

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2018/043

VENUE: 10 Kali Court
YULARA NT 0872

APPLICANT: Uluru Camel Racing Club Inc

EVENT: Uluru Camel Cup

LEGISLATION: Section 58 of the *Liquor Act*.

DECISION OF: Mr Russell Goldflam (Acting Deputy Chairperson)

DATE OF DECISION: 16 May 2018

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 the Uluru Camel Racing Club Inc for the sale of liquor from 1100 hours on Saturday 26 May 2018 to 0200 hours on Sunday 27 May 2018.
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/s), 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 Ms Lisa Evans.
 - 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*, 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 licensed crowd controllers for the first 100 hundred patrons and one 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*.
- v. Food and drinks are not permitted to be taken into any designated smoking areas.
- w. The holder of a special licence or employee of a 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. Spirits must not be sold in containers with more than 5% alcohol by volume.
- b. Wine (including sparkling wine) must not be sold in containers with more than 150 ml.
- c. On 27 May 2018 the only liquor that may be sold after 0100 is to be mid-strength or light beer.
- d. On 26 May 2018, the only liquor that may be sold before 1300 is to be mid-strength or light beer.
- e. The Ayers Rock Resort Security Team must be in attendance throughout the licence period, with no less than 3 Crowd Controllers at the Outback Ball. No more than three Crowd Controllers are required to be in attendance. To the extent that this condition is inconsistent with Condition 2g above, this condition prevails.

Reasons

Background

- 4. Pursuant to section 58 of the *Liquor Act* (“the Act”), the Uluru Camel Racing Club Inc (“the applicant”) applied to the Director-General of Licensing on 14 March 2018 for a special licence to permit the sale of liquor to persons attending the event known as the Uluru Camel Cup, a day of camel racing and activities followed by an Outback Ball at Yulara.
- 5. The applicant is seeking to sell liquor between the hours of 1100 hours on 26 May 2018 and 0200 hours on 27 May 2018. It was stated in the Application that it was anticipated by the applicant that 1700 persons would attend the daytime camel racing and 400 persons would attend the night time ball. The applicant has stated that patrons will be brought to the event and returned to their accommodation by buses provided by an event sponsor.

6. An exemption is sought by the applicant from providing private security or crowd controllers in accordance with the industry standard. The applicant proposes instead that there be only three crowd controllers on site.
7. The applicant has previously been issued special licences for past Uluru Camel Cup events in 2016 and 2017 without special conditions being imposed, and without a condition regarding the minimum number of crowd controllers required. I have not been informed by Licensing NT of any previous compliance issues with respect to the applicant.
8. In the Application, the applicant identified “Beer, wine and mixed drinks (cans)” as the types of alcoholic beverages it proposed to sell.

Consultation

9. 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”), Northern Territory Fire and Rescue Services (“NTFRS”) and NT Police, Fire and Emergency Services (“NT Police”) and seek their comment.
10. With respect to this application:
 - a. The DOH had “no adverse comment” but requested that the applicant be reminded of its obligations in relation to smoking.
 - b. The NTFRS had “no objections” to the application.
 - c. The NT Police had no objection in principle, but requested more information regarding security, traffic management and emergency planning for the event. The applicant provided the requested information. NT Police then expressed their support for the Application, subject to the following licence conditions:
 - Low to Mid Strength alcohol only be provided
 - Industry standard security for crowd numbers
 - Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event
 - Secure storage of alcohol at all times

Assessment of the Application

11. 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.

12. 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.
13. 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”.
14. 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.”
15. 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.
16. Although there is no formal obligation to consult, responses were sought from the relevant stakeholders, and the following matters requiring consideration were raised by the NT Police:
 - a. Maximum 4 drinks per transaction
 - b. Secure storage of alcohol at all times
 - c. Type Low to Mid Strength alcohol only be provided
 - d. A staggered decline in drinks per transaction towards the conclusion of the event

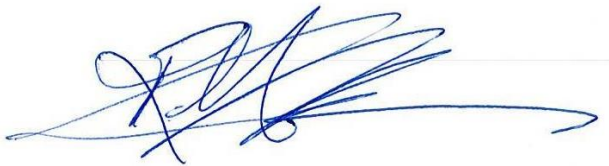
e. Industry standard security for crowd numbers

17. The condition sought by NT Police at paragraph 16.a) above is in any case one of the standard conditions for Special Licences (see paragraph 2(i) above).
18. The condition sought by NT Police at paragraph 16.b) above is in my opinion adequately addressed by the standard conditions at paragraphs 2(a) and 2(l) above. The NT Police have not identified any particular reason for requesting this condition, or provided any evidence to substantiate or justify the need for this proposed additional condition. I decline to impose it.
19. In relation to the conditions sought by NT Police at paragraphs 16.d) above, I note that this appears to be a general response provided by NT Police with respect to these types of applications. I note that the Commission has hypothesised recently that this may be a general policy stance taken by police.
20. Having regard to the location and nature of this event, I consider that the great majority of its patrons will be Australian and international tourists staying at the Yulara resort. In my opinion, this group is at a relatively low risk of suffering or causing harm as a result of liquor consumption at an event such as this. Very few if any of them are likely to drive after consuming liquor, as they will be staying nearby, and buses will be available to return them to their accommodation. No evidence has been presented or suggestion made that problem drinking is prevalent amongst members of this group. In my opinion, the applicant's proposal to sell heavy, mid-strength and light beer, as well as wine and pre-mixed spirits in cans is reasonable.
21. I do not, however, consider that the objects of the Act are served by permitting the supply of these types of liquor in unlimited quantities. In my view, an appropriate limit for an event such as this is one and a half standard drinks (15 grams of pure alcohol) per serve. That is approximately the same amount of alcohol as in a can or stubby of full-strength beer, a glass of wine in a restaurant (150 ml), or a 375ml can of medium strength mixed spirits.
22. I also consider that there is merit in the NT Police submission that there should be a staggered decline in drinks towards the conclusion of the event, which I note finishes in the early hours of the morning. Similarly, I consider that there should be a restriction on the strength of liquor sold during the morning at the beginning of the event, before 1300 hours.
23. Taking these matters into account, I have determined that the conditions set out at paragraphs 3(a), (b), (c) and (d) above should be imposed.
24. On consideration of the condition sought by NT Police at paragraph 16.b)16.e) above regarding security crowd controller numbers, I have determined that an exemption be granted to the applicant. In doing so I have had regard to the following:
 - a. in 2016 and 2017 this event proceeded without a specified minimum number of controllers, without, as far as I am aware, adverse incident;

- b. the applicant will utilise the services of Ayers Rock Resort Security;
- c. the availability of additional security guards in Yulara is limited;
- d. the additional restrictions in the licence on the sale of liquor will likely reduce the risk of anti-social behaviour by intoxicated patrons; and
- e. as observed above, this particular group of patrons is likely to be relatively well-behaved.

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.



RUSSELL GOLDFLAM
Acting Deputy Chairperson
Northern Territory Liquor Commission

17 May 2018