

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2019/027

VENUE: Civic Park
17 Harry Chan Avenue
DARWIN NT 0800

APPLICANT: Italian Festival Association Incorporated

EVENT: Darwin Italian Festival 2019

LEGISLATION: Section 58 of the *Liquor Act*

DECISION OF: Ms Amy Corcoran (Commissioner)

DATE OF DECISION: 27 March 2019

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 a special liquor licence to the Italian Festival Association Incorporated (**the Applicant**) for the sale of liquor at between the hours of:

12:00 hours to 23:59 hours on Saturday, 11 May 2019.

2. The granting of approval is subject to the following conditions, namely:
 - a. The liquor shall be sold at the event known as the 'Darwin Italian Festival 2019' situated at Civic Park, 17 Harry Chan Avenue, Darwin in the Northern Territory.
 - b. The sale of liquor must be supervised by one or more persons nominated by the holder of the special licence (the Nominee/s), who each must 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 these Conditions.

Nominee/s: NICOLA DI CANTILLO

- d. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- e. 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.
- f. Any person involved in Crowd Control, as defined under *the Private Security Act*, at the premises, must be licensed as required by that Act.
- g. Crowd Controllers are to be employed as per industry standards as follows:
 - Two licensed crowd controllers for the first 100 hundred patrons and one additional crowd controller for each 100 hundred patrons thereafter.
- h. All liquor must be sold in open containers.
- i. No more than four (4) cans or bottles must be sold to any one person at any one time.
- j. The holder of the special licence must ensure that water, soft drinks, 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.
- k. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- l. The holder of the special licence 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.
- m. The holder of the special licence must comply with all requirements and guidelines published by the Liquor Commission or Director-General, including guidelines related to the conduct of entertainment.
- n. Where the holder of the special licence is operating from enclosed premises, the holder must prominently display on the premises the “Maximum Patron Number” sign (if one has been issued by the Fire and Rescue Service) and must comply with maximum patron numbers as determined by the Northern Territory Fire and Rescue Service from time to time.
- o. The holder of the special licence 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 holder of the special licence must comply with the requirements of the Liquor Commission or Director-General as specified in this condition, and with the instructions of 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 identity card or other authorisation.
- q. All liquor purchased for sale under the authority of this special licence **MUST** be purchased from a licensed retail outlet.
- r. The holder of the special licence must make a record of all liquor obtained for sale under this special licence that identifies the source of the liquor and the type and quantity of each type of liquor so obtained.
- s. The holder of the special licence 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 special 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 identity card or other authorisation.
- u. The holder of the special licence must comply with smoking requirements contained in the *Tobacco Control Act*.
- v. Omitted.
- w. The holder of a special licence or employee of a holder shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang).

Commission's Instructions in accordance with Condition (p):

- No provision of alcohol drinks that:
 - 1. are designed to be consumed quickly and which are commonly referred to as a 'shot or shooters'; or
 - 2. are a cocktail containing more than a 30ml nip of spirit or liquor.
- Soft drinks and water may be available from the bar but must also be available from separate outlets.
- Crowd control arrangements shall comprise of static and roaming crowd controller to diligently monitor and enforce all licensing requirements and regulations pertaining to the sale of alcohol;

- At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example, high-viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

Reasons

Background

3. On 7 November 2018 pursuant to section 58 of the Act, the Italian Festival Association Incorporated (**the Applicant**) lodged an application with the Director-General for the grant of a special licence to permit the sale of liquor to patrons attending an event known as the 'Darwin Italian Festival 2019'. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. The Darwin Italian Festival is a biennial family friendly event celebrating and promoting Italian culture, heritage and traditions for the Darwin community through food, beverages, art, music, language, dance and entertainment. 2019 will be the fourth Darwin Italian Festival held at Civic Park.
5. The Applicant is seeking a special licence for the following hours of trade:

12:00 hours to 23:59 hours on Saturday, 11 May 2019.
6. A crowd of approximately 15,000 people are expected to attend the event over the course of the day. Beer (pre-dominantly Italian beer) and wine are proposed for sale from one designated bar. Soft drinks and water are also available at the event. Around 22 food and drink stalls will be present on the day.
7. The Applicant is seeking the special licence on substantially the same terms as was applied for and granted by the Director-General in 2017.
8. The Applicant has confirmed that St John's Ambulance first aid officers will be present at the event.
9. In relation to security and crowd control arrangements, the Applicant indicates there will be sufficient crowd controllers present at the event to adhere to the industry standard for crowd control. Specifically, this is two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.
10. I have been informed by Licensing NT, that there have been no compliance issues with respect to previous special licenses issued for the event.

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), NT Police, Fire and Emergency Services (**NT Police**) and NT Fire, Rescue Service (**NTFRS**), St John's Ambulance (**SJA**) and seek their comment.

12. With respect to this application:

- a. The NT Police advised that it has no objections and requested the applicant "ensure the area around the bar and drinking area is fenced to support security efforts and staggered reduction in alcohol towards the end of the event."
- b. The NTFRS had no objection to the event on the proviso they receive the traffic management plan and they reserve the right to inspect the event. The traffic management plan was forwarded to NTFRS by email on 29 February 2019.
- c. SJA had "no objection" to the application.
- d. The DOH had no adverse comment, but requested consideration of patron and community safety and amenity when determining the application and provided the comment on the understanding the Applicant acknowledges the *venue is a smoke free venue*. DOH also noted no smoking signs are required to be displayed at each entry point to the festival. The Applicant was sent the appropriate signage by email on 26 February 2019.

Assessment of the Application

13. As noted above, this is an application for a special licence under section 58 of the Act within Part VI of the Act. There are no specific criteria prescribed by 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.

14. 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 under section 6 of the Act.

15. However, pursuant to section 3(3) of the Act, the Commission when "exercising a power or performing a function under (the Act) 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".

16. 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.”

17. As a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.

18. In respect to the comments provided by NT Police, the Applicant should consider these requests and implement them as appropriate. I note the Applicant indicated in its submission that it will not be serving alcohol past 23:00 hours despite the request for trading hours to 23.59 hours which will assist with dispersing the crowd at the end of the evening.

19. When assessing the application and supporting documentation lodged, it is evident the Applicant has strategies and initiatives in place to mitigate risk and to uphold public order and safety. These include an established risk management plan, traffic management arrangements and pre-event safety briefings with stakeholders and other key event participants.

20. The Darwin Italian Festival, as it has in previous years, is a family orientated cultural event and is considered low risk by Licensing NT. The sale of alcohol is very much an ancillary aspect of the event rather than the main drawcard. There has also been no compliance or patron safety concerns raised from previous years' events by either Licensing NT or NT Police.

21. It is as a result of the matters outlined above that I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and for the reasons outlined I have decided to grant the special licence as set out at the start of this Decision Notice.

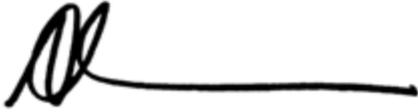
Notice of Rights:

22. 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.

23. 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.

24. 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, consisting of a stylized initial 'A' followed by a long horizontal line.

AMY CORCORAN
Presiding Member
Northern Territory Liquor Commission

27 March 2019