

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2018/059
VENUE:	Mindil Beach THE GARDENS NT 0820
APPLICANT:	Hamark Holdings Pty Ltd
EVENT:	Summer Session
LEGISLATION:	Section 58 of the <i>Liquor Act</i>
DECISION OF:	Ms Amy Corcoran (Commissioner)
DATE OF DECISION:	5 June 2018

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 a special licence to sell liquor to Hamark Holdings Pty Ltd (**the Applicant**) for the sale of liquor between the hours of:

Saturday, 9 June 2018 from 14:00 to 23:59 hours.

2. The granting of approval is subject to the following conditions, namely:
 - a. The sale of liquor must be supervised by one or more persons nominated by the holder of the special licence (the Nominee/s), who each must hold a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General. A Nominee **MUST BE** present during all Trading Hours and must ensure compliance with these Conditions.

Nominee/s: MS LORRAINE PHELAN

- b. Persons under the age of 18 years must not be used in the sale or supply of liquor.

- c. 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.
- d. Any person involved in Crowd Control, as defined under *the Private Security Act*, at the premises, must be licensed as required by that Act.
- e. Crowd Controllers are to be employed as per industry standards as follows:
 - Two licensed crowd controllers for the first 100 hundred patrons and one additional crowd controller for each 100 hundred patrons thereafter.
- f. All liquor must be sold in open containers.
- g. No more than four (4) alcoholic drinks must be sold to any one person at any one time.
- h. The holder of the special licence must ensure that water, soft drinks, low alcohol beverages and snacks are available during Trading Hours. Commercially bottled water may be sold, otherwise water must be supplied free of charge on request.
- i. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- j. 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.
- k. The holder of the special licence must comply with all requirements and guidelines published by the Liquor Commission or Director-General, including guidelines related to the conduct of entertainment.
- l. Where the holder of the special licence is operating from enclosed premises, the holder must prominently display on the 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 and Rescue Service from time to time.
- m. 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.
- n. The holder of the special licence must comply with the requirements of the Liquor Commission or Director-General as specified in this condition,

and with the instructions of 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 identity card or other authorisation.

- o. All liquor purchased for sale under the authority of this special licence **MUST** be purchased from a licensed retail outlet.
- p. 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.
- q. 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.
- r. 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 identity card or other authorisation.
- s. The holder of the special licence must clearly display signage to delineate Non-Smoking areas from the Smoking Areas and the holder must comply with smoking requirements contained in the *Tobacco Control Act*.
- t. Food and drinks are not permitted to be taken into any designated smoking areas.
- u. The holder of a special licence or employee of a holder shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang).

Commission's instructions in accordance with Condition (n):

- No more than four (4) alcoholic drinks to be sold to any one person at any one time from 1400 hours to 2200 hours and then no more than two (2) alcoholic drinks sold to any one person at any one time from 2200 hours to 2359 hours. To the extent that this condition is inconsistent with Condition 2(g) above, this condition prevails.
- No provision of alcoholic drinks that:
 - 1. are designed to be consumed quickly and which are commonly referred to as a 'shot or shooters'; or
 - 2. are a cocktail containing more than a 30ml nip of spirit or liquor.
- Patrons must be 18 years and over.

- All patrons must be issued wristbands demonstrating that they have been checked for identification upon entry. No person is to be sold, consume or possess liquor if they are not wearing a wristband.
- Free potable water must be available to patrons;
- Liquor or any other beverages must not be sold to patrons in glass containers;
- No pass-outs from 19:00 hours;
- Crowd control arrangements shall comprise of static and roaming crowd controller to diligently monitor and enforce all licensing requirements and regulations pertaining to the sale of alcohol;
- At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example, high-viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

Reasons

Background

3. On 1 May 2018 pursuant to section 58 of the Act, Hamark Holdings Pty Ltd (**the Applicant**) lodged an application with the Director-General for the grant of a special licence to permit the sale of liquor to patrons attending an event known as 'Summer Session' on Saturday, 9 June 2018. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. Summer Session is an over 18's electronic music festival held at Mindil Beach. The Applicant estimates 2,500 persons will attend this year with total ticket numbers capped at 3,500. Minors will not be permitted at the event.
5. Specifically, the Applicant is seeking a special licence for the following hours of trade:

Saturday, 9 June 2018 from 14:00 hours to 23:59 hours.
6. The sale of liquor to patrons at Summer Session is proposed via four bars. Beer, soft drinks, cocktails, ready to drink spirits (**RTDs**), wine and cocktails are proposed to be available for sale throughout the licensed area. Additionally, the Applicant indicates beer is proposed to be offered for sale in light and mid-strength alcohol content varieties, as well as full-strength.
7. Complimentary tap water is available to patrons at the event. There will be no BYO alcohol and patrons will be screened and bags checked upon entry to prevent BYO alcohol, illicit drugs, weapons and already intoxicated persons from entry.

8. In relation to security and crowd control arrangements, the Applicant indicates there will be sufficient crowd controllers present at the event to adhere to the industry standard for crowd control. Specifically, this is two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.
9. The Applicant has confirmed qualified paramedics will be engaged and present throughout the event.
10. The Applicant has previously organised and managed this event and many other large music concerts in Darwin over a number of years.
11. Licensing NT have indicated that the event was well run last year providing me with the following summary from their 2017 Compliance Report for the same event:

“Summary:

Overall XXXX Summer Sessions was well executed and managed.

Security employed a ‘zero tolerance’ approach to anti-social behaviour mitigating the potential for incidences during the course of the night.

No glass containers were sold.

Designated smoking areas were well managed.

All patrons received a wristband on entry. The wristband was removed after the 7pm lockout period as patrons exited the event.

Bars were well managed and monitored.”

12. No evidence of non-compliance or adverse comments regarding any issues arising from the same events in 2016 or 2017 have been raised with me by Licensing NT or NT Police.

Consultation

13. 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**) and NT Fire, Rescue Service (**NTFRS**), St John’s Ambulance (**SJA**) and seek their comment. With respect to this application:
14. DOH advised it had not adverse comment and asked the Applicant to be reminded of its obligations under the *Tobacco Control Act*.
15. The NTFRS advised that:

“The NTFRS has no objection to the Special Liquor Licence Application: Summer Sessions 9/6/2018 on the proviso of the following:

- *An in date and tested 3A40BE dry chemical fire extinguishers are mounted with signage near each entry / exit point;*
- *An in date and tested 3A40BE dry chemical fire extinguishers are mounted with signage at the following locations, stage area, sound desk and catering facilities;*
- *All catering businesses that utilise a deep fryer or similar must have a 1.2m x 1.8m Fire Blanket mounted with signage;*
- *An inspection will be conducted by Fire Safety Officers at 2:00pm Friday 8/06/2018”.*

16. The NT Police advised that they “...support this application contingent to:

- a. *Industry standard security for expected crowd numbers*
- b. *Secure storage of alcohol at all times*
- c. *Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event*
- d. *Alcohol volume to be one standard drink or less per serve*
- e. *Low to mid strength beer only*

The event really needs to start to take on some of the alcohol safety measures that Bass in the Grass adopted this year”.

17. SJA did not provide any comment except that they “have not been requested to provide any form of medical support at this event”.

18. I will address these requests separately below.

Assessment of the Application

19. As noted above, this is an application for a special licence under section 58 of the Act within Part VI of the Act. There are no specific criteria prescribed by 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.

20. 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 under section 6 of the Act.

21. However, pursuant to section 3(3) of the Act, the Commission when “exercising a power or performing a function under (the Act) 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”.

22. 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.”

23. As a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.

24. I note NTFRS’ position above and confirm that the Applicant will need to follow that directive.

25. In respect to DOH’s comments, I confirm that the Applicant is required to comply with the *Tobacco Control Act* under a special licence.

26. SJA advised that have not been asked to provide medical support at this event. The Applicant has specified in its Application: *“a first response medical service for event patrons is provided by paramedics. There will be two paramedics on duty. Hamark Holdings engage with a private company for Paramedics”*.

27. In respect to the various conditions requested by NT Police, the Applicant has provided a response which includes the following excerpts:

“Industry standard security for crowd controllers - Noted and will adhere to condition set

Secure storage of alcohol at all times – Noted and will adhere to condition set

Maximum four drinks per transaction with a staggered decline per transaction towards the conclusion of the event – Noted and will adhere to condition set. May

we request four alcoholic drinks per transaction up until 10pm and two drinks per person thereafter?

Alcohol volume to be one standard drink or less per serve – We have successfully achieved in our past events alcohol safety measures which Licensing and NT Police have consistently praised us for.

We believe that to compete fairly in the current commercial market place, full strength products should be available.

Low to mid-strength beer only – We will continue to provide low and mid-strength products in all our bars.”

... I would also like to mention that Hamark Holdings are contracted to and work closely with NT Major Events to organise and manage the bars at BASSINTEGRASS. We have always implemented similar alcohol safety measures that are in place for BASSINTEGRASS.

Saying that, BASSINTEGRASS is an all ages event, where Summer Session is over 18 only. BASSINTEGRASS had an expected crowd number of 7,500 patrons whereas Summer Session this year is expecting approximately 2,500.”

28. In regards to the conditions requested by the NT Police I comment as follows:

a. *Industry standard security for crowd numbers*

The Applicant has confirmed it will engage crowd controllers at industry standard and I will insert a special condition accordingly.

b. *Secure storage of alcohol at all times*

The Applicant has advised that alcohol will be stored securely at all times.

I am satisfied that the Applicant is fully aware of its obligations and the risks of storing alcohol and safeguarding it against theft and do not believe it necessary to make it an additional special condition.

c. *Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event*

A condition of 4 drinks per transaction was imposed last year, however, a staggered decline was not.

The Applicant has agreed to the requested condition and suggested a maximum of 4 drinks per transaction up until 10.00pm and 2 drinks per transaction after that.

Given there were no compliance issues reported from 2016 or last year's event to me from either Licensing NT or NT Police, the Applicant's suggestion appears reasonable and I will impose such condition in the circumstances.

d. *Alcohol volume to be one standard drink or less per serve*

The Applicant has provided feedback that they wish to sell an array of drinks in a variety of strengths and although there will be some drinks available in one standard drink or less measures, not all the alcoholic options available will do so mainly due to commercial arrangements with sponsors.

Food, light and mid-strength beer and non-alcoholic beverages (including complimentary water) will be readily available during the event encouraging responsible consumption of alcohol.

I note that the special licenses issued for this event in 2016 and 2017 did not include a condition restricting the sale of alcohol in serves of one standard drink or less.

As set out above, the compliance report of Licensing NT for last year's event was very positive stating that it was "*well executed and managed*". I have not received any evidence of there being any issues stemming out of last year's event or the same event in 2016 reported to Licensing NT including from NT Police. In these circumstances, I find there is no basis to support the finding that there is a need to impose such a condition this year and I decline to do so.

e. *Low to mid strength beer only*

This condition was also not imposed under last year's special licence. For the reasons outlined in (d) above, I find there is no basis to support the finding that there is a need to impose such a condition this year and I decline to do so.

29. The Application made no mention of pass-outs for the event however, in subsequent correspondence, the Applicant advised it intended to cease pass-outs from 23:00 hours. In both the 2016 and 2017 special licenses issued for the same event, a condition was imposed which prohibited pass-outs from 19:00 hours. I consider the same condition is appropriate for this year's event and I will include it accordingly.

30. 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 set out at the start of this Decision Notice.

Notice of Rights:

31. 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.

32. 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.
33. 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.

A handwritten signature in black ink, consisting of a stylized, cursive 'A' followed by a long horizontal line extending to the right.

AMY CORCORAN
Commissioner
Northern Territory Liquor Commission
5 June 2018