

Delegate of the Liquor Commission

Decision Notice

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2018/032

VENUE: **Kamfari Race Track**
Section 1 Hundred of Parsons and part of Sections 2746
and 1732 Hundred of Hughes
COX PENINSULA ROAD, CHARLOTTE, NT 0822

APPLICANT: Darwin Motor Cycle Club Incorporated

EVENT: Kamfari Race Day

LEGISLATION: Section 58 of the *Liquor Act*.

DECISION OF: Ms Jodi Truman (Deputy Chairperson)

DATE OF DECISION: 30 April 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 the special licence to sell liquor to Darwin Motor Cycle Club Incorporated for the sale of liquor between the hours of 1000 hours and 1900 hours on Sunday 6 May 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 "Kamfari Race Day" occurring at the venue known as the Kamfari Race Track located at One Hundred of Parsons and Part Sections 2746 and 1732 Hundred of Hughes, Cox Peninsula Road, Charlotte 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.
 - c. A nominee **MUST BE** present during all trading hours and must ensure compliance with the conditions.
 - d. The Nominee is identified as Ms Melissa Holmes.

- e. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- f. 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.
- g. Any person involved in Crowd Control, as defined under the *Private Security Act*, at the Premises must be licensed as required by that Act.
- h. Crowd controllers are to be employed as per industry standards as follows:
 - i. Two (2) licensed crowd controllers for the first one hundred (100) patrons and one (1) additional crowd controller for each one hundred (100) patrons thereafter.
- i. All liquor must be sold in open containers.
- j. No more than four (4) cans or bottles must be sold to any one person at any one time.
- k. The licensee 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.
- l. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- m. 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.
- n. 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.
- o. The Licensee must comply with the Instructions of a Licensing Inspector, 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.
- p. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- q. 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.
- r. 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.

- s. 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 identify card or other authorisation.
- t. The venue must clearly display signage to delineate the Non Smoking area from the Smoking Areas and must comply with smoking requirements contained in the *Tobacco Control Act*.
- u. Food and drinks are not permitted to be taken into any designated smoking areas.
- v. The Licensee or an employee of the Licensee shall exclude or remove from licensed premises any person who is wearing colours, insignia or emblems of an outlaw motorcycle gang (“Bikie Gang”).

Reasons

Background

- 3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Darwin Motor Cycle Club Inc. applied to the Director-General of Licensing on 8 March 2018 for a special licence to permit the sale of liquor to patrons attending an event known as the “Kamfari Race Day” occurring at the venue known as the Kamfari Race Track located at One Hundred of Parsons and Part Sections 2746 and 1732 Hundred of Hughes, Cox Peninsula Road, Charlotte in the Northern Territory.
- 4. The applicant is known to Licensing NT having previously sought and obtained a special licence to conduct a similar event in previous years. I have received no information from Licensing NT to indicate there were any compliance issues for these prior events. I note that the same hours and similar conditions were permitted for the same event in 2017.
- 5. The applicant is seeking to sell liquor between the hours of 1000 hours and 1900 hours on Sunday 6 May 2018. It was stated in the application that it was estimated by the applicant that a crowd of 400 persons will attend the event which will be raced through Section 1 Hundred of Parsons and part of Sections 2746 and 1732 Hundred of Hughes. It is intended that there be one (1) location from which the applicant proposes to sell liquor to patrons and the sales shall be conducted from a table and/or booth. I understand this is consistent with previous years.

Consultation

- 6. 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 Fire and Rescue Service (“NTFRS”), and NT Police, Fire and Emergency Services (“NT Police”) and seek their comment.
- 7. With respect to this application:

- a. The DOH advised that they had “no adverse comment” and requested the applicant be provided relevant smoking signage. I understand that this has occurred.
- b. The NTFRS advised that they had “no objection” to the application.
- c. The NT Police advised that they had “no objection” to the application.

Assessment of the Application

8. 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.
9. 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.
10. 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”.
11. 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.”
12. 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.

13. As earlier noted, it is my understanding of the material before me that this application is similar to an application for, and granting of, a special licence to the applicant for the same event in 2017. The hours of service are the same. The premises are the same. The type of alcohol sought to be supplied for sale is the same. I have not been advised of any compliance issues following that event. It is also clear that the applicant has been provided special licenses for this event for many years. I also note there have been no objections or adverse comment from any relevant persons and as such I find no basis for this application to be refused.
14. It is as a result of the matters outlined above that I am satisfied, on balance, 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.
15. Before concluding these reasons, I do ask that for any future applications the applicant keep in mind the relevant time limitation periods for applications such as this, namely 28 days before the event. It is important to keep in mind that failure to comply with such time limitations may result in the refusal of the application.
16. Such time limitation periods should be complied with. Assessing such applications takes time and that is the reason why there are time limitation periods put in place. It assists the proper functioning of this Commission and the proper assessment of such applications which is in the best interests of all involved, including the applicant.
17. This event has been conducted for a number of years now and arrangements for the event itself commence many months in advance. Obtaining a special licence to sell and supply liquor is part of that process and the time limitations imposed must be complied with.

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. I am exercising the power to make a Commission decision pursuant to the delegation made to me by the Commission.
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.



JODI TRUMAN
Deputy Chairperson
Northern Territory Liquor Commission