

NORTHERN TERRITORY LIQUOR COMMISSION
AMENDED¹ DECISION NOTICE

MATTER: APPLICATION FOR A LIQUOR LICENCE WITH PUBLIC BAR AND ADULT ENTERTAINMENT AUTHORITIES

REFERENCE: LC2022/036

LICENSEE: Circus Joseph Ashton Pty Ltd (Infamous The Show)

PREMISES: The Darwin Showgrounds
1 Tate Place
Winnellie NT 0820

LEGISLATION: Section 48 of the *Liquor Act 2019*

HEARD BEFORE: Richard Coates (Chairperson)
Bernard Dwyer (Health Member)
Christine Hart (Community Member)

DATE OF DECISION: 12 July 2022

DECISION

1. Pursuant to section 21 of the the *Liquor Act 2019* (NT) (**the Act**), having formed the opinion that a public hearing is not appropriate in the circumstances of this application, the Northern Territory Liquor Commission (**the Commission**) has determined to conduct the hearing of this application by way of written submissions only.
2. In accordance with section 48 of the Act, the Commission has determined to issue a licence to Circus Joseph Ashton Pty Ltd (ABN 087 429 169), trading as Infamous The Show (**the Licensee**).
3. The licensed premises are the interior of the circus tent within the Darwin Showgrounds at 1 Tate Place, Winnellie designated by the star shaped area included in the Licensee's earlier licence, number FLL1900 dated 23 May 2022.

¹ This Decision Notice was amended on 13 July 2022, to correct an error in the hours of operation. The hours of operation, as stated in paragraph 8 and 9, have been amended from "19:30 to 22:30" to "18:00 to 22:30".

4. The Commission approves the appointment of Ms Maddison White as the nominee of the Licensee.
5. The licence will be issued with a public bar authority and an adult entertainment R-rated authority.
6. The conditions of the licence will be those authority conditions prescribed by Part 4 Division 1, Division 2, Division 14 and Division 18 of the *Liquor Regulations 2019 (the Regulations)*.
7. The Commission fixes the following additional conditions:
 - a. The sale, supply and consumption of liquor on the premises is restricted to the following products: light beer, mid-strength beer, wine (including sparkling wine), RTDs and cocktails.
 - b. Liquor must only be supplied in open containers.
 - c. No more than one 750ml bottle of wine or four cans, stubbies or glasses of liquor may be sold to any one person at any one time.
 - d. Persons under 18 years of age are not permitted to enter or remain on the premises during the hours of operation of the licence.
 - e. The sale of liquor must be by persons who each hold a Responsible Service of Alcohol certificate and are supervised by one or more persons nominated by the Licensee.
 - f. Trade under the licence must not commence until a fire safety inspection of the premises has been conducted by the Northern Territory Fire and Rescue Service (NTFRS) and the Licensee has complied with any directions by the NTFRS arising from that inspection, including a direction regarding the maximum number of patrons permitted on the premises.
 - g. The Licensee must comply with any requirements or directions of the Northern Territory Chief Health Officer in relation to any COVID-19 declaration pertaining to the sale of liquor at public gatherings.
 - h. All adult entertainment must be performed and supervised in accordance with the Northern Territory Government guidelines at <https://nt.gov.au/industry/hospitality/licensed-premises/adult-entertainment-in-licensed-premises>.
 - i. The licence nominee must be present during all trading hours and must ensure compliance with these conditions.
8. The hours of operation of the licence shall be from 18:00 to 22:30 each Thursday, Friday, Saturday and Sunday between 29 July 2022 and 21 August 2022 inclusive.
9. The term of this licence commences at 18:00 on 29 July 2022, and expires at 22:30 on 21 August 2022.

REASONS

BACKGROUND

10. This Decision Notice needs to be read in conjunction with the Commission's earlier decision dated 23 May 2022, in relation to the grant of a similar licence for the period 10 June 2022 to 9 July 2022.
11. Circus Joseph Ashton Pty Ltd had originally intended to travel to Western Australia at the conclusion of its earlier series of burlesque circus shows which had been staged in a circus tent temporarily located at the Darwin Showgrounds. However, difficulties which arose with the Western Australian tour sites and the success of the Darwin performances have prompted the Licensee to change its plans and to seek an extension of its Darwin tour dates.
12. The Director of Liquor Licensing (**the Director**) had originally proposed referring the matter to the Commission as a variation of conditions pursuant to section 110 of the Act. However, as the Commission had imposed a limited term in respect of the original licence, that term goes to the heart of the licence and is not a discretionary condition as envisaged by section 87 of the Act. Accordingly, following discussions between the Licensee and the delegate of the Director it was decided that the matter would proceed as an urgent application for a new licence in respect of the new dates.
13. The new licence application was lodged on 6 July 2022, seeking a public bar and adult entertainment R-rated authority for performances of "Infamous The Show" to be held at the Darwin Showgrounds on the following dates:

Friday, 29 July 2022 – Sunday, 31 July 2022

Thursday, 4 August 2022 – Sunday, 7 August 2022

Thursday, 11 August 2022 – Sunday, 14 August 2022

Thursday, 18 August 2022 – Sunday, 21 August 2022
14. The Licensee has indicated, not unreasonably, that it seeks to rely on all the materials, including the section 54 Affidavit as well as the community impact and public interest submissions filed in the earlier application, for licence FLL1900.
15. The adult nature of the entertainment precludes what would have otherwise been an application for a special event authority, such an application would ordinarily be determined by the Director's delegate and not be subject to public notice.
16. On that basis, pursuant to section 57(2A) of the Act, the Director exempted the application from public advertisement.

17. In accordance with section 56(4) of the Act, on 6 July 2022 the following stakeholders were notified of this subsequent application:
- The Chief Executive Officer of the Department of Health;
 - The Commissioner of Police;
 - Darwin City Council.
18. No adverse comments have been received from any of the stakeholders.

THE HEARING

19. On 12 July 2022, the Commission convened and formed the opinion that it would not be appropriate in the circumstances to conduct a hearing of the application in public. This was because the hearing for the original licence had not been held in public, there has been no controversy or compliance issues raised in respect of the operation of the previous licence, the matter is being dealt with as a matter of urgency and the licence is only for a limited fixed term.
20. Accordingly, pursuant to section 21 of the Act, the Commission accepted the Director's submission and determined to conduct the hearing by way of written submissions only.

ASSESSMENT OF THE APPLICATION

21. Apart from the proposed further performance dates this application is identical to the one that was approved by the Commission on conditions in its Decision Notice dated 23 May 2022.
22. The Commission is satisfied that nothing has changed to cast doubt on any of the earlier findings in relation to the requirements of section 59 of the Act nor the public interest and community impact criteria. The Licensee has demonstrated that it can conduct a well-managed performance event. There have been no compliance issues and the event has proved popular with the Darwin public.
23. The Commission is satisfied, in accordance with section 49 of the Act, that:
- (a) the applicant is a fit and proper person; and
 - (b) issuing the licence or authority is in the public interest; and
 - (c) the licence or authority will not have a significant adverse impact on the community.
24. Accordingly, the Commission has determined to grant the licence and authorities on the terms and conditions set out at the commencement of this Decision Notice.

NOTICE OF RIGHTS

25. Section 31(1) read with section 60(3) of the Act provide that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (**NTCAT**). Section 94(3) of the *NTCAT Act 2014* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
26. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Licensee and Director.



Richard Coates

CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
12 July 2022

On behalf of Commissioners Coates, Dwyer and Hart