

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2018/113
VENUE:	Alice Springs Inland Dragway ALICE SPRINGS NT 0871
APPLICANT:	Central Australian Drag Racing Association
EVENT:	Red Centre Nats
LEGISLATION:	<i>Liquor Act</i> , Part VI (“Special Licences”).
DECISION OF:	Mr Russell Goldflam (Acting Deputy Chairperson)
DATE OF DECISION:	20 August 2018

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act* (“the Act”) the Commission has determined to grant the special licence to sell liquor to the Central Australian Drag Racing Association (“the applicant”) for the sale of liquor during the following periods:
 - Friday 31 August 2018 15:00 hours to 23:59 hours
 - Saturday 1 September 2018 10:00 hours to 18:00 hours
 - Sunday 2 September 2018 10:00 hours to 16:00 hours
2. The granting of approval is subject to the following standard conditions, namely:
 - a. The sale of liquor must be supervised by one or more persons nominated by the holder of the special licence (the Nominees), who each must hold a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General. A Nominee **MUST BE** present during all Trading Hours and must ensure compliance with these Conditions.
 - i. **Nominee: Helen Mills**
 - b. Persons under the age of 18 years must not be used in the sale or supply of liquor.

- c. 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.
- d. Any person involved in Crowd Control, as defined under *the Private Security Act*, at the premises, must be licensed as required by that Act.
- e. Crowd Controllers are to be employed as per industry standards as follows: Two licensed crowd controllers for the first 100 hundred patrons and one additional crowd controller for each 100 hundred patrons thereafter.
- f. All liquor must be sold in open containers.
- g. No more than four (4) cans or plastic cups must be sold to any one person at any one time.
- h. The holder of the special licence must ensure that water, soft drinks, 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.
- i. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- j. The holder of the special licence 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.
- k. The holder of the special licence must comply with all requirements and guidelines published by the Liquor Commission or Director-General, including guidelines related to the conduct of entertainment.
- l. Where the holder of the special licence is operating from enclosed premises, the holder must prominently display on the premises the “Maximum Patron Number” sign (if one has been issued by the Fire and Rescue Service) and must comply with maximum patron numbers as determined by the Northern Territory Fire and Rescue Service from time to time.
- m. The holder of the special licence 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.
- n. The holder of the special licence must comply with the requirements of the Liquor Commission or Director-General as specified in this condition, and with the instructions of 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 identity card or other authorisation.
- o. All liquor purchased for sale under the authority of this special licence **MUST** be purchased from a licensed retail outlet.

- p. The holder of the special licence must make a record of all liquor obtained for sale under this special licence that identifies the source of the liquor and the type and quantity of each type of liquor so obtained.
- q. The holder of the special licence must record all liquor sold, including the type and quantity of that liquor, and must record the manner of disposal of any unsold liquor.
- r. This special 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 identity card or other authorisation.
- s. The holder of the special licence must clearly display signage to delineate Non-Smoking areas from the Smoking Areas and the holder must comply with smoking requirements contained in the *Tobacco Control Act*. Food and drinks are not permitted to be taken into any designated smoking areas.
- t. The holder of a special licence or employee of a holder shall exclude or remove from the premises any person who is wearing the colours, insignia or emblems of an outlaw motorcycle gang (Bikie Gang).

3. Additional Conditions

- a. Liquor may only be sold in opened cans or plastic cups.
- b. Spirits must not be sold in containers with more than 5% alcohol by volume.
- c. Wine must not be sold in containers with more than 150 ml.
- d. The only liquor that may be sold before 13:00 hours on any day is to be mid-strength or light beer.
- e. Notwithstanding the condition at paragraph 2(g) above, after 20:30 hours on 31 August 2018, only two alcoholic drinks may be sold to any one person at any one time.
- f. Liquor may only be sold to persons wearing a proof of age wristband, and wristbands must only be issued to patrons who have satisfied the licensee that they are over 18 years of age.
- g. The licensee must adopt and promote a zero tolerance policy to prevent antisocial behaviour, including the barring of entry to the venue by intoxicated persons, and the removal and supervision of any minors found in possession of liquor.
- h. The licensee must ensure that patrons are inspected on entry to the venue to ensure that they do not bring liquor onto the premises.
- i. The licensee must provide the Director-General of Licensing with the number and names of security persons to be employed for the function by 16:00 hours on 24 August 2018.
- j. The licensee must ensure that details of safe transport to and from the function are advertised in the *Centralian Advocate* no later than 24 August 2018.
- k. The licensee must ensure that First Aid Services are provided in a clearly defined area, and that First Aid staff can communicate easily with the licensee, event staff and security personnel.

- l. The licensee must ensure that an Emergency Management Plan is in place including evacuation procedures, clearly marked and accessible exits and the responsibilities of staff/security, and must provide that Plan to the Director-General by 16:00 hours on 24 August 2018.
- m. The licensee must ensure that in addition to the Nominee identified at paragraph 2(a) above, not less than two other persons who have completed a Responsible Service of Alcohol Course approved by the Director-General and who are involved in the sale/supply of liquor on the premises are in attendance when liquor is being sold at the event; and the licensee shall provide the names of these persons and proof of their RSA qualification to the Director-General by 16:00 hours on 24 August 2018.
- n. If by 16:00 hours on 24 August 2018 the licensee has failed to comply with any of the above conditions requiring the provision of information to the Director-General, the licence is cancelled, and the licensee will be prohibited from selling liquor at the premises during the event.

Reasons

Background

4. Pursuant to section 58 of the *Liquor Act* (“the Act”), the applicant applied to the Director-General of Licensing on 24 July 2018 for a special licence to permit the sale of beer and spirits to persons attending the Red Centre Nats, a motorsport event in Alice Springs incorporating burnouts and drag racing at this venue, and described by the applicant as “a family friendly festival of all things wheels” featuring “high octane extreme auto action”. This application is for a licence at the Alice Springs Inland Dragway, one of three venues at which it is proposed liquor will be sold and consumed during the event. The other two venues are Blatherskite Park and Lasseters Casino, over which Northern Territory Major Events Company Pty Ltd and Lasseters Casino respectively currently hold liquor licences.
5. Although the Northern Territory Major Events Company Pty Ltd applied for and was granted a special licence to sell liquor at the Blatherskite Park venue for the Red Centre Nats on the basis that this was a “major event”, the applicant has not done so. The Blatherskite Park venue licence was granted on the basis that an estimated 5,000 people would be in attendance at any one time. The applicant in this associated application, however, asserts that 1,500 to 1,700 patrons are expected to attend the Dragway venue at any one time. The Commission notes with concern that this estimate is substantially lower than the estimate of up to 5,000 people initially provided by the applicant, and was only revised downward after the applicant had been reminded of the requirements regarding the provision of crowd controllers to industry standards.
6. The applicant has not complied with a significant prescribed requirement when applying for a special licence for a major event, namely that the application be lodged 3 months in advance of the event.
7. The Notes to the Special Liquor Licence Application published by the Northern Territory Department of Business (“the Application Notes”) state:

A major event or function is essentially an event where “Risk” of impact on amenity, public safety and order is considered to be high due to the nature of the function and the potential size of the crowd. Some examples of functions that would be classed as major events are: New Year’s Eve Street Party, Greek Glenti and V8 Supercar’s.

8. In considering whether this application should be treated by the Commission as a “major event”, the Commission has regard to the following matters:
- a. The Red Centre Nats was categorised as a major event by the Northern Territory Major Events Company Pty Ltd in its special licence application to sell liquor at Blatherskite Park.
 - b. The current application is for a licence to sell liquor at a different venue for the same event.
 - c. The applicant initially estimated that up to 5,000 people would attend this event at the Inland Dragway.
 - d. The nature of the event, which includes high performance vehicles being driven competitively by non-professional drivers, is such that it poses a relatively high risk of impact on public safety.
 - e. The event has been widely promoted as an “epic weekend in the heart of Australia with thousands of our favourite petrolheads”, “over 700 of Australia’s best street machines”, and “Australia’s largest street parade”¹.
 - f. On Friday 31 August 2018 from 16:00 hours to 22:30 hours, the only programmed event activities will be at the Inland Dragway.
 - g. On Saturday 1 September 2018 and Sunday 2 September, drag racing and burnout competitions at the Inland Dragway will coincide with other event activities at Blatherskite Park.
 - h. In email correspondence with the applicant in 30 July 2018, Licensing NT referred in passing to the event as a major event. The applicant neither took issue with this or provided any indication that it has at any time given consideration to the possibility that the event may be a major event.
 - i. Licensing NT has not indicated whether this event was categorised as a major event when it was conducted in 2015, 2016 or 2017.
 - j. The applicant’s revised estimate is that no more than 1,700 people will attend the event at any one time.

¹ <https://www.redcentrenats.com.au/>

9. Having regard to these matters, the Commission is satisfied that this application is for a licence to sell liquor at a major event, and so determines. Additional conditions in the licence are fixed accordingly. The applicant is warned that in future years a failure to comply with the prescribed requirements for major events applications may result in a refusal to grant the special licence.
10. The applicant for the associated licence at the Blatherskite Park venue for this event has proposed to implement the following harm-reduction measures:
 - adopt and promote a zero tolerance policy to prevent antisocial behaviour, including the barring of entry to the venue by intoxicated persons, and the removal and supervision of any minors found in possession of liquor
 - require patrons to wear overage wristbands in order to obtain liquor service at the “Rock n Rumble” concert
 - make water and soft drinks widely available
 - provide sufficient food catering stalls
 - provide a free bus service between the three event venues and the Alice Springs CBD
 - establish and maintain designated outdoor smoking areas (DOSAs)
 - serve liquor in cans or plastic cups, but not glass containers
11. The Commission considers that these measures should also be adopted for the current application, where applicable.
12. Licensing NT reports that there have been no previous compliance or liquor-related issues with respect to this event in recent years.
13. In the Application, the applicant identified pre-mixed spirits and light, mid-strength and heavy beer, as the types of alcoholic beverages it proposed to sell. However, in subsequent correspondence with Licensing NT, the applicant indicated its intention to also sell wine, by the glass.

Consultation

14. 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. , Accordingly, comment was sought from the Department of Health (“DOH”), NT Police, Fire and Emergency Services (“NT Police”) and Northern Territory Fire and Rescue Services (“NTFRS”).
15. With respect to this application:
 - a. The DOH had “no adverse comment” but requested that the applicant be reminded of its obligations in relation to smoking, and suggests a drink spiking policy for future events.

- b. The NT Police stated “as in all cases for special liquor licences Alice Springs Police do not support the sale of full strength beer... other than that (and pending the further information that he is going to find for certain questions) from a police perspective the application is supported.”
 - c. The NTFRS indicated it had no objections to the issue of a special licence, but requested that the applicant ensure that an Emergency Management Plan is in place including evacuation procedures, clearly marked and accessible exits and the responsibilities of staff/security.
16. The applicant has provided details that satisfy the Commission that it will take appropriate measures in relation to the provision of outdoor smoking areas, which is in any case a general condition of the licence.
17. The NT Police response is misconceived and misleading: in fact, NT Police do not oppose the sale of full strength beer “in all cases”. Indeed, NT Police did not oppose the sale of full strength beer in relation to the Blatherskite Park application for this same event. Furthermore, NT Police did not identify the nature of the additional information they were seeking, or when they proposed to provide it. Accordingly, the NT Police response is of little assistance to the Commission.
18. Noting that in 2017 there was a serious emergency at this event at this venue, the Commission considers that the NTFRS response is appropriate, and has fixed an additional condition accordingly. Curiously, despite the 2017 emergency incident, and although the licence application for the Blatherskite Park venue of this event included a detailed emergency plan, the current application did not. In these circumstances, the failure to provide an emergency plan in support of this application is of some concern to the Commission.

Assessment of the Application

19. 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.
20. As a result, it has previously been determined by the 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.
21. 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”.

22. 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.”

23. 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.

24. The Commission considers that the objects of the Act are served by imposing restrictions on the supply of liquor in addition to the “standard conditions” at this event. The Commission has determined conditions calculated to reduce the risk of harm associated with the consumption of liquor while at the same time permitting the sale and responsible consumption of liquor at this popular motor sports event.

25. The Commission has regard to conditions imposed on holders of special licences for other recent motor sports events, including Nitro Up North (CC2018/079), the Finke Desert Race (LC2018/044), the Desert Nationals (LC2018/093), the Gazzanats (LC2018/095) and the Blatherskite Park venue for the Red Centre Nats (SLL1364).

26. The Commission has regard to the size, location and configuration of the venue, the proposed hours of trading, the anticipated number of patrons, and the nature of the event.

27. In the Commission’s view, an appropriate limit for an event such as this is one and a half standard drinks (15 grams of pure alcohol) per serve. That is approximately the same amount of alcohol as in a can or stubby of full-strength beer, a glass of wine in a restaurant (150 ml), or a 375ml can of medium strength mixed spirits.

28. The Commission also considers that there should be a staggered decline in drinks towards the conclusion of the event on the evening of Friday 31 August 2018.
29. Similarly, the Commission considers that there should be a restriction on the strength of liquor sold before 1300 hours on the following two days. The Commission notes that this condition has been imposed on recently issued special licences for similar events. In the view of the Commission, this measure should be imposed for the following reasons:
- to reduce the risk that patrons (and in particular patrons who intend to participate in or attend competitive driving events later in the day) will consume liquor to harmful excess at the event;
 - to reduce the risk that patrons, and particularly children, attending the event at lunchtime will be confronted by or exposed to intoxicated persons;
 - to discourage a culture of heavy and sustained liquor consumption at public events in the Northern Territory; and
 - to be consistent with the conditions of licences that have been recently granted for similar events.
30. The Commission notes that the sale of liquor in glass containers is inconsistent with the arrangements proposed and the conditions fixed for the associated Blatherskite Park event, and with the applicant's own ban on glass drink containers in competition areas.² The Commission has determined not to permit the sale of liquor in glass containers at this event.
31. Taking these matters into account, the Commission has determined that the additional conditions set out at paragraph 3 above should be imposed.

Notice of Rights:

32. 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.
33. 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.

² <http://redcentrenats.com.au/wp-content/uploads/2017/05/Entrant-Terms-and-Conditions-and-Release-of-Liability.pdf>

34. 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.

A handwritten signature in blue ink, appearing to read 'R. Goldflam', is written over a horizontal line.

RUSSELL GOLDFLAM
Acting Deputy Chairperson
Northern Territory Liquor Commission

20 August 2018