

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

VARIATION OF CONDITIONS OF LICENCE CONDITIONS

LICENSEES

LICENCE NUMBERS

Erlunda Desert Oaks Resort Pty Ltd (Desert Oaks Motel)	80100446
KC Station Pty Ltd (Kings Creek Station)	80816687

LEGISLATION: Section 113, *Liquor Act 2019* (the Act)

DECISION

1. The conditions of Liquor Licence 80100446 held by the Erlunda Desert Oaks Resort Pty Ltd and Liquor Licence 80816687 held by KC Station Pty Ltd (**the licensees**) are varied by inserting the following special condition:

Preamble

For the purposes of this licence the term "Aboriginal person" shall mean any person of Aboriginal descent who is a resident of, or normally resides at:

(i) the Northern Territory Communities of Docker River, Mutitjulu, Imanpa and Finke;

(ii) any of the Communities or Homelands on:

(a) the Pitjantjatjara Lands in South Australia;

(b) the Ngaanyatjarra Lands in Western Australia.

The expression "Pitjantjatjara Lands" means the lands described in the First Schedule to the *Pitjantjatjara Land Rights Act 1981* (SA) but does not include any roads referred to or described in the Second Schedule to that Act or any road reserved within the meaning of Section 33 of the Act.

The expression "Ngaanyatjarra Lands" means the lands contained in the Reserves (Use & Benefit of Aboriginals) Nos. 17614, 21471, 24923, 40783, 29452, 40787 and 4078 in Western Australia. These Reserves were declared under Part 3 of the *Land Act 1933* (WA) and the Leases which were granted to the Ngaanyatjarra Land Council (Aboriginal Corporation).

Bona Fide Lodgers

Liquor may be sold at any time to a bona fide lodger (who is not an Aboriginal person as defined under "Special Conditions" preceding) at

the premises or an invited guest of the lodger (in the presence of the lodger) for consumption on the premises.

Special Condition

There shall be no sale or supply of any liquor for consumption on or off the premises to any Aboriginal person as defined in the Preamble hereto, who is a resident of or normally resides at:

- (i) the Northern Territory Communities of Docker River, Mutitjulu, Imanpa and Finke;
- (ii) any of the Communities or Homelands on:
 - (a) the Pitjantjatjara Lands in South Australia;
 - (b) the Ngaanyatjarra Lands in Western Australia.

Further, neither the Licensee nor his servants or agents will knowingly sell or supply or permit the sale or supply of any liquor to any person who intends to supply the liquor to a person who is a resident of, travelling to, through or from any part of:

- (i) the Northern Territory Communities of Docker River, Mutitjulu, Imanpa and Finke;
- (ii) any of the Communities or Homelands on:
 - (a) the Pitjantjatjara Lands in South Australia;
 - (b) the Ngaanyatjarra Lands in Western Australia.

The Licensee may at his discretion refuse service to any person whom he has reason to believe is attempting to purchase liquor on behalf of the persons described above.

The following sign, in both English and Pitjantjatjara languages, be placed in a prominent position where sales of liquor take place at the Roadhouse to the following effect:

"It is a condition of the liquor licence of these premises that there be restrictions placed on the sales of liquor to Aboriginal residents of certain Lands and specific Communities. These restrictions have been imposed at the request of the residents of the Pitjantjatjara Lands in South Australia, the Ngaanyatjarra Lands in Western Australia and Communities of Docker River, Mutitjulu, Imanpa and Finke to combat alcohol-related harm and damage to Aboriginal culture."

2. The conditions of Liquor Licence 80100446 held by the Erldunda Desert Oaks Resort Pty Ltd are varied by deleting the following condition:

The licensee is not permitted to sell or supply liquor for consumption away from the premises to:

a. any person who is unable to satisfy the licensee that they do not reside or normally reside in:

i. a general restricted area declared pursuant to s74(1)(a) of the *Liquor Act 1978 (NT)*;

ii. an alcohol protected area declared pursuant to s27 of the *Stronger Futures in the Northern Territory Act 2012 (Cth)*;

iii. any of the Communities or Homelands on the Pitjantjatjara Lands in South Australia; or

iv. any of the Communities or Homelands on the Ngaanyatjarra Lands in Western Australia.

b. any person who the licensee knows intends to supply the liquor to a resident of the areas set out in sub-condition (a) above.

The Licensee may at his or her discretion refuse service to any person whom he or she has reason to believe is attempting to purchase liquor on behalf of the persons described above.

3. The foregoing variations are to take effect on 1 September 2022.

REASONS

4. On 1 July 2022 the Northern Territory Liquor Commission (**the Commission**), following consultation with the licensees and other stakeholders, issued a Notice of Proposed Variations of Licence Conditions (**the Notice**) in accordance with section 113(2) of the *Liquor Act 2019 (the Act)*. The Commission invited the licensees to submit a response to the proposed variations within 28 days after the date of this notice.

5. The Commission also sent the Notice to the stakeholders it had consulted,¹ and published the Notice on its website.

6. Section 113(3)(a) of the Act requires the Commission to consider the licensees' response to the Notice. On 14 July 2022, Mr Antony McFadzean wrote to the Commission on behalf of both licensees stating that they accepted and agreed to the variations proposed by the Commission. The Commission has not received any other responses to the Notice.

7. When undertaking an own initiative inquiry under section 113 of the Act, the Commission is empowered but not required to conduct a hearing. Section 113(3)(b) requires the Commission to consider the results of any such hearing. In this matter The Commission decided not to conduct a hearing, because it considered that the consultations it had conducted were sufficient. Notably, the licensees have consistently supported the variations proposed and now made by the Commission.

¹ The stakeholders are listed at paragraph [15] of the Notice.

8. In accordance with section 113(3)(c) of the Act, the Commission has considered the public interest and community impact requirements set out in Part 3 Division 4 of the Act.²
9. The Commission has determined that the variations commence on 1 September 2022 so that the licensees and the Director have sufficient time to prepare for the introduction of the variations.

NOTICE OF RIGHTS

10. Section 31(1) read with section 166(7) 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.
11. 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, the licensees, the McDonnell Regional Council, the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council and Anangu Pitjantjatjara Yankunytjatjara.



Russell Goldflam

ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
12 August 2022

On behalf of Commissioners Goldflam, Carson and Hart

² See paragraphs [26] to [39] of the Notice.