

Delegate of the Liquor Commission

Decision Notice

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| MATTER: | APPLICATION FOR A SPECIAL LICENCE |
| REFERENCE: | LC2019/090 |
| VENUE: | LITTLE MINDIL BEACH LAWNS Lot 7651 Town of Darwin Gilruth Avenue THE GARDENS NT 0800 |
| APPLICANT: | Delaware North Darwin Casino Pty Ltd |
| EVENT: | Qantas Darwin Turf Club Gala Ball |
| LEGISLATION: | Section 58 of the <i>Liquor Act 1978</i> |
| DECISION OF: | Ms Amy Corcoran (Commissioner) |
| DATE OF DECISION: | 11 July 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 Delaware North Darwin Casino Pty Ltd (**the Applicant**) for the sale of liquor at the event known as the “Qantas Darwin Turf Club Gala Ball” to be held at Lot 7561 Town of Darwin known as the Little Mindil Beach lawns adjacent to the Mindil Beach Casino Resort.
2. The special licence is for the period from 18:00 hours on Saturday, 3 August 2019 to 1:00 hours on Sunday, 4 August 2019.
3. The granting of approval is subject to the following conditions:
 - a. For the duration of this Special Licence, the conditions of the Applicant’s existing liquor licence number 80100141 will apply to the area specified in paragraph 1 subject to the following further conditions:
 - b. The Applicant shall not do or permit or suffer any act, matter or thing whatsoever which shall cause unreasonable annoyance or disturbance to the occupiers of adjoining properties.
 - c. All staff directly involved in the sale, service or supply of liquor must hold a Responsible Service of Alcohol certificate.

- d. Water is to be available to patrons at all times.
- e. Patrons must be 18 years and over.
- f. All liquor must be opened at the time of sale or supply.
- g. Music and entertainment is to cease by 01:00 hours on Sunday, 4 August 2019.

Reasons

Background

- 4. On 21 May 2019, pursuant to section 58 of the *Liquor Act 1978 (the Act)*, the Applicant lodged an application with the Director-General of Licensing for the grant of a special licence to permit the sale of liquor at the Qantas Darwin Turf Club Gala Ball (**Darwin Cup Ball**) to be held at Lot 7561 Town of Darwin known as the Little Mindil Beach lawns adjacent to the Applicant's licensed premises, Mindil Beach Casino Resort.
- 5. The Applicant is seeking to sell and supply liquor from 18:00 hours on Saturday, 3 August 2019 to 1:00 hours on Sunday, 4 August 2019.
- 6. The Darwin Cup Ball is an integral part of the Darwin Cup Carnival racing calendar and is a sit down, black tie event with a substantial ticket price, which includes a three course meal, high quality live entertainment and alcoholic beverages.
- 7. The Applicant is proposing to set up five (5) liquor service areas. Two (2) non-cash service bars to facilitate the food and beverage package for patrons. Two (2) premium bars and a champagne bar will also be in operation from which alcohol not otherwise included in the beverage package can be purchased.
- 8. The Applicant states in their application that the Darwin Cup Ball is an 18 plus only event and "attracts a largely mature demographic that are at the lower end of the scale in regard to risk and issues that might be expected in relation to patron behaviour and the Responsible Service of Alcohol."
- 9. Approximately 2,200 persons are expected to attend the event.
- 10. The Applicant has confirmed that members of St John's Ambulance will be on site to administer first aid and medical treatment in the case of a medical emergency.

Consultation

- 11. 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 (**NT Police**), St John Ambulance Australia (NT) Inc. (**SJA**) and NT Fire, Rescue Service (**NTFRS**) and seek their comment. With respect to this application:

12. *NTFRS* had no objection but provided a list of requirements for special events held outside that must be complied with. A copy of this list was forwarded to the Applicant.
13. NT Police had 'no objections'.
14. SJA had 'no concerns'.
15. DOH had 'no adverse comment' however reminded the Applicant that it must comply with the *Tobacco Control Act 2002* including recent changes to come into effect on 1 July 2019.
16. The Applicant holds a full liquor licence number 80100141 in respect to the adjacent property known as Mindil Beach Casino Resort.
17. Records held by Licensing NT do not indicate any adverse compliance history in respect of previous Darwin Turf Club Balls.

Assessment of the Application

18. 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.
19. 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.
20. 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".
21. 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.”

- 22. 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.
- 23. There have been no objections by the stakeholders to this application. I note NTFRS' position above and confirm that the Applicant will need to follow their directives. I also confirm in relation to DOH's comments that the Applicant will need to comply with the *Tobacco Control Act 2002*.
- 24. Although it proceeded by way of a licence variation, a similar extension was permitted in respect of the events over the past few years. It has historically been well managed and is a significant tourist attraction for the Northern Territory.
- 25. I am satisfied that this application meets the objects of the Act and I have determined to grant the special licence as particularised above at the commencement of this Decision Notice.

Notice of Rights:

- 26. 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.
- 27. 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.
- 28. 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.



AMY CORCORAN

Member

Northern Territory Liquor Commission