

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	<b>LC2018/083</b>
<b>PREMISES:</b>	<b>Katherine Showgrounds</b> Lot 3170 Victoria Highway KATHERINE NT 0850
<b>APPLICANT:</b>	Katherine and District Show Society Incorporated
<b>EVENT:</b>	Katherine Show and Rodeo
<b>LEGISLATION:</b>	Section 58 of the <i>Liquor Act</i> .
<b>DECISION OF:</b>	Ms Jodi Truman (Deputy Chairperson)
<b>DATE OF DECISION:</b>	4 July 2018

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### Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act* ("the Act") I have determined to grant the special licence to sell liquor to Katherine and District Show Society Incorporated for the sale of liquor for the following bars between the following hours:

#### Landmark Tent

- a. 1700 hours and 2000 hours on Thursday 19 July 2018;

#### Rodeo Bar

- a. 1200 hours on Friday 20 July 2018 and 0200 hours on Saturday 21 July 2018;
- b. 1200 hours and 2359 hours on Saturday 21 July 2018.

#### Arena Bar

- a. 1200 hours and 2000 hours on Friday 20 July 2018;
- b. 1200 hours and 2100 hours on Saturday 21 July 2018.

2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as the “Katherine Show and Rodeo” occurring at the Premises known as the Katherine Showgrounds located at Lot 3170 Victoria Highway, Katherine in the Northern Territory.
  - b. The sale of liquor must be supervised by one or more persons nominated by the Licensee (Nominee), who each hold a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General.
  - c. A nominee **MUST BE** present during all trading hours and must ensure compliance with the conditions.
  - d. The Nominees are identified as:
    - i. Patricia Glackin;
    - ii. Kim Oliver; and
    - iii. Anna Kerwin.
  - e. Persons under the age of 18 years must not be used in the sale or supply of liquor.
  - f. 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.
  - g. Any person involved in Crowd Control, as defined under the *Private Security Act*, at the Premises must be licensed as required by that Act.
  - h. Crowd controllers are to be employed as per the submission lodged by the applicant and shall include static and roaming crowd controllers.
  - i. All liquor must be sold in open containers.
  - j. No more than four (4) cans or bottles may be sold to any one person at any one time.
  - k. The licensee must ensure that water, soft drink, 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.
  - l. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
  - m. The Licensee 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.

- n. The Licensee must comply with all requirements and guidelines published by the Director-General including guidelines related to the conduct of entertainment.
- o. Where the Licensee is operating from enclosed premises, the Licensee must prominently display on the licensed 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.
- p. The Licensee 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.
- q. The Licensee must comply with the Instructions of a Licensing Inspector, an authorised Member of the Northern Territory Fire and Rescue Service or a delegate of the Chief Health Officer upon production of an identify card or other authorisation.
- r. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- s. The licensee must make a record of all liquor obtained for sale under this licence that identifies the source of the liquor and the type and quantity of each type of liquor so obtained.
- t. The licensee must record all liquor sold, including the type and quantity of that liquor and must record the manner of disposal of any unsold liquor.
- u. This 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 identify card or other authorisation.
- v. The venue must clearly display signage to delineate the Non Smoking area from the Smoking Areas and must comply with smoking requirements contained in the *Tobacco Control Act*.
- w. Food and drinks are not permitted to be taken into any designated smoking areas.
- x. The Licensee or an employee of the Licensee shall exclude or remove from licensed premises any person who is wearing colours, insignia or emblems of an outlaw motorcycle gang ("Bikie Gang").

- y. The Licensee is not to provide alcoholic drinks that are:
  - i. Designed to be consumed quickly and which are commonly referred to as a “shot” or “shooters”; or
  - ii. A cocktail containing more than a 30ml nip of spirit or liquor.
- z. At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example: Hi-Viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

## **Reasons**

### **Background**

3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Katherine and District Show Society Incorporated applied to the Director-General of Licensing on 30 April 2018 for a special licence to permit the sale of liquor to patrons attending an event known as the “Katherine Show and Rodeo” occurring at the Premises known as the Katherine Showgrounds located at Lot 3170 Victoria Highway, Katherine in the Northern Territory.
4. The application was then referred to the Licensing Commission on 3 July 2018 and to me pursuant to my delegation to deal with such special licence applications.
5. The Katherine Show and Rodeo is an annual agricultural show with attractions and entertainment including equestrian, campdraft, rodeo, sideshow alley and public stalls. It is a family friendly event and has been operating annually for many years.
6. The event occurs over three (3) days. Unfortunately the application did not provide any detail as to how many people were estimated to attend over those three (3) days instead only focussing on those persons likely to attend the respective bars. The applicant is seeking to sell liquor from the following bars between the following hours:

#### **Landmark Tent**

- a. 1700 hours and 2000 hours on Thursday 19 July 2018;

#### **Rodeo Bar**

- a. 1200 hours on Friday 20 July 2018 and 0200 hours on Saturday 21 July 2018;
- b. 1200 hours and 2359 hours on Saturday 21 July 2018.

#### **Arena Bar**

- a. 1200 hours and 2000 hours on Friday 20 July 2018;
- b. 1200 hours and 2100 hours on Saturday 21 July 2018.

7. The material filed with the application identified:
  - a. The Landmark Tent will be providing for a private function with an estimated number of persons in attendance to be between 50 and 100.
  - b. The Rodeo Bar will be an open area bar with temporary fencing panels around the bar providing an area approximately 40m x 20-25m. It was estimated to have a maximum of 400 persons at any one time.
  - c. The Arena Bar is an undercover bar and has bunting fencing providing an area approximately 20m x 10m. It was estimated to have a maximum of 50 persons at any one time.
8. The applicant wishes to offer a full range of alcoholic beverages including light, and mid strength beer as well as cider, wine and premixed spirits.
9. In relation to crowd control, the material set out in the application sets out that there will be:
  - a. Two (2) crowd controllers on Thursday 19 July 2018,
  - b. Six (6) crowd controllers on Friday 20 July 2018 and
  - c. Eight (8) on Saturday 21 July 2018.
10. The referral from the Deputy Director-General identified that special licences have been issued for Katherine Show and Rodeo events in recent years for the same bars and there were no compliance issues noted from the previous events.

### **Consultation**

11. 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 the Department of Health (“DOH”), NT Police, Fire and Emergency Services (“NT Police”) and NT Fire and Rescue Service (“NTFRS”) and seek their comment.
12. With respect to this application:
  - a. The DOH had “no adverse comment”.
  - b. The NTFRS advised that they had “no objection”.
  - c. The NT Police responded as follows:

“... NTPOL support the application contingent to:

    - Industry standard security for expected crowd numbers
    - Secure storage of alcohol at all times

- Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event
- Alcohol volume to be one standard drink or less per serve
- Low to mid strength alcohol only”.

## **Assessment of the Application**

13. 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.
14. 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.
15. 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”.
16. 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.”

17. 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.
18. In relation to the matters raised by NT Police, the applicant responded (relevantly) as follows:
  - a. "Security personnel from our provider ... all have current security registrations.
  - b. The alcohol is stored in locked cool rooms or locked shipping containers. Full strength alcohol is not available from our bars and the staff have their RSAs
  - c. A maximum of 4 drinks and staggered as per end of event will be adhered to".
19. I requested that the applicant provided clarification as to the issues of full strength alcohol and staggered decline of service and the applicant advised as follows:

"We will serve a maximum of 4 drinks per transaction and towards the end of the events we will reduce this to 1 per transaction.

All beer sold is mid-strength or light no full strength beer is served, I did not make this clear in previous email.

Other alcohol such as wine (only sold in members bar), UDL (both bars) or Cider (both bars) will be monitored throughout the events and reduced/restricted when necessary".
20. As earlier noted, although responses provided by NT Police are duly considered, I am not bound by any such response when determining the manner in which to exercise my discretion with respect to an application for a special licence.
21. In relation to these matters, I note that it appears from the material provided to me that the conduct of this event has been appropriate and successful for a number of years now. In particular, there has been no compliance issues in relation to the special licence granted "in recent years". I note the 2017 special licence did not provide for any restriction in terms of the alcohol to be sold during the course of the event. Nor did it provide for a staggered decline.
22. It also did not provide for the industry standard in relation to the number of crowd controllers. In fact in terms of crowd controllers, the industry standard was not provided for but instead provision was made for crowd controllers to be as per the submission lodged by the applicant.
23. In fact it appears from the response from NT Police that this is again a generic policy response and not a response given in relation to any particular issues with this event. Given these circumstances I have determined that there is no basis to support a finding that there MUST be a specific condition that provides for these matters within the special licence and I decline to do so. I do note however that the applicant intends to impose its own staggered decline towards the end of the

events; reducing sale to one (1) per transaction and that will no doubt assist the applicant in its conduct of the event and I encourage the applicant to undertake that staggered decline.

24. It is as a result of the matters outlined above that I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and for the reasons outlined 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.



**JODI TRUMAN**  
Deputy Chairperson  
Northern Territory Liquor Commission