

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: APPLICATION FOR A SPECIAL LICENCE

REFERENCE: LC2018/073

VENUE: Hidden Valley Motorsports Complex
171 Hidden Valley Road
BERRIMAH NT 0822

APPLICANT: Hamark Holdings Pty Ltd

EVENT: Round 4 of the Yamaha Motor Finance Australian
Superbike Championship

LEGISLATION: Section 58 of the *Liquor Act*

DECISION OF: Ms Amy Corcoran (Commissioner)

DATE OF DECISION: 25 June 2018

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 the Hamark Holdings Pty Ltd (**the Applicant**) for the sale of liquor between the hours of:

Thursday, 28 June 2018 from 10:00 hours to 18:00 hours

Friday 29 June 2018 from 10:00 hours to 18:00 hours

Saturday, 30 June 2018 from 10:00 to 20:00 hours

Sunday, 1 July 2018 from 10:00 to 18:00 hours

2. The granting of approval is subject to the following 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.

Nominee/s: MS MICHELLE HAYNES

- 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) alcoholic drinks 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*.
- t. 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).

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

- No provision of alcoholic drinks that:
 - 1. are designed to be consumed quickly and which are commonly referred to as a 'shot or shooters'; or
 - 2. are a cocktail containing more than a 30ml nip of spirit or liquor.
- All patrons must be ID checked upon entry and issued with a colour coded wristbands identifying patrons who are 18+ years of age.
- Free 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 75% 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

3. On 31 May 2018 pursuant to section 58 of the Act, Hamark Holdings Pty Ltd (**the Applicant**) lodged an application with the Director-General for the grant of a special licence to permit the sale of liquor to patrons attending an event known as 'Round 4 of the Yamaha Motor Finance Australian Superbike Championship' (**Superbike Championship**) being held at the Hidden Valley Motorsports Complex located on Hidden Valley Road, Berrimah in the Northern Territory. The application was then referred to the Liquor Commission and to me pursuant to my delegation to deal with such special licence applications.
4. The Superbike Championship is an event supported by Motorcycling Australia (MA) and the event promoter, Top End Road Racing Association (TERRA). It commences on Thursday, 28 June 2018 and runs through to Sunday, 1 July 2018.
5. The main races days are the Saturday and Sunday. The Applicant estimates that crowds will improve in size over the period with the largest crowd on the last competitive day not expected to exceed 3,000 persons.
6. Specifically, the Applicant is seeking a special licence for the following hours of trade:
 - Thursday, 28 June 2018 from 10:00 hours to 18:00 hours
 - Friday 29 June 2018 from 10:00 hours to 18:00 hours
 - Saturday, 30 June 2018 from 10:00 to 20:00 hours
 - Sunday, 1 July 2018 from 10:00 to 18:00 hours
7. I note that the initial application included licensed hours until 23:59 hours on the Saturday night for an 'after party', with live bands and DJs. The Applicant informed Licensing NT by email on 25 June that this party would no longer be going ahead and a licence to 20:00 hours would be sufficient to allow catering for a Marshalls' BBQ.
8. The sale of liquor to patrons at the Superbike Championship is proposed via three (3) bars including a corporate / VIP area. Beer, cider, ready to drink spirits (**RTDs**), wine and cocktails are proposed to be available for sale throughout the licensed

area. Additionally, the Applicant indicates beer is proposed to be offered for sale in light and mid-strength alcohol content varieties, as well as full-strength.

9. In relation to security and crowd control arrangements, the Applicant indicates there will be sufficient crowd controllers present at the event to adhere to the industry standard for crowd control. Specifically, this is two (2) licensed crowd controllers for the first one hundred (100) patrons and one (1) additional crowd controller for each one hundred (100) patrons thereafter.
10. The Applicant has confirmed qualified medics will be present throughout the event.
11. I have not been informed by Licensing NT of any compliance issues from the same event held in previous years.

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, namely the Department of Health (**DOH**), NT Police, Fire and Emergency Services (**NT Police**) and NT Fire, Rescue Service (**NTFRS**), St John’s Ambulance (**SJA**) and seek their comment. With respect to this application:
 13. DOH advised it has no adverse comment but went on to say:

“Health asks the [Liquor Commission] to consider patron and community safety & amenity when determining this application. Health requests the venue clearly displays signage to delineate the Non Smoking areas from the Smoking Areas. Licencing is requested to remind the applicant that food and drinks are not permitted to be take into any identified smoking area. Health notes that the Event Alcohol Management Plan to support harm reduction at this event.”
 14. The NTFRS advised that it has no objection and that “*NTFRS will conduct Fire safety inspection prior to the event 27/6/2018*”.
 15. The NT Police advised that they “*...support this application contingent to:*
 - a. *Low to mid strength beer only*
 - b. *Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event*
 - c. *Industry standard security for expected crowd numbers*”.
- NT Police also raised concerns over how minors would be prohibited from entering wet areas where alcohol was being sold during the event. They also recommended over 18s be issued with wristbands on entry to the event.
16. SJA advised they had no issues in relation to the application.

17. I will address the stakeholders' responses separately below.

Assessment of the Application

18. As noted above, this is an application for a special licence under section 58 of the Act within Part VI of the Act. There are no specific criteria prescribed by 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.
19. As a result, it has previously been determined by this 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 under section 6 of the Act.
20. However, pursuant to section 3(3) of the Act, the Commission when "exercising a power or performing a function under (the Act) 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".
21. 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."
22. As a delegate of the Commission, I am also bound to have regard to the objects of the Act when determining this application.
23. No comment was sought from the Applicant in regards to NTFRS comments given they had no objections and NTFRS may carry out their inspections as they wish.
24. In respect to DOH's comments, I confirm that the Applicant has been provided a copy of DOH's email and is required to comply with the *Tobacco Control Act* under a special licence.

25. In respect to the various conditions requested by NT Police, the Applicant has provided the following response:

“Low to mid-strength beer only – our application to is be able to serve motorcycle fans the same range of alcoholic drinks as Supercar fans. Our application remains to be able to serve full strength alcohol as well as low and mid strength.

Maximum four drinks per transaction with a staggered decline per transaction towards the conclusion of the event – Noted and will adhere to condition set. May we request four alcoholic drinks per transaction up until 10pm and two drinks per person thereafter?

Industry standard security for crowd controllers - Noted and will adhere to condition set. We will have security standard for the licensed areas.

Further notes:

We are unaware of he significant change that NT Police are referring to from last year’s event? Hamark Holdings Pty Ltd is contracted to TERRA (Top End Motorcycle Club) and will be operating the licensed bars and will supply security for these areas as outlined above. TERRA and ASBK (Australian Superbikes) will be managing the event.

This is a family friendly event and it is expected that there will be families with minors in attendance. We will not be preventing minors from accessing wet areas. We will have food stall and water available for all the hours the licenced bars trade.

The event is very similar in operation to the Supercars albeit with an attendance expected of less than 5% of Supercars. We will ensure that the event is appropriately staffed with licensed security to cater for maximum attendance, low risk family areas and night time social activities.

We will ID check all people at the entrance to the event and apply wrist bands to those over 18 to allow service of alcohol.”

26. When assessing the application and supporting document lodged, it is evident that MA, TERRA and the Applicant has strategies and initiatives in place to mitigate risk and uphold public order and safety. These include a detailed Events Operation Plan, Critical Incident Plan, Medical Response Plan and Event Alcohol Management Plan.
27. Food is available throughout the duration of the event as well a complimentary drinking water. Medical officers will also be present.
28. I note that it appears from the material provided to me that the conduct of this family friendly event has been appropriate and successful in previous years. In particular, there have been no compliance issues in relation to the special licence granted in 2017 notified.
29. In regards to the conditions requested by the NT Police, I comment as follows:
- a. *Low to mid strength beer only*

This condition was not imposed under last year's special licence. Given that I have not received any adverse comments regarding compliance issues or patron safety concerns from the running of last year's event, I decline to impose this condition.

- b. *Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event*

A condition of 4 drinks per transaction was imposed last year, however, a staggered decline was not. As outlined above, the Applicant had agreed to the requested condition and suggested a maximum of 4 drinks per transaction up until 10.00pm and 2 drinks per transaction after that.

The Applicant's suggestion appears reasonable given no compliance issues have been raised from previous year's events and accordingly, I will impose such condition.

Given the Saturday night 'after party' is no longer going ahead and there have been no compliance or safety concerns raised from the running of last year's event, I am not satisfied that there are reasons to impose this condition this year and I decline to do so.

- c. *Industry standard security for crowd numbers – security to ensure no alcohol is entering/exiting the event*

The Applicant has confirmed it will engage crowd controllers at industry standard and I will insert a special condition accordingly.

30. In relation to concerns raised by NT Police with minors being present in wet areas, the Applicant has confirmed that minors will not be excluded from wet areas, however, upon entry to the event patrons over 18 will have their ID checked and fitted with a wrist ban thereby minimising the risk of underage drinking occurring at the event. Crowd controllers will also be stationed in wet areas to monitor the same.
31. I am overall satisfied that the sale of alcohol will be an ancillary feature for patrons and not the main attraction.
32. 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:

33. 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.

34. 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.
35. 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 black ink, consisting of a stylized initial 'A' followed by a long horizontal line.

AMY CORCORAN
Commissioner
Northern Territory Liquor Commission
25 June 2018