

Delegate of the Liquor Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
APPLICANT:	Central Australian Drag Racing Association (CADRA)
VENUE:	Lot 3884 South Stuart Highway ALICE SPRINGS NT 0870
EVENT:	Desert Nationals
PROPOSED DATES:	Saturday 3 August 2019 and Sunday 4 August 2019
LEGISLATION:	<i>Liquor Act 1978</i> , Part VI (Special Licences)
DECISION OF:	Mr Russell Goldflam (Acting Deputy Chairperson)
DATE OF DECISION:	1 August 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 the Central Australian Drag Racing Association (the Applicant) for the sale of liquor during the following periods:
 - 11:00 hours to 18:00 hours on Saturday, 3 August 2019
 - 11:00 hours to 23:59 hours on Sunday, 4 August 2019
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.
 - **Nominees: Rachael McDonald and Sarah Bindle**
 - 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 Nominees.
- d. 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.
- 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 bottles may 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 2002*. 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. The only liquor products that may be sold by the holder of the special licence are:
 - Full-strength, mid-strength and light beer in containers of no more than 375 ml
 - Pre-mixed spirits in containers of no more than 375 ml
- b. Spirits must not be sold in containers with more than 5% alcohol by volume
- c. All liquor must be sold in opened cans or plastic cups
- d. Liquor must only be sold or supplied to patrons wearing an “18 plus” wristband supplied and applied to patrons by officers engaged by the licensee who are reasonably satisfied that the patron is over 18 years of age
- e. Before 13:00 on 3 and 4 August 2019, the only types of liquor that may be sold are light and mid strength beer
- f. Notwithstanding the standard condition at paragraph 2(g) above, after 23:00 hours on 4 August 2019 no more than two (2) open containers may be sold to any one person at any one time
- g. The licensee must ensure that at all times during the operation of the licence, each bar in operation is staffed by at least one person who holds a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General
- h. By 12:00 hours on 2 August 2019, the licensee must provide to the Director-General:
 - An Event Management Plan (including emergency procedures)
 - Details of first aid provision

- A smoking management plan for the event including designated smoking areas
 - Details of how the licenced area is to be fenced or otherwise delineated
- i. The licensee must not trade under this licence unless and until it has received written confirmation from the Director-General or her delegate that she considers that all of the arrangements set out at paragraph 3h above are satisfactory.

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 16 July 2019 for a special licence to permit the sale of beer and spirits (in the form of RTD mixed drinks) to persons attending Desert Nationals, a drag racing event in Alice Springs. The Applicant is seeking to sell liquor from 11:00 to 18:00 hours on 3 August 2019, and from 11:00 to 23:59 hours on 4 August 2019.
5. The Applicant estimates that 1,000 people will attend the event, of which 200 to 250 are expected to purchase and consume liquor. Based on sales at the 2018 Desert Nationals the Applicant expects to sell 20 cartons of beer and 15 cartons of pre-mixed drinks.
6. The Applicant has previously been granted special liquor licences for various motor sports events, including in 2016, 2017 and 2018, and Licensing NT advises that there have been no compliance issues arising from the conduct of those events. The Licensing NT Alice Springs Principal Compliance Officer advises that the Applicant has set very high standards of compliance with its liquor licences, and that this event is a tourist drawcard for the town.
7. In one important respect, however, the Applicant has been non-compliant. On 26 March 2019, a Delegate of the Director-General of Licensing issued the Applicant with a special licence to sell liquor during specified hours on weekends for motorsports events where patron numbers are below 300 persons. That licence is currently in force, expiring on 19 November 2019. The licence includes the following Director-General's Instruction:
 - This special licence allows the holder to trade on the days and times particularised above in circumstances where patron numbers are 300 persons or below. For events where patron numbers are expected to exceed 300 persons at any one time, the holder must seek a separate special licence. That special licence may only be determined by the Liquor Commission. Such events are considered a major event whereby applications must be lodged at least three (3) months prior to the event.
8. Accordingly, the current application should have been lodged no later than 3 May 2019. Instead, it was lodged on 16 July 2019. It was referred by Licensing NT to the Commission on 31 July 2019, leaving only two clear working days for the Commission to find a Member available to process the application, for the

delegated Member to prepare the Decision Notice, and for Licensing NT to prepare the associated licence. Despite being reminded by Licensing NT of the lateness of the application, the Applicant has neither sought to explain it or to seek an extension of time for it to be considered.

9. The Applicant is now put on notice: if it continues to treat the conditions of licences it is granted with the same disregard, it should expect to have any future licence applications refused.
10. By email on 16 July 2019, Licensing NT requested the Applicant to provide the information set out at paragraph 3h above.

Consultation

11. 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, namely the Department of Health (DOH), Police, Fire and Emergency Services (NT Police), Northern Territory Fire and Rescue Services (NTFRS) and seek their comment.
12. With respect to this application:
 - a. 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.
 - b. NT Police stated that they supported the application in principle, provided that the Applicant has satisfactorily addressed issues questions asked of the Applicant by Licensing NT in relation to the management of the event.
 - c. The NTFRS expressed no objection to the application.

Assessment of the Application

13. 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.
14. 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.
15. 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”.
16. 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.”
17. 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 sporting event.
18. The Commission has regard to the conditions imposed for this event in 2018. The Applicant has not objected to these conditions being re-imposed.
19. 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, which the Commission considers is likely to be particularly attractive to young men and boys.
20. The Desert Nationals constitute round one of the 19/20 Summit Racing Equipment Sportsman Series, which is presented by the Australian National Drag Racing Association (ANDRA). The Commission has regard to the Rules of ANDRA. They provide for random testing of competitors and crew for alcohol, and for the ejection of any competitor or crew member found returning a measurable breath alcohol reading when tested. Consumption of alcohol by a competitor during an event can result in suspension by ANDRA for up to 6 months.
21. In addition, on its website the Applicant notifies competitors that it does not permit liquor to be taken into the pit area, and prohibits the use of glass containers at the event.
22. In the Commission’s view, it is appropriate to limit the supply of liquor at the Desert Nationals to 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 or a 375ml can of medium strength mixed spirits. Similar conditions have been imposed on other similar events.

23. In the Commission's view, additional restrictions should be imposed on the supply of liquor prior to 13:00 hours on 3 and 4 August 2019, to no more than one standard drink per serve. This is approximately the same amount of alcohol as in a can or stubby of mid-strength beer.
24. In the Commission's view, an additional restriction should be imposed in the hour prior to midnight on 4 August 2019, by limiting sales to 2 drinks per customer per transaction.
25. Taking these matters into account, the Commission has determined that the additional conditions set out at paragraph 3 above should be imposed.
26. I am exercising the power to make this decision of the Commission pursuant to the delegation made to me by the Commission.

Notice of Rights:

27. 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.
28. 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.
29. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected persons are the Applicant and the persons who made "a submission" during the process that resulted in the decision being made.



RUSSELL GOLDFLAM
Acting Deputy Chairperson
Northern Territory Liquor Commission
1 August 2019