

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF CONDITIONS OF A LICENCE

REFERENCE NUMBER: LC2019/007

LICENCE NUMBER: 81402352

PREMISES: **Alice Springs Golf Club**
50 Cromwell Drive
ALICE SPRINGS NT 0870

APPLICANT: **Alice Springs Golf Club Inc.**

LEGISLATION: Section 32A(1) 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: 28 February 2019

DATE OF DECISION: 28 February 2019

DECISION

1. For the reasons set out below and in accordance with section 32A of the *Liquor Act* 1978 ("the Act") the Commission has determined to approve an application to vary conditions of a liquor licence at the premises ("the Alice Springs Golf Club") held by the Alice Springs Golf Club Inc ("the Applicant").

REASONS

BACKGROUND

2. The applicant operates a liquor licence at the Alice Springs Golf Club, which holds the annual Alice Springs Amateur Open Golf Tournament ("the Easter tournament"), a 4 day event which usually attracts about 120 local, intrastate and interstate participants, as well as approximately 20 officials. The Easter tournament has been managed without incident every Easter weekend since 1985.

3. The applicant's licence includes a standard condition prohibiting the sale of liquor on Good Friday. In previous years, the applicant has successfully obtained a temporary variation to permit it to sell liquor from 10 am to 10 pm on Good Friday. The applicant now seeks a permanent variation in the same terms.
4. The applicant lodged a completed Application with Licensing NT on 8 August 2018. On 22 January 2019, following community notification and consultation, together with an assessment by Licensing NT of the application, a Delegate of the Director-General of Licensing ("the Director-General") referred the application to the Commission for hearing pursuant to sections 32A(6AA) and 50(b) of the Act.
5. The Director-General provided the Commission with a brief of evidence ("the brief") including:
 - Application for a variation of conditions of liquor licence dated 23 January 2018
 - Special licences granted to the applicant permitting trade on Good Friday in 2017 and 2018
 - Affidavit for the purposes of s26A of the Act deposed by Lynette Howes, the applicant's principal executive officer, dated 28 May 2018
 - Community Impact and Public Interest Assessment statement in compliance with s6 and s6A of the Act
 - Public notices of the application dated 14 and 17 August 2018
 - Correspondence between Licensing NT and the Department of Health, NT Police and the Alice Springs Town Council

HEARING

6. On 20 February 2019, the Commission notified the applicant that the application would be heard at a public hearing by teleconference on 28 February 2019. On 28 February 2019 Ms Howes appeared on behalf of the applicant, and Mr Wood appeared for Licensing NT. Due to an administrative error advance notice of the hearing had not been advertised on the Commission's website, and consequently the Commission considered that the scheduled teleconference could not proceed as a public hearing.
7. The Commission informed Ms Howe that the next available hearing date was in late March 2019. Ms Howe submitted that to delay the hearing until then would cause the applicant undue hardship, as this would interfere with the applicant's Easter tournament planning. In the circumstances, the Commission considered that to conduct the hearing in public would cause undue hardship to the applicant, and the Commission directed that the hearing be conducted in private by teleconference on 28 February 2019.
8. The brief was tendered and admitted into evidence without objection. No further evidence was adduced.

ADVERTISING AND NOTIFICATION

9. Details of the application were advertised in the Centralian Advocate on 14 and 17 August 2018. In addition, signage notifying the application displayed at the proposed premises for a period of 30 days. The objection period expired on 17 September 2018.

10. No objections to the application were lodged.
11. The Director-General informed the Chief Executive Officer (“CEO”) of the Department of Health (“DOH”), the Commissioner of Police and the Chief Executive Officer of the Alice Springs Town Council of the application.
12. 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 Alice Springs Town Council considered the application and had "no objection".

ASSESSMENT OF THE APPLICATION

13. Regulation 4 of the *Liquor Regulations* (NT) permits the sale of liquor away from premises on public holidays other than Good Friday or Christmas Day. Accordingly, the Commission is not empowered to authorise the sale of takeaway liquor on Good Fridays. However, there is no express statutory limitation on the power of the Commission to authorise the sale and supply of liquor *on* the premises on Good Fridays. The present application is for the sale of liquor on the premises.
14. Nevertheless, the Commission notes that it is a standard condition of Northern Territory liquor licences that the supply and sale of liquor be restricted, and, in many cases prohibited, on Good Fridays. The Commission therefore does not approach this application lightly.
15. Regulated abstemiousness on Christian holidays is neither new nor confined to the Northern Territory. Following the English Reformation, the state banned various recreational activities on Sundays, perhaps most controversially by way of the *Declaration of Sports* issued by King James I in 1613 and renewed by King Charles II in 1633.
16. In South Australia, s32 of the *Liquor Licensing Act 1997* (SA) prohibited the sale of liquor on Good Friday up until December 2017, when that restriction was removed by the enactment of the *Liquor Licensing (Liquor Review) Amendment Act 2017* (SA), which was part of a substantial liquor licensing reform program in that state.
17. In Western Australia, on Good Friday alcohol may generally only be purchased with food for consumption on the premises. The Premier of that state recently spoke strongly in favour of an application by the licensee of Optus Stadium that this prohibition be lifted to enable liquor to be sold to members of the public attending the AFL match between the West Coast Eagles and Port Adelaide scheduled for Good Friday 2019. While acknowledging that the decision was a matter for the WA Director of Liquor Licensing, Premier McGowan also reportedly said that it was a "no brainer".¹
18. In the Republic of Ireland, s2(1)(d) of the *Intoxicating Liquor Act 1927* prohibited the sale or exposure for sale of any intoxicating liquor and the opening of any licensed premises on Good Friday, Christmas Day and St Patrick's Day. The Irish prohibition on Good Friday trading was lifted by the Irish legislature on 25 January 2018.

¹ Peter Law, "Good Friday booze battle: Bid to lift beer ban at Perth's Optus Stadium" *Perth Now* (20 January 2019)

19. Having regard to these recent developments in arguably comparable jurisdictions, the Commission is reasonably satisfied that however impressive the historical pedigree of the restriction of liquor trading on Good Friday, this practice appears to have fallen out of step with contemporary attitudes and practices. Accordingly, the Commission does not consider that it would as a matter of public policy be contrary to the public interest to grant the application.

20. 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.

21. The Commission notes that the applicant is a member with Level 2 accreditation of the Good Sports program run by the Alcohol and Drug Foundation, and that it maintains a Responsible Service of Alcohol Policy. The Easter tournament is not aimed at attracting young people, and its average demographic is in the 40 to 60 year old age bracket. The Easter tournament is open only to participants with a national Golf Australia handicap, and entry to the clubhouse is limited to club members and their guests, who must be signed in by a member. The applicant proposes to restrict the sale of liquor on Good Friday to participants in the Easter tournament and club members. Having regard to these matters, the Commission assesses the impact on the community of the proposed variation as low.

22. The Commission is satisfied that the Applicant has met the public interest and community impact test, and that, having regard to the objects of the Act as set out in section 3 of the Act, the conditions of the licence should be varied in the terms of the application.

23. The application to vary the conditions of the applicant's licence is granted.

NOTICE OF RIGHTS

24. 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 32A of the Act is specified in the Schedule and is a reviewable decision.

25. 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.

26. 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.

A handwritten signature in blue ink, appearing to be 'R. Goldflam', written over a horizontal line.

RUSSELL GOLDFLAM
ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION

28 February 2019

On behalf of Commissioners, Goldflam, Reynolds and McFarland