) and the Community Impact Assessment Guidelines, the Commission is satisfied that the application for a variation of conditions is in the public interest and will not have a significant adverse impact on the community.

28. Accordingly, for the reasons outlined in this Decision Notice the Commission has determined to vary the conditions of the authority and licence in the terms outlined at the commencement of this Decision Notice. The applicant was advised of this decision at the conclusion of the hearing.

Notice of Rights

29. Section 31(1) read with section 60(3) of the Act provides that the decision set out in this decision notice is reviewable by Northern Territory Civil and Administrative Tribunal ("NTCAT"). Section 94(3) of the NTCAT Act provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.

30. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Director and the Licensee.



RICHARD COATES
CHAIRPERSON, NORTHERN TERRITORY LIQUOR COMMISSION
18 March 2021

On behalf of Commissioners Coates, Winsley and Cannon