

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

### VARIATION OF THE CONDITIONS OF LICENCES

#### LICENSEES

#### LICENCE NUMBERS

<b>Timber Creek Hotel</b>	80304074
<b>Top Springs Hotel</b>	81203330/FLL
<b>Victoria River Roadside Inn</b>	81200372

**LEGISLATION:** Section 113, *Liquor Act 2019* (NT)

#### Decision

1. The Northern Territory Liquor Commission (**the Commission**) hereby issues a decision to the licensees of the above-named licences pursuant to section 113 of the *Liquor Act 2019* (NT) (**the Act**), varying their respective licence conditions as follows.

#### **Timber Creek Hotel conditions**

a. The Commission varies the Special Conditions of the licence of the Timber Creek Hotel (Licence number 80304074) by deleting the condition under the heading "Sales of Cask and Fortified Wine", and inserting the following condition, under the heading "Takeaway Conditions":

(1) Liquor sold for consumption away from the licensed premises is limited to any one or a combination of the items listed below up to a total of 35 standard drinks as defined by section 117 of the *Liquor Act 2019* (NT), per person per day (**the personal daily limit**):

- i. Up to 30 cans or bottles not exceeding 400 ml in capacity of low or mid-strength liquor products (namely beer, cider or pre-mixed spirits with an alcohol/volume percentage not greater than 3.5%), equivalent to approximately 30 standard drinks
  - ii. Up to 24 cans or bottles not exceeding 400 ml in capacity of full strength beer or cider, equivalent to approximately 34 standard drinks
  - iii. Up to 12 cans or bottles not exceeding 400 ml in capacity of pre-mixed spirits with an alcohol/volume percentage of 3.5% or greater, equivalent to approximately 22 standard drinks
  - iv. One two litre cask of wine, equivalent to approximately 20 standard drinks
  - v. One 750 ml bottle of fortified wine, equivalent to approximately 12 standard drinks
  - vi. Up to two 750 ml bottles of wine, equivalent to approximately 16 standard drinks
  - vii. One 750 ml bottle of spirits, equivalent to approximately 22 standard drinks
- (2) The sale of liquor for consumption away from the premises to a group of people arriving at or leaving the premises in a single vehicle is limited to twice the personal daily limit.
- (3) Employees of the licensee and bona fide lodgers of the premises are exempt from the condition referred to in paragraphs (1) and (2) of this condition when purchasing liquor for consumption by the employee, lodger

or their invited guests, in the restaurant on the premises, or in the room, caravan site or camping site occupied by the employee or lodger.

- (4) "Lodger" means a person staying for the time being in accommodation provided by the licensee and includes a properly established caravan park or camping area maintained by the licensee at or near the premises. To establish their bona fides for the purpose of purchasing liquor pursuant to these special conditions, lodgers must produce personal identification plus proof that they have paid for their accommodation.
- (5) Bona fide orders from cattle stations or work camps (**bush orders**) are permitted to purchase an amount equivalent to seven times the personal daily limit of liquor. Bush orders must be placed on accounts and received by telephone or email at least one day in advance. All documentation must be retained for each bush order and made available to an Inspector of Licensed Premises on request.
- (6) The licensee must establish, maintain and retain a register that records sufficient information to enable the Director to monitor compliance with this condition.
- (7) The licensee must comply with the reasonable directions of the Director of Liquor Licensing in relation to the register.

### **Top Springs Hotel conditions**

b. The Commission varies the Special Condition of the licence of the Top Springs Hotel (Licence number 81203330/FLL) by omitting the condition under the heading "Takeaway Hours" and the condition under the heading "Restrictions on the Sale of Takeaway Alcohol" and substituting the following, under the heading "Takeaway Conditions":

(1) Liquor shall be sold only for consumption away from the premises during the following hours:

(i) Sunday to Friday inclusive between the hours 12:00 and 21:00

(ii) Saturday and Public Holidays between the hours of 10:00 and 21:00; and

(iii) No trading on Good Friday or Christmas Day

(2) Liquor sold for consumption away from the licensed premises is restricted to cans or bottles not exceeding 400 ml in capacity of low or mid-strength liquor products (namely beer, cider or pre-mixed spirits with an alcohol/volume percentage not greater than 3.5%).

(3) Liquor sold for consumption away from the licensed premises is restricted to a maximum of 24 individual containers per person per day. The maximum number of sales of packaged bulk liquor (e.g. carton) for consumption away from the premises per vehicle is three (3) per day.

(4) Bona fide orders from cattle stations or work camps are not subject to restrictions on quantity or type of alcoholic beverage but the collection of purchased alcohol must occur within licensed hours. Orders must be placed on accounts and received by telephone or email at least one day in

advance. All documentation must be retained for each order and made available to an Inspector of Licensed Premises on request.

(5) The licensee must establish, maintain and retain a register that records sufficient information to enable the Director to monitor compliance with this condition.

(6) The licensee must comply with the reasonable directions of the Director of Liquor Licensing in relation to the register.

c. Vary the Special Condition headed "Closed Circuit Television Condition" by adding, after the sentence ending with the words "the appearance of the salesperson":

The camera surveillance system must also include CCTV camera surveillance of the licensee's liquor storage area designed and operated so as to record the entry to and exit from the liquor storage area by any person at any time.

#### **Victoria River Roadside Inn conditions**

d. The Commission varies the Special Condition of the licence of the Victoria River Roadside Inn (Licence number 81200372) by omitting the condition under the heading "Takeaway Hours" and substituting the following, under the heading "Takeaway Conditions".

(1) Liquor shall be sold only for consumption away from the premises during the following hours:

(i) Sunday to Friday inclusive between the hours 12:00 and 21:00

- (ii) Saturday and Public Holidays between the hours of 10:00 and 21:00; and
  - (iii) No trading on Good Friday or Christmas Day
- (2) Liquor sold for consumption away from the licensed premises is restricted to cans or bottles not exceeding 400 ml in capacity of low or mid-strength liquor products (namely beer, cider or pre-mixed spirits with an alcohol/volume percentage not greater than 3.5%).
- (3) Liquor sold for consumption away from the licensed premises is restricted to a maximum of 24 individual containers per person per day. The maximum number of sales of packaged bulk liquor (e.g. carton) for consumption away from the premises per vehicle is three (3) per day.
- (4) Bona fide orders from cattle stations or work camps are not subject to restrictions on quantity or type of alcoholic beverage but the collection of purchased alcohol must occur within licensed hours. Orders must be placed on accounts and received by telephone or email at least one day in advance. All documentation must be retained for each order and made available to an Inspector of Licensed Premises on request.
- (5) The licensee must establish, maintain and retain a register that records sufficient information to enable the Director to monitor compliance with this condition.
- (6) The licensee must comply with the reasonable directions of the Director of Liquor Licensing in relation to the register.

e. The Commission directs that the above variations take effect on 22 April 2022.

## **Background**

2. The background to the above decision is set out in the *Notice of Proposed Variation of Licence Conditions (the Notice)* issued by the Commission on 17 January 2022.
3. In response to the Notice, the Commission received submissions from the affected licensees, Hospitality NT and over 100 patrons and employees of the Timber Creek Hotel. The Commission records its thanks to the many Victoria River locality residents who have taken the time and trouble to contribute to this inquiry.
4. In brief, the Commission has decided to substantially confirm the takeaway conditions proposed in the Notice for the Top Springs Hotel and the Victoria River Roadside Inn, but to fix less restrictive conditions for the Timber Creek Hotel.

## **Top Springs Hotel reasons**

5. It is convenient to deal firstly with the Top Springs Hotel. Cristina and Milton Jones, of Coolibah Station, are the principals of the licensee, Jones Cattle NT Pty Ltd. In her detailed response to the Commission, Ms Jones did not object to the proposed conditions, which in effect maintain those fixed by the Northern Territory Licensing Commission in 2014. Furthermore, none of the submissions the Commission received in response to the Notice objected to the conditions proposed for the Top Springs Hotel.
6. The licensee asserted to the Commission that it has continued to comply with its licence obligations. Having perused the licensee's handwritten register of takeaway liquor sales for the twelve months to September 2021, the Commission is satisfied

that the licensee has conscientiously kept the records of takeaway purchases that are required in order to comply with the existing licence conditions. The register records the sale date and time, the customer's name, address and vehicle registration number, the quantity and type of liquor purchased, and where the liquor will be consumed. The Commission commends the licensee for establishing and maintaining this practical and straightforward means of ensuring compliance with its licence conditions.

7. Having examined the sales register, the Commission finds that the bulk of takeaway liquor sold by the Top Springs Hotel is purchased by residents of Kalkarindji and nearby communities. In the course of conducting this review, the Commission wrote to the Kalkarindji/Daguragu Council Services Manager and the Kalkarindji Health Centre inviting submissions and notifying them of the hearing it conducted at Yarralin. No response was received by members of communities in the Kalkarindji district or any of the service agencies located in the area.
8. The Commission is satisfied that the current takeaway conditions are working and that it continues to be in the public interest that they be maintained. In accordance with a recent decision by the Commission,<sup>1</sup> the range of permitted mid-strength products has been expanded from mid-strength beer to include mid-strength pre-mixed spirits.
9. The Commission has also decided to reduce the Top Springs Hotel takeaway trading hours, which are currently from 10:00 to 22:00 every day except Saturday and Public Holidays, when trading can commence from 09:00. The trading hours are varied to

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<sup>1</sup> Northern Territory Liquor Commission, *Variation of the Conditions of Licences* (2 December 2021)



12:00 to 21:00 Sunday to Friday, and 10:00 to 21:00 on Saturday and Public Holidays. The Commission considers that it is in the public interest that the takeaway trading hours for all three outlets in the Victoria River locality be the same, for consistency and fairness, and to discourage people from driving long distances on rough roads just because one venue in the locality closes rather later or opens rather earlier than another.

10. The licensee did not object to this proposed variation. That is unsurprising, as an examination of the licensee's sales register shows that over the last year the bulk of takeaway liquor was sold between 14:00 and 17:00 and very rarely before 12:00 or after 21:00. Accordingly, the Commission is satisfied that the reduction in trading hours will not have a significant adverse impact on either the community or the licensee.

11. The Commission accepts the licensee's assertion that it has taken reasonable steps to comply with the prescribed condition applicable to all Northern Territory licensed premises that "when the premises are closed, all liquor must be stored securely to prevent access by the public".<sup>2</sup> Despite this, the licensee has unfortunately been the victim of repeated break-ins, resulting in the theft of substantial quantities of liquor from its locked and secured storage shed.

12. Both to assist in the identification and apprehension of any future offenders, and to deter further offending of this type, the Commission has determined to impose a condition on the licence that the liquor storage area be placed under CCTV surveillance.

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<sup>2</sup> Regulation 19(2), *Liquor Regulations 2019* (NT)

## **Victoria River Roadside Inn reasons**

13. For the following reasons, the Commission has decided to impose takeaway conditions on this licence that are substantially similar to those for the Top Springs Hotel.
14. The Victoria River Roadside Inn is located on the Victoria Highway 70 km west of its junction with the Buntine Highway. The north-south Buntine Highway links Katherine with Kalkarindji and the surrounding communities of Daguragu, Gurindji, Pigeon Hole and Lajamanu, via Top Springs. For residents of Kalkarindji and surrounding communities driving to or from Katherine, the Victoria River Roadside Inn is, after Top Springs, the most accessible takeaway liquor outlet by road.
15. The east-west Victoria Highway links Katherine with Kununurra, via Timber Creek. For residents of Yarralin and residents of communities near Timber Creek who are driving to or from Katherine, the Victoria River Roadside Inn is on the way.
16. Unlike the Top Springs Hotel, the Victoria River Roadside Inn is not required to maintain a takeaway sales register, and it does not do so. Accordingly, the Commission has received no direct documentary evidence of the profile of its takeaway customers.
17. However, the location of the premises suggests to the Commission that a significant portion of the Victoria River Roadside Inn's takeaway trade is with residents of Kalkarindji and surrounding communities travelling on the Buntine Highway, and with residents of Yarralin, Timber Creek and nearby communities travelling on the Victoria Highway.

18. The Commission accepts the account given by the licence nominee, Mr Lyle Wright, to Commissioner Goldflam on 2 August 2021 summarised at paragraph [36] of the Notice, in which Mr Wright stated that campers and caravaners staying at the Inn do not need to purchase liquor for consumption off the premises. This is because "the premises" are not confined to the Inn itself, but include the camping area and caravan park. Accordingly, the licensee is permitted to sell a carton of Victoria Bitter or a bottle of whiskey for consumption on the premises to guests who will drink its contents at their campsite some distance from the Inn itself.

19. The Victoria River Wayside Inn is not a service centre, a township or a community. The only facilities and services are those provided by the licensee.

20. Jones Cattle NT Pty Ltd is the licensee of both the Top Springs Hotel and the Victoria River Roadside Inn. The licensee has provided the Commission with the value of the total sales of takeaway and on premises liquor at both outlets. Although the Top Springs Hotel is in a much more isolated location than the Victoria River Roadside Inn, which is situated on the only sealed road connecting the Northern Territory and Western Australia, the annual volume of liquor sales from the Top Springs Hotel is significantly higher than the volume of liquor sales from the Victoria River Roadside Inn. As noted at paragraph [16] of the Notice, and at paragraph [7] of these reasons, the takeaway liquor trade conducted by the Top Springs Hotel is overwhelmingly with residents of local Indigenous communities.

21. In its response to the Notice, the licensee stated:

Victoria River Roadside Inn currently does not sell a lot of alcohol to indigenous (sic); the focus is on tourists, fishermen and road contractors and we need to hold this market to be viable.

Tourists, fishermen and road contractors purchase a range of products in addition to mid strength beer. This included heavy beers, spirits, RTDs, and wine. Our competitiveness, and overall viability, will be diminished if those customers can only stock up in Katherine or Kununurra.

22. Having considered all of the above matters, the Commission is satisfied that as with the Top Springs Hotel, at least a significant portion of the takeaway liquor trade conducted by the Victoria River Roadside Inn is with residents of local Indigenous communities. The Commission is also satisfied that a significant portion of the overall liquor trade conducted by the Victoria River Roadside Inn is with tourists and fishermen who purchase liquor for consumption on its expansive premises.

23. The Commission is satisfied that it is in the public interest to maintain restrictions on the supply of takeaway liquor by the Top Springs Hotel. Similarly, the Commission is satisfied that it is in the public interest to impose similar restrictions on the supply of takeaway liquor by the Victoria River Roadside Inn, because these two outlets supply takeaway liquor, at least in significant part, to the same market, namely residents of Indigenous communities in the Victoria District locality who drink alcohol.

24. Section 49(3) of the Act sets out the matters the Commission is required to consider when determining whether it is satisfied that the variations will not have a significant adverse impact on the community. Those matters relevantly include "the people or community who would be affected" and "the effect on culture, recreation, employment and tourism".

25. The Commission is satisfied that the variations will not have a significant adverse impact on campers and caravaners who stay at the facility. As explained above, they will be permitted to continue to purchase whatever liquor is available from the

premises to consume at their campsites, subject only to the Responsible Service of Alcohol restrictions that apply to all licensees.

26. The Commission is satisfied that the variations will not have a significant adverse impact on road contractors, mining workers and station workers, who will be able to stock up as they wish using the "bush orders" special condition, providing they place their order in advance in compliance with the condition.

27. The Commission accepts that the variations will have an adverse impact on those tourists and fishermen who are passing through, and wish to stock up on their liquor supplies. As a result of these variations, they will only be able to stock up with a limited quantity of mid-strength liquor if they do so at the Victoria River Roadside Inn. However, the Commission expects that most travellers on the Victoria Highway have stocked up in Darwin, Katherine or Kununurra, where the range of takeaway liquor is higher, and prices are lower. The Commission is satisfied that this impact does not amount to "a significant adverse impact on the community".

28. Section 49(3) of the Act, which requires the Commission to consider the impact on the community of its decision, does not include express reference to the impact on the licensee. Nevertheless, the Commission considers that impact on the licensee is a relevant consideration: the secondary purposes of the Act as set out in section 3(2) include "to regulate the sale [and] supply of liquor in a way that contributes to the responsible development of the liquor industry and associated business in the Territory; and in a way that stimulates the tourism and hospitality industries."

29. The Commission is required to exercise its powers in a way consistent with these purposes, as well as with the primary purpose of the Act, which is "to minimise the

harm associated with the consumption of liquor in a way that recognises the public's interest in the sale [and] supply of liquor."

30. Accordingly, the Commission has considered whether the variation will have a significant adverse impact on the licensee. That is a relevant – but not necessarily decisive – consideration in determining whether or not the Commission is satisfied that the variations will not have a significant adverse impact on the community.

31. The licensee submits that the variations will have an adverse impact on its business, although the licensee has not sought to support this submission by providing details of its business operations showing how they would be affected. The Victoria River Roadside Inn is a picturesque and attractive hostelry with a focus on providing hospitality to tourists who come and stay, or stop in for a meal and a refreshment. Having been provided with and considered information regarding the total liquor sales for Top Springs, Victoria River and Timber Creek, as well as the matters described at paragraph [18] above, the Commission is of the view that the trade in takeaway liquor does not constitute the major part of the total business of the Victoria River Roadside Inn. The Commission is not satisfied that the variations will have a significant adverse impact on the licensee.

32. The Commission is satisfied that the variations will not have a significant adverse impact on the licensee arising from the burden of establishing and maintaining the sales register. The licensee has done so satisfactorily and without apparent difficulty at the Top Springs Hotel for some years. The Commission has no reason to doubt the capacity of the licensee to do likewise at the Victoria River Roadside Inn.

33. The Commission stated at paragraph [51] of the Notice "the fixing of uniform trading conditions on all three outlets in the locality mitigates the risk that one outlet trades

with an unfair business advantage over its competitors". The Commission has however now decided not to fix uniform trading conditions on all three outlets, because, as will be discussed below, the responses it received to the Notice have persuaded the Commission that the circumstances at Timber Creek differ from those at the Victoria River Roadside Inn and at Top Springs. The Commission acknowledges that as a consequence, the outlet most likely to receive a business disadvantage is the Victoria River Roadside Inn. However, on balance, the Commission is satisfied that the variations are in the public interest and will not have a significant adverse impact on the community.

### **Timber Creek Hotel reasons**

34. Unlike the Victoria River Roadside Inn and the Top Springs Hotel, the Timber Creek Hotel is located in a township, service hub and community. In 2016, the population of Timber Creek, according to the census conducted that year by the Australian Bureau of Statistics, was 249, 48.6% of whom were Indigenous. The 2016 Census records that the closest substantial community, Yarralin, had a population of 293, 89% of whom are Indigenous, and that in addition the "Timber Creek Surrounds" area had a population of 95 Indigenous people. The licensee's nominee Fiona McDonald informed the Commission that according to a Northern Land Council officer she had spoken to, "the area of Timber Creek has broad population of upward 550–600 people". The Commission assumes that this estimate includes the population of both Timber Creek and Yarralin, there being no other substantial communities in the area.

35. As stated in the Notice, the Commission received a petition signed by 24 "Traditional Owners and Elders of Timber Creek and surrounding areas", calling for restrictions on the sale of takeaway liquor from the Timber Creek Hotel.

36. In response, the licensee prepared a form letter on its letterhead addressed to the Commission in which signatories were asked to tick a box indicating whether or not they agreed with the proposed Liquor Commission restrictions. Of the approximately 105 individuals who signed this letter, all of whom reside or have resided in the Timber Creek area, and many of whom made the effort required to prepare a detailed individual response, one was in favour of the proposed restrictions and the remainder were opposed to them. The pervasive theme of the responses was a wish to be able to purchase a variety of liquor products. As one respondent stated, "I like to make my own choices thank you".

37. Notably, however, few if any of the respondents expressed blanket opposition to the imposition of a quantity limit. Hospitality NT, among others, submitted that if a product limit is fixed, it should correspond to a commonly available package size.

38. While it is clear that there are differing views in the Timber Creek area (including Yarralin) and within the Timber Creek community itself regarding the availability of liquor, it is also clear that many people who live in or frequent Timber Creek currently purchase various types of liquor, and wish to continue to do so. The Commission considers that, having found that levels of alcohol-related harm in the locality are unacceptably high,<sup>3</sup> it is in the public interest to restrict the *quantity* of takeaway liquor that may be purchased from the Timber Creek Hotel. However, having

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<sup>3</sup> Notice, paragraph [43]



considered the responses to the Notice from the Timber Creek community, the Commission is also satisfied that the public interest is best served without restricting the *types* of takeaway liquor that may be purchased from the Timber Creek Hotel.

39. The licensee and Hospitality NT suggested that takeaway limits could be imposed that apply exclusively to Yarralin residents. Measures of this type have been implemented and continue to operate in other regions of the Northern Territory. However, the Commission is not attracted to this approach. Firstly, it could be viewed as discriminatory. Although such a scheme may be lawful as a special measure for the benefit of a group that suffers from a disadvantage, similar measures have been controversial and have led to complaints to the Northern Territory Anti-Discrimination Commission. Secondly, it would be difficult to devise, to apply and to enforce: should it apply only to Yarralin residents, to Indigenous residents of other nearby communities including Timber Creek itself, or to all Indigenous people who attend the Timber Creek Hotel?

40. The Commission has also considered whether a permit system could be established for the purchase of takeaway liquor at Timber Creek. In the view of the Commission, such a system would be neither practical nor desirable. It would require a declaration of Timber Creek as a general restricted area, and a permit scheme would then need to be designed and rolled out. There does not appear to be any support for a permit scheme from the Timber Creek community.

41. The Commission has opted instead for a scheme adapted from the takeaway conditions the Commission fixed in 2021 after a similar review conducted in the Barkly region of the Northern Territory.<sup>4</sup>
42. The Barkly scheme approved by the Commission in May 2021 has not commenced operation. That is because the Barkly scheme relies on an information technology system (**the product limit system**) installed by the Northern Territory Government in 2018 in conjunction with the patron identification system established under Part 6 Division 1 of the Act to determine whether a person is on the Banned Drinkers Register. Product limit systems have been installed in all Barkly outlets, as well as in Alice Springs outlets, where a different product limit scheme is in force.
43. In these outlets, when a customer's identification document is scanned, not only does it flag whether or not the customer is prohibited from purchasing liquor because they are on the Banned Drinkers Register or under the age of 18, it also flags whether that individual has already purchased the local product limit for that day. For example, in Alice Springs, where there is a product limit of one two-litre cask of wine per person per day, the product limit system prevents a person from evading this restriction by buying a cask of wine from one hotel and then going to another hotel nearby to purchase a second cask.
44. In its 2021 Barkly decision, in response to calls by residents of Tennant Creek, who, like those of Timber Creek, were strongly opposed to a scheme that prevented them from purchasing a range of takeaway liquor products, the Commission approved a variation allowing customers to purchase a combination of items from a list of

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<sup>4</sup> See Northern Territory Liquor Commission, *Variation of the Conditions of Licences* (28 May 2021)

permitted liquor products, provided the total amount of liquor purchased was no more than 30 standard drinks as defined by section 117 of the Act.<sup>5</sup> The Commission ordered that the varied product limit condition not commence unless and until the settings of the information technology system used had been modified accordingly. That modification has not occurred, and as a consequence Barkly customers are still restricted to purchasing only one liquor product type per day.

45. On 28 February 2022 the Director informed the Commission that the cost of implementing the modification required for the Barkly would be at least \$200,000, that it has not been identified as a priority, and that it has not been the subject of Ministerial approval. In conclusion, the Director advised that "it is unlikely the varied product limit condition for Tennant Creek or elsewhere can be achieved".

46. In these circumstances, the Commission considers that there would be no utility in varying the conditions of the Timber Creek Hotel licence to establish a scheme reliant on an information technology system, because no suitable system is either currently available or likely to become available in the foreseeable future.

47. Accordingly, the Commission has identified an alternative approach. Like the Victoria River Roadside Inn, the Timber Creek Hotel is not required to maintain a takeaway sales register. However, unlike the Victoria River Roadside Inn, the Timber Creek Hotel has taken the commendable initiative of establishing and maintaining a takeaway sales register, similar to the one in operation at the Top Springs Hotel.

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<sup>5</sup> "The volume of a liquor product that contains 10 g of ethyl alcohol when measured at 20°C." A 375ml can of mid-strength beer is about one standard drink. A can of full-strength beer is about 1.4 standard drinks.

48. And, as with the Top Springs Hotel, having perused the licensee's handwritten register of takeaway liquor sales for the twelve months to September 2021, the Commission is satisfied that the Timber Springs Hotel licensee has conscientiously kept records of takeaway purchases. The register currently records the sale date and time, the customer's name, identification document type, and the quantity and type of liquor purchased. The Commission commends the licensee for establishing and maintaining this practical and straightforward means of monitoring takeaway sales.

49. The Commission considers that with some modification, the existing sales register maintained by the Timber Creek Hotel will be suitable as a means of facilitating the operation of the product limit condition the Commission has decided to impose, for the following reasons.

50. Firstly, a similar register maintained by the Top Springs Hotel since 2014 has proven to be effective to administer the Top Springs product limit condition.

51. Secondly, the Timber Creek Hotel licensee has demonstrated that it has the capacity and commitment to maintain a register of this type.

52. Thirdly, unlike in Tennant Creek and Alice Springs, there is only one takeaway outlet in Timber Creek, which greatly reduces the opportunity to subvert the system by "outlet-hopping".

53. Fourthly, the Timber Creek licensee, by so effectively mobilising a concerted community response to the Notice, has demonstrated a high level of engagement with and commitment to the Timber Creek community, which augurs well for the co-

operation of members of that community with the licensee in making the incoming conditions work.

54. As noted above, the existing sales register will require some modification. Employees of the licensee will need to record vehicle registration numbers and the number of standard drinks contained in each purchase of takeaway liquor. To assist the licensee to implement this, the Commission has included in the conditions it has fixed a guide as to how many standard drinks correspond to each of the designated product types.

55. The Commission has set a limit of 35 standard drinks that may be purchased per person per day. That amount is almost nine times the National Health and Medical Research Council guideline that "to reduce the risk of harm from alcohol-related disease or injury, healthy men and women should drink no more than 10 standard drinks a week and no more than 4 standard drinks a day." The Commission emphasises that it does not encourage people to drink more than is recommended by this guideline. The Commission has fixed a limit of 35 standard drinks only because that is the number of standard drinks in the commonly available package of a 24 can carton of full-strength beer.

56. By way of example, the Timber Creek Hotel conditions, when they come into effect, would allow an individual patron to purchase on the same day a bottle of wine (8 standard drinks), a 6-pack of full-strength pre-mixed spirits (11 standard drinks) and 15 mid-strength cans of beer (15 standard drinks), for a total of 34 standard drinks.

57. This limit is considerably higher than the limit of 24 standard drinks proposed in the Notice. It is also higher than the current limits approved by the Commission for the

Barkly, where in addition, takeaway sales are restricted by the limiting of trade to three hours a day.

58. However, the effect of the condition set out at paragraph [1.a(2)] is that the total amount of takeaway liquor that may be sold to a group of customers travelling in a single vehicle is approximately the same, irrespective of which of the three outlets in the Victoria River locality is conducting the sale. At the Top Springs Hotel a carload of patrons will be continue to be permitted to purchase up to three times the personal daily limit of 24 standard drinks, namely 72 standard drinks. The same condition will henceforth apply to the Victoria River Roadside Inn. At the Timber Creek Hotel, a carload of patrons will be permitted to purchase up to twice the personal daily limit of 35 standard drinks, namely 70 standard drinks. In this way, the variations the Commission has decided to make are substantially in accordance with the Commission's intention as set out in the Notice, namely to impose a uniform limit across the locality on the amount of takeaway liquor that may be sold or purchased.

59. The Commission is of the view that this limit, while allowing Timber Creek Hotel patrons a reasonable choice of products, will mitigate the harm caused by and to those groups of patrons who stock up on large quantities of liquor for unsafe consumption elsewhere.

60. The Commission has also inserted a "bona fide lodger" condition into the licence, the intended effect of which will be to place the Timber Creek Hotel licence on a similar footing to the Victoria River Roadside Inn licence with respect to liquor purchases by guests staying in the licensee's caravan park, motel rooms or camping area. Those patrons will not be subject to the personal daily limit applicable to the general public.

61. To take account of the circumstances of persons in the Timber Creek area who are based on cattle stations, mining sites, work camps and the like, the Commission has also inserted a "bush orders" condition into the licence similar to conditions attached to roadhouses in the Barkly region.

### **Notice of Rights**

62. Section 31(1) read with section 113(4) of the *Liquor Act* provide that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (**NTCAT**).

63. Section 94(3) of the *Northern Territory Civil and Administrative Tribunal Act 2014* (**the NTCAT Act**) provides that an application for review of this decision must be lodged within 28 days of the day the applicant was notified of the decision.

64. In accordance with section 31(2) of the *Liquor Act 2019*, the persons who may apply to NTCAT for a review of the decision are the Director, each of the affected licensees and each of the persons who made a submission to the Commission in the course of the inquiry that has led to the making of this decision.



Russell Goldflam

ACTING DEPUTY CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION

03 March 2022

On behalf of Members Goldflam, Carson and Hart