

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2019/095

PREMISES: Katherine Show Grounds
Lot 3170 Victoria Highway
KATHERINE NT 0850

APPLICANT: Katherine Turf Club Incorporated

EVENT: 2019 Katherine Cup Races

LEGISLATION: Section 58 of the *Liquor Act 1978*

PROPOSED DATE: Saturday 17 August 2019

DECISION OF: Ms Pauline Reynolds (Health Member)

DATE OF REFERRAL: 3 July 2019

DECISION

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (the Act) I have determined to grant the special licence to sell liquor to the Katherine Turf Club Incorporated for the sale of liquor on Saturday 17 August 2019 between the hours of 11:00 hours and 18:00 hours for each bar.
2. The granting of approval is subject to the following standard conditions, namely:
 - a. The sale of liquor must be supervised by one or more persons nominated by the holder of the special licence (the Nominee), who each must hold a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General.
 - b. A Nominee MUST BE present during all Trading Hours and must ensure compliance with these Conditions.
 - c. The Nominee is identified as Mr Paul Mullins.
 - d. Persons under the age of 18 years must not be used in the sale or supply of liquor.
 - e. The boundary of the premises must be clearly identified and access to the premises must be restricted in a manner that allows for effective supervision by the Nominee.
 - f. Any person involved in Crowd Control, as defined under *the Private Security Act 1995*, at the premises, must be licensed as required by that Act.
 - g. Crowd Controllers are to be employed as per industry standards as follows:
 - Two (2) licensed crowd controllers for the first 100 hundred patrons and one (1)

additional crowd controller for each 100 hundred patrons thereafter.

- h. All liquor must be sold in open containers.
- i. No more than four (4) cans or bottles must be sold to any one person at any one time.
- j. The holder of the special licence must ensure that water, soft drinks, low alcohol beverages and snacks are available during Trading Hours. Commercially bottled water may be sold, otherwise water must be supplied free of charge on request.
- k. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- l. The holder of the special licence must comply with the "Industry Code of Practice for the Promotion of Liquor", provide a safe drinking environment, prevent irresponsible or excessive consumption of liquor and ensure all staff are properly instructed to watch for and prevent drink spiking.
- m. The holder of the special licence must comply with all requirements and guidelines published by the Liquor Commission or Director-General, including guidelines related to the conduct of entertainment.
- n. Where the holder of the special licence is operating from enclosed premises, the holder must prominently display on the premises the "Maximum Patron Number" sign (if one has been issued by the Fire and Rescue Service) and must comply with maximum patron numbers as determined by the Northern Territory Fire and Rescue Service from time to time.
- o. The holder of the special licence must not do or permit or suffer any act, matter or thing whatsoever upon the premises or any part thereof, or permit noise at a level, which must or may be to the annoyance, nuisance, grievance or disturbance of the occupiers or owners for the time being of the adjoining properties or the residential neighbourhood.
- p. The holder of the special licence must comply with the requirements of the Liquor Commission or Director-General as specified in this condition, and with the instructions of a Licensing Inspector, a Member of the Police Force, an authorised Member of the Northern Territory Fire and Rescue Service or a delegate of the Chief Health Officer upon production of an identity card or other authorisation.
- q. All liquor purchased for sale under the authority of this special licence MUST be purchased from a licensed retail outlet.
- r. The holder of the special licence must make a record of all liquor obtained for sale under this special licence that identifies the source of the liquor and the type and quantity of each type of liquor so obtained.
- s. The holder of the special licence must record all liquor sold, including the type and quantity of that liquor, and must record the manner of disposal of any unsold liquor.
- t. This special licence must be located at the premises during Trading Hours and must be produced on demand to a Licensing Inspector, a Member of the Police Force, an authorised Member of the Northern Territory Fire and Rescue Service or a delegate of the Chief Health Officer upon production of an identity card or other authorisation.
- u. The holder of the special licence must clearly display signage to delineate Non-Smoking areas from the Smoking Areas and the holder must comply with smoking requirements contained in the *Tobacco Control Act 2002*.
- v. Food and drinks are not permitted to be taken into any designated smoking areas.
- w. The holder of the special licence or employee of the holder shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang ("Bikie Gang").

3. Additional Conditions:

- a. The only liquor to be sold between 11:00 and 12:00 hours is to be light beer.
- b. The only liquor to be sold between 12:00 and 17:30 hours is to be full-strength beer, mid-strength beer or light beer.
- c. A maximum number of four (4) opened cans sold at any one time to each patron.

Reasons

Background

4. Pursuant to section 58 of the Act, the Katherine Turf Club Incorporated applied to the Director-General of Licensing on 13 March 2019 for a special licence to permit the sale of liquor to persons attending the event known as the Katherine Cup horse races.
5. This is a family friendly event trading on Saturday 17 August 2019 with an expected number of 2,500 people attending throughout the duration of the day.
6. Entry to the event is by purchase of a ticket per patron either online or at the front gate on the day of the event. Over 18 years old wrist bands will be provided at the front gate with proof of identification, age and purchase of entry ticket. There will be a "No band, No service" policy that will apply to all liquor sales at each bar.
7. It is proposed there will be three separate bar areas, one main bar and two corporate no-cash bars.
8. The main bar is situated in the Buntine Pavilion which is approximately 525 square metres. One corporate area will be located in the Turf Club Pavilion and is approximately 275 square metres with the second corporate bar area being undercover also with seating and approximately 350 square metres of area. The proposed licensed area is approximately 13,300 square metres with full viewing access to the horse racing track.
9. The original application was unclear as to the dates and specific times of the event. An email dated 11 June 2019 clarified that the organisers were seeking a Special Licence for only Saturday 17 August 2019 between the hours of 11:00 hours and 18:00 hours for each bar.
10. Light beer will only be sold between the hours of 11:00 hours and 12:00 hours, the Applicant then proposes beverages of full, medium and light strength be available to patrons from 12:00 hours until 17:30 hours when last drinks will be served and the bar closes. An announcement of "last drinks, bar is closing at 17:30 hours" will be announced over the loud speaker at the commencement of the presentation at approximately 17:10 hours after the final horse race has run. There will be a maximum number of four (4) opened cans sold at any one time to each patron.
11. There will be food available for purchase at the main bar with water and soft drinks available for purchase at each bar.
12. Licensed crowd controllers will be present from the gate opening at 11:00 hours until 19:00 hours or until all patrons have been removed from the premises. Licensed crowd controllers will be patrolling the exterior fencing throughout the day and there will be a

security check point prior to the exit gates to ensure no patrons are leaving the licensed area with alcohol, other items and are exiting safely.

13. Free bus services will be available to arrive and leave the event, leaving from and taking patrons to the main bus interchange in Katherine town. This service will be highly advertised throughout Katherine town and on social media. All local taxi companies will be notified of this event to ensure their presence is ample. Monitored car parking will be available at the front of the Katherine Show Grounds, with easy access primarily for disabled parking and emergency vehicles.
14. By way of explanation to the Commission as to the perceived delays in this application, the following information may assist. The application was received on 13 March 2019 but when initially assessed was deemed to be incomplete. A request was emailed to the Applicant to submit all outstanding documents as soon as practical. Information was received and stakeholders notified on 9 May 2019. As evident in the stakeholder replies later in this referral and especially with NT Police as to past history with the event, this resulted in further engagement between the Applicant and NT Police where a final clarification of information was received from the Applicant on 11 June 2019. Unfortunately, the Licensing Officer handling this application took some unexpected personal leave in June which slightly delayed the finalisation of this referral.

Consultation

15. As this is an application for a special licence there is no requirement under the Act for advertising of such an application, nor is there provision for formal objections to be made concerning such an application. Despite this, a “usual practice” has developed for the Director-General to consult with relevant stakeholders concerning the application, namely Katherine Town Council, the Department of Health (DOH), Northern Territory Fire and Rescue Services (NTFRS) and NT Police, Fire and Emergency Services (NT Police) and seek their comment.
16. With respect to this application:
 - a. Katherine Town Council was advised of the application on 11 June 2019 and have not responded.
 - b. Department of Health responded on 09 May 2019 advising “The Department of Health has no adverse comment.” It is also requested that the Applicant be aware of their obligations under the *Tobacco Control Act 2002* and supply signage, this information was forwarded to the Applicant on the same day, 09 May 2019.
 - c. Northern Territory Fire and Rescue Service responded to the application on 28 May 2019 advising “no objection.”

Following consultation of non-compliance. Katherine Fire Station noted on 27 May 2019 “I have been to the turf club this morning and completed my inspection, all faults from last visit have been rectified. I have spoken to Paul and they have installed a third exit apparently in consultation with a certifier. The maximum patronage numbers for the turf club pavilion is 300, this is due to exit size and numbers. Floor area is 375m² with 7m of bar frontage. In regard to the Buntine Pavilion, I have instructed Paul that the roller doors will need to be all opened and locked in that position. This will essentially make that an open sided shade structure. So, no patronage numbers were given for that area. I don't see any issues from NTFRS in regard to this event.”

- d. The NT Police responded as follows:
NT Police submitted their first response to the application on 17 May 2019 advising that Katherine Police have the following comments to make and seek further clarification from the application raised in the second part of their email.
- i. There have been significant issues with both the 2017 and 2018 events held at Katherine Turf Club.
 - ii. The licensee for these events was Deemat Pty Ltd and it is noted that the applicant on this occasion is now the president of the Katherine Turf Club, Paul Mullins.
 - iii. On 24 May 2019 the Nominee, Paul Mullins, met with the local Katherine Police Senior Sargent Bradley Fox and Superintendent Daniel Shean in regard to the application as in previous years this event has been held, there have been substantial compliance issues.
 - iv. All previous Katherine Cup Races were held by a different committee.
 - v. 2019 will be the first year Paul Mullins and his current Katherine Turf Club committee will be hosting this event.
 - vi. Paul Mullins has previously been a Nominee for many events including the Nominee of premises without compliance issues noted.

On 04 June 2019 NT Police, Drug and Alcohol Policy Unit submit an updated response to the application noting "After meeting with the licensee, NT Police have no further comment/objections regarding this application."

- e. A check of the records held at Licensing NT indicate that there is no previous adverse history on the applicant or associated persons.

Assessment of the Application

17. As previously noted, this is an application for a special licence under section 58 of the Act. That section is within Part VI of the Act. There are no specific criteria prescribed within the Act for consideration of an application for a special licence. Special licences exist under Part VI of the Act and are therefore not part of the definition of "licence" pursuant to section 4 of the Act, namely "a licence issued under Part III" of the Act.
18. As a result, it has previously been determined by the Commission that an application for a special licence is **not** a licence with respect to which I am bound to apply the public interest and community impact test as provided for under section 6 of the Act.
19. The Commission has previously noted however that pursuant to section 3(3) of the Act it is clear that when "exercising a power or performing a function under the Act the Commission must have regard to the objects of the Act and must exercise the power and perform the function in a way that is consistent with those objects".
20. Section 3 of the Act identifies the "Objects" as follows:
"(1) The primary object of this Act is to regulate the sale, provision, promotion and consumption of liquor:
(a) So as to minimise the harm associated with the consumption of liquor; and
(b) In a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor.

- (2) The further objects of this Act are:
- (a) To protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor;
 - (b) To regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory; and
 - (c) To facilitate a diversity of licensed premises and associated services for the benefit of the community.”

21. As I have been delegated the authority to make this decision, I too am bound by these objects and they have been considered carefully by me when determining this application.

22. I am satisfied as a result of the material provided by the Applicant that it would conduct itself appropriately under any special licence granted to it.

23. Based on the material before me, I find there is no basis to believe the Applicant would not comply with the usual conditions of the special licence as sought.

24. Given the nature of this event and for the reasons outlined above; I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and I have decided to grant the special licence as outlined at the start of this Decision Notice.

Notice of Rights:

25. 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 special licence subject to condition pursuant to section 59 of the Act is specified in the Schedule and is a reviewable decision. I am exercising the power to make a Commission decision pursuant to the delegation made to me by the Commission.

26. 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.

27. 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.



PAULINE REYNOLDS
HEALTH MEMBER
NORTHERN TERRITORY LIQUOR COMMISSION
9 July 2019