

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2018/066

VENUE: **Mindil Beach**
Maria Liveris Drive
THE GARDENS NT 0820

APPLICANT: Indian Cultural Society Northern Territory Incorporated

EVENT: India@Mindil

LEGISLATION: Section 58 of the *Liquor Act*

DECISION OF: Ms Amy Corcoran (Commissioner)

DATE OF DECISION: 19 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 a special licence to sell liquor to the Indian Cultural Society Northern Territory Incorporated (**the Applicant**) for the sale of liquor between the hours of:

16:00 hours to 23:00 hours on Saturday 23 June 2018.

2. The granting of approval is subject to the following conditions, namely:
 - a. 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. A Nominee **MUST BE** present during all Trading Hours and must ensure compliance with these Conditions.

Nominee/s: SHLOK SHARMA

- b. Persons under the age of 18 years must not be used in the sale or supply of liquor.

- c. 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.
- d. Any person involved in Crowd Control, as defined under *the Private Security Act*, at the premises, must be licensed as required by that Act.
- e. 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.
- f. All liquor must be sold in open containers.
- g. No more than four (4) cans or bottles must be sold to any one person at any one time.
- h. 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.
- i. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- j. 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.
- k. 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.
- l. 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.
- m. 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.

- n. 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.
- o. All liquor purchased for sale under the authority of this special licence **MUST** be purchased from a licensed retail outlet.
- p. 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.
- q. 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.
- r. 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.
- s. The holder of the special licence must clearly display signage to delineate Non-Smoking areas from the Smoking Areas and the holder must comply with smoking requirements contained in the *Tobacco Control Act*.
- t. Food and drinks are not permitted to be taken into any designated smoking areas.
- u. 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 (n):

- 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;
- Liquor or any other beverages must not be sold to patrons in glass containers;

- 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 6 June 2018 pursuant to section 58 of the Act, the Indian Cultural Society Northern Territory 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 'India@Mindil' occurring at Mindil Beach. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. Before proceeding to deal any further with the reasons for which I have determined this application, I wish to make clear to the Applicant that it is apparent from the material before me that there have now been several warnings that if the Applicant did not comply with the relevant time limitation periods for a "major event", namely "no later than three (3) months before the event", that failure to comply may result in the refusal of the application.
5. These warnings should not be considered by the Applicant as mere words. Such time limitation periods should, and must, be complied with. Assessing applications takes time and that is the reason why there are time limitation periods put in place. Given there has been a recent change in the legislation and given that the matter has been referred to this Commission, I have determined on this occasion **only** to deal with the application despite the failure of the Applicant to comply with the previous warnings given.
6. The Applicant should however now be on notice that these failures will not continue to be tolerated. This event has been conducted for a number of years now and arrangements for the event itself would commence many months in advance. Obtaining a special licence to sell and supply liquor is part of that process and the time limitations imposed must be complied with.
7. India@Mindil is a family orientated annual event celebrating Indian culture with live bands, traditional dance, singing performances and food.
8. The Applicant is seeking a special licence for the following hours of trade:
16:00 hours to 23:00 hours on Saturday 23 June 2018.
9. The Applicant proposes to sell liquor to patrons through one point of sale. Beer, wine, spirits, soft drinks and water are proposed for sale including low, mid and full strength varieties.

10. A crowd of approximately 7,000 are expected to attend the event over the course of the evening, however, no more than 1,000 are anticipated to be present at one time.
11. The Applicant is seeking a special licence on substantially the same terms as was applied for and granted by the Director-General in 2017.
12. The Applicant has confirmed that first aid officers will be present throughout the event and the NT Police will all be in attendance.
13. In relation to private security and crowd controller arrangements, the Applicant indicates that *at least 12* licensed private security personnel and crowd controllers will be engaged this year.
14. I have been informed by Licensing NT, that there have been no compliance issues with respect to the conduct of previous events.

Consultation

15. 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**) and seek their comment.
16. With respect to this application:
 - a. The NT Police advised they had “*Nil objections ... Our events team is working with the applicant and have nil issues to raise*”.
 - b. The NTFRS had no objection.
 - c. 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.

Assessment of the Application

17. 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.
18. 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.

19. 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”.
20. 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.”
21. As a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.
22. It is evident that the stakeholders who had the opportunity to provide feedback do not oppose the grant of a special licence for India@Mindil.
23. This event, 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 with many, non-alcoholic beverages, food stalls and entertainment on offer throughout the evening.
24. It is evident from the application and supporting documents that the Applicant has management initiatives and risk strategies in place including a traffic management plan and first aid officers present. The Applicant is also working with NT Police directly regarding management of the event.
25. There has also been no compliance or patron safety concerns raised with me from previous years’ event by either Licensing NT or NT Police.

26. The Applicant has stated that at least 12 crowd controllers would be engaged to supervise, with at least one crowd controller stationed at bar. The Applicant is instructed that it must adhere to industry standards for crowd control - that is, two crowd controllers for the first 100 patrons and one additional crowd controller for every 100 patrons thereafter. It is important that the Applicant monitors the crowd numbers and adjusts the crowd controllers accordingly to ensure the industry standard is met. For example, if 1,200 patrons were present at the event at one time, 13 crowd controllers must be on duty.
27. 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:

28. 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.
29. 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.
30. 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
Commissioner
Northern Territory Liquor Commission
19 June 2018