

Northern Territory

LIQUOR COMMISSION

2017-18 Annual Report

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Chairperson's Message



The Northern Territory Liquor Commission (the Commission) was established in line with a key recommendation of the Alcohol Policies and Legislation Review, conducted by a panel chaired by the Territory's former Chief Justice, Trevor Riley.

That Review found that the Northern Territory had the highest rate of risky alcohol consumption in Australia, the country's highest rate of hospitalisation related to alcohol misuse and a social cost of alcohol abuse that is more than four times the national average.¹

The Review panel also noted:-

*"There has been overwhelming support expressed in the submissions received by the review and in the course of public meetings, for reinstating a Commission decision-making framework, particularly one that holds public hearings. A consistent theme was the need for greater transparency and increased community involvement in the decision making process."*²

The twelve commissioners that have been appointed to the Commission have a wide range of skills and experience. As required by the *Liquor Commission Act 2018*, there are a number of lawyers who have a long and varied history of working in the Territory. There are also four health members appointed who include senior doctors, an experienced Aboriginal Health practitioner and a Registered nurse who operates a drug and alcohol rehabilitation centre in a regional community.

Other commissioners have had extensive experience in addressing substance abuse issues in Indigenous communities, held senior positions within the Territory and Local government sectors, and worked within the hospitality industry.

The four months in which the Commission has been operating has involved a transition from the departmental based system to one where the Commission is now the independent and primary decision maker under the *Liquor Act*.

There has been more work than was anticipated and there have been a number of teething problems. These have included confusion within the hospitality industry over the type of application required for a 'special event' and unrealistic expectations with regard to the urgent listing of public hearings in respect of late applications or late referrals.

¹ Alcohol Policies and Legislation Review report (APLR) forward page

² APLR page 37

This has resulted in the Commission sitting on several days in a month. This is unsustainable in the longer term. I note most other licensing agencies or boards only meet once a month or every two months and all business is transacted on those scheduled dates.

With the assistance of Licensing NT we are developing an information package which will assist in educating licensees about the required processes and the need to submit applications which must go to a public hearing, within a more realistic timeframe.

Both the Commission and Licensing NT are cognisant of the fact that the full suite of reforms envisaged by the Riley Review will not come into operation until the rewrite of the *Liquor Act* is finalised. In the meantime the Commission will continue to work co-operatively with Licensing NT to ensure that the new procedures do not unnecessarily inconvenience licensees and other stakeholders.

There is an expectation across the Territory that Government will do something about the unacceptable levels of alcohol fuelled violence and anti social behaviour which impact on us all. There is an assumption by some in the community that a more punitive approach to those who misuse alcohol is required and that 'responsible drinkers' should not be inconvenienced by restrictions on the availability of alcohol. However our experience in the Territory has clearly shown that we cannot 'punish' this problem away. We are imprisoning drunken offenders in ever increasing numbers and at significant public expense without any improvement in the incidence of crime or alcohol misuse.

The Riley Review has outlined a comprehensive policy framework for long term reform in relation to the regulation of the supply of liquor and the Commission is committed to playing our part in minimising the harm associated with alcohol misuse whilst facilitating the legitimate desire of those members of the community who enjoy a drink for recreational purposes or on social occasions.

I would like to express my appreciation and gratitude for the assistance the Commission has received from Cindy Bravos, Director-General of Licensing and her team at Licensing NT. Thanks also to our hardworking secretariat led by Carolyn Parsell. I also acknowledge the Herculean efforts of my Deputy Jodi Truman and her deputy Russell Goldflam who took care of business while I was on two months leave.



Richard Coates
Chairperson Liquor Commission

Liquor Commission Overview

The Commission

The Northern Territory Liquor Commission (the Commission) is an independent statutory authority with extensive powers to regulate liquor licensing in the Northern Territory. The Commission is a body corporate with perpetual succession, has a common seal and is capable of acquiring property, initiating litigation and being sued.

The Commission was established on 28 February 2018, by the *Northern Territory Liquor Commission Act 2018*.

The Commission is supported in its functions by Licensing NT, Department of the Attorney-General and Justice. Licensing NT supports the Commission by providing secretariat and administrative services, processing various liquor applications, investigating complaints, monitoring licensed venues and events, enforcing liquor laws and compiling reports.

Section 38 of the Act requires the Commission at the end of the financial year to report to the Minister on its operations during the year and to give a report to the Minister within 3 months after the end of the financial year.

This report relates to the period 28 February to 30 June 2018 and is hereinafter referred to as “the reporting period”.

Members of the Commission

On 28 February 2018, pursuant to section 7(1) of the *Northern Territory Liquor Commission Act*, the Minister for Attorney-General and Justice appointed the following members of the Commission for a 5 year term:

- Mr Richard Coates, Chairperson
- Ms Jodi Truman, Deputy Chairperson
- Mr Russell Goldflam, Member (and Deputy for Ms Truman)
- Dr Charles Douglas, Health Member
- Dr Rob Parker, Health Member
- Ms Pauling Reynolds, Health Member
- Mr Kenton Winsley, Health Member
- Mr Blair McFarland, Member
- Ms Christine Hart, Member
- Ms Sandra Cannon, Member
- Mr Lindsay Carmichael
- Mrs Amy Corcoran, Member.

Dr Douglas, Dr Parker and Mr Winsley are Northern Territory Public Sector employees. All other members receive sitting fees and allowances in accordance with rates determined by the *Assembly Members and Statutory Officers (Remuneration and Other Entitlements) Act*.

Chairperson administers affairs of Commission

Section 9 of the *Northern Territory Liquor Commission Act* requires the Chairperson to administer the affairs of the Commission and to perform the functions imposed on the Chairperson under the *Northern Territory Liquor Commission Act* or another Act.

Commission Proceedings

Section 16 of the *Northern Territory Liquor Commission Act* requires the Commission to convene as often as is necessary for the exercise of its powers and performance of its functions.

The Commission is required to convene public hearings to make decisions under the *Liquor Act*. The Chairperson, in liaison with the Board and Commission Support Unit, makes arrangements that enable the Commission to convene.

For dealing with a matter, the Commission is constituted by a presiding member, who must be either the Chairperson or Deputy Chairperson and at least two other members, one of whom must be a health member, as selected by the Chairperson. Three members constitute a quorum.

The Commission may have more than one sitting at a time to deal with a matter.

Commission Meetings

The Commission conducts meetings to determine issues across the range of its legislative responsibilities.

The Commission held its inaugural meeting on 6 March 2018 and determined to meet 6 monthly or on a needs basis.

At that meeting, the Commission noted and/or made decisions on a number of issues including corporate branding, delegation of specific powers and functions, draft Policy and Procedures Manual, the website, common seal policy, application for review of Director-General decision, draft disclosure of interest guidelines and community assessment guidelines issued by the Minister.

Policy and Procedures Manual

The Commission has endorsed and adopted a Policy and Procedures Manual. The manual seeks to provide members with information to assist them in the fulfilling their responsibilities and duties as a member of the Commission.

The main purpose of the manual is to maintain and enhance the quality of decision making and management of matters before the Commission.

The manual serves to make the Commission processes transparent and accountable, provide assistance and support to members and other stakeholders and educate members of the public.

The *Northern Territory Liquor Commission Policy and Procedures Manual* is published on the Commission website at:

https://justice.nt.gov.au/data/assets/pdf_file/0010/537958/nt-liquor-commission-policy-procedure-manual.pdf

Disclosure of Interest

Section 21 of the *Liquor Commission Act* requires a member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Commission, to disclose the nature of the interest.

Where a member makes the disclosure, the member must not take part in any deliberation or decision in relation to the matter.

Subsection (4) requires the Commission to make and publish guidelines specifying the types of interest that a member must disclose.

Guidelines are included in the *Northern Territory Liquor Commission Policy and Procedures Manual* which is published on the Commission website.

Delegations

The Commission is responsible for all decisions about the granting of licences and matters of discipline. However, it has the capacity under section 37 of the *Liquor Commission Act* to delegate its powers and functions under the *Liquor Commission Act* or the *Liquor Act*, in writing, to:

- the Chairperson;
- another Commission Member;
- the Director-General of Licensing; or
- an employee as defined under section 3(1) of the *Public Sector Employment and Management Act*.

A delegation to the Chairperson or to the Director-General may be further delegated if the Chairperson or Director-General considers it appropriate.

Delegations are made in writing and relate to non-contentious or low-risk licensing matters only.

During the reporting period, the following delegations were made:

Date	Delegated Powers and functions	Delegate(s)
6 March 2018	Specific powers and functions relating to special licences where patron attendance is anticipated to be less than 300 patrons	Director-General
19 April 2018	Specific powers and functions relating to a transfer of licence and special licences where conduct of public hearing is not required	Chairperson and Deputy Chairperson
10 May 2018	Specific powers and functions relating to a transfer of licence and special licences where conduct of public hearing is not required	Amy Clare Corcoran

During the reporting period, Commission members exercised delegations approving 41 special licence applications and providing four (4) authorisations to a transfer of a licence.

Reasons for Decision

Major decisions and determinations are made by the Commission following a public hearing. The Commission maintains records of public hearings, including exhibits, and publishes written reasons for decision in respect of the following matters:

Reference	Application	Decision notice provided to
s.29(2)	Application for grant of licence.	Applicant and each person who lodged an objection to the application under section 47F
c.32A(8)	Application for variation of conditions of licence	Applicant and each person who lodged an objection to the application under section 47F
s.46A(7)	Application for substitution of premises	Applicant and each person who lodged an objection to the application under section 47F
s.119(9)	Application for approval to make a material alteration to licensed premises	Applicant and each person who lodged an objection to the application under section 47F

A decision notice is a written notice setting out the decision, the reasons for it; and right to a review of the decision.

Written reasons for decision are also required to be provided under section 59(2) of the *Liquor Act* where a special licence is issued subject to conditions.

Decision notices are published on the Commission website.

Review of Director-General Decisions

Part 4 of the *Liquor Commission Act* provides for a person, who is an 'affected person' defined in section 28(1), to apply to the Commission for a review of a Director-General decision made under the *Liquor Act* within 28 days after written notice of the decision is given. The Commission may allow an additional period of time in which to make the application.

An application for review must be in the approved form and state the grounds and the facts relied on and be accompanied by the prescribed fee, if any.

At its meeting on 6 March 2018, the Commission approved the application form for the review of a Director-General decision.

During the reporting period, no applications for review were made under section 29 of the *Liquor Commission Act*.

Public Interest and Community Impact Test

Public Interest and Community Impact Test

A new community impact test was inserted in the *Liquor Act* by assent of the *Liquor Legislation (Amendment) Licensing Act 2018* and commenced on 28 February 2018.

Section 6(3) now requires the decision maker to consider factors relating to impacts on the community in the areas that would be affected by the outcome of the decision to grant or refuse an application or the changing of conditions. The new community

impact test requires consideration of: the harm that might be caused due to the excessive or inappropriate consumption of liquor; the cultural, recreational, employment or tourism impacts; the social impact and impact on the amenity of the relevant locality; the density of existing liquor licences within the community area; the volume of alcohol sales within the community area; and any other matter prescribed in regulations.

A new section 6(4) was also inserted and requires an applicant to comply with any community impact assessment guidelines, and any other requirements specified by the Commission.

During the reporting period, the Commission applied the public interest and community impact test to licence applications and applications for variation of conditions of licence with the exception of special licence applications. An application for a special licence under section 58 of the Act is within Part VI of the *Liquor Act* and is therefore not part of the definition of “licence” pursuant to section 4 of the *Liquor Act* to which the public interest and community impact test applies. The Commission however was required to have regard to the objects of the *Liquor Act* and exercised the power and performed the function in a way that was consistent with the objects, during the reporting period.

Community Impact and Assessment Guidelines

Section 6A of the *Liquor Act* requires the Minister to develop and publish community impact assessment guidelines. It mandates the Minister to publish, by *Gazette* notice, guidelines for determining whether or not an application being considered or determined under section 6(1) satisfies the public or community interest test.

On 6 March 2018, by Gazette No S16, the Minister gave notice of the making of community impact assessment guidelines on 2 March 2018 for applications made pursuant to sections 26,32A(1), 46A and 119 of the *Liquor Act*.

The community impact assessment guidelines set out requirements for an applicant under section 6(1) to address certain factors with respect to community impact, information about the location and areas in which the premises is proposed to be located; cultural, recreational, employment or tourism benefits for the local community area; and how the proposed additional liquor outlet will benefit the local and broader community.

The proposed benefits to the local and broader community may include ancillary services to the premises, such as accommodation and dining facilities, but the addition of the proposed outlet in itself is not considered to be a benefit.

A new section 6B places the onus upon the applicant to satisfy the Commission that the application meets the public interest and community impact test.

The Commission, at its meeting on 6 March 2018, determined to review the operation of the guidelines in 6 months and to provide advice to the Minister on any recommended amendments.

Liquor Licensing

Matters to be determined by the Commission

Section 50 of the *Liquor Act* mandates the Director-General to refer the following matters to the Commission for hearing:

- (a) an application under section 26 for the grant of a licence;
- (b) an application under section 32A(1) for variation of the conditions of a licence;
- (c) an application under section 46A for substitution of other premises for the premises specified in a licence;
- (d) an application under section 119 for approval to make a material alteration to licensed premises, including:
 - (i) an alteration that increases the area used for the sale of liquor or the sale and consumption of liquor; and
 - (ii) any other applications where the Director-General considers it to be in the public interest that notice of the application be published;
- (e) a complaint against a licensee where the Director-General considers that disciplinary action should be taken under section 69.

Hearings are conducted by a panel of three members selected by the Chairperson.

During the reporting period, the Director-General referred 29 matters to the Commission for hearing. One (1) matter included two (2) applications for the same licensee. 20 hearings were conducted in Darwin and three (3) hearings were conducted in Alice Springs.

At the conclusion of the reporting period, one (1) application was dismissed, two (2) hearings were adjourned and four (4) matters were yet to be determined.

Summary of public hearings conducted to 30 June 2018

Nature of Hearings	
Application for the grant of a liquor licence	5
Application for variation of conditions of licence	9
Application to make material alteration	5
Complaint against licensee – Disciplinary Action	3
Total	22

Additionally, the Commission conducted seven (7) hearings in Darwin into applications for special licences.

List of section 50 public hearings conducted during reporting period

Date Referral Received	Nature of Matter	Name of Applicant / Licensee	Decision
05-Mar-18	Application for variation of conditions of licence and application for approval to make material alteration to licensed premises	Craft Beer Australia Pty Ltd	Conditions varied pursuant to s.32A(7). Material alteration approved pursuant to s.119(8).
06-Mar-18	Application for a liquor licence	Maria Kypreos as Trustee of M & N Kypreos Family Trust	Application dismissed.
13-Apr-18	Complaint	Vic River Pty Ltd trading as Timber Creek Hotel	Suspension of licence for 2 days, suspended for 12 months from 25 March 2018
13-Apr-18	Complaint	Deemat Pty Ltd trading as The Katherine Hotel	Matter not concluded in reporting period. Hearing adjourned to 4 October 2018
20-Apr-18	Application for Material Alteration	Club Eastside Inc.	Material alteration approved pursuant to s.119(8).
20-Apr-18	Application for Material Alteration - Little Miss Korea	CJ Lee and DJ Lee	Material alteration approved pursuant to s.119(8).
30-Apr-18	Application for liquor licence	Ting Family Investments Pty Ltd trading as Darwin City Hotel	Licence issued pursuant to section 29(1)(a)
30-Apr-18	Application for liquor licence - Deckchair Cinema	Darwin Film Society Inc.	Licence issued pursuant to section 29(1)(a)
01-May-18	Application for liquor licence	BEVCO ABB Pty Ltd	Licence issued pursuant to section 29(1)(a)
02-May-18	Application for variation of licence conditions - Adelaide River Race Day	Adelaide River Show Society Inc	Conditions varied pursuant to s.32A(7) and conditions 11 and 12 suspended during Race Day hours.
10-May-18	Application for variation of conditions of licence - Darwin Festival	Brown's Mart Arts Ltd	Variation of conditions of licence approved pursuant to section 32A(7)(a)
10-May-18	Application for variation of conditions of licence - Darwin Fringe Festival	Brown's Mart Arts Ltd	Variation of conditions of licence approved pursuant to section 32A(7)(a)
10-May-18	Application for variation of conditions of licence - UEFA Final	SKYCITY Darwin	Variation of conditions of licence approved pursuant to section 32A(7)(a)

Date Referral Received	Nature of Matter	Name of Applicant / Licensee	Decision
14-May-18	Complaint against Monsoons	Tropics Holdings Pty Ltd	Complaint dismissed
15-May-18	Application for Material Alteration	Jumiam Pty Ltd	Application granted on 14 June 2018.
22-May-18	Complaint against Liquorland Alice Springs	Liquorland (Australia) Pty Ltd	Hearing not held in reporting period
22-May-18	Complaint against Plaza Karama Tavern	KTLP Enterprises Pty Ltd	Matter not concluded in reporting period. Hearing adjourned to 27 September 2018
23-May-18	Complaint against Lizards Bar & Restaurant	Halikos Hospitality Pty Ltd	Complaint upheld and disciplinary action taken against Licensee. Monetary penalty of 20 penalty units (\$3080) imposed
24-May-18	Complaint against Todd Tavern	M & J Pascoe and Daughters Pty Ltd, Pepity Pty Ltd, Wriqn Pty Ltd, GRJP Pty Ltd, Stewie Pty Ltd, Maniel Dark Pty Ltd, MT Radloff Pty Ltd	Hearing not held in reporting period
31-May-18	Application for variation of conditions of licence - Hotel Darwin	Marlin Darwin Pty Ltd	Variation of conditions of licence approved pursuant to section 32A(7)(a)
31-May-18	Application for variation of conditions of licence - Tilmouth Well Roadhouse	Tilmouth Well Nominees Pty Ltd	Variation of conditions of licence approved pursuant to section 32A(7)(a)
01-Jun-18	Application for a liquor licence	Hayes Enterprises (NT) Pty Ltd	Licence issued pursuant to section 29(1)(a)
18-Jun-18	Application for variation of conditions of licence - World Cup Soccer	Globies Pty Ltd	Variation of conditions of licence approved pursuant to section 32A(7)(a)
20-Jun-18	Application for material alteration - Litchfield Motel	Tamsing Pty Ltd	Material alteration approved pursuant to s.119(8)
22-Jun-18	Application for variation of conditions of licence - NRL State of Origin Series	Livingstone Recreation Reserve Inc	Variation of conditions of licence approved pursuant to section 32A(7)(a)

Liquor Licences

Section 24 of the *Liquor Act* provides that the Commission may issue a licence to an applicant for the sale of liquor or the sale and consumption of liquor on, at, or away from a premises specified in the licence in the Northern Territory.

Section 24(2) provides for a moratorium on new takeaway liquor licences for a period of 5 years commencing 28 February 2018.

An application for the grant of a licence must be lodged with the Director-General in the approved form and be accompanied by an affidavit made under section 26A and the prescribed fee.

An application must be published, as specified by the Director-General and the Director General must inform the following that the application has been made:

- (a) the Chief Executive Officer of the Department of Health;
- (b) the Commissioner of Police;
- (c) if the application relates to premises within the area of a shire council or a regional council – the Chief Executive Officer of the council.

An application may be subject to objection and in such case, the Director-General must comply with section 47G.

Section 28(1) of the *Liquor Act* requires the Director-General to refer the application to the Commission for the Commission to decide whether to grant the application.

During the reporting period, the Director-General referred five (5) applications for the grant of licence to the Commission for hearing. Four (4) hearings were conducted in Darwin by a panel comprised of three Commissioners.

One (1) application for the grant of a licence was dismissed following revocation of consent of lease of the landlord and one application had not been determined by the end of the reporting period.

New Licences issued during reporting period

Applicant	Date Licence issued
Ting Family Investments Pty Ltd trading as Darwin City Hotel	28/05/2018
Darwin Film Society Incorporated trading as Deckchair Cinema	29/05/2018
BEVCO ABB Pty Ltd trading as Stokes Beach House / Snapper Rocks Bar Kitchen	15/06/2018

Variation of Licence Conditions

Section 32A of the *Liquor Act* provides for a licensee to apply to the Director-General for a variation of the conditions of the licence held by the licensee. Licence variations are sought for a number of reasons including:

- extension to the licensed area;
- change to trading hours;
- change of business name; or
- to vary the licence conditions.

The Director-General must inform the following that the application has been made:

- (a) the Chief Executive Officer of the Department of Health;
- (b) the Commissioner of Police;
- (c) if the application relates to premises within the area of a shire council or a regional council – the Chief Executive Officer of the council.

An application may be subject to objection and in such case, the Director-General must comply with section 47G.

Section 32A(6AA) requires the Director-General to refer the application to the Commission for the Commission to decide whether to vary the conditions of the licence.

During the reporting period, the Director-General referred nine (9) applications for variation of conditions of licence to the Commission under section 50 for hearing. Eight (8) hearings were conducted in Darwin by a panel comprised of three Commissioners and one (1) hearing was conducted in Alice Springs.

The Commission approved nine (9) licence variations as outlined below:

Licence condition variations approved 28 February to 30 June 2018

Licensee	Licence Condition Variations
Craft Beer Australia Pty Ltd	Removal of conditions relating to Good Friday and Christmas, extension of trading hours of Alfresco Area, inclusion of area known as Alfresco Deck and trading hours, amendment of entertainment condition
Adelaide River Show Society Inc.	Extension of trading hours and suspension of conditions 11 and 12 during Race Day hours
Browns Mart Arts Ltd	Extension of trading hours during Darwin Festival each year
Browns Mart Arts Ltd	Extension of trading hours during Darwin Fringe Festival each year
SKYCITY Darwin Pty Ltd	Extension of trading hours
Marlin Darwin Pty Ltd	Extension of trading hours
Tilmouth Well Nominees Pty Ltd	Extension of trading hours
Globies Pty Ltd	Extension of trading hours
Livingstone Recreation Reserve Inc.	Extension of trading hours

Transfer of Licence

Section 40 of the *Liquor Act* provides for a licence to be transferred from the licensee to another person. A transfer of a licence does not take effect until the Commission authorises the transfer or until such later date as the Commission specifies. The majority of transfers occur when a business is sold.

An application for transfer of licence is required to be lodged with the Director-General. The Director-General must as soon as practicable, inform the following that the application has been made

- (a) the Chief Executive Officer of the Department of Health;
- (b) the Commissioner of Police;
- (c) if the application relates to premises within the area of a shire council or a regional council – the Chief Executive Officer of the council.

An application may be subject to objection and in such case, the Director-General must comply with section 47G.

Pursuant to section 42 of the *Liquor Act*, the Director-General must refer an application for transfer of a licence to the Commission to decide whether to authorise the transfer.

During the reporting period, the Director-General referred four (4) applications to the Commission. Having considered the applications and having had regard to the objects of the *Liquor Act*, 4 transfers were authorised, as outlined below:

Name of Applicant/Licensee	Premises
BHNT Pty Ltd	The Jetty Darwin
Stuart Highway Investments Pty Ltd	Piggleys Supermarket
PTR Hospitality Pty Ltd	Pearl Restaurant Darwin
Hibernia NT Pty Ltd	Lodge of Dundee

Substitution of Premises

Section 46A of the *Liquor Act* provides for a licensee to apply to the Director-General for the substitution of other premises for the premises specified in the licence..

The Director-General must as soon as practicable after receipt of the application, inform the following that the application has been made

- (a) the Chief Executive Officer of the Department of Health;
- (b) the Commissioner of Police;
- (c) if the application relates to premises within the area of a shire council or a regional council – the Chief Executive Officer of the council.

An application may be subject to objection and in such case, the Director-General must comply with section 47G.

Pursuant to section 46A(5AA) the *Liquor Act*, the Director-General must refer the application to the Commission to decide whether to approve or refuse the application.

During the reporting period no applications for the substitution of premises pursuant to section 46A of the *Liquor Act* were determined by the Commission.

Material Alterations

A licensee is prohibited from making a material alteration to the licensee's licensed premises without the Commission's approval.

A material alteration is defined as an alteration to licensed premises which:

- (a) increases or decreases the area used for the sale of liquor or the sale and consumption of liquor; or
- (b) involves structural alteration; or
- (c) alters access to or egress from the premises; or
- (d) alters the external appearance or facilities

Section 119(2) provides for a licensee to lodge an application for approval with the Director-General. If the Director-General considers it to be in the public interest, the Director-General may require the applicant to publish notice of the application.

If the application relates to premises within the area of a shire council or a regional council, the Director-General must inform the CEO that the application has been made.

The Director-General must refer the application to the Commission for the Commission to decide whether to approve the alterations to the licensed premises.

During the reporting period, the Director-General referred five (5) applications for approval to the Commission.

The following material alterations were approved pursuant to section 118(8)(a) of the *Liquor Act*:

Approved Material Alterations to Licensed Premises during reporting period

Premises	Material Alteration
The Precint	Alteration to licensed premises to include Alfresco Deck
Club Eastside	Enclose the designated smoking area and replace colourbond fence
Little Miss Korea	Extend licensed premises to incorporate adjoining first loading bay
Bell Bar & Bistro	Extend kitchen area into current retail liquor sales area and move retail liquor sales area to ne detached tenancy directly opposite licensed premises
Litchfield Motel	Conduct renovations to premises resulting in Public Bar being used as Lounge and Lounge being used as Public Bar and construction of new Gaming Room

Special Licences

Special licences are dealt with in Part VI of the *Liquor Act*.

Specifically, a special licence authorises the holder of a licence to sell liquor during specified period at nominated premises. A special licence may be issued subject to conditions which will be specified in the licence.

Ordinarily, a special licence will be sought where a person or group seeks to hold a one-off event on premises which are not ordinarily used for or in conjunction with the sale or supply of liquor.

Examples of such events might be concerts or markets in public places such as parks or gardens where it is intended that liquor will be sold or supplied as part of the event.

Relevant local examples include the Greek Glenti for which special licences have been granted over a number of years which permits the sale of liquor from specified locations on The Esplanade, a public place which is not ordinarily a licenced area. Operators seeking to sell liquor for pop-up food markets in the Smith Street mall and also in nearby streets have also recently been granted special licences to allow patrons to purchase and consume liquor in specified areas associated with these events.

A person or entity which holds a liquor licence is not prohibited from applying for a special licence and in fact, may be required to do so where the premises at which liquor is intended to be sold or supplied is not a licenced premises.

An application for a special licence under this Part must be made in accordance with section 58 of the Act. Specifically, an application for the grant of a special licence must be lodged with the Director-General no later than 28 days before the date for which

liquor sales or supply is intended to occur; be made in the approved form and accompanied by the prescribed fee.

During the reporting period, 49 special licence applications were referred to the Commission for consideration and determination. A Commission panel determined seven (7) applications and delegates determined 41 applications. One (1) application was undecided at 30 June 2018, having been referred to the Commission the day before.

Complaints against Licensed Premises

The granting of a liquor licence by the Commission brings with it a number of responsibilities for the licensee, both under the *Liquor Act* and in the conditions of their licence.

The *Liquor Act* makes provision for complaints to be made against a licensee across a broad range of issues including:

- the licensee has contravened a provision of the *Liquor Act* or their licence;
- the conduct of the licensed premises has caused annoyance or disturbance to persons residing, working or conducting a business within the vicinity of the premises; or
- that the licensee is not a fit and proper person to hold a liquor licence.

Section 68 of the *Liquor Act* requires a complaint against a licensee to be lodged with the Director-General in an approved form, specify the ground of the complaint and be signed.

The Director-General is required to give notice to the complainant, as soon as practicable after receiving the complaint, of the acceptance of the complaint or refusal to deal with the complaint if satisfied it is frivolous or vexatious or no grounds exist for the complaint.

Subsection (4) sets out the process the Director-General must follow on acceptance of a complaint and includes the conduct of an investigation.

On completion of the investigation the Director-General must decide to take one of the following actions:

- dismiss the complaint;
- give a formal warning in relation to the ground;
- issue an infringement notice in relation to the ground;
- enter into an enforceable undertaking with the licensee under section 72A in relation to the ground;
- refer the complaint to the Commission for disciplinary action to be taken against the licensee in relation to the ground.

A referral of a complaint to the Commission must include any comment of the licensee and the result of the investigation conducted by the Director-General.

Section 68(6) of the *Liquor Act* requires the Director-General to give a report to the Commission about action taken in specific cases. During the reporting period the Director-General provided three (3) reports, as summarised below.

Date	Licensee and Premises	Alleged Breach	Director-General Determination
27/04/2018	Tropics Holdings Pty Ltd - Monsoons	s.121	Insufficient evidence for a ground for the complaint

8/05/2018	Alyangula Golf Club Inc. – Alyangula Golf Club	s.102, s.112 (x2)	s.102 breach – infringement notice issued for five (5) penalty units s.112 breach – infringement notice issued for two penalty units s.112 breach – complaint not made out
15/05/2018	Gove Country Golf Club Inc. – Gove Country Golf Club	s.102, s.121	Complaint dismissed

Section 69 of the *Liquor Act* empowers the Commission to take disciplinary action and mandates the conduct of a hearing for deciding the complaint. On completion of the hearing, the Commission may dismiss the complaint or uphold the complaint and take specified disciplinary action against the licensee.

Disciplinary action means any of the following actions against a licensee:

- varying the conditions of the licensee's licence or imposing additional conditions for the licence;
- suspending the licence;
- cancelling the licence;
- imposing a monetary penalty on the licensee;
- directing the licensee to take, or refrain from, a specified action;
- disqualifying the licensee from holding a licence for a specified period.

The Commission may also take disciplinary action against a licensee by imposing a monetary penalty on the licensee if the Commission is satisfied the licensee has contravened a provision that creates an offence against the *Liquor Act*. The amount of a monetary penalty is set out in section 70(2)(a) of the *Liquor Act*.

During the reporting period, the Director-General referred seven (7) complaints to the Commission. Three (3) complaints were heard or part heard and four (4) complaints were not considered in the period. Details are provided in the listing below, including any disciplinary action taken:

Complaints Referred under section 50 for Hearing during reporting period

Date Referral Received	Nature of Matter	Name of Applicant / Licensee	Decision
13-Apr-18	Complaint	Vic River Pty Ltd trading as Timber Creek Hotel	Suspension of licence for 2 days, suspended for 12 months from 25 March 2018
13-Apr-18	Complaint	Deemat Pty Ltd trading as The Katherine Hotel	Matter not concluded in reporting period. Hearing adjourned to 4 October 2018
14-May-18	Complaint	Tropics Holdings Pty Ltd trading as Monsoons	Complaint dismissed
Date Referral Received	Nature of Matter	Name of Applicant / Licensee	Decision
22-May-18	Complaint	Liquorland (Australia) Pty Ltd trading as Liquorland Alice Springs	Hearing not held in reporting period

22-May-18	Complaint	KTLP Enterprises Pty Ltd trading as Plaza Karama Tavern	Matter not concluded in reporting period. Hearing adjourned to 27 September 2018
23-May-18	Complaint	Halikos Hospitality Pty Ltd trading as Lizards Bar & Restaurant	Complaint upheld and disciplinary action taken against Licensee. Monetary penalty of 20 penalty units (\$3080) imposed
24-May-18	Complaint	M & J Pascoe and Daughters Pty Ltd, Pepity Pty Ltd, Wrign Pty Ltd, GRJP Pty Ltd, Stewie Pty Ltd, Maniel Dark Pty Ltd, MT Radloff Pty Ltd trading as Todd Tavern	Hearing not held in reporting period

Cancellation of Licence

The *Liquor Act* empowers the Commission to cancel a licence on a number of grounds including:

- the licensee is no longer a fit and proper person to hold the licence;
- the licensee has been found guilty of an offence against the *Liquor Act*;
- the licensee is serving a term of imprisonment; or
- the licensee has failed to comply with the condition of his or her licence.

The Commission may also cancel a licence on the grounds that the premises no longer meets the needs or wishes of the community. Cancellation on this ground is subject to the payment of compensation. A licence may also be cancelled in those instances where the licensee is no longer operating the business and has not surrendered the licence.

The Commission is required to conduct a hearing before cancelling a licence on any grounds.

During the reporting period, there was no cancellation of licence.

Surrender of Licence

Section 39 of the *Liquor Act* provides for a licensee to voluntarily surrender his licence. A licence would generally be surrendered for business reasons such as the premises no longer being viable or the non-renewal of a lease.

The licences is required to be surrendered to the Director-General and remains in effect until accepted by the Director-General. The Director-General must accept the surrender if satisfied that all persons who have an interest in the licensed premises have been given not less than 2 weeks' notice of the surrender.

The Commission is not aware of any surrendered licences during the reporting period.

Suspension of Licence

Liquor licences may be suspended as penalty for breaches of the *Liquor Act* or licence condition, or for non-compliance with directions issued by the Commission. A licence may also be suspended upon request by the Police Commissioner when the licensed venue has been declared a drug premises under the *Misuse of Drugs Act*.

The Commission may suspend a licence if it considers that the suspension is necessary for the protection of the public or the circumstances of the case are of sufficient gravity to justify the suspension of the licence.

A suspension imposed by the Commission cannot exceed a period of 14 days.

No liquor licences were suspended by the Commission during the reporting period.

Review of Takeaway Licence Conditions in Barkly Region

On 28 February 2018 following events in Tennant Creek, the Director-General determined that it was in the public interest to significantly limit the supply of takeaway alcohol available in Tennant Creek for two consecutive seven (7) day periods.

Six (6) licensed premises were affected by the Director-General's determination being the Goldfields Hotel, Tennant Creek Hotel, Headframe Bottle shop, Tennant Creek Memorial Club, Tennant Creek Golf Club and the Sporties Club.

There were also seven (7) surrounding licensed premises in the Barkly Region which voluntarily agreed to abide by the same restrictions as those imposed at Tennant Creek. They included Three Ways Road House, Aileron Road House, Devils Marbles Hotel, Wycliffe Hotel and Renner Springs. Barkly Homestead already had a greater restriction on takeaway sales and therefore was not affected.

Prior to the expiration of the Director-General's determination and following recommendation from the Chairperson of the Liquor Commission, the Minister determined pursuant to section 33AA of the *Liquor Act* to continue those restrictions until such time as the Commission completed a consultative review of takeaway licence conditions in the Barkly Region.

A panel was formed and Commissioners Goldflam and McFarland conducted public meetings in Tennant Creek on 4 April 2018.

On 8 May 2018, the Commission issued notices pursuant to section 33 of the *Liquor Act* to the effected licensees indicating an intention to permanently vary their licences and giving them 28 days to respond to the proposed changes

Following consideration of the licensees' responses and other information provided to the Commission it determined to impose the following conditions in relation to the sale of takeaway liquor:

- takeaway liquor only available for sale between 4pm – 7pm Monday to Saturday for Tennant Creek licensees;
- takeaway liquor only available for sale between 12 noon – 7pm Monday to Saturday for the wider Barkly region licensees;
- the sale of the following products limited to no more than one of the following per person per day:
 - 30 cans or stubbies of mid-strength or light beer; or
 - 24 cans or stubbies of mid-strength beer; or
 - 12 cans or bottles of Ready to Drink mixes; or

- One two litre cask of wine; or
 - One bottle of fortified wine; or
 - One bottle of green ginger wine; or
 - Two x 750 ml bottles of wine; or
 - One 750 ml bottle of spirits.
- prohibition of the sale of wine or fortified wine in a container larger than 1 litre and beer in bottles of 750 ml or larger.

Notices were sent to licensees pursuant to section 33(4) and the new conditions were effective from 13 June 2018.

Following a submission from Renner Springs Desert Inn, the Commission determined to vary the conditions of the licensee to align it with the conditions of the Elliot Hotel and Elliott Store licences.

The Decision Notices are posted on the Commission website.