

Delegate of the Director-General of Licensing

Decision Notice

MATTER:	Application for renewal of a continuing special liquor licence
LICENSEE:	The Chippo
NOMINEE:	Mr Roderic Peter Fitzgerald
LEGISLATION:	Section 59 of the <i>Liquor Act</i>
DECISION OF:	Delegate of the Director-General of Licensing
DATE OF DECISION:	13 March 2017

BACKGROUND

1. On 9 March 2017, Mr Rod Fitzgerald applied to the Director-General for a renewal of Continuing Special Liquor Licence #0622, for The Chippo which is due to expire on 20 April 2017.
2. The licence has been issued as a special licence since 13 November 2013. The premises markets itself as "Darwin's Premier Live Music venue".
3. The premises operates as a commercial venture, operations of that nature necessarily require a liquor licence pursuant to section 29 of the *Liquor Act* (the Act), and are colloquially described as a "full licence".
4. The licensee has been granted special liquor licences pursuant to section 59 of the Act, notes to the application describe the following:
 6. Notes to application
 1. Continuing special licenses are generally granted by the Director-General of Licensing to work place "social clubs", sporting and non-profit associations/organisations.
 2. Where the prime purpose of the Applicant is to utilise the licence as a profit making venture, with no specified use of funds for purposes relating to sport, education, community or charity - such Applicants will be required to apply for a Full Licence.
5. Discussions have been ongoing for approximately 12 months with the licensee to have them apply for a "full licence" with notice given that the current licence will not be renewed.
6. On 9 September 2016 an application was received for a liquor licence under section 29 of the Act. This application was later returned on 11 November 2016 to the applicant, Mr Rod Fitzgerald on the basis that it was not complete and further information had to be provided.

CURRENT SITUATION

7. A special licence was renewed for the licensee for the period 17 June 2016 until 17 October 2016 in anticipation that a full licence would be sought. This licence was subsequently

renewed for the period 20 October 2017 to 20 April 2017, again in anticipation of an application for a full licence being made.

8. The decision notice sent to the licensee on 20 October 2017 in relation to the renewal of licence #0622, again noted the application for a substantive licence was to be made hence this licence was only for a period of 6 months.

ASSESSMENT OF MATTER

9. As noted in the "Notes to application" section of the application form for the renewal of a continuing special liquor licence, they are not intended for commercial operations.
10. The operation at The Chippo is commercial in nature; it does not fall within the definitions of those who would otherwise be approved.
11. The licensee has been made well aware of the need to obtain a "full licence" and has previously lodged an application. This application was returned as there were a number of matters that remained to be provided.
12. The licensee has not made any attempts since that time to re-lodge their application for a "full licence".
13. A major reason for the insistence for a "full licence" is the probity examination that is undergone by applicants. Such examination is not undertaken for a special licence on the basis that it is for a short period and limited means.
14. Given the nature of the operation it must undergo the same examination all other commercial operators have on order to sell liquor. This includes public interest considerations as well as an examination of the parties who may derive a benefit from the licence, and whether they are appropriate persons to be involved in the sale of liquor.
15. For all intents and purposes until the above is undertaken, the Director-General effectively has no knowledge as to who the licensee is. This may increase the risk factors involved in the sale of liquor at the premises.
16. Traditionally those granted a special licence are considered low risk operations, predominately focussing on the provision of social activities to members of a club or similar.
17. This licensee is a late trading live music venue and therefore it is arguable that the risk arising from this operation is considerably higher. Accordingly, they must be subjected to a more rigorous examination than a "social club" just as the operators of other licensed premises of this type are.
18. The licensee has been given ample notice to apply for a "full licence"; despite this one has not been sought even though warning was given that the granting of further special licences may not occur.
19. It should also be noted the special licence has been being issued to "The Chippo" as licensee, this is only a business name and therefore not an entity that can hold a licence. The licensee needs to be a natural person or a body corporate.

CONSIDERATION CRITERIA

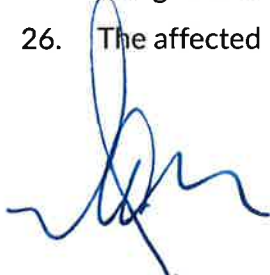
20. No criteria are prescribed for the consideration of an application for a special licence. What is required to be considered however are the objects of the Act.
21. I have considered the objects of the act, particularly those relating to harm and public interest in the sale of liquor.

DECISION

22. Pursuant to section 59(1)(b) of the Act the application for the renewal of Continuing Special Liquor Licence #0622 is refused. The licensee must seek a licence under section 29 of Act.

REVIEW OF DECISION

23. Section 8 of the *Licensing (Director-General) Act* prescribes a delegate decision is a decision, under any Act, of the Director-General that is made by a delegate of the Director-General. The Director-General delegated the determination of applications made under section 59 of the *Liquor Act* by instrument to the person from time to time holding, acting in or performing the duties of the position of Manager Licensing – Liquor, Gambling and Racing, Licensing NT.
24. Section 10 of the *Licensing (Director-General) Act* provides that an affected person for a delegate decision may apply to the Director-General for a review of the decision. This application for review must be made within 28 days after written notice of the delegate decision is given to the affected person, or within any additional time that the Director-General allows.
25. Section 9 of the *Licensing (Director-General) Act* prescribes an affected person for a delegate decision to be the applicant for the special licence and a person who made a submission, complaint or objection (however described) during the process that resulted in the decision being made.
26. The affected person in relation to this matter is Mr Rod Fitzgerald.



Mark Wood
Delegate of the Director-General of Licensing

13 March 2017