

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER: Application for the granting of a major event authority

APPLICANT: Darwin Symphony Orchestra Incorporated

LEGISLATION: Part 3, Division 4 of the *Liquor Act 2019*

DECISION OF: Principal Licensing Officer - Liquor, Gaming & Racing

DATE OF DECISION: 2 June 2021

DECISION

1. For the reasons set out below and in accordance with section 60 of the *Liquor Act 2019* (the Act), as delegate of the Director of Liquor Licensing I have determined to grant the application for a major event authority to the Darwin Symphony Orchestra Incorporated (the Applicant) for the sale of liquor on the days and between the hours of:

Saturday, 26 June 2021 17:00 hours to 21:30 hours

2. The granting of this approval is for the annual Darwin Symphony Orchestra event and is subject to the provisions of Part 4, Division 12 of the *Liquor Regulations 2019* (the Regulations) which include:
 - a) all liquor sold, served or supplied at the event must be in open containers;
 - b) no more than four (4) containers of liquor may be sold, served or supplied at the event to one person at a time;
 - c) a reasonable range of non-alcoholic beverages and low alcoholic content beverages must be available for purchase by patrons during the event;
 - d) complimentary potable water must be available to patrons during the event;
 - e) snacks must be available for purchase by patrons during the event;
 - f) two (2) licensed crowd controllers must be employed for the first 100 patrons attending the event, and one (1) additional licensed crowd controller for each additional 100 patrons attending the event;
 - g) at least 75% of the licensed crowd controllers at the event must wear clothing that identifies their function;
3. The granting of the approval is also subject to the following additional conditions:
 - a diagram of the approved liquor licensed area is attached to the licence and are to be kept and available for inspection at all times at all bars selling liquor ;
 - no alcohol is to be removed from the licensed area by the public;

- the licensee must comply with any requirement or directions of the Chief Health Officer in relation to COVID-19 or any other public health matter pertaining to the sale of liquor at public gathering;
- No spirits are to be served
- A limit of 4 liquor drinks per person per sale, with all liquor to be opened at the point of sale
- Each bar to have a dedicated person to check age of patrons wishing to purchase liquor

BACKGROUND

4. The Darwin Symphony Orchestra has held annual events at the Darwin Amphitheatre with each event featuring a different theme of music. The 2021 music theme is disco.
5. The applicant has been granted previous special licences under the previous Liquor Act, materially under the same terms and conditions that this approval has been granted. With the commencement of the Liquor Act 2019, the appropriate liquor licence is that with a major event authority.
6. I take note of previous Liquor Commission decision notices dated 27 June 2018 and 3 June 2019 where the Liquor Commission granted a liquor licence where this most recent application is materially the same as previous applications.

CURRENT SITUATION

7. The event attracts an estimated 4,000 patrons which by effect of section 47(1)(o) of the Act requires a major event authority.
8. Total numbers for the event are estimated to be 4,000 patrons.
9. Noting the extensive history of this event, there has been no recorded compliance issues with respect of previous events, as well as no adverse comments from Police arising from its conduct.

Publication of the application

10. The application was published in the NT News on Wednesday, 14 April 2021 and again on Saturday, 19 April 2021 along with signage being placed at the proposed location. The application was also published on the Director of Liquor Licensing application website.
11. No objections were received in relation to the application.

Consultation

12. For completeness however and although again, there has not been any particular opposition to previous events by stakeholders, notification of the 2021 event was sent to the Commissioner of Police, the Chief Executive Officer of the Department of Health, the City of Darwin and NT Fire & Rescue Service.
13. As with previous year's events, no stakeholder responded against the conduct of the 2021 event. The event traditionally enjoying the conditional support of stakeholders.

Licenses' record of compliance

14. As written previously there are no adverse compliance matters noted in relation to any of the previous events.

Referral to the Liquor Commission

15. On 17 December 2020 the Liquor Commission delegated the determination applications for a major event authority *inter alia* for this Applicant, in the absence of objections or contentious matters, where the Applicant has not been subject to disciplinary action to the Director.
16. That power has subsequently been further delegated to me by the Director.
17. As no objection, contentious matter or disciplinary action is evident, with reference to the instrument of 17 December 2020 this matter may be determined by me as delegate of the Director without referral to the Liquor Commission.

ASSESSMENT OF MATTER

18. In accordance with section 59 of the Act, I have considered:
 - (a) the applicant's affidavits required by section 54;
 - (b) the results of an investigation into the applications conducted by Licensing NT personnel;
 - (c) in the absence of objections, the responses of the stakeholders to which notification was provided;
 - (d) the suitability of the area; and
 - (e) the financial stability and general reputation and character of the applicants and their nominees, noting the proposed nominee is an existing nominee at the Darwin Trailer Boat Club and has been the previous nominee at this event in the past.
19. In accordance with section 49 of the Act, I have also considered whether issuing the authority to the Applicant is in the public interest, and whether the granting of the authority will have a significant adverse impact on the community.
20. Accompanying the application is a comprehensive risk assessment plan, traffic management plan and other materials evidencing the appropriateness of the granting of this matter.
21. I am satisfied on the basis of the conduct of the previous special licences, granted under the previous Act, along with the decision notices issued by the Liquor Commission on 27 June 2018 and 3 June 2019, for the same event, and the material presented in this application, that approval of this matter is appropriate in the circumstances.

Whether issuing the licence is on the public interest

22. Section 49(2) of the Act requires me to determine whether issuing the authority is in the public interest and how it will advance the following objectives:
 - (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - (b) ensuring liquor is 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 practices that encourage irresponsible drinking;
 - (j) reducing or limiting increases in anti-social behaviour.
23. Having considered each of these objectives, and having particular regard to the stringent controls placed on the consumption of liquor and the conduct of previous events, I am satisfied that it is in the public interest to issue the authority.
24. I also note and adopt the previous considerations of the former Director-General of Licensing and the Liquor Commission in relation to their approval of this event.
25. In the absence of material changes to the application, I consider it inappropriate to revisit or dissent from the previous considerations.

Whether the issue of the authority will have a significant adverse impact on the community

26. Section 49(3) of the Act prescribes the matters which must be considered when determining whether the issuing of the authority would have a significant adverse impact on the community.
27. These include:
- (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.

28. The applicants also bear the onus of satisfying me of the relevant matters, irrespective of whether any objections were received.
29. Again, noting and adopting the previous considerations of the former Director-General of Licensing and Liquor Commission in relation to this matter, I am satisfied the conditions placed on the approval, along with the conditions prescribed by the Regulations will ensure liquor is consumed in an appropriate manner, the risk of harm is minimal and there is no apparent significant adverse impact on the community.
30. In considering this application I am obliged to consider the purposes prescribed in the Act, primary being, to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale and consumption of liquor.
31. Secondary purposes include, a protection of the community amenity and wellbeing, regulation of the sale of liquor in a way that contributes to the responsible development of the industry and associated businesses, and of particular relevance, facilitating a diversity of associated services for the benefit of the community and stimulating the tourism and hospitality industries.
32. I am satisfied the applications are in line with the purposes of the Act, particularly in providing a diversity of services and stimulation to the tourism and hospitality industries.
33. As a result of the matters outlined above, I am on balance, satisfied that the approval of this application is appropriate, in the public interest and will not have a significant adverse impact on the community.

REVIEW OF DECISION

34. Section 26 of the Act requires a delegate of the Director to as soon as practicable after making a decision, to give a written notice of the decision to an affected person, being a licensee, applicant or person who made a submission, complaint or objection, the subject of the decision.
35. Section 11 of the Act provides for the Director to delegate powers and functions under this Act by instrument, to a person from time to time holding, acting in or performing the duties of the position specified in that instrument. This decision was made by a person referred to in that instrument.
36. Section 27 of the Act provides that an affected person for a delegate decision may apply to the Director 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 allows.

37. Accordingly the affected persons in relation to this decision are the Darwin Symphony Orchestra Incorporated, NT Police, the Department of Health and the City of Darwin Council.



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

2 June 2021