

Delegate of the Liquor Commission

Decision Notice

MATTER: **APPLICATION FOR A SPECIAL LICENCE**

REFERENCE: LC2019/061

PREMISES: **Civic Park**
17 Harry Chan Avenue
DARWIN NT 0800

APPLICANT: Agentur Pty Ltd

EVENT: Diner en Blanc Darwin

LEGISLATION: Section 58 of the *Liquor Act 1978*

DECISION OF: Ms Amy Corcoran (Member)

DATE OF DECISION: 12 June 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 Agentur Pty Ltd (**the Applicant**) for the event known as the “Diner en Blanc Darwin” occurring at the venue known as Civic Park located at 17 Harry Chan Avenue Darwin (**the Premises**) in the Northern Territory on Saturday, 22 June 2019.
2. The granting of approval is subject to the following conditions, namely:
 - a. The only liquor permitted for sale is wine, namely white wine, red wine and champagne.
 - b. The sale of liquor is restricted to registered participants of the event known as the “Diner en Blanc Darwin” and may be pre-ordered online from the Applicant by participants between the hours of 1000 hours to 1800 hours from the date that this special licence is issued until 19 June 2019.
 - c. The liquor that is pre-ordered by participants only be supplied by the Applicant at the event known as the “Diner en Blanc Darwin” between the hours of 1730 hours and 2300 hours on Saturday 22 June 2019.
 - d. Liquor must otherwise not be sold at the event.

- e. The liquor that is pre-ordered must be consumed within the boundary of the Premises.
- f. The sale of liquor must be supervised by one or more persons nominated by the Licensee (**the Nominee**), who each hold a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General.
- g. The Nominee MUST BE present during all trading hours and must ensure compliance with the conditions.
- h. The Nominee is identified as Ms Britta Decker.
- i. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- j. 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.
- k. Any person involved in Crowd Control, as defined under the *Private Security Act 1995*, at the Premises must be licensed as required by that Act.
- l. 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.
- m. No more than four (4) bottles of wine must be sold to any one person at any one time.
- n. The licensee must ensure that water, soft drink and a full meal are available during Trading Hours. Commercially bottled water may be sold, otherwise water must be supplied free of charge on request.
- o. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- p. 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.
- q. 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.

- r. 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.
- s. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- t. 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.
- u. 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.
- v. 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.
- w. 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 2002*.
- x. Food and drinks are not permitted to be taken into any designated smoking areas.
- y. The Licensee or an employee of the Licensee shall exclude or remove from the Premises any person who is wearing colours, insignia or emblems of an outlaw motorcycle gang (“Bikie Gang”).

Reasons

Background

- 3. On 2 April 2019, pursuant to section 58 of the Act, the Applicant applied to the Director-General of Licensing for a special licence to permit the sale of liquor to patrons attending an event known as the “Diner en Blanc Darwin” occurring this year at the venue known as Civic Park located on 17 Harry Chan Avenue, Darwin in the Northern Territory.
- 4. The application was then referred to the Liquor Commission on 7 May 2019 and to me pursuant to my delegation to deal with such special licence applications.
- 5. The event is a concept of a “chic picnic” which is held in a secret location kept undisclosed until just before the picnic is set to commence. It is an event known worldwide and is self-described as:

“Thousands of people, dressed in all white, and conducting themselves with the greatest decorum, elegance, and etiquette, all meet for a mass ‘chic picnic’ in a public space”.

6. The event is a ticketed event and attendees are also required to register to become “members” in order to be eligible to attend the event. The same event was held for the first time in 2017 at Fishermen’s Wharf and in 2018 at Parliament House Lawns.
7. This application appears to be made on the same terms as the events held over the past 2 years, except of course the venue changes and also, this year, the Applicant has sought to commence the event earlier by just half an hour.
8. The Applicant is seeking to supply liquor to the attendees only during the hours of the event, namely 1730 hours and 2300 hours on Saturday 22 June 2019. However, the Applicant wishes to be able to permit attendees to order liquor online prior to the event date. It is proposed that attendees will only be permitted to pre-order and subsequently consume wine, namely white wine, red wine and champagne.
9. The Applicant is seeking to commence pre-ordering online from the date that this special licence is issued until “5 to 7 days prior to the event”. The hours for pre-ordering liquor will be between 1000 hours to 1800 hours during the pre-ordering period.
10. No other liquor will be available for sale at the event and patrons will not be permitted to remove any pre-ordered alcohol from the event. It is intended that there be one (1) location from which the Applicant proposes to supply the pre-ordered liquor to patrons from a table and/or booth.
11. Licensing NT had advised that there are “no adverse compliance records in relation to this event held in 2018.”

Consultation

12. 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.
13. With respect to this application:
 - a. The DOH advised that they had “no adverse comment” and requested the Applicant be provided relevant smoking signage. I understand that this has occurred.

b. The NTFRS requested the Applicant provide a copy of the Traffic Management Plan and Emergency Management Plan. The Applicant had provided both of these, however, due to a last minute venue change outside the Applicant's control, at the time of this decision the Applicant was still updating those documents to reflect the venue change. The Applicant must provide the updated versions to NTFRS and Licensing NT prior to the event proceeding and has undertaken to do so.

c. The NT Police advised that they had "no objection" to the application.

Assessment of the Application

14. 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.

15. 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.

16. 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".

17. 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."
18. 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.
19. As earlier noted, it is my understanding of the material before me that this application is similar to applications for, and granting of, a special licence to the Applicant for the same event in 2017 and 2018. The hours of the event itself are only slightly different being an extra half an hour at the beginning of the event. A condition to allow for pre-ordering liquor online is the same. The type of alcohol to be supplied for sale is the same. There have been no objections to this event by the stakeholders and I have not been advised of any compliance issues arising from either the 2017 or 2018 events.
20. 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:

21. 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.
22. 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.
23. 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

12 June 2019