

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2019/111
<b>APPLICANT:</b>	SFP Events Pty Ltd
<b>VENUE:</b>	Darwin Show Grounds Shean Road WINNELLIE NT 0820
<b>EVENT:</b>	Crusty Demons Australian Tour
<b>PROPOSED DATES:</b>	7 September 2019
<b>LEGISLATION:</b>	<i>Liquor Act 1978</i> , Part VI (“Special Licences”)
<b>DECISION OF:</b>	Ms Amy Corcoran
<b>DATE OF DECISION:</b>	30 August 2019

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### Decision

1. For the reasons set out below and in accordance with section 59(1) of the *Liquor Act 1978* (**the Act**) I have determined to grant a special licence to sell liquor to SFP Events Pty Ltd (**the Applicant**) for the sale of liquor from 17:00 hours to 22:30 hours on Saturday, 7 September 2019.
2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as the “Crusty Demons Australian Tour” occurring at the premises known as the Darwin Show Grounds located on Shean Road, Winnellie in the Northern Territory (**the Premises**).
  - b. 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:**       **Regan Anderson**

- 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:
  - i. 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) alcoholic drinks 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*.
- u. Food and drinks are not permitted to be taken into any designated smoking areas.
- v. 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 (o):**

To the extent that the below instructions are inconsistent with the conditions above, these instructions prevail.

- No more than four (4) alcoholic drinks to be sold to any one person at any one time from 1700 hours to 2100 hours and then no more than two (2) alcoholic drinks sold to any one person at any one time from 2100 hours to 2230 hours.
- Patrons over the age of 18 years that wish to consume liquor must have their identification checked and issued wristbands demonstrating that they are 18 years or older. No person is to be sold, consume or possess liquor if they are not wearing a wristband.
- Free potable 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 80% 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**

4. Pursuant to section 58 of the *Liquor Act 1978 (the Act)*, the Applicant applied to the Director-General of Licensing NT on 8 August 2019 for a special licence to permit the sale of liquor to persons attending the 'Crusty Demons Australian Tour' at the Darwin Show Grounds. The Applicant is seeking to sell liquor from 17:00 hours to 22:30 hours on Friday, 7 September 2019.
5. The Crusty Demons Australian Tour is a ticketed family friendly event across Australia which presents live FMX sport performances including motorbike jumps and stunts. Tickets are available for general admission, gold platinum, VIP and corporate areas.
6. Approximately 3,000 persons are expected to attend the event.
7. The Applicant proposes to sell range of liquor from one main bar including beer in full, low and mid-strength variety, pre-mixed spirits and wine. The Applicant will have food available as well as soft drinks and water.
8. The Applicant has provided detailed documents with its application including Event Operations Plan, Alcohol Management Plan and Security Management Plan for the event.
9. Upon entry, security will be checking bags for contraband including alcohol. Patrons over 18 years of age will be issued wristbands once checked for ID at the front gate. Liquor will not be sold to anyone not wearing a wristband. A maximum of 4 drinks per person per sale will be permitted until 2100 hours declining to 2 drinks per person per sale until close. Free water will also be available to patrons.
10. A minimum of twenty (20) security guards will be engaged to attend the event however, more will be called in if required to ensure industry standards are met – that is, two for the first 100 patrons and one additional crowd controller for every 100 patrons after that.

### **Consultation**

11. 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”).

12. With respect to this application:

- a. St John’s has advised Licensing NT that they will be in attendance during the event.
- 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.
- c. The NTFRS supported the special licence for the event and provided information on special event requirements to forward to the applicant.
- d. NT Police advised that it has “objections in relation to the sale of full strength alcoholic drinks. Police constantly encourage harm minimisation with the type of liquor being served. Police recommend the service of mid strength drinks.”
- e. City of Darwin had no issue with the application.

### **Assessment of the Application**

13. 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.

14. 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.

15. 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”.

16. 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.”

17. 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.

18. Given the nature of this event being a family friendly motocross show, I am satisfied that the sale of liquor will be an ancillary feature of the Crusty Demon’s Australian Tour and is not relied on as a significant attractor to the event.

19. In respect to the concerns of NT Police regarding the sale of full-strength alcohol the Applicant responded as follows:

“I fully understand why the police would like mid strength alcohol served but in saying this and after doing the Coffs Harbour show and seeing exactly how the show went I think the harm and risk at this event is quite small compared to other events I operate around Australia and have seen run in Darwin with full strength like rugby league etc.

Coffs Harbour Crusty Demons event just gone on August 17th 2019 had the following statistics:

3,700 patrons of which roughly 2,600 were above the age of 18.

Event gates opened at 5pm and the event was completely at 9.15pm with the main stay of the crowd gaining access to the venue at 6pm (doors open at 5pm to VIP and Platinum members only).

Alcoholic Beverages sold on the night exactly was 2,087 which means less than 1 drink per person over the space of 3 hrs or 1,300 people consuming 1.3 beverages in 3 hrs.

Police comments from Coffs Harbour was this was a very uneventful event and the crowd behaviour was great.

If Police still aren't happy with these statistics to change we will run with the mid strength enforced condition.”

20. The Applicant operates these events regularly throughout Australia and the risk management documentation provided with the application indicates the Applicant is well equipped to manage such events. Low and mid strength alcohol will be available at the event for patrons as well as food, water and soft drinks. The Applicant has put in place a range of measures to ensure responsible service of alcohol at the event and the figures provided by the application from the Coffs Harbour event indicate that consumption of alcohol by the crowd is not considerable. I am therefore not satisfied that a condition which only permits mid to low-strength alcohol is necessary in the circumstances.

21. 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:**

22. 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.

23. 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.

24. 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**

Member

Northern Territory Liquor Commission

30 August 2019