

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR VARIATION OF THE CONDITIONS OF LICENCE
APPLICATION FOR A SPECIAL LICENCE
APPLICATION TO MAKE A MATERIAL ALTERATION

REFERENCE NUMBER: LC2019/046

LICENCE NUMBER: 80315190

LICENSEE: Dalkeith Ag Co Pty Ltd

PREMISES: Noonamah Tavern
Stuart Highway
NOONAMAH NT 0837

APPLICANT: Dalkeith Ag Co Pty Ltd

NOMINEE/S: Anthony ("Tony") Innes

OBJECTOR/S: Nil

LEGISLATION: Sections 32A, 57, 58 and 119 of the *Liquor Act 1978*.

HEARD BEFORE: Ms Jodi Truman (Deputy Chairperson)
Mr Kenton Winsley (Health Member)
Ms Amy Corcoran (Community Member)

DATE OF HEARING: 15 May 2019

DATE OF DECISION: 15 May 2019

Decision

1. For the reasons set out below and in accordance with section 119(8) of the *Liquor Act 1978* ("the Act") the Commission has determined to approve the material alteration to the licensee's licensed premises to include the area commonly known as the "Rodeo Arena" for the period:
 - a. From 18:00hours on Saturday 25 May 2019 to 01:00 hours on Sunday 26 May 2019;
 - b. From 18:00hours on Saturday 13 July 2019 to 01:00 hours on Sunday 14 July 2019; and

- c. From 18:00hours on Saturday 21 September 2019 to 01:00 hours on Sunday 22 September 2019.
2. Further and in accordance with section 32A(7) of the Act the Commission has determined to temporarily vary the conditions of the liquor licence for the premises known as “Noonamah Tavern” by:
- a. Including within the licence an area to be referred to as “Rodeo Arena” with trading hours for the Rodeo Arena to be between:
 - i. 18:00hours on Saturday 25 May 2019 to 01:00 hours on Sunday 26 May 2019;
 - ii. 18:00hours on Saturday 13 July 2019 to 01:00 hours on Sunday 14 July 2019; and
 - iii. 18:00hours on Saturday 21 September 2019 to 01:00 hours on Sunday 22 September 2019.
 - b. Including the following additional conditions for the “Rodeo Arena” ONLY during the trading hours as identified above:
 - i. The boundary of the area known as “Rodeo Arena” must be clearly identified and access to the Rodeo Arena must be restricted in a manner that allows for effective supervision by the Nominee.
 - ii. Crowd controllers are to be employed for the Rodeo Arena as per industry standards as follows:
 - 1. Two (2) licensed crowd controllers for the first one hundred (100) patrons and one (1) additional crowd controller for each one hundred (100) patrons thereafter.
 - iii. The Licensee shall ensure that at least 75% of crowd controllers employed are wearing clothing that is readily identifiable, e.g. “hi-vis” vests with “Crowd Controller”, “Security” or “Safe Staff” or similar upon them.
 - iv. Crowd controllers are to advise Police, if on site, of any persons consuming liquor in the Regulated Area. A Regulated Area is any public place not included within any licensed premises and in particular includes the carparks, driveways, roadway, entry line up points and any open area in front of the Noonamah Tavern and rodeo grounds within a 2 kilometre radius.
 - v. The Licensee shall ensure crowd controllers are located at all entry/exit points to the Rodeo Arena to ensure liquor is not brought onto or removed from the licensed area.

- vi. On the dates specified for the Rodeo Arena and only within the Rodeo Arena there shall be no more than four (4) cans or bottles sold to any one person at any one time from 1800 hours to 2200 hours and then no more than two (2) cans or bottles sold to any one person at any one time from 2200 hours to 0100 hours.
 - vii. All liquor must be sold in open containers.
 - viii. The Licensee must ensure that water, soft drink, low alcohol beverages and snacks are available during trading hours within the Rodeo Arena. Commercially bottled water may be sold, otherwise water must be supplied free of charge on request.
 - ix. All patrons within the Rodeo Arena over the age of 18 years are to be issued with colour coded wrist bands for the purchase of liquor and liquor is ONLY to be sold to those patrons wearing a wrist band.
 - x. An RSA Marshall is required at the Bar within the Rodeo Arena for monitoring patron's sobriety and is to advise crowd controllers of any refusal of service to a patron.
3. In accordance with section 32A(9) the material alteration and variation of the condition of licence is to take effect as at 15 May 2019.

Reasons

Background

- 4. Dalkeith Ag Co Pty Ltd ("the applicant") currently holds a "Tavern" Liquor Licence authorising the sale of liquor for consumption on or at the licensed premises. The licensee is the applicant and the nominee is Mr Anthony ("Tony") James Innes ("Mr Innes").
- 5. On 25 October 2018 the applicant made application pursuant to section 32A of the Act for a temporary variation to its current licence conditions for three rodeo events on:
 - a. Saturday 25 May 2019;
 - b. Saturday 13 July 2019; and
 - c. Saturday 21 September 2019.
- 6. The application was then referred by the Acting Deputy Director-General of Licensing ("the Acting Deputy") to the Commission on 8 April 2019.

7. Within the referral it was noted that the application was to:

“... seek an extension to the Licensed Premises and trading hours for the Noonamah Tavern Rodeo Events for 2019”.

8. The Acting Deputy further noted within her referral:

“An extension to the licensed footprint is ordinarily considered a material alteration, however historically the Applicant has applied for a variation to its licence, with a special liquor licence ultimately being issued to accommodate these events. On 14 May 2018 the Liquor Commission issued a Decision Notice in respect of an application made by the Applicant for similar events to be run in 2018 (included at Attachment I). In that Decision Notice at paragraph 4, it was noted that the application was originally made for a variation to the existing licence, however following discussions with staff within Licensing NT, it was subsequently dealt with as an application for a special licence pursuant to section 58 of the Act. Such as discussion has not occurred with this application, however as the nature of the application is the substantially the same, it is recommended that the Commission consider and determine this application pursuant to Part VI of the Act.”

9. What the Acting Deputy failed to address within her reference to that decision is that the decision to deal with the matter as a special licence application on that occasion was one made by the then Director-General prior to referral to the Commission. It was not a decision made by the Commission itself. In addition, the only reason the application for a special licence proceeded to a hearing before the Commission, rather than be dealt with by delegation to a single member, was because issues had been raised by NT Police, Fire and Emergency Services (“NT Police”) with respect to the application.

10. Those are not the circumstances that exist in relation to this application. It was apparent with the content of the current referral and as a result of the information provided during the course of the hearing, that the Acting Deputy has not seen fit to make a decision one way or the other before referring this matter to the Commission and merely left it to the Commission to determine the nature of the application before it. Despite seeking an explanation and clarification from the Acting Deputy during the course of the hearing, the Commission remains none the wiser as to why the Acting Deputy failed to properly address these issues prior to referring the matter to the Commission other than a concession made by the Acting Deputy that “the process and advice given to the Commission, the applicant and stakeholders needs to be improved”. As the Commission noted during the course of the hearing to the Acting Deputy; if the process undertaken on this occasion by the Acting Deputy is confusing to the Commission, there is no doubt it is even more confusing to the applicant (or any other applicant who may consider this Decision Notice in future in an attempt to understand the process).

11. Determining the nature of the application before the matter is referred to the Commission is essential. The nature of the application determines the matters that must be addressed before a licence can be issued, a variation made or an alteration approved. There are specific requirements under the Act with respect to each of the different types of applications. As can be seen by the nature of the responses received from various stakeholders to this application, it appears that the nature of the application also impacts upon the response provided by stakeholders.
12. It is therefore essential that this determination be made **prior** to any application being referred to the Commission so as to ensure that the matters that must be addressed by an applicant have been addressed and also to ensure that the appropriate person or panel considers the application.
13. Without any assistance from the Acting Deputy, the Commission has considered all of the material and given that the application involves extending the licensed footprint as well as providing for specific hours of trade within the extended area, it appears more appropriate that this application be dealt with by way of an application for a variation and an application for a material alteration.

Disclosure of influential persons or potential beneficiaries

14. In relation to the application for variation; section 32A(1A) of the Act requires applicants to make an affidavit disclosing whether certain persons may be able to influence the applicant, or expect a benefit from the applicant, if the licence variation is granted. The applicant has filed an affidavit. When the applicant is a body corporate the section requires that the person who makes the affidavit must either be:
 - a. The principal executive officer of the body corporate; or
 - b. If that officer does not have knowledge of the relevant facts - another person who has knowledge of the relevant facts and is authorised by the body corporate to make the affidavit.
15. Mr Innes provided an affidavit stating he is the principal executive officer and authorised by the applicant to make the affidavit in accordance with section 26A.
16. In the affidavit Mr Innes swore that:

“... there are no other person/s other than Anthony James Innes (Director) who will by any lease, agreement or arrangement be able to influence any decision made by the Director in relation to the sale of liquor or the sale and consumption of liquor.”

Further:

“... that there is no other person other than the Director who by any lease, agreement or arrangement may expect any benefit from Dalkeith Ag Co Pty Ltd in relation to the sale of liquor or the sale and consumption of liquor.”

17. The application was referred to the Commission on 8 April 2019. With respect to this applicant, the Commission was informed that:

“A check of records held at Licensing NT indicate minor compliance issues were identified during a Rodeo event held by the Applicant in September 2018. On this occasion, both Licensing NT staff and police identified a lack of sufficient observations and assessment by crowd controllers when monitoring and limiting the possibility of anti-social behaviour, and ensuring a safe drinking environment at the points of sale. At the time of that Rodeo event, intervention by Senior Compliance Officers and police was required to prompt Crowd Controllers to exercise their duties regarding the checking of patron identification to prevent minors accessing alcohol, as well as their responsibilities to approach and assess patrons levels of intoxication prior to service. The Applicant actively engaged with staff from Licensing NT and the minor compliance issues were resolved through cooperation with Senior Compliance Officers and Police assisting and educating Crowd Controllers throughout the running of the event.”

18. This matter was raised with Mr Innes at the hearing who frankly recalled the issues raised and confirmed that he had addressed the matters by Licensing with his security provider and took the matter seriously and would continue to do so. The Commission accepts this evidence.

Advertising and Objections

19. In relation to the application for variation; section 32A(2) of the Act provides that where an application for variation of conditions of licence are made; “(i)f the Director-General considers it to be in the public interest, the Director-General may require the applicant to publish notice of the application in the way, and within the period, specified by the Director-General”.
20. Section 119(3) of the Act provides that where an application for an alteration of premises is made; “(i)f the Director-General considers it to be in the public interest, the Director-General may require the applicant to publish notice of the application in the way, and within the period, specified by the Director-General”.
21. In this application, the Acting Deputy informed the Commission that the Director-General had exercised discretion and did not require the applicant to advertise the application given the application “is for a limited period of time and given the nature of the application”.
22. It is noted however that section 32A(5) of the Act requires that the Director-General must inform:
- a. the Chief Executive Officer (“CEO”) of the Department of Health (“DOH”);
 - b. the Commissioner of Police; and
 - c. if the application relates to premises within the area of a shire council or a regional council - the Chief Executive Officer (“CEO”) of the council.

23. The Commission notes that the Director-General also forwarded a copy of the application to the Northern Territory Police, Fire and Emergency Services (“NTFRS”) for comment.
24. It is also noted that section 119(5) of the Act requires notice of a material alteration application to be given to the Chief Executive Officer (“CEO”) of the council that the application has been made.
25. Each of these notice requirements have been complied with.
26. With respect to this application; the DOH initially advised that they had “no adverse comment”. Subsequently the DOH advised:

“... that as the application was made under a temporary variation, it was stated their provision of ‘no adverse comment’ as initially stated was in reference to the application being a variation to an extension of the licensed area. Further, it confirmed that if a Special Liquor Licence is to be issued for the Events, the Applicant must comply with the smoking requirements contained in the *Tobacco Control Act*. This would require a condition in place and enforceable that Food and Drinks are not permitted to be taken into any designated smoking areas.”
27. This is an example of the confusion that occurs when it is not determined at an early stage by the Acting Deputy Director-General (in consultation with the applicant) what the precise nature of the application is that is being made given the apparent impact on the nature of the response/s provided by relevant stakeholders.
28. The Litchfield Council responded as follows:

“In this instance, Litchfield Council can support a one-off variation of the existing liquor licence conditions to extend the licensed area to include the rodeo grounds from 10:00am to 01:00am (the following day) on:

 - Saturday 25 May 2019 - Sunday 26 May 2019,
 - Saturday 13 July 2019 - Sunday 14 July 2019, and
 - Saturday 21 September 2019 - Sunday 22 September 2019.”
29. The NTFRS had “no objections”.
30. In relation to the response on behalf of the Commissioner of Police; initially police sought clarification as to the nature of the application being a variation of licence rather than a special licence. Again, an example of the confusion caused. The response provided at that time on behalf of the Acting Deputy was that the application “is for variations to the licence”. Again, further evidence of the confusing manner in which the Acting Deputy has dealt with this application.
31. Following clarification of that initial query, the response on behalf of the Commissioner of Police was as follows (this will be set out in full to avoid any confusion):

“The following comments are from local Police perspective.

The event has grown to a point where current infrastructure and impact on public places is such that a heightened risk applies with an unfortunate reputation of excessive drinking and episodes of disorderly and violent behaviour particularly around closing @ 1:00am when the concert finishes and the families have long gone @ 09:30pm.

Police have and maintain concerns around the following issues relating to this event.

- The event formed some 7 years ago and has failed to progress in planning and risk mitigation in line with contemporary standards and expectations for event management;
- Excessive alcohol consumption including unlimited drinking packages (\$260 last year all you can drink);
- An event that is overly reliant on alcohol as opposed to the main feature (Rodeo and concert);
- Drink driving (27 drink drivers from 3 Noonamah Rodeo events in 2017 alone and trend continued in 2018);
- Pedestrians' safety arising on main highway with patrons walking from the event; however we note considerable improvements with the Traffic Management Plan in place from 2018 based on efforts by Events Planning Unit.
- Illegal camping on crownland with no risk mitigation; however we note considerable improvements with the designated camping areas now assigned and clear delineation between road and camping areas in 2018 based on efforts by Events Planning Unit.
- Lack of appropriate long term transportation provision for patrons (safe movement of patrons from event) notwithstanding the applicant has made an effort in this space; some improvements made in 2018 with buses on hand after event and extension to use of taxis;
- Lack of delineation and control between main Noonamah Tavern and venue including lack of appropriate containment and control measures (counting);
- Major Sponsor for event apprehended and arrested for 133AB (Fail to quit Licensed Premises after being heavily intoxicated on site) 11/8/18
- Safety issues for security, police and patrons due to isolation & distance from support services; and
- Strain on local police resources.

Moving toward Low & Mid Strength Alcohol

NTPF strongly support a push for low and mid strength alcohol at events such as this, with a move away from an emphasis on alcohol at such events. These events should be events where the focus is on the event proper and not drinking and in this case not a "drinking event where you can watch a rodeo and go to a concert" but a "rodeo and a concert where you can get a drink". This will require a cultural change for the Northern Territory, but a change that is required for the safety and wellbeing of the Northern Territory in considering the broader impacts of alcohol on our community. The applicant has indicated a willingness to proceed down this path.

Cost of resources and impact on broader community

There is no pool of additional resources set aside for events and every officer that attends an event is not attending to their core duties in the community. In this case 26 officers are required to default into the event outside of their normal duties, notwithstanding the fiscal impact on NTPF for police resources to one Rodeo event alone is \$14,036.

Police offer conditional support

In view of the above, NT Police offer conditional support to this event and importantly have never opposed the event proper.

NTPOL support this application contingent to:

- i. Low and Mid strength alcohol only be allowed for the event;**
- ii. Unconditional adoption of industry standards for security provision until 02:00hrs**
- iii. Appropriate control measures in place to manage movement of patrons between event and Tavern proper including capacity to monitor numbers (count);**
- iv. Maximum of 4 drinks per transaction with a staggered decline towards the conclusion of the event. The Licensee stated in the Alcohol, Safety and Event Management Guide that only one drink per person after 12pm.**

NTPOL would ask that the times of the staggered approach be as follows:

5:30pm - 9:30pm - max. 4 drinks

9:30pm - 11:00pm - max. 2 drinks

11:00pm - 12:00pm - max. 1 drinks

v. Licensee be made to notify attendees, through promotion of event that there is no camping allowed in public places; and

vi. Licensing NT to provide compliance officers to the event.

In addition NTPF would ask that the Liquor Commission consider a review of the current application process and forms to determine suitability for such events and to include a requirement for large event organizers to complete the Alcohol, Safety & Event Management Guide as part of their application to Licensing NT.

32. The Commission will return to this response later in this Decision Notice

Public Hearing

33. Pursuant to section 50 of the Act, the Director-General of Licensing (“the Director-General”) must refer *inter alia* applications under section 32A and 119 of the Act to the Commission. Therefore this application must be heard and determined by the Commission.

34. Pursuant to section 53 of the Act, the Chairperson of the Commission must fix the time and place for hearing and give notice to the relevant parties not less than 7 days before the hearing date. As stated earlier, this application was referred to the Commission on 8 April 2019. The hearing was fixed for 10.00am on 15 May 2019 and notice was given to the applicant.

35. Pursuant to section 53 of the Act; the Commission is not bound by the rules of evidence and may inform itself in the manner it considers appropriate and conduct the hearing, or part of the hearing, by use of telephone or online facilities. A hearing must also be conducted in public unless the Commission considers that a public hearing is likely to cause undue hardship to a person. No such submission has been made to this Commission and there is no evidence to suggest any such hardship.

36. Mr Innes appeared on behalf of the applicant and Ms Anna McGill appeared as Acting Deputy Director-General (Operations).

Assessment of the Application

37. As earlier noted, there were no objections to this application. Despite there being no objections made to the application lodged by the Applicant, the Act clearly provides that the Director-General of Licensing must refer these types of applications to the Commission for decision. In addition, section 6B of the Act makes clear that it is the Applicant who bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test.

38. As is clear from section 6(1) of the Act; when considering or determining an application under the Act in respect of licensed premises, this Commission **must** apply the public interest and community impact test as relevant to the application. Section 6(2) of the Act provides that:

“For subsection (1), the public interest and community impact test requires consideration of the following objectives:

- a. harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;
- b. liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
- c. public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;
- d. the safety, health and welfare of persons who use licensed premises must not be put at risk;
- e. noise emanations from licensed premises must not be excessive;
- f. business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;
- g. a licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:
 - i. by-laws made under the Local Government Act; and
 - ii. provisions of or under the Planning Act;
- h. each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;
- i. the use of credit in the sale of liquor must be controlled;
- j. practices which encourage irresponsible drinking must be prohibited;
- k. it may be necessary or desirable to limit any of the following:
 - i. the kinds of liquor that may be sold;
 - ii. the manner in which liquor may be sold;
 - iii. the containers, or number or types of containers, in which liquor may be sold;

- iv. the days on which and the times at which liquor may be sold;
- l. it may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;
- m. it may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;
- n. it may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices;
- o. any sale of additional liquor due to the grant of a licence or the relaxation of restrictive conditions will not increase anti-social behaviour.”

39. In addition, pursuant to section 6(3), the Commission must:

- a. consider the potential impact on the community in the area that would be affected by the outcome of the decision to grant or refuse an application or the changing of conditions of a licence and, in doing so, must have regard to:
 - i. the harm that might be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor; and
 - ii. the cultural, recreational, employment or tourism impacts; and
 - iii. the social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and
 - iv. the density of existing liquor licences within the community area; and
 - v. the volume of alcohol sales within the community area, and any increase in volume within the community area arising from the licence the subject of the application; and
 - vi. any other prescribed matter; and
- b. apply the community impact assessment guidelines.”

40. On 6 March 2018, pursuant to section 6A of the Act, the Minister by Gazette notice published community impact assessment guidelines for determining whether or not an application being considered or determined under section 6(1) satisfies the public interest and community impact test. Relevantly those guidelines are stated to

“... set out those matters that will be considered by the Commission when assessing the community impact of the application against the criteria set out in section 6A(1) of the Liquor Act”.

41. Those matters are identified as follows:

Criteria	Matters to be considered
<p>The potential harm or health impact that may be caused to people, or any group of people within the local community area, due to the availability and accessibility of an additional liquor outlet.</p>	<p>Are there any 'at-risk' groups or sub-communities within the locality? This may include –</p> <ul style="list-style-type: none"> • children and young people; • Aboriginal people normally resident within the locality and those Aboriginal people that might be likely to travel to the locality from a dry community; • migrant groups from non-English speaking countries; • people in low socio-economic areas; and/or • communities that experience high tourist/visitor numbers. <p>Are there any community building, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • schools and educational institutions; • hospitals, drug and alcohol treatment centres; • accommodation or refuges for young or disadvantaged people; • child care centres; • recreational areas; • dry areas; and

	<ul style="list-style-type: none"> any other area where young people may congregate or be attracted to. <p>What policies and procedures will the applicant implement to minimise any potential harm or health impacts to these 'at-risk' groups or sub-communities</p>
<p>Information about the location and area in which the premises is proposed to be so as to assess any social impact on the community. This includes information about the density of licensed premises within the community area.</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises.</p> <p>This could also include traffic and pedestrian impact and any plans developed to address these potential issues.</p>
<p>Volume</p>	<p>This may include projected sales volumes and marketing analysis, liquor type and customer demographic (where applicable this should be provided for both on and off premises sales).</p> <p>The Commission will consider information available to it about the current alcohol consumption rates for the community area.</p>
<p>Any cultural, recreational, employment or tourism benefits for the local community area.</p>	<p>Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?</p>
<p>Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.</p>	<ul style="list-style-type: none"> What additional services will be provided other than simply an additional outlet for the sale of liquor – this may include accommodation or dining? Will the proposed licensed premises provide additional choices of service or products that are no available in the area?

	<ul style="list-style-type: none"> • Will the proposed premises provide liquor in a manner known to be safe and to minimise adverse impacts? • Will it use existing premises improve or add to existing premises or is it a new premises?
--	---

42. As can be seen from the above, there are a large number of matters that this Commission must consider and that the Applicant must address (and satisfy the Commission of) under the public interest and community impact test and guidelines. The guidelines do make clear however that:

“... the Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits”.

43. With respect to this application, the Commission considers it relevant to note that this is not an application for a new licence. This is an application to vary conditions of an existing licence and for a material alteration of the licence.

44. As earlier noted, the Commission is aware that this application is similar to applications made previously for the same type of event in years past. Further, whilst there has been information provided that “minor compliance issues were identified during a Rodeo event held by the Applicant in September 2018”, this is one event in the context of numerous such events over the last 8 years and about which it was noted by Licensing NT that the “applicant actively engaged with staff from Licensing NT and the minor compliance issues were resolved through cooperation with Senior Compliance Officers and Police assisting and educating Crowd Controllers throughout the running of the event”.

45. In relation to this issue, Mr Innes also gave evidence to the Commission that he would continue to work cooperatively with both police and licensing officers at the event and that it was his experience generally that those who physically attended the event each and every year were extremely helpful and cooperative and good to work with in order to bring about a successful and safe event.

46. As previously noted in an earlier decision, it appears that this event (or series of rodeo events) has been conducted for the past 8 years and attracts a large crowd which provides a benefit to the local community with “sports clubs and charities and schools involved in helping at the Rodeo for sponsorship and fundraising during the event”. Mr Innes confirmed that those benefits and fundraising continue.

47. Although it is apparent from the material filed in response that the applicant has taken some umbrage with police referring to the increase in size of this event, it is clear that the event is much larger than it was originally. However it has maintained that size for approximately the last 2 or 3 years and whilst there have been some issues these appear to be minor in all the circumstances and appropriately dealt with.

48. In relation to the response on behalf of the Commissioner of Police, the applicant sought particulars of a number of the assertions made by police within their response. This request by the applicant included request for (relevantly):
- a. Explanation of “increased risk” as the applicant understood that all conditions regarding traffic management and camping were met in 2018.
 - b. Arrest reports numbers from last year's events to support the allegation of episodes of violent behaviour and comparisons to number of incidents to Metropolitan events of the same size.
 - c. Explanation of how the applicant has failed to progress in the area of planning and risk mitigation.
 - d. Details of the “Major Sponsor” that police alleged had been arrested as the applicant was unaware of this arrest or the reasons for it, and wished to ensure that person was permanently barred from the event as a result of the conduct alleged by police.
 - e. Details of the costs and actual numbers relating to police resources as alleged.
49. Unfortunately, these requests were not provided to NT Police and therefore no response was received in order for the applicant to properly respond or for the Commission to properly consider such allegations.
50. The applicant also provided written submissions addressing the public interest and community impact test noting (relevantly) the following:
- a. To reduce harm or ill-health caused; *“We serve a maximum of 4 drinks per person until 10pm, 2 drinks per person until 12am and one drink per person until 1am”.*
 - b. To ensure liquor is sold and/or consumed in a responsible manner; *“We have RSA marshals and security at point of sale monitoring RSA. ALL ID's are checked upon entry at gate. Under 18 have a red wristband and over 18 green bands. Water is available from multiple outlets, i.e. food vendors as well as main bar”.*
 - c. To avoid jeopardising public order and safety; *“Traffic management from the Stuart highway exit will be managed by Arafura traffic management. Signage to show carpark and free camping designated area with toilet and bin facilities provided set up on the day of event. Security are present until sunrise following day”.*
 - d. To address risk to the safety, health and welfare of persons using the premises; *“Security on site throughout the event and overnight. RSA marshals monitor patrons at the POS in conjunction with security. Any bad behaviour or intoxication is dealt with swiftly and persons removed from venue. We have free busses available form 10.30 pm”.*

- e. To avoid noise emanations being excessive; *“Rodeo finishes at 10.30 and live music until 1am. There are only two houses within 300m of venue and we have never had any complaints from past events. Both occupants Frazer Henry and Jeff Hardwick have previously endorsed the event”*.
- f. To avoid undue offence, annoyance, disturbance of inconvenience to others in the neighbourhood; *“The only neighbouring business is united service station whom stay open to offer food and drinks late trading and welcome the extra business. There are no schools or churches in the area”*.
- g. As for compliance with the law:
 - i. Under the Local Government Act; *“All bags are checked at the gate and alcohol confiscated if it is attempted to bring into the venue”*.
 - ii. Under the Planning Act; *“An exemption to the Planning Act for land use is in place until October 31 2019. A permanent application is being lodged for 2020”*.
- h. As for suitable training for persons involved; *“All our bar staff are fully trained and RSA compliant. We also have contracted wait staff RSA compliant. Volunteers are only for stock distribution and do not handle sales or money”*.
- i. As for credit; *“Cash sales only/ no credit”*.
- j. As for irresponsible drinking practices; *“Drink restrictions apply”*.
- k. As for limiting the kinds of liquor sold and the manner in which it is sold, together with its containers; *“We offer tap beer in plastic cups and RTDs in cans. No glass. Bottled water multiple sites. Cash bar only/no credit or ticket purchase for alcohol”*.
- l. As to limiting the number of persons; *“Maximum patronage of 3000 adult tickets and 500 kids has never been previously reached. Ticket number stop at 3000 adults. Tickets sales can be monitored through gate staff and security and offered to licensing and police upon request”*.

51. In relation to the community impact assessment guidelines, the applicant also provided the following written submissions:

**“Are there any at risk groups or sub-communities within the location?
NO**

The Rodeos consist of four events during the dry season from May to September

The crowds we attract consist of Families of various ages, teenagers and adults through to pensioners from a variety of nationalities from aboriginal to overseas tourists

The alcohol is consumed on site under RSA marshalled selling points with security present all night to industry standards

Are there any community buildings, facilities such as schools child care centres etc. in the immediate area? NO

The Tavern and Rodeo grounds are adjacent to the United service station and Tourist Park only

There are no other facilities or buildings of any description within 10 kms other than rural living

There are only two houses within 300mtrs of the facility

We have received no complaints from either property over the past seven years and both owners support the Rodeo

The event is family orientated during the Rodeo and over 18s after 10.30pm

Mini busses are on offer at this time also as we have no public transport after 6pm

The Rodeos provide entertainment for both rural and city people and some passing tourists

It also has a positive impact on local employment and sporting clubs supplying food, gate staff, bar staff, mini bus company and offers several fundraising opportunities for clubs and charities

We also provide free camping areas adjacent to the carpark to minimise drink driving

We have approached the company Akron ' to manage our traffic and parking areas and will lodge an application with NT Gov to have the speed reduced from Jenkins Rd to Elisabeth Valley Rd during our events

I do not believe there are any at risk groups in our area that are at risk of potential harm created by our event that can't be managed by security and Police present on site

Volumes of alcohol consumed

The average spend at the Rodeos over the bar is approximately \$70000.

And the average adult admissions through the gate is 2500 which equates to 4 beers or 3 RTD's per person. Obviously there are some adults with families that don't drink at all and some people consume more than that and our job is to work with our security company and our RSA marshalls and bar staff to minimise the impact of people becoming intoxicated by monitoring and supplying free water and free transport via our mini bus service that covers all the rural areas and back to Palmerston

Economic benefits to local community

Depending on the crowd size the Rodeo employs between 25 and 35 security guards per show

Approximately 12-15 gate staff, 20 – 25 bar staff and 8-10 stock livestock workers per show

Four food vans also employ another 15-17 people

The Tourist Park is always fully booked with all rooms and camp sites and united service station stays open until midnight or later to cater for any extra food or supplies

We spend approximately \$30000 on advertising with local Radio, TV and newspapers and approximately \$8000 on mini busses per Rodeo season

\$48000 on local companies that provide big screen TV and camera production for season and another \$8000 for sound production per year and \$15000 for local bands that entertain at each event

Two local stock contractors are used at a cost of in excess of \$100000 per season so the Rodeo most certainly impacts the local rural area and contributes to employment and provides entertainment for approximately 12000 people over 4 events between May and September

The license we require for each event is an extension of our existing licensed area of the Tavern to accommodate the service of the Rodeo

No extra hours of trade are requested

The normal trading hours of the Tavern itself are voluntarily reduced on these nights so as to concentrate our efforts with security to manage the Rodeo area better where the main volume of people are”.

52. The Commission has carefully considered this application, all submissions made, information provided and additional evidence given during the course of the hearing. The Commission notes that the response provided on behalf of the Commissioner of Police is just that, a response. There has been no objection made despite several invitations to do so, and in fact “conditional support” has been given, albeit provided that the applicant complies with conditions that the Commissioner of Police proposes.
53. The Commission also notes that a number of the responses given on behalf of the Commissioner of Police have been made with no evidentiary support provided. They are allegations made in the context of there being no formal compliance issues raised, no offences against the licence holder alleged or found, and no one in attendance at the hearing on behalf of the Commissioner of Police to answer any questions that the Commission may have with respect to such allegations or indeed that the applicant may have. The Commission is unable in such circumstances to place a great deal of weight upon such allegations when they are so vehemently denied by the applicant or are too general in nature to be properly considered.
54. The Commission acknowledges that the Commissioner of Police again seeks a move to low and mid strength alcohol. As noted in an earlier decision concerning this applicant, this appears to be in accordance with what Superintendent Deutrom (then) referred to as a change in “police mindset”. As noted on that occasion by the Commission, such a change in “police mindset” does not in and of itself necessarily provide a basis for there to be an immediate change in all licence conditions. This is particularly the case in circumstances (as those that exist here) where an applicant has previously held such a licence for other events and where there have been no compliance issues arising from those previous events. That remains the case here.

55. Further, as noted in the Decision Notice dated 14 May 2018 with respect to this applicant and a similar application; when dealing with issues relating to alcohol, an important factor is the **responsible** service of alcohol. There is nothing before the Commission to indicate that this applicant has not complied with its obligations as to the responsible service of alcohol. There are no breaches or compliance issues alleged. What has been raised and referred to as “minor” also sets out the willingness of the applicant to immediately address any concerns in an active and cooperative manner.
56. The Commission is satisfied in those circumstances that there is no need to put in place conditions such as those sought by police with respect to the strength of the alcohol available or the different staggered approach sought by police.
57. This however raises the issue of the staggering of sales proposed by the applicant. The Commission notes that the applicant proposes four (4) drinks per person until midnight and then only one (1) drink per person until close. The Commission notes that in the Decision Notice dated 14 May 2018, the Commission determined that there should be a reduction to two (2) drinks at 2200 hours. There has been nothing placed before this Commission that persuades the Commission that this should not be imposed again on this occasion. The Commission therefore intends to impose that condition here.
58. Therefore, for the reasons outlined and having regard to the objects of the Act the Commission has decided to vary the conditions of the licence has decided to vary the licence as sought and to approve the material alteration to the licensee’s licensed premises as outlined at the start of this Decision Notice.
59. Before finalising these reasons, the Commission notes that during the course of the hearing the applicant was advised that due to the size of the event the Commission considered it would be appropriate for future similar applications, that the applicant provides a formal risk assessment to the Commission. Whilst on this occasion the Commission found that the evidence (taken as a whole) included the matters that would be contained in a formal risk assessment, the Commission considers that there are matters that would be addressed in a more coherent and appropriate fashion if included within a formal risk assessment. The applicant has clearly been put on notice that this is something that the Commission would consider should be an appropriate part of any application of this nature by the applicant in future given the size of the event.

Notice of Rights:

60. 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 vary the conditions of a liquor licence pursuant to section 32A and 119(8) of the Act is specified in the Schedule and is a reviewable decision.
61. 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.

62. 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.

A handwritten signature in black ink, appearing to read 'Jodi Truman', with a long horizontal flourish extending to the right.

JODI TRUMAN
Presiding Member
Deputy Chairperson