

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *ELECTRIC STORM: LIQUOR LICENCE WITH MAJOR EVENT AUTHORITY* [2024] NTLiqComm 44

REFERENCE NUMBER: LC2024/041

APPLICANT: LACT Activations Pty Ltd (ACN: 640 771 133)

PREMISES: Mindil Beach (Lot 5772)
73 Gilruth Avenue
THE GARDENS NT 0820

EVENT: Electric Storm Halloween Music Festival 2024

DATE OF EVENT: Saturday, 2 November 2024

NOMINEE: Danielle Jones

LEGISLATION: Sections 42, 47 and 60 of the *Liquor Act 2019*

DECISION: Mr Greg Shanahan (Delegate)

DATE OF DECISION: 25 October 2024

Decision

1. For the reasons set out below and in accordance with section 48 of the *Liquor Act 2019* (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to issue a licence to LACT Activations Pty Ltd (**the Applicant**).
2. The Applicant will be issued with a major event authority attached to the licence authorising the sale, supply or service of liquor to patrons at the event known as “Electric Storm Halloween Music Festival” for consumption at Mindil Beach (Lot 5772), 73 Gilruth Avenue, The Gardens, NT 0820 within the area (**the Premises**) outlined in red on the final site plan provided by Applicant on 24 October 2024.
3. The sale, supply, service and consumption of liquor is authorised only on:

Saturday, 2 November 2024 from 16:00 hours to 24:00 hours.
4. The Commission approves Danielle Jones as the designated nominee (**the Nominee**).

5. In addition to the major event conditions set out in Division 12 of the *Liquor Regulations 2019 (the Regulations)*, the licence shall also be subject to the following additional conditions:

- a. The boundary of the licensed area must be clearly identified and access to the licensed area must be restricted in a manner that allows for effective supervision by the Nominee.
- b. A staggered decline of alcohol served must be implemented as follows:
 - i. no more than four (4) alcoholic drinks may be supplied to any one person at any one time from 16:00 to 21:00 hours;
 - ii. no more than two (2) alcoholic drinks may be supplied to any one person at any one time from 21:00 to 23:00 hours; and
 - iii. no more than one (1) alcoholic drink may be supplied to any one person at any one time from 23:00 to 24:00 hours;

To the extent that this condition is more restrictive than the Regulations, this condition prevails.

- c. No provision of alcoholic drinks that:
 - i. are designed to be consumed quickly and which are commonly referred to as a 'shot' or 'shooters';
 - ii. are a cocktail containing more than a 30ml nip of spirit or liquor (this does not include pre-mixed spirits known as Ready to Drink beverages (**RTDs**)); or
 - iii. contain more than 1.6 standard drinks in one vessel.
- d. Alcohol or any other beverages must not be supplied in glass containers.
- e. All patrons must have their ID checked upon entry and be at least 16 years of age.
- f. All patrons must be issued with colour coded wristbands upon entry clearly identifying patrons who are:
 - i. 18+ years of age; and
 - ii. under 18 years of age.
- g. No patron is to be sold, consume or possess liquor if they are not wearing an 18+ wristband.
- h. Soft drinks and water to be available from the bar but must also be available from separate outlets for those patrons under 18 years of age.

- i. No pass-outs are permitted for unaccompanied patrons under the age of 18 years.
 - j. No pass-outs are permitted after 19:00 hours.
 - k. Designated 'Dry Areas' must be established and maintained.
6. The licence will be issued immediately following the publication of this decision notice.

Reasons

Background

7. On 6 September 2024 pursuant to section 52 of the *Liquor Act 2019 (the Act)*, the Applicant applied to the Director for a licence with an authority for a major event for Electric Storm Halloween Music Festival 2024, an annual outdoor Halloween music festival that has been held in Darwin since 2012, which the Applicant is marketing to locals and visitors with the target audience being 16 to 40 years of age.
8. This is a 16+ ticketed event and patrons will be ID checked to gain entry and issued a colour-coded wristband depending whether they are over 18.
9. The Applicant intends to offer a range of alcoholic and non-alcoholic beverages including light, mid and full-strength alcohol options. The Applicant has volunteered the following conditions additional to the prescribed major event authority conditions:
 - Dry areas available
 - No more than four (4) alcoholic drinks per person between 16:00 hours to 21:00 hours
 - No more than two (2) alcoholic drinks per person between 21:00 hours to 23:00 hours
 - No more than one (1) alcoholic drinks per person between 23:00 hours to 24:00 hours.
10. The Applicant has indicated that in order to increase the safety of underage attendees it is currently engaging with 'Dance Wize', a specialised alcohol and other drug (AOD) outreach service, to be part of the event.
11. The Applicant estimates that a maximum crowd of 4,000 patrons will attend at any one time. Regulation 68(2) of the Regulations requires two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.

12. The Applicant proposes the sale of beer (light, mid and heavy), cider and spirits in a range of vodka, rum, gin and scotch including ready to drink (RTDs). Mixed drinks will have no more than 30ml spirits except RTDs.
13. There will be no glass containers sold. Water and soft drinks will be available for purchase as well as the provision of complimentary water stations. Food will be available to purchase from food vendors throughout the event until closing.
14. The Applicant has confirmed that first aid and paramedics will be provided through St John Ambulance, who will be in attendance for the duration of the event.
15. Designated outdoor smoking areas will be located on the premises, in accordance with the applicant's Smoking Management Plan.
16. The Applicant provided the following documents in accordance with section 53(3) of the Act:
 - a. Application for liquor licence with major event authority;
 - b. Supplementary information application for a major event authority;
 - c. Site plan;
 - d. Detailed information for the event management which includes bar staff information sheet, beverage list, emergency response plan, event operations plan, risk report, financial report, public notice, traffic management plan and crowd controller plan;
 - e. Public Interest and Community Impact Assessment;
 - f. Probity documents and reports, certificates, references, affidavits and statutory declarations for the nominee and applicant;
 - g. Affidavit of Danielle Jones, regarding persons of influence; and
 - h. Smoking Management Plan.
17. The proposed nominee for the event is Ms Danielle Jones. Ms Jones has provided the following:
 - a. Photographic identification
 - b. Declaration of Associates
 - c. Declaration of no recent criminal history
 - d. RSA/Refresher Certificate
18. The Nominee is well known to the Director and has satisfactorily acted as the Nominee and organiser for numerous licensed major events in the NT.

The Applicant and Nominee

19. The Applicant is a registered Australian Proprietary Company limited by shares. The current sole Director is Mr Russell Temple who also holds the position of Secretary and is the only shareholder.
20. The Applicant has held a major event authority for this event previously. Licensing NT Compliance Officers have not reported any compliance concerns regarding previously run events.
21. The proposed nominee for this event is Ms Danielle Jones, who has previously been the nominee for similar major events.

Advertising

22. The application was advertised in the NT News on Saturday 21 September 2024 and on the Northern Territory Government website and remained open until 7 October 2024.
23. In addition to the online publications a 'green sign' was displayed at the proposed premises for 14 days in accordance with section 57(4) of the Act.
24. The Director is satisfied that the Applicant has complied with the requirements to advertise the application.

Consultation

25. Pursuant to section 56(4) of the Act, the following stakeholders were notified of the application by the Director:
 - a. the Department of Health;
 - b. the Commissioner of Police; and
 - c. Darwin City Council.
26. Although not legally bound to do so, the Director also forwarded a copy of the application for comments to:
 - a. Northern Territory Fire and Rescue Service; and
 - b. St John Ambulance.

Objections

27. No objections were received from those consulted directly although some comments were made which were passed on to the Applicant to address.
28. One objection was received from the public from ANT Legal on behalf of Mr Colin West alleging that the Applicant does not meet the fit and proper person test under section 49 of the Act on the basis that the application did not divulge a previous bankruptcy of the Director of the Applicant and that the event was using a

description that infringed a trademark of the name “Electric Storm” registered by Mr West.

Hearing

29. Given that only one objection was received to which the Applicant has responded and that this is an application for a major event of short duration, in accordance with section 21 of the Act I formed the opinion that it would not be appropriate in the circumstances to conduct a public hearing because to do so would not be worthwhile, and because the grant of a liquor licence for the event is not in itself controversial. Accordingly, I have proceeded pursuant to the delegation given by the Commission to an individual member to determine an application for a liquor licence with a major event authority.
30. I have given careful consideration to the two grounds of the objection lodged on behalf of Mr West that the Applicant is not a fit and proper person, namely the failure to declare Mr Temple’s discharged bankruptcy and the alleged breach of trademark.
31. On the first ground I have accepted the explanation provided by the Nominee that she completed the form on behalf of the Applicant and it was not a deliberate attempt on her part to withhold the information from the Commission.
32. I have also considered whether the discharged bankruptcy is material to whether Mr Temple is a fit and proper person. I am of the view that, given this is a one off annual event, that Mr Temple has been involved in previous iterations of the successful conduct of this event and that Mr Temple has not been disqualified from being a company director by ASIC, the fact that he is a discharged bankrupt does not on its own mean that Mr Temple does not qualify as a fit and proper person.
33. I do, however, remind the Nominee and the Applicant that it is of utmost importance to ensure the accurate completion of all documentation in licence applications and a failure to provide accurate information can result in applications being rejected in some circumstances.
34. As to the alleged breach of trademark, I note that this issue is not without controversy with competing claims on both sides that would require an in depth inquiry in an appropriate forum to determine the rights of the parties.
35. For the purposes of this application, the question is whether the alleged breach of trademark is persuasive evidence that the Applicant is not a fit and proper person. In my view, as the claims on both sides appear to be at least arguable, I do not consider that the allegations of the objector in respect of a breach of trademark constitute sufficient grounds to find that the Applicant is not a fit and proper person.

Assessment of the Application

36. Section 49 of the Act provides that the Commission may only issue a licence or an authority if satisfied that:
 - a. the Applicant is a fit and proper person;

- b. issuing the licence or authority is in the public interest; and
 - c. the licence or authority will not have a significant adverse impact on the community.
37. The Commission has had regard to the relevant considerations listed in section 59(3) of the Act as to the suitability of the Applicant to hold this licence and the premises to be licensed.
38. The Applicant has previously held licenses for similar events with no known compliance issues. Electric Storm has been conducted in Darwin since 2012 at this and other venues. No major concerns have been raised regarding the management of these events by the Director or NT Police.
39. The Commission is satisfied that the Applicant and Ms Jones are fit and proper persons to hold the licence and act as Nominee respectively.
40. The Premises are located in a well-serviced outdoor area that has been the venue for numerous large-scale events in Darwin over many years. The site plan shows that the event will provide a large parking area, merchandise and food stalls, a substantial toilet block as well as temporary toilets, water stations, a first aid station, dry areas and designated outdoor smoking areas. The Premises will have a perimeter fence and entry will only be permitted from one access point. The Commission assesses the Premises as suitable for the supply and consumption of liquor in the manner set out in the application.
41. The conditions fixed by the Commission are in accordance with the Applicant's proposal for a staggered decline of the sale of alcoholic drinks to any one person at one time over the latter hours of the event.
42. To minimise the risk of harm the Commission has retained the condition that there be strict limits on pass outs.
43. The Commission has had regard to the requirements of section 49 of the Act, and is satisfied that issuing the licence with a major event authority is in the public interest and will not have a significant adverse impact on the community.
44. As a result, the Commission approves the issue of the licence with a major event authority with the conditions set out at the commencement of this Decision Notice.

The objects of the Act

45. Section 3(4) of the Act provides that in performing its function to decide whether to issue a licence, the Commission must have regard to the primary and secondary purposes of the Act. I consider that the issue of the licence and authorities with the conditions imposed is consistent with the purposes of the Act.
46. For these reasons, I have determined that the application should be granted, and that a licence and authority be issued on the conditions set out at the commencement of these reasons.

NOTICE OF RIGHTS

47. Section 31(1) read with s 60(3) of the Act provide that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (**NTCAT**). Section 94(3) of the *NTCAT Act* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
48. In accordance with s 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Director and the applicant.



Greg Shanahan
Acting Deputy Chairperson
Northern Territory Liquor Commission

25 October 2024