

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF CONDITIONS OF LICENCE

REFERENCE: LC2020/018

LICENCE NUMBER: 80303731

LICENSEE: Nguiu Club Aboriginal Corporation

PREMISES: Nguiu Club
Kerinauia Highway
BATHURST ISLAND NT 0822

APPLICANT: Nguiu Club Aboriginal Corporation

LEGISLATION: Section 110 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Ms Pauline Reynolds (Health Member)
Ms Christine Hart (Community Member)

DATE OF HEARING: 28 April 2020

DATE OF DECISION: 8 May 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 Nguiu Club Aboriginal Corporation (“the Licensee”) for the premises known as the Nguiu Club by permitting the sale and consumption of liquor on the annual Tiwi Island Grand Final Day from 16:30 hours or such a time the final siren is heard until 19:30 hours. 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 19 December 2021, an application for a permanent variation of licence conditions was lodged pursuant to section 110(3) of the Act by the Licensee for the premises known as the Nguiu Club situated at Kerinaia Highway, Bathurst Island.
4. The Licensee is the holder of liquor licence number 80303731 with Authority – Tavern.
5. The Licensee is seeking to include trading on the Tiwi Island Grand Final Day annually from 16:30 hours or such a time the final siren is heard to 19:30 hours by a variation of conditions of its licence. There is no application to change any other conditions of licence.
6. The following documents have been provided in support of the application:
 - Affidavit in accordance with Section 56 of the Act;
 - Community Impact Assessment in accordance with Section 51 of the Act relating to the permanent variation application;
 - Public Interest Statement in accordance with section 49 of the Act.
7. The Licensee also provided the following supplementary documents:
 - Copy of draft public notice of application;
 - Copy of Corporation Extract issued by the Office of the Registrar of Indigenous Corporations;
 - Copy of Management Agreement with Outback Stores;
 - Copy of Certificate of Registration of a Food Business issued by the Department of Health;
 - Copy of letters of support of various entities;
 - Evidence of payment of application fee;
 - Copy of photographic Identification of Mark Rhodes and Scott Marley;
 - Copy of Certificates of Responsible Service of Alcohol of Mark Rhodes and Scott Marley.

Publishing of application and consultation

8. The application was published in the NT News on Saturday 8 February 2020 and Wednesday 12 February 2020. A public notice was also posted at the Club on the community noticeboard and a signed declaration that it had been erected and displayed for 28 days was supplied.
9. No objections were received from the public in relation to the application.
10. In accordance with section 111(3) of the Act notification was made to:
 - CEO of Department of Health;
 - Commissioner of Northern Territory Police; and
 - Tiwi Land Council.
11. The Department of Health (Health) advised via email dated 23 January 2020 that it had no adverse comment. However, Health asked the Director of Liquor Licensing to consider patron and community safety and amenity when determining this application. Health requests the venue clearly displays signage to delineate the Non Smoking areas from the Smoking Areas in all Outdoor Dining Areas.
12. The Northern Territory Police advised via email dated 29 January 2020 that it had no objection to the application.
13. The Tiwi Land Council did not respond to the notice from Licensing NT however included within the documentation submitted by the applicant was a letter of support for the variation from Mayor Leslie Tungatalum.

Compliance History

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

The Hearing

15. On 14 April 2020, the Director of Liquor Licensing (“the Director”) referred the application for variation of conditions of licence to the Commission for consideration and determination.
16. On 28 April 2020, the Commission convened by way of telephone conference and determined pursuant to section 21(2)(d) of the Act that conducting a public hearing was not worthwhile nor in the public interest for the following reasons:
 - a) that the matter was not contentious, there having been no objections;
 - b) that having regard to the Corona virus pandemic there was a need to avoid unnecessary public gatherings;

Accordingly it was appropriate to conduct the hearing in private and on the basis of the written material submitted with the application.

Assessment of the Application

17. It is relevant to note that the application is not an application for a new licence. It is a variation to enable the community social club to trade on one additional day each year for a period of 3 hours on the Tiwi Island Grand Final Day.
18. Extensions of trade on the Tiwi Island Grand Final Day have been granted in past years without adverse consequences. On the last occasion the Commission considered an application for a temporary variation to allow trading for this year's Grand Final it urged the Licensee to seek a permanent variation in order to obviate the need for recurring applications each year.
19. It is relevant that the Club only trades from 16.30 hours until 19.30 hours 4 days a week. Sales of liquor are limited to mid strength and light beer with no more than 6 cans supplied to any person per day.
20. As was suggested by the Commission when it dealt with the last temporary variation, the Licensee has consulted widely with the relevant local stakeholders as to the merits of this proposal. It has managed to obtain written expressions of support from all the major community stakeholders including the traditional owner group, Tiwi enterprises, the Catholic school, local police and Julanimawu Primary Health Care centre as well as Mayor Tungatalum
21. The Commission noted that Mr Mark Rhodes and Mr Scott Marley had resigned since the lodgement of the application and that Mr Paul Dack and Ms Julie Lehmann were approved as acting nominees whilst probity assessments were completed.
22. The Commission further noted that Licensing NT completed the processing of an Application for Change of Manager on 24 April 2020.
23. 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.
24. All other conditions of the licence will remain in place during the additional trading day.

Notice of Rights:

25. 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.

26. Section 113(4) of the Act requires the Commission to give a decision notice, after making a decision under subsection (3), to the Licensee.

A handwritten signature in black ink, appearing to read 'Richard Coates', with a large, stylized initial 'R'.

RICHARD COATES
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
8 May 2020
On behalf of Commissioners Coates, Reynolds and Hart