

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

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

**LICENCE NUMBER:** 80101789

**REFERENCE:** LC2020/030

**LICENSEE:** Deemat Pty Ltd

**PREMISES:** The Katherine Hotel  
Cnr Giles Street and Katherine Terrace  
KATHERINE NT 0850

**APPLICANT:** Deemat Pty Ltd

**LEGISLATION:** Section 110 of the *Liquor Act 2019*

**HEARD BEFORE:** Mr Richard Coates (Chairperson)  
Dr Phillip Carson (Health Member)  
Ms Sandra Cannon (Community Member)

**DATE OF HEARING:** 11 August 2020

**DATE OF DECISION:** 11 August 2020

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**Decision**

1. For the reasons set out below and in accordance with section 110 of the *Liquor Act 2019* (the Act), the Commission has determined to vary the conditions of licence of Deemat Pty Ltd (the Licensee) at the premises of the Katherine Hotel, Cnr Giles Street and Katherine Terrace, Katherine (the Premises) to allow an extension of trading hours for the Garden Bar and Kirby's Sports Bar from 10:00 hours and 04:00 hours the following day, for the Thursday immediately prior and the Friday and Saturday of the Katherine Show Weekend, each year on the following conditions additional to those prescribed by the Act and the Liquor Regulations 2019:
  - a. The licensee shall provide one courtesy bus from midnight and two courtesy buses from 02:00 hours every night to convey patrons to their accommodation or place of residence;
  - b. No sale of shots are permitted after midnight;
  - c. After 02:00 hours, the sale of liquor is limited to one drink per transaction;

- d. .The licensee will provide free bottled water to patrons after midnight and shall promote the availability of free bottled water by way of prominent signage on display on the premises;
- e. Security staff engaged by the Licensee shall wear high vis vests.

## **Reasons**

### **Background**

2. On 31 January 2020, Mrs Cassandra Harney, Nominee of the Katherine Hotel on behalf of the licensee applied to the Director of Liquor Licensing (the Director) pursuant to section 110 of the Act for a variation of conditions of licence.
3. The application was accompanied by two (2) affidavits from Mr Anthony Paul Adams and Mrs Joyce Julia Adams, Directors of Deemat Pty Ltd and a declaration of associates.
4. The Licensee submitted a public interest and community impact assessment in accordance with section 51 of the Act.
5. The substance of the application is to increase the trading hours for the Katherine Show Weekend each and every year as follows:

#### **Thursday**

Garden Bar	00:30 hours to 04:00 hours
Kirby's Sports Bar	02:00 hours to 04:00 hours

#### **Friday**

Garden Bar	02:00 hours to 04:00 hours
Kirby's Sports Bar	02:00 hours to 04:00 hours

#### **Saturday**

Garden Bar	02:00 hours to 04:00 hours
Kirby's Sports Bar	02:00 hours to 04:00 hours

The following conditions for Katherine Show Weekend are requested to be included in the liquor licence:

- No shots will be served after midnight;
- Lock out from 02:00 hours;
- Service of only one alcoholic drink per person at the bar between 02:00 hours and 0:400 hours;
- Free bottled water from midnight;
- All events will have live music and entertainment.

## **Publishing of Application and Consultation**

6. The application was advertised in the Katherine Times on 12 February 2020 and 19 February 2020. A green sign was displayed at the premises for the required 28 days from the second advertisement. The Licensee has supplied photographic evidence of the green sign erected at the site, copies of the advertisements in the Katherine Times and a Statement of Display, confirming the sign had been displayed for the required period.
7. Pursuant to section 111(3) of the Act, on 4 February 2020, the following stakeholders were informed of the application and were invited to provide comment:
  - The Chief Executive of the Department of Health (DOH)
  - The Commissioner of Police;
  - Katherine Town Council

In addition, comments were also sought from the Northern Territory Fire and Rescue Service (NTRFS).

8. The Northern Territory Police replied via email dated 5 February 2020 confirming it had no objections
9. DOH replied via email dated 1 July 2020 confirming it has no adverse comment, however did ask that consideration be given to patrons, community safety and amenity when determining this application. DOH advised the comments were provided on the understanding the applicant was aware of their responsibility with regard to smoking compliance at the venue.
10. On 13 February 2020, Ian Bodil, CEO Katherine Town Council responded by email confirming that council had no adverse comment and supporting the application.
11. On 5 February 2020, Matthew Francis, Station Officer, NTFRS responded by email, supporting the application.

## **Compliance History**

12. The Senior Compliance Officer for Licensing NT in the Katherine region advised that in previous years the event has been well run by the Licensee.

## **Public Hearing**

13. On 13 July 2020, the Director referred the application to the Commission. Although the application originally contemplated that the extended trading hours would be in place for the 2020 Katherine Show Weekend that event did not take place because of the COVID-19 pandemic.

14. On 21 July 2020, the Commission notified the Licensee that the matter would be heard at a public hearing on 11 August 2020. On that day both Mr and Mrs Harney appeared for the Licensee and Mr Jeff Verinder appeared on behalf of the Director. The Commission thanks them for their attendance and assistance.
15. The brief was tendered and admitted into evidence without objection. No further documentary evidence was adduced.
16. The Katherine Show Weekend is a major regional event, attracting a significant influx of people from surrounding communities and pastoral properties, as well as tourists. As well as the Show itself, the Katherine Rodeo is held over this weekend. In 2015, 2016 and 2017, the licensee applied for and was granted a variation to trade until 04:00 hours over the Show Weekend.
17. In 2018, the Licensee made a similar application. However, following the commencement on 28 February 2018 of the *Liquor Legislation Amendment (Licensing) Act 2017* and the associated establishment of the Commission, pursuant to section 6B of the Act the onus was now placed on the Licensee to satisfy the Commission that approval for the extension of trading hours for the 2018 Katherine Show Weekend would meet the public interest and community impact test set out in section 6(2) of the Act.
18. Following a public hearing of the Licensee's application on 12 June 2018 at which the Chairperson of the Commission presided, the Commission refused the application. The Commission found that notwithstanding the "desire or expectation by some Katherine residents and others travelling to the show that alcohol may be more widely available for their consumption than it is ordinarily", it was not satisfied that the proposed extended trading would constitute a "recognisable community benefit". Furthermore, after noting that the licensee was then undergoing prosecution for a noise complaint for a previous show weekend, and despite having accepted evidence that the licensee would install a sound ceiling on the premises for the show weekend, the Commission found that it "is not convinced on the information before us that there will be no risk of inconvenience to neighbours if we allow the applicants to trade until 4:00am. The proposed sound ceiling may provide some relief in the future but it is as yet untested."
19. Accordingly, during the 2018 Show Weekend, the Katherine Hotel ceased trading at 02:00 hours.
20. In June 2019, the Commission dealt with a further application for an extension of trading hours for the 2019 Katherine Show Weekend. At that hearing the licensee provided extensive evidence in support of its application to the effect that the extended trading hours enabled patrons to depart the premises gradually rather than all at once and thereby reduced the likelihood of unruly behaviour on the streets. It relied on the reports by Compliance Officers in relation to the 2018 Show weekend where it was noted that there had been unruly behaviour on the streets of Katherine when all patrons were required to leave the premises at 2:00 am. It also pointed to the success of the sound ceiling in the Garden Bar mitigating the noise which had caused disturbance to neighbouring residents in the past.

21. That application was approved subject to a number of the same conditions as have been suggested by the Licensee in this application, including the provision of courtesy buses. A condition was also imposed requiring all patrons to depart via Giles Street rather than Katherine Terrace to avoid the road safety risks associated with people spilling out on to the main highway. That condition has now been rendered otiose by the erection of a permanent pedestrian banner adjacent to the entrance of these licensed premises.
22. Both Police and Licensing NT Officers have confirmed that the extension of trading hours for the 2019 Katherine Show Weekend was well managed and that an ongoing extension is supported provided similar conditions are attached to the licence.

### **Assessment of the Application**

#### Whether varying the conditions of licence is in the public interest

23. In determining whether the variation of licence conditions is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in section 49(2) of the Act:
  - (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
  - (b) ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
  - (c) safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
  - (d) protecting the safety, health and welfare of people who use licensed premises;
  - (e) increasing cultural, recreational, employment or tourism benefits for the local community area;
  - (f) promoting compliance with this Act and other relevant laws of the Territory;
  - (g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
  - (h) preventing the giving of credit in sales of liquor to people;
  - (i) preventing practices that encourage irresponsible drinking;
  - (j) reducing or limiting increases in anti-social behaviour.

24. Having considered each of the objectives and having particular regard to the Licensee's good compliance record for this event, as well as the legitimate recreational needs of the broader rural community which uses this weekend as an opportunity to renew friendships from right across the Big Rivers region, the Commission is satisfied that it is in the public interest to vary the conditions of licence in the terms sought.

Whether varying the conditions of licence will have a significant adverse impact on the community

25. To determine whether the proposed variation will not have a significant adverse impact on the community, the Commission must consider the matters set out in section 49(3) of the Act:
- (a) the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;
  - (b) the geographic area that would be affected;
  - (c) the risk of harm from the excessive or inappropriate consumption of liquor;
  - (d) the people or community who would be affected;
  - (e) the effect on culture, recreation, employment and tourism;
  - (f) the effect on social amenities and public health;
  - (g) the ratio of existing liquor licences and authorities in the community to the population of the community;
  - (h) the effect of the volume of liquor sales on the community;
  - (i) the community impact assessment guidelines issued under section 50;
  - (j) any other matter prescribed by regulation.
26. Having considered all those matters the Commission has been persuaded on the evidence before it that varying the terms of licence will not have a significant adverse impact on the community. However, should circumstances change in the future such that the Commission has concerns that the extended trading hours over the Katherine Show Weekend is having a significant adverse impact on the community then it would not hesitate to commence proceedings under section 113 of the Act to remove the condition allowing the ongoing extension of trading hours for this long weekend.
27. Accordingly, for the reasons outlined in this Decision Notice the conditions of this licence are amended in the terms set out at the commencement of the Decision Notice.

## Notice of Rights

28. Section 31 of the Act provides that any decision of the Commission for which a decision notice is required is reviewable by NTCAT and the following persons (relevantly) may apply to NTCAT for a review:
- in all cases – the Director;
  - in the case of a decision regarding an application – the Applicants; and
  - in the case of a submission, complaint or objection that was the subject of a decision – the person who made the submission, complaint or objection.
29. In accordance with the substance of section 31 of the Act any application for review of this decision must be lodged within 28 days of the date of this decision.
30. Section 112(3) of the Act requires the Commission to give a decision notice, after making a decision under subsection (2), to the Applicant.



RICHARD COATES  
Presiding Member  
Chairperson  
20 August 2020

On behalf of Commissioners Coates, Carson and Cannon