

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2018/064
VENUE:	Spain Place including Gwelo carpark Between Austin Lane and Cavanagh Street DARWIN CITY NT 0800
APPLICANT:	Cancer Council NT
EVENT:	“Spain Place Fiesta”
LEGISLATION:	Section 58 of the <i>Liquor Act</i> .
DECISION OF:	Ms Jodi Truman (Deputy Chairperson)
DATE OF DECISION:	12 June 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 Cancer Council NT for the sale of liquor on Friday 15 June 2018 between the hours of 1700 hours to 2359 hours.
2. The granting of approval is subject to the following conditions, namely:
 - a. The liquor shall be sold at the event known as “Spain Place Fiesta” occurring in Spain Place including Gwelo carpark between Austin Lane and Cavanagh Street, Darwin 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.
 - d. The Nominee is identified as Ms Nadine Estelle Jones.

- 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 (1) person at any one time.
- k. The licensee must ensure that water, soft drink 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 Premises is a smoke free event with no designated smoking areas.
- u. 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”).
- v. For the purpose of fire safety, the Licensee or an employee of the Licensee shall ensure there are dry chemical powder extinguisher/s (3A40B:E) to be located at any food stall vendors along with a 1.2 x 1.8 metre fire blanket/s. Such fire extinguisher/s and fire blanket/s are to be maintained per Australian Standards (AS 1851).

Reasons

Background

3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Cancer Council NT applied to the Director-General of Licensing on 24 May 2018 for a special licence to permit the sale of liquor to patrons attending an event known as “Spain Place Fiesta” occurring in Spain Place including Gwelo carpark between Austin Lane and Cavanagh Street, Darwin in the Northern Territory (“the Premises”).
4. This application was subsequently referred to the Commission on 6 June 2018 and to me in accordance with my delegation to deal with applications of this nature.
5. The applicant is seeking to sell liquor between the hours of 1700 hours to 2359 hours on Friday 15 June 2018. It was stated in the application that it was anticipated by the applicant that there would be 800 persons expected to attend the fundraiser in total, with 400-500 persons in attendance at any one time. The event is a ticketed event with funds raised going to assist Territorians diagnosed with cancer.
6. The event is a Spanish themed street party and it is proposed to incorporate food stalls with Sangria, Spanish wine and beer proposed for sale, including beer in low and full strength varieties. It is proposed that all liquor will be served by the glass. Private security or crowd controllers will be employed in accordance with the industry standard and the street shall be closed to traffic. This is the first event held of this nature by the Cancer Council NT who has also not previously applied for a special licence.

Consultation

7. 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”), Northern Territory Police, Fire and Emergency Services (“NT Police”), and Northern Territory Fire and Rescue Service (“NTFRS”) and seek their comment.
8. With respect to this application:
 - a. The DOH had “no adverse comment” noting the event was a smoke free venue.
 - b. The NT Police raised an issue with the traffic management plan which it noted was being addressed and advised “there are nil objections from the liquor aspect. We ask though that the applicant ensures secure storage of alcohol at all times and especially if there is alcohol left overnight on location”. This response was provided to the applicant who advised the alcohol would be properly stored and secured but no alcohol would be left overnight.
 - c. The NTFRS requested a copy of the traffic management plan and that “all food vendors must have a 3A40BE dry chemical extinguisher at their stall” and that “(t)hose who are using a deep fryer must have a fire blanket as well. The applicant provided the traffic management plan and confirmed all stall holders would have the appropriate fire control items.

Assessment of the Application

9. 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.
10. 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.
11. 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”.

12. 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.”

13. 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.

14. I note that with respect to each issue raised, the applicant immediately responded and in my opinion fully addressed the concerns. I am satisfied with the responses provided by the applicant and find such responses provide a good indication of the manner in which the applicant will conduct itself under any special licence granted to it. On the basis of the material before me, I find there is no basis to believe the applicant would not comply with the usual conditions of the special licence as sought.

15. Given the nature of this event and for the reasons outlined above; I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and I have decided to grant the special licence as outlined at the start of this Decision Notice.

Notice of Rights:

16. 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.

17. 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.

18. 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, appearing to read 'Jodi Truman', with a long horizontal flourish extending to the right.

JODI TRUMAN
Deputy Chairperson
Northern Territory Liquor Commission