

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:	6 March 2018	

BACKGROUND

1. On 27 February 2018, following media coverage of an alleged sexual assault of a two year old child in Tennant Creek, I determined that it was appropriate to exercise powers available to me pursuant to section 48A of the *Liquor Act* (the Act) to vary the conditions of the licences of three liquor licensed premises in Tennant Creek that are authorised to sell takeaway alcohol to members of the general public and 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.
2. The liquor licensed premises subject to my determination were as follows:
 - i. Goldfields Hotel (Liquor Licence 80102583);
 - ii. Tennant Creek Hotel (Liquor Licence 80102044);
 - iii. Headframe Bottle Shop (Liquor Licence 81002243);
 - iv. Sporties Club (Liquor Licence 81402780);
 - v. Tennant Creek Golf Club (Liquor Licence 81402752); and
 - vi. Tennant Creek Memorial Club (Liquor Licence 81402774).
3. The varied licence conditions which commenced on 28 February 2018 for a period of seven days imposed 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.
4. The sale of port, wine in a glass container larger than 1 litre and beer in bottles of 750ml or more remained prohibited.
5. Whilst the determination applied to both the Sporties Club and the Tennant Creek Golf Club as both licences do allow for the sale of takeaway alcohol, neither licensed premise currently sells takeaway alcohol nor have they done so for a number of years.
6. At the time of my determination, a number of liquor licensed premises in the wider Barkly region also voluntarily implemented the same restrictions as outlined at paragraph 3. These premises are listed below and should be commended for their efforts to improve community safety in the region. These premises are:
 - i. Aileron Roadhouse;
 - ii. Devils Marbles Hotel;
 - iii. Elliot Hotel;
 - iv. Renner Springs Desert Hotel;
 - v. The Elliot Store;
 - vi. Threeways Roadhouse;
 - vii. United Wycliffe Well; and
 - viii. Barkly Homestead.
7. A further licensed premise in the region, the Barkly Homestead currently has licence conditions which limit the sale of takeaway alcohol to no more than one carton of mid strength or light beer per person per day.
8. My determination to vary the conditions of licences for the six premises referred to in paragraph 2 above has no effect after the expiration of seven days and as a result, the restrictions imposed cease following close of trade on 6 March 2018.

CURRENT SITUATION

9. On 2 March 2018, I received correspondence via email from Mr Jordan Jenkins, the licensee of the Tennant Creek Hotel attaching a response to my determination from the 'Licensees' Alcohol Accord Tennant Creek' (the LAATC). The membership of the LAATC consists of each of the licensees effected by my original determination, licensees in Tennant Creek that are not authorised to sell takeaway alcohol as well as a number of the licensees mentioned above at paragraph 6 who have imposed the restrictions voluntarily. The LAATC response raised a number of concerns regarding the reasoning for my decision including my reliance on the data provided to me by the Commissioner of Police. In this respect, it is the view of LAATC that this data cannot be reasonably relied upon as they state that Police Point of Sale Interventions (POSI) were not in place for a number of days during the three week period that the data related to. The LAATC also state that takeaway sales during the three month period between December 2017 and February 2018 have "*dropped... by 15%-20% compared to 2016/17 data*".
10. It is clear that some members of the LAATC have a vested interest in the supply of takeaway alcohol in the township of Tennant Creek, particularly with respect to an expectation of financial gain through the sale of takeaway alcohol. In this respect it is understandable that the LAATC may not have shared my view that in the 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 to continuing the licence conditions as they applied at the time of my original decision.
11. On 5 March 2018, following five days of compliance by the aforementioned licensed premises with the variations to the licence conditions as detailed at paragraph 3, I travelled to Tennant Creek and again met with senior police officers stationed in the town, a number of traditional owners, the Mayor of Tennant Creek and each of the affected licensees excepting the licensee of the Tennant Creek Golf Club. The Chairperson of the newly established Liquor Commission, Mr Richard Coates accompanied me to these meetings.
12. Superintendent Kerry Hoskins of Tennant Creek Police Station advised that incidents police were attending to in Tennant Creek were of much the same nature as before the restrictions were imposed, however were much less in number. Superintendent Hoskins advised that during the period of the restrictions, no POSIs were in place at licensed premises. Anecdotal reports from her officers were that it was much quieter in Tennant Creek, the number of intoxicated persons walking throughout the town had decreased and that domestic violence incidents attended had less incidents of aggravated assault involved.
13. Superintendent Hoskins provided me with a copy of an email that she had received that morning from the Youth Centre Coordinator from the Barkly Regional Council in which the Youth Centre Coordinator indicated that she was welcome to share with me. In the email, the Youth Centre Coordinator had advised that she had just finished the Sunday night shift which "*we usually dread...as drunks seem to be even more visible*" and that "*[t]onight Tennant Creek is unrecognisable... we did not encounter any drunks sleeping on the road, three in a night is not uncommon on Sundays.*" Additional comments included "*[t]here was only one child that required a second attempt at finding a drop off point.*"
14. A number of traditional owners of the area surrounding Tennant Creek who attended a meeting at the offices of the Julalikari Council Aboriginal Corporation raised a number of issues concerning alcohol in the township and indicated a desire to see licensees, Police and traditional owners engage more with respect to the issue of alcohol in their community. When asked what the impact of the restrictions imposed had been so far, the traditional owners advised that there

had been, *“less drinking, less fighting, less domestic violence, no-one walking up the streets, less noise and the kids were at home.”* The traditional owners advised that they thought that both the shortened hours of trade and the restrictions was having a positive impact and that that the *“drinking”* was finishing by 11.00pm. The traditional owners in attendance all agreed that they wanted one more week of the restrictions.

15. A meeting was also held with the Mayor of the Barkly Regional Council, Mr Steve Edgington and the Chief Executive Officer of the Council, Mr Steve Moore during which it was advised that whilst the Mayor was supportive of the restrictions on the supply of takeaway alcohol that had resulted from my earlier determination, he believed more community consultation was needed to find a longer term solution going forward. Mr Edgington and Mr Moore advised that there was less people on the streets after 7pm and that there were less empty containers left lying around although they still noted that *“...there were still kids out on the streets.”*
16. Meetings were then held with each of the impacted licensees or nominees excepting the licensee of the Tennant Creek Golf Club. A summary of those discussions is detailed below:
 - i. Sporties Club Inc. (voluntarily have not sold takeaway alcohol for a number of years)

The nominee Ms Carmel Edwards advised that she had seen little difference to their on-premise trade. Ms Edwards advised that she was also a local bus driver and that she was seeing less children on the streets at night.
 - ii. Tennant Creek Memorial Club

The nominee, Mr Johnathon Baker advised that he considered that the restrictions had been a 100% success as he was of the view that the problem drinkers had relocated o Alice Springs. Mr Baker advised that he was disappointed that retail outlets were being blamed for the situation in Tennant Creek and that the Club’s takeaway sales had been down this year compared to last year. He advised that the main street of Tennant Creek appeared *“cleaned up”* as a result of the restrictions. When asked if the Club would adopt the restrictions on the sale of takeaway alcohol voluntarily whilst a community consultation process was undertaken by the Liquor Commission as to what may be appropriate restrictions on a longer term basis, Mr Baker indicated that he would consider voluntarily ceasing to sell full strength beer.
 - iii. Goldfields Hotel

The nominee, Mr Michael Lang advised that both takeaway sales and on-premise sales had reduced during the period of the restrictions. Mr Lang expressed the view that the on-premise sales were also down as a result of a focus by Police on on-premise consumption. Mr Lang advised that anecdotal information that he was aware of was that the secondary supply of alcohol was continuing and that the prices of alcoholic products had risen significantly and up to as much as \$250 being paid for a 2 litre cask of wine. When asked if the Hotel would adopt the restrictions on the sale of takeaway alcohol voluntarily whilst a community consultation process was undertaken by the Liquor Commission as to what may be appropriate restrictions on a longer term basis, Mr Lang advised that he would need to consult with his co-nominee but that it may be possible to put in place measures to reduce the volume of takeaway alcohol being sold.

iv. Headframes Bottle Shop

The nominee, Mr Ian Gabriel advised that he was experiencing the same amount of trade but that it was now being compressed into a three hour period and that he had concerns about complying with the Responsible Service of Alcohol requirements during transactions. Mr Gabriel indicated that his primary concerns with the restrictions were not so much on the product restrictions but on the hours of trade as he was of the view that some of his customers were not able to make it to the premise in the hours imposed. When asked if the premise would adopt the restrictions on the sale of takeaway alcohol voluntarily whilst a community consultation process was undertaken by the Liquor Commission as to what may be appropriate restrictions on a longer term basis, Mr Gabriel indicated that he would consider it if the hours of trade were expanded.

v. Tennant Creek Hotel

The nominee, Mr Jordan Jenkins advised that the town was quiet and that he was of the view that his trade both on and off-premise was down by approximately 25%. Mr Jenkins advised that he was closing the on-premise side of his operation earlier and at about the same time as the end of takeaway hour trading hours due to a lack of trade. When asked if the Hotel would adopt the restrictions on the sale of takeaway alcohol voluntarily whilst a community consultation process was undertaken by the Liquor Commission as to what may be appropriate restrictions on a longer term basis, Mr Jenkins' response was an emphatic "no" and that he "would not do anything voluntarily."

17. On 6 March 2018, I met with the Deputy Commissioner Kate Vanderlaan and a number of her senior officers to discuss what the impact of the restrictions imposed by my earlier determination had been having on alcohol related offending in Tennant Creek. I was provided with police data in relation to offending which appeared to indicate a decrease in offending where alcohol was involved. Following that meeting, I also received correspondence from the Commissioner of Police, Mr Reece Kershaw in which he stated that "[w]hile there has not been enough time to evaluate the impact of the alcohol restrictions, the early results are encouraging." The Commissioner provided me with the data subject of earlier discussions with Deputy Commissioner Vanderlaan which showed reductions in the number of offences involving alcohol however as the findings were interim in nature, the Commissioner of Police advised that the information was not for further dissemination.
18. I have also received a number of preliminary data sets from the Department of the Attorney-General and Justice's Criminal Justice Research and Statistics Unit and whilst it must be recognised that some of these data sets are subject to change as Police finalise investigations and record data on offences, I have relied on these data sets to provide some indication as to the impact the restrictions on the sale of takeaway alcohol in Tennant Creek is having on community safety.
19. One of the data sets provided shows information pertaining to the number of Banned Drinker Register (BDR) scans that have occurred at the four licensed premises authorised to sell takeaway alcohol in Tennant Creek. The data indicates a significant reduction in the number of scans that occurred between 28 February through to 3 March 2018, compared to the preceding eight weeks. Whilst the data for the week commencing 28 February 2018 does not contain a full seven days' worth of data, the previous eight weeks record that there were over 1000 BDR scans per week whereas during the four days the restrictions were in place the number of BDR scans dropped to well under 200 BDR scans. Whilst a very small percentage of these scans resulted

in no sale occurring either due to the identification holder being on the banned drinker register or attempting to purchase more than one of the restricted products per person per day, the number of scans recorded clearly identify a significant reduction in the number of takeaway sales occurring at the four licensed premises in Tennant Creek.

20. BDR scan data was also provided for United Wycliffe Well and the Threeways Roadhouse with this data indicating that there had not been a move of people purchasing takeaway alcohol from these premises instead of from within Tennant Creek.
21. A second data set provided is in relation to the number of offences against the person and offences against property and as noted above, whilst it must be recognised that some of these data sets are subject to change as Police finalise investigations and record data on offences, the current information shows a decrease in the number of offences compared to the week before and for the same period last year. This correlates with the Commissioner of Police's advice as referred to in paragraph 17 above.
22. A third data set relates to the number of protective custody episodes recorded by Police and whilst this is also not the final data, I am advised that as the data is generally entered close in time to the episodes, it is not subject to the same time lags as the offence data discussed at paragraph 21. These figures indicate that whilst the number of persons taken into protective custody since the restrictions were imposed appear to be at the same levels as 2017, they do indicate a decrease from the preceding weeks.
23. Data provided to the Criminal Justice Research and Statistics Unit by the Department of Health with respect to Tennant Creek sobering-up shelter admissions indicate that admissions for 2018 are well above those in 2017. During a brief conversation with the Chief Executive Officer of the Barkly Region Alcohol and Drug Abuse Advisory Group (BRADAAG) Ms Pauline Reynolds in relation to BRADAAG's sobering-up shelter program, Ms Reynolds advises that there has been a slight increase in the number of admissions since the restrictions were imposed.
24. Licensing Inspectors have been present in Tennant Creek throughout the period of the restrictions undertaking compliance inspections of licensed premises in both Tennant Creek and the wider Barkly region. Whilst a matter relating to alleged non-compliance by a licensee with respect to activity within the on-premise area of the licensed venue has been referred to Licensing NT by Police, Licensing Inspectors have at this time not detected any other licence breaches. Those Licensing Inspectors that have undertaken compliance activity in the Barkly region previously have indicated to me that they have observed that the township appears to be quieter at night with less disturbances occurring in the main street.

DECISION

25. As noted above, my 27 February 2018 determination to vary the conditions of licences for the six premises referred to in paragraph 2 above has no effect after the expiration of seven days and as a result, the restrictions imposed cease following close of trade on 6 March 2018.
26. My statutory powers do however, allow me to exercise the power in section 48A(1) of the Act afresh. To do so, I would again be required to be satisfied that the pre-requisites for the exercise of my power in this regard exists. In the circumstances particular to this matter, I would again need to be satisfied that the conditions as they currently exist in Tennant Creek can be characterised as an 'emergency' and if so, in my opinion it is in the public interest to impose or vary a condition of licence.

27. As commented by the Commissioner of Police in his correspondence to me dated 6 March 2018 that there has not yet been enough time to evaluate the impact of the restrictions, the early data does appear to indicate that there has been a significant drop in the number of takeaway sales occurring in Tennant Creek and this reduction in the supply and consumption of alcohol may in turn have led to a reduction in some alcohol harms being experienced in the region.
28. Having said that however, the apparent decrease in some harms does not yet necessarily satisfy me that the impact of the sale, provision and consumption of takeaway liquor in the town of Tennant Creek is not causing harm in the community.
29. Having conducted further meetings and consultations with a number of stakeholders in Tennant Creek and reviewing the data as detailed above, I am of the opinion that whilst early indications are that the restrictions have partly alleviated the conditions in Tennant Creek, the sale, provision and consumption of takeaway liquor and its subsequent harm in the community is still of significant concern.
30. As detailed in my earlier decision, section 3(1) of the Act, details that 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.*
31. Further objects of the Act are inter alia to:
 - a) *protect and enhance community amenity, social harmony and well being...*
32. Taking these objects into account, I have determined that it is appropriate given the circumstances to exercise the 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.
33. In that respect, 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.
34. 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.

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

36. These restrictions will be in place for a period of seven days commencing on 7 March 2018.

37. For clarity, these restrictions do not apply to legitimate bush orders currently authorised within a number of liquor licences subject to this decision.

REVIEW OF DECISION

38. 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

7 March 2018