

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2018/036

VENUE: Noonamah Tavern
Stuart Highway
NOONAMAH NT 0837

APPLICANT: Dalkeith Ag Co Pty Ltd

EVENT: Rockabilly Car Show 2018

LEGISLATION: Section 58 of the *Liquor Act*

DECISION OF: Ms Amy Corcoran (Commissioner)

DATE OF DECISION: 5 June 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 a special licence to sell liquor to Dalkeith Ag Co Pty Ltd (**the Applicant**) for the sale of liquor between the hours of:

10:00 hours to 18:00 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 Rockabilly Car Show” occurring at the Premises being vacant land next to the Noonamah Tavern located at Lot 1801 Stuart Highway, Noonamah in the Northern Territory;
 - b. All staff involved in the sale, service or supply of liquor must 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 these Conditions.

Nominee/s: MR ANTHONY JAMES INNES

- 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. 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.
- j. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- k. 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.
- l. 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.
- m. 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.
- n. 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.
- o. 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.

- p. 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.
- q. 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*.
- r. Food and drinks are not permitted to be taken into any designated smoking areas.
- s. 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).
- t. Drinks permitted in the licensed area must be placed in plastic or in aluminium cans – no glass.

Reasons

Background

3. On 17 February 2018 pursuant to section 58 of the Act, Dalkeith Ag Co Pty Ltd (**the Applicant**) lodged an application with the Director-General for the grant of a special licence to permit the sale of liquor to patrons attending an event known as 'The Rockabilly Car Show'. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. The Applicant has a licence for its premises known as the Noonamah Tavern and is seeking approval for off-site catering to permit the sale of liquor to patrons attending The Rockabilly Car Show on the adjacent land which is outside its present licensed area.
5. The car show is a family friendly event where patrons can view classic cars. A crowd of approximately 400 to 500 people are expected to attend the event over the course of the day. Beer, wine, spirits, soft drinks and water will be available including beer in low, mid and full strength varieties. The Applicant has noted that amplified music would also be playing in the Noonamah Hotel's beer garden.
6. The Applicant is seeking a special licence for the following hours of trade:

10:00 hours to 18:00 on Saturday, 21 July 2018

7. The Applicant is seeking the special licence on the same terms as was granted by the Director-General in 2017.
8. Licensing NT or NT Police have not informed me of any compliance issues with respect to previous variations to licence issued for this event.

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**), NT Police, Fire and Emergency Services (**NT Police**), NT Fire, Rescue Service (**NTFRS**) and Litchfield Council (**Council**) and seek their comment.
10. With respect to this application:
 - a. The NT Police “...support the application contingent to:
 - *Same conditions as last year relating to the serving of alcohol in plastic cups;*
 - *Low to mid strength beer;*
 - *Industry standard security for crowd numbers;*
 - *Secure storage of alcohol.”*
 - b. The NTFRS had no objection.
 - c. Council “supported” the application.
 - d. The DOH had no adverse comment.

Assessment of the Application

11. As noted above, this is an application for a special licence under section 58 of the Act within Part VI of the Act. There are no specific criteria prescribed by 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 this 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 under section 6 of the Act.
13. However, pursuant to section 3(3) of the Act, the Commission when “exercising a power or performing a function under (the Act) 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 a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.

16. In respect to the various conditions requested by NT Police, I’ll address them each separately below:

a. *Secure storage of alcohol at all times*

Given the Applicant operates the adjacent Noonamah Hotel, I am satisfied that the Applicant is fully aware of its obligations and the risks of storing alcohol and safeguarding it against theft and do not believe it necessary to make it an additional licensing condition.

b. *Industry standard security for crowd numbers*

The Applicant has confirmed crowd controllers will be engaged at industry standards.

c. *Use of plastic cups only*

The Applicant request is “to sell alcohol from the [Noonamah] Tavern bar only in cans and / or plastic cups (provided by security as they enter the license extension area).”

No glass will be permitted in the licensed area.

d. *Low to mid strength beer*

The Applicant has confirmed that all alcohol is being sold from the Noonamah Tavern and low to mid strength will be available.

17. 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 set out at the start of this Decision Notice.

Notice of Rights:

18. 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.
19. 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.
20. 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, consisting of a stylized, cursive 'A' followed by a long horizontal line extending to the right.

AMY CORCORAN
Commissioner
Northern Territory Liquor Commission
5 June 2018