

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2019/051

VENUE: **Banyan Farm Tourist Park**
Woolianna Road
DALY RIVER NT 0822

APPLICANT: Palmerston Game Fishing Club Incorporated

EVENT: 2019 Club Marine Insurance Barra Nationals

LEGISLATION: Section 58 of the *Liquor Act 1978*

CONSIDERED BY: Mr Russell Goldflam

DATE OF DECISION: 8 May 2019

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (**the Act**) the Commission has determined to grant a special licence to the Palmerston Game Fishing Club Incorporated (**the Applicant**) sell liquor to between the hours of:
 - a. Friday, 10 May 2019 from 16:00 hours to Saturday, 11 May 2019 02:00 hours;
 - b. Saturday, 11 May 2019 from 16:00 hours to Sunday, 12 May 2019 02:00 hours;
 - c. Sunday, 12 May 2019 from 16:00 hours to Monday, 13 May 2019 02:00 hours;
 - d. Monday, 13 May 2019 from 16:00 hours to Tuesday, 14 May 2019 02:00 hours;
 - e. Tuesday, 14 May 2019 from 16:00 hours to Wednesday, 15 May 2019 02:00 hours;
 - f. Wednesday, 15 May 2019 from 16:00 hours to Thursday, 16 May 2019 02:00 hours;

- g. Thursday, 16 May 2019 from 16:00 hours to Friday, 17 May 2019 02:00 hours; and
- h. Friday, 17 May 2019 from 16:00 hours to Saturday, 18 May 2019 03:00 hours.

2. The granting of approval is subject to the following conditions, namely:

- a. The liquor shall be sold at the event known as the “Club Marine Insurance Barra Nationals” at the Premises known as the Banyan Farm Tourist Park located at Woolianna Road, Daly River 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. The Nominee **MUST BE** present during all Trading Hours and must ensure compliance with these Conditions.

Nominee: Ms Christine Archbold

- c. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- d. 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.
- e. Any person involved in Crowd Control, as defined under *the Private Security Act 1995*, at the Premises, must be licensed as required by that Act.
- f. All liquor must be sold in open containers.
- g. No more than four (4) cans or stubbies or glasses of wine may be sold to any one person at any one time.
- h. The licensee 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.
- i. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- j. 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.

- k. The Licensee must comply with all requirements and guidelines published by the Director-General, including guidelines related to the conduct of entertainment.
- l. 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.
- m. 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.
- n. The Licensee must comply with the requirements 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.
- o. All liquor purchased for sale under the authority of this licence **MUST** be purchased from a licensed retail outlet.
- p. 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.
- q. 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.
- r. 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 identity card or other authorisation.
- s. The venue clearly displays signage to delineate the Non Smoking area from the Smoking Areas. The venue must comply with smoking requirements contained in the *Tobacco Control Act 2002*.
- t. Food and drinks are not permitted to be taken into any designated smoking areas.
- u. A Licensee or employee of a Licensee shall exclude or remove from licensed premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang).

Northern Territory Liquor Commission instructions in accordance with Condition (n) above:

- i. The sale of 'take away' liquor is only permitted to persons competing in the 2019 Club Marine Insurance Barra Nationals tournament, for their own consumption on the river whilst in a boat;
- ii. A competitor in the tournament may purchase a maximum of six (6) unopened cans of light or mid strength beer per day, for consumption on a boat the following day;
- iii. 'Take away' liquor may be sold to competitors between the hours of 1600 and 2200 for the duration of the fishing tournament only.

Reasons

Background

3. On 25 March 2019 pursuant to section 58 of the Act, 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 the 2019 Club Marine Insurance Barra Nationals at Banyan Farm Tourist Park on Woolianna Road, Daly River in the Northern Territory.
4. The Club Marine Insurance Barra Nationals is a catch and release fishing tournament where competitors score points for all Barramundi caught over 40cm. The fishing tournament is well established, having run for over 20 years, allowing competitors to fish in the Daly River whilst staying at Banyan Farm Tourist Park for the week of the tournament.
5. Specifically, the Applicant is seeking to sell liquor for the following hours:
 - Friday, 10 May 2019 from 16:00 hours to Saturday, 11 May 2019 02:00 hours;
 - Saturday, 11 May 2019 from 16:00 hours to Sunday, 12 May 2019 02:00 hours;
 - Sunday, 12 May 2019 from 16:00 hours to Monday, 13 May 2019 02:00 hours;
 - Monday, 13 May 2019 from 16:00 hours to Tuesday, 14 May 2019 02:00 hours;
 - Tuesday, 14 May 2019 from 16:00 hours to Wednesday, 15 May 2019 02:00 hours;
 - Wednesday, 15 May 2019 from 16:00 hours to Thursday, 16 May 2019 02:00 hours;
 - Thursday, 16 May 2019 from 16:00 hours to Friday, 17 May 2019 02:00 hours; and
 - Friday, 17 May 2019 from 16:00 hours to Saturday, 18 May 2019 03:00 hours.

6. The Applicant proposes to sell liquor to patrons from a bar selling beer, wine and spirits. Further, the applicant indicates non-alcoholic drinks and meals will also be provided each evening.
7. In addition to the proposed licensed area, the Applicant requests they be permitted to sell liquor to competitors of the tournament between 16:00 hours and 22:00 hours on each day of the tournament, for competitors to consume on the Daly River, in their boat, the following day.
8. Including competitors and committee members of the Palmerston Game Fishing Club Incorporated, the Applicant estimates approximately 220 persons will be in attendance throughout the tournament.
9. The Applicant proposes to ensure that no alcohol is brought onto the competition premises by requiring competitors to sign an acknowledgement of a notice stating “NO ALCOHOL is to be brought into the licensed area. There is a zero tolerance for no compliance. Any persons caught bringing their own alcohol into the Licensed Venue will be asked to leave the tournament immediately with no refund. No warnings will be given.”
10. The Applicant has previously been issued special licences for past Barra National tournaments. The Commission has been informed by Licensing NT that there have been no compliance issues with respect to the Applicant for previous tournaments.
11. In relation to private security and crowd controller arrangements, the Applicant indicates licensed private security personnel and crowd controllers will not be engaged to provide services at the 2019 Club Marine Insurance Barra Nationals. Instead the nominee, volunteers and committee members shall monitor the general behaviour of patrons throughout the tournament. These arrangements are unchanged from those identified in last year’s special licence application for the same tournament and the liquor licence granted.

Consultation

12. 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.
13. With respect to this application:
 - a. The NT Police had no objection.
 - b. The NTFRS had no objection.

- c. The DOH had no adverse comment, but requested that Licensing remind the Applicant that food and drinks are not permitted to be taken into any identified outdoor smoking area.

Assessment of the Application

14. The Applicant made a substantially similar application to the Liquor Commission for a special licence in relation to the 2018 Club Marine Insurance Barra Nationals tournament. As that application raised substantial issues that had not previously been considered by the Liquor Commission, it proceeded by way of a public hearing and was determined by a panel comprising three members of the Commission, including the Chairman. The Commission granted a Special Licence and issued a Decision Notice on 26 April 2018.¹
15. Pursuant to s37 of the *Liquor Commission Act 2018*, on 19 April 2018 the Commission delegated to the Chairperson and Deputy Chairperson the power to issue a special licence subject to appropriate conditions, and to give a decision notice accordingly, where conduct of a public hearing is not required. Section 50 of the *Liquor Act* sets out those matters that must be referred to the Liquor Commission for hearing. An application for a special licence is not such a matter. I am authorised to exercise the powers and perform the functions of the Deputy Chairperson when either the Chairperson or Deputy Chairperson are unable to exercise their powers or perform their functions.² I have been requested by the Chairperson to consider this matter and have agreed to do so.
16. I am satisfied that I am authorised to deal with the application. I am also satisfied that in the circumstances it is appropriate that I do so. In particular, I am satisfied that it is not necessary to proceed by way of a public hearing, because the current application does not raise substantial issues that have not previously been determined by the Commission.
17. I have considered the Decision Notice referred to above and issued by the Commission on 26 April 2018. I agree with all of the reasons given in that Decision Notice to approve the issue of a special licence in 2018 to the Applicant, and, to the extent that those reasons are applicable to the current application, I adopt them. In particular, I agree with and adopt the reasons in relation to the sale of takeaway liquor.
18. Accordingly, I have determined to issue a special licence in the same terms (save as to the days of trading and the identity of the nominee) as Special Licence SLL1208 issued to take effect on 8 May 2019.

¹ Accessed at https://justice.nt.gov.au/data/assets/pdf_file/0008/503567/Decision-Notice-Palmerston-Game-Fishing-Club-Inc.pdf

² Northern Territory Government Gazette No. S18, 14 March 2018

Notice of Rights:

19. 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.
20. 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.
21. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the only affected person is the Applicant..



RUSSELL GOLDFLAM
Acting Deputy Chairperson
Northern Territory Liquor Commission
8 May 2018