

Northern Territory Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A LIQUOR LICENCE AND MAJOR EVENT AUTHORITY
VENUE:	Blatherskite Park Len Kittle Drive ALICE SPRINGS NT 0870
APPLICANT:	Northern Territory Major Events Company Pty Ltd
EVENT:	Red CentreNATS
LEGISLATION:	<i>Liquor Act 2019, Part 3</i>
DECISION OF:	Mr Russell Goldflam (Member)
DATE OF DECISION:	27 August 2020

Decision

1. For the reasons set out below and in accordance with section 48 of the *Liquor Act 2019* (**the Act**) the Commission has determined to grant a liquor licence with a major event authority to the Northern Territory Major Events Company Pty Ltd (**the Applicant**) for the sale, supply or service of liquor to patrons for consumption on or in the area known as “Blatherskite Park”, Len Kittle Drive, Alice Springs, during the following periods:
 - 11:00 hours to 18:00 hours on Saturday, 5 September 2020
 - 12:00 hours to 18:00 hours on Sunday, 6 September 2020
2. The granting of approval is subject to the following conditions, namely:
 - a. The conditions set out in Division 12 (“Major event authority conditions”) of the *Liquor Regulations 2019* (**the Regulations**).
 - b. The sale of liquor must be supervised by the persons nominated by the holder of the licence (**the Supervisors**), at least one of whom must be present during all Trading Hours and must ensure compliance with these Conditions.

Nominated supervisors: Timothy Watsford, Celia de Latour, Sally Jarvis, Kay Kendall

- 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 Supervisors.
- e. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- f. 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.
- g. The licensee must comply with all requirements and guidelines published by the Liquor Commission or the Director, including guidelines related to the conduct of entertainment.
- h. Where the licensee 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.
- i. The licensee must comply with the Northern Territory Noise Management Framework Guideline issued by the Northern Territory Environment Protection Authority in September 2018.
- j. The licensee 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 2002*. Food and drinks are not permitted to be taken into any designated smoking areas.
- k. The licensee or employee of the licensee shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang). Liquor may only be sold in opened cans or plastic cups.’
- l. All liquor sold, served or supplied at the event must be in opened cans or plastic cups.
- m. Spirits must not be sold in containers with more than 5% alcohol by volume.
- n. Wine (including sparkling wine) must not be sold in containers with more than 150 ml.
- o. The only liquor that may be sold before 13:00 hours is to be mid-strength or light beer.
- p. All patrons to be inspected prior to entry to the venue to ensure that they do not bring any liquor onto the premises.
- q. Liquor must only be sold or supplied to patrons wearing an “18 plus” wristband supplied and applied to patrons by officers engaged by the licensee who are reasonably satisfied that the patron is over 18 years of age.

4. The licence will be issued immediately following the publication of this decision notice.

Reasons

Background

5. On 6 July 2020, pursuant to section 52 of the Act, the Applicant applied to the Director for a liquor licence with a major event authority to permit the sale of beer, wine, and RTD cans of spirits to persons attending the Red CentreNATS, an “automotive lifestyle festival” in Alice Springs that has previously been held over three days at three Alice Springs licensed venues incorporating a concert, children’s entertainment, displays, driving events and an award ceremony attracting over 16,000 people both locally and interstate.
6. The application is for a licence at a single venue, Blatherskite Park, with a capacity of up to 5,000 patrons, over a period of two days.
7. The Applicant’s planning for the event is complicated by the need to comply with directions issued by the Northern Territory Chief Health Officer in relation to the COVID-19 pandemic.
8. The Director has recommended that the Commission impose a special condition that the Applicant comply with any Chief Health Officer directions as they apply at the time of the event. Section 92 of the Act requires a licensee to comply with any public health notice in relation to the licensed premises issued by the Chief Health Officer under the *Public and Environmental Health Act 2011*. In addition, the effect of Regulation 68 of the Regulations is that a licensee with a major event authority must comply with any reasonable order or direction given by an officer acting with authority under the *Public and Environmental Health Act 2011*. It follows that, practically speaking, the licence and authority conferred by this decision notice will be subject to any such directions as may be issued by the Chief Health Officer. Accordingly, the Commission considers that it is unnecessary to impose an additional special condition requiring compliance with the Chief Health Officer’s directions, and declines to do so.
12. The Applicant has previously been issued special licences for past Red CentreNATS events in 2016, 2017, 2018 and 2019, as well as for other large motor sports events in Darwin. Licensing NT reports that there have been no previous compliance or liquor-related issues with respect to the Applicant.

Advertising and Consultation

13. The Applicant advertised the event online in accordance with the Director’s public notice requirements. No objections were received from the public.
14. Comment was sought by the Director from the following stakeholders: Department of Health (DOH), NT Police, Fire and Emergency Services (NT Police) Northern Territory Fire and Rescue Services (NTFRS), St John Ambulance Australia (NT) and the Alice Springs Town Council.
15. With respect to this application all stakeholders responded expressing their support for the application.

The hearing

16. On 7 July 2020 the application was accepted by a delegate of the Director. On 17 August 2020, the Director referred the application to the Commission. The application has been dealt with by a single member of the Commission.¹
17. The Commission has considered the circumstances of the Applicant and the application, including, firstly, the circumstance that the application has been notified to the public and no objection was received; and secondly, the Applicant has a satisfactory record of compliance with the Act. Having done so, the Commission formed the opinion that a public hearing is not appropriate, because the matter is not controversial, and conducting the hearing in public would not be worthwhile. Accordingly, the Commission directed that a hearing be conducted by way of written submissions only.
18. The Director provided the following documents to the Commission with the referral:
 - a. The Decision Notice and corresponding special licence granted to the Applicant for the Red CentreNATS in 2019.
 - b. The Applicant's application for a liquor licence and major event authority.
 - c. The Decision Notice by the Director's delegate accepting the application.
 - d. Public interest and community impact assessment pursuant to sections 49 to 52 of the Act.
 - e. Smoking management plan.
 - f. Site plan.
 - g. Operations Plan (2019).
 - h. Event Crisis Management Plan (2019).
 - i. Declaration of Associates pursuant to section 54 of the Act.
 - j. Affidavit of appointment of Ford Dynasty Pty Ltd, T/A Lasseters as a third party bar operator.
 - k. Declaration of good character of the Applicant's Directors.
 - l. Draft public notice of application.
 - m. ASIC register extract showing Applicant's company details.
 - n. Applicant's audited financial statements 30 June 2019.
 - o. RSA Certificates for the nominated Supervisors.
 - p. Personal references for the nominated supervisors.
 - q. Documentation relating to the public notification of the application.
 - r. Correspondence with stakeholders.
 - s. Report of Applicant's record of compliance with the Act.

ASSESSMENT OF THE APPLICATION

19. In accordance with the provisions of section 59 of the Act relevant to this application, the Commission has considered:
 - a. the applicant's affidavit required by section 54;

¹ On 28 October 2019, pursuant to section 37 of the *Liquor Commission Act 2018*, the Commission delegated the power to issue a liquor licence in conjunction with a major event authority to a single Member of the Commission.

- b. the suitability of the premises to be licensed, having regard to any law of the Territory regulating the sale, supply, service or consumption of liquor or the location, construction or facilities of those premises;
 - c. the financial stability and business reputation of the body corporate;
 - d. the general reputation and character of the secretary and executive officers of the body corporate;
 - e. whether the applicant, including the nominee designated by an applicant, is a fit and proper person to hold a licence; and
 - f. if the Commission considers it appropriate – whether each associate of the applicant is a fit and proper person to be an associate of a licensee.
20. In accordance with section 49 of the Act, the Commission has also considered whether issuing the licence is in the public interest, and whether the licence will have a significant adverse impact on the community.

The applicant

21. The applicant is a company owned and substantially funded by the Northern Territory Government, to support and deliver major sporting cultural events held in the Northern Territory.
22. The Commission finds that the applicant complies with section 53(1) of the Act, which requires that a body corporate shall not hold a licence unless it is a corporation.

The applicant's associates

23. Section 54 of the Act requires applicants to depose an affidavit disclosing whether certain persons may be able to influence the applicant, or expect a benefit from the applicant, if the licence is granted. The Commission is satisfied that the applicant has complied with the disclosure requirements of section 54.
24. The Commission does not consider that it is appropriate to consider whether any other person is a fit and proper person to be an associate of the applicant.

The suitability of the applicant's premises

25. The Commission has regard to the size, location and configuration of the venue, the proposed hours of trading, the anticipated number of patrons, and the nature of the event.
26. The Commission assesses the premises as suitable for the supply and consumption of liquor in the manner set out in the application.

The financial stability, general reputation and character of the body corporate

27. The Commission assesses the applicant as having a satisfactory business reputation and as being financially stable.

The general reputation and character of the applicant's secretary and executive officers

28. The Commission assesses the general reputation and character of the applicant's executive officers and secretary to be satisfactory.

Whether the applicant is a fit and proper person to hold a licence

29. The Commission assesses the applicant to be a fit and proper person to hold a licence.

Whether the licensee's nominee is a fit and proper person to hold a licence

30. The Commission assesses Timothy Watsford, Celia de Latour, Sally Jarvis and Kay Kendall, who each holds current RSA certification and has provided appropriate documentation of their character, to be fit and proper persons to hold the licence. The Commission considers that the Act requires that a single nominee be designated. The Commission directs the licensee to notify which one of the four persons it has proposed is to be the designated nominee for the purpose of section 53(3) of the Act.

Public notice and consultation

31. The Commission is satisfied that public notice of the application was given and consultation was undertaken in accordance with section 57 of the Act.

Whether issuing the licence is in the public interest

32. To determine whether the issue of the license is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in section 49(2) of the Act:

- (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
- (b) ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
- (c) safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;

- (d) protecting the safety, health and welfare of people who use licensed premises;
- (e) increasing cultural, recreational, employment or tourism benefits for the local community area;
- (f) promoting compliance with this Act and other relevant laws of the Territory;
- (g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
- (h) preventing the giving of credit in sales of liquor to people;
- (i) preventing practices that encourage irresponsible drinking;
- (j) reducing or limiting increases in anti-social behaviour.

33. Having considered each of these objectives, and having particular regard to the successful operation of this event by the Applicant under similar licence conditions in previous years, the Commission is satisfied that it is in the public interest to issue the licence. The Commission notes that it has not been provided with an Operational Plan for the 2020 Red CentreNATS. Instead, the Commission has been provided with the 2019 Operational Plan for this event. It would have been preferable to have been provided with an updated Operation Plan, but the Commission is prepared to infer that the 2020 event will be operated in a manner that is substantially similar to the 2019 event, subject to the changes required in order to comply with the Chief Health Officer's directions in relation to the COVID-19 pandemic.

Whether the issue of the licence will have a significant adverse impact on the community

34. To determine whether it is satisfied that the issue of the licence will not have a significant adverse impact on the community, the Commission must have consider the matters set out at section 49(3) of the Act:
- a the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;
 - b the geographic area that would be affected;
 - c the risk of harm from the excessive or inappropriate consumption of liquor;
 - d the people or community who would be affected;
 - e the effect on culture, recreation, employment and tourism;

- f the effect on social amenities and public health;
- g the ratio of existing liquor licences and authorities in the community to the population of the community;
- h the effect of the volume of liquor sales on the community;
- i the community impact assessment guidelines issued under section 50;
- j any other matter prescribed by regulation.

35. The Commission notes there are no such “other” matters prescribed by regulation.

36. It is important to recall at all times that the Act makes clear under section 51 that it is the applicant who bears the onus of satisfying the Commission of the relevant matters. Even if there are no objections, the Applicant must still satisfy this Commission of those matters.

37. In relation to the issue of the community impact assessment guidelines issued under section 50, it is noted that regulation 123 of the Regulations provide that the community impact assessment guidelines published under section 6A of the *Liquor Act 1978* and in force immediately before the commencement of the Act are taken to be community impact assessment guidelines issued under section 50.

38. Those matters therefore remain as follows:

Criteria	Matters to be considered
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>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

	<p>communities that experience high tourist/visitor numbers.</p> <p>Are there any community buildings, 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 • 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>

Any cultural, recreational, employment or tourism benefits for the local community area.	Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?
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.	<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? • 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?

39. 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 state 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”.

40. In addition, section 50(4) provides that the guidelines “may have general, limited or varied application”. Although there are many matters for the Commission to consider, like any application, some of the matters are highly relevant to this application whilst others are not as significant. In this instance, it is particularly significant for the purpose of assessing the impact on the community that the licence will only be operational on two days, and that the licensed premises are situated at a considerable distance from residential areas.

41. Having considered all of these matters, the Commission is satisfied, in accordance with section 49 of the Act, that:

- a. the applicant is a fit and proper person; and
- b. issuing the licence or authority is in the public interest; and
- c. the licence or authority will not have a significant adverse impact on the community.

Conditions

42. In fixing the conditions set out at paragraph 2 above, the Commission has had particular regard to the conditions imposed for the Red CentreNATS special licence in 2019, and to the operation of the Act and the Regulations, which came into force on 1 October 2019.

The objects of the Act

43. Finally, section 3(4) of the Act provides that in performing its function to decide whether to issue the licence, the Commission must have regard to the primary and secondary purposes of the Act.

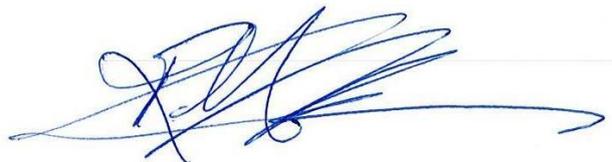
44. Throughout its consideration of this application, the Commission has steadily kept the purposes in section 3 of the Act in mind. The Commission is satisfied that the issue of the licence is consistent with the purposes of the Act.

45. For these reasons, the Commission has determined that the application should be granted, and that a licence be issued on the terms and conditions set out at the commencement of this Decision Notice.

NOTICE OF RIGHTS

46. Section 31(1) read with section 60(3) of the Act provide that the decision set out in this decision notice is reviewable by the 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.

47. 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 and the licensee.



Russell Goldflam
MEMBER
NORTHERN TERRITORY LIQUOR COMMISSION
27 August 2020