

Delegate of the Liquor Commission

Decision Notice

MATTER: **APPLICATION FOR A SPECIAL LICENCE**

REFERENCE: LC2019/107

PREMISES: Cyprus Community of the Northern Territory Inc.
30 Batten Road
Marrara NT 0812

APPLICANT: Cyprus Community of the Northern Territory Inc.

EVENT: Cyprus Wine Festival

LEGISLATION: Section 58 of the *Liquor Act 1978*.

DECISION OF: Ms Amy Corcoran (Member)

DATE OF DECISION: 1 August 2019

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* ("the Act") the applicant is granted a special licence to sell liquor at an event known as the Cyprus Wine Festival at its premises at 30 Batten Road, Marrara, from 17:00 hours on 17 August 2019 until 1:00 hours on 18 August 2019.
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 (Nominee), who each 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: **Thi Truc Giang Nguyen**

- 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 1995*, 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 one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.

- f. All liquor must be sold in open containers.
- g. No more than four (4) bottles of beer, or four (4) plastic "glasses" of wine or spirits may be sold to any one person at any one time. If wine or port is sold by the bottle, only one bottle may be sold to any one person at any one time. Spirits may not be sold by the bottle.
- 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 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 licensed 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 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 venue clearly displays signage to delineate the Non Smoking area from the Smoking Areas. The Venue must comply with smoking requirements contained in the *Tobacco Control Act 2002*.
- t. Food and drinks are not permitted to be taken into any designated smoking areas.
- u. A holder of a special licence or employee shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang).

Reasons

Background

- 3. Pursuant to section 58 of the Act, on 23 July 2019 the Cyprus Community of the Northern Territory Inc. (**the applicant**) lodged an application for the grant of a special licence to permit the sale of liquor to patrons attending an event known as the ‘Cyprus Wine Festival’ at the Cyprus Community Hall. The applicant has indicated that no more than 500 people would attend the event at any one time.
- 4. The Festival is free family event that showcases famous Cypriot Commandria Wine and will include Mediterranean food, music and traditional dance.
- 5. The applicant is proposing to sell traditional Cypriot beer, wine, port and a range of spirits from one bar at the event. Soft drinks and water will also be available.
- 6. 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.
- 7. Special licences have been issued to the applicant on a number of previous occasions including for the same event in 2018. There is no record of any compliance issues in respect of previous licences issued to the applicant.

Consultation

- 8. The Department of Health, Northern Territory Police and Northern Territory Fire and Rescue Service were invited to provide comment on the application and no adverse comments were received.
- 9. The Department of Health requested the venue clearly displays signage to delineate the Non Smoking areas from the Smoking Areas and the applicant be reminded that food and drinks are not permitted to be taken into any identified outdoor smoking area and that the Tobacco Control legislation now requires a

10 metre smoke free buffer be maintained at the entry and boundary areas of community events.

Assessment of the Application

10. 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.
11. 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.
12. 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".
13. 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."
11. 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.
12. There is nothing before me that indicates any concerns with the applicant's conduct of previous events or compliance concerns including the same event held last year. This event is a family orientated cultural event with traditional food available and entertainment.

13. 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 above I have decided to grant the special licence on the conditions specified in paragraphs 1 and 2.

Notice of Rights:

14. 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.
15. 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.
16. 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

1 August 2019