

Delegate of the Licensing Commission

Decision Notice

MATTER:	APPLICATION FOR A SPECIAL LICENCE
VENUE:	Blatherskite Park Len Kittle Drive ALICE SPRINGS NT 0870
APPLICANT:	Northern Territory Major Events Company Pty Ltd
EVENT:	Red CentreNATS
LEGISLATION:	<i>Liquor Act 1978</i> , Part VI (Special Licences)
DECISION OF:	Mr Russell Goldflam (Acting Deputy Chairperson)
DATE OF DECISION:	2 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 Northern Territory Major Events Company Pty Ltd (the Applicant) for the sale of liquor during the following periods:
 - 11:00 hours to 19:00 hours on Saturday, 31 August 2019
 - 11:00 hours to 22:00 hours on Sunday, 1 September 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: Tim Watsford, Celia de Latour, Daniel Radnidge
 - 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 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 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 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. Liquor may only be sold in opened cans or plastic cups
- b. Spirits must not be sold in containers with more than 5% alcohol by volume.
- c. Wine (including sparkling wine) must not be sold in containers with more than 150 ml.
- d. The only liquor that may be sold before 13:00 hours is to be mid-strength or light beer.
- e. Notwithstanding the condition at paragraph 3(g) above, after 20:30 hours on 1 September 2019, only two alcoholic drinks may be sold to any one person at any one time.
- f. All patrons to be inspected prior to entry to the venue to ensure that they do not bring any liquor onto the premises.
- g. 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.

Reasons

Background

- 4. Pursuant to section 58 of the *Liquor Act 1978*, the Applicant applied to the Director-General of Licensing on 16 May 2018 for a special licence to permit the sale of beer, wine, and RTD cans of spirits to persons attending the Red CentreNATS, a motorsport event in Alice Springs incorporating a concert, children's entertainment, displays, driving events and an award ceremony, and described by the Applicant as "a family friendly festival of all things wheels" featuring "high octane extreme auto action". The application is for a licence at Blatherskite Park, one of three venues at which it is proposed liquor will be sold and consumed during the event.

5. The second venue is Lasseters Casino, the licensee of which has applied to the Commission for a material alteration of its licence to permit the sale and consumption of liquor on the Casino lawns for various Red CentreNATS events planned to be held there. A public hearing of the Casino application has been scheduled for 16 August 2019.
6. The third venue is the premises of the Central Australian Dragway Association (CADA), which currently holds a special licence authorising the sale of liquor for motorsports events where patron numbers are less than 300. At this time the Commission has not been informed whether CADA is seeking a special licence for the Red CentreNATS.
7. 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.
8. The Applicant estimates that 15,000 people will attend the Red CentreNATS over three days. It is a “major event”.
9. The Application Notes provide that a special liquor licence for a major event must be lodged no later than 3 months before the event. Commendably, the Applicant has complied with this requirement.
10. The Application Notes also specify the following requirements in relation to special liquor licences for major events that:
 - a. The Licensee must, no later than two weeks before the function, provide the Director-General of Licensing with the number and names of security persons to be employed for the function. The special licence may be cancelled if adequate security is not provided during the function.
 - b. The licensee shall ensure that details of safe transport to and from the function are advertised no later than 1 week prior to the event in the local newspaper.
 - c. First Aid services shall be in a clearly defined area and in easy communication with the licensee, staff and security personnel.
 - d. A substantial number of persons involved in the sale of liquor must have RSA certification.
11. The Applicant has made arrangements to comply with these requirements.
12. The Applicant proposes to:
 - 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

- Require patrons to wear overage wristbands in order to obtain liquor service at the “Rock n Rumble” concert
 - Make water and soft drinks widely available
 - Provide sufficient food catering stalls
 - Provide a free bus service between the three event venues and the Alice Springs CBD
 - Establish and maintain designated outdoor smoking areas (DOSAs)
 - Serve liquor in cans or plastic cups, but not glass containers
13. The Applicant has previously been issued special licences for past Red CentreNATS events in 2016, 2017 And 2018, as well as for other large motor sports events in Darwin. Licensing NT reports that there have been no previous compliance or liquor-related issues with respect to the Applicant.
14. In the application, the Applicant identified pre-mixed spirits, light, mid-strength and heavy beer, and wine as the types of alcoholic beverages it proposed to sell.
15. The Commission noted that there were inconsistencies and a lack of clarity in the application regarding some details of the proposed licence, and to clarify these matters the Commission directly contacted Mr Watsford, General Manager, NT Major Events Company, who had signed the application. Mr Watsford referred the Commission to his colleague Ms de Latour. The information provided by Ms de Latour was of considerable assistance to the Commission in finalising the conditions of the licence, and in particular the trading days and times, and the condition set out at paragraph 3g above.

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), NT Police, Fire and Emergency Services (NT Police) Northern Territory Fire and Rescue Services (NTFRS) and St John Ambulance Australia (NT).
17. With respect to this application:
- a. The DOH had “no adverse comment” but requested that the Applicant be reminded of its obligations in relation to smoking.
 - b. The NT Police indicated their support for the application after meeting with the Applicant, subject to various conditions they propose, including a condition that “alcohol volume to be one standard drink or less except in VIP’s areas or where sponsorship arrangements exist”.
 - c. The NTFRS indicated it had no issues with the application.
 - d. St John Ambulance had “no concern” regarding the application.

Assessment of the Application

18. 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.
19. 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.
20. 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”.
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 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.
23. 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.
24. The Commission has regard to conditions imposed on holders of special licences for other recent motor sports events.

25. 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.
26. The Commission notes the submission of the NT Police (which was opposed by the Applicant) that liquor should be served in measures no greater than one standard drink, except for VIPs and beneficiaries of sponsorship arrangements. The practical effect of this submission, as is explained below, is that NT Police seek to prohibit the sale of heavy beer at this event. NT Police have previously made this submission in relation to numerous similar events, and the Commission has consistently rejected it. For example, on 18 May 2018, the Commission, in granting a Special Licence to Finke Desert Race Incorporated for the 2018 Tatts Finke Desert Race, stated:
 - 27 The NT Police elaborate the condition [that only mid-strength beer, cider and spirits be sold] by stating:

All liquor sold to be of a mid-strength variety. Cider, beer and pre-mixed spirits are all readily available in cans for wholesale purchasing. This position brings the NT Police in line with National best practice the NT Police will oppose any condition that allows the sale of full strength beer, cider, and spirits under 47F(2) on the basis of impacts to amenity, public safety, health and social conditions. All liquor be sold of a mid-strength variety.
 - 28 This proposal is poorly conceived and articulated, and inadequately supported. It appears to imply that the sale of cider and mixed spirits at a strength equivalent to mid-strength beer (3.7% ABV) would be acceptable. However, no such products are readily available. The strength of all readily available cans of cider and mixed spirits is no less than that of full-strength beer, namely about 5% alcohol by volume (ABV). The NT Police oppose the sale of full-strength beer, but do not state that they oppose the sale of wine, which is stronger than full strength beer. If some products are sold which are 5% ABV or greater, there is no apparent reason for or benefit obtained by prohibiting the sale of full strength beer.
 - 29 The references to “National best practice” and “impacts to amenity, public safety, health and social conditions” are vague and unsubstantiated.
 - 30 In my opinion, having regard to the records the Applicant has provided of the moderate levels of liquor consumption at a similar previous event, the Applicant’s proposal to sell heavy, mid-strength and light beer, as well as wine and pre-mixed spirits in cans is reasonable, and I have decided to permit the sale of these products at this event.
 - 31 In relation to the conditions sought by NT Police [that there be one standard drink or less per serve], I note that [this] appear[s] to be a general response provided by NT Police with respect these types of applications. I note that the Commission has hypothesised recently that this may be a general policy stance taken by police.

- 32 The NT Police proposal that volume be limited to no more than one standard drink per service, if accepted, would effectively restrict the Applicant to the supply of light or mid-strength beer, or 100 ml serves of wine. This is because full strength beer and RTD pre-mixed spirits are usually packaged in containers of 375 ml, with 1.4 standard drinks (or higher, depending on the strength of the RTD product) per serve. It would be impracticable to require full-strength beer to be served only in measures of 280 ml.
- 33 Once again, NT Police have submitted that there should be a limit of one standard drink per serve without offering any evidence in support of this submission, despite the Commission's clear and repeated indication that it would require cogent evidence to persuade it that the submission has merit.
- 34 In the Commission's view, on the evidence that has been made available to it, 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.
- 35 All of the other measures that were proposed by police are supported by the Applicant, accepted by the Commission and reflected in the conditions fixed for this licence.
- 36 The Applicant proposes that all patrons be inspected prior to entry to ensure that they do not bring liquor onto the premises, and that 18+ wristbands be issued. The Commission considers that these are sensible harm-minimisation measures, and has decided to fix them as a condition of the licence, not because the Commission doubts the commitment of the Applicant to adopt and maintain these measures, but to provide the Applicant with the opportunity to inform any patrons who challenge them that they are requirements imposed by the Liquor Commission.
- 37 Given the arrangements made by the Applicant set out at paragraph 10 above, the Commission considers that it is unnecessary to fix these matters as conditions of the licence. The Commission assumes and expects that the Applicant will comply with these requirements.
- 38 Taking these matters into account, the Commission has determined that the conditions set out at paragraph 3 above should be imposed.

Notice of Rights:

- 39 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.
- 40 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.

41 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 person who made “a submission” during the process that resulted in the decision being made.

A handwritten signature in blue ink, appearing to read 'R. Goldflam', with a long horizontal flourish extending to the right.

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