

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2019/078

PREMISES: Frances Drive
Between the Boulevard & Palmerston Circuit Roundabout
including Mansfield Street
PALMERSTON NT 0830

APPLICANT: JUMIAM PTY LTD & T.J. INVESTMENTS (NT) PTY LTD

EVENT: 2019 Frances Drive Street Festivals

LEGISLATION: Section 58 of the *Liquor Act 1978*

PROPOSED DATES: 22 June 2019
3 August 2019

DECISION OF: Ms Pauline Reynolds

DATE OF DECISION: 3 June 2019

DECISION

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (“the Act”) I have determined to grant the special licence to sell liquor to Jumiam PTY LTD and T.J Investments (NT) PTY LTD (“The Applicants”) for the sale of liquor between the hours of:
 - Saturday, 22 June 2019 from 1700 hours to 2200 hours;
 - Saturday, 3 August 2019 from 1700 hours to 2200 hours.
2. The granting of approval is subject to the following conditions, namely:
 - a. The liquor shall be sold at the event known as “2019 Frances Drive Street Festivals” occurring at Frances Drive, Between the Boulevard & Palmerston Circuit Roundabout including Mansfield Street, Palmerston in the Northern Territory (“The Premises”).

- b. The sale of liquor MUST BE supervised by one or more persons nominated by the Licensee (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 Steve Dugan and Shane Mackey.
 - Steve Dugan is the current nominee at The Bell Bar & Bistro
 - Shane Mackey is the nominee at Good Times Bar and Grill.
- 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.

The Applicants have identified two points of sale for alcohol.

- One 6m container style bar
 - One covered 3m x 3m bar with 1100mm serving counter.
- g. Any person involved in Crowd Control, as defined under the *Private Security Act 1995*, 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 (2) licensed crowd controllers for the first one hundred (100) patrons and one (1) additional crowd controller for each one hundred (100) 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 (1) person at any one time.
 - k. The Licensee 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 an intoxicated person or to a person under the age of 18 years.
 - m. The Licensee 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 Licensee is operating from enclosed premises, the Licensee must prominently display on the licensed 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 Service from time to time.
- o. The Licensee 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 Licensee 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.
- q. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- r. The licensee must make a record of all liquor obtained for sale under this licence that identifies the source of the liquor and the type and quantity of each type of liquor so obtained.
- s. The licensee 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 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 2002*.
- v. Food and drinks are not permitted to be taken into any designated smoking areas.
- w. The Licensee or an employee of the Licensee shall exclude or remove from licensed premises any person who is wearing colours, insignia or emblems of an outlaw motorcycle gang (“Bikie Gang”).
- x. For the purpose of fire safety, the Licensee or an employee of the Licensee shall ensure the following;
 - l. A four-meter emergency lane is kept clear or easily cleared along the street for emergency vehicle access and that security are aware that in an emergency the area must be opened to allow vehicles access.

- II. Access to the booster systems at the rear of the Baywood Plaza and YMCA Building are not obstructed by vehicles.
- III. All catering vans must have a minimum 2A30BE Dry chemical and a 1.2X1.8 Fire Blanket.
- IV. The stage area must have a 3A 30BE Dry Chemical extinguisher.
- V. All staff and security must be aware of the emergency management plan for this event.

REASONS

BACKGROUND

3. Pursuant to section 58 of the Act, the Applicants applied to the Director-General of Licensing on 28 May 2019 for a special licence to permit the sale of liquor to patrons attending an event known as “2019 Frances Drive Street Festivals” occurring at Frances Drive, Between the Boulevard & Palmerston Circuit Roundabout including Mansfield Street, Palmerston in the Northern Territory (“The Premises”).
4. The Applicants advised that a crowd of a crowd of 2500 patrons over the duration of the event, with an expectation of 1500 patrons at any one time. This crowd is expected to cover a wide range of age groups. The City of Palmerston is a young, multi-cultural and diverse community with a population that has a median age of 30 years.
5. Palmerston Council Community Engagement have held discussions and provided approval to the Applicants to commence Palmerston CBD activation events bringing themed entertainment to the local area and community. The dry season events will be themed and have a focus on food and entertainment, like the successful Darwin Laneway Series.
6. It is planned to have a selection of food available for sale with the food matched to the theme of the event, such as tapas food with Latin music. Live performances and music are planned to accompany the event and will be aimed for a theme of the night.
7. The Applicants is seeking to sell liquor between the hours of:
 - Saturday, 22 June 2019 from 1700 hours to 2200 hours;
 - Saturday, 3 August 2019 from 1700 hours to 2200 hours.
8. I am advised that the nature and purpose of the event is to entertain the general public of Palmerston. The proposed series of dinner events on Frances Drive aim to bring activation to the city space and increase the vibrancy of the city centre.
9. The Applicants proposes to sell a range of beer, wine, mixed spirits and cocktails and a range of non-alcoholic drinks and water available for purchase.

10. I have been informed by Licensing NT that T.J. Investments (NT) Pty Ltd hold a full liquor licence number 80315980 relating to Good Times Bar and Grill. A check of compliance records held at Licensing NT against the Applicants indicate that Good Times Bar and Grill no issues.
11. I have been informed by Licensing NT that Jumiam Pty Ltd hold a full liquor licence number 80319095 relating to the Bell Bar and Bistro. Licensing NT have received concerns during the last 12 months regarding noise emanating from Bell Bar & Bistro. Compliance officers have conducted several inspections at the premises and during those inspections nil compliance concerns were identified. Compliance officers have been liaising with the licensee and nominee and have raised the noise emanation concerns. The nominee has been proactive since receiving this information and has provided mobile contact numbers of his duty managers to the concerned resident.

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.
13. 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 Police, Fire and Emergency Services (NT Police), Northern Territory Fire and Rescue Service (NTFRS), St Johns Ambulance NT (SJA) and seek their comment.
14. With respect to this application:
 - a) The Department of Health has no adverse comment. However, Health asks the Director-General of Licensing to consider patron and community safety and amenity when determining the application.
 - I. Health provide the comment on the understanding the applicant acknowledges the venue is a smoke free venue.

NT Licensing have confirmed that the Applicants was provided with smoking signage as requested via email on 14 May 2019. Being current licensees, they are aware of obligations and compliance with the *Tobacco Control Act 2002*.

- b) Northern Territory Fire and Rescue Service has no objection on the provision that the following conditions are adhered to:
 - I. A four-meter emergency lane is kept clear or easily cleared along the street for emergency vehicle access and that security area aware that in an emergency the area must be opened to allow vehicles access.
 - II. Access to the booster systems at the rear of the Baywood Plaza and YMCA Building are not obstructed by vehicles.

- III. All catering vans must have a minimum 2A30BE Dry chemical and a 1.2X1.8 Fire Blanket.
 - IV. The stage area must have a 3A 30BE Dry Chemical extinguisher.
 - V. All staff and security must be aware of the emergency management plan for this event.
- c) Northern Territory Police submit they have no objection to the application.
 - d) St John Ambulance Australia (NT) Inc. did not provide any response at the time of this referral.

ASSESSMENT OF THE APPLICATION

- 15. 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.
- 16. 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.
- 17. However 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”.
- 18. 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) 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.

19. 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.
20. I am satisfied as a result of the material provided by the applicant that it would conduct itself appropriately under any special licence granted to it.
21. Based on the material before me, I find there is no basis to believe the applicant would not comply with the usual conditions of the special licence as sought. Given the nature of this event and for the reasons outlined above; I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and I have decided to grant the special licence as outlined at the start of this Decision Notice.

NOTICE OF RIGHTS

22. 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.
23. 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.
24. 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.



PAULINE REYNOLDS
HEALTH MEMBER
NORTHERN TERRITORY LIQUOR COMMISSION
3 JUNE 2019