

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2018/099
<b>VENUE:</b>	Robbie Robbins Reserve Tivendale Road BERRIMAH NT 0870
<b>APPLICANT:</b>	Top End Rodeo Circuit Incorporated
<b>EVENT:</b>	Darwin Rodeo 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>	13 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”) the Commission has determined to grant the special licence to sell liquor to the Top End Rodeo Circuit Incorporated (“the applicant”) for the sale of liquor from 18:00 hours on Saturday, 18 August 2018 to 01:30 hours on Sunday 19 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 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.
    - i. **Nominee: Pamela Gabriel Rayner**
  - 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) 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*. 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. Notwithstanding the condition at paragraph 2(g) above, after 23:30 hours, only two alcoholic drinks 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 on 17 July 2018 for a special licence to permit the sale of beer, wine and spirits to persons attending the Darwin Rodeo 2018 on 18/19 August 2018.
5. The Application estimates that up to 1500 people will attend the event.
6. The Applicant proposes to:
  - Check the age of bar patrons and require them to wear armbands in order to be permitted to purchase liquor
  - Check vehicles to ensure that patrons neither bring liquor onto or take liquor away from the premises
  - Not to sell liquor in glass containers
  - Arrange for a mini bus service to attend the venue from 22:00 to take patrons home
  - Strongly discourage drink driving
  - Ensure that crowd controllers are readily identifiable

7. The applicant has previously been issued special licences for rodeos in Darwin. Licensing NT reports that there have been no previous compliance issues with respect to the applicant.
8. 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.

### **Consultation**

9. 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”) and Northern Territory Fire and Rescue Services (“NTFRS”).
10. 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 supported the application subject to the following proposed conditions:
    - i. A maximum of four drinks per transaction
    - ii. A staggered decline in drinks before the conclusion of the event
    - iii. No “shots” of spirits
    - iv. A limit of one standard drink per serve of liquor
    - v. No BYO
    - vi. No liquor to exit the event
    - vii. Security crowd numbers be at industry standard
    - viii. Security officers be readily identifiable
    - ix. Wristbands be provided to patrons as proof of age
  - c. The NTFRS indicated it had no concerns with the application, provided food vendors were equipped with fire safety equipment.
11. The applicant agreed to comply with all of the above suggestions made by the stakeholders.

## Assessment of the Application

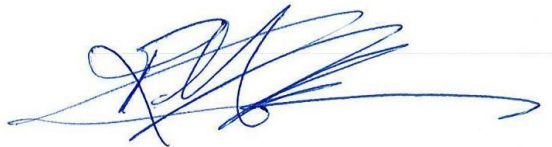
12. As previously noted, this is an application for a special licence under section 58 of the Act. That section is within Part VI of the Act. There are no specific criteria prescribed within the Act for consideration of an application for a special licence. Special licences exist under Part VI of the 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.
13. 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.
14. 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”.
15. 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.”
16. 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.
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 family-oriented sporting event.

18. The Commission has regard to conditions imposed on holders of special licences for other recent similar events, including the Mother of Pearl Rodeo (LC2018/012) and the NCA Queen's Birthday Rodeo (LC2018/056).
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.
20. In relation to the conditions proposed by NT Police at paragraph 10(b) above, the Commission notes that:
  - a. Proposed conditions (i) and (vii) are in any event "standard" conditions attached to special licences to sell liquor issued by the Commission.
  - b. Proposed condition (iii) is unnecessary, as the applicant has not applied to sell spirits except in the form of UDLs.
  - c. Proposed conditions (v), (vi), (viii) and (ix) have all been agreed to by the applicant, and in the view of the Commission are appropriate, but need not be included as conditions of the licence.
  - d. Proposed condition (ii) has been agreed to by the applicant, is in the view of the Commission appropriate, and is included as a condition of the licence.
  - e. Proposed condition (iv), despite having apparently been agreed to by the applicant, is in the view of the Commission impracticable to implement, and accordingly is not imposed.
21. Further in relation to proposed condition (iv) (one standard drink per serve), if it were imposed, this would effectively preclude the sale of heavy beer or readily available UDLs. 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.
22. The Commission has some reservations about permitting the sale of liquor until 1:30 am. The premises are 7 km from the Darwin CBD and there is an appreciable risk that some patrons might drink until 1:30 am and then, notwithstanding the Northern Territory's drink-driving laws, set out to drive home to Darwin. However, the Commission notes the steps taken by the applicant to mitigate this risk, and assumes that the applicant plans to sell liquor at this time mainly to patrons who are camping overnight at the rodeo venue.
23. Taking these matters into account, the Commission has determined that the conditions set out at paragraph 3 (a), (b), (c), and (d) above should be imposed.

**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. I am exercising the power to make a Commission decision pursuant to the delegation made to me by the Commission.
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

13 August 2018