

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2019/041
VENUE:	Bicentennial Park Esplanade DARWIN NT 0800
APPLICANT:	Thomas Chin Pty Ltd
EVENT:	Graze
LEGISLATION:	Section 58 of the <i>Liquor Act 1978</i>
DECISION OF:	Ms Amy Corcoran
DATE OF DECISION:	20 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 the special licence to sell liquor to Thomas Chin Pty Ltd for the sale of liquor on Sunday 26 May 2019 between the hours of 1500 hours and 2100 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 "Graze" occurring at Bicentennial Park, The Esplanade, Darwin in the Northern Territory (the Premises).
 - b. 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.
 - c. A nominee **MUST BE** present during all trading hours and must ensure compliance with the conditions.
 - d. The Nominee is identified as Mr Darryl James Thomas.

- e. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- f. 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.
- g. 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.
- h. Crowd controllers are to be employed as per industry standards as follows:
 - 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.
- i. All liquor must be sold in open containers.
- j. No more than four (4) cans or bottles must be sold to any one person at any one time.
- k. 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.
- l. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- m. 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.
- n. 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.
- o. 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.
- p. 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.

- q. 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.
- r. 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.
- s. The venue 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 2002*.
- t. Food and drinks are not permitted to be taken into any designated smoking areas.
- u. 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”).

Reasons

Background

3. On 14 March 2019 pursuant to section 58 of the Act, Thomas Chin Pty Ltd (**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 ‘GRAZE’ on Sunday, 26 May 2019 held at Bicentennial Park, The Esplanade, Darwin. The application was then referred to the Liquor Commission and then to me pursuant to my delegation to deal with such special licence applications.
4. GRAZE is a food and wine event that includes wine education including food matching. There will be three food vendors, coffee and water available and representatives from six wineries conducting wine tastings and education.
5. Approximately 1,000 persons are expected to attend the event, with tickets available online via Eventbrite. This is an 18 plus event.
6. The Applicant is seeking to sell liquor between the hours of 1500 hours and 2100 hours on Sunday, 26 May 2019. Beer, wine, and cocktails are proposed for sale from a single bar area for consumption on the day and also a facility for wine orders which will be processed by the Applicant in accordance with their ‘liquor merchant’ liquor licence at a later date. No alcohol will be removed, or taken away, from the event by patrons. The ticket price includes polycarbonate wine ‘glass’ which identifies the holder as a paying customer.
7. It is noted that an amended site plan was received by Licensing NT from the Applicant on 15 May 2019 (which was forwarded to me on 18 May 2019) due to receiving advice from Darwin City Council that works relating to laying of cables in the area of Bicentennial Park which had been approved for the Graze Festival

have not been completed and the event would need to be moved to the adjoining area of Bicentennial Park.

8. The Applicant states crowd controllers will be engaged as per the industry standards being two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.
9. The Applicant has previously held this event over the past 3 years and I have been informed by Licensing NT that “nil compliance issues are evident on file for GRAZE events where special licences have been issued previously”.

Consultation

10. 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**), Northern Territory Fire and Rescue Service (**NTFRS**) and NT Police, Fire and Emergency Services (**NT Police**) and seek their comment.
11. With respect to this application:
 - a. DOH had no adverse comment.
 - b. NTFRS had “no objections” to the application after some additional requested information was provided to them by the Applicant.
 - c. NT Police had no objections to the application.

Assessment of the Application

12. 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.
13. 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.
14. 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”.
15. 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.”

16. 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.
17. It is my understanding of the material before me that this application is similar to previous applications and approvals; it is merely the location of the event that differs.
18. I note that no objections have been made by the above stakeholders to this event taking place on the terms made out in the Application.
19. I also note that no compliance issues or concerns have been raised with me by either Licensing NT or NT Police in respect to the same event held over the past 3 years by the Applicant.
20. 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 outlined at the start of this Decision Notice.

Notice of Rights:

21. 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.

22. 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.
23. 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, cursive 'A' followed by a long horizontal line extending to the right.

AMY CORCORAN
Member
Northern Territory Liquor Commission