

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the grant of licences with authorities
APPLICANT:	Fiery Amigos Pty Ltd
PREMISES:	Mindil Beach Carpark Gilruth Avenue, Darwin
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> – Part 3 and 4
DECISION OF:	Principal Licensing Officer – Liquor, Gaming & Racing
DATE OF DECISION:	11 May 2021

BACKGROUND

1. Pursuant to section 52 of the *Liquor Act 2019* (the Act), Ms Lorraine Phelan, on behalf of Fiery Amigos Pty Ltd, lodged an application seeking a liquor licence with a **major event authority** for an event known as BASSINTHEGRASS in 2020. The license sought is to allow for sale and consumption of liquor to patrons attending this event.
2. In 2020 an application was lodged, the application advertised and the application referred to the NT Liquor Commission for a decision. Prior to a decision being made the event was cancelled due to COVID-19 issues and the event re-scheduled in 2021.

CURRENT SITUATION

3. The Director of Liquor Licensing has determined to allow the Applicant to bring the application forward to 2021 and to use the same application and advertising without the requirement of having to re-commence the entire process again and to treat the 2020 application as an application that had not been finally determined.
4. The applicant has provided the material prescribed in section 52 of the Act including:
 - an affidavit made under section 54;
 - a draft notice of the applications;
 - evidence necessary to satisfy the onus specified in section 51;
 - a summary of the evidence suitable for publication; and
 - the application fees.

ADVERTISING AND OBJECTIONS

5. The applications were published in the NT News on 29 February 2020 and 6 March 2020, with a notice also being erected at each of the proposed premises.
6. No objections were received in relation to the applications.
7. The applications were also notified to the Commissioner of Police, the Chief Executive Officer of the Department of Health and the Chief Executive Officer of the City of Darwin in accordance with the statutory requirements in 2020 but fresh notifications were sent in 2021. This also included an additional request to use a portion of the beach as a liquor licensed area for a restricted period of time.
8. No stakeholder provided any adverse comments or objections to the application but did provide suggested conditions additional to the standard conditions of a major event authority.

APPLICATION

9. The applicant has provided a comprehensive suite of materials in support of the applications including all materials prescribed by the Act.
10. The authorities sought by the applicant are in pursuance of section 47(1)(o) of the Act.
11. The determination of applications under section 60(1) of the Act has been conditionally delegated by the Liquor Commission to the Director of Liquor Licensing. The limitation including the authorities which may be granted under delegation includes a *major event authority* for specific events.
12. The Director further delegated these powers to the Principal Licensing Officer – Liquor, Gaming and Racing by instrument dated 17 February, 2021.

DISCLOSURE OF PERSONS

13. Section 54 of the Act requires the applicant to make an affidavit disclosing each person who, if the licence is issued, may:
 - (a) be able to influence the applicant; or
 - (b) expect a direct or indirect benefit from the applicant.
14. I am satisfied by the materials provided by the applicant in relation to this requirement.

RESULTS OF INVESTIGATION

15. Section 58 of the Act enables the Director to conduct an investigation into an application as considered appropriate. No materials have been discovered or provided to indicate there are any adverse matters in relation to this application.

FINANCIAL STABILITY

16. The applicant has provided sufficient materials to address this consideration and I am satisfied they meet the requirements in relation to financial stability.

FIT AND PROPER PERSON

17. Section 59(3)(g)(i) of the Act requires the decision maker to consider whether the applicant and as the applicant is a body corporate, their nominated licensee, are fit and proper to hold a licence.
18. Ms Phelan, as the nominee, has provided identification and probity documents to the required standards. It is noted that Ms Phelan is well known to the Director as being involved as a nominee in many other major events in the past.
19. Having considered the materials provided I am satisfied the applicant and Ms Phelan as the proposed nominee is a fit and proper person to be granted the authority and act as nominee.

PUBLIC INTEREST AND COMMUNITY IMPACT

20. Section 49 of the Act requires the decision maker to be satisfied the applicant is fit and proper, the licence or authority is in the public interest and will not have a significant adverse impact on the community.
21. The first branch of the requirement has already been addressed.
22. It remains to consider whether the application is in the public interest, to do so consideration must be given to the objectives prescribed in section 49(2) of the Act which include:
 - a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - b. ensuring liquor is to be sold, supplied, served and consumed on or in licensed premises in a responsible manner;
 - c. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
 - d. protecting the safety, health and welfare of people who use licensed premises;

- e. increasing cultural, recreational, employment or tourism benefits for the local community area;
 - f. promoting compliance with this Act and other relevant laws of the Territory;
 - g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
 - h. preventing the giving of credit in sales of liquor to people;
 - i. preventing the practices that encourage irresponsible drinking;
 - j. reducing or limiting increases in anti-social behaviour.
23. In determining whether there would be a "significant adverse impact on the community" section 49(3) of the Act requires the Commission "must consider the following:
- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;
 - b. the geographic area that would be affected;
 - c. the risk of harm from the excessive or inappropriate consumption of liquor;
 - d. the people or community who would be affected;
 - e. the effect on culture, recreation, employment and tourism;
 - f. the effect on social amenities and public health;
 - g. the ratio of existing liquor licences and authorities in the community to the population of the community;
 - h. the effect of the volume of liquor sales on the community;
 - i. the community impact assessment guidelines issued under section 50;
 - j. any other matter prescribed by regulation.
24. The Act is clear in that the applicant bears the onus of satisfying the decision maker of the relevant matters, irrespective of whether no objections were received as is the case in this matter.
25. In relation to the issue of the community impact and public interest, those matters have previously been published under section 6A of the *Liquor Act 1978* and in force immediately before the commencement of the *Liquor Act 2019* are taken to be community impact assessment guidelines issued under section 50 of the Act.
26. Those matters remain as previously published in numerous decisions by the Liquor Commission.

CONSIDERATION CRITERIA

27. With regards to the matters raised in section 49(2) of the Act, I note the following:

- a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised:

I am satisfied the provision of liquor is for a one day event with appropriate risk mitigation strategiesd put in place.

- b. ensuring liquor is to be sold, supplied, served and consumed, on or in licensed premises in a responsible manner:

Having considered all the material, I am satisfied the provision of liquor is for a one day event with appropriate risk mitigation strategiesd put in place, including the placing of several restrictions in the licence conditions.

- c. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises:

The nature of the event does raise concerns as to public order and safety but the applicant has provided detailed event manangmemnt plans to mitigate risks and has shown by past performance at this event to be able to do so.

- d. protecting the safety, health and welfare of people who use licensed premises:

The policies developed by the applicant applicable to the premises are considered to adequately protect the safety, health and welfare of people who are likely to use the licensed premises during its hours of operation, noting this is a one day event.

- e. increasing cultural, recreational, employment or tourism benefits for the local community area:

This event has a proven history of creating employment, albeit for a small period of time but also of patrons travelling from interstate to attend the event thereby increasing tourism and recreation and placing an emphasis on the NT in general.

- f. promoting compliance with this Act and other relevant laws of the Territory:

There are no materials provided which would suggest the applicant will not comply with the Act and any other relevant laws.

- g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business:

I am satisfied the applicant will appropriately manage and supervise service staff and that relevasnt staff will be trained.

- h. preventing the giving of credit in sales of liquor to people:

No issues have been raised to suggest there is any concern in relation to this objective.

- i. preventing the practices that encourage irresponsible drinking:

No issues have been raised to suggest there is any concern in relation to this objective. It also takes into account the conditions relating to the sale of alcohol limiting drinks between certain hours.

- j. reducing or limiting increases in anti-social behaviour:

Whilst the large nature of this event may raise concerns, the applicant has put in place a range of safety and mitigation strategies to reduce, limit and minimise anti-social behaviour. It is also noted the Applicant will have sufficient licensed crowd controllers employed on the day.

28. Turning to the matters under section 49(3):

- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school:

There are no materials to suggest there is a significant risk of undue offence, annoyance, disturbance or inconvenience likely to be caused by the granting of this authority.

- b. the geographic area that would be affected:

The locations are well known and used previously with no objections.

- c. the risk of harm from the excessive or inappropriate consumption of liquor:

As previously indicated, there are no materials to suggest there will be excessive consumption of liquor.

- d. the people or community who would be affected:

This is a ticketed event where the Applicant has provided a comprehensive overview of the event and local area. The applicant has proven in the past they plan properly to minimise any harms. Given the nature of the event and past good compliance it is unlikely there will be adverse impact on the community by the granting of this authority for a one off event.

- e. the effect on culture, recreation, employment and tourism:

This event has a proven history of creating employment, albeit for a small period of time but also of patrons travelling from interstate to attend the event thereby increasing tourism and recreation and placing an emphasis on the NT in general.

- f. the effect on social amenities and public health:

It is unlikely there will be any significant adverse impact on the social amenities and public health by the granting of this authority to the applicant, especially for a one off type of event.

- g. the ratio of existing liquor licences and authorities in the community to the population of the community:

This is of no relevance to this matter.

- h. the effect of the volume of liquor sales on the community:

The minimal and restricted nature of the operation, especially for a one day event, is unlikely to significantly increase the volume of liquor sales in the wider area.

- i. the community impact assessment guidelines issued under section 50:

These have been considered and referred to earlier in these proceedings.

29. Section 85 of the Act requires a term of the licence to be fixed and it is to remain force until it expires or is abandoned, surrendered or otherwise dealt with. This licence is issued for a one day event only.

30. Having regards to the foregoing, I am satisfied that the granting of the authority as sought is in the public interest and will not have an adverse effect on the community.

DECISION

31. On the basis of the information provided in relation to this matter and with reference to sections 48 and 60 of the Act, I have determined to issue a licence with a **major event authority** for the licensee, Fiery Amigos Pty Ltd, for the premises listed above.

32. The conditions applicable to the licence are in accordance with the relevant regulations and the following conditions are to be additional conditions as follows:

- a. The hours of trade of BASSINTEGRASS are to be Saturday 15 May 2021 12:00 Hours to 24:00 hours with the Beach Area trading hours of Saturday 15 May 2021 from 16:00 hours to 19:00 hours.
- b. The following additional conditions as per table below.

A diagram of the approved liquor licensed area is attached to this licence, both are to be kept and available for inspection at all times.

All liquor must be sold in open containers

No liquor or other beverages to be sold in glass containers

No more than four (4) alcoholic drinks to be sold to any one person at any one time from 1200 to 2000 hours, then no more than two (2) alcoholic drinks sold to any one person at any one time from 2000 to 2200 hours, then no more than one (1) alcoholic drink from 2200 to 2400 hours

No provision of alcohol drinks that:

- are designed to be consumed quickly and which are commonly referred to as a 'shot or shooters'; or
- are a cocktail containing more than a 30ml nip of spirit or liquor.

The sale of alcoholic ice slushies is prohibited

Provision for the sale of wine in 150ml glass

No person is to be sold, consume or possess liquor if they are not wearing an 18+ wristband.

Children under 13 years must be accompanied and supervised at all times by a ticket holding adult guardian.

No pass-outs are permitted for patrons under the age of 18 years.

Pass-outs for patrons 18 years and over will not be permitted after 1900 hours.

Provision of sale of wine by the bottle in the Premium Area

No BYO alcohol is to be permitted into the licenced area by the public.

No alcohol is to be removed from the licenced area by the public.

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.

Crowd Controllers are to be employed as per industry standards as follows: Two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter.

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.

The Security Incident Register must indicate whether an incident involves a minor. A designated 'Dry Area' must be established and maintained.

The licensee must comply with any requirement or directions of the Chief Health Officer in relation to his COVID-19 declaration pertaining to the sale of liquor at public gatherings.

The licensee is to ensure that all drink containers and rubbish is removed from the Beach Area. No liquor in glass containers to be taken into the Beach Area.

REVIEW OF DECISION

33. 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.
34. The Director delegated the determination of applications for a *major event authority* made under section 52 of the Act by instrument to me, provided there has been no objections or contentious matters raised or where the applicant has not been the subject of disciplinary action under a current or former licence. This delegation specifically list the delegation to approve a major event authority for BASSINTHEGRASS.
35. 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.
36. Accordingly, the affected persons in relation to this decision are, Fiery Amigos Pty Ltd, NT Police, Department of Health, City of Darwin and NT Fire and Rescue.



Jeff Verinder
Principal Licensing Officer – Liquor, Gaming & Racing
Delegate of the Director of Liquor Licensing

11 May 2021