

Director of Liquor Licensing

Review of Decision to modify permits on General Restricted Area

MATTERS:	APPLICATION FOR REVIEW of DECISION to MODIFY PERMITS ON GENERAL RESTRICTED AREA
PERMIT HOLDER:	Mr Adrian Marshall
PREMISES:	General Restricted Area
LEGISLATION:	Section 96 <i>Liquor Act 2019</i>
DATE OF REVIEW:	27 March 2024

BACKGROUND

1. On or about October 2023, the Senior Director of Liquor Licensing received a complaint by police in the region about the volumes of alcohol being brought into to the remote Aboriginal community of Wadeye by barge. The Senior Director made inquiries to that end.
2. Wadeye is in a declared General Restricted Area under the *Liquor Act* (section 172). The General Restricted Area was declared in 1979. A further declaration was made in 1992, likely due to administrative infrastructure and the current declaration was made in 2011.
3. People and residents of Wadeye have been able to drink alcohol on the general restricted area (GRA) by way of liquor permits as part of the alcohol management for the GRA. This has been a feature of the community since the establishment of the GRA.

COMMUNITY UNREST

4. Wadeye has had a troubled history of violence and unrest in connection with alcohol since Missionary times. In recent years there have been deaths in Wadeye in April 2022 (KT), followed by a further death in September 2022 in Peppimenarti, with reports of 125 homes burned or destroyed across the region. The violence in the West Daly Region has resulted in ongoing full-scale riots. The use of weapons and violence have been routinely reported in the media; most recently in November 2023 (crossbow incident) and again in December 2023 (police quarters being rammed and ransacked).

5. Following violent break-ins to the NT Police officer's quarters and an increase in unrest, the Tactical Response Group was deployed to Wadeye and the Northern Territory Government established a Wadeye Taskforce in December 2023 for a multi-agency and non-government organisation response to the unrest. The Wadeye Taskforce met daily over the Christmas period and continues to meet on an ad hoc basis.

LIQUOR COMMISSION INQUIRY

6. Concurrently to the levels of unrest in Wadeye, in November 2023, the Northern Territory Liquor Commission had undertaken an own-motion investigation around a licensee in the area, the Peppimentarti Club, located at the Peppimenarti Community. The Liquor Commission consulted with three communities in the West Daly Region; namely Wadeye, Peppimenarti and Daly River to understand the alcohol problems in the region and the factors that related to them, particularly with respect to the licensed club.
7. At the public consultations conducted by the Northern Territory Liquor Commission in November of 2023 there was considerable anecdotal evidence around black-market grog and sly-grogging alcohol causing continued violence, humbug and problems in the region. Black market grog was identified as any secondary supply to community residents.
8. The determination of the inquiry made by the NT Liquor Commission can be found [here](#).

CONSULTATION

Establishment of the Wadeye Liquor Permit Steering Committee

9. Multiple meetings were set up to determine how best reviewing the current permit system in Wadeye. The establishment of the Wadeye Liquor Permit Steering Committee occurred in early December 2023 and was attended by the Department of Health (Harm Minimisation Unit), Chief Minister and Cabinet (A/Regional Director), NT Police (Senior Sergeant Wadeye Police Station) and Licensing NT (Senior Director). Terms of Reference were agreed upon and traditional owners, Mr Greg Munar and Mr Steve Bunduck were invited and consulted as part of the establishment of the Steering Committee.
10. A discussion paper was developed and consultation commenced over the January February period of 2024. The Steering Committee met weekly until changes were implemented on 1 March 2024.

The Wadeye Taskforce meetings

11. The Senior Director of Liquor Licensing had been part of the daily Wadeye Taskforce meetings and provided updates over the course of the proposed changes. The discussion paper developed by the Steering Committee was circulated on 2 February for distribution amongst Taskforce members and stakeholders.
12. Members of the Wadeye Taskforce included Thumurrurr Development Corporation (TDC), Northern Land Council, West Daly Shire Council, National Indigenous Australians Agency, and representatives from Northern Territory Government on-ground service providers. The Wadeye Taskforce met daily over the Christmas December 2023 period and daily until mid-February 2024.

On-country consultations

13. The Senior Director of Liquor Licensing & Compliance went out to Wadeye to consult with community members on 01 and 20 February 2024, to circulate the discussion paper and talk with locals. During that time she met with a wide number of stakeholders including the Health Clinic, One Tree Community Services Safe-house, Wadeye Police, delivering a presentation to the Service Delivery Forum on 20 February 2024 and the Murrinhpatha Nimmipa Store, Murinbata Tribal Development staff and board members.

Permit Holders, Licensees and Barge and Aircraft Carriers

14. On the week commencing 19 February 2024, senior compliance officers met with Murin Air to discuss logistics of barge and aircraft restrictions. Other aircraft charter providers were contacted to advise that no alcohol would be sent to the region except on Mondays.
15. On the same week Licensees who sold barge orders to the region were also contacted about the permit changes and proposed volume restrictions to the region. Senior Compliance officers talked through permits and mechanisms for checking permit validity with the Licensing NT office.
16. On Friday 23 February permit holders were individually contacted about changes to the permit system and volumetric restrictions operational from 1 March 2024. In that correspondence, permit holders were advised that the trial would be reviewed at both 6 month and 12 month marks and were invited to provide comments and feedback about their experiences.
17. The office received 8 emails from permit holders expressing concern about the restrictions imposed by the trial. The Senior Director individually wrote to each complainant.
18. Permit holders were individually contacted again on 1 March with their new permits.

BASIS OF REVIEW

19. On 16 March 2024 Mr Adrian Marshall wrote to the Licensing NT office to request a review of the decision to impose weekly liquor volume restrictions for permit holders. The Senior Director of Liquor Licensing had spoken with Mr Marshall on a number of occasions explaining the process of consultation and talking through the reasons for the changes on at least three separate occasions, in addition to a written response to concerns raised.
20. The substance of the request for review by Mr Marshall is as follows:
 - the decision to introduce volumetric restrictions on liquor permits is flawed due to the lack of consultation with individual permit holders; and
 - the volumetric and type of alcohol restrictions are discriminatory to Mr Marshall who does not drink the quantities or types of liquor permitted in the revised permits.

21. Mr Marshall has not provided any supporting documentation to his request for Review. The request is not on the prescribed form.

CONSIDERATION OF THE FACTS and LAW

22. Under the current GRA there was one class of liquor permit available in the Wadeye; being unrestricted liquor permits. This allowed for permit holders to have previously unrestricted volumes of alcohol brought into the community.
23. During consultations, and even in Mr Marshall's request for review of the decision, he acknowledged that there is an issue with alcohol in the community.
24. The Director may grant a permit subject to the conditions that the Director considers appropriate under section 201(4) of the *Liquor Act*.
25. In reviewing liquor permits for the region, the Director has considered on-going harms in Wadeye relating to alcohol (and violence) and has determined that volumetric and alcohol type restrictions should be considered as a further supply-reduction mechanism.
26. The Director, through the Senior Director Liquor, has conducted wide consultation in the lead-up to the commencement of the volumetric and alcohol-type restrictions to liquor permits in the region.
27. The conditions imposed by the Senior Director Liquor, under delegation from the Director, in this commencement of this trial are only temporary. The trial is proposed for a 12 month period, with a review at 6 months, being on 1 September 2024 and again at the end of the trial period on 2 March 2025.
28. The Director, and the Senior Director Liquor under delegation, both hold the authority to impose conditions on liquor permits. The volumetric restrictions imposed on permits issued for Wadeye apply to all permit holders who wish to consume alcohol at their place of residence in the community. As noted above, the restrictions are temporary and will be reviewed after 6 and 12 months of operation.
29. There is no doubt the volumetric restrictions will impact all permit holders who reside in Wadeye, including those who purchase and consume alcohol responsibly and who do not contribute to the harm and violence occurring in the Wadeye community. Understandably permit holders who were previously able to purchase unlimited amounts of alcohol will be aggrieved that they are now subject to volumetric restrictions despite having done nothing wrong in terms of their permit and their consumption of liquor.
30. However, in making any determination under the Liquor Act 2019 the decision maker is obligated to take account of the purposes of the Act as set out in section 3. Section 3(1) of the Act provides:
 - (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.* (Emphasis added).
31. There is no doubt from the evidence gathered to date that alcohol is a significant factor in the crime and anti-social behaviour that has occurred and is occurring in Wadeye. In balancing the rights of individuals who hold permits and the overall wellbeing and safety of the Community, I am satisfied that the trial of the volumetric restrictions was imposed for the purpose of minimising harm associated with the

consumption of Alcohol in Wadeye.

32. For the reasons set out above I am satisfied that the decision of the Senior Director Liquor, in her capacity as a Delegate of the Director to impose volumetric liquor restrictions for a trial period was the appropriate and preferred decision.

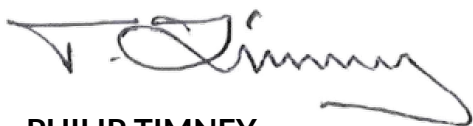
DECISION

33. In the circumstances outlined above, I find that the decision of the Delegate to impose volumetric restrictions on permit holders in Wadeye was the correct and appropriate decision. As a consequence of that finding, I have determined, in accordance with section 29(3)(a) of the *Liquor Act 2019*, affirm the decision of the Delegate.

REVIEW OF THIS DECISION

34. The above decision is made in my capacity as the Director of Liquor Licensing. Section 29 of the *Liquor Commission Act 2018* provides that an affected person aggrieved by a decision of the Director may apply to the Liquor Commission for a review of that decision. Section 29(2)(a) of the *Liquor Commission Act 2018* provides that an application for review must be made within 28 days of receipt of this notice of decision.

35. For the purpose of this decision the person authorised to seek a review is the Applicant, Mr Adrian Marshall.



PHILIP TIMNEY

Director of Liquor Licensing
27 March 2024