

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2018/106
VENUE:	The Oval, Leanyer Primary School 114 Leanyer Drive LEANYER NT 0820
APPLICANT:	Leanyer Primary School
EVENT:	Leanyer School Dragonfly Festival
LEGISLATION:	Section 58 of the <i>Liquor Act</i>
DECISION OF:	Ms Amy Corcoran (Commissioner)
DATE OF DECISION:	13 August 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 a special licence to sell liquor to the Leanyer Primary School (**the Applicant**) for the sale of liquor between the hours of:

 Wednesday, 22 August 2018 from 1700 hours to 1930 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 “Leanyer School Dragonfly Festival” situated on the Leanyer School Oval at 114 Leanyer Drive, Leanyer 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 (the Nominee/s), who each must 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: LANA MAY HOWITT

- 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) alcoholic drinks 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.

- Only mid-strength beer and wine to be available for sale;
- No more than two (2) alcoholic drinks must be sold to any one person at any one time;

- Free water to be available;
- 2 crowd controllers must be on be engaged during the event to monitor and enforce all licensing requirements and regulations pertaining to the sale of alcohol;
- The 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 23 July 2018 pursuant to section 58 of the Act, Leanyer Primary School (**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 the Leanyer School Dragonfly Festival on the evening of Wednesday, 22 August 2018. The application was incomplete until 30 July 2018 when a completed Department of Education Alcohol Consumption on Department Premises application form was submitted by the Applicant. 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 Leanyer School Dragonfly Festival is a family friendly school fundraising event. The function will be an International Community Food Festival event for the local parent community to raise funds for the school. There will be local food trucks (being established vendors from Mindil Beach) and also school stalls selling cakes, satays and steak sandwiches.
5. Specifically, the Applicant is seeking a special licence for the following hours of trade:

Wednesday, 22 August 2018 from 1700 hours to 1930 hours.
6. The Applicant estimates 600 people will attend the event including children and parents of the school and the wider community. The sale of liquor to patrons at the Festival is proposed via one bar. There will be a limit of just 2 drinks per customer at the one time. Only mid-strength beer and wine in 150 ml portions is proposed to be available for sale. Free water from coolers will also be available. Soft drinks will be available through a separate vendor.
7. In relation to security and crowd control arrangements, the Applicant did not intend to engage crowd controllers for the event.
8. No special liquor licenses have been granted to the Applicant previously. However, schools have been issued with special liquor licenses in the past.

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 Police, Fire and Emergency Services (**NT Police**) and NT Fire, Rescue Service (**NTFRS**) and seek their comment. With respect to this application:
10. DOH indicated that it had no adverse comment. However, it asked the Director-General of Licensing to consider patron and community safety and amenity when determining the application. It also requested that the Applicant be reminded that the whole of Leanyer Primary School is smoke free and that the policy was endorsed by the staff at the beginning of the 2018 school year.
11. NTFRS had no objections to the application on condition that event organisers ensure the following conditions are adhered to:
 - a. *Food providers are equipped with a fire extinguisher and fire blanket (min 1m x 1m) regardless of whether a deep fryer is being used or not;*
 - b. *If a deep fryer is being used than a minimum of 1.8m x 1.2m fire blankets is required; and*
 - c. *All fire extinguishes / blankets to be maintained six monthly as per Australian Standards (AS 1851).*
12. The NT Police queried why the Applicant had not made provision for security at the event.
13. All of the comments from the stakeholders were forwarded to the Applicant.

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. Importantly, I note that the application has been made in accordance with the Department of Education’s Policy for Alcohol Consumption on Department Premises.

20. It is also evident that the stakeholders who had the opportunity to provide feedback did not oppose the grant of a special licence for the Leanyer School Dragonfly Festival.

21. The event runs for just 2½ hours with the main drawcard to this event being the food stalls and entertainment. With only mid-strength beer being available along with wine by 150 ml pour and a limit of 2 drinks per person per transaction, I am satisfied that the supply of alcohol is an ancillary feature of the event’s food and entertainment offerings.


22. However, the issue raised by NT Police as to whether crowd controller should be engaged is important and needs to be considered.

23. In response to the NT Police’s concern, the Principal advised that a requirement for security at a school community event was not considered. She noted that approximately 40 teaching and administration staff would be present at the event in an official capacity and queried if that would adequately address concerns raised by NT Police.

24. Although staff can assist monitor the crowds, if an incident occurs it is expected that the Applicant be able to respond appropriately with qualified crowd controllers.
25. The requirement of security is unfortunately a part of modern society and hosting community events. Based on the information before me, I consider the event low risk and accordingly, instead of the engagement of crowd controllers at industry standards, the Applicant should ensure at least 2 crowd controllers are engaged for the entirety of the event to monitor the crowds and alcohol consumption.
26. 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:

27. 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.
28. 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.
29. 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
Commissioner
Northern Territory Liquor Commission
13 August 2018