

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	<b>LC2018/051</b>
<b>VENUE:</b>	<b>Austin Lane between Knuckey Street and Edmond Street</b> DARWIN NT 0800
<b>APPLICANT:</b>	Chung Jae Lee and Dianne Lee
<b>EVENT:</b>	“The Laneway Series”
<b>LEGISLATION:</b>	Section 58 of the <i>Liquor Act</i> .
<b>DECISION OF:</b>	Ms Jodi Truman (Deputy Chairperson)
<b>DATE OF DECISION:</b>	17 May 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 Chung Jae Lee and Dianne Lee for the sale of liquor via an outdoor bar on Friday 22 June 2018 between the hours of 15.00 hours to 23.00 hours.
2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as “The Laneway Series” occurring in Austin Lane between Knuckey Street and Edmond Street, Darwin 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 Mr Chung Jae Lee and Mrs Dianne Lee.

- 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 employed as per industry standards as follows:
  - i. 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 or one (1) wine bottle 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. 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.
- o. 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.
- p. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- q. 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.

- r. 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.
- s. 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.
- t. 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*.
- u. Food and drinks are not permitted to be taken into any designated smoking areas.
- v. 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”).

## **Reasons**

### **Background**

3. Pursuant to section 32A(1) of the *Liquor Act* (“the Act”), Chung Jae Lee and Dianne Lee applied to the Director-General of Licensing on 11 April 2018 for a variation to their current licence in order to permit the sale of liquor to persons attending the event known as “The Laneway Series”. The substance of the application was to be able to provide liquor in an adjacent laneway, namely Austin Lane, to their premises known as “Little Miss Korea” located at Shop 17, 56 Smith Street, Darwin in the Northern Territory.
4. On 17 April 2018 correspondence was received from the applicants seeking that the application for variation to the licence in fact be considered as an application for a special licence pursuant to section 58(1) of the Act. The Director General of Licensing exercised her discretion to accept the application as an application for a special licence. The application was therefore referred to the Commission on 14 May 2018.
5. The applicant is seeking to sell liquor between the hours of 1500 hours to 2300 hours on Friday 22 June 2018. It was stated in the application that it was anticipated by the applicant that there would be 700 persons in attendance at any one time. The proposed laneway event will incorporate food stalls for Little Miss Korea and three (3) other restaurants. It is proposed that there will be only one (1) licensed bar. The outdoor event is said to provide an outdoor recreational experience to diners in the Darwin Central Business District in a laneway style unique to the Top End. It is the fourth event held of this nature, and the second to be held in Austin Lane.

6. The applicant seeks to sell liquor of all strengths including pre-mix cans of spirits and wine. Private security or crowd controllers are to be employed in accordance with the industry standard and the laneway shall be closed to traffic.
7. The applicant already possesses a liquor licence for their premises known as "Little Miss Korea". As earlier noted they also recently received a special licence for a similar event on 11 May 2018, which was apparently a great success. I have further been informed by Licensing NT that there are "nil adverse compliance outcomes" recorded for the applicant.

### **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"), NT Police, Fire and Emergency Services ("NT Police"), Chief Executive Office or the City of Darwin ("Council") and Northern Territory Fire and Rescue Service ("NTFRS") and seek their comment.
9. With respect to this application:
  - a. The DOH had "no adverse comment" however requested that the applicant be reminded of their obligations in relation to smoking and display signage to delineate the Non-Smoking from Smoking areas.
  - b. The NTFRS had "no objection" to the application.
  - c. The Council provided an acknowledgement of receiving the application and advised they had "no issue with this request".
10. In relation to NT Police, I received copies of numerous emails between Licensing NT and NT Police with Licensing NT seeking to clarify if there was to be any response from NT Police to this specific application. As at the time of the referral of this application to me, no response had been received from NT Police. I consider there has been sufficient time to provide a response and I intend to deal with this application.

### **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 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.

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. In relation to this application, I determined the special licence application for the event held on 11 May 2018. As earlier noted it was apparently a great success and there were no compliance issues arising. I also note that this application, and the previous special licence application, have been part of revitalising the Darwin Central Business District (CBD) and is an event also supported by the Council in line with promoting multiculturalism within Darwin and held outdoors to promote outdoor dining and an outdoor recreational experience to diners. As previously noted laneway style dining is an experience in all major cities across Australia and this event promotes Darwin in line with those other major cities. It also provides another experience to tourists visiting Darwin and to locals alike.

17. It is clear from the material before me that this applicant has acted responsibly in accordance with its current licence and previous special licence and I find no reason to believe the applicant would behave any differently with respect to this special licence.

18. 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:**

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.



**JODI TRUMAN**  
Deputy Chairperson  
Northern Territory Liquor Commission