

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2019/040
PREMISES:	Freds Pass Sport and Recreation Reserve 20A Bees Creek Road FREDS PASS NT 0822
APPLICANT:	Freds Pass Rural Community Show Incorporated
EVENT:	Freds Pass Rural Community Show
LEGISLATION:	Section 58 of the <i>Liquor Act 1978</i>
DECISION OF:	Ms Amy Corcoran
DATE OF DECISION:	7 May 2019

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978 (the Act)* I have determined to grant the special licence to sell liquor to Freds Pass Rural Community Show Incorporated for the sale of liquor between the Trading Hours of:
 - a. 1600 hours and 2350 hours on Friday 17 May 2019;
 - b. 1000 hours on Saturday 18 May 2019 and 0030 hours on Sunday 19 May 2019; and
 - c. 1000 hours and 1900 hours on Sunday 19 May 2019.
2. The granting of approval is subject to the following conditions, namely:
 - a. The liquor shall be sold at the event known as the “Freds Pass Rural Community Show” occurring at the premises known as the Freds Pass Sport and Recreation Reserve located at 20A Bees Creek Road, Freds Pass in the Northern Territory (**the Premises**).
 - 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.

- c. A nominee MUST BE present during all trading hours and must ensure compliance with the conditions.

Nominee: Mr Ian Sloan

- 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 1995*, at the Premises must be licensed as required by that Act.
- g. Crowd Controllers are to be employed as per industry standards as follows:
 - i. 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. No more than four (4) cans or bottles may be sold to any one person at any one time.
- j. The holder of the special licence must ensure that water, soft drink, 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.
- k. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- l. 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.
- m. 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.

- n. Where the holder of the special licence 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.
- o. 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.
- p. The holder of the special licence must comply with the requirements of the Liquor Commission or Director-General as specified in this licence, 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.
- q. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- r. The holder of the special licence 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.
- s. The holder of the special licence must record all liquor sold, including the type and quantity of that liquor and must record the manner of disposal of any unsold liquor.
- t. 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 identify card or other authorisation.
- u. The holder of the special licence must clearly display signage on the Premises to delineate the Non Smoking area from the Smoking Areas and must comply with smoking requirements contained in the *Tobacco Control Act 2002*.
- v. Food and drinks are not permitted to be taken into any designated smoking areas.
- w. The holder of the special licence or an employee of a holder shall exclude or remove from licensed premises any person who is wearing colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang).

Commission's instructions in accordance with Condition (p):

To the extent that these instructions are inconsistent with the conditions above, these instructions prevail:

- i. Crowd controllers are to be employed in accordance the application lodged by the applicant of static and roaming crowd controllers noting the minimum provided of four (4) roaming guards plus twelve (12) guards concentrated around the licensed areas when crowds require.
- ii. No provision of alcoholic drinks that:
 1. are designed to be consumed quickly and which are commonly referred to as a 'shot or shooters'; or
 2. are a cocktail containing more than a 30ml nip of spirit or liquor.
- iii. Liquor or any other beverages must not be sold to patrons in glass containers.
- iv. Soft drinks and water may be available from the bar but must also be available from separate outlets for those patrons under 18 years of age.
- v. Designated 'Dry Area' to be established and maintained.
- vi. Crowd control arrangements shall comprise of static and roaming crowd controller to diligently monitor and enforce all licensing requirements and regulations pertaining to the sale of alcohol.
- vii. At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example, high-viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

Reasons

Background

3. Pursuant to section 58 of the *Liquor Act 1978 (the Act)*, Freds Pass Rural Community Show Incorporated (**the Applicant**) applied to the Director-General of Licensing on 7 February 2019 for a special licence to permit the sale of liquor to patrons attending an event known as the "Freds Pass Rural Community Show" occurring at the Premises known as the Freds Pass Sport and Recreation Reserve located at 20A Bees Creek Road, Freds Pass in the Northern Territory.
4. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.

5. The Freds Pass Rural Community Show is an annual agricultural show with attractions and entertainment that is primarily targeted towards a “family orientated crowd”. The entertainment and attractions for this year’s show include equestrian events, a dinner feast, arts and crafts, a fireworks display and live music.
6. The event occurs over three (3) days and the Applicant estimates a crowd of approximately 20,000 persons will attend the event over the course of those three (3) days. The Applicant is seeking to sell liquor between the hours of:
 - a. 1600 hours and 2350 hours on Friday 17 May 2019;
 - b. 1000 hours on Saturday 18 May 2019 and 0030 hours on Sunday 19 May 2019;
 - c. 1000 hours and 1900 hours on Sunday 19 May 2019.
7. The Applicant wishes to offer a full range of alcoholic beverages including light, mid and full strength content options as well as cider, wine and ready to drink (**RTD**) spirits. Non-alcoholic beverages such as soft drink and water shall also be available from the bar. Only one (1) bar will operate which is situated in the ‘Wilkie Pavilion’.
8. This year, a dinner feast will be held on the Friday night which will highlight the produce from the Rural Area with the dinner to cater for 200 guests. The Applicant advises that around 1,000 persons (600 adults and 400 children) stay for the evening entertainment on the Saturday night (fireworks and concert) and approximately 600 stay for the Sunday night jazz which mainly consists of families.
9. The Applicant indicates they will also adopt and enforce a designated “dry area” within the licensed area where patrons must not possess or consume liquor. This area is known as “Side Show Alley” and is an area anticipated to predominantly entertain children and families.
10. In relation to private security and/or crowd controller arrangements, the Applicant indicates there will always be four (4) guards roaming the event area providing 24 hour security. For both the Saturday and Sunday event days, twelve (12) guards are proposed in addition to the four (4) roaming guards. These additional guards are proposed to concentrate on the bar area and licensed area.
11. The applicant has previously been issued special licences for the event in previous years. A special licence for the 2018 event was granted in virtually the same terms and conditions as sought in this present application.
12. I have been informed by Licensing NT that “nil compliance issues are evident on file for the Freds Pass Rural Community Show in recent years”.

Consultation

13. 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**), St John Ambulance (**SJA**), NT Fire and Rescue Service (**NTFRS**), and NT Police, Fire and Emergency Services (**NT Police**) and seek their comment.

14. With respect to this application:

- a. The DOH had “no adverse comment”. However, asked the Director-General of Licensing to consider patron and community safety & amenity when determining this application. DOH provides the comment on the understanding the applicant is aware of their responsibility with regard to smoking compliance at the venue.
- b. SJA advised they had “no concerns”.
- c. The NTFRS advised that they had no objection to the application.
- d. The NT Police responded as follows:

“The Superintendent Palmerston Division has reviewed the application and offer the following comments:

- *The application seeks 28 hours through a Special Licence;*
- *The application speaks to 4 roving security officers for the period of event, are those security officers considered for the purposes of the Special Licence as it appears they may be in place for perimeter security and if so should not be considered as part of the special licence requirements;*
- *There is a massive proposed licensed area as outlined in the “site map” and the proposed security officers versus patrons for the event does not satisfy industry standards;*
- *The application shows some 20,000 patrons over 3 days; @1200 patrons for the Saturday concert alone (which would mean 13 security officers for the concert alone, they are proposing 12) and @600 patrons for the Jazz Concert on Sunday (which would mean 7 security officers for the concert alone they are proposing 12 which satisfies this aspect) How will the event organizers be keeping a tally of the patron numbers to ensure security compliance?*
 - *Recommendation: 1. Applicant be required to keep a tally of patron numbers during event to include capacity to report on same if and when requested to by police and or Licensing Inspector.*
 - *Recommendation: 2 that industry standards be maintained for event 2 security: 100 patrons and 1:100 thereafter.*
- *What security provisions are planned for the “50km Feast”? Nothing detailed in application.*
- *The event is advertised as the Annual Agricultural Show, including family activities, in considering the nature of the event local Police support the availability and sale of low and mid strength alcohol only, which is available across a range of spirits beers, ciders, and wines as sold at Marrara Football Stadium.*
 - *Recommendation 3: The event be restricted to the sale of low and medium strength alcohol proper with the exception of the “50km feast dinner” subject to appropriate security numbers. The reliance of such events on high range or heavy alcohol sales is not in keeping with community and or Police expectations, does not satisfy alcohol harm minimisation and when*

considering the adverse impacts of alcohol on the Northern Territory, the need to focus on comfort, safety and security of patrons and service providers support an event with low and medium range alcohol in the common areas or general public areas of the event.”

Assessment of the Application

15. As previously noted, this is an application for a special licence under section 58 of the Act. That section is within Part VI of the Act. There are no specific criteria prescribed within 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.
16. 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 as provided for under section 6 of the Act.
17. The Commission has previously noted however that pursuant to section 3(3) of the Act; it is clear that when “exercising a power or performing a function under (the Act) (the Commission) 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”.
18. 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.”
19. As I have been delegated the authority to make this decision, I too am bound by these objects and they have been considered carefully by me when determining this application.

20. In relation to the matters raised by NT Police, the Applicant sent an email on 11 March 2019 outlining the following further details in response to the recommendations and comments made by NT Police:

"Information below. The security guards in the application for the attendees proposed satisfy industry standards. Please advise where you see this does not.

The Liquor Licence area is not the same as the Licenced area of the reserve. The maps supplied previously show 1. the full licenced area of the reserve, 2. the Liquor Licence area the same as every year- the open air Wilkie Pavillion. That is the one and only bar that alcohol is supplied from, Ian Sloan from Berry Springs Tavern is the Nominee/ Liquor licensee. There are two little locations where an esky of beer/ wine is taken, and is shown in the map. One is the show office demountable for the volunteers based in the office during the event, the other small esky to the woodchop area to provide very limited drinks to the 8 gentlemen providing the entertainment that need to stay with the equipment there.

As per our application, 1000 patrons were listed [for Saturday night concert], not 1200. See below on recommendation 2 response please.

As we do every year, a counter is used on and around the bar areas to ensure we comply. Eyesight Security who provides the security for over 5 years now is on standby to bring in extra security guards urgently if required.

Notified amount of security guards above cover security standards.

The application shows 20,000 attend throughout the 3 days of the Show. The evening entertainment on Saturday evening usually attracts around 1000 patrons who stay for the main concert (600 adults, 400 children under 18). Which require 11 Security, we have booked in 12 for this area alone.

On Sunday it is mainly families that attend the Jazz on the Lawn event and numbers are minimal (approximately 600 during the entire event).

There are always four roaming guards for Friday, Saturday and Sunday which are 24 hour security.

18/5/2019 - 4 roaming guards plus 12 guards are concentrated around the bar and licenced area from 6.00pm - 12.30am. If additional security is required due to crowds then the security firm is advised and immediately brings in additional guards to cover anything unexpected.

19/5/2019 - 4 roaming guards plus 12 guards concentrated around bar and licenced area. Again if additional security is required due to crowds then the security firm is advised and immediately brings in additional contingency guards.

50km Feast, There is a maximum of 200 people in attendance. There is no other function on that evening. There will be 4 guards on duty at all times in line with your security requirements including the gates for the 200 guests. One for perimeter for those few hours, three utilised at the feast. As mentioned If additional security is required due to crowds then the security firm is advised and immediately brings in additional guards to cover anything unexpected. We will have security at the gate entrance and then we will be putting up bollards as guests enter with a red carpet and checking tickets as they come through. This is a ticketed event and we only catering for up to 200 maximum- it may be less. Alcohol is served from 7pm. Gates close at 12 midnight.

The majority of families leave the reserve following the fireworks at 8.00[p]m and the bar caters for all tastes. The operator of the bar encourage drinking of low and mid strength alcohol however RTD's are very popular. We do not provide any alcohol in glass it is only cans. I will forward your request to the bar operator. Berry Springs Tavern to see if this would be an option, however as per previous years, RTD's have been authorised at this community show as we do

encourage sensible drinking practices in the licenced areas only at this event (not available in the various common areas or general public areas), and if any patron is drinking excessively security encourages them to leave the grounds and they are not served any further alcohol.”

21. Licensing NT on behalf of the Commission, made further enquiries with the Applicant on 30 April 2019 to clarify and confirm that alcohol was only to be consumed in the three smaller areas circled on their map rather than the entire area of showgrounds.

22. I will now discuss the 3 recommendations made by by NT Police below:

- a. *Recommendation: 1. Applicant be required to keep a tally of patron numbers during event to include capacity to report on same if and when requested to by police and or Licensing Inspector.*

The Applicant has advised that they use a counter for in and around the bar area to ensure they comply. It is noted that only the bar in the Wilkie Pavilion will be selling alcohol and it can only be consumed within that area or the main stage area next to it as well as the Woodchoppers area (as highlighted by 3 circles on the Applicant's map). No alcohol can be consumed outside those areas including the Side Show Alley.

The security company engaged by the Applicant is on standby to provide additional security if required.

- b. *Recommendation: 2 that industry standards be maintained for event 2 security: 100 patrons and 1:100 thereafter.*

I note the 2017 and 2018 special licenses did not require industry standards in relation to the number of crowd controllers and in fact an exemption to the industry standard was included in specific terms.

- c. *Recommendation 3: The event be restricted to the sale of low and medium strength alcohol proper with the exception of the “50km feast dinner” subject to appropriate security numbers.*

In regards to restricting alcohol sales to low and medium strength, this condition has not been imposed in recent years. I have been informed by Licensing NT there have been no compliance issues with recent years events. I have also not received any concerns regarding compliance from NT Police in regards to last year's or previous year's events. Low and mid-strength options as well as soft drinks and water will be readily available at the bar and throughout the grounds.

23. In relation to these 3 recommendations by NT Police, given the Applicant has been able to successfully manage this event for years without such conditions being imposed and with nil compliance issues evident, I do not consider there is a basis with respect to this particular special licence for such conditions to be considered and/or imposed and I decline to do so.

24. 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 outlined at the start of this Decision Notice.

Notice of Rights:

25. 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. I am exercising the power to make a Commission decision pursuant to the delegation made to me by the Commission.
26. 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.
27. 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 initial 'A' followed by a long horizontal line.

AMY CORCORAN
Member
Northern Territory Liquor Commission