

# Delegate of the Liquor Commission

## Decision Notice

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<b>MATTER:</b>	<b>APPLICATION FOR A SPECIAL LICENCE</b>
<b>REFERENCE:</b>	LC2018/008
<b>PREMISES:</b>	<b>Hidden Valley Motor Sports Complex</b> Hidden Valley Road BERRIMAH NT 0828
<b>APPLICANT:</b>	Northern Territory Major Events Company Pty Ltd
<b>EVENT:</b>	CrownBet Darwin Triple Crown Supercars
<b>LEGISLATION:</b>	Section 58 of the <i>Liquor Act</i> .
<b>DECISION OF:</b>	Ms Jodi Truman (Deputy Chairperson)
<b>DATE OF DECISION:</b>	30 April 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") I have determined to grant the special licence to sell liquor to Northern Territory Major Events Company Pty Ltd for the sale of liquor between the hours of:
  - a. 0900 hours and 1800 hours on Friday 15 June 2018;
  - b. 0900 hours and 2030 hours on Saturday 16 June 2018;
  - c. 0900 hours and 2030 hours on Sunday 17 June 2018.
2. The granting of approval is subject to the following conditions, namely:
  - a. The liquor shall be sold at the event known as the "CrownBet Darwin Triple Crown Supercars" occurring at the Premises known as the Hidden Valley Motorsport Complex located at Hidden Valley Road, Berrimah in the Northern Territory.
  - b. The sale of liquor must be supervised by one or more persons nominated by the Licensee (Nominee), who each hold a Responsible Service of Alcohol certificate, or equivalent qualification approved by the Director-General.

- c. A nominee MUST BE present during all trading hours and must ensure compliance with the conditions.
- d. The Nominee is identified as Mr Tim Watsford.
- e. Persons under the age of 18 years must not be used in the sale or supply of liquor.
- f. 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.
- g. Any person involved in Crowd Control, as defined under the *Private Security Act*, at the Premises must be licensed as required by that Act.
- h. Crowd controllers are to be employed as per the submission lodged by the applicant of 60 per day.
- i. No more than four (4) cans or bottles may be sold to any one person at any one time during the hours of 0900 to 1800 hours. These may be sold unopened.
- j. No more than four (4) cans or bottles may be sold to any one person at any one time during the hours of 1800 to 2030 hours on Saturday 16 and Sunday 17 June 2018. These must be sold opened.
- k. The licensee must ensure that water, soft drink, 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.
- l. Liquor must not be sold or supplied to an intoxicated person or to a person under the age of 18 years.
- m. The Licensee 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.
- n. The Licensee 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 Licensee must comply with the Instructions of a Licensing Inspector, an authorised Member of the Northern Territory Fire and Rescue Service or a delegate of the Chief Health Officer upon production of an identify card or other authorisation.
- p. All liquor purchased for sale under the authority of this licence MUST be purchased from a licensed retail outlet.

- q. The licensee must make a record of all liquor obtained for sale under this licence that identifies the source of the liquor and the type and quantity of each type of liquor so obtained.
- r. The licensee 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 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 identify card or other authorisation.
- t. The venue must clearly display signage to delineate the Non Smoking area from the Smoking Areas and must comply with smoking requirements contained in the *Tobacco Control Act*.
- u. Food and drinks are not permitted to be taken into any designated smoking areas.
- v. The Licensee or an employee of the Licensee shall exclude or remove from licensed premises any person who is wearing colours, insignia or emblems of an outlaw motorcycle gang (“Bikie Gang”).
- w. The Licensee is not to provide alcoholic drinks that are:
  - i. Designed to be consumed quickly and which are commonly referred to as a “shot” or “shooters”; or
  - ii. A cocktail containing more than a 30ml nip of spirit or liquor.
- x. All patrons to be issued with coloured coded wrist bands upon entrance to the RACE & ROCK concerts clearly indicating:
  - i. 18+ years of age; or
  - ii. Under 18 years of age.
- y. Designated ‘Dry Area’ to be established and maintained;
- z. At least 75% of crowd controllers employed must wear clothing that is readily identifiable. For example: Hi-Viz vests with 'Crowd Controller', 'Security' or 'Safe Staff' or similar stated.

## **Reasons**

## **Background**

3. Pursuant to section 58 of the *Liquor Act* (“the Act”), Northern Territory Major Events Company Pty Ltd (“NTMEC”) applied to the Director-General of Licensing on 5 December 2017 for a special licence to permit the sale of liquor to patrons

attending an event known as the “CrownBet Darwin Triple Crown Supercars” occurring at the Premises known as the Hidden Valley Motorsport Complex located at Hidden Valley Road, Berrimah in the Northern Territory.

4. The application was then referred to the Licensing Commission on 3 April 2018. Arrangements were made to deal with the matter on 17 April 2018; however request was made by the applicant for the matter to be dealt with at a later date. As a result the matter was delegated to me to deal with.
5. The CrownBet Darwin Triple Crown Supercars is an annual Supercars Championship Series event coordinated by NTMEC. NTMEC is a Northern Territory Government owned company chartered with attracting major sporting and cultural events that provide substantial economic benefits to the Northern Territory.
6. Whilst CrownBet Darwin Triple Crown Supercars is a motorsport event, the applicant highlights that the event offers attractions and activities for all individuals and is orientated towards a family crowd offering additional “fun” activities such as “Merchandise Alley”, “Disney Fun Zone”, Australian Defence Force static and aerial displays and the “RACE & ROCK” concerts.
7. The CrownBet Darwin Triple Crown Supercars event commences on Friday 15 June 2018 until Sunday 17 June 2018 at the Hidden Valley Motorsport Complex and the applicant estimates that approximately 40,000 persons will attend the event over those three (3) days.
8. The applicant is seeking to sell liquor between the hours of:
  - a. 0900 hours and 1800 hours on Friday 15 June 2018;
  - b. 0900 hours and 2030 hours on Saturday 16 June 2018;
  - c. 0900 hours and 2030 hours on Sunday 17 June 2018.
9. It was stated in the application that the applicant intended to employ 60 crowd controllers each day and that food along with non-alcoholic beverages will be available throughout the period of the special licence. The applicant also proposes to sell liquor via eleven (11) bars, specifically:
  - a. Six (6) public bars operating in the Track Centre and Merchandise Alley;
  - b. Four (4) public bars located at Track Crossing, The Valley Mound and Shenannigans Hill; and
  - c. One (1) public bar at the Classics Public Viewing Area.
10. The original application stated it was proposed to offer a full range of alcoholic beverages including light, mid and full strength content options. It was also proposed that only six (6) cans or bottles would be sold unopened to any one person at any one time during the hours of 0900 to 1800 hours. There have been some changes proposed in this regard since then and I will refer to these later in this Notice.

11. The applicant further proposes that the public bars will cease liquor sales at 1800 hours each evening with the exception of three (3) remaining bars open in the Track Centre who will service patrons attending the “ROCK & RACE” concerts and two (2) hospitality bars servicing the SkyDeck. These bars are proposed to cease trade at 2030hours on Saturday 16 and Sunday 17 June 2018. It is also proposed that only four (4) cans or bottles will be sold to any one person at any one time during the hours of 1800 to 2030 hours and these are to be sold opened.
12. The applicant has previously been issued special licences for the CrownBet Darwin Triple Crown Supercars event. A special licence for the 2017 event was granted in virtually the same terms and conditions as sought in this present application. The only distinguishing feature being that there were only two (2) bars to service patrons attending the “ROCK & RACE” concert. I have been informed by Licensing NT that there are “no records of incidents arising from previous special licences” ... “nor any recorded compliance issues”.

### **Consultation**

13. 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”), St John Ambulance (“SJA”), NT Fire and Rescue Service (“NTFRS”), and NT Police, Fire and Emergency Services (“NT Police”) and seek their comment.
14. With respect to this application:
  - a. The DOH had “no adverse comment”.
  - b. SJA advised there were “no issues” from their perspective.
  - c. The NTFRS advised that they had “no objections” and would liaise with the applicant to arrange a pre-event inspection once it was established.
  - d. The NT Police initially advised that they wished to see a number of conditions included “as part of the licence”. The response of NT Police however did alter and these matters will be addressed further below.

### **Assessment of the Application**

15. 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.
16. 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 as provided for under section 6 of the Act.

17. 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”.

18. 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.”

19. 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.

20. As earlier noted, both the application by the applicant and the response by NT Police changed slightly prior to this application being determined by me. I was informed that further communications had subsequently occurred between the applicant and NT Police. Such communications are appropriate and should take place between stakeholders. Whilst this Commission is not bound by what is decided in those discussions, such discussions do assist in having the issues to be determined by the Commission further narrowed.

21. As a result I received correspondence from NT Police advising that an “agreement” had been reached with the applicant and if the special licence were granted, the following “conditions” would be included:

- a. “From commencement of the event up until 5pm full strength alcohol can be served and following 5pm only mid to low strength alcohol is to be provided (UDL product as the exception for 2018 event).

- b. Reduction from current maximum of 6 drinks person to 4 drinks from the commencement of the event.
  - c. Maximum 4 drinks per transaction with a staggered decline in drinks per transaction towards the conclusion of the event – NTPOL and NTMEC discussed times however NTMEC have asked that closer to the event NTPOL and NTMEC will coordinate times as this will depend solely on the timing of the races. NTPOL support this.”
22. Following receipt of that correspondence I also received correspondence from the applicant providing their response to the matters originally raised by police:
- a. “Low to Mid Strength Beer – With support from NT Police coupled with our current commercial boundaries with regard to beer suppliers, it is requested the service of full strength products be implemented from 9am – 6pm. This allowance is on the provision that a reduction from a current maximum of 6 dinks per person to 4 drinks per person from the start of service is implemented.
  - b. Alcohol volume to be on standard drink or less per serve – Noting the above, NT Police support the implementation of one standard drink from 6pm with the allowance of UDL cans that contain 1.2 standard drinks.
  - c. Maximum of 4 open standard drinks per transaction with staggered decline in drinks per transaction towards the conclusion of the event – Noted and will adhere to condition set. NTMEC will work with NT Police on an appropriate staggered decline in drinks per transaction once the final programming of the event is confirmed.
  - d. Reduce to 2 standard drinks per transaction from when the supporting act commences – As noted above, NTMEC will work with NT Police on an agreed staggered decline of drinks per transaction when final programming is confirmed.
  - e. Industry standard security for crowd numbers – Noted with NT Police providing comfort in the allocation of security NTMEC has advised across the event weekend”.
23. As earlier noted, attempts to resolve the matters in dispute in these types of applications are to be encouraged, however the Commission is not bound by what is discussed. It is clear from the material before me that the significant issues to be considered as to whether certain conditions should be included in any special licence to be issued are:
- a. The volume of alcohol to be served;
  - b. The maximum number to be sold at any one time; and
  - c. The number of crowd controllers to be used.
24. In relation to these matters, I note that it appears from the material provided to me that the conduct of this event has been appropriate and successful for a number

of years now. In particular, there has been no compliance issues in relation to the special licence granted in 2017. I note the 2017 special licence did not provide for the volume of alcohol to be served, or any specific decline in the service of drinks towards the conclusion of the event, nor did it provide for the industry standard in relation to the number of crowd controllers. In fact in terms of crowd controllers, the industry standard was not provided for but an exemption included in specific terms.

25. Given these circumstances I have determined that there is no basis to support a finding that there MUST be a specific condition that provides for these matters within the special licence. In relation to the volume of alcohol to be sold, I note the reference by the applicant to “current commercial boundaries” it has with respect to this significant event. I do not consider it appropriate, based on the material before me, to impose a condition within the special licence which relates to the volume of alcohol to be served at any specific time during the course of this event.
26. In relation to the maximum amount of liquor to be served to one person at any one time. I note there appears to be no issue with respect to such a condition being included and in fact the applicant has agreed to the maximum being four (4) drinks at any one time. This appears to be a reasonable concession and in these circumstances I have determined to impose such a condition within the licence. However I have determined to have the time period relate to 1800hours rather than the time proposed within the response by NT Police. The material I have been provided with on behalf of the applicant has always referred to 1800hours and I consider this appropriate.
27. It should be noted however that if the applicant reaches an agreement with NT Police on the decline in the service of drinks for periods beyond that set out within the terms of this special licence then that is a matter for the applicant. The conditions of licence do not prevent the applicant from doing so. However I decline to include it as a specific condition of this special licence.
28. In relation to the number of security guards or crowd controllers, given the successful history of this event which has occurred without complying with the “industry standard” for a number of years now, I do not consider there is a need with respect to this particular special licence for a condition to be considered and/or imposed that provides for the industry standard in relation to the number of crowd controllers and I decline to do so.
29. 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 outlined at the start of this Decision Notice.

### **Notice of Rights:**

30. 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.

31. 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.
32. 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, appearing to read 'Jodi Truman', with a long horizontal flourish extending to the right.

**JODI TRUMAN**  
Deputy Chairperson  
Northern Territory Liquor Commission