

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	2108/109
PREMISES:	Museum and Art Gallery of the Northern Territory 19 Conacher St, The Gardens Darwin NT 0820
APPLICANT:	Karen Sheldon Group Pty Ltd T/A Karen Sheldon Catering
EVENT:	National Aboriginal and Torres Strait Islander Art Awards (NATSIAA)
LEGISLATION:	Section 58 of the <i>Liquor Act</i> .
DECISION OF:	Mr Richard Coates (Chairperson)
DATE OF DECISION:	9 August 2018

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act* ("the Act") the applicant is granted a special licence in the following terms:
 - a. (a) The liquor shall be sold at the event known as "National Aboriginal and Torres Strait Islander Art Awards" occurring at Museum & Art Gallery of the Northern Territory, 16 Conacher Street, The Gardens in the Northern Territory ("the Premises").

(b) The liquor will be sold during the hours specified below from and for the following bars and functions:-
 - i) The Cocktail Function 17:00 hours to 19:00 hours
 - ii) The VIP Dinner 20:00 hours to 23:00 hours
 - iii) Main Bar and Satellite bar 18:00 hours to 21:45 hours
 - 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 the conditions.
- d. The Nominees are identified as **Sarah Hickey and Amanda Swift**.
- 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 engaged and deployed in accordance with the proposal prepared by Wilson Security included in Attachment B of the application.
- i. All liquor must be sold in open containers.
- j. No more than four (4) cans or bottles or one (1) wine bottle must be sold to any one (1) person at any one time.
- k. The holder of the special licence must ensure that water, soft drink 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. Where the holder of the special licence is operating from enclosed premises, the holder must prominently display on the licensed premises the “Maximum Patron Number” sign (if one has been issued by the Northern Territory Fire and Rescue Service) and must comply with the maximum patron numbers as determined by the Northern Territory Fire and Rescue Service from time to time.
- o. 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.
- p. The holder of the special licence 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(a) All food trucks and food stalls are to have fire extinguishers as well as a 1.8m x 11.2m fire blanket if using a deep fryer.
- q. All liquor purchased for sale under the authority of this special licence MUST be purchased from a licensed retail outlet.
- r. 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.
- s. 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.
- t. 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 identify card or other authorisation.
- u. The Premises 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*.
- v. Food and drinks are not permitted to be taken into any designated smoking areas.
- w. The holder of the special licence or an employee of the holder 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

2. Pursuant to section 58 of the Act, Karen Sheldon Group Pty Ltd ("the applicant") lodged an application with the Director-General of Licensing ("Director-General") on 21 June 2018 for the grant of a special licence to permit the sale of liquor to patrons attending the annual National Aboriginal and Torres Strait Islander Art Awards (NATSIAA's).
3. Unfortunately that application was not referred to the Commission until 7 August 2018 despite the fact the event was scheduled to take place with 4,000 guests attending on 10 August 2018. If the Commission had been unable to make time to determine this very lengthy application as a matter of urgency then the applicant would have suffered hardship, the public would have been inconvenienced and the Territory would have been embarrassed by the fact that one of its iconic annual events could not proceed as had been anticipated. I have raised my concerns with Licensing NT over the unacceptable delay in referring this and other matters to the Commission and have requested that measure be put in place to better track applications through the administrative process.

4. The NASIAA's will be held on Friday, 10 August 2018 at the Museum and Art Gallery of the Northern Territory. Approximately 4,000 guests are expected to attend the awards and it is proposed that liquor be supplied at three different functions, as follows:
 - a) A cocktail function for 300 invited guests from 17:00 hours to 19:00 hours;
 - b) A VIP dinner for 120 invited guests from 20:00 hours to 23:00 hours; and
 - c) The main bar and satellite bar serving up to 4,000 public guests from 18:00hours to 21:45 hours.
5. The applicant submitted a detailed security plan that had been compiled by Wilson Security together with a Traffic Control Plan in support of the application.

Consultation

6. Notice of the application has been provided to Department of Health, Northern Territory Police, Fire and Emergency Services and Northern Territory Fire and Rescue Service. No adverse comments were made however the Northern Territory Fire and Rescue Service advised that food stalls should all have fire extinguishers as well as fire blanket if using deep fat fryers.
7. The applicant has been issued with a number of special licences in the past and there have been no compliance issues.

Assessment of the Application

8. 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.
9. 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.
10. 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".
11. 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.”

12. 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.

13. The applicant has presented a detailed comprehensive proposal to provide entertainment and refreshments at this longstanding community event. It is a significant tourist attraction and is an ideal means of showcasing the Northern Territory’s vibrant indigenous culture to the rest of the nation. The provision of liquor is very much ancillary to the entertainment being provided on this “dry season” evening.

14. 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:

15. 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.

16. 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.

17. 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.



RICHARD COATES
Presiding Member
Chairperson
31 August 2018