

NORTHERN TERRITORY LIQUOR COMMISSION

REVIEW OF “TENNANT CREEK LIQUOR RESTRICTIONS”

Reasons for Decision

| | |
|-------------------------------|--|
| Decision given: | 19 November 1998 |
| Date of these reasons: | 15 January 1999 |
| Review conducted by: | Mr Peter Allen (Chairman) Mrs Jan Hardwick Mr John Withnall Mr Bruce Wyatt Mrs Mary Ridsdale |

On 19 November 1997 the Tennant Creek Town Council requested that the Commission conduct a review of the “liquor restrictions” in Tennant Creek. The request was made by way of a letter signed by the Chief Executive Officer of the Town Council.

The restrictions in place at the time of the Council’s request were finalised by the Commission in February 1996 following a series of trials and an evaluation of the trial restrictions by Dr d’Abbs of the Menzies School of Health Research.

The Restrictions are in place every Thursday. They apply to hotels and bottle-shops but not to licensed clubs.

Front bars and bottle-shops are closed. Lounge bars cannot open before 12 noon and must have food available. Third party sales via taxi drivers are prohibited.

The Commission agreed to conduct a Review and commenced the process in January 1998. The Review encompassed all licensed premises in the township of Tennant Creek and in the adjacent portion of the Barkly Region.

It is important to note that the Review was conducted in the nature of an inquiry, as distinct from a Hearing pursuant to the *Liquor Act 1978*.

The Commission held two public meetings, the first on 27 January 1998 and the second on 16 April 1998 and published open letters and advertisements in the Tennant and District Times, in order to provide the community with information regarding the purpose, timing and procedures of the review.

The Commission sought submissions to the Review by way of advertisement and letters to potentially interested parties.

102 submissions or statements were received from various organisations and members of the community. The Commission studied all submissions and statements.

Copies of all submissions and statements were widely distributed throughout the Tennant Creek community and placed in the Town Library.

The Commission obtained statistics and data, relevant to the restrictions, from the Police, health, welfare and education services.

Copies of all statistics and data received by the Commission were passed to all interested parties along with copies of the 102 submissions. A full copy of this material was made available for the evaluation referred to later in these reasons.

The public meeting held 16 April 1998 was attended by approximately 80 people, many of whom addressed the meeting.

In the period following the public meeting, held 16 April 1998, the Julalikari Council and the Anyinginyi Congress Aboriginal Corporation sought an extension to the closing date for final submissions. These organisations sought an extension in order to conduct an independent evaluation of the restrictions.

The Commission approved the extension of time sought and gave in-principle support to the conduct of an independent evaluation.

The Julalikari Council and the Anyinginyi Congress Aboriginal Corporation convened a meeting, held Tuesday 1 June. The Chairman attended the meeting at the invitation of the Congress. Members or representatives of several other organisations including the Chamber of Industries and Commerce, the Tourist Association, Police and several liquor licensees were present at the meeting and took a full part in discussions and questions directed to the Chairman of the Commission.

The Chairman advised all in attendance that the Commission's support, recognition of, or reliance on any element of the proposed evaluation was absolutely conditional on its being independent and scientific in its conduct and methodology.

Prior to the evaluation going to tender the Commission studied and was satisfied with the terms of reference.

Prior to commencement of the evaluation, Dr David Atkinson, a member of the evaluation team and a co-author of its final report, met with the Chairman who emphasised the standards to which the evaluation must be conducted in order for the Commission to rely on its findings.

The National Centre for Research into the Prevention of Drug Abuse conducted the evaluation. The Centre is located at the Curtin University of Technology. The Centre is funded by the National Drug Strategy.

The evaluation was completed in August 1998 and copies of the final report provided to the Commission.

The Commission is advised that copies of the evaluation report were made available to the community at the Town Library and the Tennant Creek Newsagency.

The Commission studied the evaluation report and is satisfied that it meets the standards demanded by the Chairman, at the meeting held 1 June, and at the Chairman's meeting with Dr David Atkinson referred to earlier in these reasons.

In order to further satisfy itself that the completed report met appropriate standards of conduct and methodology the Commission, represented by the Chairman and Members Hardwick and Wyatt met with and interviewed Associate Professor Dennis Gray, the principal author of the report.

A group titled as the "Beat the Grog" committee, which the Commission understands was active at the time the restrictions were originally implemented, initiated the conduct of the evaluation. It was a sub-committee of the Beat the Grog committee that developed the terms of reference and engaged the evaluator. The membership

of the sub-committee was agreed by those organisations in attendance at the meeting held 1 June 1998.

At the meeting held 1 June 1998, all present were advised by the Chairman, as reported earlier in these reasons, that for the Commission to rely on the results of the evaluation, it must be independent and scientific. Further to this, the meeting was advised by the Chairman that the group overseeing the evaluation must be representative of the Tennant Creek community and be acknowledged by the community as being representative of it.

The Beat the Grog sub-committee tested its representative status by placing an advertisement in the Tennant & District Times. The advertisement listed the names of proposed sub-committee members and invited the community at large to object to the membership of any of person so nominated.

The Commission is advised that no objections were received.

It was then, in the view of the Commission, a community endorsed committee, which drew up the terms of reference for the evaluation and, in effect, acted as the employer of the evaluation team.

The Beat the Grog sub-committee held a series of meetings including a meeting, held Friday 25 September 1998. The purpose of this meeting was for sub-committee members to report back with their organisations' comments on the evaluation report and in particular the recommendations contained at page 47 of that report.

The Chairman met, by invitation, with the sub-committee on Thursday 1 October 1998.

Represented at this meeting were the Police, the Chamber of Commerce, the regional Tourist Association, liquor licensees, the Julalikari Council and the Anyinginyi Congress.

At this meeting all members of the sub-committee agreed that the evaluation had been properly and independently conducted.

The members did not agree on the recommendations contained at page 47 of the report. They were unanimous in their view that the Liquor Commission should examine all the evidence before it and bring the review to a conclusion.

Prior to detailing the Commission's decisions it is appropriate to include elements of the evaluation report in these reasons. Quoted material is drawn from pages 44 to 46 of the report.

The evaluation found that although there was division of opinion among people in Tennant Creek, most of those surveyed were *in favour of the restrictions, particularly if they are seen to be effective. A majority of the population was found to be in favour of some additional restrictions.*

The evaluation concluded that *evidence indicates that the restrictions have led to a significant reduction in per capita consumption in the town. Further the evaluation found that data provided by the police, the sobering up shelter and the hospital, provide clear evidence of the reduction in the frequency of alcohol related harm on Thursdays. The evaluation notes that while some of this harm may have been re-distributed to other days, on balance the evidence is in favour of an overall reduction in harm since the restrictions have been in place.*

In response to claims that the restrictions had impacted adversely on the community, the evaluation found that there is little evidence, whether positive or negative, that relates to the economic impact of the restrictions.

The evaluation accepted that some members of the community and licensees have attempted to circumvent the restrictions. The evaluation reports *these efforts have not negated the effects of the restrictions.*

The evaluation found no evidence *to support the contention that restrictions only work for a short time.* Indeed, the evaluation submits that *there is evidence that improved policing in conjunction with the restrictions may have resulted in a further reduction in harm over the past year demonstrating how a combined approach may well be the most productive way for a community to tackle alcohol related problems.*

In its examination of the submissions to the Commission and its own interviews with key stakeholders, the evaluators found that the views expressed represented *extremes of view on the restrictions and were informative on the range of views in the community, but they are not representative of them.*

The community survey conducted as a key element of the evaluation revealed that *less than 30 percent of the population has been adversely affected by any one restriction.*

The community survey found that, *overall the majority of the population is in favour of retaining or strengthening all of the current restrictions.*

The survey found that *over half the population favoured additional restrictions, but would discourage the sale of alcohol in glass containers, limit the sale of high alcohol content drinks to one bottle per person per day; and, extend the current restrictions on Thursday take-aways to licensed premises within a 50 kilometre radius of Tennant Creek.*

The survey gave attention to the possible impact of the restrictions on the pastoral industry. The survey found that *the restrictions have had little impact on people living and working on pastoral stations in the area and that there has been no change in their alcohol purchasing patterns that would have adversely affected licensees in Tennant Creek.*

On alcohol consumption, the evaluation found, that *at the time trial restrictions were introduced, there was a reduction in the purchase of pure alcohol by licensees and there has been a steady decline since that time. An examination of relevant data indicates that the decline in alcohol purchases by licensees cannot be attributed to either a general decline in consumption in the Northern Territory as a whole, or a decline in the population of Tennant Creek.*

The evaluation found that *in the year prior to the introduction of restrictions, the mean annual per capita consumption of pure alcohol in Tennant Creek was 25 litres. In the year following the introduction, this fell to 22 litres and the following year to 20 litres. It should be noted that these figures represent the consumption of pure alcohol as distinct from the consumption of beverages containing alcohol.*

In its examination of health and welfare related data the evaluation team concluded that *Tennant Creek Hospital admissions data suggests there has been no increase, and probably a reduction in acute alcohol related harm since the restrictions were introduced.*

The evaluation found that *no strong conclusions can be drawn from the sobering up shelter figures, except that Thursday is clearly quieter than before the restrictions.*

In regard to the impact of the restrictions on public order, the evaluation found that, *overall, police figures on offences support a consistent and continuing effect of the*

restrictions in reducing criminal behaviour - at least on Thursdays - and indicate that if restrictions are coupled with sound policing they remain effective in reducing criminal behaviour.

Turning again to the economic impact of the restrictions, the evaluators found that it was not possible on the basis of the limited information available in submissions to determine what effects the restrictions have had on business activity in Tennant Creek.

The evaluators concluded, on the basis of data provided by the Tennant Creek Regional Tourist Association, that, *if there was a decline in figures due to the restrictions, (and this has not been demonstrated), this has turned around and the number of visitors increasing - although the size of the increase is difficult to ascertain.*

The evaluation report included comment on the circumvention of restrictions and noted that while there has been *some increase in purchases of fortified wine, in terms of pure alcohol, the increase represents only 14 per cent of the decline in the sale of cask wine.*

The evaluation found that although sales *by licensed clubs have helped some residents of Tennant Creek to circumvent restrictions, this has not greatly negated the effects of the restrictions.*

The recommendations arising from the evaluation appear at page 47 of the report and are as below:

1. *All existing restrictions should be retained.*
2. *Existing restrictions should be strengthened by,*
 - (A) *Discouraging the sale of alcohol in glass containers (this might be achieved by negotiation of packaging fortified wine in plastic containers and/or introduction of deposits on bottles).*
 - (B) *Limiting the sale of beverages with an alcohol content of greater than 15 percent to one bottle (one litre) per person per day.*
 - (C) *Extending the current Thursdays restrictions to licensed outlets within a 50 kilometre radius of Tennant Creek.*
 - (D) *Extending the current restrictions on take-away sales to social and sporting clubs.*
3. *The front bar restrictions should be applied to the Shaft Nightclub.*
4. *An exemption to the ban on Thursday takeaway sales should be made for bona fide tourists whose usual place of abode is outside the Barkly Region and who arrive in Tennant Creek on a Thursday or who are staying for a short period of time.*
5. *If resources permit, a Liquor Inspector should be based in Tennant Creek. Failing this we recommend that the Liquor Commission enter into negotiations with the Northern Territory Police to identify and specially train a 'liquor contact officer' (similar to those in South Australia) who could handle issues related to liquor licensing legislation.*

The Commission's decisions are based on these recommendations.

The Commission has limited its decisions to the recommendations arising from evaluation because it is satisfied that all evidence, submissions and information

obtained by the Commission was passed to and considered by the evaluation body and it is satisfied that the evaluation was independently and scientifically conducted.

In respect of recommendation 1, which suggests that the existing restrictions should be retained.

All existing restrictions shall be retained.

This decision is based principally upon the finding of the evaluation that, as referred to earlier in these reasons, the consumption of pure alcohol has decreased from 25 to 20 litres per capita. The decrease although commendable in the circumstances needs to be considered in the light of the Northern Territory average of 15 litres and the national average of 9 litres. It is the Commission's view that any action to lift the restrictions, would in all the circumstances, be rightly condemned as irresponsible.

Recommendation 2 suggests a number of means by which the restrictions might be strengthened.

Taking the sub-sections of Recommendation 2 in sequence. Part (A) recommends that the sale of alcohol in glass containers be discouraged.

The Commission notes that this recommendation is supported by all members of the Beat the Grog sub-committee.

The Commission will conduct negotiations with suppliers and licensees directed at limiting the sale of alcohol in glass containers.

Part (B) recommends a limit on the sale of beverages with an alcohol content of greater than 15 percent to one bottle (one litre) per person per day.

The Commission will not take any action in relation to this recommendation.

In the Commission's view this recommendation is impractical and difficult, if not impossible, to enforce in a town as large as Tennant Creek.

Part (C) recommends the extension of the extension of restrictions so as to include licensed outlets within a 50 kilometre radius of Tennant Creek.

The boundaries of the restrictions shall remain unchanged and will continue to apply only to premises in the township of Tennant Creek.

There is only one licence, the "Three Ways", within a 50 kilometre radius of Tennant Creek. An examination of its liquor purchase figures reveals no more than a minimal increase in sales during the restrictions. The Commission will continue to monitor the liquor purchase figures of these premises.

Part (D) of Recommendation 2 suggests that the restrictions be extended so as to include take-away sales from sporting and social clubs.

The restrictions will remain limited to those premises for which they currently apply, that is, to the hotels and bottle-shops in the town.

Sales from clubs have increased during the period of the restrictions, but not markedly. There is no data available to indicate whether the increased sales are for consumption on the premises or take-away. The Commission will attempt to collect such data in the future and will closely monitor the trend of increased sales from clubs.

Recommendation 3 suggested that those restrictions applicable to front bars should also be applied to the Shaft Nightclub.

The Commission will continue to monitor the trading practices that are applied or allowed by the licensee of the Shaft Nightclub.

A previous owner of the “Tennant Creek Hotel” modified his premises so that the nightclub opened onto the front street.

It is the view of the Commission that the word or term “front” in relation to a bar is not exclusively a matter of location but can be a descriptor of a particular manner of trade, a set of licence conditions or even a derogatory description of the premises.

Indeed, the same conditions or manner of trade or derogatory perceptions could be applied with equal effect and or relevance to a so-called “back bar”.

In the Commission’s view, the determining factors, are the licence conditions prescribed for a particular bar or premises and the manner in which the premises are conducted in relation to those conditions.

The Shaft Nightclub is required to trade in accordance with the licence conditions applicable to lounge bars as distinct from front bars. The Police and Commission Inspectors will continue to monitor trading practices in the Nightclub in accordance with their standard procedures.

Recommendation 4 suggested an exemption to the ban on Thursday takeaway sales should be made for defined categories of bona fide tourists.

The Commission will conduct negotiations with tourist operators and licensees and will if necessary amend licences so that take-away liquor may be sold in appropriately limited quantities to bona fide tourists.

Recommendation 5 suggested that subject to resources, a Liquor Inspector should be based in Tennant Creek. Failing this, it was recommended that the Liquor Commission enter into negotiations with the Northern Territory Police so as to identify and specially train a ‘liquor contact officer’ who could handle issues related to liquor licensing legislation.

The inspection of licensed premises in Tennant Creek shall be on the same basis as elsewhere throughout the Northern Territory, that is, inspections shall be regular, random and without notice.

The Commission notes that recommendation 5 was opposed by the Police representative on the sub-committee. Superintendent Moseley advised the sub-committee that visits to licensed premises are part of normal policing strategies.

The Commission also notes that the Chairman was advised by the Beat the Grog sub-committee that “the current crop of licensees”, manage their premises in a responsible manner and that the Police presently in the town are minimising the number and frequency of “street offences”.

The Commission will conduct a further review of the restrictions, commencing November 2000.

Any group able to effectively demonstrate that it represents the Tennant Creek community has liberty to request a review of all or part of the restrictions at any time prior to the expiration of the two-year period.

Peter R. Allen
Chairman of the Commission

15 January 1999