

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2019/062
VENUE:	Mindil Beach Lot 5772 Town of Darwin DARWIN NT 0800
APPLICANT:	Darwin Lions Beer Can Regatta Association Incorporated
EVENT:	Darwin Lions Beer Can Regatta
LEGISLATION:	Section 58 of the <i>Liquor Act 1978</i>
DECISION OF:	Ms Amy Corcoran (Commissioner)
DATE OF DECISION:	17 May 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 a special licence to sell liquor to the Darwin Lions Beer Can Regatta Association Incorporated (**the Applicant**) for the sale of liquor between the hours of:

Sunday 14 July 2019 from 10:00 hours to 18:00 hours;

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: MRS SHARON LESLEY JONES
 - 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 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 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 2002*.
- 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):

To the extent that this condition is inconsistent with the conditions above, this condition prevails:

- Beer and cider are the only alcoholic beverages permitted for sale;
- Provision of licensed crowd controllers with a minimum number as per the submission lodged by the Applicant – being 7.
- 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.
- No BYO alcohol prior to 16:00 hours.
- Liquor or any other beverages must not be sold to patrons in glass containers.

Reasons

Background

3. On 9 April 2019 pursuant to section 58 of the Act, Darwin Lions Beer Can Regatta Association 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 the 'Darwin Lions Beer Can Regatta'. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. The Darwin Lions Beer Can Regatta is an iconic annual event which raises money for local charities. This year, the Darwin Lions Beer Can Regatta is being held on Sunday, 14 July 2019 at Mindil Beach, Lot 5772 Town of Darwin. A fence is erected around the site (from the car park to the beach) limiting access to the event via 5 entry gates staffed by Lions Club volunteers.
5. The Darwin Lions Beer Can Regatta includes entertainment and competitions for adults and children to enjoy. This includes running events, boat races (where competing boats are predominately constructed out of drinking cans), a sandcastle competition plus thong throwing and kayak events. Additionally, the Mindil Beach Sunset Markets operates throughout the Darwin Lions Beer Can Regatta providing food options and additional entertainment to patrons.
6. The Applicant estimates that 6,000 to 8,000 persons will attend the event over the course of the day.
7. Specifically, the Applicant is seeking a special licence for the following hours of trade:

Sunday, 14 July 2019 from 10:00 hours to 18:00 hours.
8. The sale of liquor to patrons at the Darwin Lions Beer Can Regatta is proposed from a marquee bar facility. The Applicant anticipates 50 to 100 people may be present in the bar area at any one time.
9. The liquor proposed for sale comprises of beer in full strength, midstrength and light varieties and cider only.
10. In relation to security and crowd control arrangements, seven (7) private security personnel are proposed by the Applicant to monitor and control patron behaviour within the Darwin Lions Beer Can Regatta event area. In addition, Mindil Beach

Sunset Markets will have security present to regulate market-goers as per their usual security processes for the markets.

11. The Applicant has confirmed that as in previous years, first aid services will be supplied by St John's Ambulance volunteers and water safety patrols will be undertaken by Mindil Beach Surf Lifesaving Club.
12. I have been informed by Licensing NT, that there have been no adverse compliance issues with respect to previous special licenses issued for this event.

Consultation

13. 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**), St John's Ambulance (**SJA**) and seek their comment.
14. With respect to this application:
 - a. The NT Police had no objection to the application.
 - b. The NTFRS had no objection to the application.
 - c. SJA were contacted to provide a comment and advised that they had received a request for attendance at the event.
 - d. The DOH advised that they have no adverse comment to, however, Health asks "the Director-General of Licensing to consider patron and community safety & amenity when determining this application. Health provide the comment on the understanding the applicant has acknowledged that food and drinks are not permitted in the designated smoking area. Licensing is requested to advise the applicant that a 10 Metre Smoke Free Buffer Area is required to be maintained by the Licensee at the entrance areas and boundary of the community event and shall display the 10 Metre Buffer signage. This requirement is new legislation due to commence on 1 July 2019. Appropriate signage is provided for the convenience of the applicant."

I am informed by Licensing NT that as requested by DOH the Applicant was informed of the above and provided with appropriate smoking signage via email on 10 April 2019.

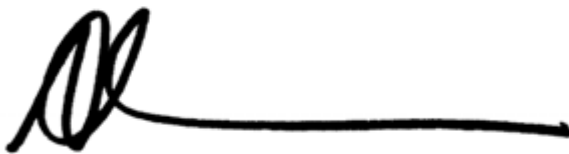
Assessment of the Application

15. 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.
16. 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.
17. 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”.
18. 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.”
19. As a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.
20. I note that this application is on the same terms as previous years and no compliance concerns have been raised with the Commission in regards to the management of previous years’ Darwin Lions Beer Can Regattas by Licensing NT or NT Police. There have also been no objections to this event raised by any of the stakeholders.

21. The Darwin Lions Beer Can Regatta has operated for over 40 years with what appears to be an impeccable record. It is not only a charitable event but importantly an iconic tourist event for Darwin and the Northern Territory.
22. 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:

23. 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.
24. 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.
25. 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
17 May 2019