

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: DISCIPLINARY ACTION PURSUANT TO THE LIQUOR ACT

REFERENCE: LC2020/013 & LC2020/019

LICENCE NUMBER: 80901579 & 80901757

LICENSEE: Sabine Trading Co Pty Ltd

PREMISES: Douglas Street Supermarket
17 Douglas Street
PARAP NT 0820

AND

Sabine Supermarket
2 Sabine Road
MILLNER NT 0810

LEGISLATION: Sections 130, 137 and Part 6 of the *Liquor Act 2019*.

HEARD BEFORE: Ms Jodi Truman (Deputy Chairperson)
Mr Kenton Winsley (Health Member)
Ms Christine Hart (Community Member)

DATE OF HEARING: 1 & 30 June, 28 July 2020

DATE OF DECISION: 20 August 2020

Decision

With respect to the licence held for the premises known as Douglas Street Supermarket

1. For the reasons set out below, the Commission upholds the complaint and is satisfied that:
 - a. Between 9 and 15 December 2019 the licensee sold liquor to individuals on forty one (41) occasions without scanning an approved identification of the individual with the identification system scanner contrary to section 130(2)(b) of the Act.
 - b. Between 10 and 13 December 2019 the licensee sold liquor to an individual on two (2) occasions despite the identification system scanner indicating the individual was prohibited from purchasing or

consuming liquor under section 128 of the *Liquor Act 2019* (“the Act”), contrary to section 130(2)(c) of the Act.

- c. That the licensee failed to ensure that every employee whose responsibilities involve serving patrons held a responsible service of alcohol (“RSA”) certificate issued by a body accredited by the Australian Skills Quality Authority (“ASQA”) or approved by the Liquor Commission contrary to section 137(1) of the Act.
- d. That the licensee failed to keep a copy of such employee’s RSA certificate, contrary to section 137(3) of the Act.
- e. That the licensee failed to comply with the Darwin Inner City Packaged Liquor Accord to which it was a party, contrary to section 134 of the Act.
- f. Between 10 and 14 December 2019 the licensee or licensee’s employee sold or otherwise supplied liquor to another person on eight (8) occasions whilst the other person was on or in the licensed premises and was intoxicated and the licensee or licensee’s employee was reckless to that fact contrary to section 285 of the Act.

2. The Commission is satisfied disciplinary action should be taken against the licensee as follows:

- a. Suspend the condition of the liquor licence relating to Takeaway Hours for a period of 28 days commencing at 10:00am on 28 September 2020.
- b. Vary the condition of the liquor licence relating to Takeaway Hours to read as follows:

“Takeaway Hours

Liquor shall be sold only for consumption away for the premises during the following hours:

- i Monday to Friday between the hours of 12:00 and 20:00;
- ii Saturday and Public Holidays between the hours of 12:00 and 20:00;
- iii No trading on Sunday, Good Friday or Christmas Day.”

c. Impose into the liquor licence the following additional conditions:

“Special Conditions

- The licensee shall not permit the sale of:
 - more than one (1) cask of wine or
 - more than one (1) bottle of spirits of a maximum size of 750mL

to any one (1) person on any one (1) day.

- The licensee shall not be permitted to sell cask wine or spirits after 16:00 on any occasion.”

“Point of Sale and CCTV Requirement

- The licensee is to install an electronic point of sale system satisfactory to the Director of Liquor Licensing that enables a clear and accurate identification of date, time and items sold in each transaction. The system must be programmed so that food, non-alcoholic and alcoholic items may be readily identified in each transaction and a report must be able to be readily obtained in electronic format that identifies each transaction, the products, date and time. The point of sale system is to be checked daily for date and time accuracy and adjustments made accordingly, a register of these checks are to be maintained and provided to the Director of Liquor Licensing upon request.
 - The licensee is to install, maintain and operate a camera surveillance system on the licensed premises 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 14 days. The licensee must maintain a register of the CCTV including a daily log of the date and time check, as well as any use of the system by the licensee, an employee of the licensee, inspector or police officer. The system is to be protected from unauthorised use and register must be produced to the Director upon request.”
- d. Direct that the licensee take action to ensure that if Mr Lavakumar Bollineni and Mr Khaja Shaik are still employed by the licensee that they undertake Banned Drinker Register (“BDR”) training provided by officers of Licensing NT within 60 days of the date of this decision.
- e. Direct that the licensee take action to ensure that if Mr Lavakumar Bollineni and Mr Khaja Shaik are still employed by the licensee that they each complete a refresher course on the responsible service of alcohol (“RSA”) from a body approved by the Commission within 60 days of the date of this decision.

With respect to the licence held for the premises known as Sabine Supermarket

3. For the reasons set out below, the Commission upholds the complaint and is satisfied that:

- a. On 5 February 2020 the licensee sold liquor to individuals despite the identification system scanner indicating the individual was prohibited from purchasing or consuming liquor under section 128 of the *Liquor Act 2019* (“the Act”), contrary to section 130(2)(c) of the Act.
 - b. Between 27 January and 7 February 2020 the licensee sold liquor to individuals on nine (9) occasions without correctly using the identification system scanner, contrary to section 130 of the Act.
4. The Commission is satisfied disciplinary action should be taken against the licensee as follows:
- a. Suspend the condition of the liquor licence relating to Takeaway Hours for a period of two (2) days commencing at 10:00am on Friday 2 October 2020 until close of business on Saturday 3 October 2020.
 - b. Vary the condition of the liquor licence relating to Takeaway Hours to read as follows:

“Takeaway Hours

Liquor shall be sold only for consumption away for the premises during the following hours:

- i Monday to Friday between the hours of 12:00 and 22:00;
 - ii Saturday and Public Holidays between the hours of 12:00 and 22:00;
 - iii No trading on Sunday, Good Friday or Christmas Day.”
- c. Impose into the liquor licence the following additional conditions:

“Special Conditions

- The licensee shall not permit the sale of:
 - more than one (1) cask wine or
 - more than one (1) bottle of spirits of a maximum size of 750mLto any one (1) person on any one (1) day.
- The licensee shall not be permitted to sell cask wine or spirits after the hours of 16:00 on any occasion.”

Point of Sale and CCTV Requirement

- The licensee is to install an electronic point of sale system satisfactory to the Director of Liquor Licensing that enables a clear and accurate identification of date, time and items sold in each transaction. The system must be programmed so that food, non-alcoholic and alcoholic items may be readily

identified in each transaction and a report must be able to be readily obtained in electronic format that identifies each transaction, the products, date and time. The point of sale system is to be checked daily for date and time accuracy and adjustments made accordingly, a register of these checks are to be maintained and provided to the Director of Liquor Licensing upon request.

- The licensee is to install, maintain and operate a camera surveillance system on the licensed premises 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 14 days. The licensee must maintain a register of the CCTV including a daily log of the date and time check, as well as any use of the system by the licensee, an employee of the licensee, inspector or police officer. The system is to be protected from unauthorised use and register must be produced to the Director upon request.
- d. Direct that the licensee take action to ensure that if any of the employees seen in the CCTV footage the subject of this complaint are still employed by the licensee that they undertake Banned Drinker Register (“BDR”) training provided by officers of Licensing NT within 60 days of the date of this decision.

Reasons

Background

5. Sabine Trading Co Pty Ltd (“the licensee”) holds the liquor licence for the following premises known as:
- a. Douglas Street Supermarket (“the Douglas Street premises”), situated at 17 Douglas Street, Parap NT 0820. The licence was issued on 11 May 2015 and the current Nominees are Leo Paris (“Mr Paris”) and Mr Lavakumar Bollineni (“Mr Bollineni”).
 - b. Sabine Supermarket (“the Sabine Road premises”), situated at 2 Sabine Road, Millner NT 0810. The licence was issued on 14 August 2013 and the current Nominee is Leo Paris (“Mr Paris”).
6. On 1 September 2017 the Northern Territory government established the current Banned Drinkers Register (“BDR”), a scheme the purpose of which is to prevent persons identified as harmful drinkers from purchasing liquor. At the time of its establishment, the scheme was supported by s31A of the *Liquor Act 1978* (“the 1978 Act”), which inserted into Northern Territory takeaway

liquor licences a condition providing that licensees and their employees must not sell takeaway liquor without scanning a customer's photographic identification.

7. The scanning device provided under the identification system is linked to the BDR. If a customer is on the BDR, the seller is alerted and must refuse the sale. As the Commission has previously stated:

“The Commission notes the importance of the BDR provisions under the Act. As has been publically noted many times, there is a significant body of evidence that supports supply reduction measures such as the Banned Drinker Register. Studies have shown there are benefits in banning persons from being able to purchase alcohol including increased venue safety, general risk management, and deterrence of antisocial behaviour. There is also a considerable body of research that shows a strong correlation between alcohol availability and crime, anti-social behaviour and family violence. Reducing access to liquor has demonstrated corresponding reductions in these areas. These provisions form part of the Government's policies towards making communities safer”¹.

8. A dual benefit of the scanning of identification is that the system also identifies persons who are under 18 years of age and who are therefore prohibited from purchasing liquor.
9. On 1 October 2019 the *Liquor Act 2019* (“the Act”) commenced operation. The Act continues the BDR scheme and is supported by Division 1 of Part 6 of the Act and in particular section 128.
10. Part 6 of the Act relates to Harm Minimisation caused by the consumption of liquor. In addition to providing for the patron identification scheme under Division 1, it also provides for responsible drinking under Division 3. Within Division 3 provision is made to prohibit any action by a licensee that would induce the irresponsible or excessive consumption of liquor on or in licensed premises. Included within this Division is the requirement that every employee who has responsibilities that involve serving patrons or supervising the serving of patrons holds a responsible service of alcohol (“RSA”) certificate. This is a requirement that **all** licensees must comply with.

Allegations concerning Douglas Street premises

11. Facts admitted by the licensee before the Commission were that on 16 December 2019, Licensing NT had requested till tapes and CCTV footage from the Douglas Street premises. On 6 January 2020, Licensing NT received data for the period 9 and 14 December 2019 (inclusive).
12. This footage was then analysed by Ms Melissa Russell (“Ms Russell”), BDR Compliance Support Officer within Licensing NT, who gave evidence that from the footage supplied she formed the belief that certain breaches of the Act had occurred.

¹ Northern Territory Liquor Commission *Disciplinary action pursuant to the Liquor Act: Halikos Hospitality Pty Ltd* (LC2018/054, 2 July 2018) at [37]

13. Ms Russell also gave evidence that during a visit to the Douglas Street premises with Senior Compliance Officer David Neall (“SCO Neall”) on 17 January 2020; a request was made of the cashier on duty that day, namely Khaja Shaik (“Mr Shaik”) to provide a copy of his RSA certificate. It was an admitted fact before the Commission that Mr Shaik did not have an RSA certificate.
14. As a result, Ms Russell subsequently lodged a complaint with the Director and on 3 February 2020, in accordance with section 162(1) of the Act, a Delegate of the Director of Liquor Licensing notified the licensee that a complaint had been received in relation to possible breaches of sections 130 and 137 of the Act. The substance of the complaint was particularised.

Allegations concerning Sabine Road premises

15. Facts admitted by the licensee before the Commission were that on 31 January 2020, Licensing NT had requested till tapes and CCTV footage from the Sabine Road premises. On 18 February 2020, Licensing NT received data for the period 27 January 2020 to 7 February 2020 (inclusive).
16. This footage was then analysed by Ms Russell who gave evidence that from the footage supplied she formed the belief that certain breaches of the Act had occurred.
17. As a result Ms Russell subsequently lodged a complaint with the Director and on 20 March 2020, and in accordance with section 162(1) of the Act, a Delegate of the Director of Liquor Licensing notified the licensee that a complaint had been received in relation to possible breaches of sections 130 of the Act. The substance of the complaint was particularised.

Both premises

18. Having accepted the complaint and the investigation commencing, upon completion of the investigation the Director was empowered under section 163(1) of the Act to do any of the following:
 - a. take no further action (if satisfied of certain matters);
 - b. give the licensee a formal warning;
 - c. mediate the complaint
 - d. issue an infringement notice;
 - e. enter into an enforceable undertaking; or
 - f. refer the complaint to the Commission.
19. On 17 March 2020, the complaint in relation to the Douglas Street premises was referred to the Commission for disciplinary action to be taken against the licensee. On 21 April 2020, the complaint in relation to the Sabine Road premises was referred to the Commission for disciplinary action to be taken against the licensee.

20. Pursuant to section 166 of the Act, upon receipt of such a referral, the Commission must conduct a hearing and decide whether to take disciplinary action against the licensee. Upon completion of the hearing the Commission must dismiss the complaint or take disciplinary action against the licensee. Pursuant to section 165, the Commission may take disciplinary action against the licensee only if the Commission is satisfied:
 - a. a ground for disciplinary action exists; and
 - b. the disciplinary action is appropriate in relation to that ground.

Public Hearing

21. In understanding these reasons, it is important that it be kept in mind that this is not a **prosecution** of a breach of the Act. These are proceedings brought under Part 7 of the Act with respect to regulatory compliance for licences.
22. At the hearing, the Director of Liquor Licensing (“the Director” as the position is now known) appeared via his representative, namely Mr Michael McCarthy. The licensee initially appeared via counsel, Mr Pat McIntyre, on instructions of Mr Peter McQueen. Mr Tom Berkley of counsel subsequently appeared on behalf of the licensees. Both Mr Paris and Mr Bollineni were present at the hearing.
23. The Commission had determined to exercise its power under section 166 of the Act to hear the two (2) complaints against the licensee jointly at the same time given they related to the same licensee, although two (2) different premises. No objection was taken to this course.
24. In terms of the hearing of the complaints; the hearing was initially scheduled to take place on 25 May 2020. On 22 May 2020, a request was made by the licensee for an adjournment. Only one (1) week was sought. The application was granted and the matter adjourned to 1 June 2020. On 27 May 2020 the licensee instructed his solicitor. On 27 May 2020, further documents were provided on behalf of the Director to the licensee. These documents related to information provided by the police and were significant. As a result, on 1 June 2020 the licensee appeared with their counsel and solicitor and sought an adjournment.
25. That application was granted and the Commission adjourned the hearing to 10.00am on 30 June 2020. On that date, counsel for the licensee informed the Commission that the following breaches were admitted:

In relation to the Douglas Street premises:

- a. That the licensee failed to ensure that every employee whose responsibilities involve serving patrons held a responsible service of alcohol (“RSA”) certificate issued by a body accredited by the Australian Skills Quality Authority (“ASQA”) or approved by the Liquor Commission contrary to section 137(1) of the Act.

- b. That the licensee failed to keep a copy of such employee's RSA certificate, contrary to section 137(3) of the Act.

In relation to the Sabine Road premises:

- a. On 5 February 2020 the licensee sold liquor to individuals despite the identification system scanner indicating the individual was prohibited from purchasing or consuming liquor under section 128 of the *Liquor Act 2019* ("the Act"), contrary to section 130(2)(c) of the Act.
 - b. Between 27 January and 7 February 2020 the licensee sold liquor to individuals on nine (9) occasions without correctly using the identification system scanner, contrary to section 130 of the Act.
26. Such admissions meant that the breaches that were outstanding for the Commission to determine were as follows:

In relation to the Douglas Street premises:

- a. Breaches of section 130(2)(b) of the Act in relation to the sale of liquor to individuals without scanning an approved identification of the individual with the identification system scanner.
- b. Breaches of section 130(2)(c) of the Act in relation to the sale of liquor to individuals despite the identification system scanner indicating the individual was prohibited from purchasing or consuming liquor under section 128 of the Act.

In relation to the Sabine Road premises:

- a. One (1) occasion on 1 February 2020 of selling liquor to an individual despite the identification system scanner indicating the individual was prohibited from purchasing or consuming liquor under section 128 of the Act, contrary to section 130(2)(c) of the Act.
27. At the commencement of the hearing, counsel for the Director informed the Commission that after considering the CCTV footage from the Douglas Street premises, it was submitted that the Commission could find the following:
- a. In addition to the thirty two (32) breaches identified in the complaint; a further ten (10) occasions could be found between 9 and 15 December 2019 where the licensee sold liquor to individuals without scanning an approved identification of the individual with the identification system scanner contrary to section 130(2)(b) of the Act. Therefore a total of 42 breaches of that section.
 - b. In addition to the single occasion identified in the complaint; a further occasion on 13 December 2019 could be found where the licensee sold liquor to an individual after the identification system scanner indicated the individual was prohibited from purchasing or consuming liquor under section 128(1) of the Act, contrary to section 130(2)(c) of the Act. Therefore a total of two (2) breaches of that section.

28. Prior to the commencement of the evidence, counsel for the licensee applied for a further adjournment on the basis that it sought transcript of the electronically recorded conversations held with the licensee. Submissions were heard and counsel for the Director informed the Commission that the Director would not rely upon the recorded conversations if it meant that the hearing could proceed as scheduled. As a result, the recorded conversations do not form part of the evidence before the Commission.
29. Counsel for the licensee then also argued that the CCTV footage received in relation to the Douglas Street premises should not be allowed into evidence on the basis that it had been obtained under what was alleged to be “unfair, misleading and deceptive” conduct on behalf of the Director. Counsel argued that the request for footage in relation to the Douglas Street premises had been made in accordance with section 156 of the Act and that the request had included the following statement:

“Please Note – You are not considered to have breached any condition of your licence or the *Liquor Act*. The footage and till tapes are required as part of an ongoing compliance audit and review program into the Banned Drinker Register (BDR) and identification scanning system.”
30. Counsel for the licensee argued that this request should be contrasted with the request for footage made in relation to the Sabine Road premises under section 109 of the Act.
31. In relation to the question of the admissibility of the CCTV footage, counsel for the Director stated that evidence would be led that at the time of making the request for the CCTV footage from the Douglas Street premises, Licensing NT was indeed undertaking “an ongoing compliance audit and review program into the Banned Drinker Register (“BDR”) and identification (“ID”) scanning system” and therefore request was made under section 156 of the Act. Counsel stated that in fact a number of premises, including Douglas Street, received a request at that time. Counsel stated that he anticipated evidence would be provided that as a result of the footage subsequently provided it was then, and only then, that the breaches were discovered and a complaint made.
32. As a result, the Commission determined to hear the evidence, in particular of Ms Russell, and to make an assessment of the usage of the CCTV footage thereafter.
33. On this basis the hearing commenced on 30 June 2020. The evidence was unable to be completed on that date and the matter was adjourned to 28 July for the completion of evidence and submissions. On that date Mr Berkley appeared for the first time as counsel for the licensee. Various applications were made including for an adjournment and recusal of all members of the panel of the Commission. Those various applications were dealt with on an ex tempore basis and the matter proceeded on that date and the evidence completed.

The evidence:

Senior Constable Stephen Jones

34. Senior Constable Stephen Jones (“S/C Jones”) provided evidence via two (2) statutory declarations and in person before the Commission. He was made available for cross examination by counsel for the licensee. S/C Jones gave his evidence slightly out of the usual order for the giving of evidence. This was because S/C Jones was about to be transferred out of Darwin and it would be difficult to arrange for his evidence to be given on another date.
35. This was opposed by counsel for the licensee however the Commission determined that given it had been indicated on behalf of the Director that such evidence was solely for the purpose of penalty (which would have to be considered given the admissions made by the licensee to some of the offending) that the evidence could be given and would be considered by the Commission solely as to the question of penalty at the appropriate time.
36. Upon the changing of counsel for the licensee and when the hearing resumed on 28 July 2020, it was argued on behalf of the licensee that the Commission should recuse itself from further hearing the matter on the basis that the Commission had miscarried in permitting such evidence to be given so early in the proceedings and that this led to an apprehension of bias and a “tendency to prejudice the Commission” and persuade the Commission to “look for the dark side”.
37. The Commission gave ex tempore reasons for its decision to dismiss the application for it to recuse itself on 28 July 2020 and reiterated the clear understanding and ability of all members of the Commission to hear and receive such evidence solely for the purpose of subsequently determining penalty.
38. S/C Jones gave evidence that he has been a member of the NT Police Alcohol Policing Unit (“APU”) since October 2018. The APU carries out both proactive and reactive operations with respect to policing of premises and combatting secondary supply of liquor. S/C Jones gave evidence of his experience with both premises having attended personally at each location and also having received intelligence from other police officers with respect to both premises.
39. In particular S/C Jones gave evidence that as an experienced police officer within the APU; it was his opinion that both premises were classed as “hot spots”. He had seen and been involved in surveillance of both premises and noted that with respect to the Douglas Street premises people were frequently seen “intoxicated” and “milling around” the premises. In relation to the Sabine Road premises this too was a “hot spot” and he had been involved in occasions where he had seen mini buses and taxis “lined up” at 10:00am for the drive through to open. He had subsequently seen those mini buses and taxis then drive to communities with the liquor purchased shortly thereafter.
40. S/C Jones did note during the course of his evidence that in the last 6 months he had not seen any specific intelligence relating to the Douglas Street

premises. The Commission shall return to this evidence in relation to the question of penalty.

Ms Melissa Russell - BDR Compliance Support Officer

41. As earlier noted, Ms Russell is a BDR Compliance Support Officer within Licensing NT. Save for the matters excluded, Ms Russell gave evidence via her statutory declarations and the material contained on the hearing briefs which were prepared by her. She was made available for cross examination. Ms Russell's evidence was clear that the initial action taken with respect to the Douglas Street premises was on the basis of a request by police to consider the premises and as a result of an audit which included a number of premises; not just Douglas Street. It was on this basis that she requested material from Douglas Street under section 156 of the Act, rather than section 109 as used with respect to the Sabine Road premises.
42. Ms Russell stated that when the request was made under section 156 it was not, at that stage, considered that there had been any breaches by the licensee at the Douglas Street premises and that it was only upon review of that footage that a request was made under section 109 of the Act for further footage to be provided.
43. There was no impact upon this evidence as a result of cross examination. The Commission accepts the evidence given by Ms Russell in this regard and finds that the action taken was an appropriate exercise of the power available under section 156. The Commission notes that there was some suggestion made by counsel for the licensee that section 156 did not allow a request for footage to be made by way of correspondence and that it in fact required the request to be made during "an inspection".
44. The Commission considered this submission and notes that whilst the Act defines "inspector", it does not define "inspection". The Commission notes the Oxford English Dictionary defines "inspection" as "careful examination or scrutiny". The Commission accepts the evidence of Ms Russell that at the time of the request under section 156; the Douglas Street premises were part of a number of premises subject to "careful examination or scrutiny" by way of an audit.
45. Further, the Commission does not consider it reasonable, either to the relevant inspector and/or relevant licensee that each and every request made under section 156 be done by way of an inspector attending at the premises unannounced and demanding the relevant material. It is clear that the section provides for such a scenario where necessary; however the Commission does not consider the section to be limited to **only** such a scenario.
46. For these reasons the Commission considers the footage relating to the Douglas Street premises to have been appropriately obtained on behalf of the Director and therefore admissible.
47. Should the Commission be in error in this regard, during the course of the hearing the Commission noted that section 314 of the Act provides as follows:

314 Request for information

- (1) For the purpose of performing functions or exercising powers under this Act, the Commission or the Director may:
 - (a) make any inquiries or conduct an investigations the Commission or Director considers necessary; and
 - (b) by written notice, request a person to give specified information or documents to the Commission or Director within a reasonable time specified in the notice.

48. The Commission indicated to counsel for the licensee that section 314 appears to provide the Commission with wide powers in terms of performing its functions and exercising its powers. The Commission indicated it was the Commission's preliminary view that if the licensee continued to object to the admission into evidence of the footage obtained on behalf of the Director under section 156 then; based on the evidence heard from Ms Russell in relation to the licensee's conduct at Sabine Road premises and the concerns expressed in relation to the allowance of an employee at the Douglas Street premises who was not properly certified, the Commission may be minded to adjourn the matter part heard and provide a written notice to the licensee requesting it give to the Commission the footage for the same period specified in relation to the Sabine Road premises, namely 1 July to 31 December 2019.
49. The Commission also noted that alternatively it appeared that pursuant to section 23(2)(b) the Commission could in conducting the hearing require the licensee to provide copies of the relevant CCTV footage to the Director and therefore may be minded to give such a direction based on the evidence already before it.
50. Upon this indication being made, counsel for the licensee indicated it no longer took objection to the admission of the footage and the hearing proceeded with such footage admitted as part of the evidence.
51. In relation to the Sabine Road premises, Ms Russell also gave evidence that on 2 April 2020 she received an email from the current Nominee Mr Paris, which stated as follows:

"Thanks for the letter and the Footage of Complaint.

I was hoping that the complaint was baseless but unfortunately I have to accept that those mistakes as you showed are true.

I have shown to all staffs concerned and there are explanations and excuses and I use the footage as training cases and I do hope that our people will not make mistakes in the future".

52. This email formed part of the evidence before the Commission. Despite the email seemingly admitting each of the eleven (11) breaches alleged on the complaint with respect to the Sabine Road premises, when the hearing commenced, counsel for the licensee stated that only one (1) instance of the prohibited sales alleged was admitted and as a result a hearing was required

in relation to the other breach alleged against section 130(2)(c) of the Act by selling liquor to an individual after the system indicated the individual is prohibited under section 128 of the Act.

53. Counsel for the licensee did however formally admit the nine (9) failures to scan breaches which had also previously been admitted by the licensee in the email dated 2 April 2020.
54. In relation to these nine (9) occasions identified as failing to comply with section 130, it was admitted before the Commission that the transactions can be broken down into the following categories:
 - a. Two (2) instances where staff did not ask for identification and did not scan ("Not Scanned"). These were all through the drive through bottle shop section of the Sabine Road premises.
 - b. Six (6) instances where staff scanned the identification however did not press the "Check BDR" button. Therefore not sending details through to the BDR database to check if individual was listed on the BDR ("Scanned – not sent through to the BDR"). Five (5) of these transactions were via the drive through bottle shop section of the Sabine Road premises, the other was via the supermarket section of the Sabine Road premises.
 - c. One (1) instance where an underage red screen has shown, with staff taking no action to amend the screen and selling the alcohol despite the red screen ("Scanned – Underage Screen"). It was admitted that this was in fact a miss-scan requiring a rescan of the identification to occur, however this was not done therefore resulting in a failure to scan in breach of section 130(2)(b) of the Act rather than sale to an underage person. This occurred via the supermarket section of the Sabine Road Premises

Further breaches

55. During the course of the evidence whilst considering the CCTV footage of the Douglas Street premises; the Commission noted that it appeared that a number of the persons depicted in the footage may have been intoxicated. Noting the power under section 166(4) of the Act that the Commission may hear a matter not referred to it but which arises from a matter that was referred to it, the Commission requested that counsel for the Director provide assistance and identify those transactions which appeared to involve a sale or supply to an intoxicated person.
56. Following this request, the Commission received particulars on behalf of the Director particularising the following five (5) transactions at the Douglas Street premises as involving the sale or supply of liquor to a person who is intoxicated:
 - a. Transaction 33 on 11 December 2019 at 1.33pm involving the sale or supply of liquor in the amount of 1 x 2L Renmano Chardonnay

(approximately 21 standard drinks) where Customer B appears to be affected by alcohol;

- b. Transaction 17 on 11 December 2019 at 7.27pm involving the sale or supply of liquor in the amount of 3 x 2L Renmano Chardonnay (approximately 63 standard drinks) where Customer B appears to be affected by alcohol;
- c. Transaction 8 on 13 December 2019 at 4.22pm involving the sale or supply of liquor in the amount of 2 x 2L Renmano Chardonnay and 6 x VB cans (approximately 50 standard drinks) where Customer B appears to be affected by alcohol;
- d. Transaction 9 on 13 December 2019 at 7.00pm involving the sale or supply of liquor in the amount of 2 x 2L Renmano Chardonnay and 6 x VB cans (approximately 50 standard drinks) where Customer A appears to be affected by alcohol;
- e. Transaction 22 on 14 December 2019 at 2.45pm involving the sale or supply of liquor in the amount of 2 x 2L Renmano Chardonnay and 1 x 700ML VB longneck stubby (approximately 45 standard drinks) where Customer A appears to be affected by alcohol.

57. In this regard, the Commission notes that section 285 of the Act relevantly provides as follows:

285 Prohibition of liquor to intoxicated person

- (1) A person commits an offence if:
 - (a) the person is a licensee or a licensee's employee; and
 - (b) the person intentionally sells or otherwise supplies liquor to another person; and
 - (c) the other person is on or in the licensed premises and is intoxicated, and the person is reckless in relation to those circumstances.

Maximum penalty: 200 penalty units.

58. The Commission also notes that as part of the particulars provided, counsel for the Director also referred to section 138 of the Act, which relevantly provides as follows:

138 Duty to refuse service

A licensee and the licensee's employees must refuse to serve liquor to a person if the licensee or employee believes on reasonable grounds that the person:

- (a) is intoxicated; or
- (b) is registered on the banned drinkers register.

59. Counsel for the Director submitted that section 138 of the Act was the more appropriate section to consider as it referred to the banned drinkers register and therefore more akin to a licensed premises such as Douglas Street, whereas section 285 referred to “on or in licensed premises” and was therefore more akin to a bar.
60. Although initially stating that no submissions were sought to be made on behalf of the licensee on this point, Mr Berkley eventually submitted to the Commission that section 285 was the more relevant section given that section 138 referred to “serve” which was more akin to a bar.
61. In relation to the question of the relevant section to consider, the Commission notes the reference to “serve” in section 138 versus the reference to “sell or otherwise supply” in section 285 of the Act. “Serve” is not defined under the Act, however the Commission notes its ordinary meaning in the context of food or drink is to “present” to someone. That is not what is occurring here. Section 285 of the Act however considers “sell or otherwise supply”. Whilst the Commission will consider these terms further in these reasons, for present purposes the Commission considers that the conduct described in section 285 is a more appropriate description of the conduct depicted in these transactions and therefore finds that section 285 of the Act *on this occasion* to be relevant for the Commission’s consideration.
62. The Commission also received evidence that the Douglas Street premises are a member of the Darwin Inner City Packaged Liquor Accord (“the Accord”). The Accord was approved on 30 September 2016 and is one of a number of existing accords that are voluntary agreements covering the management or conduct of local businesses that supply alcohol. The Accord clearly contains the name and signature of Mr Bollineni who is one of the nominees for Douglas Street and who was present at the hearing.
63. Noting again the power under section 166(4) of the Act to hear a matter not referred to the Commission but which arises from a matter that was referred to it, the Commission requested that counsel address why the Commission should not also consider whether to take disciplinary action against the licensee of Douglas Street for failing to comply with the Accord contrary to section 134 of the Act.
64. In this regard, Counsel for the Director agreed that the Commission could hear such a matter. With respect to the licensee; submissions were made, although no evidence provided, to the effect that the licensee had failed to comply with the Accord because it thought the Accord simply “no longer applied”. The Commission will return to this issue later in these reasons.

Consideration of the evidence and the submissions made on behalf of the Director and the licensee:

65. In terms of the breaches not admitted by the licensee; as stated on behalf of the Director, “this case rises and falls on the CCTV footage”. The Commission has therefore carefully reviewed the CCTV footage. The Commission is well aware of the need for great care to be taken and to not assume too much from what can be seen on CCTV footage and of ensuring that the Commission

properly excludes all other “reasonable” explanations for what can be seen on the footage before coming to a conclusion.

66. On behalf of the Director, a table was prepared setting out what transactions were relied upon as forming the relevant breaches of the Act. That table set out the original transaction number, the date and time of its occurrence, together with the Director’s description of what could be seen and which section of the Act the Director was alleging was breached as a result of that transaction. Although it also included a description of the “evidence relied upon”, it is clear from the manner in which the case was presented on behalf of the Director that the breaches alleged relied significantly on the footage.
67. The Commission notes that the descriptions given by the Director were an aide only, however the table itself was helpful in identifying those transactions to which its attention should be focussed upon. As a result that table was tendered into evidence. It is important to note that the description also includes a notation of how many standard drinks were sold during each transaction.
68. At no time was that description of the number of drinks sold disputed on behalf of the licensee. In fact during the course of the evidence Mr Bollineni gave responses in the hearing room confirming various amounts alleged. The description of the number of standard drinks sold in each transaction is therefore accepted by the Commission.
69. In considering the evidence contained in the CCTV footage, the Commission has prepared its own table of what the Commission has determined can be seen from the footage and notes as follows:

Douglas Street CCTV footage

Original #	Date	Time	Description of incident	Breaches of the Liquor Act 2019 (NT)
24.	9/12/2019	10:10	<p>Customer A (male, grey shirt) places cash and ID on the counter. Licensee’s employee looks closely at the cash and then directs Customer A to the rear of the store. ID of A scanned and BDR returns a green screen.</p> <p>Customer B (male, maroon shirt) approaches counter and places a cask of wine on the counter.</p> <p>Customer A follows and places two casks of wine on the counter. Therefore 3 casks in total. Customer A and B stand together at counter.</p> <p>Customer B provides additional money for a bottle of water.</p> <p>Licensee’s employee completes transaction. Customer B takes change and leaves with one cask. Customer A departs with two casks. Customer A and B depart together.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 1).</p>

			<i>Alcohol purchased: 3 x 2L Renmano Chardonnay (approximately 63 standard drinks)</i>	
15.	9/12/2019	10:14	<p>Customer A (female, white shirt) places cask of wine on counter.</p> <p>Licensee's employee brings bottle of rum to the counter.</p> <p>Customer B (male, NYC singlet) pays with cash and provides ID. ID scanned and BDR returns green result. Customer A and B stand together at counter.</p> <p>Customer A places alcohol in bag and departs. Both customers depart together.</p> <p><i>Alcohol purchased: 2L Renmano Chardonnay; Bundaberg Rum 700ml (approximately 62 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 2).</p>
7.	9/12/2019	10:17	<p>Licensee's employee is seen already holding a bottle of rum at the counter.</p> <p>A Licence is already in the BDR scanner.</p> <p>Customer A (female, grey shirt) approaches with 3 casks of wine and Customer B (female, blue shirt with stripes) approaches with 2 casks of wine.</p> <p>Licensee's employee hands identification to Customer B after the BDR has returned a green screen.</p> <p>Customer A leaves counter and returns with a bottle of coke then departs and collects a further cask of wine.</p> <p>Customer B pays with cash for all of the alcohol.</p> <p>Customer B provides Customer A with 2 casks of wine, a bottle of rum and a bottle of coke and Customer A departs.</p> <p>Customer B then departs with 4 casks of wine and the change.</p> <p><i>Alcohol purchased: 6 x 2L Renmano Chardonnay; Bundaberg Rum 700ml (approximately 146 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 3).</p>
32.	9/12/2019	13:06	<p>Licensee's employee is seen at the counter already holding a bottle of rum.</p> <p>Customer A (female, blue shirt) approaches counter with a cask of wine.</p> <p>Customer A provides ID to licensee's employee. ID is scanned and the BDR returns a green screen.</p> <p>Customer B (male, grey shirt) approaches and provides cash to Customer A.</p> <p>Customer A provides cash to licensee's employee. Customer C (male, grey and black shirt) approaches with some grocery items and adds them to the counter.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 4).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p>

			<p>Customer A receives change and provides the cask of wine to Customer B, who then departs with the cask wine.</p> <p>Customer A removes the rum from the counter however Customer C takes the rum from Customer A and then Customer A and C depart together with C carrying the bottle of rum.</p> <p><i>Alcohol purchased: 1 x 2L Renmano Chardonnay; Bundaberg Rum 1L (approximately 50 standard drinks)</i></p>	<p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 5).</p>
3.	10/12/2019	10:31	<p>Customer A (female, blue shirt) receives card from Customer B (female, grey shirt).</p> <p>Customer A then approaches counter with card and provides ID to licensee's employee. ID is scanned and the BDR returns a green screen. Both Customer A and B wait at the counter.</p> <p>Customer C (female, black shirt) approaches with 2 casks of wine.</p> <p>Customer A then uses the card received from Customer B and pays for the casks. Appears to be some communication between A and B about the use of the card, however not able to establish what is said.</p> <p>The transaction is successful and Customer B holds her hand out for Customer A to return the card to her. Card is returned to Customer B.</p> <p>Customer B takes cash from Customer C by removing it from her hand.</p> <p>All leave together, with Customer C holding the two casks of wine.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay (approximately 42 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 6).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 7).</p>
16.	10/12/2019	10:34	<p>Customer A (male, dark blue singlet) places carton of VB on counter and provides ID to licensee's employee. ID is scanned and the BDR returns a green screen.</p> <p>Customer B (male, blue shirt) provides Customer A with a card and places cask of wine on counter.</p> <p>Customer A pays with the card provided by Customer B. Customer A then leaves the counter whilst Customer B removes the alcohol from the counter and can be seen placing the inner sack of wine into his backpack.</p> <p>Licensee's employee is then seen to return to the counter with a bottle of rum. Customer A brings a bottle of cokes to the counter and provides his ID and the card for</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 8).</p>

			<p>payment. The licensee's employee scans the ID.</p> <p>Customer A takes the rum and coke from the counter and leaves after speaking to Customer B. Customer B is then seen back on screen and appears to have de-boxed the VB and is still holding one 6 pack in his hand. Customer B provides the de-boxed VB carton and wine cask to the licensee's employee before departing.</p> <p>Customer B follows Customer A from the store.</p> <p><i>Alcohol purchased: 24 x VB cans; 2L Renmano Chardonnay; Bundaberg Rum 700ml (approximately 77 standard drinks)</i></p>	
11.	10/12/2019	12:15	<p>Customer A (female, dark blue shirt) places 3 casks of wine on counter. Customer C (male, black shirt) approaches the counter with her.</p> <p>Customer B (female, light blue singlet) approaches and places a can of drink on the counter.</p> <p>Customer B provides ID to licensee's employee. ID is scanned and the BDR returns a green screen.</p> <p>Customer B pays with cash.</p> <p>Customer A picks the 3 wine casks off the counter and passes them to Customer C. Customer C leaves the store with the 3 wine casks.</p> <p>Customer B leaves with the can of drink.</p> <p>Customer A and C depart slightly before Customer B.</p> <p><i>Alcohol purchased: 3 x 2L Renmano Chardonnay (approximately 63 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 9).</p>
1.	10/12/2019	15:07	<p>Customer A (female, black shirt) approached counter with a 2L cask of wine.</p> <p>Customer A provides ID to licensee's employee. ID is scanned and the BDR returns red screen meaning Customer A is prohibited. Licensee's employee refuses the sale and Customer A departs the store.</p> <p>Approximately two minutes later, the footage commences again with the licensee's employee seen standing at the counter with a cask of wine and bottle of rum already on the counter.</p> <p>Customer B (female, orange shirt) approaches counter with 10 pack of Jim Beam with previous Customer A next to her.</p> <p>Customer B puts 10 pack Jim Beam cans on counter and provides her ID to the</p>	<p>Section 130(2)(c) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A who had been identified as prohibited.</p> <p>(Prohibited Sale Breach 1).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p>

			<p>licensee's employee. ID is scanned and the BDR returns a green screen.</p> <p>Customer C (female, blue and black shirt) approaches and places bottle of coke on the counter. Customer C then departs screen and returns with a cask of wine and a 6 pack of cider and places it on the counter.</p> <p>Customer B pays the licensee's employee with cash. There is a discussion with the licensee's employee. Customer A then provides cash to Customer B; all in the presence of the licensee's employee.</p> <p>Customer A then leaves screen and returns with a cask of wine. That cask is then processed and Customer A then takes that cask of Renmano Chardonnay and departs the store with the chardonnay under her arm.</p> <p>Customer B takes remainder of alcohol and customers depart together.</p> <p><i>Alcohol purchased: Bundaberg Rum 700ml; 3 x 2L Renmano Chardonnay; Jim Beam x 10; 6 x Cider (approximately 105 standard drinks)</i></p>	<p>(Failure to Scan Breach 10).</p>
10.	10/12/2019	17:07	<p>Customer A (female, blue singlet) places 3 cans of rum on the counter.</p> <p>Customer B (female, grey shirt) approaches and places a pie on the counter.</p> <p>Customers C (male, dark shirt & hat) and D (male, AIG blue shirt) approach.</p> <p>Customer C places a cask of wine on the counter.</p> <p>Customer C provides ID to licensee's employee. ID is scanned and the BDR returns a green screen.</p> <p>Customer C pays for all items on card.</p> <p>After payment made on card, Customer D takes card from Customer C.</p> <p>Customer A departs with 2 cans of rum.</p> <p>Customer D departs with 1 can of rum and the cask of wine.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 3 x can Bundaberg Rum and Cola; 1 x 2L Renmano Chardonnay (approximately 25 standard drinks)</i></p> <p>On this occasion Customer D appears to be affected by alcohol during this sale. Such indications will be outlined later in these reasons.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 11).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer D whose ID was not scanned.</p> <p>(Failure to Scan Breach 12)</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer D who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 1).</p>

13.	11/12/2019	10:06	<p>Customer A (female, black and white shirt) approaches with a bottle of water.</p> <p>Customer B (male, black and white shirt) comes from the entrance and is seen to speak to the licensee's employee.</p> <p>Customer C (male, grey singlet) approaches and places 2 casks of wine on the counter and then leaves screen.</p> <p>Customer A provides ID to licensee's employee. ID is scanned and the BDR returns a green screen.</p> <p>Customer C returns with a 3rd cask of wine.</p> <p>Customer A pays for all alcohol in cash.</p> <p>Customer C leaves the store with all three casks of wine.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 3 x 2L Renmano Chardonnay (approximately 63 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 13).</p>
25.	11/12/2019	10:22	<p>Customer A (female, camouflage shirt) places cask of wine on counter.</p> <p>Customer B (female, orange shirt) places a cask of wine on counter.</p> <p>Customer A adds two bottles of water to the counter and orders a packet of cigarettes.</p> <p>Customer B provides ID to licensee's employee. Licensee's employee enters card manually. BDR returns a green screen.</p> <p>Customer B pays in cash taken from her pocket.</p> <p>Customer A departs with two casks of wine and a bottle of water.</p> <p>Customer B takes change and departs with water.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay (approximately 42 standard drinks)</i></p> <p><i>It is noted that Customer B (female, orange shirt) attends the store on this occasion and later that same day at 1:33pm (Incident 33). Both times she pays for alcohol and has ID scanned.</i></p> <p><i>Customer A (female, camouflage shirt) attends the store on this occasion and again later that same day at 3.56pm and again at 11:36am the following day on 12 December 2019. She does not have ID scanned any time.</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 14).</p>

29.	11/12/2019	10:36	<p>Customer A (male, grey shirt) places ID on counter. There are 3 other customers standing nearby.</p> <p>Licensee's employee returns with two casks of wine.</p> <p>Customer B (female, black shirt) is standing nearby.</p> <p>Customer C (female, blue shirt & bandana) is standing nearby.</p> <p>Customer D (female, black shirt with white stripes) adds a bottle of water to the order. As does Customer B. Licensee's employee leaves counter.</p> <p>Customer C adds water and a coke.</p> <p>Licensee's employee returns with a bottle of Jim Beam.</p> <p>Licensee's employee scans ID given by Customer A and the BDR returns a green screen.</p> <p>Customer A pays with cash and collects change.</p> <p>Customer C collects coke and Jim beam and carries out.</p> <p>Customer A places the casks of wine in the bags of Customer E (male, cream shirt and bandanna)</p> <p>Customers depart together</p> <p><i>Alcohol purchased: Jim Beam 700ml; 2 x 2L Renmano Chardonnay (approximately 62 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 15).</p>
12.	11/12/2019	10:49	<p>Customer A (female, blue dress) pays for groceries. Licensee's employee is seen to process an ID through the BDR scanner.</p> <p>Customer B (male, black shirt) approaches with 2 x casks of wine and places them on the counter.</p> <p>Licensee's employee then hands Customer A the ID that has been scanned successfully. Customer pays for alcohol with cash</p> <p>Customer B takes the 2 x casks of wine and departs.</p> <p>Customers depart separately.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay (approximately 42 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 16).</p>
14.	11/12/2019	10:50	<p>Customer A (male, stripe shirt) approaches with 3 casks of wine and places them on the counter.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer</p>

			<p>Customer B (female, purple singlet) approaches with a bottle of coke and places it on the counter.</p> <p>Customer C (female, black singlet) approaches with a 6 x cans of VB and places them on the counter.</p> <p>Licensee's employee leaves counter. Customer C provides Customer A with cash but not in the presence of the licensee's employee.</p> <p>Licensee's employee returns with a bottle of rum.</p> <p>Customer B returns with a 6 x Jim Beam cans.</p> <p>Customer A provides ID, the ID is scanned and the BDR returns a green screen.</p> <p>Customer C provides Customer A with further cash. This time in presence of licensee's employee.</p> <p>Customer D (male, black singlet) enters, provides some money to the licensee's employee and leaves with VB and Jim Beam cans.</p> <p>Customer A carries out the rest of the liquor in plastic bag.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; Jim Beam 700ml; 6 x Jim Beam and Cola cans; 6 x cans VB (approximately 78 standard drinks)</i></p>	<p>B whose ID was not scanned.</p> <p>(Failure to Scan Breach 17).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 18).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer D whose ID was not scanned.</p> <p>(Failure to Scan Breach 19).</p>
26.	11/12/2019	10:52	<p>Customer A (female, grey singlet) approaches counter.</p> <p>Customer B (male, blue shirt) approaches and places cask of wine on the counter.</p> <p>Customer A provides ID, the ID is scanned and the BDR returns a green screen.</p> <p>Customer A pays with cash from her handbag.</p> <p>Customer B takes the wine cask and customers depart together.</p> <p><i>Alcohol purchased: 1 x 2L Renmano Chardonnay (approximately 21 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 20).</p>
4.	11/12/2019	11:43	<p>Customer A (male, black shirt) approaches counter with money and ID. The ID is scanned and the BDR returns a green screen. Customer A leaves the counter.</p> <p>Customer B (male, blue and red shirt) approaches counter, places two casks of wine on the counter. Customer B de-boxes the casks with the licensee's employee providing him with a plastic bag and</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 21).</p>

			<p>empties the internal sacks into a plastic bag.</p> <p>Customer A returns to the counter with Customer C (male, black shirt & cap).</p> <p>Customer C puts a VB “long neck” bottle and a VB can on the counter.</p> <p>Customer A pays in cash.</p> <p>Customer B carries out casks now contained in plastic bag and departs ahead of Customer A and C.</p> <p>Customer C gives cash to Customer A and then carries out the VB can and long neck bottle.</p> <p>Customer A then purchases a packet of cigarettes.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; VB long neck bottle; VB can (approximately 46 standard drinks)</i></p> <p>It is noted that Customer C (male, black shirt & cap) attends the store on this occasion and then again at 1:31pm and again at 1:33pm the same day. On each occasion he is involved in the payment process in some way, but does not provide ID to be scanned at any time.</p> <p>Customer A (male, black shirt) attends the store on this occasion and again at 3:56pm the same day and again at 11:36am on 12 December 2019. On all occasions he is the one to provide the payment and has his ID scanned.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 22).</p>
5.	11/12/2019	13:31	<p>Customer A (female, black shirt) approaches and places pie on the counter.</p> <p>Customer B (male, black shirt & cap) approaches and places long neck bottle of VB on counter.</p> <p>Customer C (male, red shirt) approaches and places 2 casks of wine on counter.</p> <p>Customer A returns and places can of soft drink on counter.</p> <p>Customer B gives cash to Customer C.</p> <p>Customer C places his cash and Customer B's cash on counter.</p> <p>Customer A provides her ID for scanning. The ID is scanned and the BDR returns a green screen.</p> <p>Customer A then takes the cash from the counter and gives it to the licensee's employee.</p> <p>Customers B and C depart with the same liquor that they had brought to the counter.</p> <p>Customers depart together.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 23).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 24).</p>

			<p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; VB long neck (approximately 45 standard drinks)</i></p> <p>It is noted that this is now the second occasion on this day that Customer B (male, black shirt & cap) attends the store, having previously attended at 11:43am. It is noted he returns just 2 minutes after this transaction. On each occasion he is involved in the payment process in some way, but does not provide his ID to be scanned at any time.</p> <p>On this occasion Customer B appears to be affected by alcohol during this sale. Such indications will be outlined later in these reasons.</p>	<p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer B who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 2).</p>
33.	11/12/2019	13:33	<p>Customer A (male, black shirt & cap) standing at the counter.</p> <p>Customer B (female, orange shirt) approaches with cask wine. Her balance and coordination appear noticeably impaired.</p> <p>Customer A takes cask wine and places cask on counter.</p> <p>Customer B provides ID to licensee's employee. The ID is scanned and the BDR returns a green screen.</p> <p>Customer B provides cash from her pocket to pay for cask of wine.</p> <p>Customer A picks up cask of wine, collects change from licensee's employee and customers depart together</p> <p><i>Alcohol purchased: 1 x 2L Renmano Chardonnay (approximately 21 standard drinks)</i></p> <p>It is noted that this is now the third occasion on this day that Customer A (male, black shirt & cap) has attended the store, having previously been there at 11:43am and 1:31pm and then this occasion. On each occasion he is involved in the payment process in some way, but does not have ID scanned any time.</p> <p>It is noted that this is the second occasion that Customer B (female, orange shirt) has attended the store, having been there earlier at 10:22am. Both occasions she provides cash for alcohol and has her ID scanned.</p> <p>On this occasion Customer B appears to be affected by alcohol during this sale. Such indications will be outlined later in these reasons.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 25).</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer A who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 3).</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer B who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 4).</p>

27.	11/12/2019	15:56	<p>Customer A (male, black shirt) approaches counter with money and provides ID. ID is scanned and the BDR returns a green screen.</p> <p>Customer B (female, camouflage shirt) approaches counter. Customer A departs counter.</p> <p>Customer A returns with cask of wine and places it on the counter. Licensee's employee scans this cask twice.</p> <p>Customer B returns with a further wine cask under her arm. She does not put this on the counter and continues to hold it throughout.</p> <p>Customer A pays with cash and collects change.</p> <p>Customer B takes ID and places in her pocket. Only provides ID to Customer A when pressed by Customer A.</p> <p>Customer B picks up other cask of wine off counter and carries out.</p> <p>Customer A holds her cask of wine throughout</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay (approximately 42 standard drinks)</i></p> <p>It is noted that this is the second occasion that Customer A (male, black shirt) has attended the store on this day having earlier attended at 11:43am. It is noted that he returns a third time at 3:56pm on this day and again at 11:36am on 12 December 2019. On all occasions he hands over cash and has his ID scanned.</p> <p>It is noted that this is the second occasion that Customer B (female, camouflage shirt) has attended the store on this day having earlier attended at 10:22am. It is noted that she returns a third time at 3:56pm on this day and again at 11:36am on 12 December 2019. She does not have her ID scanned at any time.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 26).</p>
20.	11/12/2019	16:27	<p>Customer A (male, dark blue shirt) standing at counter with cash, provides ID.</p> <p>Customer B (female, stripe shirt) places 3 casks of wine on the counter.</p> <p>Customer A's ID is scanned and the BDR returns a green screen.</p> <p>Customer A pays with cash and hands the change to Customer B in front of licensee's employee. Some of the change retained by Customer A.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 27).</p>

			<p>Customers both leave with alcohol and depart together.</p> <p><i>Alcohol purchased: 3 x 2L Renmano Chardonnay (63 standard drinks)</i></p>	
17.	11/12/2019	19:27	<p>Customer A (male, dark shirt) places two casks of wine on the counter.</p> <p>Customer B (male, white shirt and hat) standing close by.</p> <p>Customers A provides ID, it is scanned and BDR returns a green screen.</p> <p>Customer A provides card for payment. There appears to be some trouble with payment by the card and this appears to take some considerable time.</p> <p>It appears as though only one cask is able to be paid for on the card and therefore the licensee's employee places the second cask behind counter.</p> <p>Customer B tries to take the cask remaining but the licensee's employee stops him. Customer B leaves.</p> <p>Customer A leaves with 1 cask shortly after.</p> <p>Customer A then returns moments later and collects two further casks of wine and places them on the counter.</p> <p>Customer A again provides ID, it is scanned and BDR returns green.</p> <p>Customer A pays in cash and leaves with two casks of wine and places both in his backpack.</p> <p><i>Alcohol purchased: 3 x 2L Renmano Chardonnay (63 standard drinks)</i></p>	The Commission is not satisfied of the breaches alleged on behalf of the Director.
28.	12/12/2019	10:55	<p>Customer A (male, yellow shirt) places 3 casks of wine on counter.</p> <p>There are a number of persons around him and one places a bottle of water on the counter.</p> <p>Customer B (female, grey singlet) approaches counter and collects cash from Customer A in front of licensee's employee.</p> <p>Customer B provides ID to licensee's employee. Licensee's employee considers the ID. There appears to be an issue with the ID. Licensee's employee returns the ID to Customer B.</p> <p>Customer B provides licensee's employee with another ID.</p> <p>The second ID is scanned and the BDR returns a red screen. Casks are removed from the counter.</p> <p>Customer A then provides his ID to the licensee's employee.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 28).</p>

			<p>2 casks of wine are placed back on the counter.</p> <p>Customer A's ID is screened and BDR returns a green screen.</p> <p>Customer A pays in cash.</p> <p>Customer A takes one cask.</p> <p>Customer C (male, dark blue shirt) takes one cask.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay (42 standard drinks)</i></p>	
30.	12/12/2019	11:05	<p>Customer A (male, grey shirt) has previously purchased 3 casks of wine. He places those at the corner near the entrance and departs from screen.</p> <p>Customer A is then seen to return with a 6 pack of VB cans.</p> <p>Customer A provides ID. ID is scanned and BDR returns a green screen.</p> <p>Customer B (male, black singlet) then attempts to provide cash to licensee's employee.</p> <p>Licensee's employee refuses to take the money and begins gesticulating in a manner that appears to indicate that Customer B must give the cash to Customer A.</p> <p>Customer B is then seen to provide the cash to Customer A who then provides the cash to the licensee's employee.</p> <p>Customer B collects the 6 x VB cans from the counter and departs with Customer A.</p> <p><i>Alcohol purchased: 3 x 2L Renmano Chardonnay; 6 x can VB (approximately 73 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 29).</p>
6.	12/12/2019	11:36	<p>Customer A (male, black shirt) provides ID for scanning and cash.</p> <p>Customer B (male, dark blue shirt) approaches with 3 casks of wine.</p> <p>Customer C (female, camouflage shirt) approaches with 2 casks of wine.</p> <p>Cash provided by Customer A is used by licensee's employee to pay for all casks of wine.</p> <p>Customer B takes four of the casks of wine.</p> <p>Customer D (male, grey shirt) approaches and takes the fifth cask of wine.</p> <p>Customers B and D depart with alcohol separately to Customer A.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 30).</p> <p>Sale to Customer C in circumstances where the individual's identification was not scanned, in breach of section 130(2)(b) of the</p>

			<p><i>Alcohol purchased: 5 x 2L Renmano Chardonnay (approximately 105 standard drinks)</i></p> <p>It is noted that Customer A (male, black shirt) has attended the store on 2 occasions the day prior being at 11:43am and 3:56pm on 11 December 2019. On all occasions he hands over money and has ID scanned.</p> <p>It is noted that Customer C (female, camouflage shirt) has attended the store on 2 occasions the day prior being 10:22am and 3:56pm on 11 December 2019. On all occasions she does not have her ID scanned at any time.</p>	Act (Failure to Scan Breach 31).
18.	12/12/2019	16:10	<p>Vision starts with can of Jim Beam on the counter and Customer A (male, blue shirt) is standing near the counter and places ID on counter.</p> <p>Customer B (female, blonde hair) places two casks wine on counter.</p> <p>Customer A then places the can of Jim Beam on top of the cask.</p> <p>Licensee's employee picks up the ID which is scanned and BDR returns a green result.</p> <p>Customer B takes the cash from A and tries to provide licensee's employee.</p> <p>Licensee's employee appears to gesticulate in a manner that indicates the cash must come from Customer A.</p> <p>Customer A is then seen to hand the cash to the licensee's employee who provides the change to Customer A.</p> <p>Customer A immediately provides the change received from the licensee's employee to Customer B.</p> <p>Customer B then purchases a packet of cigarettes.</p> <p>Customer B leaves with cigarettes and a can of Jim Beam.</p> <p>Customer A leaves with two wine casks.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; 1 x can of Jim Beam (43 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 32).</p>
21.	13/12/2019	10:09	<p>Customer A (male, grey shirt) is at the counter and provides his ID to licensee's employee. ID is scanned and BDR returns a green screen.</p> <p>Customer A pays by card.</p> <p>Customer B (female, black shirt) approaches the counter with two casks of wine and places them on the counter.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p>

			<p>Customer B takes the two casks of wine. Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay (42 standard drinks)</i></p>	(Failure to Scan Breach 33).
31.	13/12/2019	10:22	<p>Customer A (female, white singlet) approaches counter and collects ID from licensee's employee which appears to have already been scanned and has received a green screen.</p> <p>Customer B (male, black shirt) places 2 casks of wine and a can of VB on the counter.</p> <p>Customer A pays with cash taken from her handbag.</p> <p>Customer B takes the 2 casks of wine and the VB can in a plastic bag.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; VB can (43 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 34).</p>
2.	13/12/2019	11:47	<p>Customer A (female, blue shirt) approaches counter with a 4 pack of Vodka Cruisers.</p> <p>Customer A provides her ID, which is scanned and BDR returns a red screen.</p> <p>Licensee's employee removes the Cruisers and places them behind the counter.</p> <p>Customer B (male, dark blue shirt) approaches and places 3 casks of wine on the counter. Customer B and licensee's employee leave screen.</p> <p>Customer C (male, grey shirt) then seen to approach and places 1 bottle of rum on the counter. Licensee's employee also returns to counter.</p> <p>Customer B then places a carton of VB on the counter.</p> <p>Customer A gestures toward the Vodka Cruisers and direction is given to the licensee's employee that the Vodka Cruisers are to be added. The licensee's employee places the Vodka Cruisers on the counter.</p> <p>Customer B provides his ID, which is scanned and BDR returns a green screen.</p> <p>Customer B provides cash to the licensee's employee.</p> <p>Customer A carries bag of ice.</p> <p>Customer B collects the change. Customer B and C leave the store with the liquor.</p> <p>Customers depart separately.</p> <p><i>Alcohol purchased: 1 carton of VB cans; 3 x 2L Renmano Chardonnay; 700ml bottle</i></p>	<p>Section 130(2)(c) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A who had been identified as prohibited.</p> <p>(Prohibited Sale Breach 2).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer C whose ID was not scanned.</p> <p>(Failure to Scan Breach 35).</p>

			<i>rum; 4 x Vodka Cruisers. (approximately 117 standard drinks)</i>	
19.	13/12/2019	16:03	<p>Licensee's employee returns to counter and places 3 bottles of rum on counter.</p> <p>Customer A (male, blue shirt) approaches counter and places two bottles of coke on the counter.</p> <p>Customer B (male, camouflage shirt) approaches counter at same time.</p> <p>Customer A provides his ID, the ID is scanned and BDR returns a green screen.</p> <p>Customer B provides Customer A with cash that he is seen to remove from his wallet in front of the licensee's employee.</p> <p>Customer A hands over the cash he has just received straight to the licensee's employee.</p> <p>Customer B reaches for the change from the licensee's employee.</p> <p>The licensee's employee appears to refuse and hands it to Customer A, who immediately hands it to Customer B.</p> <p>Customer B then purchases cigarettes.</p> <p>Customer A carries all the alcohol from the store.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 3 x Bundaberg Rum 700ml (approximately 60 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>Failure to Scan Breach 36).</p>
8.	13/12/2019	16:22	<p>Customer A (female, grey singlet) approaches counter with 2 casks of wine.</p> <p>Customer A departs and returns with a 6 x VB cans.</p> <p>Licensee's employee places all items in plastic bag.</p> <p>Customer B (male, blue checked shirt) attends counter with ID. His ID is scanned, which fails and his details are therefore manually entered and the BDR returns a green screen.</p> <p>Customer B provides a card to Customer A.</p> <p>Customer A attempts to provide the card just received from Customer B to the licensee's employee.</p> <p>The licensee's employee gesticulates in such a way as to indicate that Customer A must return the card to Customer B. There appears to be confusion.</p> <p>The licensee's employee is seen to take the card from Customer A and return the card to Customer B.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 37).</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer B who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 5).</p>

			<p>Customer B then provides the card to the licensee's employee to pay.</p> <p>Customer A then takes the bag with the alcohol and the customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; 6 x VB Cans (approximately 50 standard drinks)</i></p> <p>It is noted that Customer B (male, blue checked shirt) attends the store a few hours after this occasion at 7:00m on 13 December 2019.</p> <p>On this occasion Customer B appears to be affected by alcohol during this sale. Such indications will be outlined later in these reasons.</p>	
9.	13/12/2019	19:00	<p>Customer A (male, blue checked shirt) approaches counter.</p> <p>Customer B (male, blue shirt) approaches counter with two casks of wine.</p> <p>Customer C (female) approaches counter with a 6 pack of VB.</p> <p>All alcohol is placed on the counter.</p> <p>Customer C provides ID, which is scanned and BDR returns a green screen.</p> <p>Customer C removes a card from Customer A and provides that card to the licensee's employee.</p> <p>The transaction is successful and the card is handed back to Customer C who immediately hands it back to Customer A.</p> <p>Customer A takes one cask and places it in his backpack and also takes the cans of VB.</p> <p>Customer B has the other cask.</p> <p>Customer B then removes the card from Customer A and purchases cigarettes with the same card.</p> <p>The Customers then depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; 6 x VB cans (50 standard drinks)</i></p> <p>It is noted that this is the second time Customer A (male, blue checked shirt) has attended the store, having only been there at 4:22pm that same day.</p> <p>On this occasion Customer A appears to be affected by alcohol during this sale. Such indications will be outlined later in these reasons.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer A whose ID was not scanned.</p> <p>(Failure to Scan Breach 38).</p> <p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 39).</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer A who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 6).</p>
22.	14/12/2019	14:45	<p>Customer A (male, blue shirt) approaches counter with two casks of wine.</p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p>

			<p>Customer B (female, yellow shirt) approaches counter with long neck bottle of VB and places it on the counter.</p> <p>Customer A provides ID – BDR returns a green screen.</p> <p>Customer B attempts to provide card to licensee’s employee however the licensee’s employee gesticulates in such a way to indicate that he cannot take the card from Customer B and that it must be from Customer A.</p> <p>Customer B then attempts to provide Customer A with her card, but Customer A does not appear to want to take the card initially.</p> <p>Customer B is seen to speak into Customer A’s ear.</p> <p>Customer A then takes the card provided to him by Customer B and hands it to the licensee’s employee.</p> <p>The card is returned by the licensee’s employee to Customer A who returns it to Customer B.</p> <p>Customer A takes all of the alcohol and customers depart together.</p> <p><i>Alcohol purchased: 2 x 2L Renmano Chardonnay; VB 700ml (approximately 45 standard drinks)</i></p> <p>On this occasion both Customers A and B appear to be affected by alcohol during this sale. Such indications will be outlined later in these reasons.</p>	<p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 40).</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer A who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 7).</p> <p>Section 285 of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale of liquor to Customer B who was intoxicated.</p> <p>(Sale to Intoxicated person Breach 8).</p>
23.	14/12/2019	17:49	<p>Customer A (male, maroon shirt) approaches counter and provides ID.</p> <p>Customer B (male, blue shirt) approaches and places one cask of wine and one cask of port on the counter.</p> <p>Customer A’s ID is scanned and BDR returns green screen.</p> <p>Customer A provides cash to licensee’s employee.</p> <p>Customer B takes the plastic bag of alcohol and the change from the licensee’s employee.</p> <p>Customers depart together.</p> <p><i>Alcohol purchased: 2L Renmano Chardonnay; Tawny 2L (approximately 68 standard drinks)</i></p>	<p>Section 130(2)(b) of the Liquor Act 2019 (NT)</p> <p>On the basis that there was a sale to Customer B whose ID was not scanned.</p> <p>(Failure to Scan Breach 41).</p>

Failure to Scan contrary to section 130(2)(b)

70. In relation to the relevant transactions identified in the table above; counsel for the Director submitted that although an identification was “*ultimately*” scanned in each of the transactions, it was clear from the circumstances of each relevant transaction that the sale of the liquor was not to, or solely to, the individual who had presented the identification. Counsel submitted that the footage shows this fact would have been obvious to the licensee’s employee on each of the occasions relied upon and therefore the sales should not have occurred in breach of section 130(2)(b) of the Act.
71. Counsel for the Director submitted that there were a number of factors that could be relied upon that would have indicated to any reasonable person, and therefore to the licensee’s employee, that the sale was not to the person whose identification was scanned, or was not **solely** to the person whose identification was scanned. These factors were as follows:
- a. The identification of the person who was bringing the liquor to the counter;
 - b. The identification of the person who departed with the liquor;
 - c. The quantity of the liquor purchased;
 - d. The exchange of money between the persons whilst on the premises in the presence of the licensee’s employee;
 - e. The identification of the person who provided the cash or card to the licensee’s employee;
 - f. The identification of the person who collected the change from the licensee’s employee;
 - g. The identification of the person who took control of the liquor, e.g. de-boxing or de-bagging the liquor.
72. Counsel for the Director stated that depending on the circumstances, either one or more of the above factors could be a sufficient indicator to the licensee’s employee that the “sale” was not to the person whose identification was scanned.
73. Counsel submitted that in determining the question of to whom the liquor was sold; consideration needed to be given to the definition of “sell” under the Act, which is defined as follows:
- sell** includes the following:
- (a) offer or expose for sale;
 - (b) keep or have in possession for sale;
 - (c) supply for, or in expectation of, a reward or benefit.

74. Counsel further submitted that when considering whether the transactions fell within the definition of “sell”, it was important to consider the Purpose of the Act and specifically highlighted the Act’s primary purpose, namely:

3 Purposes

- (1) The primary purpose of this Act is to minimise the harm associated with the consumption of liquor in a way that recognises the public's interest in the sale, supply, service, promotion and consumption of liquor.

75. And further specifically highlighted one of its secondary purposes, namely:

- (2) The secondary purposes of this Act are:

- (a) to protect and enhance community amenity, social harmony and community wellbeing through the responsible sale, supply, service, promotion and consumption of liquor.

76. Counsel for the Director submitted that if the Commission were to “read down” the definition of “sell” to mean only the person whose identification is scanned despite any surrounding circumstances indicating the sale was beyond that person, would result in a definition of “sell” that was not in accordance with the purposes of the Act.

77. In relation to the definition of “sell”, counsel also drew the Commission’s attention to the decision of the Supreme Court of Western Australia in *Fazio v Castledine*² (“*Fazio case*”). That case involved an appeal against a finding of guilt and conviction under the WA equivalent legislation, namely the *Liquor Licensing Act*, for selling alcohol to a “drunken person” contrary to section 115(2)(a) of that Act.

78. Relevantly, one of the questions on the appeal was the meaning of “sell”. In the facts of that case, the subject transaction related to a “heavily intoxicated male” providing a “voucher received at the door” to another male. The males then attended at the bar and the voucher appeared to be utilised to receive three (3) alcoholic drinks from the bar attendant, one (1) of which was immediately provided to the intoxicated male to consume. Later a second drink was provided with police intervening shortly afterwards.

79. In relation to the issue of “sell”, counsel for the licensee had initially stated on day one of the hearing that reference would be made to the *Sale of Goods Act* and stated this should be used to determine the question of who the “buyer” is of the goods that are sold. Ultimately however no such submission was made on behalf of the licensee.

80. Counsel for the licensee did however submit that the *Fazio case* could be distinguished both on the basis of “the facts and the law”. Counsel stated that the facts were for a “very different offence” involving “different sections” and

² [2007] WASC 25

the definition of “sell” was also “very different”. Counsel submitted that any “ambiguity” about the definition of “sell” should be interpreted in favour of the licensee.

81. Counsel submitted that in terms of the definition of “sell”, that for any sale the “purchaser is the one who pays for it” and that this was the “ordinary English usage” of the word and should be applied. Counsel stated that all that was required to comply with section 130(2) was for the licensee or licensee’s employee to:
 - a. Have an individual present an approved and undamaged form of identification of the individual; and
 - b. Use the identification system to scan the individual’s form of identification; and
 - c. The system indicates the individual is not prohibited.
82. According to counsel for the licensee, if those conditions were met then there was no breach of the section as the licensee or licensee’s employee “has complied”.
83. With respect to counsel for the licensee, the Commission does not accept these submissions. Counsel for the licensee submitted that “sell” was referable only to the “purchaser ... who pays for it”, however it is clear that the Act does not limit “sell” solely to the person who “pays”.
84. The definition of “sell” specifically includes to “supply for, or in expectation of, a reward or benefit”. Therefore it does not require there even to have been an actual payment, merely the “expectation of a reward or benefit”. Submissions on behalf of the licensee about who paid therefore did not assist in determining the question of “sell”.
85. It appeared to be the general thrust of submissions made on behalf of the licensee that it did not matter:
 - a. Who brought the liquor to the counter;
 - b. Who left with the liquor from the premises;
 - c. How much was purchased;
 - d. Whether money was exchanged between persons before being provided to the licensee’s employee;
 - e. Who received the change; or
 - f. Who took control of the liquor.

All that was required in order to comply with section 130 was for the person who provided their identification for scanning to not be prohibited and for them to make the payment for the liquor. The Commission does not accept this submission.

86. Turning to the definition of “sell”; as noted earlier it includes “supply for, or in expectation of, a reward or benefit”. The Act is silent on whether that supply must be direct or indirect. This issue was also raised in the *Fazio* case. In that decision, the factual scenario being discussed was whether supply was required to be direct to the person or whether it could be indirect by placing it somewhere for collection or by handing it to another to be passed on to the other person or by some other indirect means³.
87. Just as in this case the appellant (here the licensee) argued for a narrow interpretation but no authority for such a construction was identified. Consideration was given by Johnson J to the inclusion of the word “to” (as also exists in this case under section 130). However as was discussed by Johnson J the inclusion of the word “to” is simply a way of ensuring that a provision is understandable. Ultimately Johnson J stated:
- “For these reasons I am not persuaded that the natural meaning of the words which create the offence require the supply to be direct to the drunken person although it will necessarily be a matter of degree as to whether an indirect supply is a supply for the purposes of the provision”.⁴
88. Again, whilst recognising that the section being considered in the *Fazio* case is different to our section 130, it is the Commission’s view that a similar determination should be made in this case on the basis that “sell” under our Act includes “supply for, or in expectation of, a reward or benefit”. Likewise it will be a matter of degree as to whether an indirect supply is one that can fall within the definition.
89. As was the circumstances in the *Fazio* case, there being no specific provision of the Act which indicates the sell must be direct, it is useful (as was sought by counsel for the Director) to consider the purpose of the Act “to determine whether it is consistent with a restrictive interpretation”⁵ of the section as posited on behalf of the licensee.
90. The purpose of this Act has already been noted. It is clear there is an emphasis on minimising the harm associated with the consumption of liquor and to protect the community whilst regulating the sale, supply, service, promotion and consumption of liquor. The Commission finds such purposes to be inconsistent with the restrictive interpretation posited on behalf of the licensee and that a wider construction should be adopted consistent with such purposes.
91. As was noted in the *Fazio* case⁶:
- “... a wider construction of the provision is consistent with the proper application of the Act in the context of the common practice of those who purchase alcohol in commercial premises. In our society the sale or supply of a myriad of items is commonly conducted through third parties. It would

³ Ibid, @ [58]

⁴ Ibid

⁵ Ibid @ [59]

⁶ Ibid @ [61] to [64]

limit the effect of the relevant legislation and present insurmountable difficulties for regulatory agencies if regulation of supply only had effect where it was direct. In relation to the sale or supply of alcohol in licensed premises, it would be difficult to refute the proposition that, where a group of people are socialising, as a matter of convenience drinks for the group are commonly purchased by one person in the group. Indeed, the practice in Australia of "shouting", where each person in a group takes turns to purchase drinks for everyone in the group, is widely documented, although it has been the subject of often very public criticism. A restrictive interpretation of s 115(2)(a) would substantially hinder the achievement of the objects of the Act and the ability of those involved in the regulation of the industry to control excessive consumption of alcohol on licensed premises with a view to minimising the negative effect of alcohol use.

"For these reasons, I can see no reasonable basis for the conclusion that, in order to establish a sale or supply of alcohol to a person, the supply must be directly to that person. Such a construction would allow the provisions of the Act to be avoided by the staff of licensed premises always ensuring that drinks which are to be consumed by a drunken person are provided to a more sober third party, even where it was well known that the drink was to be passed to the drunken person and consumed by him.

"Therefore, in my view, an accused supplies alcohol to person A even where the drink is handed to person B, provided it is known to the accused that the drink is for person A and will be passed to, collected by, or otherwise come into the possession of person A. Where the supply is indirect, it is essential to establish that the person supplying the alcohol knew that it was for the specified person. The Act requires a person serving alcohol on licensed premises to make a determination of whether it is appropriate to supply alcohol to a particular person because of his state of intoxication. If the supplier of alcohol did not know who was to consume the alcohol, he or she would not be in a position to make such a judgment. "On the facts of this case, where a group of three males are standing closely together at the bar and one of them orders three drinks, it is reasonable to conclude that the drinks were for the three men. ..."

92. It is the Commission's view that whilst *Fazio* was referring to a scenario of a "shout" in a bar, the comments concerning:
- a. Limiting the effect of the legislation;
 - b. Presenting insurmountable difficulties for regulatory agencies;
 - c. Hindering the achievement of the objects of the Act and the ability of those involved in the regulation of the industry to control excessive consumption with a view to minimising the negative effect of alcohol use;
 - d. Allowance of avoidance of provisions of the Act by ensuring that liquor is sold to third party when it is well known that it is to be passed to another,

are equally relevant to this case.

93. Likewise however the Commission agrees that for this wider construction to be applied, it is necessary to establish that the licensee or licensee's employee sold the liquor knowing it would be passed to, collected by, or otherwise come into the possession of another person identifiable to the licensee or licensee's employee.
94. With this interpretation in mind, the Commission turns to those matters set out in the table at paragraph 69 above and utilising the original transaction number, makes the following findings:
- a. Transaction 24 – although Customer A provides the cash and identification, Customer B approaches with one cask and stands with A at the counter, takes the change from the transaction and leaves with one cask. Given these circumstances the Commission finds that it would have been known to the licensee's employee that at least one (1) cask of wine was being sold to Customer B who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act;
 - b. Transaction 15 – although Customer B provides the cash and identification, Customer A approaches with one cask and stands with B at the counter. It is Customer A who takes all the alcohol including the cask. Given these circumstances the Commission finds that it would have been known to the licensee's employee that at least one (1) cask of wine was being sold to Customer A who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

In fact the Commission has strong suspicions that the licensee's employee suspected it was highly likely the rum was also being sold to Customer A, however the Commission has some doubt; to which the licensee is entitled to the benefit;

- c. Transaction 7 - although Customer B provides the cash and identification, Customer A approaches with three (3) casks and stands with B at the counter only leaving momentarily to return to the counter with a further cask. Customer A then leaves with two (2) casks and the bottle of rum with Customer B following shortly behind. Given these circumstances the Commission finds that it would have been known to the licensee's employee that at least two (2) casks and the bottle of rum was being sold to Customer A who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

In fact the Commission has strong suspicions that the licensee's employee suspected it was highly likely the other two (2) casks that Customer A had brought to the counter were also being sold to Customer A, however the Commission has some doubt; to which the licensee is entitled to the benefit;

- d. Transaction 32 - although Customer A is the one to bring the cask of wine to the counter and provides the identification to the licensee's

employee, Customer B provides the cash to Customer A in the presence of the licensee's employee at the counter. All of this occurs with Customer B and C remaining close to Customer A at the counter. Once the transaction has been approved, Customer A provides the cask to Customer B who leaves with the cask. Customer C then takes the rum from Customer A. Customer A and C leave together shortly behind Customer B. Given these circumstances the Commission finds that it would have been known to the licensee's employee that liquor was being sold to Customer B who had provided the cash but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

The Commission also finds a further sale to Customer C who is present throughout and takes the rum from Customer A. Given these circumstances the Commission finds that it would have been known to the licensee's employee that liquor was being sold to Customer C who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- e. Transaction 3 - although Customer A is the one to provide the identification and card payment to the licensee's employee, it can be seen that the card has been received from Customer B. Customer C then comes to the counter with 2 casks of wine. After the transaction has been approved the card for payment is returned to Customer B, after she holds out her hand to Customer A indicating for it to be returned to her. All of this occurs in the presence of the licensee's employee. Customer C provides cash to Customer B however this occurs by virtue of Customer B removing it from Customer C's hand at the counter, again in the presence of the licensee's employee. All customers then leave together with Customer C carrying the 2 casks of wine. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who had provided the card for payment but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

The Commission also finds that given that Customer C brought the 2 casks to the counter, gave cash to B at the counter and left carrying the 2 casks, that it would have been known to the licensee's employee that the liquor was also being sold to Customer C who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- f. Transaction 16 - although Customer A is the one to bring the carton of VB to the counter and provide the identification to the licensee's employee, it is seen clearly that the card for payment has been provided to Customer A from Customer B in the presence of the licensee's employee. This occurs at the same time as Customer B brings a cask of wine to the counter. Customers A and B then stand at the counter together whilst the card provided by Customer B is used by Customer A. After the transaction has been approved, and whilst still at the counter, Customer B de-bags the cask of wine into his backpack and

de-boxes the carton of VB taking a six (6) pack. Customer A leaves moments ahead of Customer B who is carrying the remainder of the liquor. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who had provided the card for payment but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- g. Transaction 11 - although Customer B is the one to provide the cash and identification to the licensee's employee, it is seen clearly that Customer B never even touches the liquor that is brought to the counter. It is Customer A who brings 3 casks of wine to the counter and stands with Customer B and C at the counter. As soon as the transaction is approved, Customer A picks up the 3 casks of wine and passes them to Customer C with Customer A and C leaving slightly ahead of Customer B. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was being sold to Customer A who brought the casks of wine to the counter and removed the casks of wine from the counter but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

In fact the Commission has strong suspicions that the licensee's employee suspected it was highly likely that the sale of three (3) casks meant that the sale was also to Customer C who was the one to take final possession of the casks, however the Commission has some doubt; to which the licensee is entitled to the benefit;

- h. Transaction 1 - although Customer B is ultimately the one to provide the identification and cash to the licensee's employee, it is seen clearly that cash is provided for payment from Customer A whilst standing at the counter and in the presence of the licensee's employee. A considerable amount of liquor is sold during this transaction with Customer A (whose identification had only moments before been identified as prohibited) taking one (1) cask of wine. Customer B takes the remainder but this includes not just the 10 pack of Jim Beam cans that she is seen to bring to the counter, but also a cask of wine and a 6 pack of cider that Customer C has placed on the counter. This is in addition to the cask of wine and bottle of rum that is already on the counter. Customers A and C then stand at the counter with Customer B and all three (3) depart the premises together. In total approximately 105 standard drinks are sold in this transaction. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer A and C. The Commission will address the sale to Customer A later in these reasons, but the sale to Customer C occurred without C providing identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- i. Transaction 10 - although Customer C is the one to provide the card and identification to the licensee's employee, it is seen clearly that Customer C has approached the counter carrying a cask of wine in the

company of Customer D. By this time Customer A has already placed three (3) cans of rums on the counter. They all wait at the counter together. As soon as the payment is processed on the card, Customer D takes the card from Customer C. Customer A then leaves with two (2) cans of rum, whilst Customer D takes the remaining can of rum and the cask of wine. Customer C has none of the liquor, although all customers depart together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer A who brought the three (3) cans of rum to the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

The Commission also finds that given that Customer D is in the company of Customer A throughout the transaction and then removes the card from Customer C after the card has used it to process payment and then removes the remaining can of rum and cask of wine from the counter and leaves the premises with them, that it would have been known to the licensee's employee that the liquor was also being sold to Customer D who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- j. Transaction 13 - although Customer A is the one to provide the cash and identification to the licensee's employee, it is seen clearly that Customer A never even touches the liquor that is brought to the counter. It is Customer C who ultimately brings 3 casks of wine to the counter and stands with Customer A at the counter. As soon as the transaction is approved, Customer C picks up the 3 casks of wine and leaves with Customer A. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was being sold to Customer C who brought the casks of wine to the counter and removed the casks of wine from the counter but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- k. Transaction 25 - although Customer B is the one to provide the cash and identification to the licensee's employee, it is seen clearly that both Customer A and Customer B bring a cask of wine to the counter and stand with one another throughout the transaction. As soon as the transaction is approved, Customer A picks up the 2 casks of wine and the customers leave together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer A who brought one of the casks of wine to the counter and removed both casks of wine from the counter but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- l. Transaction 29 - although Customer A is the one to provide the cash and identification to the licensee's employee, it is in fact the licensee's employee who appears to bring the 2 wine casks and the bottle of Jim Beam to the counter. At that time there are 5 customers in total

standing and waiting together at the counter. As soon as the transaction is approved, Customer C picks up the bottle of Jim Beam. Customer A picks up the 2 casks and places them in the bag of Customer E. All of the customers leave together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer C who picked up the bottle of Jim Beam from the counter but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

In fact the Commission has strong suspicions that the licensee's employee suspected it was highly likely that the sale of two (2) casks and a bottle of Jim Beam in the context of all customers standing and waiting to be served together at the counter meant that the sale was also to Customer B, D and E who was present throughout, however the Commission has some doubt; to which the licensee is entitled to the benefit;

- m. Transaction 12 - although Customer A is the one to provide the cash and identification to the licensee's employee, it is in fact Customer B who brings two (2) casks of wine to the counter and as soon as the transaction is approved, Customer B picks up the 2 casks and leaves the premises ahead of Customer A. Customer A does not even have any contact with the liquor. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- n. Transaction 14 - although Customer A is the one to provide the cash and identification to the licensee's employee, there is a large amount of liquor that is sold in this transaction. Customer A brings three (3) casks of wine to the counter. Customer B brings 6 cans of Jim Beam. Customer C brings 6 cans of VB. In the presence of the licensee's employee Customer C is seen to provide cash to Customer A. Customer D is also seen to enter and to provide cash to the licensee's employee. Customer D is ultimately seen to remove the Jim Beam and VB cans from the counter and depart the premises with the other customers, with Customer A carrying a plastic bag containing the three (3) casks of wine. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who had brought the 6 cans of Jim Beam to the counter but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

In addition, given these circumstances the Commission finds that it would have also been known to the licensee's employee that the liquor was also being sold to Customer C who had brought the 6 cans of VB to the counter and also provided cash to Customer A in the presence of the licensee's employee, but who did not provide identification to be

scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

Further, given these circumstances the Commission finds that it would have also been known to the licensee's employee that the liquor was also being sold to Customer D who provided cash directly to the licensee's employee and who left the premises with the 6 cans of Jim Beam and 6 cans of VB from the counter but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- o. Transaction 26 - although Customer A is the one to provide the cash and identification to the licensee's employee, it is Customer B who brings the cask of wine to the counter and as soon as the transaction is completed, it is Customer B who removes the cask of wine from the counter. Customer A never touches the liquor. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was being sold to Customer B who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- p. Transaction 4 - although Customer A is the one to provide the cash and identification to the licensee's employee, Customer A never touches the liquor that is ultimately sold in this transaction. Customer B brings two (2) casks of wine to the counter and in fact de-boxes those casks in front of the licensee's employee whilst still at the counter, placing the internal sacks into a plastic bag. Customer C brings a VB "long neck" and VB can to the counter. Customer C is seen, in the presence of the licensee's employee, to provide cash to Customer A. Customer B leaves first with the wine casks and Customer C leaves with the VB long neck and can ahead of Customer A. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who had brought the 2 wine casks to the counter and exercised complete control over them, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

Further, given these circumstances the Commission finds that it would have also been known to the licensee's employee that the liquor was also being sold to Customer C who had brought the VB long neck and can to the counter and exercised complete control over them, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- q. Transaction 5 - although Customer A is the one to provide the cash and identification to the licensee's employee, Customer A never touches the liquor that is ultimately sold in this transaction. Customer B brings a VB "long neck" to the counter and Customer C brings two (2) casks of wine to the counter. Customer B provides cash to Customer C in the presence of the licensee's employee, with C placing the cash on the counter in the presence of the licensee's employee. Ultimately Customer A takes the cash from the counter and provides it to the

licensee's employee. As soon as the transaction is completed, Customers B and C take the liquor they have brought to the counter and all 3 customers leave together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who had brought the VB "long neck" to the counter and exercised complete control over it, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

Further, the Commission finds that given these circumstances it would have been known to the licensee's employee that the liquor was also being sold to Customer C who had brought the 2 casks of wine to the counter and exercised complete control over them, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- r. Transaction 33 - although Customer B is the one to provide the cash and identification to the licensee's employee, and although it is Customer B who brings (almost) the cask of wine to the counter, it is Customer A who removes the liquor from Customer B and places it on the Counter and it is Customer A who takes the wine from the counter, together with the change from the transaction from the licensee's employee and leaves holding the wine with the 2 customers leaving together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer A who exercised ultimate control over it, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- s. Transaction 27 - although Customer A is the one to provide the cash and identification to the licensee's employee whilst also bringing a cask of wine to the counter, Customer B is also part of this transaction with Customer B also bringing a cask of wine to the counter which she never hands to the licensee's employee and continues to control throughout. The licensee's employee in fact ultimately scans the wine brought to the counter by Customer A twice. As soon as the transaction is completed, Customers A and B leave together each taking the liquor they have brought to the counter. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who held a cask of wine at the counter and exercised complete control over it, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- t. Transaction 20 - although Customer A is the one to provide the cash and identification to the licensee's employee, it is Customer B who brings all three (3) casks of wine to the counter. In addition when the transaction is completed, Customer A hands the change to Customer B in the presence of the licensee's employee and both customers depart with the liquor. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who had brought the three (3)

casks of wine to the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- u. Transaction 17 – although the Commission accepts that there is a definite attempt by Customer B to take a cask of wine during the course of this transaction, and at a time when Customer B appears intoxicated, the licensee’s employee in fact stops that sale. The indicia of Customer B appearing intoxicated also do not sufficiently establish themselves until after the licensee’s employee stops the sale. In these circumstances, the Commission is not satisfied of the breaches as alleged on behalf of the Director. The Commission is highly suspicious that some of the liquor would have been provided to Customer B, however there remains some doubt and the licensee is entitled to the benefit of that doubt.
- v. Transaction 28 - although Customer A is the one to ultimately provide the cash and identification to the licensee’s employee whilst also bringing three (3) casks of wine to the counter, there are a number of persons waiting with Customer A whilst this transaction takes place. After Customer B’s identification returns a red screen indicating she is prohibited, Customer A provides his identification. This ID is screened successfully and Customer A seeks the return of two (2) casks to the counter. Customer A then pays cash for those casks. All the while Customer C waits. As soon as the transaction is completed, Customer C picks up one (1) cask and departs. Given these circumstances the Commission finds that it would have been known to the licensee’s employee that the liquor was also being sold to Customer C who waited throughout for the transaction and removed a cask of wine from the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- w. Transaction 30 - although Customer A is the one to provide identification to the licensee’s employee and to bring the 6 pack of VB cans to the counter. Customer B is the one who tries to hand over the cash to pay. When this occurs, the licensee’s employee is seen clearly to begin gesticulating in a manner that can only be described as informing B that he must give the cash to A. Customer B is then seen to hand the cash over to Customer A, who then hands it to the licensee’s employee. As soon as the transaction is completed, Customer B collects the 6 VB cans and they leave together each taking the liquor they have brought to the counter. Given these circumstances the Commission finds that it would have been known to the licensee’s employee that the liquor was also being sold to Customer B who brought the VB to the counter and exercised control over the VB and provided the cash for the sale, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- x. Transaction 6 - although Customer A is the one to provide the cash and identification to the licensee’s employee, Customer A never brings any liquor to the counter for purchase. Customer B is seen to bring three

(3) casks of wine to the counter, Customer C is also seen to bring two (2) casks of wine to the counter. Customers A, B and C all wait at the counter when Customer D enters. As soon as the transaction is completed, Customer B takes four (4) of the casks of wine from the counter and Customer D takes the fifth cask. Customers B and D then leave separately to Customer A and C. Neither Customer A or C leave with any of the liquor, however they follow Customers B and D shortly after out of the premises. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who brought the three (3) casks of wine to the counter and Customer C the other two (2) casks of wine to the counter. This is the case even though Customer C did not take the liquor from the counter as she remains in proximity throughout and she follows out B and D who have taken the liquor. Neither B nor C provided identification to be scanned and therefore such sales were both in breach of section 130(2)(b) of the Act.

In fact the Commission has strong suspicions that the licensee's employee suspected it was highly likely that the sale of one (1) of the casks at least was also to Customer D who approached and removed that cask from the counter, however the Commission has some doubt; to which the licensee is entitled to the benefit;

- y. Transaction 18 – as noted earlier, this footage starts with a can of Jim Beam already on the counter, however Customer A is also already seen to be waiting near the counter and to shortly thereafter be the one to provide identification to the licensee's employee by placing it on the counter. Customer B is then seen to approach and place two (2) casks of wine on the counter. When this is done, Customer A places the Jim Beam can on top of a cask. The licensee's employee then picks up the ID left by Customer A on the counter. When that is successfully scanned, Customer B can be seen to pick up the cash from Customer A and attempt to give it to the licensee's employee. When this occurs, the licensee's employee is seen clearly to begin gesticulating in a manner that can only be described as informing B that she must give the cash to A. Customer B is then seen to hand the cash over to Customer A, who then hands it to the licensee's employee. When the change is provided to Customer A he is seen to immediately provide that to Customer B who then purchases some cigarettes. Customer B then leaves with the cigarettes and can of Jim Beam, with Customer A taking hold of the 2 casks of wine and the customers leaving the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who brought the two (2) casks of wine to the counter and remained at all times with Customer A at the counter and also attempted to make payment initially with the cash. As Customer B did not provide identification to be scanned, the Commission finds the sales in such circumstances to be in breach of section 130(2)(b) of the Act.
- z. Transaction 21 – although Customer A is the one to provide the card for payment and identification to the licensee's employee, Customer A

never brings any liquor to the counter for purchase. Customer B is seen to bring two (2) casks of wine to the counter and remains with A at the counter. As soon as the transaction is completed, Customer B then leaves with the two (2) casks of wine and the customers leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who brought the two (2) casks of wine to the counter and remained at all times with Customer A at the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- aa. Transaction 31 – although Customer A is the one to provide the cash and identification to the licensee's employee, Customer A never brings any liquor to the counter for purchase. Customer B is seen to bring two (2) casks of wine and a can of VB to the counter and remains with Customer A at the counter. As soon as the transaction is completed, Customer B then leaves with the two (2) casks of wine and VB can and the customers leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who brought all the liquor to the counter and remained at all times with Customer A at the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.
- bb. Transaction 2 - although Customer B is the one to ultimately provide the cash and identification to the licensee's employee whilst also bringing three (3) casks of wine and a carton of VB to the counter, there are a number of persons waiting with Customer B whilst this transaction takes place. This transaction also occurs very shortly after Customer A is seen to have brought a four (4) pack of Vodka Cruisers to the counter and who provides her identification for screening, however it returns a red screen indicating she is prohibited. As a result the licensee's employee removes the Vodka Cruisers from the counter and refuses the sale.

Customer A however remains at the counter when Customer B appears and brings three (3) casks of wine to the counter. At this point, Customer C is also seen to approach the counter and place one (1) bottle of rum on the counter. Customer B disappears and then returns with a carton of VB to the counter. At this point in time, Customer A and B appear to communicate and A is seen to gesture to the four (4) Vodka Cruisers that had been placed by the licensee's employee behind the counter. Customer B is seen to then communicate to the licensee's employee and gesture for the Vodka Cruisers to be added. The licensee's employee is seen to take hold of the Vodka Cruisers and place them on the counter with the rest of the liquor.

Customer B provides his identification. This is screened successfully and Customer B provides cash to the licensee's employee. As soon as the transaction is completed, Customers B and C remove the liquor from the counter together and Customer A carries out a bag of ice.

Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer A and C who waited throughout for the transaction. The Commission will address the sale to Customer A later in these reasons, but the sale to Customer C occurred without C providing identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- cc. Transaction 19 – this footage starts with the licensee's employee being seen to bring three (3) bottles of rum and place them on the counter. Customer A follows him shortly thereafter and places two (2) bottles of Coke on the counter with Customer B following shortly thereafter. Customer A is the one to provide identification to the licensee's employee and it is successfully scanned. Customer B can be seen to remove cash from his wallet whilst at the counter in the presence of the licensee's employee. Customer B then provides Customer A with the cash he has just removed and Customer A is seen to immediately hand that cash to the licensee's employee. Customer B then reaches for the change when the transaction has been completed, however the licensee's employee is seen clearly to begin gesticulating in a manner that can only be described as informing B that the change must be given to A. Customer A receives the change and is then seen to hand the change to Customer B. Customer B then purchases some cigarettes. Customer A picks up the liquor from the counter and the customers leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who attempted to make payment initially with the cash and remained at all times at the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act..
- dd. Transaction 8 – although Customer B is the one to ultimately provide the card for payment and identification to the licensee's employee, Customer B never brings any liquor to the counter for purchase and in fact never takes hold of the liquor at any time. Customer A is seen to bring two (2) casks of wine to the counter and then to leave and again return with a six (6) pack of VB to the counter. The licensee's employee is seen to place all of these items into a plastic bag. Customer B then provides his ID which is ultimately scanned successfully. Whilst at the counter, Customer B is seen to provide a card for payment to Customer A. Customer A then attempts to provide that card to the licensee's employee, however the licensee's employee is seen clearly to begin gesticulating in a manner that can only be described as informing A that the card for payment must be provided by Customer B. There appears to be confusion from both customers and the licensee's employee is seen to remove the card from Customer A and return it to Customer B, who then immediately provides the card for payment to the licensee's employee. As soon as the transaction is complete, Customer A picks up the plastic bag holding all the liquor from the counter and the customers leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's

employee that the liquor was also being sold to Customer A who attempted to make payment initially with the card and remained at all times at the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- ee. Transaction 9 – although Customer C is the one to ultimately provide the card for payment and identification to the licensee’s employee, Customer C never removes the liquor from the premises. Customer B is seen to bring two (2) casks of wine to the counter. Customer A is already present at the counter. Shortly thereafter Customer C approaches the counter with a six (6) pack of VB. Customer C then provides her ID which is scanned successfully. Whilst at the counter, Customer C is seen to remove a card from Customer A and provide that to the licensee’s employee for payment. Upon the transaction being complete, the licensee’s employee returns the card to Customer C who immediately hands it back to Customer A. Customer A then removes one (1) cask of wine from the counter and places it in his backpack. Customer A then also takes the 6 pack of VB. Customer B has taken the other wine cask and is then seen to remove the card from Customer A and use the card for payment for cigarettes. The customers then leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee’s employee that the liquor was also being sold to Customer A who’s card was clearly used for the payment and who took control of the majority of the liquor and remained at all times at the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

The Commission further finds that in these circumstances, it would have been known to the licensee’s employee that the liquor was also being sold to Customer B who brought the two (2) casks of wine to the counter, remained at all times at the counter and who left with one (1) of those casks of wine, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- ff. Transaction 22 – although Customer A is the one to provide the card for payment and identification to the licensee’s employee, Customer A is in the presence of Customer B throughout. Customer A is seen to bring two (2) casks of wine to the counter, followed shortly thereafter by Customer B who brings a 700mL VB “long neck” to the counter. Customer A provides his identification which is successfully scanned. Customer B then attempts to a card for payment to the licensee’s employee, however the licensee’s employee is seen clearly to begin gesticulating in a manner that can only be described as indicating that the card for payment must be provided by Customer A. Customer B then attempts to provide her card to Customer A, however he does not appear to want to take the card initially. Customer B is then seen to speak into Customer A’s ear. Customer A is then seen to take the card from Customer B and hand it immediately to the licensee’s employee. Upon the transaction being successfully completed, the licensee’s

employee returns the card to Customer A who is seen to immediately return it to Customer B. Customer A then collects all the liquor from the counter and the customers leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who attempted to make payment initially with the card and remained at all times at the counter, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- gg. Transaction 23 – although Customer A is the one to provide the cash and identification to the licensee's employee, Customer A never brings any liquor to the counter for purchase and never has any control over the liquor at any time. Customer B is seen to bring one (1) cask of wine and one (1) cask of port to the counter and remains with A at the counter. As soon as the transaction is completed, Customer B then takes the plastic bag that holds all the liquor and also the change from the licensee's employee and the customers leave the premises together. Given these circumstances the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer B who brought all the liquor to the counter, remained at all times with Customer A at the counter and removed all the liquor from the premises, but who did not provide identification to be scanned and therefore such sale was in breach of section 130(2)(b) of the Act.

- 95. As a result the Commission finds itself satisfied of forty one (41) breaches of section 130(2)(b) of the Act with respect to the Douglas Street premises.

Prohibited Sales contrary to section 130(2)(c)

- 96. As earlier noted, counsel for the Director also submitted that there were two (2) transactions involving the sale of liquor to an individual after the system had indicated that the individual was prohibited under section 128(1) of the Act. In light of this submission, the Commission carefully considered the CCTV footage and finds the following:
 - a. Transaction 1 – as earlier mentioned, this is a sale where Customer B ultimately provided the identification and cash to the licensee's employee however this sale is one that occurred as a result of Customer A providing cash for payment whilst standing at the counter and in the presence of the licensee's employee. This sale also occurred only approximately two (2) minutes after Customer A had been in the store and had her identification scanned which returned a red screen advising that she was identified as prohibited under section 128. In the circumstances already described about this transaction in paragraph 94(h), the Commission finds that it would have been known to the licensee's employee that the liquor was also being sold to Customer A and that Customer A was prohibited under section 128 and therefore such sale was in breach of section 130(2)(c) of the Act.

- b. Transaction 2 – as earlier mentioned, this is a sale where Customer B is the one to ultimately provide the cash and identification to the licensee’s employee however this sale is one that occurs very shortly after Customer A is seen to have brought a four (4) pack of Vodka Cruisers to the counter and who provides her identification for screening, however it returns a red screen indicating she is prohibited under section 128. In the circumstances already described about this transaction in paragraph 94(bb), the Commission finds that it would have been known to the licensee’s employee that the liquor was also being sold to Customer A and that Customer A was prohibited under section 128 and therefore such sale was in breach of section 130(2)(c) of the Act.

97. As a result the Commission finds itself satisfied of two (2) breaches of section 130(2)(c) of the Act with respect to the Douglas Street premises.

Sale or Supply to Intoxicated Persons contrary to section 285 of the Act

98. In relation to the question of whether a person is “intoxicated”, the Commission notes that the term is defined under section 5 of the Act as follows:

5 Meaning of *intoxicated*

A person is to be taken to be *intoxicated* if:

- (a) the person's speech, balance, coordination or behaviour appears to be noticeably impaired; and
- (b) it is reasonable in the circumstances to believe the impairment results from the person's consumption or use of liquor or a drug.

99. The Commission further notes that in order to find that the licensee or its employee has breached section 285 of the Act, the Commission must find that the licensee or its employee was aware that there was a substantial risk that the person they were supplying liquor to was intoxicated and that having regard to the circumstances known to them, it was unjustifiable to take that risk.

100. It is with these matters in mind, that the Commission considered carefully each of the 5 transactions identified in paragraph 56 above whilst considering the footage as a whole. As a result, the Commission finds as follows:

- a. Transaction 10 - although not relied upon by counsel for the Director, the Commission considers that the footage relating to this transaction occurring on 10 December 2019 at 5.07pm to also be relevant for the purposes of a possible offence under section 285 of the Act. The circumstances of the sale itself are set out in paragraph 94(i). In addition, the Commission notes that in the footage Customer D is seen to have his balance and coordination noticeably impaired. He sways at the counter and his balance is impacted, so too his movement as he walks.

It is the Commission's view that taking into account what can be seen from a perusal of the balance, coordination and behaviour of Customer D whilst he is on the premises and at the counter, that the licensee's employee would have been aware that there was a substantial risk that Customer D was intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment results from Customer D's consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

In all of the circumstances, the Commission finds that this occurrence which involved Customer D waiting at the counter for the transaction to be completed and then removing one (1) can of rum and a cask of wine from the counter, involves a sale or supply of liquor contrary to section 285 of the Act.

- b. Transaction 5 - although not relied upon by counsel for the Director, the Commission considers that the footage relating to this transaction occurring on 11 December 2019 at 1.31pm to also be relevant for the purposes of a possible offence under section 285 of the Act. The circumstances of the sale itself are set out in paragraph 94(q). In addition, the Commission notes that in the footage Customer B is seen to have his balance, coordination and behaviour noticeably impaired. He almost "totters" the top half of his body above that of his bottom half and appears to sway as he stands waiting with the others at the counter. His movement as he walks is also visibly impaired.

It is the Commission's view that taking into account what can be seen from a perusal of the balance, coordination and behaviour of Customer B whilst he is on the premises and at the counter, that the licensee's employee would have been aware that there was a substantial risk that Customer B was intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment results from Customer B's consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

In all of the circumstances, the Commission finds that this occurrence which involved Customer B bringing the VB long neck to the counter, providing money to Customer A and then also removing the VB long neck from the counter, involves a sale or supply of liquor contrary to section 285 of the Act.

- c. Transaction 33 - 11 December 2019 at 1.33pm. The circumstances of the sale itself are set out in paragraph 94(r). The Commission notes that the footage of Customer B and the same male described in paragraph 100(b) above is stark in its obviousness of the level of intoxication of both persons.

Customer B's balance and coordination is noticeably impaired as she approaches the counter. Customer A is initially seen to be holding on to the counter. Customer B's facial movements can also be seen and also appear to be noticeably impaired as does her coordination in

placing the cask of wine on the counter and providing the cash to the licensee's employee.

So obvious is Customer B's impairment that it appears that Customer A also notices and he is seen to pull the wine cask out of Customer B's arms as she approaches the counter. The force of his action however almost topples Customer B over such is her level of impairment.

The Commission considers that both are seen to be visibly impaired in their balance and coordination as they sway and stagger to, and then through, the door to exit the premises.

It is the Commission's view that taking into account what can be seen from a perusal of the balance, coordination and behaviour of Customer A and B whilst they are on the premises and at the counter, that the licensee's employee would have been aware that there was a substantial risk that both customers were intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment exhibited by both Customer A and B results from Customer A and B's consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

In all of the circumstances, the Commission finds that this occurrence which involved Customer A taking the wine cask from Customer B and placing it on the counter to then remove it from the counter and leave with it from the premises, involves a sale or supply of liquor contrary to section 285 of the Act.

The Commission additionally finds that this occurrence involving Customer B bringing the wine cask from the back of the premises and almost to the counter, then handing over the cash to the licensee's employee, involves a sale or supply of liquor contrary to section 285 of the Act.

In all of the circumstances, the Commission finds that this occurrence involves a sale or supply of liquor to Customer A and B when those persons are intoxicated and the person is reckless in relation to those circumstances, contrary to section 285 of the Act.

- d. Transaction 17 - 11 December 2019 at 7.27pm. The circumstances of the sale itself are set out in paragraph 94(u). Whilst the Commission accepts that the footage shows Customer B to be noticeably impaired, those signs are the most clear when Customer B is prevented from taking a cask of wine away from the counter by the licensee's employee. Therefore no sale occurs and Customer B then leaves. As a result the Commission does not find there to have been a sale and supply of liquor to Customer B.
- e. Transaction 8 - 13 December 2019 at 4.22pm. The circumstances of the sale itself are set out in paragraph 94(dd). The Commission notes that the footage shows Customer B approaching the counter and he

appears visibly intoxicated with both his balance and coordination as he walks appearing to be noticeably impaired.

At the counter Customer B appears to noticeably sway and his coordination appears noticeably impaired as he searches for his ID. He continues to sway as he waits at the counter and then appears to use the counter to keep his balance. He sways as he approaches with his card to pay and Customer A appears to notice that Customer B is having trouble and attempts to assist him to use his card to pay for the transaction. Customer B continues to sway as he waits at the counter and again appears to use the counter to keep his balance.

It is the Commission's view that taking into account what can be seen from a perusal of the balance, coordination and behaviour of Customer B whilst on the premises and at the counter, that the licensee's employee would have been aware that there was a substantial risk that Customer B was intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment of Customer B results from consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

As already noted, although Customer A is the one to leave with the two (2) casks of wine and the 6 cans of VB, Customer B leaves with her and it is the Commission's view that given the licensee's employee took such care to ensure he received the card from Customer B to pay for the liquor that this was a sale and supply of liquor to Customer B when Customer B was intoxicated, and the licensee's employee was reckless in relation to those circumstances, contrary to section 285 of the Act.

- f. Transaction 9 - 13 December 2019 at 7.00pm. The circumstances of the sale itself are set out in paragraph 94(ee). The Commission notes that the footage shows Customer A's balance and coordination as he walks to the counter to be noticeably impaired. The Commission notes that this is in fact far more noticeably impaired than when he attended earlier in the day (see Transaction 8).

Customer A continues to sway as he struggles with his coordination attempting to retrieve something from his pocket. It is eventually seen that he is attempting to retrieve something to pay for the liquor. Customer A continues to sway at the counter and continues to struggle. Eventually he disappears off screen and returns, still swaying as he walks. Customer A continues to sway at the counter as they wait and appears to use the counter to keep his balance.

As earlier noted, Customer A is so noticeably impaired during this transaction that he does not even appear to understand what is being said to him at one stage by Customer B, who is eventually seen to remove a card from Customer A in the presence of the licensee's employee and to use that card to purchase the cigarettes.

By the time the transaction is completed Customer A is swaying very noticeably and his behaviour in its entirety appears noticeably impaired.

As described, Customer A appears to realise he does not have his card and appears to be asking the licensee's employee for it. At the same time Customer B is repeatedly poking Customer A seemingly in an attempt to indicate that he has the card. Customer A does not even appear capable of noticing what Customer B is doing.

Customer B then pulls slightly at Customer A's shirt and Customer A turns and leaves, swaying as he does so. Customer A is then seen to move his arm in a motion toward Customer B as they depart. Customer A's coordination and balance is so noticeably impaired that he staggers to the side as he performs this motion and almost loses his own balance as they leave from the store.

It is the Commission's view that taking into account what can be seen from a perusal of the balance, coordination and behaviour of Customer A whilst on the premises and at the counter, that the licensee's employee would have been aware that there was a substantial risk that Customer A was intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment of Customer A results from consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

As earlier noted, although Customer B used the card to pay, it was clear from the conduct that the card belonged to Customer A. It was also clear from the conduct of Customer A that he considered, at the very least, one of the wine casks and the 6 pack of VB to be his and in all the circumstances this was a sale and supply of liquor to Customer A when Customer A was intoxicated, and the licensee's employee was reckless in relation to those circumstances, contrary to section 285 of the Act.

- g. Transaction 22 - 14 December 2019 at 2.45pm. The circumstances of the sale itself are set out in paragraph 94(ff). The Commission notes that the footage shows Customer B rummaging about in her bag looking for something. She then removes a card seemingly to pay for the liquor. Her facial movements are bodily movements indicate a noticeable level of impairment at this point in time. As earlier described it is apparent that when Customer B seeks to pay with her card, the licensee's employee is speaking to the 2 customers and appears to be motioning in a way that indicates that it is Customer A who must pay. Both customers appear not to initially understand what is being said, particularly Customer B. She sways her arm at one point which causes her entire body to sway noticeably.

During this period, both Customer A and B appear to sway at the counter and their balance appears impaired. Eventually Customer B appears to understand what is being said by the licensee's employee and she attempts to provide her card to Customer A. Customer A initially appears to not want to take the card and Customer B is seen to speak very closely to Customer A's ear who eventually takes the card. Both Customer A and B continue to sway at the counter, with both

having their balance appear noticeably impaired. Customer B appears to be attempting to be friendly with the licensee's employee. She continues to sway as she stands at the counter. As she speaks, her facial expressions also appear to be noticeably impaired as she attempts to communicate with the licensee's employee.

The transaction is completed. Customer A tries to return the card back to Customer B, however she is too focussed on the licensee's employee to notice initially and her behaviour appears noticeably impaired. Customer B then takes her card back from Customer A. Both can be seen continuing to sway at the counter.

The liquor is placed in a bag by the licensee's employee and taken by Customer B who departs the premises, his balance and coordination appearing impaired as he departs. Customer A continues to attempt to engage with the licensee's employee and sways about at the counter; her behaviour noticeably impaired.

It is the Commission's view that taking into account what can be seen from a perusal of the balance, coordination and behaviour of Customer A whilst on the premises and at the counter, that the licensee's employee would have been aware that there was a substantial risk that Customer A was intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment of Customer A results from consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

Although Customer B used the card to pay, it was clear from the conduct that the card belonged to Customer A. In addition, although Customer B left with all of the liquor, Customer A shortly followed and Customer A had brought the long neck VB bottle to the counter. In all the circumstances this was a sale and supply of liquor to Customer A when Customer A was intoxicated, and the licensee's employee was reckless in relation to those circumstances, contrary to section 285 of the Act.

The Commission is further of the opinion that the balance and coordination of Customer B as he waits at the counter and as he departs is noticeably impaired and given the conduct earlier described, the licensee's employee would have been aware that there was a substantial risk that Customer B was intoxicated, i.e. to say that it was reasonable in the circumstances to believe the impairment of Customer B results from consumption or use of liquor or a drug. Further that having regard to the circumstances known to the licensee's employee, it was unjustifiable to take that risk.

In all the circumstances this was also a sale and supply of liquor to Customer B when Customer B was intoxicated, and the licensee's employee was reckless in relation to those circumstances, contrary to section 285 of the Act.

101. As a result the Commission finds itself in fact satisfied of eight (8) breaches of section 285 of the Act with respect to the Douglas Street premises.
102. The Commission also considers it relevant, as noted earlier, that the transactions set out in paragraph 100(e) and (f) above involve a sale or supply that utilises the card of a single customer for payment. These two (2) transactions alone resulted in the sale or supply of liquor of approximately 100 standard drinks in just over 2 and ½ hours to persons who on each occasion appear visibly intoxicated.

The breach of the Accord

103. As earlier noted, the Commission received evidence that the Douglas Street premises are a member of the Darwin Inner City Packaged Liquor Accord (“the Accord”). Although the Accord is a voluntary agreement it runs in conjunction with the Act.
104. The Act makes clear at section 134 that there is an “effect” of a local liquor Accord and if a licensee is a party to an Accord then they “must comply” with it. The Accords are an important part of the regulatory framework for liquor licences. The relevant Accord itself identifies that its aim is:
- “...to improve safety in the Darwin community by preventing and reducing anti-social behaviour and alcohol related violence.”
105. The Accord goes on to identify its objectives which includes:
- “Harm reduction strategies towards anti-social and violent behaviour in and around their licensed premises;
 - The implementation of RSA practices in licensed premises;
 - Ensuring safety and security in and around licensed premises;
 - Improving the general amenity of Darwin; and
 - The implementation of appropriate cross cultural learning and awareness activities”.
106. The Accord then provides for the strategies to achieve those aims and objectives.
107. In relation to this Accord, there is no doubt that the Douglas Street premises are a member. There is also no doubt from the CCTV footage that there have been several occasions where there has been absolutely no attempt by the licensee’s employee to ensure there has been compliance with the specific strategy of “1 cask per person per day”. It appears from the Commission’s perusal of the CCTV footage that of the 33 transactions relied upon, 28 of them involved a transaction with more than 1 cask being sold during the transaction. On occasion the transaction was as high as involving 6 casks of wine.

108. The Commission also notes that the Accord has another specific strategy to ensure that “cask wine sales between 12 midday and 7:00pm only”. It appears from the Commission’s perusal of the CCTV footage that of the 33 transactions relied upon, 17 of them involved a transaction with more than 1 cask being sold during the transaction and the transaction occurring before 12 midday or after 7.00pm.
109. The conduct of the licensee’s employee in this regard leaves the Commission in no doubt that the licensee does not take the Accord and its terms seriously. Such conduct makes the value of the Accord not worth the paper that it is written on if its own members do not bother to comply. This is particularly so when the Commission takes into consideration that the large majority of these transactions are in fact conducted by the nominee Mr Lavakumar Bollineni.
110. When inquiries were made about this breach, no evidence was sought to be offered on behalf of the licensee, instead counsel for the licensee simply stated that the licensee had failed to comply with the Accord because it thought the Accord “no longer applied”. This is simply not good enough.
111. The Accord itself makes clear in Schedule 2, that:
- “The following strategies as agreed to by Accord members will continue indefinitely upon approval of Licensing NT. ...”
112. As the Commission noted when this submission was made by counsel for the licensee, there is an obligation on the licensee to ensure it **understands** its obligations and **complies** with its obligations. Ignorance is no excuse. Failing to even carry out an investigation as to whether its “thoughts” were correct about the continuation of the Accords shows an utter disregard by the licensee as to its obligations and makes a mockery of the Accord scheme.
113. In addition the assumption by the licensee that the Accord no longer applied because of the reintroduction of the BDR is an indicator as to how little regard is had by the licensee to the legislative changes that were made given the Accords were part of the review by Government and were specifically discussed in the “Alcohol Policies and Legislation Review Final Report” (aka “the Riley Review”) as continuing.

Sabine Road CCTV footage

114. Counsel for the Director also provided a table of the transactions relied upon with respect to these premises, however the Commission notes that it is only one (1) breach that is disputed by the licensee and that is the breach alleged on 1 February 2020 at 10.23am allegedly involving the sale of liquor to a person who was identified as prohibited on the BDR, contrary to section 130(2)(c) of the Act.
115. The Commission has considered the CCTV footage of this incident carefully. This incident is not like those at the Douglas Street premises where each of the customers can be seen. It is only the licensee’s employee who is visible and her actions are predominantly seen from behind. It is therefore difficult to make an assessment of what, or who, she is looking at on various occasions.

116. Although the Commission acknowledges that one ID was scanned and indicated a red screen meaning the sale could not occur to that person. There is then a subsequent ID that is scanned which provides a green screen enabling a sale to take place.
117. There is also the further difference with this transaction to that of many of those at the Douglas Street premises and that is that this is the sale of a single cask. The Commission cannot say with any certainty that the cask was not given to the person whose ID was scanned and who received the green screen result. In these circumstances, even if the Commission were to have a suspicion about this transaction, there is a plausible alternative that the sale (or supply) occurred to that person and the licensee is therefore entitled to the benefit of that possibility.
118. As a result the Commission is not satisfied that there has been a breach and dismisses that single allegation on the complaint. The Commission therefore finds itself satisfied only of those breaches which were admitted by the licensee prior to the hearing commencing.

The Disciplinary Action

119. Although the licensee admitted at an early stage the breaches that were found as having occurred with respect to the Sabine Road premises; that was not the case with respect to the breaches in relation to the Douglas Street premises. The licensee is not punished for taking the matter to a hearing, however the licensee is also given no benefit for an early admission in relation to the breaches at the Douglas Street premises.
120. The Commission has also found itself satisfied of a number of additional breaches of the Act in relation to the Douglas Street premises. It is clear this was not a “one off” event and the conduct seen on the CCTV footage taken from the Douglas Street premises has left the Commission very concerned that the licensee does not take its obligations seriously whatsoever. In fact the conduct depicted in the footage is consistent with an attitude from the licensee that complying with the Act or terms of the licence is “not my problem”; which is consistent with a comment made by the nominee, Mr Bollineni, to Ms Russell on 11 February 2020 when it was explained to the nominee that he could not carry out sales in the manner seen in the footage and he stated:

“...how is this my problem, it is the police that should be fixing this up”.
121. As was stated to Mr Bollineni at the time, as nominee he is responsible for ensuring the Act is complied with and it is clear that this has not occurred.
122. As noted earlier, the evidence of S/C Jones was particularly relevant to the question of the “risk” of the licences for each of the premises. On this issue, S/C Jones gave evidence, noting the following relevant matters:

- a. Persons from alcohol-controlled communities or areas of high rates of alcohol fuelled crime and anti-social behaviour were known to often attend the Douglas Street and Sabine Road premises;
 - b. Large numbers of such persons from such communities were also known to purchase large quantities of liquor from both premises;
 - c. Surveillance undertaken at both premises depicted large numbers arriving in taxis and mini-buses to purchase liquor;
 - d. Such persons were also then known to return to nearby Aboriginal communities with the liquor purchased causing harm, or increasing the risk of harm, in those communities.
 - e. Persons attending both premises are also often intoxicated (as the Commission also found from the footage) and this is known to cause concern for those persons living in the neighbourhood in and around the premises.
 - f. Incidents involving assaults, public drunkenness, possession of liquor in a public place and suspicious persons were frequently reported in the neighbourhoods in and around both premises.
 - g. At the Douglas Street premises incidents involving persons breaking bottles and attempted unlawful entry were also reported in the neighbourhood in and around the premises.
 - h. At the Sabine Road premises incidents involving disturbances, drink driving, criminal damage and child welfare concerns were also reported in the neighbourhood in and around the premises.
123. There was little impact upon the substance of the evidence given by S/C Jones as a result of cross examination. Having heard the evidence of S/C Jones, the Commission accepts that both premises are “high risk” licensed premises. Both involve a take away licence and it is clear that there are significant anti-social issues in the areas in the vicinity of each of the premises which relate specifically and identifiably to the sale and/or supply of liquor and which are having significant social repercussions.
124. Further, based on this evidence, the Commission finds that both of the premises are areas known for attracting antisocial and drunken behaviour which comes at a cost to those in the immediate vicinity but also to the wider public and significant cost in terms of public (and not unlimited) resources spent by the NT Police.
125. Given the nature of the complaints which have been admitted, and subsequently found as occurring, the Commission does not consider that it is appropriate that the matter should be dismissed and therefore now turns to the question of the nature of the disciplinary action to be taken in relation to the contraventions of the Act.
126. With these types of breaches, it is important to remember that the purpose of the BDR provisions is to identify those persons who may be prohibited from

purchasing liquor. There is a risk posed to the community if licensees fail to comply with the BDR provisions, particularly in light of the public policy behind the provisions.

127. In the case of the Douglas Street premises alone, the Commission has found two (2) occasions when liquor was in fact sold to a person after the system identified that person as being **prohibited** from purchasing liquor. This is a very significant matter indeed, let alone then combining those breaches with the 41 breaches involving failure to scan, the 8 breaches of supply whilst intoxicated and failure to comply with the Accord.
128. During the course of submissions on penalty, counsel for the Director submitted that in relation to the Douglas Street premises; the Commission should consider either a lengthy suspension of the licence or a cancellation of the licence as the appropriate disciplinary action to be taken pursuant to section 165(2) of the Act.
129. In relation to the licensee's compliance history, the Commission notes that although there have been issues raised in the past, there has been no previous action taken against the licensee with respect to either premises.
130. On the question of penalty, Mr Berkley submitted that there had been early admissions made by the licensee and that the licensee was "operating the system" and "taking it seriously". Mr Berkley submitted it was "very, very serious to cancel the licence" and that the licensee "did not set out to avoid the Act".
131. Whilst acknowledging the admissions made, the Commission does not accept the licensee was properly operating the system, or indeed "taking it seriously". The Commission in fact considers the conduct of the licensee via its employees (and frequently via the dual nominee for the Douglas Street premises) to evidence conduct deliberately undertaken to avoid the requirements of the Act.
132. In relation to breaches of the BDR provisions, the Commission is aware there have been six (6) previous decisions dealing with complaints under the 1978 Act. These related to the following premises and were as follows:
 - a. Liquorland Alice Springs – breach of section 31A(5)(d) of the 1978 Act – dismissed.
 - b. Lizards Bar and Restaurant - breach of section 31A(5)(a) of the 1978 Act being 10 separate occasions – monetary penalty of 20 penalty units was imposed.
 - c. Pigglys Pty Ltd - breach of section 31A(5)(a) of the 1978 Act being one occasion – monetary penalty of 1 penalty unit imposed (although the Commission notes the unusual features of that referral).
 - d. Northside IGA - breach of section 31A(5)(a) of the 1978 Act being 3 separate occasions – formal warning letter sent.

- e. Oceanview - breach of section 31A(5)(a) of the 1978 Act being 138 separate transactions over a period of 26 days - Commission suspended the licence for 48 hours.
 - f. D & C Gourmet breach of section 31A(5)(a) of the 1978 Act being 10,551 separate occasions over a period of 17 months - Commission suspended the licence for 28 days.
133. The Commission is also aware of other relevant decisions relating to breaches of section 31A(5) of the 1978 concerning failure to comply with then “approved identification” provisions. This included the decision of the Northern Territory Liquor Commission in *Complaint pursuant to section 48(2) of the Liquor Act – Failure to Scan an Approved Identification Prior to the Sale of Liquor. Deemat Pty Ltd* (2 November 2011) (“the Deemat 2011 decision”).
134. In the *Deemat 2011* decision at paragraph 11 it was noted as follows:
- “... previous decisions of the Commission in relation to breaches of section 31A(5)(a) of the Act were tabled. These were noted as follows:
- “A Decision of 5 November 2008 (Todd Tavern) in relation to several ID breaches on separate occasions with the Licensee incurring a two day suspension at the bottle shop;
 - A Decision of 1 December 2009 (Macs Liquor Alice Springs) following a finding that seven sales were made without obtaining or scanning authorised forms of ID, the penalty imposed by the Commission was a one day’s suspension.
 - Commission Decision of 17 June 2010 (Stuart Hotel) in relation to a breach of the Act where a person presented false ID in order to purchase takeaway. Commission issued a reprimand to the Licensee.”
135. The day prior to completion of this hearing, a Decision Notice was released by the Commission with respect to the premises known as the “Hidden Valley Tavern” concerning JTR Investments Pty Ltd for breach of section 130 of the Act on 192 separate occasions over a period of 6 days – the Commission suspended the licence for 48 hours and imposed additional conditions on the licence concerning CCTV footage.
136. The Commission has considered each of these decisions carefully.
137. Whilst the Commission notes the admissions made by the licensee with respect to the Sabine Road premises and the single matter on the Douglas Street premises, these admissions have to be seen in the context of what was, on the evidence, an overwhelming case.
138. The Commission is also concerned by the submission that the licensee “did not set out to avoid the Act” and the nominee’s statement questioning how such transactions was his “problem”. The conduct of the licensee and the

licensee's employees shows they did not take their obligations under the license or the Act seriously.

139. In relation to the Douglas Street premises, the Commission is concerned with the number of breaches that occurred in a period of only 6 days and which resulted in a very large amount of liquor during each of the transactions. The conduct seen in that footage shows that this was not an anomaly and the licensee was clearly not being proactive in ensuring the provisions were taken seriously.
140. As earlier noted, the BDR provisions represent an important part of the provisions under the Act. There is a significant body of evidence that supports supply reduction measures such as the Banned Drinker Register. Studies have shown there are benefits in banning persons from being able to purchase alcohol including increased venue safety, general risk management, and deterrence of antisocial behaviour. There is also a considerable body of research that shows a strong correlation between alcohol availability and crime, anti-social behaviour and family violence. Reducing access to liquor has demonstrated corresponding reductions in these areas. These provisions form a significant part of the Government's policies towards making communities safer.
141. With this important public policy background, it is clear that the BDR provisions are in place to attempt to reduce the risk to the community of problem drinking. The Commission therefore anticipates that the community expects that as this is a public policy about making the community safer, that when there is a breach, the consequences to follow from such a breach should be strict.
142. What should also be kept in mind is, these kinds of breaches are not easy to detect and therefore must be taken seriously when they are found to have occurred.
143. As noted, another important factor in this case is the large quantity of liquor being sold in the form of cask wine. On the evidence with respect to both premises the Douglas Street premises sold 7,681 litres of cask wine in the first three (3) quarters of 2019 and the Sabine Road premises sold 7,467 litres of cask wine in the same period. Both premises sell more than twice as much cask wine as the next seller. The sale of liquor on a scale such as this; contrary to the Accord to which the Douglas Street premises is a member, and contrary to the provisions of the Act as found on the evidence is a very, very serious matter.
144. This is particularly so in light of what was stated by the then Licensing Commission in 2006 (now over 14 years ago) in the decision concerning the premises of *Good Fortune Takeaway Mini Market*⁷ where it was noted that:

“It is well known that the cask wine provided to the customer is a “liquor of choice” for many problem drinkers as it is cheap. The chances of the cask wine sold leading to antisocial behaviour and public drunkenness within the

⁷ Northern Territory Licensing Commission *Complaints pursuant to s48(2) of the Liquor Act (1978): Good Fortune Takeaway Mini Market* (14 July 2006) at [6(b)]

neighbourhood of the licensed premises was increased in all the circumstances and we take this factor into account”.

145. Unfortunately, cask wine remains a “liquor of choice” for many problem drinkers and in terms of the chances of such “cask wine sold leading to antisocial behaviour and public drunkenness within the neighbourhood of the licensed premises”; again very little has changed. The Commission takes these factors into account in considering the disciplinary action to be taken.

146. The drawing of the *Good Fortune Takeaway Mini Market* decision to the attention of the Commission has enabled the Commission to consider the circumstances of the offending in that matter and the further comments made by the then Licensing Commission. That decision related to the licensee being found in breach of her license conditions by selling liquor to a patron outside of licensed trading hours. In particular a **single** cask of wine had been sold by the licensee at some time before 8.00am. The Licensing Commission noted in that case that the customer was⁸:

“ a dishevelled man who wanted a cask of wine first thing in the morning – at a time when children were going to school and adults to work.”

147. And the sale was⁹:

“... to a man who had the appearance of someone who needed a drink and was likely to drink in a public place.”

148. In this case, whilst there were no sales prior to 10.00am, there were certainly sales to persons who had the appearance they were likely to be problem drinkers and were likely to drink in a public place.

149. The Licensing Commission also noted in its decision that¹⁰:

“The impact on residential neighbourhoods of antisocial behaviour and public drunkenness is a matter of ongoing concern to the Commission and any licensees who contribute to this problem for their own commercial benefit must accept the consequences of their actions.”

150. This Commission agrees with such comments. The impact on residential neighbourhoods remains of concern to this Commission and licensees are well aware of these issues and the concerns held by the entire community about these problems. The Commission also notes that in that decision, the Licensing Commission suspended the liquor licence for 10 days.

151. In terms of any cancellation or suspension, the Commission inquired of Mr Berkley whether he had any evidence as to what financial impact would occur to the licensee if the Commission were disposed to take such action. No evidence was provided other than Mr Berkley submitted it was “very, very serious to cancel the licence”.

⁸ Ibid

⁹ Ibid at [6(c)]

¹⁰ Ibid at [6(a)]

152. The Commission does however note the acknowledgement on behalf of the Director that in relation to the Douglas Street premises; subsequent perusal of footage provided in January 2020 did not reveal any continuing offending. This is of course significant.
153. Whilst that is a positive matter, it should be kept in mind that the seriousness of the BDR provisions and the seriousness of the breach of such provisions were made patently clear by the Commission back on 2 July 2018 when the Commission issued its decision in relation to the premises known as Lizards Bar and Restaurant¹¹ where the Commission stated as follows:
- “... as was stated to the licensee at the conclusion of the hearing, this Commission wishes to make clear to this particular licensee and all licensees (and their employees) that the provisions of the Banned Drinkers Register (“BDR”) ***must*** be taken seriously. This decision should serve as a warning to licensees that breaches will not be tolerated and now that the provisions have been in place since 1 September 2017, i.e. a period of almost 12 months, there will no longer be any leniency extended for failures to comply. The provisions are well known. Their compliance is simple. Their enforcement will be taken seriously due to their significance in keeping communities safer”.
154. The Commission could not have been clearer in its statement about the significance of these provisions and the seriousness of any breaches. It likewise could not have been clearer in its warning to all licensees.
155. In the decision issued by the Commission in Pigglys Pty Ltd on 20 February 2019 the Commission repeated that:
- “Licensees should expect that a failure to comply with s31A will attract substantial penalties”.
156. The provisions which were being referred to under section 31A of the 1978 Act in that decision are the equivalent to the offences being considered in this matter contrary to section 130 of the Act. Such a statement is therefore of equal application to these failures and licensees should continue to expect that failure to comply will attract substantial penalties.
157. Given the number and nature of breaches involved, the importance of these provisions under the Act and within the broader framework of alcohol policy in the Northern Territory and the high risk nature of these licences, the Commission has determined that these matters are very serious and as a result it is appropriate that the licences should be suspended for the periods set out at the commencement of this decision notice and that the additional actions should also be taken.
158. In relation to the Douglas Street premises, it should be noted that the Commission strongly considered cancelling the licence. However, the Commission also has evidence before it that no previous action has been

¹¹ Northern Territory Liquor Commission *Disciplinary action pursuant to the Liquor Act: Halikos Hospitality Pty Ltd* (LC2018/054, 2 July 2018) at [46]

taken against the licensee and a further audit of transactions at those premises by Licensing NT did not reveal any further offending.

159. The Commission does however wish to make clear to the licensee that it should be under no doubt as to just how close it has come to having its licence cancelled on this occasion and that this should be a matter closely considered by the Commission should the licensee ever return before the Commission again in future with respect to those premises for similar offending.
160. The Commission also considers that due to the problems with cask wine (which includes fortified wine) and the large amount of cask wine sold and spirits sold, that there should be additional conditions imposed in relation to both premises. It is clear that the licensee needs assistance in understanding its obligations and one way of ensuring those obligations are understood is by including them within the terms of the licence themselves. Further, due to the evidence of the social problems that exist around each of those premises, the Commission has also determined to limit the hours within which liquor can be sold and in particular cask wine and spirits in accordance with the purpose of harm minimisation.
161. Finally, due to the significance of the CCTV footage with respect to the complaints against both premises, the Commission has determined it is appropriate that there be an actual condition imposed into each of the licences requiring the licensee to maintain CCTV coverage at the point of sale for takeaway liquor so that compliance with BDR requirements can be monitored in future.

Notice of Rights:

162. Section 31 read with section 166(7) of the Act provides that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal ("NTCAT"). Section 94(3) of the *NTCAT Act 2014* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
163. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for review of this decision are the Director and the licensee.



JODI TRUMAN
PRESIDING MEMBER
DEPUTY CHAIRPERSON

On behalf of Commissioners Truman, Hart and Winsley
20 August 2020