

**Director-General of Licensing**

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TRIM: DTBI2017/04952-0003

Mr Trevor Riley  
Chair  
Alcohol Policies and Legislation Review  
c/- Department of Health  
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[alcohol.review@nt.gov.au](mailto:alcohol.review@nt.gov.au)

Dear Mr Riley

The Director-General of Licensing (Director-General) is an independent statutory appointment established under section 5 of the *Licensing (Director-General) Act* with powers to regulate the Northern Territory liquor, private security and gaming industries, as well as other matters through related licensing legislation.

The Act also provides for the Director-General to delegate those powers and functions under relevant legislation. Delegate decisions are able to be reviewed by the Director-General under the Act and either confirmed or replaced, creating a more efficient and transparent decision-making process.

The Northern Territory Civil and Administrative Tribunal (NTCAT) is able to review decisions made by the Director-General, further enhancing the decision making process.

The Director-General has responsibility for related matters in accordance with the requirements of the following legislation:

- *Licensing (Director-General) Act*
- *Liquor Act*
- *Gaming Control Act* (except provisions about taxes and levies)
- *Gaming Machine Act* (except provisions relating to tax and levies)
- *Kava Management Act*
- *Private Security Act*
- *Prostitution Regulation Act*
- *Racing and Betting Act*
- *Tobacco Control Act* (provisions about smoking in liquor licensed premises, licensing and enforcement)
- *Totalisator Licensing and Regulation Act* (except provisions about wagering tax).

As noted, in addition to responsibility for the regulation of liquor, I am responsible for licensing and regulation relating to private security and gaming, escort agencies and disposal of seized kava. In addition, the Director-General has been delegated the independent statutory powers and functions of the Commissioner of Consumer Affairs under the provisions of the *Consumer Affairs and Fair Trading Act* in relation to motor vehicle dealers, pawnbrokers and second-hand dealers and the *Associations Act* and *Commercial and Private Agents Licensing Act*. The Director-General is also administratively responsible for the *Auctioneers Act*, *Soccer Football Pools Act* (except provisions about duties) and the *Unlawful Betting Act*.

The position of the Director-General is supported by Licensing NT which also provides administrative support to the various boards that licence and regulate building related occupations including building practitioners, electricians, plumbers and drainers, architects and surveyors as well as to the Agents Licensing Board and the Racing Commission.

Given such a broad spectrum of regulatory responsibility, it is extremely important that the Director-General determines matters on the basis of the law and on the evidence available and that those decisions are not unduly influenced by matters outside the scope of the law. In determining matters, the Director-General is responsible for ensuring the policies set by Parliament in the law are being implemented while taking into account the views of parties with a legitimate interest in the matter, be they individuals, communities, organisations or industry representatives.

In January 2016 Licensing NT undertook an internal realignment of its organisation to streamline business practices, reduce processing times and improve responsiveness to client demands. The organisational changes allowed the development of a proactive risk based compliance plan for all of the portfolios within the remit of the Director-General.

In relation to liquor licensing and regulation, when exercising a power or performing a function under the *Liquor Act* the Director-General, must take into account the general objects of the *Liquor Act* which are to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor; to regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory and to facilitate a diversity of licensed premises and associated services for the benefit of the community.

## **Public Hearings**

While public hearings are not a legislative requirement under the *Liquor Act*, on 3 February 2017 I issued a Guideline in accordance with section 125A of the Act which provides for public hearings to be held in relation to certain applications and complaint matters. Such hearings provide interested parties in relation to specified liquor matters with the opportunity to expand on written submissions or objections, or to discuss inquiry issues with the Director-General in a public forum. Any organisation or person can attend a hearing, either to speak to a submission or objection, or to simply observe the proceedings.

## **Dealing with Liquor Licenses**

Over the last 12 months I, or a delegate has approved 18 new liquor licences; 16 of which were for cafés, restaurants, catering businesses, private lodges, new resorts or speciality businesses.

The process of applying for a liquor licence requires the applicant to provide materials that satisfy the requirements of the *Liquor Act* including considerations as to the suitability and need for the licence and the appropriateness of the applicant to be a licensee. An applicant must also disclose all persons who would be in a position to exert influence or derive a benefit from the licence. These people are then subjected to a rigorous probity examination including criminal history checks and fitness to be involved in the sale of liquor.

The *Liquor Act* also requires that all applications for the granting of a liquor licence are to be publicly disclosed. Such disclosure involves advertisements in newspapers or other mediums which might be relevant to the application. In addition, an approved notice must be displayed at the proposed premises for a period of 30 days. The publication ordinarily includes details of the application as well as the type of licence being sought and any relevant conditions. The Northern Territory Police, the Northern Territory Fire and Rescue Service, the Department of Health and the relevant local authority or council are informed of the application as a matter of course.

Should any persons or organisations authorised by section 47F of the Act have concerns that the granting of the licence will adversely affect the amenity of the neighbourhood or the health, education, public safety

or social conditions in the community, they may lodge an objection to the application for the consideration of the Director-General.

Any objection received in relation to an application must be considered in determining an application as does any response submitted by the application in relation to the objection. Additional information or material considered necessary to make a proper assessment of the application may be sought at any time. A similar process exists for variation to existing licences, transfer of licences and substitution of premises.

After considering all relevant matters, a licence may be granted on any conditions determined appropriate or refuse to grant the licence. Once an application is determined, a decision notice is issued to all affected persons.

Determinations made by the Director-General or a delegate are open to review on application of any affected person with a delegate decision being reviewed by the Director-General in the first instance or by NTCAT if the decisions made by the Director-General.

The number of liquor licences active as at 30 June 2017 was 536 compared to 537 the previous year.

In the course of the last financial year, 18 licences were cancelled or surrendered and a further 10 licensed premises have been identified as not currently operating. Action to cancel these licences under the *Liquor Act* is to be taken to cancel these identified licences. During the same period, the Director-General (or delegate) approved 11 liquor licence transfers, 8 permanent licence variations and 5 approvals for material alterations.

Special liquor licences are generally approved for 'one-off' events but may also be approved for events that occur on an annual basis such as the Greek Glenti, the Darwin Festival and other music events. Special liquor licences may be subject to any conditions specified by the Director-General including a requirement for security where appropriate and are ordinarily dealt with by delegates of the Director-General except where there are special circumstances, such as Police not supporting the application, or where referred for determination. During the 2016-17 reporting period, the Director-General (or delegate) issued 287 special liquor licences.

Continuing special licences are generally for the purpose of regular repeated events such as social clubs and specialised entertainment venue. Such licences are valid for a maximum of 12 months and are subject to conditions which are tailored to the nature and purpose of the licence. These licences are generally limited to venues which do not operate for more than 30 hours per week. Where operations regularly exceed those hours and where the operation appears to have changed to more of a commercial basis, licensees are encouraged to submit an application for an 'on premise' licence and to demonstrate that the grant of a licence is in the public interest. As at 30 June 2017 there were 120 continuing special liquor licences. During the 2016-17 reporting period, the Director-General (or delegate) issued 4 new licences and renewed 116 licences.

### **Restricted Areas**

There are provisions in the *Liquor Act* that allow the Director-General to declare an area a 'Restricted Area' under which the consumption, possession, sale or disposal of liquor may only occur pursuant to a permit or licence. When considering applications, the Director-General is required to consult with relevant parties including residents, licensees and shire councils.

Other types of restricted areas (ie Special Restricted Area, Designated Area) may be declared at the discretion of the responsible Minister. In addition to restricted areas declared under the *Liquor Act*, the Commonwealth Minister responsible for the *Stronger Futures in the Northern Territory Act* (Cth) is able to

declare areas to be an Alcohol Protected Area. Such a declaration is deemed to be a General Restricted Area for the purposes of the *Liquor Act*.

## Permits

Some communities in General Restricted Areas operate a permit system which allows an authorised permit holder to legally possess and/or consume liquor within the community. While the Director-General has power to approve liquor permits, communities are encouraged to establish a permit committee (generally made up of key community residents with representatives from police, health and other organisations where appropriate) to help assess the suitability of a permit applicant, and the rules and conditions relating to the permit.

Where an application is approved, the applicant can be granted a permit for a period and will be required to abide by any liquor-related conditions that exist in the community. For instance, community residents may be restricted in the quantity or type of liquor that can be purchased, possessed or consumed. A permit may be revoked if there are reasonable grounds to believe that the permit holder has breached a condition of the permit, including circumstances where the permit holder is involved in adverse issues at community level due to their consumption of liquor.

As at 30 June 2017, 5034 permits were in effect across the Territory.

## Complaints

Liquor licences are subject to numerous obligations under the *Liquor Act* and licence conditions with which the licensees must comply with.

The *Liquor Act* allows for complaints to be made against a licensee on several grounds and there are a variety of disciplinary actions available to the Director-General under the *Liquor Act* when determining a suitable penalty.

Compliance officers are employed within Licensing NT and hold appointments as inspectors under section 18 of the *Liquor Act*, in addition to specific appointments under other relevant Acts administered within the division. Compliance officers are based in Darwin, Katherine, Tennant Creek and Alice Springs and undertake activities based on risk assessment, compliance history and inspection targets. Non-scheduled compliance activities are both proactive and reactive and may involve compliance officers working with licensees, providing assistance and education to ensure positive and long-term compliance outcomes.

It might be noted that whilst Licensing NT has 11 Compliance Officers allocated to liquor compliance across the Territory, those officers are also responsible for duties associated with complementary portfolios of community gaming and tobacco.

During the 2016/2017 reporting period over 1600 operational visits were undertaken in which compliance activity occurred. During these visits, compliance officers checked venues for compliance with licence conditions and relevant legislation including the *Liquor Act*, *Private Security Act*, *Gaming Machine Act* and *Tobacco Control Act*. Of the 20 complaints accepted, 10 are still under investigation, seven resulted in no further action being taken, one resulted in the licence being suspended due to a breach of the licence conditions and two resulted in a monetary penalty being imposed.

In accordance with the National Partnership Agreement with the federal government, funding for liquor compliance is received by Licensing NT and in that regard, it was reported in March 2017 that 94% of relevant venues inspected were compliant at the time of inspection or following intervention.

## Harm Minimisation

The primary objective of the *Liquor Act* is to regulate the sale, provision, promotion and consumption of liquor to minimise the harm associated with its consumption in a way that takes into account the public interest in those liquor activities.

Harm minimisation strategies can include education to influence safer drinking choices, regulation of drinking environments to manage the availability and convenience of alcohol supply, and engaging stakeholders to change community tolerance of irresponsible and risky behaviours.

Key harm minimisation initiatives have continued including the establishment or support for Liquor Accords, Alcohol Management Plans and Liquor Supply Plans.

For further information, I have attached to this letter, a copy of my Annual Report for 2015/2016.

Yours sincerely



**Cindy Bravos**  
Director-General of Licensing

21 July 2017