

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2018/095
<b>APPLICANT:</b>	Gazzanats
<b>VENUE:</b>	Hidden Valley Dragstrip Hidden Valley Motorsport Complex 171 Hidden Valley Road HIDDEN VALLEY NT 0828
<b>EVENT:</b>	Gazzanats Darwin
<b>PROPOSED DATES:</b>	Saturday 18 August 2018
<b>LEGISLATION:</b>	<i>Liquor Act</i> , Part VI (“Special Licences”)
<b>DECISION OF:</b>	Mr Russell Goldflam (Acting Deputy Chairperson)
<b>DATE OF DECISION:</b>	7 August 2018

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### Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act* (“the Act”) I have determined to grant a special licence to sell liquor to Gazzanats (BN98122042) (“the applicant”) for the sale of liquor from 11:00 hours to 23:00 hours on Saturday, 18 August 2018.
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 Nominee/s), 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. **Co-Nominees: Deby Myers and Brooke Snedden**
  - 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 a 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 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*. 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
  - pre-mixed spirits
- b. Spirits must not be sold in containers with more than 5% alcohol by volume.
- c. Before 13:00 the only types of liquor that may be sold are light and mid-strength beer.
- d. Notwithstanding the standard condition at paragraph 2(g) above, after 21:00 hours no more than two (2) open containers may be sold to any one person at any one time.

### **Reasons**

#### **Background**

- 4. Pursuant to section 58 of the *Liquor Act* (“the Act”), the applicant applied to the Director-General of Licensing NT on 15 May 2018 for a special licence to permit the sale of beer and spirits (in the form of RTD mixed drinks) to persons attending Gazzanats Darwin, a motor sport event in Darwin for street machine enthusiasts. The applicant is seeking to sell liquor from 11:00 hours to 23:00 hours on Saturday 18 August 2018.
- 5. The applicant initially estimated that 1500 people would attend the event, but when informed that this might entail a requirement to engage 16 crowd controllers, the applicant amended the estimate to 500 people.

6. The applicant has previously been granted special liquor licences for this event in 2015, 2016 and 2017, and Licensing NT advises that there have been no compliance issues arising from the conduct of those events. The hours of trade for the previous events were from 12:00 noon to 23:00 hours.

### **Consultation**

7. 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”).
8. With respect to this application:
  - a. St John’s had “no concerns” with the application.
  - 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 expressed no objection to the application, but requested vendors to have appropriate fire extinguishers in service. The applicant has agreed to this request.
  - d. NT Police noted that “this event is run well and doesn’t need to have low to mid strength imposed. The event organiser has agreed to apply a staggered decline per transaction per person for the event, so that patrons are still able to drive their muscle cars home after the event.” The Commission has not received information from the applicant confirming that it agrees to a staggered decline in the sale of liquor.

### **Assessment of the Application**

9. 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.
10. 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.
11. 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”.

12. 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.”

13. 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 motor sports event.

14. 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) and the Central Australian Drag Racing Association (LC2018/093).

15. 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. The Commission has concerns about the reliability of the applicant’s final estimate that 500 people will attend the event, as compared to the applicant’s original estimate of 1500. The Commission requests the Director-General of Licensing to arrange for Licensing NT to attend the event and provide a report to the Commission of the number of patrons in attendance.

16. Gazzanats Darwin is promoted as an occasion at which members of the public who are street machine enthusiasts are encouraged to compete. The scheduled activities, as published on the applicant’s website<sup>1</sup>, are:

- Burnout Competition
- Go To Whoa

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<sup>1</sup> <http://www.garymyers.com.au/gazzanats-nt>

- Super Skids
- Cruise the track
- Race ya Mates (Rolling start)
- Show & Shine
- Drift Demos
- Dash 4 Cash

17. Unlike the websites for similar events, such as the Summer Nats and Red Centre Nats, the applicant's website does not include provisions referring to or regulating the consumption of liquor by drivers or passengers participating in Gazzanats activities. The applicant has not informed the Commission that it intends to impose any such conditions on participants. It is apparent that safe participation in many of the scheduled activities requires a high level of driving skill. On the information made available to it, the Commission considers that the conduct of this event gives rise to a significant risk that novice drivers will be permitted to compete in inherently dangerous events while their capacity to drive skilfully and carefully has been impaired by the consumption of liquor.

18. In accordance with the objects of the Act, the Commission considers that the conditions of the licence should be formulated to reduce this risk. The Commission has given serious consideration to imposing specific restrictions on the sale of liquor to patrons who participate in competitive driving activities at the event. However, having regard to the applicant's satisfactory compliance record over the last three years, the responses of the agencies that have been consulted, and the restraints on the consumption of liquor by drivers contained in Part V of the *Traffic Act* (NT), the Commission has come to the view that no such restrictions are warranted on this occasion. The Commission urges the applicant to take the following further steps to reduce alcohol-related harm:

- Reinforce to patrons registering to participate in driving events that no liquor may be taken outside the designated bar area or into competition areas, and that drivers and passengers will not be permitted to compete if they exhibit signs of intoxication.
- Scrutinise participants prior to commencement of driving events for signs of intoxication, and bar any participants who exhibit such signs from competing.
- Remind all patrons of the requirement to comply with Northern Territory drink driving laws.

19. In the Commission's view, it is appropriate to limit the supply of liquor at the Gazzanats Darwin 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.

20. The Commission notes that the applicant has not sought to sell light or mid-strength beer, and that NT Police have indicated that "the event doesn't need to have low strength imposed". In the Commission's view, however, additional restrictions should be imposed on the supply of liquor prior to 13:00 hours 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. Accordingly, the conditions of the licence include the sale of light and mid-strength beer.

21. In the Commission's view, an additional restriction should be imposed in the two hours prior to 21:00 hours, by limiting sales to 2 drinks per customer per transaction.
22. Taking these matters into account, the Commission has determined that the additional conditions set out at paragraph 3 above should be imposed.
23. 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:**

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.



**RUSSELL GOLDFLAM**  
Acting Deputy Chairperson  
Northern Territory Liquor Commission

7 August 2018