

Delegate of the Liquor Commission

Decision Notice

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2018/012

PREMISES: Robbie Robbins Reserve
176 Stuart Highway
BERRIMAH NT 0828

APPLICANT: Top End Rodeo Circuit Inc.

EVENT: Mother of Pearl Rodeo

LEGISLATION: Section 58 of the *Liquor Act*.

DECISION OF: Ms Jodi Truman (Deputy Chairperson)

DATE OF DECISION: 26 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 Top End Rodeo Circuit Inc. for the sale of liquor between the hours of 1700 hours on Saturday 12 May 2018 and 0130 hours on Sunday 13 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 “Mother of Pearl Rodeo” occurring at the Premises known as the Robbie Robbins Reserve located at 176 Stuart Highway, Berrimah 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 Debra Fay Schroeder.
 - 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. The licensee shall ensure that at least 75% of crowd controllers employed are wearing clothing that is readily identifiable, e.g. “hi-vis” vests with “Crowd Controller”, “Security” or “Safe Staff” or similar upon them.
- j. All liquor must be sold in open containers.
- k. No more than four (4) cans or bottles must be sold to any one person at any one time.
- l. 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.
- m. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- n. 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.
- o. 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.
- p. 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.
- q. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- r. 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.
- s. 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.

- t. 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.
- u. The Premises 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*.
- v. Food and drinks are not permitted to be taken into any designated smoking areas.
- w. 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”), Top End Rodeo Circuit 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 “Mother of Pearl Rodeo” occurring at the Premises known as the Robbie Robbins Reserve located at 176 Stuart Highway, Berrimah 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 2015. Information provided to me by Licensing NT states that there were “nil” compliance issues for that event. I note that the same hours and similar conditions were permitted on that occasion.
- 5. The applicant is seeking to sell liquor between the hours of 1700 hours on Saturday 12 May 2018 and 0130 hours on Sunday 13 May 2018. It was stated in the application that it was anticipated by the applicant that a crowd between “1,500 - 2,000” persons will attend the event. It is intended that there be one (1) public bar and the applicant notes that it is located “away from the general public” with “security at the bar at all times”.

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”.

- b. The NTFRS advised that they had “no objections”.
- c. The NT Police advised that they “support this application contingent to:
 - i. Industry standard security for expected crowd numbers – security to ensure no alcohol enters or exits the event.
 - ii. Low to mid strength beer be provided – no full strength
 - iii. Alcohol volume to be one standard drink or less per serve
 - iv. Maximum 4 drinks per transaction with staggered decline in drinks per transaction toward the conclusion of the event”.

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 a similar event in 2015. 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. There were no compliance issues following that event.
14. Although there is no formal obligation to consult, responses were sought from the relevant stakeholders and I find that, in general terms, there were three (3) matters raised for consideration:
 - a. Security (or crowd controller) numbers;
 - b. Type of alcohol to be available for sale; and
 - c. Maximum number of drinks and decline towards conclusion of the event.
15. In relation to security (or crowd controller) numbers, following receipt of the response from NT Police, the applicant was asked if they wished to provide a response to the matters raised by NT Police and responded as follows:

“Our security insures (*sic*) that no alcohol enters the venue, all alcohol is sold at the bar by RSA representatives who understand the conditions of our licence”.
16. As previously noted I acknowledge there were no compliance issues arising from the special licence previously issued to the applicant in 2015 for a similar event. That is to the applicant’s credit. However, the evidence provided to me makes clear that the special licence that was issued to the applicant for the 2015 event contained a general provision as follows:

“Crowd controllers are to be employed as per industry standards as follows: 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”.
17. This is therefore a condition about which the applicant has been required to comply as a condition of the special licence previously granted to them. In addition it is important that it be understood that the requirement for crowd controllers is not simply for compliance with provisions under the *Liquor Act*, but also to be able to address issues relating to general public safety that are known to arise from time to time when there is any mass gathering of people for events such as the one sought to be undertaken by the applicant at this rodeo.
18. As a result industry standards have been prepared and put in place for some time to be able to ensure that such general safety concerns are considered and are capable and able to be dealt with by the applicant (or any applicant for that matter) should the need arise.

19. In these circumstances I find no basis upon which that condition in relation to crowd controllers should be altered and I decline to do so. The applicant will need to ensure there are sufficient crowd controllers employed to meet the industry standard for the number of persons in attendance at the event.
20. In relation to the type of liquor available for sale, I note that when the application was made in 2015 for this event and the supply and sale of liquor was sought, consultation was again made with NT Police. At that time it was also made clear that "beer and spirits" were sought to be supplied and in fact there were "no more than 3,000 patrons" estimated to be in attendance. On that occasion, NT Police advised they had "nil issues" with the application.
21. Again, the evidence before me is that there were no compliance issues arising from that special licence issued to the applicant in 2015. No evidence or information has been placed before me as to any basis for the NT Police to suggest that it is necessary for there to be change in the type of liquor permitted to be sold by the applicant.
22. In these circumstances I find that there is no basis to support a finding that there is a need with respect to this particular special licence for a condition to be considered and/or imposed that provides for only the service of low to mid strength beer and I decline to make that a condition of this special licence.
23. In relation to the maximum number of drinks to be served and a decline towards the conclusion of the event, I note that having seen a number of these special licence applications; this appears to be a general response provided by NT Police with respect to these types of applications.
24. I note that this Commission has hypothesised recently that this may be a general policy stance taken by police. There may be reasons for such a stance, but unfortunately they have not been articulated and certainly have not been identified with respect to the circumstances of this particular application.
25. As previously noted; there is no requirement under the Act for advertising of special licence applications, or provision for formal objections. I must however consider the objects of the Act and to do so, I rely upon the evidence and information placed before me.
26. I have not been provided with any relevant matters that the NT Police may have to support a particular condition being imposed in this special licence for the decline in the service of the number of maximum drinks towards the conclusion of the event.
27. Again, as earlier noted, in 2015 a similar application for a special licence was made by the applicant and no such condition was sought by NT Police and there were no issues in relation to compliance.
28. In these circumstances I find that there is no basis to support a finding that there is a need with respect to this particular special licence for a condition to be considered and/or imposed that provides for the decline in the service of the number of maximum drinks towards the conclusion of the event and I decline to make that a condition of this special licence.

29. 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.

Notice of Rights:

30. 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.
31. 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.
32. 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