

SECOND PROPOSED VARIATION OF THE CONDITIONS OF LICENCES

MATTER: VARIATION OF THE CONDITIONS OF LICENCES

LICENSEES	LICENCE	NUMBERS
Erlunda Desert Oaks Resort Pty Ltd (Desert Oaks Motel)		80100446
Gap View Holdings Pty Ltd (Gapview Resort Hotel)		80102399
Kulgera Trading Company Pty Ltd (Kulgera Hotel)		81202158
LAE Supermarkets Pty Ltd (Eastside IGA)		80902628
LAE Supermarkets Pty Ltd (Flynn Drive IGA)		80902945
LAE Supermarkets Pty Ltd (Northside IGA)		80902690
Liquorland (Australia) Pty Ltd (Liquorland Alice Springs)		80901729
M & J Pascoe and Daughters Pty Ltd, Pepity Pty Ltd, Wrigm Pty Ltd, GRJP Pty Ltd, Stewie Pty Ltd, Maniel Dark Pty Ltd and MT Radloff Pty Ltd (Todd Tavern)		80102200
Stuart Highway Investments Pty Ltd (Pigglys)		80902640
Tancor Nominees Pty Ltd (Milner Road Foodtown)		80902951
Woolworths Group Limited (BWS Alice Springs)		80902856

LEGISLATION: Section 33, *Liquor Act 1978* (NT)

CONSIDERED BY: Mr Richard Coates (Chairperson)
Mr Russell Goldflam (Legal Member)
Ms Pauline Reynolds (Health Member)
Mr Blair McFarland (Community Member)

INTRODUCTION

- 1) Following an own initiative inquiry (“the Inquiry”) undertaken under s 33 of the *Liquor Act 1978* (“the Act”), on 27 May 2019 the Northern Territory Liquor Commission (“the Commission”) issued a Notice of Variation of the Conditions of Licences together with reasons for the variations (“the Decision”) to the above-mentioned licensees (“the licensees”).¹
- 2) The Commission ordered two variations to licence conditions: the introduction of a suspicious transactions reporting scheme, including a purchasing threshold above which a purchase would be deemed suspicious; and, for licensees outside Alice Springs, restrictions on the sale of takeaway liquor to local communities similar in effect to conditions currently in force for the Curtin Springs roadhouse (“the Curtin Springs special condition”).
- 3) Sections 120ZA and 10ZC of the Act together provide that the Decision was reviewable by the Northern Territory Civil and Administrative Tribunal (NTCAT) on application by any of the licensees.
- 4) The following licensees (“the appellant licensees”) duly applied to NTCAT for a review of the Decision:
 - Gap View Holdings Pty Ltd (Gapview Resort Hotel), jointly with M & J Pascoe and Daughters Pty Ltd, Pepity Pty Ltd, Wrigm Pty Ltd, GRJP Pty Ltd, Stewie Pty Ltd, Maniel Dark Pty Ltd and MT Radloff Pty Ltd (Todd Tavern)
 - Stuart Highway Investments Pty Ltd (Pigglys)

¹ Accessed at https://justice.nt.gov.au/data/assets/pdf_file/0010/697816/alice-springs-s33-decision-notice-final.pdf. The notice of variation was also issue to Silvery Pty Ltd trading as United Heavitree (Licence No 80902567), which, the Commission is informed, has since surrendered its liquor licence, and accordingly has been omitted from the list of affected licensees published at the commencement of this Notice.

- LAE Supermarkets Pty Ltd (Eastside IGA, Flynn Drive IGA, Northside IGA)
- 5) On 2 August 2019, NTCAT stayed the Decision and under s 49 of the *Northern Territory Civil and Administrative Tribunal Act 2014*, invited the Commission to reconsider the Decision.
 - 6) The Commission determined to accept this invitation and to utilise the power newly conferred on it by the *Liquor Amendment Act 2019*, which had come into force on 18 April 2019, to convene a public hearing to assist it in reconsidering the Decision.
 - 7) On 25 October 2019, the Commission issued a Notice of Public Hearing to the licensees and to the eighteen other persons and bodies who had made submissions to the Inquiry.
 - 8) The hearing was conducted in Alice Springs on 11 November 2019 (“the Hearing”). Several of the licensees attended, including representatives of the four appellant licensees, who each spoke at the Hearing. In addition, the Commission heard from the Chairman of the Alice Springs Liquor Accord, Licensing NT, NT Police and the People’s Alcohol Action Coalition. The Commission records its appreciation of those licensees, stakeholders and members of the public who attended and contributed to the Hearing.

THE APPLICABLE LAW

- 9) Not all of the licensees joined in the NTCAT appeal. No appeal was lodged with NTCAT by any of the licensees affected by the Curtin Springs special condition. None of those licensees attended the Hearing or made submissions to the Commission following the publication of the Decision. There was no challenge to the Curtin Springs special condition. Nevertheless, the Commission has

approached the task of reconsideration on the basis that the Decision should be revisited in its entirety.

10) Since the Decision was delivered, the *Liquor Act 2019* (“the 2019 Act”) has come into force. Section 113 of the 2019 Act is similar to s 33 of the 1978 Act. One difference is that when determining a variation of conditions under s 113 of the 2019 Act, the Commission is required to consider the public interest and community impact requirements. Division 2 of Part 15 of the 2019 Act, and Part 8 of the *Liquor Regulations 2019*, which are both headed “Transitional matters”, establish transitional arrangements for the conduct and determination of proceedings commenced under the Act that had not been finalised by 1 October 2019, the commencement date of the 2019 Act. These transitional provisions, however, do not expressly refer to proceedings under s 33 of the Act. The Commission considers that, consistent with the general scheme of the transitional provisions, the Inquiry should continue to be conducted under the 1978 Act. No submissions to the contrary were received by the Commission.

11) Although the Commission is not required by s 33 of the Act to apply the public interest and community impact test, it is required, by s 3(3) of the Act, to have regard to the objects of the Act, and to exercise its power to vary the licence conditions in a way that is consistent with those objects.

12) In reconsidering this matter, the Commission has had regard to both the primary and further objects of the Act. The Commission considers that the aspect of the primary object of the Act of particular relevance for the purpose of the Inquiry is to regulate the sale of liquor so as to minimise the harm associated with the

consumption of liquor, and in a way that takes into account the public interest in the sale of liquor.

DISCUSSION

IS A SUSPICIOUS TRANSACTION REPORTING SCHEME WARRANTED?

13) On reconsideration, the Commission confirms its view that a suspicious transaction reporting scheme is warranted. The dominant purpose of such a scheme is, in the view of the Commission, to detect, deter and prevent the unlawful secondary supply of liquor. At the Hearing, Mr Crowe, who appeared on behalf of the licensees of the Todd Tavern and the Gapview Hotel, submitted that no cogent evidence had been adduced that there is a secondary supply problem that needs to be addressed. This was a rather surprising submission, given that Mr Crowe is the Chief Executive Officer of the Northern Territory branch of the Australian Hotels Association, which, in its September 2018 written submission² to the Inquiry had proposed a compulsory suspicious transactions reporting scheme, a proposal from which Mr Crowe did not appear to resile.

14) Secondary supply is inherently difficult to detect and quantify. Nevertheless, having heard on 11 November 2019 from Superintendent Muldoon, the Officer in Charge of the Liquor Division of the NT Police, and Acting Senior Sergeant Zhang from the Alice Springs section of the Division; and having also conferred on 10 October 2018 with Acting Assistant Commissioner White and Assistant Commissioner Beer, the Commission is comfortably satisfied that secondary supply is a problem and that it is a problem that needs to be addressed. The

² Accessed at https://justice.nt.gov.au/_data/assets/pdf_file/0009/585522/AHA-NT-submission-to-the-Liquor-Commission-280918.pdf

Commission commends the police commitment to combat secondary supply in Alice Springs, and has concluded that this should be complemented and supported by appropriate variations to licence conditions.

15) In reaching this conclusion, the Commission was particularly impressed by three pieces of evidence received during the Inquiry. Firstly, Superintendent Muldoon informed the Commission of a successful operation conducted in August 2019 to target secondary supply in Alice Springs, resulting in the lowest numbers of persons admitted to the Alice Springs sobering-up shelter in recent years. Secondly, Acting Senior Sergeant Zhang gave evidence that although most Alice Springs licensees co-operate with police efforts to combat secondary supply by voluntarily reporting suspicious transactions, not all do so. Thirdly, the Commission recalls the disquieting evidence given by an employee of LAE Supermarkets to the Inquiry in October 2018 that when there was no police presence at the IGA supermarket where he worked, a full pallet load of cheap bottled wine cartons would be entirely sold within an hour of being placed on the shop floor.

16) Having heard, considered and reconsidered the uncontested evidence given over the course of the Inquiry, the Commission finds that secondary supply is a significant problem, and particularly so in the context of recent supply reduction measures in Central Australia, including those referred to by the Commission at paragraph 11 of its Notice of Proposed Variation of the Conditions of Licences

delivered in the course of the Inquiry on 27 February 2019 (“the February 2019 Notice”).³

17) As detailed in the February 2019 Notice at paragraph 12, since the implementation of these measures, there has been a substantial reduction in alcohol-related harm in Central Australia. The Commission is satisfied that this trend has continued since February 2019. In the 12 months to September 2019, alcohol-related assaults recorded by police in Alice Springs fell by 41%, from 1221 to 727.⁴ In the twelve months to July 2019, alcohol-attributable emergency presentations to Alice Springs Hospital fell by 42%, from 1141 to 659.⁵

18) This is highly encouraging, but in the view of the Commission, there is a real risk that these gains will be undermined by sly-groggers, as secondary suppliers of liquor are commonly referred to in Central Australia. To mitigate this risk, the Commission considers that a suspicious transactions reporting scheme is well warranted, and that its establishment will further the primary object of the Act.

19) The Alice Springs licensees submitted, however, that the Commission should not impose a suspicious transactions reporting scheme as a licence condition because such a scheme has already been incorporated into the Central Australia Liquor Accord (“the Accord”). The Accord includes eight of the affected licensees, namely

³ Accessed at https://justice.nt.gov.au/data/assets/pdf_file/0008/658421/S33-Notice-of-Proposed-Variation-of-Conditions-of-Licence-270219.pdf

⁴ Northern Territory Alcohol Policies and Legislation Reform, accessed at <https://alcoholreform.nt.gov.au/data-and-evaluation/assaults>

⁵ Northern Territory Alcohol Policies and Legislation Reform, accessed at <https://alcoholreform.nt.gov.au/data-and-evaluation/graph>

Coles Liquorland, BWS Alice Springs, Gapview Resort Hotel, Eastside IGA, Flynn Drive IGA, Northside IGA, Pigglys and Milner Road Foodtown.⁶

20) The licensees submitted that since 1 October 2019, the Accord has been given real teeth: pursuant to s 134(1) of the 2019 Act, licensees must comply with the Accord, and a failure to do so will constitute a breach of a licence condition.⁷ Furthermore, pursuant to s 132(2) of the 2019 Act, the Director may require a licensee to be a party to a local liquor accord.

21) Nevertheless, the Commission is not satisfied that the Accord will suffice to establish an effective suspicious transactions reporting scheme, for the following reasons.

22) On 14 November 2018, Mr Jervis, the Chairman of the Accord, provided the Commission with a document headed “Suspicious Transaction Reporting Program” (“STR”)⁸ under cover of a letter stating “It is accepted from the Accord members where takeaway alcohol is sold that this reporting will begin 1 December 2018.” On 27 March 2019, Mr Jervis wrote again to the Commission, stating “As you are aware, a STR is an existing initiative of the Accord and its licensees.” In strikingly similar terms, on 27 March 2019, Coles Liquorland wrote to the Commission stating “You are aware that a STR is an existing initiative of the Central Australian Liquor Accord and its participating licensees.”

⁶ At paragraph 4 of the Commission’s Decision Notice of 27 May 2019, the Commission erroneously omitted to identify Coles Liquorland as a member of the Accord, and erroneously referred to the Accord as the “Alice Springs Liquor Accord”.

⁷ A condition of each affected licence is “The licence will be subject to a condition that a breach of the *Liquor Act* by any person employed by or on behalf of the Licensee, shall constitute and be deemed to be a breach of the licence conditions by the Licensee.”

⁸ The STR is annexed to this Notice as Annexure A.

- 23) However, at the Hearing, Mr Jervis gave evidence that the Accord members had agreed to suspend the operation of the STR pending legal advice the Accord had requested, but never received, from Licensing NT as to whether the STR would breach privacy requirements.
- 24) Mr Jervis went so far as to assert that he believed he had informed the Commission that the STR had been suspended. The Commission rejects that assertion, which is unsupported by an examination of the Commission's correspondence records.
- 25) Mr Jervis did not give clear evidence of the date on which the Accord members decided to suspend the STR. He appeared to assert that this was prior to the planned commencement of the STR on 1 December 2018, but that is inconsistent with Mr Jervis's own letter to the Commission dated 27 March 2019 referred to above. The Commission considers that it is more likely that if indeed the Accord suspended the STR, this occurred after the Commission delivered the February 2019 Notice.
- 26) Mr Jervis's evidence that the STR was not in operation appeared to be inconsistent with the evidence of the Deputy Chairperson of the Accord, Ms McMartin, who asserted that the STR has been and remains in operation.
- 27) The Commission finds that at least since the publication of the Decision, it is likely that at least some of the Accord licensees were not in fact committed to continuing to comply with the STR.
- 28) The Commission finds that at least since the publication of the Decision, the Chairman of the Accord believed that at least some of the Accord licensees were not in fact committed to continuing to comply with the STR.

- 29) The Commission finds that the Accord failed to take effective steps to dispel the misleading impression it had consistently communicated to the Commission that its members were in fact committed to continuing to comply with the STR.
- 30) In these circumstances, the Commission is unable to be satisfied that the “Suspicious Transaction Reporting Program” developed by the Accord has actually been adopted, maintained and applied by all of its members.
- 31) This leaves the Commission lacking in confidence that the Accord is a suitable or reliable vehicle for implementing an effective suspicious transactions reporting scheme.
- 32) In addition, in the view of the Commission, the STR’s terms are seriously flawed. The STR sets “bulk purchases” as a category of suspicious transactions, and provides that “[i]ndividual venues will determine their own thresholds for reporting through internal guidelines”. The Commission considers that the term “bulk purchases” is unsatisfactorily vague, and that the adoption of individual thresholds by individual licensees is unsatisfactorily vague and is in addition unfair: customers bent on engaging in secondary supply would patronise licensees with a higher threshold, to the detriment of licensees with a lower threshold, and to the detriment of the effectiveness of the scheme as a whole. The Commission is firmly of the view that in its terms, the STR is ineffective and unworkable.

IS A PURCHASING THRESHOLD REQUIRED?

- 33) In the Decision, despite the licensees' responses, which it carefully considered, the Commission determined that a purchasing threshold should be fixed for the purpose of establishing a suspicious transactions scheme. The Commission

stated that it considered that a threshold is required to ensure that the suspicious transaction scheme is administered robustly, consistently and fairly.

34) At the hearing, Acting Senior Sergeant Zhang, who the Commission regards as having the requisite expertise, gave evidence that in his opinion a threshold should be imposed for the scheme to be effective. The Commission accepts that evidence. On reconsideration, having heard and considered further submissions in relation to this issue, the Commission remains of the view that not to fix a threshold would result in an ineffective and unworkable scheme.

35) At the Hearing, licensees had ample opportunity to propose a different threshold from that imposed by the Decision. None of them did so. Neither did any other participant in the Hearing. In the absence of any alternative proposed threshold, the Commission has determined to propose that the threshold it imposed in the Decision be retained, for the reasons explained by the Commission in its Decision Notice of 27 May 2019.

36) On reconsideration, however, and in response to submissions made at the Hearing, the Commission has determined to modify its definition of “suspicious transactions” in two respects.

37) Firstly, for the sake of clarity, the Commission proposes to replace the phrase in the first limb of the definition “Sales to an individual...” with “Sales on a single occasion to an individual...”.

38) Secondly, the Commission proposes to insert the word “knowingly” into the second limb of the definition, which deals with repeat purchasers. The intent of this amendment is to avoid the unintended consequence that licensees could be in

breach of a condition where a staff member sells liquor to a customer who had previously purchased liquor on two or more previous occasions on the same day, from a different salesperson.

DOES THE SUSPICIOUS TRANSACTIONS REPORTING SCHEME INFRINGE ON PRIVACY?

39) In the Decision, the Commission expressed the view that it was satisfied that the implementation of a suspicious transactions reporting scheme would not unduly or unlawfully infringe the privacy of patrons.

40) That view was challenged by the appellant licensees in their NTCAT applications. LAE Supermarkets Pty Ltd identified as one of the grounds of its application “The Decision Notice does not consider privacy concerns.” The Pigglys licensee’s first listed ground was “Invasion of privacy”. The Gap View Hotel and Todd Tavern licensees also raised a concern about privacy.

41) Despite having identified privacy concerns as the first and foremost ground of objection to the Commission’s suspicious transactions reporting scheme, none of the licensees elected to assist the Commission by either particularising this objection or supporting it with legal argument. The licensees complained that they had asked Licensing NT for legal advice on the issue, but had not received it. None of the licensees indicated that they had taken the initiative of obtaining their own legal advice in relation to the privacy issues.

42) At the Hearing, Mr Wood, the Licensing NT Acting Director of Liquor, Gambling and Racing, informed the Commission that Licensing NT had obtained legal advice on this issue, the substance of which was that the suspicious transactions reporting

scheme set out in the Decision does not infringe the Information Privacy Principles in the *Information Act 2002*, provided that notification is provided to customers of the scheme's operation. In effect, with the scheme in operation, a condition of sale would be that customers would agree to participate in the scheme.

43) The Commission agrees with this analysis. To fortify and clarify the suspicious transaction reporting scheme, the Commission, on reconsideration, proposes to amend the scheme as set out in the Decision by providing that in-store signage include notification that a condition of sale of liquor constituting a suspicious transaction is provision by the purchaser to the licensee of identifying information and an explanation for the purchase, details of which will be provided by the licensee to NT Police.

44) In the Decision, the Commission expressed the view⁹ that the Information Privacy Principles were inapplicable to the suspicious transaction reporting scheme, by operation of Part VIIIIC of the Act ("Point of sale intervention"). The correctness of that view has been doubted, but the Commission considers that it is unnecessary for the Commission to now further consider or comment further on that view, because it is satisfied, as referred to at paragraph 42 and 43 above, that the scheme can in any event be implemented without infringing the Information Privacy Principles.

⁹ At paragraphs [11] to [14]

OTHER ISSUES

- 45) Several of the licensees objected to the suspicious transactions reporting scheme established by the Decision on the grounds that it duplicated the existing role of PALIs and was unnecessarily burdensome on licensees, their staff and customers. Having now heard from police in more detail regarding the role currently played by PALIs, on reconsideration, the Commission accepts that there is substance to these objections, and proposes to amend the scheme in the following respects.
- 46) Firstly, the Commission accepts that when a liquor inspector or police officer is in attendance and has a reasonable opportunity to observe a customer either conduct a liquor purchase or exit licensed premises, it is appropriate and reasonable for the inspector or officer to undertake the role of detecting a suspicious transaction. At the Hearing, Acting Senior Sergeant Zhang informed the Commission that PALIs are already playing that role in Alice Springs. The Commission proposes to amend the suspicious transactions reporting condition accordingly.
- 47) The Commission also accepts the licensees' submissions that the requirement to report suspicious transactions "immediately" is problematic, and proposes instead that licensees be required to report as soon as practicable having regard to the circumstances, including the safety of staff and customers.
- 48) On reconsideration, the Commission accepts that the requirement to maintain a daily register of suspicious transactions is unnecessary, and that the objective to keep adequate records of suspicious transactions can be met by using a designated email address to make and retain reports of suspicious transactions to police. The proposed varied conditions are amended accordingly.

CLOSED CIRCUIT TELEVISION SURVEILLANCE

49) The Commission notes that the Director's Guidelines for the use of CCTV are outdated, and under review. The Commission encourages the Director of Liquor Licensing to complete this review at the earliest opportunity.

50) At the hearing, the Commission was informed that all of the Alice Springs licensees and most of those outside Alice Springs already have high quality CCTV including a camera that records liquor purchases at the point of sale. Superintendent Muldoon gave evidence, which the Commission accepts, that the imposition of a condition requiring licensees to utilise high quality CCTV capturing suspicious transactions, along with a requirement that the data be retained by the licensee for an extended period, would be a useful evidentiary tool in combatting secondary supply.

51) The Commission proposes that a licence condition be imposed accordingly.

LICENSEES OUTSIDE ALICE SPRINGS

52) The Commission notes the submission at the hearing by Licensing NT that the capacity of licensees to comply with the Curtin Springs special condition is impaired by the difficulty for licensees to accurately identify all of the places of residence to which the condition applies. To ameliorate this problem, the Commission requests the Director of Liquor Licensing to compile and provide to the affected licensees a map and/or list of the communities, outstations and town camps referred to in this condition.

PROPOSED VARIATIONS

53) The Commission proposes to modify the variations it imposed on 27 May 2019, as follows. For convenience and clarity, the proposed conditions are marked up so as to highlight the modifications proposed to the variations imposed by the Decision.

54) The varied conditions as set out below will apply from ~~25 August 2019~~ a date to be fixed by the Commission for a trial period of twelve months.

CAMERA SURVEILLANCE CONDITION

55) All affected licensees must install, maintain and operate a camera surveillance system in compliance with the requirements and guidelines prescribed by the Director of Liquor Licensing (“the Director”), including CCTV camera surveillance at the point of sale designed and operated so as to record information regarding the items purchased, the use of the BDR scanner, interactions between the purchaser and the salesperson, the appearance of the purchaser and the appearance of the salesperson. The licensee must retain all data captured by the camera surveillance system for not less than one month.

SUSPICIOUS TRANSACTIONS CONDITION

56) This condition will apply to the following licensees:

- Gap View Holdings Pty Ltd (Gapview Resort Hotel)
- LAE Supermarkets Pty Ltd (Eastside IGA)
- LAE Supermarkets Pty Ltd (Flynn Drive IGA)
- LAE Supermarkets Pty Ltd (Northside IGA)

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- Liquorland (Australia) Pty Ltd (Liquorland Alice Springs)
- M & J Pascoe and Daughters Pty Ltd, Pepity Pty Ltd, Wrigm Pty Ltd, GRJP Pty Ltd, Stewie Pty Ltd, Maniel Dark Pty Ltd and MTRadloffe Pty Ltd (Todd Tavern)
- ~~Silvery Pty Ltd (United Heavitree)~~
- Stuart Highway Investments Pty Ltd (Pigglys)
- Tancor Nominees Pty Ltd (Milner Road Foodtown)
- Woolworths Group Limited (BWS Alice Springs)

(1) For the purposes of this condition, “suspicious transactions” are defined as the sale or supply of liquor for consumption away from the premises comprising:

- a. ~~Sales~~ The sale on a single occasion to an individual in excess of any of the following: three cartons of full strength beer, twelve 750ml bottles of wine, four 750 ml bottles of spirits or forty eight cans or bottles of Ready to Drink mixes;
- b. A third or subsequent occasion on which liquor is knowingly sold to the same individual on the same day; or
- c. Any other liquor sale arousing suspicion on the part of the salesperson that the purchaser intends to commit an offence by possessing, consuming or supplying liquor in a manner or place prohibited by law.

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- (2) ~~Suspicious transactions must be reported immediately to a PALI or other police officer on patrol at the premises; or, if there is no officer at the premises, by email as soon as practicable to the Alcohol Policing Unit.~~ Unless a Police Officer, PALI or Liquor Inspector is in attendance and has a reasonable opportunity to observe the customer either conduct the transaction or exit the premises, suspicious transactions must be reported to NT Police as soon as practicable having regard to the circumstances, including the safety of staff and customers.
- (3) ~~Suspicious transaction details as prescribed by the Director General of Licensing must be recorded by the licensee or an employee of the licensee in a daily register, including time of transaction, type of suspicious transaction and time of report to police.~~ Reports to NT Police of suspicious transactions must include such details as are prescribed by the Director.
- (4) ~~The licensee must provide the day's register to the PALI or other police officer on patrol at the premises when trading ceases for the day; or, if there is no officer at the premises at that time, on the next occasion an officer attends the premises.~~ The licensee must provide an email address to the Director for the purpose of reporting suspicious transactions. All reports by the licensee to NT Police of suspicious transactions must be made by email from that email address. The licensee must retain the email reports of suspicious transactions for at least twelve months.
- (5) ~~The register~~ email reports must be made available at any time on request by NT Police and the Director.

(6) ~~If so required by the Director-General, the~~ The licensee must display on the premises signage approved by the Director notifying customers of the suspicious transactions conditions, including notification that a condition of sale of liquor constituting a suspicious transaction is provision by the purchaser to the licensee of identifying information and an explanation for the purchase, details of which will be provided by the licensee to NT Police.

57) The varied conditions as set out below will apply to the following licensees:

- Desert Oaks Motel (Erlunda)
- Kulgera Hotel

SUSPICIOUS TRANSACTIONS CONDITION

58) (1) For the purposes of this condition suspicious transactions” are defined as the sale or supply of liquor for consumption away from the premises comprising:

- a. A third or subsequent occasion on which liquor is knowingly sold to the same individual on the same day; or
- b. Any other liquor sale arousing suspicion on the part of the salesperson that the purchaser intends to commit an offence by possessing, consuming or supplying liquor in a manner or place prohibited by law.

(2) ~~Suspicious transactions must be reported immediately to a PALI or other police officer on patrol at the premises; or, if there is no officer at the premises, by email as soon as practicable to the Alcohol Policing Unit. Unless a Police Officer, PALI or Liquor Inspector is in attendance and has a reasonable opportunity to observe the customer either conduct the transaction or exit the~~

premises, suspicious transactions must be reported to NT Police as soon as practicable having regard to the circumstances, including the safety of staff and customers.

- (3) ~~Suspicious transaction details as prescribed by the Director-General of Licensing must be recorded by the licensee or an employee of the licensee in a daily register, including time of transaction, type of suspicious transaction and time of report to police.~~ Reports to NT Police of suspicious transactions must include such details as are prescribed by the Director.
- (4) ~~The licensee must provide the day's register to the PALI or other police officer on patrol at the premises when trading ceases for the day; or, if there is no officer at the premises at that time, on the next occasion an officer attends the premises.~~ The licensee must provide an email address to the Director for the purpose of reporting suspicious transactions. All reports by the licensee to NT Police of suspicious transactions must be made by email from that email address. The licensee must retain the email reports of suspicious transactions for at least twelve months.
- (5) ~~The register~~ email reports must be made available at any time on request by NT Police and the Director.
- (6) ~~If so required by the Director-General, the~~ The licensee must display on the premises signage approved by the Director notifying customers of the suspicious transactions conditions, including notification that a condition of sale of liquor constituting a suspicious transaction is provision by the purchaser

to the licensee of identifying information and an explanation for the purchase,
details of which will be provided by the licensee to NT Police.

SPECIAL CONDITION

59) The licensee is not permitted to sell or supply liquor for consumption away from the premises to:

- a. any person who is unable to satisfy the licensee that they do not reside or normally reside in:
 - i. a general restricted area declared pursuant to s74(1)(a) of the *Liquor Act 1978* (NT);
 - ii. an alcohol protected area declared pursuant to s27 of the *Stronger Futures in the Northern Territory Act 2012* (Cth);
 - iii. any of the Communities or Homelands on the Pitjantjatjara Lands in South Australia; or
 - iv. any of the Communities or Homelands on the Ngaanyatjarra Lands in Western Australia.
- b. any person who the licensee knows intends to supply the liquor to a resident of the areas set out in sub-condition (a) above.

The Licensee may at his or her discretion refuse service to any person whom he or she has reason to believe is attempting to purchase liquor on behalf of the persons described above.

Notes:

- (i) The Commission requests the Director to compile and provide to the licensee a map and/or list of the communities, outstations and town camps referred to in this condition.
- (ii) A list of residential areas subject to restricted area declarations pursuant to s74 of the *Liquor Act 1978* (NT) is published at <https://nt.gov.au/law/alcohol/where-you-cant-drink-in-the-NT/list-of-restricted-areas>.
- (iii) As at May 2019, the residential areas declared to be alcohol protected areas also comprise the town camps prescribed by the *Northern Territory National Emergency Response (Town Camps) Declaration 2007 (No. 1)* (Cth) and the *Northern Territory National Emergency Response (Town Camps) Declaration 2007 (No. 2)* (Cth).
- (iv) "Pitjantjatjara Lands" means the lands described in the First Schedule to the *Pitjantjatjara Land Rights Act 1981* (SA) but does not include any roads referred to or described in the Second Schedule to that Act or any road reserved within the meaning of Section 33 of the Act.
- (v) "Ngaanyatjarra Lands" means the lands contained in the Reserves (Use & Benefit of Aboriginals) Nos. 17614, 21471, 24923, 40783, 29452, 40787 and 40781 in Western Australia declared under Part 3 of the *Land Act 1933* (WA) and the Leases

which were granted to the Ngaanyatjarra Land Council
(Aboriginal Corporation).

60) Notwithstanding anything contained in the proposed conditions set out above,
where a licence contains an existing condition which is more restrictive than the
proposed conditions, the existing condition prevails.

INVITATION TO LICENSEES TO RESPOND

61) Pursuant to s 33(2) of the Act, the Commission invites affected licensees to submit
a response to the proposed variations within 28 days of this notice.



Richard Coates
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
29 November 2019

On behalf of Commissioners Coates, Goldflam, Reynolds and McFarland