

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2018/083
<b>VENUE:</b>	111 Coonawarra Road Winnellie NT 0820
<b>APPLICANT:</b>	One Mile Brewery (NT) Pty Ltd
<b>EVENT:</b>	One Mile Brewery Beer and BBQ Festival
<b>LEGISLATION:</b>	Section 58 of the <i>Liquor Act</i>
<b>DECISION OF:</b>	Ms Amy Corcoran (Commissioner)
<b>DATE OF DECISION:</b>	25 July 2018

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### 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 a special licence to sell liquor to One Mile Brewery (NT) Pty Ltd (**the Applicant**) for the sale of liquor between the hours of:  

10:00 hours to 22:00 hours on Sunday, 5 August 2018;
2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as “One Mile Brewery Beer and BBQ Festival” held at 111 Coonawarra Road, Winnellie in the Northern Territory;
  - b. 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;
  - c. A Nominee **MUST BE** present during all Trading Hours and must ensure compliance with these conditions.

d. The nominee/s are identified as:

**Nominee/s: MR STUART BROWN**

**MR BAHADIR BAYRAM**

- 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*, 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 licensed crowd controllers for the first 100 hundred patrons and one additional crowd controller for each 100 hundred 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 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.
- l. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- m. 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.
- n. 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.

- o. 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.
- p. 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.
- q. 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.
- r. All liquor purchased for sale under the authority of this special licence MUST be purchased from a licensed retail outlet.
- s. 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.
- t. 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.
- u. 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.
- v. 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*.
- w. Food and drinks are not permitted to be taken into any designated smoking areas.
- x. 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 these instructions are inconsistent with the conditions above, these instructions will prevail.

- No more than four (4) alcoholic drinks to be sold to any one person at any one time from 10:00 hours to 20:30 hours and then no more than two (2) alcoholic drinks sold to any one person at any one time from 20:30 hours.
- Liquor or any other beverages must not be sold to patrons in glass containers;
- Patrons who are 18 years and over must have their identification checked and issued with wristbands upon entry to the premises to clearly identify patrons who may purchase and consume alcohol.
- Crowd control must hold dual licenses as both crowd controller and security officer.
- 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 and monitor the full event area;
- 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.

### **Reasons**

#### **Background**

3. On 29 April 2018 pursuant to section 58 of the Act, One Mile Brewery (NT) 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 'One Mile Brewery Beer and BBQ Festival' (**the Festival**). After discussions with Licensing NT, the Applicant confirmed it wished to pursue the application on 29 May 2018 and it was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. The Festival will be located in the outside area and adjacent to the current licensed premises of One Mile Brewery, namely, the front car park area of the factory complex located at 111 Coonawarra Road, Winnellie in the Northern Territory.
5. The Festival is a family friendly event to showcase the Applicant's beer and barbeque style cooking with food stalls and entertainment. A crowd of up to 1,000 people are expected to attend the event over the course of the day. The proposed event area has a capacity of up to 500 with includes the licensed area with a 200 person capacity. Seating and shade is available in both areas.

6. A range of beers, wine, cider and spirits will be available to purchase. All alcohol will be sold in plastic cups and no glass will be at the event. The Applicant intends to have mid-strength beer available along with water and soft drinks.
7. Food will be available for purchase through a number of food stalls and local musicians will play from a small stage during the event.
8. The Applicant will be providing crowd control services for the event. A 'dry area for kids' has also been identified in the proposed event area.
9. Identification of patrons will be checked upon entry to the event and once a patron's age is confirmed, a wrist band will be issued to identify them as 18+ to assist the bar staff.
10. The Applicant is seeking a special licence for the following hours of trade:

10:00 hours to 22:00 on Sunday, 5 August 2018
11. Although this event is the first of its kind and a special licence has not previously been granted for the similar events of this nature, Licensing NT's records do not indicate any adverse compliance history for the Applicant (which has previously been granted special licences for smaller private events).

## Consultation

12. 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**), NT Fire, Rescue Service (**NTFRS**) and City of Darwin (**Council**) and seek their comment.
13. With respect to this application:
  - a. NT Police indicated their support for the application but made two recommendations namely:
    - *That the level of security be increased to cater for up to 500 persons at the event; and*
    - *Maximum 4 drinks per person per transaction with a staggered decline in the number of drinks served to be implemented.*
  - b. NTFRS had no objection.
  - c. Council had no objection.
  - d. DOH had no adverse comment.

## Assessment of the Application

14. 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.
15. 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.
16. 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”.
17. 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.”
18. As a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.
19. In respect to the various conditions requested by NT Police, I’ll address them each separately below:

- a. *Increased level of security to cater for up to 500 persons at the event*

The Applicant's response to this request from NT Police was that the licensed area was limited to 200 persons with the remaining patrons being located in a dry area (outside the licensed area), therefore 3 crowd controllers were sufficient.

Given the name and nature of this event it is clear that one of the main drawcards is in fact beer or beer tasting as such. It would be a safe assumption that persons who had been drinking in the licensed area may go between the licensed and non-licensed area.

I suggest that the non-licensed area would require some monitoring. Accordingly, the 3 crowd controllers for this event should have dual licenses as both crowd controller and security officers so they may patrol the overall event area.

- b. *Maximum 4 drinks per person per transaction and a staggered decline of drink service be implemented*

The Applicant accepted the request for the suggested maximum drinks per transaction but did not respond to the staggered decline in drinks request. Given the lack of response from the Applicant, nature of the event and hours of trade, I will impose a staggered decline for drinks to 2 per person per transaction from 20:30 hours.

20. The material before me indicates that the Applicant has been able to appropriately conduct events, albeit smaller private events, on numerous occasions and there has no evidence of any compliance issues. It is clear that this event is an event inclusive of families and includes food and entertainment for adults and a "kids' area". The application has been well thought out and as highlighted above, a number of strategies have been put in place to minimise risk and ensure the safe running of the event. I therefore do not consider this to be a high risk event.
21. I am satisfied as a result of the material provided by the Applicant and Licensing NT that the Applicant would conduct itself appropriately under any special licence granted to it.
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, cursive 'A' followed by a long horizontal line.

**AMY CORCORAN**  
Commissioner  
Northern Territory Liquor Commission  
25 July 2018