

Director-General of Licensing

Decision Notice

MATTER:	VARIATION OF CONDITION OF LICENCES	
PREMISES:	Tennant Creek Hotel	(Liquor Licence 80102044)
	Goldfields Hotel	(Liquor Licence 80102583)
	Headframe Bottle Shop	(Liquor Licence 81002243)
	Sporties Club Inc.	(Liquor Licence 81402780)
	Tennant Creek Golf Club Inc.	(Liquor Licence 81402752)
	Tennant Creek Memorial Club Inc.	(Liquor Licence 81402774)
LEGISLATION:	Section 48A of the <i>Liquor Act</i>	
DECISION OF:	Director-General of Licensing	
DATE OF DECISION:	27 February 2018	

BACKGROUND

1. Following the recent local and national media coverage of an alleged sexual assault of a two year old child in Tennant Creek, significant concerns have been raised about the supply of alcohol in the town of Tennant Creek.
2. There are three liquor licensed premises in Tennant Creek that are authorised to sell takeaway alcohol to members of the general public. These premises are the Goldfields Hotel (Liquor Licence 80102583), Tennant Creek Hotel (Liquor Licence 80102044) and Headframe Bottle Shop (Liquor Licence 81002243) with each of these premises being located in Paterson Street, Tennant Creek.
3. Licence conditions for these premises allow for the sale of takeaway alcohol between 2pm and 8 pm Monday to Friday and between 12 noon and 8pm on Saturday and public holidays. Two of the premises being the Goldfields Hotel and the Tennant Creek Hotel may also trade on Sunday between 2pm and 8pm. Cask wine, fortified wine and Green Ginger wine may only be sold between 4pm and 6pm at two of the premises with sale at all premises limited to one per person per day. The sale of port, wine in a glass container larger than 1 litre and beer in bottles of 750ml or more is prohibited.
4. In 2014, further restrictions were voluntarily agreed to by these licensees authorised to sell takeaway alcohol to the general public through the Tennant Creek Liquor Accord including no takeaway sales before 2pm on any day, no full strength beer available before 3pm, a restriction of two bottles of wine per person with no sales before 3pm and spirits not available for purchase prior to 3pm on Monday-Friday.
5. In addition, there are a further three liquor licensed premises in Tennant Creek that are incorporated clubs that are authorised to sell takeaway alcohol subject to restricted conditions that require either the need to be a financial member of the club or a visitor/guest of a member of the club. These premises are the Sporties Club (Liquor Licence 81402780),

Tennant Creek Golf Club (Liquor Licence 81402752) and the Tennant Creek Memorial Club (Liquor Licence 81402774).

6. Licence conditions for these incorporated club premises allow for the sale of takeaway alcohol to financial members of the club or a visitor/guest of a member of the club in the same manner as identified at paragraph 3. However, these premises are not members of the Tennant Creek Liquor Accord and as such have not publicly voluntarily reduced the supply of liquor in the same manner as detailed in paragraph 4 above.
7. Of note, is that the licensee of the Sporties Club has voluntarily ceased the sale of takeaway alcohol albeit that the ability to do so remains within the licence conditions. This proactive action that is directed towards improving community safety should be commended.

CURRENT SITUATION

8. On 23 February 2018, as the Director-General of Licensing (the Director-General) I was provided with statistical data by the Commissioner of Police regarding the number of alcohol related offences that have occurred in Tennant Creek over a three week period between the 1st and 21st February 2018 compared to the same period in 2017. Given the significant increase in the number of offences, particularly in relation to those involving domestic violence, the Commissioner of Police indicated that significant restrictions on the availability of takeaway alcohol in Tennant Creek were wanted by Police.
9. The statistical data provided by the Commissioner indicated that there had been significant increases in most Police defined offence categories. Over the three week period this year compared to the same three week period last year, the Police data indicates that there was a:
 - i. 250% increase in the number of aggravated assault offences involving alcohol;
 - ii. 200% increase in the number of breaches of domestic violence involving alcohol;
 - iii. 38% increase in the number of alcohol related domestic offences attended to by police;
 - iv. 138% increase in the offence category of drunk persons; and
 - v. 111% increase in the number of drink driving offences.
10. The desired restrictions referred to by the Commissioner of Police with respect to significantly limiting the supply of takeaway alcohol in Tennant Creek are:
 - i. restrict takeaway hours to between 6pm and 8pm, Monday to Saturday with no takeaway sales authorised for Sunday;
 - ii. prohibit the takeaway sale of spirits;
 - iii. limit the quantity of takeaway sales of full strength beer to one carton per person per day or two bottles of wine per person per day; and
 - iv. limit the quantity of takeaway sales of ready to mix drinks (RTDs) to 12 cans per person per day.
11. Wholesale alcohol supply data is provided to Licensing NT (the Division of the Department of the Attorney-General and Minister for Justice chartered with providing support to the Director-General) by all registered alcohol wholesalers in the Northern Territory. This information is collated and published on a yearly basis, however is subject to a significant reporting time lag due to the availability of statistical population data from the Australian Bureau

of Statistics. The volume of each alcoholic product supplied in the Northern Territory is multiplied by its estimated fraction of alcohol content so that the pure amount of alcohol associated with each product can be compared.

12. As indicated above there is a significant time lag in reporting of this information, with the most current report about to be published referencing the calendar year of 2016 compared to the previous eight years. As the Director-General, I am currently aware of the unpublished data and in light of the information provided by the Commissioner of Police, it is relevant to refer to this unpublished data as it indicates a concerning trend with respect to the consumption of alcohol in the town of Tennant Creek.
13. The yet to be published most recent report indicates that whilst the supply of beer in Tennant Creek decreased by 1% in 2016 from 2015, the supply of wine increased by 5% and the supply of spirits increased by 9%.
14. The increasing trend in the wholesale supply of wine and spirits in Tennant Creek (albeit that it relates to comparative data of 2016) is despite the fact that no new liquor licences have been granted in Tennant Creek since a social club licence was issued in 2011¹.
15. In addition, the Attorney-General and Minister for Justice, the Hon. Natasha Fyles has recently expressed her concern to me "*...regarding the recent matters in Tennant Creek that have caused significant community distress and ongoing concern for community safety*". Whilst recognising the independence of the decision making role of the Director-General, the Attorney-General has requested that I consider all legislative powers available to me to assist in resolving the public safety concerns that have arisen in the town.
16. In light of the very recent information provided by the Commissioner of Police with respect to alcohol related offences occurring in Tennant Creek, the current concern in the community regarding the supply of alcohol in Tennant Creek and the yet to be published wholesale alcohol supply data with reference to Tennant Creek, I organised to meet with senior police officers based in Tennant Creek, the Chair of the Tennant Creek Alcohol Reference Group and liquor licensees operating in Tennant Creek on 26 February 2018.
17. The meeting with Police included senior officers from Darwin as well as the Officer in Charge and other police officers based in Tennant Creek. The police officers based in Tennant Creek, a number of whom had been based there for several years or more provided graphic details with respect to a number of recent alcohol related incidents involving men, women and children having received significant injuries inflicted by weapons such as metal poles, knives and rum bottles. These assaults also included a number of assaults on police themselves both on and off-duty.
18. Police also advised that they regularly see children on the streets late at night and the children advising that they do not want to go home due to the drinking and violence that is occurring in their home environment. An officer involved in youth diversion advised that a number of children had advised her that they were offending as they wanted to go into detention so that they could get fed and be in a safer environment.
19. Police advised that they have concerns about the supply of alcohol at both on and off premises. Police stated that they observed intoxicated persons "*spilling out of licensed premises*" on a regular basis as well as locating takeaway alcohol at most of the incidents that they attend. Liquor located at incidents ranged between beer, wine, RTDs and spirits. When asked about the

¹ Liquor licence issued in 2011 to the Tennant Creek Police Social Club Incorporated (Liquor Licence 81403239)

secondary supply of alcohol, Police advised that they came across this occasionally such as four litre casks having come from Mt Isa but that they were not currently resourced to detect the secondary supply of alcohol on a more regular basis.

20. Police advised that they considered the current hours of trade for the liquor licensed venues who sell takeaway to be too long and wished to have them reduced so that there is only one opportunity for a person to access alcohol each day rather than a person accessing alcohol earlier in the trading hours and again later on the same day before closing. Police also advised that they would prefer trading hours to finish earlier in the day and well before nightfall so as to enhance community safety and amenity.
21. Police at that meeting advised that they would like to see the following supply reductions placed on the liquor licensed premises authorised to sell takeaway alcohol:
 - i. restrict takeaway hours to:
 - a) 4pm and 6pm Monday to Thursday;
 - b) 3pm and 7pm Friday and Saturday;
 - c) no trading on Sunday;
 - ii. limit the quantity of takeaway sales of beer, pre-mixed drinks and cider to no more than 30 cans per day or one bottle of spirits or two bottles of wine or a two litre cask of wine per person per day on Monday through to Thursday;
 - iii. No restrictions to apply on Friday or Saturday.
22. Police also commented that the same restrictions should apply to all licensed premises authorised to sell takeaway alcohol between Ti-Tree, Barkly and Elliott to ensure consistency and limit those problem drinkers wishing to access alcohol from travelling to another premise with lesser restrictions.
23. As many violent incidents have a bottle as the weapon involved, Police requested that discussions also be had with the Australian Hotels Association and liquor manufactures to see if alternate packaging could be introduced which would result in the alcoholic drinking vessel not being able to be used as a weapon.
24. As indicated above, I also met with the Chair of the Tennant Creek Alcohol Reference Group Ms Karen Haywood who advised that in her view, that alcohol was too freely available however, did not support the banning of takeaway alcohol completely. Ms Haywood who has lived in Tennant Creek for over 30 years advised that she is aware of a "*mass of sly grog trade*" occurring in the town and was concerned that secondary supply of alcohol would increase if significant restrictions or banning of takeaway alcohol was put in place.
25. Ms Haywood also advised that she is involved in the school attendance program and was concerned that she often came across houses where children were not attending school as everyone was sleeping in the morning as they had been up all night drinking and partying the

night before, including those houses declared as a restricted private premises where no alcohol is allowed.

26. Ms Haywood advises that the Alcohol Reference Group meets every 6-8 weeks and at their next meeting will be looking at reinvigorating the liquor supply plan for Tennant Creek.
27. A meeting was then held with a number of liquor licensees or their nominated representatives including:
 - i. Tennant Creek Hotel;
 - ii. Goldfields Hotel;
 - iii. Headframe Bottle Shop;
 - iv. Sporties Club Inc;
 - v. Tennant Creek Golf Club Inc; and
 - vi. Tennant Creek Memorial Club Inc.
28. Police also attended the meeting and outlined their concerns to the licensees as well as their proposed restrictions on the supply of liquor in Tennant Creek.
29. In response a number of licensees advised that due to the current voluntary restrictions in place with respect to the non-supply of full strength beer, wine and spirits before 3pm, their main trading hours were between 3pm and 7pm albeit that some licensees did trade after 7pm. Concerns were raised however that they were already subjected to shortened hours of trade compared to other licensees throughout the Northern Territory and that further restrictions such as only being able to trade for two hours Monday through to Thursday would have a significant impact on their businesses including difficulty in recruiting and retaining staff for such short periods of work each day.
30. A number of licensees also raised a concern that should the hours for the sale of takeaway be so significantly reduced then there would be the potential for a heightened level of break-ins where offenders would be targeting premises where they would be able to access alcohol. Additionally, it was expressed that the level of secondary supply of alcohol would also likely see an increase. Police responded that should the hours be shortened, more police resources would be available to address other offences such as break and enters and secondary supply of alcohol.
31. Whilst not fully supported, a number of licensees did agree that a restriction prohibiting the sale of alcohol a Sunday may have a positive impact on some children by providing a safer home environment for those children living in homes affected by problem drinking.
32. Licensees indicated a general support for a restriction to be placed on the quantity of beer available for sale and were supportive of beer both full and mid-strength to be added to the currently restricted items so that a person would only be able to buy one restricted item per person per day.
33. One licensee raised a concern about the impact of potential licence fees in the future as outlined in the recent Final Report into Alcohol Policy and Legislation as well as the impact of the recent changes to gaming machine taxes and expressed concern that the business may no longer be viable should significant restrictions on the trading hours and supply of liquor be imposed above and beyond what is currently in place. The licensee expressed a willingness to discuss with

Government an opportunity to buy-back the takeaway component of the licensee's current licence.

DECISION

34. Having taken into account the information detailed above, I have significant concerns in relation to the current impact of the sale, provision and consumption of takeaway liquor in the town of Tennant Creek with respect to harm in the community.
35. Pursuant to section 3(1) of the *Liquor Act* (the Act), the primary object of that 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.*
36. Further objects of the *Liquor Act* are *inter alia* to:
 - a) *protect and enhance community amenity, social harmony and well being...*
37. Given the information that I currently have available to me, I have determined that in the current circumstances more weight should be given to the protection of the community and the need to minimise alcohol related harm in Tennant Creek and its surrounds than the continuance of the current licence conditions that apply to the six liquor licenses that are authorised to sell takeaway alcohol to both the general public and financial incorporated club members and their guests in Tennant Creek.
38. Pursuant to section 33 of the Act I may vary the conditions of a licence on my own initiative. Before doing so however, the Act requires that I provide written notice to the effected licensee and an opportunity to submit a response to the proposed variation within 28 days of my notice. As such, a minimum of 28 days would need to pass before any restrictions on the sale of takeaway alcohol would be able to take effect.
39. As indicated above, given all of the information available to me and with specific reference to the concerns raised directly with me by the Commissioner of Police and the information provided by senior police officers stationed in Tennant Creek who witness the effects of alcohol on the community on a daily basis, I am not of the view that it is appropriate to await a minimum of 28 days before restricting the supply of takeaway alcohol in Tennant Creek.
40. As such, I have determined that it is appropriate given the circumstances to utilise powers available to me pursuant to section 48A of the Act which allow me to suspend a licence or impose or vary conditions of a licence for a period of seven days if I consider it in the public interest to do so.
41. I am also not persuaded by the recommendation from Police in Tennant Creek to allow for unrestricted trade in the sale of takeaway alcohol to be allowed on Fridays and Saturdays. The significant harms associated with the consumption of alcohol and its impact on the community

of Tennant Creek in my view does not allow for a softening of measures on these days compared to any other day of the week.

42. Pursuant to section 48A of the Act, I have determined that with respect to the:

- i. Tennant Creek Hotel (Liquor Licence 80102044);
- ii. Goldfields Hotel (Liquor Licence 80102583);
- iii. Headframe Bottle Shop (Liquor Licence 81002243);
- iv. Sporties Club Incorporated (Liquor Licence 81402780);
- v. Tennant Creek Golf Club Incorporated (Liquor Licence 81402752); and
- vi. Tennant Creek Memorial Club Incorporated (Liquor Licence 81402774)

that it is in the public interest to vary the conditions of each of these licences.

43. The varied conditions will impose the following restrictions:

- A. takeaway liquor will only be available for sale Monday through to Saturday between the hours of 3pm and 6pm;
- B. takeaway sales on Sunday is prohibited; and
- C. sale of the following products will be limited to no more than one of the following per person per day:
 - i. 30 cans or stubbies of mid-strength or light beer; or
 - ii. 24 cans or stubbies of full strength beer; or
 - iii. 12 cans or bottles of Ready to Drink mixes; or
 - iv. One two litre cask of wine; or
 - v. One bottle of fortified wine; or
 - vi. One bottle of green ginger wine; or
 - vii. Two x 750 ml bottles of wine; or
 - viii. One 750 ml bottle of spirits.

44. The sale of port, wine in a glass container larger than 1 litre and beer in bottles of 750ml or more remains prohibited.

45. These restrictions will be in place for a period of seven days commencing on 28 February 2018.

46. A further assessment against section 48A of the *Liquor Act* will be made by me on or before the expiration of seven days from 28 February 2018 in order to determine the effectiveness of the restrictions and longer term options going forward.

REVIEW OF DECISION

47. Section 120ZA of the Act provides that a decision of the Director-General, as specified in the Schedule to the Act, is a reviewable decision. A decision to vary the conditions of a liquor licence pursuant to section 48A of the Act is not specified in the Schedule and is therefore not a reviewable decision.



Cindy Bravos
Director-General of Licensing

27 February 2018