

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**DECISION NOTICE**

---

**MATTER:** APPLICATION FOR VARIATION TO LICENCE CONDITIONS

**REFERENCE:** LC2022/11

**APPLICANT:** FANNIE BAY COOL SPOT PTY LTD

**PREMISES:** Fannie Bay Cool Spot  
1 Keith Lane,  
FANNIE BAY NT 0810

**LEGISLATION:** Section 52 of the *Liquor Act 2019*

**HEARD BEFORE:** Mr Richard Coates (Chairperson)  
  
Ms Elizabeth Stephenson (Health Member)  
  
Ms Sandra Cannon (Community Member)

**DATE OF HEARING:** 31 March 2022

**DATE OF DECISION:** 29 April 2022

---

**DECISION**

1. For the reasons set out below and in accordance with section 110 of the *Liquor Act 2019* (NT) (the Act) the Northern Territory Liquor Commission (the Commission) has determined to vary the condition of Liquor Licence 80518564 held by Fannie Bay Cool Spot Pty Ltd. The current condition in relation to trading hours is deleted and replaced with: “the trading hours will be those prescribed for a Restaurant Authority by Regulations 79 of the Liquor Regulations 2019 (namely 10:00 to 24:00, 7 days a week, apart from Good Friday, Christmas Day and New Year’s Day)”.

**REASONS**

**BACKGROUND**

2. Fannie Bay Cool Spot Pty Ltd (the Licensee) is the holder of liquor licence number 80518564 for premises known as Fannie Bay Cool Spot situated at 1 Keith Lane, Fannie Bay.
3. An application was lodged by Mr Alan Sprigg on behalf of the Licensee seeking a variation to current licence conditions.
4. The application is to amend the liquor trading hours and remove a trading condition.

- Current liquor trading hours are 11:30 hours to 23:00 hours 7 days per week
  - Current wording within the Trading hours state, “No trading on Good Friday or Christmas Day”
5. The proposed new liquor trading hours and variation are;
- Trading hours of 10:00 hours to 24:00 hours 7 days per week
  - Remove the words “No trading on Good Friday or Christmas Day”.
6. The application was accompanied by;
- An affidavit in accordance with Section 54 of the Liquor Act; and
  - Community Interest Assessment Summary.

## **PUBLICATION AND CONSULTATION**

7. The application was published in the NT News on the 16 February 2022, and was also published on the Director of Liquor Licensing Applicants web page for a 14-day period. A green advertising sign was also displayed at the premises. Copies of the NT News, photographs of the green sign erected in situ and Statement of Display have been retained by Licensing Officers. As a result of the advertising, no objections were received from the public.
8. 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; and
  - The Chief Executive Officer of City of Darwin Council.
9. On 4 March 2022, the Department of Health replied via email stating that the application was innocuous and not objectionable. It further stated “However good alcohol policy supports responsible drinking guidelines. Allowing more venues to open for longer periods increases the potential total consumption in the community and reducing the prospect of achieving safe drinking levels. This increases the capacity and long term harms and therefore burden on the health system”.
10. On 21 February 2022, the NT Police replied via email stating they have no objections.
11. The City of Darwin Council did not provide a response.

## **COMPLIANCE**

12. A check of the records held show that there are no negative compliance issues recorded against the licensee or venue location.

13. It is also noted that the Licensee also holds liquor licence 80519020 for premises known as Foreshore Café & Restaurant, 259 Casuarina Drive, Nightcliff with no recorded negative compliance history.

## **PUBLIC HEARING**

14. On 17 March 2022, the Director referred this application to the Commission on 23 March 2022. The Licensee was informed that the Public Hearing would take place on 31 March 2022.
15. On 31 March 2022, the matter proceeded as a public hearing. Ms Seonaid Gallacher the nominee appeared on behalf of the applicant and Mr Jeff Verinder appeared on behalf of the Director. The Commission thanks them both for their assistance.
16. The Hearing Brief was tendered and admitted into evidence without objection. No further documentary evidence was adduced.

## **ASSESSMENT OF THE APPLICATION**

17. This application is not controversial and indeed the Chairperson raised with Mr Verinder whether, the Director had given consideration to dispensing with the requirement to advertise the application. The current Licence conditions were created prior to the introduction of the Liquor Regulations 2019 (The Regulations) which now prescribe the standard conditions, which attach to the various authorities provided for in the Act. Division 15 specifies the conditions for a Restaurant Authority including regulation 79 which provides:

### **Public bar authority hours of operation:**

- (1) Subject to this regulation, the hours of operation for a public bar authority are from 10:00 to 24:00 every day of the year, except Good Friday and Christmas Day.
  - (2) The hours of operation for a public bar authority on Christmas Day are from 11:00 to 21:00 if the liquor is served, sold or supplied to patrons purchasing full meals during those hours.
  - (2A) The hours of operation for a public bar authority on Good Friday are from 11:00 to 21:00.
  - (3) The hours of operation for a public bar authority on New Year's Day are from 00:00 to 02:00 if the licensee gives the Director written notice of the licensee's intention to open during those hours before 3 December of the year preceding the New Year's Day.
18. The Licensee informed the Commission that the reason it was seeking a change in trading hours was to allow for the very few special events that were occasionally held at the premises and could foreseeably require liquor to be served prior to 11:30 or until midnight. However, the normal trading hours would continue to conclude at 22:00 hours.

19. It is the Commission's view that unless there are compelling reasons as to why special conditions are required to accommodate the peculiar circumstances of an individual application that the conditions of the licence should be those prescribed by the Regulations for the particular authority. This will create a greater level of consistency across the industry, prevent "licence creep" and should also assist licensees better understand their obligations under the Act.
20. In the circumstance, the Commission has determined that it is in the public interest and that there will be no significant adverse impact to vary the conditions of licence in the terms outlined at the commencement of this Decision Notice. "The Licensee was advised of that decision at the conclusion of the hearing".

## **NOTICE OF RIGHTS**

21. Section 31(1) read with section 60(3) of the Act provide that the decision set out in this decision notice is reviewable by the 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.
22. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the applicant and the Director.



Richard Coates

CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
29 April 2022

On behalf of Commissioners Coates, Stephenson and Cannon