

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2018/09
PREMISES:	Darwin Amphitheatre George Brown Darwin Botanic Gardens Gardens Road DARWIN NT 0800
APPLICANT:	Relkdar Pty Ltd
EVENT:	People's Choice Credit Union BASSINTEGRASS Music Festival
LEGISLATION:	Section 58 of the <i>Liquor Act</i> .
DECISION OF:	Ms Jodi Truman (Deputy Chairperson)
DATE OF DECISION:	26 April 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 the special licence to sell liquor to Relkdar Pty Ltd for the sale of liquor on Saturday 19 May 2018 between the hours of 1400 hours and 2300 hours.
2. The granting of approval is subject to the following conditions, namely:
 - a. The liquor shall be sold at the event known as the "People's Choice Credit Union BASSINTEGRASS Music Festival" occurring at the Premises known as the Darwin Amphitheatre located at the George Brown Botanic Gardens, Gardens Road, Darwin in the Northern Territory.
 - b. Liquor to be sold at a maximum of one standard drink with the exception of any and all "pre-mix" cans or bottles which shall be sold at a maximum of 1.2 standard drinks.
 - c. 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.

- d. A nominee MUST BE present during all trading hours and must ensure compliance with the conditions.
- e. The Nominee is identified as Mr Andrew John Chigwidden.
- f. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- g. 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.
- h. Any person involved in Crowd Control, as defined under the *Private Security Act*, at the Premises must be licensed as required by that Act.
- i. 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.
- j. All liquor must be sold in open containers.
- k. No liquor or other beverages to be sold in glass containers;
- l. Liquor to be sold at a maximum number to any one person at any one time as follows:
 - i. From 1400 hours to 2000 hours no more than four (4) cans or bottles must be sold to any one (1) person at any one time.
 - ii. From 2000 hours to 2200 hours no more than two (2) cans or bottles must be sold to any one (1) person at any one time.
 - iii. From 2200 hours to 2300 hours no more than one (1) can or bottle must be sold to any one (1) person at any one time.
- m. The Licensee is not to provide alcoholic drinks that are designed to be consumed quickly and which are commonly referred to as a “shot” or “shooters”.
- n. The licensee must ensure that water, soft drink, 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.
- o. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- p. 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.

- q. 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.
- r. 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.
- s. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- t. 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.
- u. 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.
- v. 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.
- w. 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*.
- x. Food and drinks are not permitted to be taken into any designated smoking areas.
- y. 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").
- z. All patrons to be issued with coloured coded wrist bands upon entrance clearly indicating:
 - i. 18+; or
 - ii. Under 18 years of age;
- aa. Liquor to be sold from separate outlets from those providing soft drinks and water;
- bb. Designated 'Dry Area' to be established and maintained;
- cc. At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example: Hi-Viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

Reasons

Background

3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Relkdar Pty Ltd applied to the Director-General of Licensing on 31 January 2018 for a special licence to permit the sale of liquor to patrons attending an event known as the “People’s Choice Credit Union BASSINTEGRASS Music Festival” (“BASSINTEGRASS”) occurring at the Premises known as the Darwin Amphitheatre located at the George Brown Botanic Gardens, Gardens Road, Darwin in the Northern Territory.
4. BASSINTEGRASS is a nationally recognised music festival which showcases an eclectic line up of internationally acclaimed artists and local artists including the winners of the Northern Territory (“NT”) Battle of the School Bands. BASSINTEGRASS is coordinated by the NT Government owned company “Northern Territory Major Events Company Pty Ltd”. The age demographic for the event is between 13 and 40 years; with the median attendee age reported to be between 18 and 24 years.
5. BASSINTEGRASS commences its music line up at 11.00am and ceases at 11.00pm. This year’s BASSINTEGRASS is in fact the 16th of its kind. During those years, BASSINTEGRASS has sold liquor from 5.00pm until 11.00pm. This year however, the applicant is seeking to sell liquor between the hours of 2.00pm and 11.00pm on Saturday 19 May 2018.
6. It was stated in the application that it was anticipated by the applicant that a crowd of “7,500” persons will attend the event. It is intended that there be two (2) public bars and one (1) VIP bar.
7. The applicant has previously been issued special licences for the BASSINTEGRASS. I have been informed that there have been no compliance issues arising from the special licence issued in 2017.
8. Between the time of making the application and the time of the hearing of the application, further communications occurred between the Applicant and NT Police, Fire and Emergency Services (“NT Police”). These communications led to some amendments being made to the special licence being sought by the applicant and also resulted in support being given by NT Police to this application. I shall address those matters further in this notice.

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, namely the Department of Health (“DOH”), NT Fire and Rescue Service (“NTFRS”), and NT Police and seek their comment. With respect to this application, the Director-General also consulted with St John Ambulance (“SJA”), and sought their comment.
10. With respect to this application:

- a. The DOH made no adverse comment.
- b. SJA advised that they are “okay with this proposal” and “happy with this request”.
- c. The NTFRS advised that they had “no objections on the condition a copy of the 2018 Traffic Management Plan is forwarded to NTFRS once it becomes available”.
- d. The NT Police initially advised of a number of “conditions” that it was “recommending for this event”. The response of NT Police however did alter and these matters will be addressed further in below.

Assessment of the Application

11. 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.
12. 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.
13. 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”.
14. 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.”

15. 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.
16. It is my understanding of the material before me that this application is similar to previous applications and approvals; save and except for the application to be permitted to sell liquor from 2.00pm, rather than 5.00pm. As earlier noted, although there is no formal obligation to consult, responses were sought from the relevant stakeholders and when the application was first made the request to commence the sale of liquor three (3) hours earlier than previously sought was in fact opposed by NT Police.
17. I was however informed that further communications subsequently occurred between the applicant and NT Police. Such communications are appropriate and should take place with stakeholders. Whilst this Commission is not bound by what is decided in those discussions, such discussions do assist this Commission in having the issues to be determined further narrowed.
18. As a result, I was advised by the applicant that the application was still for an earlier start time for trading hours, but that as part of the application it was now proposed that there be further conditions as follows:
 - a. Liquor to be sold with a maximum of one standard drink with the exception of any and all "pre-mix" cans or bottles which shall be sold with a maximum of 1.2 standard drinks.
 - b. Liquor to be sold at a maximum number to any one person at any one time as follows:
 - i. From 1400 hours to 2000 hours no more than four (4) cans or bottles must be sold to any one (1) person at any one time.
 - ii. From 2000 hours to 2200 hours no more than two (4) cans or bottles must be sold to any one (1) person at any one time.
 - iii. From 2200 hours to 2300 hours no more than one (1) can or bottle must be sold to any one (1) person at any one time.
19. I also received correspondence from NT Police that conditions such as those set out in the paragraph above meant that NT Police no longer opposed the application and that in fact they considered the NT Government owned company "Northern Territory Major Events Company Pty Ltd" (who coordinate this event with the applicant) to be "a role model for all NT events".
20. All of these matters were taken into account by me when determining this application.
21. In light of the following circumstances:
 - a. the amendments to the terms of the special licence sought by the applicant;
 - b. the fact that there is no negative comment with respect to what is being sought; and

- c. the fact that the applicant has apparently conducted this event very successfully in the last 15 years and in that time has put in place positive mitigation initiatives which all go towards enhancing community amenity through the responsible sale and consumption of liquor;

I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and for the reasons set out above I have determined to grant the special licence as outlined at the start of this Decision Notice.

Notice of Rights:

22. 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.
23. 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.
24. 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.



JODI TRUMAN
Deputy Chairperson
Northern Territory Liquor Commission