

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
REFERENCE:	LC2019/093
APPLICANT:	Gazzanats Pty Ltd
VENUE:	Hidden Valley Raceway Hidden Valley Motorsport Complex 171 Hidden Valley Road HIDDEN VALLEY NT 0828
EVENT:	Gazzanats Darwin
PROPOSED DATES:	Saturday 17 August 2019
LEGISLATION:	<i>Liquor Act 1978</i> , Part VI (“Special Licences”)
DECISION OF:	Ms Amy Corcoran
DATE OF DECISION:	30 July 2019

Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (**the Act**) I have determined to grant a special licence to sell liquor to Gazzanats Pty Ltd (**the Applicant**) for the sale of liquor from 11:00 hours to 23:00 hours on Saturday, 17 August 2019.
2. The granting of approval is subject to the following conditions, namely:
 - a. The liquor shall be sold at the event known as the “Gazzanats Darwin” occurring at the premises known as the Hidden Valley Motorsport Complex located at Hidden Valley Road, Berrimah in the Northern Territory (**the Premises**).
 - b. 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.

Nominees: Deby Myers
Andrew Billsborrow

- c. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- d. 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.
- e. Any person involved in Crowd Control, as defined under *the Private Security Act 1995*, at the premises, must be licensed as required by that Act.
- f. Crowd Controllers are to be employed as per industry standards as follows:
 - i. Two licensed crowd controllers for the first 100 hundred patrons and one additional crowd controller for each 100 hundred patrons thereafter.
- g. All liquor must be sold in open containers.
- h. No more than four (4) alcoholic drinks must be sold to any one person at any one time.
- i. 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.
- j. Liquor must not be sold or supplied to a person who is drunk, or to a person under the age of 18 years.
- k. 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.
- l. 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.
- m. 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.
- n. 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.

- o. 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.
- p. All liquor purchased for sale under the authority of this special licence **MUST** be purchased from a licensed retail outlet.
- q. 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.
- r. 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.
- s. 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.
- t. 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 2002*.
- u. Food and drinks are not permitted to be taken into any designated smoking areas.
- v. 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).

Commission's instructions in accordance with Condition (n):

To the extent that the below instructions are inconsistent with the conditions above, these instructions prevail.

- No more than four (4) alcoholic drinks to be sold to any one person at any one time from 1100 hours to 1900 hours and then no more than two (2) alcoholic drinks sold to any one person at any one time from 1900 hours to 2300 hours.
- The holder of the special licence may only sell the following liquor products:
 - 1. Light, mid and full strength beers in cans;
 - 2. Pre-mixed spirits in cans.

- Patrons over the age of 18 years that wish to consume liquor must have their identification checked and issued wristbands demonstrating that they are 18 years or older. No person is to be sold, consume or possess liquor if they are not wearing a wristband.
- Free potable water must be available to patrons;
- Liquor or any other beverages must not be sold to patrons in glass containers;
- 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;
- At least 80% 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.

Reasons

Background

4. Pursuant to section 58 of the *Liquor Act 1978* (the Act), the Applicant applied to the Director-General of Licensing NT on 17 April 2019 for a special licence to permit the sale of beer and spirits (in the form of pre-mixed drinks) to persons attending 'Gazzanats Darwin'. The Applicant is seeking to sell liquor from 11:00 hours to 23:00 hours on Saturday 17 August 2019.
5. Gazzanats Darwin is a motor sport event for street machine enthusiasts with driving events which include burnouts, cruise the track, super skids and show and shine.
6. The Applicant proposes to sell a range of beer including low and mid-strength beer, low carbohydrate beer and spirits, all in cans, with the following conditions:
 - a. Armbands will be put on persons over 18 years that have had their ID checked;
 - b. All beverages will be opened at time of purchase; and
 - c. Purchases will be limited to 4 cans per person per sale at the commencement of trade and declining to 1 can per person per sale by the end of the event.
7. Approximately 500 - 1100 persons are expected to attend the event throughout the day.
8. The Applicant will establish and maintain a family alcohol free friendly area at the event shown as the "Dry Area" on the plan to the application.
9. The Applicant will have food available as well as soft drinks and water encouraging responsible consumption of alcohol.

10. A minimum of six (6) security guards (Performance Services) will be engaged to attend the event however, more will be called in if required to ensure industry standards are met – that is, two for the first 100 patrons and one additional crowd controller for every 100 patrons after that.
11. The Applicant has previously been granted special liquor licenses for this event over the past 4 years and Licensing NT advises that there have been no compliance issues arising from the conduct of those events.

Consultation

12. 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. Comments were sought from St John Ambulance (St John’s), the Department of Health (DOH), Northern Territory Fire and Rescue Services (NTFRS) and Police, Fire and Emergency Services (NT Police).
13. With respect to this application:
 - a. St John’s confirmed that they will be in attendance during the event.
 - b. The DOH had “no adverse comment” on the understanding that the applicant is aware of its obligations in relation to smoking compliance at the venue. The applicant has confirmed its awareness of these obligations.
 - c. The NTFRS had “no objections” to the application.
 - d. NT Police has “no objections” but requested a “staggered decline in drinks per transaction per person for the event”.

Assessment of the Application

14. An application for a special licence is regulated by Part VI of the Act. There are no specific criteria prescribed within the Act for consideration of an application for a special licence. A Part VI special licence is not a “licence” as defined by section 4 of the Act, which confines the meaning of that term to “a licence issued under Part III” of the Act.
15. 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 the Commission is bound to apply the public interest and community impact test as provided for under section 6 of the Act.
16. The Commission has previously noted 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”.

17. 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.”

18. 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.

19. Given the nature of this event, I am satisfied that the sale of liquor will be an ancillary feature of the Gazzanats Darwin and is not relied on as a significant attractor to the event.

20. In respect to the request by NT Police for a staggered decline of drinks, the Applicant has proposed the following staggered decline in drinks - 4 drinks per person per transaction permitted until 1600 hours, 3 drinks from 1600 hours, 2 drinks from 1900 hours and just 1 from 2200 hours.

21. I will impose a staggered decline condition in line with last year’s liquor licence being 4 drinks to 2 drinks per person per transaction from 2100 hours, however, the Applicant may, and is encouraged to, implement their own more stringent in-house staggered drink policy as it considers appropriate to ensure responsible service of alcohol in the circumstances.

22. The event has been well run and managed over the past 4 years and no compliance issues have been raised by NT Police or Licensing NT.

23. It is as a result of the matters outlined above that I am, on balance, satisfied that the objects of the Act have been sufficiently addressed and for the reasons outlined I have decided to grant the special licence as set out at the start of this Decision Notice.

Notice of Rights:

24. 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.
25. 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.
26. 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.



AMY CORCORAN

Member
Northern Territory Liquor Commission
2 August 2019