

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2019/084
PREMISES:	Darwin Amphitheatre George Brown Darwin Botanic Gardens Gardens Road DARWIN NT 0800
APPLICANT:	Boo Entertainment Pty Ltd
EVENT:	The Big 90's Party
LEGISLATION:	Section 58 of the <i>Liquor Act</i>
DECISION OF:	Ms Amy Corcoran
DATE OF DECISION:	19 June 2019

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (“**the Act**”) I have determined to grant the special licence to Boo Entertainment Pty Ltd (“**the applicant**”) for the sale of liquor on Saturday 6 July 2019 between the hours of 1700 hours and 2330 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 90’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 (“**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 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 1995*, 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 2002*.
 - 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. 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.
- aa. No pass-outs are permitted.

Reasons

Background

3. Pursuant to section 58 of the Act, the applicant applied to the Director-General of Licensing on 7 May 2019 for a special licence to permit the sale of liquor to patrons attending an event known as “The Big 90’s Party” occurring at Darwin Amphitheatre located at the George Brown Botanic Gardens, Gardens Road, Darwin in the Northern Territory (“**the Premises**”).

4. The applicant is seeking to trade from 1700 hours to 2330 hours on Saturday 6 July 2019. The applicant held a similar event last year at the same location with an 80's theme and based on last year's attendance they expect about 800 to 1100 people to attend this year. This year's event will commence 3 hours later than last year's and will extend 1.5 hours later in the evening.
5. "The Big 90's Party" is a music party with 90's DJ and live band followed by the biggest 'Mass-Karaoke Party'.
6. This is an 18 plus only event with an age demographic for the event stated to be between 30 and 60 years.
7. It is intended that there be one (1) public bar and strictly no BYO. 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.
8. Food will be available to patrons throughout the event and patrons are invited to bring their own food into the venue. Free drinking water served in cups will be readily available with an additional option to purchase chilled bottled water.
9. The applicant was granted a special licence for a similar event last year, and I am advised by Licensing NT there are no known compliance issues evident on file for that event.

Consultation

10. 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 Darwin City Council ("**DCC**"), and sought their comment.
11. 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. Further, DOH confirmed that *"the Tobacco Control legislation will amend from 1 July 2019 to require a 10 metre smoke free buffer area at the entry/exit and boundary of any community event that must be maintained by the event organiser."*
 - b. The NTFRS advised that they had "no objections".

- c. The NT Police supported the application “based on the applicant’s intention to serve all beverages in either open cans or plastic cups.”
- d. DCC provided the following comment: “City of Darwin have endorsed the application and “have endorsed this Special Liquor License Application however we have been made aware that this event could attract up to 1100 (as opposed to 800) attendees. We are assessing the TMP [Traffic Management Plan] is suitable however our endorsement still stands and we are supportive of this application.”

Assessment of the Application

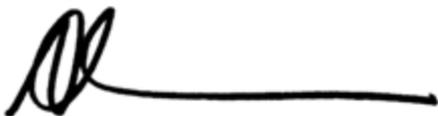
- 12. As previously noted, this is an application for a special licence under section 58 of the Act. That section is within Part VI of the Act. There are no specific criteria prescribed within the Act for consideration of an application for a special licence. Special licences exist under Part VI of the 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.
- 13. 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.
- 14. 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”.
- 15. 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.”

16. 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.
17. As earlier noted, the applicant held a special licence for the same event last year albeit with a different theme and slightly longer trading hours. I have not received any information to indicate there were any compliance concerns arising from last year’s event.
18. None of the above stakeholders have objected to the application and I have received no evidence presented that suggests the applicant should not hold a special licence on substantially the same terms as last year for this year’s event. I have also reviewed last year’s decision and special licence for the same event issued on 6 June 2018 to the applicant and endorse the reasons set out in that decision to grant the special licence so far as they relate to this year’s event.
19. 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:

20. 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.
21. 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.
22. 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
Member
Northern Territory Liquor Commission