

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2018/063
PREMISES:	Darwin Amphitheatre George Brown Darwin Botanic Gardens Gardens Road DARWIN NT 0800
APPLICANT:	Boo Entertainment Pty Ltd
EVENT:	The Big 80's Party
LEGISLATION:	Section 58 of the <i>Liquor Act</i> .
DECISION OF:	Ms Jodi Truman (Deputy Chairperson)
DATE OF DECISION:	6 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 the special licence to sell liquor to Boo Entertainment Pty Ltd for the sale of liquor on Saturday 23 June 2018 between the hours of 1400 hours and 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 the "The Big 80's Party" occurring at the Premises known as the Darwin Amphitheatre located at the George Brown Botanic Gardens, Gardens Road, Darwin in the Northern Territory.
 - 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 Nominee is identified as Ms Amy Booth.

- e. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- f. All persons attending the event must be 18 years or over.
- g. 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.
- h. Any person involved in Crowd Control, as defined under the *Private Security Act*, at the Premises must be licensed as required by that Act.
- i. 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.
- j. No more than four (4) cans or bottles or one (1) bottle of wine may be sold to any one (1) person at any one time.
- k. All liquor must be sold in open containers.
- l. No liquor or other beverages to be sold in glass containers with the exception of bottles of wine;
- m. The Licensee is not to provide alcoholic drinks that are:
 - Designed to be consumed quickly and which are commonly referred to as a “shot” or “shooters”; or
 - A cocktail containing more than a 30ml nip of spirit or liquor.
- n. The licensee must ensure that water, soft drink, 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.
- o. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- p. 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.
- q. 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.

- r. 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.
- s. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.
- t. 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.
- u. 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.
- v. 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.
- w. 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*.
- x. Food and drinks are not permitted to be taken into any designated smoking areas.
- y. 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”).
- z. For the purpose of fire safety, the Licensee or an employee of the Licensee shall ensure there are dry chemical powder extinguisher/s (3A40B:E) to be located at any food stall vendors along with a 1.2 x 1.8 metre fire blanket/s. Such fire extinguisher/s and fire blanket/s are to be maintained per Australian Standards (AS 1851).
- aa. At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example: Hi-Viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

Reasons

Background

3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Boo Entertainment Pty Ltd applied to the Director-General of Licensing on 12 April 2018 for a special licence to permit the sale of liquor to patrons attending an event known as “The Big 80’s

Party” occurring at the Premises known as the Darwin Amphitheatre located at the George Brown Botanic Gardens, Gardens Road, Darwin in the Northern Territory.

4. The application was not deemed complete until 21 May 2018 when confirmation of the approval of the owner/controller of the premises was finally received. This application was subsequently referred to the Commission on 1 June 2018 and to me on 5 June 2018 in accordance with my delegation to deal with applications of this nature.
5. The applicant states that “The Big 80’s Party” is a music party with an 80’s DJ in the early afternoon and then at sunset there will be a cinema screen showing an “80’s Flashback Montage” incorporating “the best movies, news, fashion, dances, tributes and memories of the 80’s, followed by the ‘Video Hits Mass-Karaoke Party””.
6. The age demographic for the event is stated to be between 30 and 60 years and is an over 18 event with no persons under 18 permitted to attend.
7. The event will commence at 2.00pm on 23 June 2018 and cease at 11.00pm that same day. This year’s event is in fact the first of its kind for the applicant here in the Northern Territory and I have been informed that the applicant has not previously applied for a special licence.
8. It was stated in the application that it was anticipated by the applicant that a crowd of approximately “900” persons will attend the event. It is intended that there be one (1) public bar. The applicant seeks to provide for sale:
 - a. white, sparkling and red wine;
 - b. beer including heavy and mid-strength;
 - c. cider; and
 - d. scotch, vodka and bourbon pre-mix cans.

Consultation

9. 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 Fire and Rescue Service (“NTFRS”), and NT Police and seek their comment. With respect to this application, the Director-General also consulted with St John Ambulance (“SJA”), and sought their comment.
10. With respect to this application:
 - a. The DOH made no adverse comment, but requested a copy of the no-smoking signage be forwarded to the applicant. This was done by Licensing NT.

- b. SJA advised that they “have no issues” with the application.
- c. The NTFRS advised that they had “no objections ... on the proviso that a traffic management plan and diagrams are submitted” and that “all vendors of food have an in date 3A40BE Dry Chemical Extinguisher and 1.2 x 1.8 Fire Blanket at their stall”.
- d. The NT Police responded that “NT Police support the application contingent to:
 - industry standard security for expected crowd numbers
 - secure storage of alcohol at all times
 - maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event
 - alcohol volume to be one standard drink or less per serve
 - low to mid strength alcohol only
 - The event needs to be treated like Bass In the Grass”.

I will return to these comments in a moment.

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. As earlier noted, the applicant has not previously held a special licence in the Northern Territory. It has however conducted a number of these types of events around the country. I have not received any information to indicate there have been any significant issues as a result of the conduct of these similar events in other locations.

17. I note the response by NT Police. In the circumstances I requested the applicant respond to the matters raised and the following response was received:

“In response to Police comments

- industry standard security for expected crowd numbers

Based on 900 attendees we will have 10 security guards for the duration of the event.

- secure storage of alcohol at all times

Alcohol will be stored in locked refrigeration or locked container storage at all times

- maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event

Agree to 4 drinks per transaction, drink service to stop half an hour before the end of the event.

- alcohol volume to be one standard drink or less per serve

As the demographic for this event is 30-60 year olds, we would like an exclusion to serve wine which is 1.4 standard drinks per serve. And also UDL (vodka premix) cans which are 1.2 standard drinks, and there is no alternative for a mid strength option.

- low to mid strength alcohol only

As the demographic for this event is 30-60 year olds, we would like an exclusion to serve wine which is 1.4 standard drinks per serve.

The event needs to be treated like Bass In the Grass.

The Big 80's Party is very different to Bass in the Grass. The demographic is 30-60 year olds and we are only expecting 900 attendees not 7000. Also, it is an 18+ ONLY event not all ages like Bass in the Grass. It is a fun day out and after running this event multiple times around the country, we have not encountered any issues. Everyone is there to have a good time, a dance and relive the 80's!"

18. I have carefully considered the matters raised by police and also the response from the applicant. As to those matters I have determined as follows:
- a. It is clear that the industry standard for security shall be met and I consider it appropriate and intend to include such a condition in this licence. There is no basis for the industry standard not to be complied with for this event.
 - b. I note the applicant has stated it will ensure all liquor is stored in locked refrigeration or locked container storage at all times. I consider the applicant understands fully its obligations and risks of storing alcohol and guarding against theft. I do not consider it necessary to include a specific condition within the licence to this effect.
 - c. I note that the applicant has agreed to a maximum of four (4) drinks per transaction. I note there is no reference to the bottles of wine sought for sale. I do not consider four (4) bottles to be appropriate; however I do not assume that this is what was meant by the applicant. I have determined to impose a one (1) bottle maximum for the bottles of wine. Given the nature of the event and the demographic I do not propose to impose a staggered decline beyond those conditions.
19. As to the standard and/or volume of alcohol to be sold; given the nature of the event and the demographic sought I do not consider that this is a "high risk" event. I note that the response by police appears to be a general response provided with respect to a number of applications. I hypothesize that the response by police may be a general policy stance and that there may be reasons for such a general stance, however none have been provided and particularly none relating to this application.

20. In fact I note that on this occasion the NT Police even seek to claim that the matter should be dealt with “treated like Bass In the Grass” (sic). As to this comment by police, it should be made clear that each and every application is dealt with by the Commission on its own merits and with respect to its own individual requirements. Simply because an event is a music event held at the Amphitheatre does not mean it is “like” the event known as “BASSINTHEGRASS”.
21. I note the points of differences raised by the applicant and I agree. This is a very different event and no adequate basis has been identified for it to be “treated like” any other application. I have received no information to persuade me such a condition should be imposed and therefore do not propose to include such a condition in this special licence.
22. The applicant should be on notice however that although it has conducted such events in other jurisdictions without such a condition imposed, that does not mean that such a condition may not be imposed in the future here in the Northern Territory. This jurisdiction is not bound by what occurs in other jurisdictions. It is also important that it be understood that the Northern Territory has very specific issues that must be addressed in relation to the sale and consumption of liquor here in the Northern Territory and that is always a matter of significant consideration to this Commission and its members.
23. I have considered carefully the objects of the Act and the evidence and information placed before me. Having considered all relevant matters, I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and for the reasons set out above I have determined to grant the special licence as outlined 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. I am exercising the power to make a Commission decision pursuant to the delegation made to me by the Commission.
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.



JODI TRUMAN
Deputy Chairperson
Northern Territory Liquor Commission