

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	<b>LC2018/075</b>
<b>VENUE:</b>	Darwin Showgrounds 1 Tate Place WINELLIE NT 0820
<b>APPLICANT:</b>	Andrew Arthur
<b>EVENT:</b>	Darwin Country Music Muster
<b>LEGISLATION:</b>	Part VI of the <i>Liquor Act</i> .
<b>DECISION OF:</b>	Mr Russell Goldflam (Acting Deputy Chairperson)
<b>DATE OF DECISION:</b>	26 June 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 the special licence to sell liquor to Andrew Arthur ("the applicant") for the sale of liquor from 14:00 hours to 23:59 hours on Saturday, 30 June 2018.
2. The granting of approval is subject to the following standard 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.
    - i. Nominee: Andrew Arthur**
  - 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*, 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 or bottles 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*. Food and drinks are not permitted to be taken into any designated smoking areas.
- t. 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).

### **3. Additional Conditions**

- a. Spirits must not be sold in containers with more than 5% alcohol by volume.
- b. Wine must not be sold in containers with more than 150 ml.
- c. After 20:00 hours no more than two (2) cans or bottles may be sold to any one person at any one time.
- d. A minimum of two (2) Crowd Controllers are required to be in attendance from 1400 hours to 17:59 hours, and a minimum of six (6) Crowd Controllers are required to be in attendance from 18:00 hours until 24:00 hours. To the extent that this condition is inconsistent with Condition 1(e) above, this condition prevails.

### **Reasons**

#### **Background**

- 4. Pursuant to section 58 of the *Liquor Act* (“the Act”), the applicant applied to the Director-General of Licensing on 27 April 2018 for a special licence to permit the sale of light, mid-strength and full-strength beer and pre-mixed “UDL” spirits to persons attending the Darwin Country Music Muster, at which twelve bands will play live country music over a period of eight hours. Although the applicant did not specify in the application that he wishes to sell wine, in subsequent correspondence he referred to wine as a product he may wish to sell. Accordingly, I have dealt with this application on the basis that the applicant wishes to sell wine.
- 5. The applicant is seeking to sell liquor from 14:00 hours to 23:59 hours on 30 June 2018. The applicant anticipates that approximately 400 persons, predominantly over 35 years of age, will attend the event.
- 6. An exemption is sought by the applicant from providing private security or crowd controllers in accordance with the industry standard. The applicant proposes

instead that there be two Crowd Controllers for the first four hours of the event, and then six Crowd Controllers thereafter.

7. In 2015 a special licence was issued to the applicant for a similar event in Adelaide River. The Commission has not been informed that there were any compliance issues arising from that event.

### **Consultation**

8. 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 Services (“NTFRS”), the Darwin City Council and NT Police, Fire and Emergency Services (“NT Police”) and seek their comment.
9. With respect to this application:
  - a. The DOH had “no adverse comment” but requested that the applicant be reminded of its obligations in relation to smoking, and raised concern about the risk of unaccompanied minors being stranded at the event after public transport has ceased to operate.
  - b. The NTFRS had “no objection” to the application, but reminded the applicant of the applicable fire safety requirements.
  - c. The Darwin City Council provided no comment.
  - d. The NT Police supported the application but raised some concerns regarding the type and amount of liquor being sold. Following discussion between police and the applicant, the NT Police submitted that their concerns would be met if, from 20:00 hours, only 2 drinks per transaction per person be sold.
10. The applicant responded appropriately and responsibly to all of the concerns raised in the consultations. In particular, the Commission commends the applicant and the NT Police for taking the sensible step of meeting to discuss issues that had arisen in the consultation process.

### **Assessment of the Application**

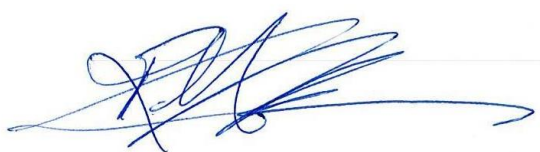
11. As previously noted, this is an application for a special licence under section 58 of the Act. That section is within Part VI of the Act. There are no specific criteria prescribed within the Act for consideration of an application for a special licence. Special licences exist under Part VI of the 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 the 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. Although there is no formal obligation to consult, responses were sought from the relevant stakeholders, and I have considered those responses.
17. I have determined that to minimise the risk of harm arising from the operation of the licence, liquor should be supplied in containers with no more than 1.5 standard drinks per serve. This is consistent with conditions imposed on other Special Licences recently issued by the Commission for similar events. This restriction is given effect by the combined operation of the Standard Condition set out at paragraph 2(f) above, and the Additional Conditions set out at paragraphs 3(a) and (b) above.

18. I have determined that an exemption be granted to the applicant regarding security numbers, as specified at paragraph 3(c) above. In doing so I have had regard to the following:
- a. in 2015 this event proceeded without conditions regarding the number of crowd controllers, without, as far as I am aware, adverse incident;
  - b. the additional restrictions in the licence on the sale of liquor will likely reduce the risk of anti-social behaviour by intoxicated patrons;
  - c. from past experience of this event, and having regard to the nature of the event and the mature age of patrons, it is reasonable to expect that patrons on and in the vicinity of the premises are likely to be well-behaved; and
  - d. the NT Police have submitted that the proposed security arrangements are satisfactory.

**Notice of Rights:**

19. 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.
20. 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.
21. 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.



**RUSSELL GOLDFLAM**  
Acting Deputy Chairperson  
Northern Territory Liquor Commission