

Decision Notification

Application Details

Application no.	84287
Licence No.	57000653
Premises Name	Bushman's Arms Hotel
Premises Address	20 Robertson Street NARACOOORTE SA 5271
Licensee	Duxton Bushman's Arms Custodian Pty Ltd
Application Type	Application to Vary Gaming Trading Hours

Outcome

Decision	Granted
Effective Date	25 Jan 2022

Requirements

The following requirements in support of the application have been satisfied:

The application has been advertised

Trading hours

The following are the approved trading hours

Monday	Midnight to 2:00 am	8:00 am to Midnight
Tuesday	Midnight to 2:00 am	8:00 am to Midnight
Wednesday	Midnight to 2:00 am	8:00 am to Midnight
Thursday	Midnight to 2:00 am	8:00 am to Midnight
Friday	Midnight to 2:00 am	8:00 am to Midnight
Saturday	Midnight to 2:00 am	8:00 am to Midnight
Sunday	Midnight to 2:00 am	8:00 am to Midnight

Reasons for Decision

The licensee has applied to the Liquor and Gambling Commissioner (the Commissioner) to vary their authorised gaming trading hours. The current authorised gaming trading hours as fixed by the licence are within the authorised liquor trading hours which authorise the licensee to trade in liquor

Monday to Wednesday 5:00 am to Midnight, Thursday 5:00 am to 1:00 am the following day, Friday and Saturday 5:00 am to 1:30 am the following day and Sunday 8:00 am to Midnight

The licensee's current authorised gaming hours are Monday to Wednesday: 6:00am to midnight, Thursday: 6:00am to 1:00am the next day, Friday: 7:00am to 1:30am the next day, Saturday: 7:30am to 1:30am the next day and Sunday: 8:00am to midnight

In November 2019, as part of a reform to liquor licensing in South Australia, a consequential amendment was made to section 27 of the Gaming Machines Act 1992 (the Act) which removed sub-section (7)(a) which had stated:

"(7) In fixing (or varying) the hours during which gaming operations may be conducted pursuant to a gaming machine licence, the Commissioner -

(a) cannot fix hours that are outside the hours during which the licensed premises are authorised to be open for the sale of liquor"

The result of the amendment is that the Commissioner may authorise gaming trading hours that fall outside the hours fixed by the licensee liquor licence.

The licensee has applied to vary their authorised gaming trading hours to Monday to Sunday 8:00am to 2:00am the next day.

The grant of this application would result in the licensee being authorised to allow gaming in the premises beyond the hours approved for the sale and supply of liquor.

The proposed variation does not offend the requirements of section 27(7) of the Act.

Section 27AA(4) of the Act states that the Commissioner may, after receiving an application for variation of a gaming machine licence, determine that the application is to be a designated application for the purposes of section 17A of the Act. The Commissioner had regard to that provision but considered that, on this occasion, that it was not necessary to designate the application.

Section 27AA(7) of the Act requires me to have regard to the matters set out in section 15(5)(a) of the Act, to the extent they are relevant to the application, in determining an application for a variation to a gaming machine licence.

Section 15(5)(a) of the Act states that a gaming machine licence will not be granted unless:

"(a) the applicant for the licence satisfies the Commissioner, by such evidence as the Commissioner may require—

(i) that the proposed gaming area, or gaming areas, within the premises in respect of which the licence is sought is or are suitable for the purpose; and

(iii) that the arrangements proposed for the security of the premises, each gaming area and the gaming machines, and of the gaming operations generally, are adequate; and

(iv) that the conduct of the proposed gaming operations on the premises would be unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises; and

(vi) that the conduct of the proposed gaming operations on the premises would not detract unduly from the character of the premises, the nature of the undertaking carried out on the premises or the enjoyment of persons ordinarily using the premises (apart for the purpose of gaming); and

(vii) that no proposed gaming area is so designed or situated that it would be likely to be a special attraction to minors; and

(viii) that the proposed gaming area is within a place or area that is enclosed as defined by the Tobacco and E-Cigarette Products Act 1997 (see section 4(3) and (4))".

I have considered the above matters and I am of the view that only sub-section (iv) is relevant to the application.

I have had regard to that matter and I am satisfied that the grant of this application would not cause any undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises. I note that the applicant has supplied development approval from the Naracoorte Lucindale Council for the variation in

gaming trading hours.

Pursuant to section 24(3) of the Act, I am satisfied that the grant of this application would not be contrary to the public interest.

Pursuant to section 27AA of the Act, the application to vary the authorised gaming hours is granted.

Under Delegation from the Liquor and Gambling Commissioner



Jane Widdowson
Hearings Delegate
25 Jan 2022