

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2019/109

PREMISES: Lot 3884
South Stuart Highway
Alice Springs NT 0870

APPLICANT: Central Australian Drag Racing Association (CADRA)

EVENT: Red Centre Nats Car Show

LEGISLATION: Section 58 of the *Liquor Act 1978*

PROPOSED DATE: 30 August 2019 – 1 September 2019

DECISION OF: Ms Pauline Reynolds (Health Member)

DATE OF REFERRAL: 06 August 2019

DECISION

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (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, 30 August 2019 from 1600 hours to 2359 hours;
 - Saturday, 31 August 2019 from 1000 hours to 2300 hours;
 - Sunday, 1 September 2019 from 1000 hours to 1600 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.
 - b. A Nominee must be present during all Trading Hours and must ensure compliance with these Conditions.

The nominees for this event will be:

- I. Helen Mills

II. Wayne Preston

III. Rachael McDonald

- 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: 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) cans or plastic cups 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*. Food and drinks are not permitted to be taken into any designated smoking areas.
- u. 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. Spirits must not be sold in containers with more than 5% alcohol by volume.
- b. Wine must not be sold in containers with more than 150 ml.
- c. The only liquor that may be sold before 13:00 hours on any day is to be mid-strength or light beer.
- d. 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.
- e. 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.
- f. The licensee must ensure that patrons are inspected on entry to the venue to ensure that they do not bring liquor onto the premises.
- g. 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 16 August 2019.
- h. The licensee must ensure that details of safe transport to and from the function are advertised in the *Centralian Advocate* no later than 23 August 2019.
- i. 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.
- j. 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 16 August 2019.
- k. If by 16:00 hours on 16 August 2019 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 1978*, the Applicant applied to the Director-General of Licensing on 16 July 2019 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. This application is for a licence at Lot 3884, South Stuart Highway, Alice Springs, NT.
5. 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.
6. 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 Applicant estimated that up to 5,000 people would attend this event at the Inland Dragway.
 - c. 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.
7. 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.
8. The Applicant proposes to sell a range of beer, wine, mixed spirits and cider, including beer in low, mid and heavy strength with the following conditions:
 - Alcohol will be sold in 375 ml cans or less
 - A maximum of 4 drinks per person per sale
 - Ensure trading hours are enforced
 - All liquor will be sold in opened containers
 - No glass
 - No wrist band no sale of alcohol
9. The Applicant states upon entry security will be checking ID and everyone over the age of 18 will be issued a separate wristband. ID will also be check at the bar area.
10. A crowd of approximately 3000-5000 patrons at any given time, which includes children and non-drinkers.
11. The Applicant advises there will be multiple food stalls.

12. St Johns intensive care paramedics along with regular ambulance officers and Motor Sport Fire and Rescue will be present for the entire event.
13. Evacuation signage will also be displayed in areas all around the event.
14. The Applicant advises Outback Security is engaged for the event and there will be sufficient crowd controllers present at the event to adhere to the industry standard for crowd control. Specifically, this is two licensed crowd controllers for the first one hundred patrons and one additional crowd controller for each one hundred patrons thereafter. A security plan will be provided once completed and will be forwarded to the Liquor Commission once received.
15. The Applicant has provided Licensing NT with a copy of the Constitution of the Central Australian Drag Racing Association Incorporated.

CONSULTATION

16. 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), Northern Territory Fire and Rescue Services (NTFRS), NT Police, Fire and Emergency Services (NT Police), St Johns Ambulance and Alice Springs Town Council.
17. With respect to this application:
 - a. The Department of Health has no adverse comment. However, Health asks the Director-General of Licensing to consider patron and community safety & amenity when determining this application. Health request the venue clearly displays signage to delineate the Non-Smoking areas from the Smoking areas. Licensing is requested to remind the Applicant that food and drinks are not permitted to be taken into any identified outdoor smoking area. Signage is provided.

Licensing is further requested to advise the Applicant that the Tobacco Control legislation now requires a 10 Metre Smoke Free Buffer be maintained at the entry and boundary areas of community events. The Applicant is responsible for displaying signage and maintaining the area. A 10 Metre Buffer Smoke Free sign is also provided for the convenience of the application.

As requested by Department of Health the Applicant was informed of the above and provide with appropriate smoking signage.
 - b. The Northern Territory Fire and Rescue Service submit they have no issues with the application.
 - c. Northern Territory Police did not provide a comment at time of referral.
 - d. St John Ambulance Australia (NT) Inc. confirm they are attending the event.
 - e. Alice Springs Town Council have no objections to the application.
18. The Applicant has provided details that satisfy the Commission that is will take appropriate measures in relation to the provision of outdoor smoking areas, which is in any case a general condition of the licence.
19. A search of the Licensing NT compliance databases, along with enquiries with compliance personnel in Alice Springs confirms there are no records of non-compliance or alcohol-related incidents at this event.

20. In 2017 there was a serious emergency at this event at this venue. Despite the 2017 emergency incident, the current application did not include a detailed emergency plan. 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

21. 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.

22. 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.

23. 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”.

24. 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.”

25. 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.

26. 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.

27. 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.

28. 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.

29. Similarly, the Commission considers that there should be a restriction on the strength of liquor sold before 1300 hours. 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. 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

31. 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.

32. 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.

33. 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.



PAULINE REYNOLDS
HEALTH MEMBER
NORTHERN TERRITORY LIQUOR COMMISSION
13 August 2019