

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for a liquor licence with a major event authority
APPLICANT:	Finke Desert Race Incorporated
PREMISES:	NT Portion 6333 South Stuart Highway Alice Springs, NT 0870
LEGISLATION:	Part 3 Division 4 of the <i>Liquor Act 2019</i>
Decision of:	Southern Region Manager – Licensing & Compliance
DATE:	21 May 2024

DECISION

- For the reasons set out below and in accordance with section 60(1) of the *Liquor Act 2019* (the Act), I have determined to grant a liquor licence to the Finke Desert Race Incorporated (the Applicant) with a major event authority for the sale of liquor during the following periods:
 - Friday, 07 June 2024 – 16:00 hours to 22:00 hours
 - Saturday, 08 June 2024 – 10:00 hours to 18:00 hours
 - Sunday, 09 June 2024 – 10:00 hours to 17:00 hours
 - Monday, 10 June 2024 – 10:00 hours to 18:00 hours
- The licensed premises is the Finke Desert Race Start/Finish line at Lot 6333 South Stuart Highway, Alice Springs NT 0870 and delineated by the red line in the page 96 of the supporting documents provided by a licensing officer to the Director of the Liquor Licensing (the Director).
- I approve Ms Leanne Southam and Ms Kelsey Ann Branford as the designated nominees of the Applicant.
- Except as otherwise stated below, the licence is subject to the conditions pursuant to Part 4 of the Act (Conditions on licences and authorities) and Division 12 (Major event authority conditions) of the *Liquor Regulations 2019* (the Regulations) and the following additional conditions:
 - The area 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 licensee.
 - All liquor must be sold in open metal cans or plastic cups.
 - Spirits must not be sold in containers with more than 5% alcohol by volume.
 - Wine (including sparkling wine) must not be sold in containers with more than 150 ml.
 - At least one security officer is to be on duty near the area where liquor is stored on the premises at all times when members of the public are permitted to be on the premises, so as to guard against theft of liquor from the premises.

- f) The licensee is required to identify and establish a suitable area outside the licensed premises where support services can be provided to minors who may require assistance. The area must be clearly signposted. This area must be staffed when minors are present whilst the event is in progress, and those staff must prevent entry into the area by intoxicated adults.
- g) The licensee shall maintain a Security Incident Register in which details of consumption by or supply of liquor to a minor, or of an intoxicated minor, are to be entered, including the name and address of the person(s) involved.
- h) A minimum of twelve Crowd Controllers are required to be in attendance on 07 and 08 June 2024; and a minimum of ten Crowd Controllers are required to be in attendance on 09 and 10 June 2024. To the extent that this condition is inconsistent with the condition set out at Regulation 68(2) of the Regulations, this condition prevails.

BACKGROUND

- 5. The Finke Desert Race is an annual major event in Central Australia, which has been operating for over 40 years. The event includes off-road racing and is regarded as the biggest annual sporting event in the Northern Territory, held for four days (King's Birthday Weekend).
- 6. On 01 May 2024, 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 liquor to persons attending Finke Desert race for the premises known as the Start/Finish line located at Lot 6333 South Stuart Highway, Alice Springs NT 0870.
- 7. There is typo in page 4 of the application form provided by the Applicant in respect to year (year 2023 is written instead of year 2024).
- 8. Based on its experience as the operator of the previous Finke Desert Races, the Applicant anticipate that this event will attract 7000 people at any time.
- 9. Finke is a family friendly event, targeted to all members of the local Alice Springs Community, together with competitors and spectators that travel from all over the country and internationally.
- 10. The sale, service, supply and consumption of liquor is ancillary to the event, with light, mid and heavy strength beer available as well as spirits, ready to drink alcohol and wine by the glass. Food stalls will also be available.
- 11. The Applicant has provided materials regarding the Applicant's finances, governance, operations and facilities, the running of the event, the proposed operation of the liquor licence, and the qualifications, experience and character of the proposed joint nominees.

NOTIFICATIONS, PUBLIC NOTICES AND OBJECTIONS

- 12. Amendment to the Act in November 2021 inserted section 57(2A) which provides the Director with a discretion to exempt an applicant from the public notice requirements if the Director is of the opinion that the application discloses no public interest issues.
- 13. The Finke Desert Race is an annual event, which has been running for over 40 years, with no issues in meeting compliance requirements of the liquor licence. The event is widely advertised through television, national media, own website, social media, Instagram, and print coverage. There is highly unlikely that general public will have any issues in relation to the sale or service of alcohol at the event given the location of the premises, being 13km from the township and no neighbours that occupy the property.

14. On 08 May 2024, the Director has exempted the public notice requirements for the reoccurring major events that have been delegated by the Liquor Commission (the Commission) to the Director.
15. Pursuant to sections 56(4) of the Act, the following stakeholders were notified of the application by the Licensing NT:
 - a) The Department of Health (DOH)
 - b) Northern Territory Police (NT Police)
 - c) Alice Springs Town Council (Council)
 - d) Northern Territory Fire and Rescue Service (NTFRS)
 - e) St John Ambulance Australia (NT) Incorporated (St John).
16. With respect to the application:
 - a) DOH advised that it has no objections.
 - b) NT Police advised that it has no objections.
 - c) NTPRS advises that it has no objections
 - d) No response was received from Council and St John.

COMPLIANCE

17. Liquor Compliance has informed that the Applicant, which has been granted major liquor licences for many years for the Finke Desert Race, has no history of non-compliance with the liquor licence conditions.

APPLICATION

18. The Applicant has provided a comprehensive suite of materials in support of the application including all materials prescribed by the Act.
19. The authority sought by the applicant is in pursuance of section 47(1)(o) of the Act.
20. The determination of applications under section 60(1) of the Act has been conditionally delegated by the Commission to the Director of Liquor Licensing. The limitation including the authorities which may be granted under delegation being a reoccurring major event.
21. The Director further delegated these powers to me by instrument.

DISCLOSURES OF PERSONS

22. Section 54 of the Act requires the applicant to make an affidavit disclosing each person who, if the licence is issued, may:
 - a) be able to influence the applicant; or
 - b) expect a direct or indirect benefit from the applicant.
23. I am satisfied with the materials provided by the Applicant in relation to this requirement.

RESULTS OF INVESTIGATION

24. Section 58 of the Act enables the Director to conduct an investigation into an application as considered appropriate. No materials have been discovered or provided to indicate there are any adverse matters in relation to this application.
25. A fulsome Event Management Plan was provided detailing the exclusive nature of the premises and comprehensive services to be offered.

FINANCIAL STABILITY

26. I am satisfied with the materials provided of the financial stability and business reputation of the Applicant.

FIT AND PROPER PERSON

27. Section 59(3)(g)(i) of the Act requires the decision maker to consider whether the applicant and as the applicant is a body corporate, their nominated licensee, are fit and proper to hold a licence.
28. The Applicant has nominated Ms Leanne Southam and Ms Kesley Branford as the joint nominees. The Applicant has provided the sufficient materials to demonstrate they are suitable and meets the requirements in relation to financial stability.
29. Having considered the materials provided I am satisfied the Applicant and Ms Southam and Ms Branford remains a fit and proper person to hold a licence and act as joint nominees.

PUBLIC INTEREST AND COMMUNITY IMPACT

30. Section 49 of the Act requires the decision maker to be satisfied the applicant is fit and proper, the licence or authority is in the public interest and will not have a significant adverse impact on the community.
31. The first branch of the requirement has already been addressed.
32. It remains to consider whether the application is in the public interest, to do so consideration must be given to the objectives prescribed in section 49(2) of the Act which include:
 - a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - b) ensuring liquor is to be 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 the practices that encourage irresponsible drinking;

- j) reducing or limiting increases in anti-social behaviour.
33. In determining whether there would be a “significant adverse impact on the community” section 49(3) of the Act prescribes the decision maker “must consider the following”:
- 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.
34. The Act is clear in that the applicant bears the onus of satisfying the decision maker of the relevant matters, irrespective of whether no objections were received as is the case in this matter.
35. In relation to the issue of the community impact and public interest, those matters have previously been published under section 6A of the Liquor Act 1978 and in force immediately before the commencement of the Liquor Act 2019, and are taken to be community impact assessment guidelines issued under section 50 of the Act.
36. Those matters remain as previously published in numerous decisions by the Liquor Commission and I am guided by these decisions.

CONSIDERATION CRITERIA

37. Consideration must be made of the applicant’s affidavit, the results of any investigation, objections and responses, the suitability of the premises along with the appropriateness of the applicant to be a licensee.
38. With regards to the matters raised in section 49(2) of the Act, I note the following:
- a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised:

I am satisfied the provision of liquor is ancillary to the overall facilities management provision associated with the proposal and is not the significant attractor.
 - b) ensuring liquor is to be sold, supplied, served and consumed, on or in licensed premises in a responsible manner:

Having considered all the material, it is unlikely any liquor sold, supplied, served and consumed will be done so in an irresponsible 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:

The remote location and ticketed event makes it improbable that public order and safety are likely to be jeopardised by the operation of the licence, also the Applicant has prepared a suitable event management plan including processes to safeguard against harm.

- d) protecting the safety, health and welfare of people who use licensed premises:

The event management plan, noise management plan and policies developed by the Applicant applicable to the premises are considered to adequately protect the safety, health and welfare of people who are likely to use the licensed premises during its hours of operation.

- e) increasing cultural, recreational, employment or tourism benefits for the local community area:

Finke Desert Race is an annual event attracting 7000 people at any time, and it is relevant this is a family event therefore many of the overall patrons are not consuming liquor and are there to enjoy the motor sports. This event clearly promotes recreation, employment or tourism benefits to the wider Alice Springs region.

- f) promoting compliance with this Act and other relevant laws of the Territory:

There are no materials provided which would suggest the Applicant will not comply with the Act and any other relevant laws.

As a previous years' licensee, the Applicant has demonstrated their ability to comply with the requirements of the Act and I have no concerns this will change in the granting of this licence.

- g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business:

I am satisfied the applicant will appropriately manage and supervise service staff.

- h) preventing the giving of credit in sales of liquor to people:

No issues have been raised to suggest there is any concern in relation to this objective.

- i) preventing the practices that encourage irresponsible drinking:

No issues have been raised to suggest there is any concern in relation to this objective.

- j) reducing or limiting increases in anti-social behaviour:

No issues have been raised to suggest there is any concern in relation to this objective.

39. Turning to the matters under section 49(3):

- 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:

There are no materials to suggest there is a significant risk of undue offence, annoyance, disturbance or inconvenience likely to be caused by the granting of this authority. The site is remote and access is ticketed.

- b) the geographic area that would be affected:

There are no other residents within the immediate vicinity of the premises and therefore no adverse impact will result from this licence.

- c) the risk of harm from the excessive or inappropriate consumption of liquor:

As previously indicated, there are no materials to suggest there will be excessive consumption of liquor.

Finke Desert Race is an annual event where the primary activity is to watch the race and have a good quality family time, rather than attend the event to consume the liquor inappropriately or excessively. There has been no incidents or records related to the excessive or inappropriate consumption of liquor in this event for over 40 years.

- d) the people or community who would be affected:

Given the remote location of the premises it is unlikely there will be significant adverse impact on the community by the granting of this licence.

- e) the effect on culture, recreation, employment and tourism:

This event attracts around 7000 people at any time and highly likely will boost the local, interstate and international tourists to the wider Alice Springs region and boosting culture, recreation, employment and tourism in the event dates. This increase in number of the tourists is unlikely to have any adverse impact in the wider Alice Springs region.

- f) the effect on social amenities and public health:

It is unlikely there will be any significant adverse impact on the social amenities and public health by the granting of this licence to the applicant.

- g) the ratio of existing liquor licences and authorities in the community to the population of the community:

Targeted customer of this authority is the racing enthusiasts and families and accordingly this may likely not to impact on 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:

As the event is the family friendly targeting racing enthusiasts and followers, its operation is unlikely to significantly increase the volume of liquor sales in the wider Alice Springs regional area.

- i) the community impact assessment guidelines issued under section 50:

These have been considered and referred to earlier in this notice.

40. Having regards to the foregoing, I am satisfied that the issuing of the major event authority as sought is in the public interest and will not have an adverse effect on the community.

REVIEW OF DECISION

41. Section 27 of the Act provides for the Applicant or a person who made a submission the subject of the decision, to seek a review of a decision made by the delegate of the Director
42. The Director delegated the determination of applications made under section 52 of the Act by instrument to the person from time to time holding, acting in or performing the duties of the position listed in the Schedule of that instrument. This decision was made by a person referred to in that schedule.

43. An application for review must be lodged with the Director within 28 days after written notice of the decision is given to the person and must be in the form approved by the Director, stating the grounds for the review and the facts relied on to establish the grounds.
44. Accordingly, the affected persons in relation to this decision are Finke Desert Race Incorporated, DOH, NT Police and NTFRS.



Mark Wood
Southern Region Manager – Licensing & Compliance
Delegate of the Director of Liquor Licensing
21 May 2024