

Northern Territory Licensing Commission

Hearing:	Pursuant to Section 33 of the <i>Liquor Act</i> -A Review of the Proposed Variations to Licence Conditions
Date:	8 and 9 May 2006
Applicants:	Goldfields Hotel Headframe Bottleshop Tennant Creek Hotel
Commission Members:	Brenda Monaghan (Presiding) Helen Kilgariff Jane Large
Appearances:	Wayne Stephens-Goldfields Hotel Motel Graham Whyte-Headframe Bottle Shop Peter Marshall-Headframe Bottle Shop Ryan Jenkins-Tennant Creek Hotel (the Licensees)
Assisting:	Chris McIntyre, Deputy Director, Licensing South, Racing Gaming and Licensing

Background

1. In February 2006, following an extensive review of the conditions of supply of liquor in Tennant Creek and Threeways, the Licensing Commission handed down a decision to remove the current licence conditions controlling among other things hours of trade, availability of takeaway and types of products able to be sold and to introduce a new Liquor Supply Plan (the Supply Plan) for the Tennant Creek/Threeways region.
2. Pursuant to Section 33 of the *Liquor Act*, the Commission “*may, from time to time by notices in writing vary the conditions of the licence held by the licensee.*” On 22 February 2006 written notices under Section 33 of the *Liquor Act* were sent to all Licensees in Tennant Creek and Threeways setting out the revised conditions of their licences in accordance with the new measures. Section 33 (2) of the *Act* provides Licensees with the opportunity to be heard on any proposed changes and five (5) Licensees responded. They were Triad Partnership t/as Threeways Roadhouse (Threeways), Tennant Creek Hotel, Goldfields Hotel Motel (Goldfields), Headframe Bottle Shop (Headframe) and Tennant Creek Golf Club Inc.
3. A joint hearing was conducted in Tennant Creek on 8 and 9 May 2006. Three (3) Licensees from Tennant Creek Hotel, Goldfields and Headframe made submissions and fully participated in the Hearing process. Threeways elected not to attend but simply relied on their submissions. Tennant Creek Golf Club made brief oral submissions separately on 9 May.

The Hearing

4. On 8 May 2006 Messrs W Stephens, G Whyte, P Marshall and R Jenkins attended the hearing representing their respective licensed premises. In perhaps a rather unusual step, members of the public listening identified themselves and were at a later stage invited to make oral submissions to the Commission as part of the hearing. This occurred with the consent of the Licensees. The Commission invited the Licensees to discuss in detail the

proposed Liquor Supply Plan and to comment on the view of others. The aim was to ensure that the Licensees were given a fair hearing and to ensure that the Commission could benefit from their input when deciding what was best for the community as a whole.

Submissions Made By Licensees

5. It is worthwhile for the benefit of future evaluation processes to spend some time outlining the submissions of the Licensees. Mr Stephens addressed the Commission on the contents of a petition signed by numerous businesses in Tennant Creek including Goldfields Hotel and Motel and Headframe Bottle Shop. The petition was mainly directed at “flattening out” the hours of supply and aligning on-premises and off-premises opening hours.
6. Mr Stephens maintained that the proposed time variances between the opening times for bars (10:00 hours with light beer only before 12:00 hours) and bottleshops (14:00 hours weekdays) would cause people to hang around the main street of Tennant Creek longer waiting for the bottle shops to open. Alternatively, patrons would stay drinking in the hotels longer.
7. It was proposed that a standardised opening time of 12:00 hours daily for both on-premises and off-premises supply of all liquor products would produce a calmer, more orderly approach and would allow better control of the situation.
8. In explanation of the envisaged control improvements, Mr Stephens stated that better staff training and regulation could be implemented if there were standardized hours. He also notified the Commission that all Licensees in Tennant Creek had made a commitment to a local Liquor Accord that focuses on responsible service of alcohol and education of patrons and staff. The status of the Accord at that time was that many Licensees had signed but others such as local clubs were awaiting committee endorsement prior to signing.
9. On behalf of the Licensees, Mr Stephens suggested that the takeaway sales should cease at 21:00 hours and that there should be a limitation on the sales of casks of wine after 18:00 hours in the evening. He supported the banning of port but felt that limiting the size of takeaway containers to 1 litre may cause stock problems and inconvenience some members of the community and suggested that alcohol be available in 1125 mls size containers. In addition, he advised of an ongoing problem of patrons circumventing any restriction of the total per day per person for take-away sales.
10. Mr Whyte endorsed the above comments and added that the proposal to have bottle shops closed on Sundays was an additional impost on his business. He contended that over the years, the hours of trade and products of supply for his licence had been continually reduced. In his written submission he had alluded to a claim for compensation under section 128(a) of the *Liquor Act* but he did not actively pursue that at the hearing. The Commission explained that the previous decision to allow Headframe to open on Sundays was directly related to the fact that it was closed, by direction, on Thursdays. If the Thursday ban was lifted, then the days of trade for this bottle shop should be the same as all others in the Northern Territory.
11. Mr Jenkins requested clarification on the ban on advertising the price of alcohol products on external surfaces, billboards etc and the appropriate camera surveillance and security required in his licensed premises. The Commission explained the reasons behind the advertising ban and agreed to look at the wording of the advertising condition. Mr McIntyre, Deputy Director, Licensing South undertook to discuss further with Mr Jenkins the requirements for adequate camera surveillance and security.
12. Finally, in the presence of the Licensees, Mr Swanson, Mayor of Tennant Creek, addressed the Commission saying that most of the people with drinking problems were not residents but those who came into town from the outlying communities.

13. On 9 May 2006 the members of the Commission with the full knowledge of the Licensees, spoke to Mr Elliott McAdam, The Honourable Member for Barkly, Minister for Local Government, Minister for Housing and Minister assisting the Chief Minister on Indigenous Affairs, members of the Julalikari Association and BRADAAG Inc.
14. Mr McAdam had no objection to an aligned opening time for on and off premises sale of liquor at 12:00 hours. He supported the Licensee's Liquor Accord and the implementation of an Alcohol Management Plan for Tennant Creek.
15. The Commission spoke to representatives from Julalikari Association. They reiterated many of the concerns raised in their written submissions. They expressed some concern that liquor being available from 10.00 hours onwards on Saturdays might cause problems with football supporters. They also had concerns about increasing the liquor sizes from 1 litre to 1125 ml and were keen to ensure that the Commission would arrange for careful monitoring and evaluation once the Supply Plan came into force.
16. Sharon Kinraid from BRADAAG Inc had interesting comments to make about the current trends. She noted that the shelter was busier than ever and despite all efforts, the rehabilitation of problem drinkers was not being achieved. When collecting litter at drinking sites around town, it had been noted that there were fewer port bottles but there was an increase in UDL cans and cruisers in glass bottles (mixed spirits). There was awareness that the banning of port may lead to the higher use of other fortified wines and mixed spirits and that careful monitoring was required.
17. As regards the proposed Supply Plan, BRADAGG representatives supported a 12:00 hours opening time for on and off premises sales. They felt that if an earlier closing time for off premise sales were considered, it would assist in reducing problems late at night.
18. The Commission later discussed with Licensees the comments made by Mr McAdam, Ms Braun and Ms Kinraid particularly the suggestion that we should ban all fortified wines from the outset rather than just port. There was a clear antipathy to a blanket ban on all fortified wines as it involved a large selection of products and would penalise a cross-section of the Tennant Creek population who are not problem drinkers. However, there was general agreement to monitor the sales of fortified wine on a monthly basis and a confidence that the Licensees themselves would ensure that a change in "liquor of choice" to another fortified wine would not occur.
19. Whilst there was agreement that monthly sales figures for individual products could be provided by the Licensees for monitoring purposes, the Commission agreed to ensure that any published figures would be non-identifying and provided in such a way that individual Licensees could not be victimised.
20. As a slight twist to proceedings, Mr Jenkins in his final submission to the Commission stated that he had given the subject of problem drinking in Tennant Creek considerable thought over the intervening evening and had changed his mind on the issue of a standardisation of opening hours. On an assumption that we are trying to decrease the volume of alcohol consumed in the community and noting that takeaway liquor was the choice for most problem drinkers, then Mr Jenkins submitted that a decrease in the takeaway hours would decrease the volume of alcohol drunk. Therefore, he supported the proposal to delay the commencement of off-premises liquor sales to 14:00 hours.
21. Following the hearing the Commission contacted the Police in Tennant Creek and discussed various submissions made by the Licensees and others with Sgt Ray Henry. Sgt Henry gave support to what is our ultimate proposal.

Reasons for Decision

22. In reaching its decision, the Commission acknowledges that any Liquor Supply Plan will only be effective if it is supported and complemented by harm minimisation and demand reduction strategies. The aim of this Liquor Supply Plan is to target blatant "risky drinking"

within the Tennant Creek/Threeways community whilst at the same time giving consideration to the impact on both social drinkers and businesses within that area.

We have ultimately made few changes to the Liquor Supply Plan that was published in February 2006. The Final Plan is outlined below and we make the following comments about the conditions we have altered:

Opening Times

23. The Commission concluded that an alignment of opening hours between on-premises and off-premises during weekdays will simplify trading hours, prevent unnecessary loitering in the main street and allow better training of staff and regulation of the industry.
24. Whilst the Commission accepts that there may be some truth in Mr Jenkins' submissions made in support of a later opening time for takeaway, we took note of the fact that there was considerable support for a standardised opening time - including from businesses, the Police and BRADAAG. We were also mindful of the submission that two opening times meant people would be loitering around the major liquor outlets which are in the main street both at 12:00 hours and at 14:00 hours. Finally, it is better for problem drinkers to consume their alcohol before sunset if possible and thus an earlier opening is preferable - especially when paired with restrictions later in the day. On weekends, there was little concern that a 10:00 hours opening for on-premises trading would cause any problems.

Type of Alcohol Product Sold

25. The Commission's proposal in February 2006 stated that takeaway sale of port in any container was to be prohibited. There was no objection received whatsoever to the banning of the sale of port and in fact some Licensees have already initiated this restriction by not stocking port. There was a concern about a shift to other fortified wines, which the Commission had to consider. However, it is felt that by banning all fortified wines it would be putting in place a restriction that may not be necessary and would needlessly inconvenience social drinkers. The Commission confirms this restriction on port as proposed and is not extending the ban to other fortified wines. However, takeaway liquor sales will be closely monitored and if the ban on port results in a shift to some other fortified drink the Commission will immediately reconsider the issue.
26. On the question of light beer sales only before 12noon, we note that the aligning of opening hours for on-premises and takeaway sales of alcohol on weekdays removes the need for this restriction. Further, the evidence we have received suggests that allowing on-licence drinking from 10:00 hours without restriction on weekends is unlikely to cause any problems as the patrons who normally are served are workers relaxing with friends who cause no problems.

Volume and Container Size of Liquor Sold

27. Restrictions relating to volume and container size of liquor sold were limited to takeaway sales in the February proposal. They stated:

(a) With the exception of wine in casks and Darwin Stubby Souvenir packs, takeaway sales of liquor of any type being sold or supplied in a container larger than one (1) litre is prohibited.

The Licensees objected to this proposal on the basis that the industry standard for spirits was becoming 1125 mls rather than one litre and if the Licensees were unable to sell this size container, there would be difficulties in disposing of current stock. The Commission was not persuaded by this argument as Licensees have known since February that this restriction was being considered and would have taken this into account when pre-ordering. Also, it seems all spirits are available in containers smaller than one litre and only three (3) types of spirits that are not bottled in the one (1) litre size. It was felt that, even though this was a minor reduction in quantity, the amount of alcohol purchased in one container should

be limited to discourage excessive drinking and any shift to drinking straight spirits rather than wine or beer. The Commission confirmed the proposal but allowed twenty-eight (28) days from the date of receipt of this decision for the responsible disposal of liquor in containers over one (1) litre.

Another proposed condition is that takeaway sales of wine in casks is restricted to a maximum of two (2) litres per person per day. It is a fact of life that there will be attempts made by patrons to circumvent the limit of two (2) litres of wine per person per day. The Commission congratulates the Licensees for their commitment to a Liquor Accord on the responsible service of alcohol and strongly encourages them to oversee and control these sales so that they are not in breach of this condition.

The Commission also agreed to reconsider the proposed ban on advertising. We have done so but intend to leave it unaltered for the six (6) month evaluation period. If we are persuaded that changes should be made after that period, then we will do so.

The Decision

28. The final Liquor Supply Plan with changes underlined is outlined below:

Liquor Supply Plan

Takeaway

- 1) The current restriction prohibiting the takeaway sale of liquor on Thursdays is removed.
- 2) With the exception of bush orders, takeaway sales of liquor from hotels, roadside inns and clubs shall be only be allowed during the following hours:
 - a) On Monday, Tuesday, Wednesday and Thursday – from 12:00 hours to 20:00 hours only;
 - b) On Friday - from 12:00 hours to 21:00 hours only;
 - c) On Saturday, Sunday and Public Holidays - from 12:00 hours to 21:00 hours;
 - d) No trading on Good Friday and Christmas Day.
- 3) With the exception of bush orders, takeaway sales of liquor from stand-alone liquor outlets shall be only be allowed during the following hours:
 - a) On Monday, Tuesday, Wednesday and Thursday – from 12:00 hours to 20:00 hours only;
 - b) On Friday - from 12:00 hours to 21:00 hours only;
 - c) On Saturday and Public Holidays - from 12:00 hours to 21:00 hours;
 - d) No trading on Sunday, Good Friday or Christmas Day.
- 4) Bush Orders, being legitimate orders from bush communities or cattle stations remote from Tennant Creek, are exempt from the takeaway restrictions in paragraphs two (2) and three (3). Legitimate bush orders must be placed on accounts and received by telephone, facsimile or email at least one day in advance. All documentation must be retained for each order and made available to Licensing Inspectors upon request.
- 5) With the exception of wine in casks and Darwin Stubby Souvenir packs takeaway sales of liquor of any type being sold or supplied in a container larger than one (1) litre is prohibited.
- 6) Wine in casks cannot be sold or supplied in containers larger than two (2) litres.
- 7) The sale or supply of Wine in casks after 18:00 hours is prohibited.

- 8) Takeaway sales of wine in casks is restricted to a maximum of two (2) litres per person per day.
- 9) Sale of wine in glass containers of a capacity greater than (1) litre are prohibited.
- 10) Takeaway sale of Port in any container is prohibited.
- 11) No sales of takeaway alcohol to taxi drivers and commercial drivers where the driver is acting as purchasing agent.

On Premises

- 12) The current restrictions prohibiting front-bar trading in hotels on Thursdays is removed.
- 13) The trading hours for the sale of liquor for consumption on licensed premises may commence at 10:00 hours for all premises on Saturday and Sunday at 12:00 hours for all premises Monday to Friday. Apart from a right to open late and close early, Licensees shall not impose their own time restriction on the sale of liquor during licensed hours.
- 14) Both in Tennant Creek and Threeways, the price of alcohol products shall not be advertised:
 - a) on the external surfaces of the licensed premises;
 - b) on billboards and blackboards etc outside the premises; or
 - c) in free newspapers, promotional pamphlets, circulars or posters.
- 15) Appropriate camera surveillance as required by the Director of Licensing shall be required in the two (2) hotel outlets and stand-alone liquor outlets.
- 16) Adequate security at licensed premises shall be provided in the manner approved by the Director of Licensing.
- 17) Darwin Stubby Souvenir pack shall only be sold for consumption away from the premises. The souvenir pack shall only be sold at room temperature and in the presentation box provided.
- 18) A current licence condition relating to some hotel bars which prohibits the sale or supply of wine unless accompanied by a meal is removed and replaced with a condition that wine and port are only to be sold or supplied in those bars when accompanied by a meal. Further, the current licence condition for Bootleggers Bar & Grill, Goldfields Hotel prohibiting the sale of any liquor without a meal is retained.

Evaluation

29. Any Liquor Supply Plan needs careful evaluation especially at the outset. We have emphasised repeatedly that these changes will be closely evaluated over the first six (6) months and then at regular intervals after that. We note your agreement to provide us with your sales records monthly so that we can ensure that we are aware of the types and quantities of liquor being consumed after port is removed from sale. We appreciate your cooperation in this matter and will ensure that no information provided to us by you will be provided to others in any manner that discloses its source.
30. We will also be obtaining statistics on a regular basis from the Police, Tennant Creek Hospital and the Sobering Up shelter so that we can monitor trends throughout the first six (6) months. A more detailed evaluation of the data will be undertaken after six (6) months with the conclusions being publicised. If any trends concern us during the six (6) month period, however, then we intend to immediately respond. In summary, we hope that the new Liquor Supply Plan will complement the Liquor Management Plan being developed and other initiatives and will assist in controlling the liquor related problems in the Barkly region.

These new conditions come into effect on Saturday 1 July 2006.

Signed by Jane Large
Member on behalf of Northern Territory Licensing Commission

31 May 2006