

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR A MAJOR EVENT AUTHORITY

REFERENCE NUMBER: LC2021/011

APPLICANT: LACT Activations Pty Ltd

PREMISES: Darwin Amphitheatre
George Brown Darwin Botanic Gardens
21 Geranium Street
THE GARDENS NT 0820

PROPOSED EVENT: SummerSalt

NOMINEE/S: Lorraine Phelan

OBJECTOR/S: Nil

LEGISLATION: Sections 42, 47 and 60 of the *Liquor Act 2019*

DECISION OF: Ms Amy Corcoran (Community Member)

DATE OF DECISION: 23 March 2021

Decision

1. For the reasons set out below and in accordance with section 48 of the *Liquor Act 2019* (**the Act**) the Commission has determined to issue a licence to LACT Activations Pty Ltd (**the Applicant**). The Applicant will be issued with a major event authority attached to the licence authorising the sale, supply or service of liquor to patrons of “SummerSalt” for consumption on or in the area known as the Darwin Amphitheatre located at George Brown Darwin Botanic Gardens in The Gardens, NT 0820 (**the Premises**) for the hours of:

Friday, 2 April 2021 from 14:00 hours to 24:00 hours.
2. The Commission approves Ms Lorraine Phelan as the designated nominee (**the Nominee**).
3. In addition to the major event conditions set out in Division 12 of the Liquor Regulations 2019 (**the Regulations**), the licence shall also be subject to the following additional conditions:
 - a) The boundary of the licensed area at the Darwin Amphitheatre must be clearly identified and access to the licensed area must be restricted in a manner that allows for effective supervision by the Nominee.

- b) A staggered decline of alcohol served must be implemented as follow:
- i. No more than four (4) alcoholic drinks or one (1) bottle of wine (poured into a plastic carafe) may be sold to any one (1) person at any one (1) time from 14:00 to 21:00 hours;
 - ii. No more than two (2) alcoholic drinks sold to any one person at any one time from 21:00 to 23:30 hours;
 - iii. Service of alcoholic drinks must cease by 23:30.

To the extent that this condition is inconsistent with the Regulations, this condition prevails.

- c) No provision of alcoholic drinks that:
- i. Are designed to be consumed quickly and which are commonly referred to as a 'shot or shooters'; or
 - ii. Are a cocktail containing more than a 30ml nip of spirit or liquor.
- d) The sale of alcoholic ice slushies is prohibited.
- e) Liquor or any other beverages must not be sold to patrons in glass containers.
- f) Soft drinks and water may be available from the bar but must also be available from separate outlets for those patrons under 18 years of age.
- g) All patrons must be issued with colour coded wristbands upon entry clearly identifying patrons who are:
- i. 18+ years of age; and
 - ii. Under 18 years of age.
- h) No patron is to be sold, consume or possess liquor if they are not wearing an 18+ wristband.
- i) Children under 16 years must be accompanied and supervised at all times by a ticket holding adult guardian.
- j) No pass-outs are permitted for unaccompanied patrons under the age of 18 years.
- k) No pass-outs are permitted after 19:00 hours.
- l) A designated 'Dry Area' must be established and maintained.

4. The licence will be issued immediately following the publication of this decision notice.

Reasons

Background

5. On 17 February 2021 pursuant to section 52 of the Act, the Applicant applied to the Commission for a licence with a major event authority to permit the sale of alcohol to patrons attending a concert called “SummerSalt” at the Premises.
6. SummerSalt is a National concert tour featuring a number of Australian artists including; The Tesky Brothers, The Cat Empire, John Butler Trio, Boy & Bear and Emily Wurramara. It is a ticketed all age’s event with a key demographic of 35 to 45 years old with an affinity to live music.
7. All patrons attending the event will receive branded event wristbands upon entry. Patrons under 16 years must hold a ticket and be accompanied by a parent or guardian and remain in their care at all times. Children 12 years and under will be admitted free of charge with a ticket holding parent or guardian. Any patrons inside the venue without a wristband will be subject to eviction if they do not comply.
8. The Applicant estimates a crowd of approximately 6,000 patrons will attend the event and sufficient crowd controllers will be present to adhere to the industry standards for crowd control. Specifically, two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.
9. The application proposed the sale of light, mid and full-strength beer, cider, spirits, RTD’s, wine and cocktails with the following conditions:
 - a) Four (4) drinks will be served per person at any one time until 20:00 hours and then two (2) drinks per person after 20:00 hours;
 - b) All alcoholic drinks to be sold in open containers;
 - c) Designated crowd controllers will monitor each lane and identify wristbands;
 - d) Food and water will be available; and
 - e) No glass will be permitted.
10. Food will be available for purchase from at least two (2) food vendors at the event. Free potable water will be available as well as soft drinks and water for purchase. It is noted that the Applicant will allow patrons to bring their own food and snacks into the venue.
11. The event will also include a VIP area called “The Coconut Club” which will be an 18+ only premium area located approximately 80 meters from the stage. The area has unreserved tables, chairs and shade as well as its own bar and bathrooms. All patrons entering this area must be 18 years or over and have a valid “Coconut Club” ticket.

12. The application states that first aid will be provided through St John Ambulance until 10:30pm when the live music is anticipated to finish.
13. The Darwin Amphitheatre is a non-smoking venue. The Applicant has confirmed there will be visible 'No Smoking' signage throughout the Premises and designated smoking areas will be located just outside the Amphitheatre perimeter but within the fenced event complex forming part of the Premises.
14. In terms of the application before the Commission, it is noted that the Applicant provided the following documents in accordance with section 53(3) of the Act:
 - a) Application for a new liquor licence or authority
 - b) Supplementary information application for a major event authority
 - c) Site plan
 - d) Public Interest Criteria and Community Impact Assessment
 - e) Probity documents and reports, certificates, references, affidavits and statutory declarations relevant to the application in respect to the Nominee and Applicant and to the satisfaction of the Director of Liquor Licensing
 - f) An affidavit of Lorraine Phelan, Event Manager, in accordance with the Act regarding influential persons
 - g) Registration of food business
 - h) Operations Plan
 - i) Traffic Management Plan.
15. The proposed nominee for the event is Ms Lorraine Phelan. Ms Phelan has been involved with several major events in the Northern Territory such as BASSINTHEGRASS and is well qualified to be a nominee.
16. It is noted that the Applicant will be required to comply with any Chief Health Officer Direction that may apply at the time the event takes place pursuant to section 92 of the Act.

Advertising and Objections

17. The application was advertised in the NT News on Saturday, 20 February 2021 and Wednesday, 24 February 2021.
18. No objections were received from the public.

Consultation

19. Pursuant to section 56(4) of the Act, the following stakeholders were notified of the application by the Director:

- a) The Department of Health (**DOH**);
 - b) The Commissioner of Police (**NT Police**); and
 - c) Darwin City Council (**Council**).
20. Although not legally bound to do so, the Commission notes that the Director also forwarded a copy of the application for comments to:
- a) Northern Territory Fire and Rescue Services (**NTFRS**); and
 - b) St John Ambulance (**St John**).
21. With respect to this application:
- a) DOH made no adverse comment noting the Applicant's obligations to complete a COVID-19 Safety Plan as well as comply with Directions of the Chief Health Officer (**CHO**);
 - b) NT Police supported the application contingent to:
 - i. No wine bottles or any glass to be provided to patrons;
 - ii. The sale of alcohol should cease at 10:30pm to allow for people to finish consuming their beverages and to reduce the risk of ensuing arguments with security personal trying to move people on; and
 - iii. The strict adherence to industry standards for crowd control.
 - c) Council confirmed it approved the event site plan including the smoking areas indicated;
 - d) NTFRS supported the application; and
 - e) St John confirmed they are providing coverage at the event for the duration of 14:00 hours to 22:30 hours.

Hearing

22. Given that no objections were received and this is an application for a major event for this year only, there appears no reason why this application should be referred to a hearing under section 21 of the Act. Accordingly, I have proceeded pursuant to my delegation to deal with such application.

Assessment of the Application

23. Although no objections were made to this application, section 49 of the Act makes clear that the Commission may only issue a licence or an authority if satisfied that:
- a) The Applicant is a fit and proper person;
 - b) Issuing the licence or authority is in the public interest; and

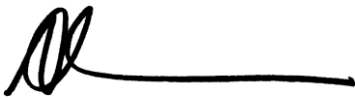
- c) The licence or authority will not have a significant adverse impact on the community.
24. The Commission has had regard to the relevant considerations listed in section 59(3) of the Act as to the suitability of the Applicant to hold this licence and the Premises to be licensed.
25. Although the Applicant has not itself held a liquor licence previously, the Nominee is well known and well regarded by Licensing NT and other individuals behind the event including the executive officers are also known to Licensing NT and have been associated with major events in the Northern Territory previously. The Commission is satisfied that the Applicant and Nominee are fit and proper persons to hold the licence.
26. The Premises is a substantial outdoor area which has hosted hundreds of concerts in Darwin over many years. The site plan is similar to past events held and run at the Premises showing that the area is equipped with a large toilet block, food and merchandise stalls, first aid station and designated smoking areas. The Premises has a perimeter fence and entry will only be permitted from one access point. The Commission assesses the Premises as suitable for the supply and consumption of liquor in the manner set out in the application.
27. The Applicant was informed of the NT Police's position by email and responded to those matters on 10 March 2021. NT Police then provided further comment that it had no further objections to the application. In the Applicant's response to NT Police concerns, it stated the following:
- a) In response to bottles of wine: *"Noted - For clarity, we will not be allowing glass to be brought in or used at the event. Bottles of wine will be served in plastic reusable carafes and glasses of wine will be served in 150ml biodegradable cups. We anticipate the demographic attending this event will be aged between 25 – 55 years. We predict these to be responsible, working class patrons who will be bringing in their camping chairs and/or picnic rugs to enjoy the afternoon's performances. The sale of bottles of wine (served in carafes) is expected in this relaxed environment and is also on par with other states that this touring festival will be visiting. In accordance with our liquor application, the serving of alcoholic drinks and intoxication will be monitored closely, and RSA rules will apply."*
- b) In response to closing the bars at 10:30pm: *"Noted. We request the sale of 4 alcoholic drinks per person to continue until 10:30pm, then 2 alcoholic drinks per person thereafter, ceasing sale of alcohol at 11:30pm with event finishing at 12:00am."*
- c) In response to the provision of crowd controllers at industry standards: *"Noted and agree to condition set. The event organisers are communicating closely with NT Police Events and Planning Unit and other stakeholders and will update them on actual (not projected) ticket sales during the weeks/days coming up to the event."*

28. In its response to the NT Police, the Applicant suggested it cease alcohol sales at 11:30pm, if the staggered decline of drinks from four to two was extended to 10:30pm instead of 8:00pm as originally stated in their application. It is sensible to allow for “last drinks” prior to the event closing to allow enough time for patrons to consume their beverages and ceasing sales by 11:30pm would provide sufficient time for this. However, it is my view that a staggered decline of drinks from four to two should be imposed earlier than 10:30pm which is more in line with other events of a similar nature. Given this is an all ages event, it is important to mitigate risks where practicable and in this instance, to reduce the opportunity for alcohol to be accessed through secondary supply particularly when oversight may prove more difficult for staff after dark. Accordingly, I intend to impose a condition that the decline of drinks from four to two will be set at 9:00pm.
29. Two further issues that were not addressed by any of the stakeholders but I believe are of particularly relevance to an all ages event, is pass-outs, that is, allowing patrons to leave the event and re-enter at a later time. Historically, NT Police have informed the Commission that pass-outs increase the risk of contraband (including alcohol and drugs) being smuggled into the venue or provided opportunity for persons to access such substances while outside the venue.
30. At events of a similar nature, restrictions on pass-outs have been imposed and as I was minded to do so for this event, I sought feedback from the Applicant on their position. The Applicant stated that “there will be no pass-outs at this event. If any are granted, it will be at the discretion of the door manager on a case-by-case basis.”
31. Weighing up the risks and aligning them with previous event conditions, I intend to impose restrictions on pass-outs such that no unaccompanied children will be permitted pass-outs from the event and no pass-out will be permitted for any patrons after 7:00pm.
32. The main drawcard to the event is the nationally acclaimed music artists. I am satisfied that the supply of alcohol is an ancillary feature of the event’s offerings that is also complimented with food stalls.
33. Having regard to the foregoing, the Commission has had regard to the public interest requirements of section 49 of the Act and is satisfied that issuing the licence with a major event authority is in the public interest and will not have a significant adverse impact on the community.
34. As a result, the Commission intends to issue the licence with a major event authority as set out at the commencement of this Decision Notice.

Notice of Rights

35. Section 31 of the Act provides for any decision of the Commission for which a decision notice is required under the Act is reviewable by Northern Territory Civil and Administrative Tribunal (NTCAT) and the following persons.
36. Section 60(3) of the 2019 Act requires the Commission to give a decision notice to the Applicant after making a decision under section 60(1).

37. Section 31 of the Act provides that any decision of the Commission for which a decision notice is required is reviewable by NTCAT (relevantly) may apply to NTCAT for a review;
- a) In all cases - the Director;
 - b) In the case of a decision regarding an application - the applicant; and
 - c) In the case of a submission, complaint or objection that was the subject of a decision - the person who made the submission, complaint or objection.
38. In accordance with the substance of section 31 of the Act any application for review of this decision must be lodged within 28 days of the date of this decision.



AMY CORCORAN
Commissioner
Northern Territory Liquor Commission
23 March 2021