

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2018/092
<b>VENUE:</b>	<b>Austin Lane between Knuckey Street and Edmond Street</b> DARWIN NT 0800
<b>APPLICANT:</b>	Dianne Lee
<b>EVENT:</b>	Make it Count – Donate Life Week
<b>LEGISLATION:</b>	Section 58 of the <i>Liquor Act</i> .
<b>DECISION OF:</b>	Mr Richard Coates (Chairperson)
<b>DATE OF DECISION:</b>	23 July 2018

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### 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 Dianne Lee for the sale of liquor via two (2) outdoor bars on Saturday, 28 July 2018 between the hours of 18.30 hours to 23.30 hours.
2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as “Make it Count – Donate Life Week” occurring in Austin Lane between Knuckey Street and Edmond 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 Mrs Dianne Lee.

- 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 or one (1) wine bottle 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 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*.
- u. Food and drinks are not permitted to be taken into any designated smoking areas.
- v. 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”).
- w. The nominee and traffic management staff are to ensure access/egress to the following areas of the Old Woolworths site in Austin Lane are not obstructed:
  - i. Fire indication panel
  - ii. Fire sprinkler Valve Room
  - iii. Fire hydrant Booster assembly
  - iv. Roller/leaf doors that enable fire service access
  - v. Required exit doors from tenancies and main building.

## **Reasons**

### **Background**

3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Dianne Lee lodged an application with the Director-General of Licensing for the grant of a special licence to permit the sale of liquor to patrons attending an event known as “Make it Count – Donate Life Week” to be held in Austin Lane, between Knuckey and Edmond Streets, Darwin.
4. The applicant estimates that 400 to 500 people will attend the event after having purchased a \$25 ticket and food will be provided by street side stalls.
5. The applicant is seeking to trade from 18.30 hours on Saturday 28 July 2018 to 23:30 hours on the same day.

6. The sale of liquor is proposed via two (2) street bars. Beer (light, mid strength and full strength), wine, water, soft drinks and “Pimms” are proposed to be available for sale via the bars throughout the licensed area.
7. The applicant provided a detailed traffic management plan in support of the application.
8. The applicant already possesses a liquor licence for the premises known as “Little Miss Korea” and there have been no adverse compliance issues in relation to the conduct of that licence. A similar event was held in 2017, namely “Kidney Research Charity (Long Dinner) Fundraiser” albeit by a variation to the existing licence rather than by the grant of a special licence.

### **Consultation**

9. 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. In this matter, details of the application were forwarded to the Department of Health, Northern Territory Police, Fire and Emergency Services, Northern Territory Fire and Rescue Service and the City of Darwin.
10. No adverse comment was received from any of those agencies however, the Northern Territory Fire and Rescue Service advised that its lack of objection to the licence was predicated on the following conditions:

“Event organisers and Traffic Management are to ensure access /egress to the following conditions to the Old Woolworths site in Austin Lane are not obstructed:

  - i. Fire indication panel
  - ii. Fire sprinkler Valve Room
  - iii. Fire hydrant Booster assembly
  - iv. Roller/leaf doors that enable fire service access
  - v. Required exit doors from tenancies and main building”.
11. The applicant subsequently provided a copy of a permit issued by Darwin City Council granting permission to close Austin Lane for this event.

## Assessment of the Application

12. 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.
13. 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.
14. 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”.
15. 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.”
16. 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.

17. It is my understanding of the material before me that this application is similar to previous applications and approvals which have been part of revitalising the Darwin Central Business District (CBD). I note that laneway style dining is an experience in all major cities across Australia and this event promotes Darwin in line with those other major cities. It also provides another experience to tourists visiting Darwin and to locals alike. It is apparent that other previous similar events have been successful.
18. 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 outlined at the start of this Decision Notice.

**Notice of Rights:**

19. 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.
20. 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.
21. 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.



**RICHARD COATES**  
Chairperson  
Northern Territory Liquor Commission