

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2018/119
<b>VENUE:</b>	George Brown Darwin Botanic Gardens Gardens Road THE GARDENS NT 0820
<b>APPLICANT:</b>	Gardens Catering Pty Ltd trading as The Botanic Gardens Catering Company
<b>EVENT:</b>	Property Council of Australia Cocktail Party
<b>LEGISLATION:</b>	Section 58 of the <i>Liquor Act</i>
<b>DECISION OF:</b>	Ms Amy Corcoran (Commissioner)
<b>DATE OF DECISION:</b>	3 September 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 a special licence to sell liquor to The Botanic Gardens Catering Company (**the Applicant**) for the sale of liquor between the hours of:  

18:30 hours to 22:30 hours on Thursday, 13 September 2018;
2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as the "Property Council of Australia Cocktail Party" held in that area known as the 'Coconut Lawn' at the George Brown Darwin Botanic Gardens located on Gardens Road, The Gardens in the Northern Territory;
  - b. 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.
  - c. A Nominee **MUST BE** present during all Trading Hours and must ensure compliance with these Conditions.

d. The nominee/s are identified as:

**Nominee/s: DONGSU SHIN**

- 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:
- Two licensed crowd controllers for the first 100 hundred patrons and one additional crowd controller for each 100 hundred 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 person at any one time.
- k. 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.
- 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. 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.
- o. 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.

- p. 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.
- q. 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.
- r. All liquor purchased for sale under the authority of this special licence **MUST** be purchased from a licensed retail outlet.
- s. 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.
- t. 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.
- u. 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.
- v. 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*.
- w. Food and drinks are not permitted to be taken into any designated smoking areas.
- x. 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 provision of alcohol 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;

- 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 10 August 2018 pursuant to section 58 of the Act, The Botanic Gardens Catering Company (**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 the 'Property Council of Australia Cocktail Party' held on the 'Coconut Lawn' at the George Brown Darwin Botanic Gardens located on Gardens Road, The Gardens in the Northern Territory. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. The Cocktail Party is an outdoor event that is part of the Property Council of Australia's Annual Conference being held in Darwin for invited members and guests of the Property Council of Australia. All guests are over 18 years of age.
5. The Applicant is seeking a special licence for the following hours of trade:  
18:30 hours to 22:30 hours on Thursday, 12 September 2018.
6. The Applicant proposes to sell liquor to patrons through two pop-up bars. Beer, wine, spirits, soft drinks and water are proposed for sale including low and mid-strength beer options.
7. A crowd of approximately 600 persons are expected to attend the Cocktail Party. Beer and wine are proposed for sale, including beer in mid and full strength varieties. Soft drinks and water are also available. Food will be served from three food stalls within the licensed area.
8. A live band and a few characters to play Alice In Wonderland Characters (the set and theme of the Cocktail Party) will be the form of entertainment. Guests will be arriving and departing together on a pre-arranged bus transfer service.
9. In relation to private security and crowd controller arrangements, the Applicant indicates that 7 licensed private security personnel and crowd controllers will be engaged.
10. The Applicant has not been issued a special licence previously in relation to this event nor any other events.

## Consultation

11. 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**) and seek their comment.
12. With respect to this application:
  - a. The NT Police advised they supported this application subject to:
    - *Secure storage of alcohol at all times*
    - *Alcohol volume to be one standard drink or less per serve*
    - *Consideration of no full strength service in last half hour of service.*
  - b. The NTFRS had no objection.
  - c. The DOH responded: “The Department of Health has no adverse comment. However, Health asks the Director-General of Licensing to consider patron and community safety & amenity when determining this application. Health provide the comment on the understanding the applicant is aware of their responsibility with regard to smoking compliance at the venue. Licensing is requested to remind the applicant that food and drinks are not permitted to be taken into any identified smoking area. Appropriate signage is provided for the convenience of the applicant.

## Assessment of the Application

13. 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.
14. 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.
15. 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”.

16. 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.”

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

18. It is evident that the stakeholders who had the opportunity to provide feedback do not oppose the grant of a special licence for the Cocktail Party however some conditions were requested by NT Police which I will address below.

19. In regards to the NT Police’s request to securely store alcohol 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 licensing condition.

20. The NT Police requests to require “alcohol volume to be one standard drink or less per serve and consideration of no full strength service in last half hour of service” do not appear to be of much relevance to this application with no reasons for such conditions having been provided by NT Police. This is a private pre-paid Cocktail Party whereby patrons will be served wines by the glass, beers in a variety of strengths, softs drinks and of course, food. It is a 4 hour event that finishes by 1030pm. Patrons will be chauffeured to and from the venue as part of the annual Property Council of Australia Conference which attracts business people from within the Northern Territory and from right across Australia. Further, to minimise associated risks, the Applicant has confirmed that crowd controllers will be engaged during the event in line with industry standards.

21. Based on the information before me, I am satisfied this business networking event is of low-risk and I see no reason to impose the conditions requested by the NT Police for this event.
22. Finally, DOH's comments were forwarded to the Applicant to acknowledge. The Applicant has responded advising that they are "*aware of the smoking area and responsibility of it*".
23. 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:**

24. 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.
25. 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.
26. 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.



**AMY CORCORAN**  
Commissioner  
Northern Territory Liquor Commission  
3 September 2018