

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATIONS FOR MATERIAL ALTERATION AND PERMANENT VARIATION OF CONDITIONS OF LICENCE

REFERENCE: LC2021/022

LICENCE NUMBER: 80315190

LICENSEE: Dalkeith Ag Co Pty Ltd

PREMISES: Noonamah Tavern
1805 Stuart Highway
NOONAMAH NT 0837

LEGISLATION: Sections 96 and 110 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Mr Bernard Dwyer (Health Member)
Ms Sandra Cannon (Community Member)

ON THE PAPERS: 29 June 2021

DATE OF DECISION: 8 July 2021

Decision

1. For the reasons set out below and in accordance with section 97 of the *Liquor Act 2019* (“the Act”), the Northern Territory Liquor Commission (“the Commission”) has determined to approve the material alteration to extend the licensed area to include the “Rodeo Grounds”, as delineated in attachment J of the Director’s referral brief for approved special events.
2. The licence is varied pursuant to section 110 of the Act by including within the Special Conditions a further Condition;

“Special Events at the Rodeo Grounds”

Within the prior written approval of the Director of Liquor Licensing (“the Director”), the Licensee is permitted to hold a special event at the “Rodeo Grounds” on the following conditions.

- a) That licence is extended to include the Rodeo Grounds for the duration of the special event which will be from 10:00 hours until 1:00 hours the next day or such shorter period as the Director might approve;

- b) The Licensee may hold no more than 12 such special events in any year;
- c) The Licensee must submit in writing details of the proposed event including expected patron numbers, proposed security arrangements and other harm mitigation strategies to the Director at least 4 weeks prior (or such shorter period as the Director may permit) to the proposed special event;
- d) The Director in his or her discretion may approve the holding of the special event subject to conditions including as to maximum patron numbers, hours of operation security arrangements, special conditions as to the service of liquor and other harm mitigation measures;
- e) This special condition only remains in force in so long as the Licensee holds a valid lease over the "Rodeo Grounds" if the event is approved the licensed premises will be extended for the duration of the special event to cover the area delineated in an approved liquor licensed site plan attached to the licence.

Reasons

Background

3. Dalkeith Ag Co Pty Ltd is the holder of liquor licence number 80315190 for premises known as Noonamah Tavern, situated at shop 1805 Stuart Highway.
4. On 15 January 2021, an application for a material alteration was lodged by Mr Anthony Innes on behalf of Dalkeith Ag Co Pty Ltd (the Licensee). An application for a permanent variation to the conditions of the licence was lodged with Licensing NT on 12 November 2019. At the time the Licensee advised it would be pursued simultaneously with a material alteration application. Neither were able to progress due to further Building Development and Permit requirements.
5. The Applicant has now resolved the outstanding issues related to use of the buildings for the purposes proposed and has included all relevant building permits and approvals with the application.
6. The applications from the Licensee are as follows:

Material Alterations

- Proposal to extend the licensed area to include the 'Rodeo Grounds' on a permanent basis to allow the licensee to hold seasonal functions and annual events such as:
 - Australia Day Ute Run;
 - the Noonamah Rodeos (up 3 events per year) May, July, September;
 - Annual Car Shows (Rockabilly Classic Car Show) August;

- Allowing for a general opportunity to hold events that would alleviate having to seek special event liquor authorities, or major event authorities for events such as weddings, birthdays or outdoor dinners, with a limit that would not exceed 12 events inclusive of any annual events held.
- Consent for the events rests with the Director.

Permanent Variation

- Alcohol for functions and events may be served between 10:00 hours and 01:00 hours the following day, in the Rodeo Grounds, provided that prior notification is given to the Director and it is consented to.

7. The following supporting documents were supplied:

- Affidavit from Anthony James Innes
- Affidavit from Dean Richard Innes
- Public Interest and Community Impact Assessment Summary
- Lease Covenants
- Design and Elevation Plans
- Occupancy Permit Issued 16 March 2021
- Building Works – Letter from Department of Infrastructure, Planning & Logistics 29
- April 2021 – Noonamah Rodeo – compliant, matter now closed.
- Proposed Licensed Arena Map – Liquor Area 2 for Events on liquor licence
- Photographic ID – Drivers Licence - Anthony James Innes

8. The Lease Covenants for the 'Noonamah Rodeo Grounds' Lot 1, Hundred of Strangways commenced between parties effective on 13 May 2016. There is no expiry term within the Lease as it is periodic in nature with Clause 2.b stating the lease is from month to month.

9. At the time of the referral, The Noonamah Rodeo Events have been held over the past nine years within these Rodeo Grounds with the exception of the impact of the events of COVID-19 in 2020. Through the past nine years, the Licensee has obtained special licences, material alterations and variations to accommodate these events that have incurred significant costs and been time consuming to all parties. The most recent Noonamah Rodeo Event was held on 22 and 23 May 2021.

Publication and Consultation

10. The application was published by way of two notices in the NT News on Saturday 8 May 2021 and Wednesday 12 May 2021. A green advertising sign was also erected at the premises for the course of the advertising period. Copies of the NT News, website advertising on the Director's web page and photographs of the green sign erected in-situ.
11. As a result of the public advertising of the application, there were no formal objections received.
12. In accordance with the Act, the following were notified of the application.
 - The Chief Executive Officer of the Department of Health
 - The Commissioner of Police
 - CEO, Litchfield Council
13. Due to the nature of the application the following agencies were also notified of the application.
 - Northern Territory Fire & Rescue Service (NTF&RS)
14. The Department of Health replied via email dated 17 May 2021 stating it had no adverse comment, submitting their standard response in relation to smoking. This was provided to the Licensee via an email dated 26 May 2021.
15. The NT Police replied via email dated 24 May 2021 advising that the whilst Police do not formally object and appreciate the alleviation of special licence applications and processes, that perhaps a staged approach be considered whereby events are held 4-5 times a year until it is seen on how it is managed.
16. NTF&RS responded via email dated 17 May 2021 advising that they had no objections.
17. On 26 May 2021, a Senior Licensing Officer forward an email to the Licensee advising of stakeholder comments and inviting the Licensee to provide any comment or response to Licensing NT by 1 June 2021 noting that they were not formal objections.
18. The Licensee provided a response via email dated 26 May 2021, in particular to NT Police that the purpose of submitting the applications in the way described allows more flexibility to accommodate annual events as well as hold other smaller events outside these. This includes events such as a Variety Bash Launch scheduled for 14 August, Black Tie Balls or big screen family movie nights.
19. The Litchfield Council requested an extension of time to respond which was granted by the Manager Licensing until 28 May 2021. Litchfield Council provided a response on 28 May 2021 advising they did not object to the proposed material alterations and the proposed variation for the liquor licence conditions to extend the Noonamah Tavern Licence to include the Noonamah Tavern Rodeo ground for seasonal events.

Compliance

20. There have been no compliance issues in the past 12 months with the Licensee or the last Noonamah Tavern Rodeos in September 2019 and May 2021 when Senior Compliance Officers were in attendance.

The decision to dispense with a public hearing

21. These applications were referred to the Commission on 15 June 2021. As there had been no objections to the applications and because the Licensee has a long history of successfully running rodeos and other special events at the rodeo grounds the Commission decided to consider whether it was appropriate to dispense with a public hearing and deal with the matter on the papers.
22. The Commission had proposed convening on 29 June 2021 to consider the matter and had requested that both the licensee and Licensing Officer be available to answer any queries should they arise. However on Sunday 27 June 2021 the Northern Territory Government announced a lockdown due to the COVID-19 pandemic which meant that the licensee had not been asked to be available and was therefore not in a position to provide further information in support of the application. Senior Licensing Officer Chin helpfully contacted Mr Innes who subsequently provided a letter dated 1 July 2021 with supporting documentation detailing the economic and recreational benefits associated with the Licensees proposal.
23. Having received that further information, the Commission determined on 1 July 2021, pursuant to section 21(3) that it was not appropriate in the circumstances that then existed, to hold a public hearing. On that day the COVID-19 lockdown was still in place, which would have made it impractical to hold a public hearing in the event of continuing restrictions on public gatherings and the Commission was satisfied that it now had sufficient information to decide the matter on the written submissions.

ASSESSMENT OF THE MATTER

24. Section 97(1) of the Act provides:

97 Decision on material alteration of licensed premises

- (1) In considering an application to make a material alteration to licensed premises, the Commission must consider the following:
 - (a) Any objection to the application made under section 61;
 - (b) Any response provided by the applicant under section 62;
 - (c) The public interest and community impact requirements.

25. When a Licensee applies to vary the conditions of licence section 110(2) of the Act provides that it must satisfy the Commission that varying the conditions of a licence or an authority:
- a) Is in the public interest; and
 - b) Would not have a significant adverse impact on the Community.
26. In addressing the Community Impact considerations, the Licensee stressed that it had been running the rodeos at this site for nine years without any adverse impact on the local community. The Noonamah Tavern is not in a residential area with the only two houses in the neighbourhood 600 metres away. None of the occupants of these residences have ever complained about past events at the rodeo grounds. The only two local businesses, apart from the Tavern, are the United Service Station and the Tourist Park. Both of these businesses benefit from the rodeos and other special events and have been supportive of them in the past. There are no schools, churches, hospitals or other potentially sensitive sites in the vicinity of the premises.
27. In the past the Licensee has obtained special licenses, temporary material alterations and special event authorities to hold the rodeos as well as special events such as the "Ute Muster". The most recent Noonamah Rodeo was held on 22 and 23 May 2021 with a Major Event Authority licence. The multiple applications necessary to obtain these temporary approvals have been costly and time consuming for both the Licensee and Licensing NT. Now that the necessary building approvals have been obtained as well as an occupancy permit the Licensee is in a position to pursue these applications for a permanent variation to its licence.
28. Although the application did address the community impact considerations it did not provide the evidence required by section 110(4)(b) of the Act to satisfy the onus that the variation is in the public interest. No doubt the Licensee was relying on its nine year record of successful events at the site, however the Act requires more than that and that has now been provided with Mr Innes email of 1 July 2021 in which he states:

"The Noonamah Tavern Rodeo has been operating since 2011 from humble beginnings to current day with an abundance of 3000 people in attendance.

Throughout this period, we have been applying for temporary and variation licences to accommodate these events. Over the past 4 years we have also added in the Australia Day Ute run supporting local charity Variety NT and the Rockabilly Classic Car Show. With these events also requiring variation to our existing licence. We have also had quite a few inquiries for Weddings and Black-Tie functions in the Rodeo grounds. For the enjoyment of the rural atmosphere the NT provides. This is the obvious reason for our application for a permanent licence.

The Variety NT Ute Run & Shannon's Rockabilly show are both family friendly events bringing motor enthusiast from all over the NT engaging local food stalls, face painter, kids jumping castle & local live music entertainers.

Australia Day Ute run - \$5K is donated every year from Noonamah Tavern to Variety NT the charity that support's NT children. Also, the 2021 Variety Bash (Noony to Nhuly) will be starting from Noonamah Tavern in August, this will attract visitors from all over Australia who will be staying in the Tourist Park.

The Noonamah Tavern Rodeo on any given night with our own staff, contractors, gate staff, security, waitresses, livestock workers, food vendors hire up to 100 employees. Through 2019 season – we spent approx. \$25K on local Advertising, Social Media, \$10K local entertainment, \$90K local Stock contractors, \$40K on local TV production and hire of big screen lots of other local businesses benefit from this event. The other two adjacent businesses Noonamah Tourist Park and the United Service Station both benefit greatly from each event.

To summarise this statement the Noonamah Tavern Rodeo put \$430K into the local economy.

The Noonamah Tavern Rodeo attracts a very high percentage of families to each event as well as both local and interstate tourists. Riders travel from all over the NT and interstate to compete at Noonamah. Cole McTaggart from Rodeo Services Australia quotes “the Noonamah Rodeo is one of the best in the country”.

29. Copies of promotional material for the rodeos was also attached to the email as well as an impressive testimonial from the internationally recognised, President of Rodeo Services Australia, Colin McTaggart who wrote:

“Many of our members strive to nominate at a Noonamah Rodeo. In the last 9 years it has directly produced 4 “Territory local”, Australian Champions that have gone to compete at the national level to represent the NT and other interstate competitors have accumulated points that helped them become Australian Champions”.

30. On the evidence now before it, the Commission is satisfied that these applications are in the public interest and that there will be no adverse community impact. Accordingly the applications are approved on the conditions set out at the commencement of this decision notice.

Notice of Rights:

31. Section 31(1) read with section 166(7) of the Act provides that the decision set out in this decision notice is reviewable by Northern Territory Civil and Administrative Tribunal (“NTCAT”). Section 94(3) of the NTCAT Act provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
32. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Director, the Licensee.



RICHARD COATES
CHAIRPERSON, NORTHERN TERRITORY LIQUOR COMMISSION
8 July 2021

On behalf of Commissioners Coates, Dwyer and Cannon