

## Delegate of the Director of Liquor Licensing

### Decision Notice

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<b>MATTER:</b>	Amendment of the grant of a licence and authority
<b>APPLICANT:</b>	Darwin Game Fishing Club Incorporated
<b>LICENSED PREMISES:</b>	Banyan Farm Tourist Resort Wooliana Road DALY RIVER NT 0822
<b>OBJECTORS:</b>	Nil
<b>LEGISLATION:</b>	<i>Liquor Act 2019</i> - Part 3 and 4
<b>DECISION OF:</b>	Manager Licensing - Liquor, Gambling & Racing
<b>DATE OF DECISION:</b>	5 April 2022

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#### DECISION

1. As a delegate of the Director of Liquor Licensing, with reference to section 43 of the *Interpretation Act 1978*, I amend the licence and special event authority FLL1773, issued 14 February 2022, for the licensee the Darwin Game Fishing Club Incorporated for the annual NT Barramundi Classic.
2. The amendment of the licence is to provide approval for the special event authority for the 2023 and 2024 events, for dates yet to be advised under the same terms and conditions as the 2022 event and application.
3. The amendment and approval is conditional upon:
  - a) the licensee confirming to the Director of Liquor Licensing the dates and times of the 2023 and 2024 events no later than 30 days prior to each event, and there having been no adverse matters from the previous year's event; and
  - b) the licensee must confirm there has been no material change to the proposed operation and confirm the nominee/s for the event; and
  - c) the Director of Liquor Licensing reserves the right to cancel this extended special event authority for the 2023 and/or 2024 events in circumstances where there has been a material change to the proposed conduct of the licence, or adverse matters from the previous year's event; and

- d) the determination of a material change is the sole discretion of the Director of Liquor Licensing; and
- e) the licensee must display Alcohol Guideline signage issued by the Australian Government – National Health and Medical Research Council at the point of sale.

## BACKGROUND

- 4. A delegate of the Director of Liquor Licensing (the Director) granted FLL1773 with a special event authority for the 2022 event under the same terms and conditions as previous events. On 14 February 2022.
- 5. The Darwin Game Fishing Club Incorporated (the Club) hold an annual event being the NT Barramundi Classic in and around the Banyan Tree Resort, Daly River.
- 6. The Club has previously been granted special liquor licences under the *Liquor Act 1978*, and special event authority in recent times under the *Liquor Act 2019* (the Act) for the event. The event is well-patronised however does not meet the threshold requiring a major event authority.
- 7. The nature and operation of the event does not materially change each year, save for the dates.
- 8. There is no record of any complaints or adverse matters arising from previous events and the events generally enjoy the support of Police and other relevant stakeholders.

## CURRENT SITUATION

- 9. On 31 March 2022, Ms Debbie Halprin, Joint Co-ordinator of the 2022 NT Barramundi Classic wrote to the Director, on the basis of previous discussions in relation to licensing of future events, exploring avenues for a three (3) year licence to be granted for the 2022, 2023 and 2024 events.
- 10. As written earlier, the licence issued 14 February 2022 for the 2022 event was based on a materially identical application to previous years, and issued under the same terms and conditions save for the dates which invariably change each.
- 11. As prescribed the original application for the 2022 event was sent to Police and the Department of Health as well as the local shire council, with no party providing objections to the matter.

12. Police advised they “...support this application” and as written earlier, there are no known adverse matters arising from previous events.
13. The local shire council and the Northern Territory Fire and Rescue service likewise provided no opposition to the application.
14. Mr David Scholz, Director – Clinical Planning, Mental Health, Alcohol and Other Drugs Branch of the Department of Health did not oppose the application however, he requested the sales be limited to light and mid-strength beer only, with no heavy liquor to be sold.
15. The premise being, access to heavy liquor would provide a potentially unsafe level of access to liquor throughout the day, exceeding the Commonwealth’s National Health and Medical Research Council’s guidelines.
16. These guidelines are issued to reduce health risks from drinking alcohol and prescribe the maximum daily and weekly amounts, in the form of standard drinks a person should consume.
17. Mr Scholz further recommended “...efforts should be made to promote safe consumption at night” including:
  - the promotion of water and soft drinks
  - food and snacks to be available
  - the limitation of full-strength liquor products, particularly pre-mix spirits and shots
  - enforcement of the principles of the responsible service of alcohol
18. Whilst not an objection, the comments were provided to the licensee as a reminder and recommendation.
19. In granting the licence some restrictions were imposed, however there was no prohibition on the sale of full-strength products.
20. Following the request for the licence to be granted for three years on 31 March 2022, the stakeholders were again contacted for their comments in relation to the possible extension of the licence for the three years.
21. On 4 April 2022, Police confirmed their earlier support for the event and advised they supported extending the approval for the three years.
22. On 5 April 2022, Mr Scholz reiterated his previous recommendations and concerns, but did not oppose the application.

## NOTIFICATIONS, PUBLIC NOTICES AND OBJECTIONS

23. In line with the requirements of the Act, the original application and this subsequent amendment have been notified to the prescribed stakeholders without opposition.

## APPLICATION

24. The application is simple in nature as the original application for the licence dealt with the substantive and prescribed matters.
25. This matter effectively involves the duration of the licence. Section 85 of the Act has been amended to remove the requirement for a term for a licence to be imposed, now simply prescribing that a licence remains in force until it expires or is abandoned, surrendered, suspended or cancelled.
26. A special event authority authorises the licensee to sell liquor, for consumption on or in licensed premises, to patrons attending a single event. As the event annual whilst over seven days, they are consecutive and interrelated therefore considered "...a single event".
27. The same event over three years, irrespective of the interrelated nature, cannot be considered a single event, they are clearly separate events necessitating three separate liquor licences.
28. The Act does not however fetter the granting of special event authorities in similar circumstances to only one licence.
29. An example of multiple special event authorities being granted for effectively the same event is the polocrosse season, where up to a dozen special event authorities are issued to the one entity for the entire season.
30. This saves the licensee and this department a protracted and unnecessary process, whilst ensuring the requirements of the Act have been met.
31. It necessarily follows this matter is alike to the multiple polocrosse licences, albeit we are as yet unaware of the future dates.
32. Section 43 of the *Interpretation Act 1978* provides a discretionary power, when given a power under an Act to *inter alia* grant a licence, to amend the licence.
33. It necessarily follows as a delegate I have the power to amend the original grant of the licence to provide additional licences for the 2023 and 2024 events on the same terms and conditions.

34. I am also cognisant of the efforts being undertaken by governmental departments to reduce the administrative burden on the public, described as “red tape busting”. I consider this matter to perfectly demonstrate the possibilities of such efforts.

## CONSIDERATION CRITERIA

35. In determining an original application for a licence, consideration must be made of the applicant’s affidavit, the results of any investigation, objections and responses, the suitability of the premises along with the appropriateness of the applicant to be a licensee.
36. As written earlier, this licensee has held the event previously without incident and all materials provided for previous, and the 2022 application satisfy the prescribed requirements.
37. I am therefore satisfied it is in the public interest to grant like special event authorities for the 2023 and 2024 events as particularised above, with the conditions imposed to provide a mechanism to deal with deviation from the existing or adverse matters from the events.

## PROCESSES FOR THE 2023 AND 2024 LICENCES

38. For the avoidance of doubt, as written in paragraph 3(a) of this decision, the licensee must advise the Director no later than 30 days prior to the first date of the 2023 and 2024 events.
39. The notification must include the matters particularised in paragraph 3(b) above and the licensee must pay the applicable fee for the special event authority, providing the Director with the receipt for payment.
40. Licensing NT will then issue, if no material changes nor adverse matters, a new licence for that year’s event.

## REVIEW OF DECISION

41. Section 27 of the Act provides for the applicant or a person who made a submission the subject of the decision, to seek a review of a decision made by the delegate of the Director.
42. The Director delegated the determination of applications of this nature by instrument to the person from time to time holding, acting in or performing the duties of the position listed in the Schedule of that instrument. This decision was made by a person referred to in that schedule.

43. An application for review must be lodged with the Director within 28 days after written notice of the decision is given to the person and must be in the form approved by the Director, stating the grounds for the review and the facts relied on to establish the grounds.
44. Accordingly, the affected persons in relation to this decision are the Darwin Game Fishing Club Incorporated, Police and the Department of Health.



**Mark Wood**  
**Manager Licensing - Liquor, Gambling & Racing**  
Delegate of the Director of Liquor Licensing

5 April 2022