

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *VARIATION OF THE CONDITIONS OF ALICE SPRINGS TAKEAWAY LICENCES [2024] NTLiqComm 9*

LICENSEES	LICENCE NUMBERS
Endeavour Group Limited (BWS Alice Springs)	80902856
Iris Gap View Operations Pty Ltd (Gapview Resort Hotel)	80102399
Iris Todd Operations Pty Ltd (Todd Tavern)	80102200
LAE Supermarkets Pty Ltd (Eastside IGA)	80902628
LAE Supermarkets Pty Ltd (Flynn Drive IGA)	80902945
LAE Supermarkets Pty Ltd (Northside IGA)	80902690
Liquorland (Australia) Pty Ltd (Liquorland Alice Springs)	80901729
Stuart Highway Investments Pty Ltd (Milner Road Foodtown)	80902951
Stuart Highway Investments Pty Ltd (Pigglys)	80902640

LEGISLATION: Section 113 of the *Liquor Act 2019* (NT)

REFERENCE: LC:OMV:2023-002

CONSIDERED BY: Russell Goldflam (Deputy Chairperson)
Professor Phillip Carson (Health Member)
Mr Bernard Dwyer (Community Member)

DATE OF DECISION: 21 February 2024

DECISION

1. Pursuant to s 113 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to vary the conditions of Alice Springs liquor licenses that operate with takeaway or grocery store authorities (**the licences**) as follows.

2. The condition titled “Reportable Transactions” (**RTC**) in the licences of the Gapview Resort Hotel, the Todd Tavern, Eastside IGA, Flynn Drive IGA, Northside IGA and Pigglys is omitted and the following condition is substituted:¹

(1) For the purposes of this condition, “reportable transactions” are defined as the sale or supply of liquor for consumption away from the premises comprising:

- (a) The sale on a single occasion to an individual in excess of any of the following: three cartons of full strength beer, twelve 750ml bottles of wine, four 750ml bottles of spirits or forty eight cans or bottles of Ready to Drink mixes;
- (b) A third or subsequent occasion on which liquor is knowingly sold to the same individual on the same day; or
- (c) Any other liquor sale arousing suspicion on the part of the salesperson that the purchaser intends to commit an offence by possessing, consuming or supplying liquor in a manner or place prohibited by law.

(2) Subject to sub-clauses (3) and (8), reportable transactions must be reported to NT Police as soon as practicable having regard to the circumstances, including the safety of staff and customers.

(3) A reportable transaction only needs to be reported to NT Police if:

- (a) a Police Officer, PALI or Liquor Inspector is not on duty; or
- (b) a Police Officer, PALI or Liquor Inspector is on duty, but they have notified the licensee’s staff that, until notified again, reportable transactions must be reported.

(4) Reports to NT Police must include such details as are prescribed by the Director of Liquor Licensing.

(5) The licensee must provide an email address to the Director for the purpose of reporting reportable transactions.² All reports by the licensee to NT Police of reportable transactions must be made by email from that email address. The licensee must retain the email reports of reportable transactions for at least twelve months.

(6) The email reports must be made available at any time on request by NT Police and the Director.

¹ The RTC in the licences of BWS Alice Springs, Liquorland Alice Springs and Milner Road Foodtown does not require variation, as it is the same as the version set out in this decision.

² The Commission notes that s 105 of the Act requires a licensee to give the Director written notice within 14 days of any change to its email address.

(7) The licensee must display on the premises signage approved by the Director notifying customers of the reportable transactions conditions, including notification that a condition of sale of liquor constituting a reportable transaction is provision by the purchaser to the licensee of identifying information and an explanation for the purchase, details of which will be provided by the licensee to NT Police.

(8) A reportable transaction does not need to be reported to NT Police if it is a bona fide order from a bush community, cattle station or work camp remote from Alice Springs. To establish their bona fides for the purchasing of liquor pursuant to this special condition, 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 a Liquor Inspector upon request.

3. The licence condition titled “Camera Surveillance Condition” in the licences be omitted and be replaced with the following condition:

The licensee must comply with the *Code of Practice for CCTV System in Licensed Premises* established by the Northern Territory Liquor Commission on 26 April 2023 and as varied from time to time.

REASONS

4. This decision confirms, consolidates, harmonises and extends the reportable transaction conditions fixed by the Commission on a trial basis in 2020 for Alice Springs licences that authorise the sale of liquor for consumption away from the premises, and updates the licences’ camera surveillance conditions.
5. The background to this decision is set out in the Notice of Proposed Variation of Licence Conditions (LC:OMV:2023-002) issued by the Commission on 5 January 2024 (**the proposed variations**).³
6. In accordance with s 113(2)(c) of the Act, the Commission invited each of the licensees to submit a response to the proposed variations by 2 February 2024. The Commission also invited the Director of Liquor Licensing, the Director of the Alcohol Policy Coordination Unit and the Commissioner of Police to submit a response.
7. The Commission received responses from the licensees of Liquorland and BWS Alice Springs, and from the Director of Liquor Licensing. Each of these respondents supported the proposed variations, and provided carefully considered submissions containing helpful suggestions that have been of considerable assistance to the Commission both for the purpose of this and other potential Commission decisions.

³ Accessed at https://cmc.nt.gov.au/_data/assets/pdf_file/0009/1325619/omv-2023-002-proposed-variations.pdf

8. In prescribed circumstances, the RTC requires licensees to report transactions that arouse suspicion on the part of the salesperson that the purchaser intends to commit an alcohol-related offence. The Commission has deliberately refrained from specifying the types of transactions that should be regarded as suspicious for the purpose of the RTC. Any such prescription would inevitably contain omissions. Moreover, it is the responsibility of licensees to train and manage their sales staff to be alert to customer behaviour, an approach reliant on observational skills and the capacity to take initiative, rather than on a set of instructions in a rulebook. An example of a potentially suspicious transaction would be a customer who appears to be negotiating a purchase for a third person, either in person, or by phone. Another example would be a customer being observed to hand over liquor they have purchased to a third person on or near the premises.
9. In accordance with s 113(3) of the Act, the Commission has considered all the responses of licensees that were submitted, as well as the public interest and community impact requirements in the Act. The Commission determined not to conduct a hearing for the purpose of the inquiry that has resulted in this decision.
10. The Commission reiterates its support for the view that has been strongly, consistently and repeatedly expressed by licensees, that the patron identification system established by Part 6 Division 1 of the Act be reconfigured so as to strengthen and enhance the effectiveness of the RTC scheme.

NOTICE OF RIGHTS

11. Section 31(1) read with s 113(4) of the Act provide 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* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of this decision
12. In accordance with s 31(2) of the Act, the persons who may apply to NTCAT for a review of this decision are the Director and the licensees.



RUSSELL GOLDFLAM
DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
21 February 2023

On behalf of Commissioners Goldflam, Carson and Dwyer