

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**NOTICE OF PROPOSED VARIATION OF LICENCE CONDITIONS**

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**LICENSEE:** Alice Springs Brewing Co Pty Ltd

**PREMISES:** Alice Springs Brewing Co  
39 Palm Circuit  
ROSS NT 0873

**LICENCE NUMBER:** FLL1051

**NOMINEE:** Kyle Pearson

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

**CONSIDERED BY:** Russell Goldflam (Chairperson)  
Ms Ebony Abbott-McCormack (Health Member)  
Mr Denys Stedman (Community Member)

**DATE:** 19 August 2024

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**PROPOSED VARIATION OF LICENCE CONDITIONS**

1. Section 113 of the *Liquor Act 2019* (**the Act**) confers power on the Northern Territory Liquor Commission (**the Commission**) to vary the conditions of a liquor licence on its own initiative. Before varying the conditions, the Commission must give the licensee written notice of the proposed variation, the reasons for the proposed variation, and an invitation to the licensee to respond to the proposed variation within 28 days.
2. This is a notice to the Alice Springs Brewing Co Pty Ltd (**the licensee**) that the Commission proposes to vary the conditions of its liquor licence number FLL1051 (**the licence**) over its premises at 39 Palm Circuit ROSS, NT 0873 (**the premises**) as follows:
  - a. Vary the “Trading Hours” condition by inserting after the words “**Alice Springs Brewing Co**” the heading “**Public bar authority trading**”; and, at the end of the condition, by adding:

**Producers’ authority trading**

The days and hours as prescribed by regulation 95 and Schedule 3 of the *Liquor Regulations 2019* (NT) as currently in force and as may be varied from time to time.

- b. Vary the conditions under the heading “CONDITIONS” by inserting, after the first sentence (“This liquor licence is subject to the conditions on licences and authorities in Part 4 of the *Liquor Act 2019*; and the standard operating conditions on authorities and other conditions set out for each of the above authorities in Part 4 of the *Liquor Regulations 2019*.”):

This liquor licence is subject to a condition that the licensee use and maintain an identification system in accordance with sections 130 and 131 of the *Liquor Act 2019*. This liquor licence is subject to the conditions set out at regulations 97 and 98B of the *Liquor Regulations 2019* as currently in force and as may be varied from time to time. This liquor licence is subject to the Code of Practice for CCTV System in Licensed Premises issued by the Northern Territory Liquor Commission on 26 April 2023, as currently in force and as may be varied from time to time.

## REASONS

### Background

3. In 2018, the licensee established a micro-brewery at premises within the Alice Springs local government area in a semi-rural precinct zoned “Tourist Commercial” about 5 kilometres south of the CBD. On 26 October 2018 the Commission approved the issue of a liquor licence to the licensee under the *Liquor Act 1978* (NT) (**the 1978 Act**) authorising the sale of liquor for consumption on or at the premises.<sup>1</sup>
4. On 1 October 2019 the 2019 Act came into force. Section 47(1)(j) of the 2019 Act established a producers’ authority, which “authorises the licensee to sell amounts of liquor prescribed by regulation produced by the licensee for consumption on *or off* the premises” (emphasis added). However, regulations have to date not been made prescribing any limits on the amounts of liquor that may be sold by a licensee operating with a producers’ authority. Under the heading “Producers’ authority conditions”, Part 4 Division 13 of the *Liquor Regulations 2019* (**the Regulations**) requires, firstly, that the hours of operation be from 10:00 to 22:00 every day of the year, except Good Friday and Christmas Day; and secondly, that a light meal and complimentary tap water be available to patrons during the hours of operation.
5. On 3 December 2019 the Director of Liquor Licensing (**the Director**) converted the licence to a licence under the then newly commenced Act, with a public bar authority and a producers’ authority, pursuant to s 324 of the Act, which required the Director to “issue a licence with the authorities and conditions the Director considers equivalent” to the pre-existing 1978 Act licence.
6. As a consequence, the licensee became authorised to trade in a manner similar to licensees with a takeaway authority or a grocery store authority, subject to a significant limitation, namely that the only liquor the licensee is authorised to sell

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<sup>1</sup> Northern Territory Liquor Commission *Application for a licence Alice Springs Brewing Co* (LC2018/124, 30 October 2018)

for consumption off the premises is liquor that it produces itself. The licensee's product range includes several types of beer, as well as alcoholic fruit-flavoured canned drinks.

7. When originally enacted, s 47(1)(j) included the words "to patrons visiting the producer's manufacturing premises". On 19 November 2021 an amendment to the Act came into force omitting these words. This has permitted the licensee to diversify its business by offering its product range online for sale and home delivery.
8. In 2022, the licensee's business expanded, and the licensee applied for a material alteration and variation of licence conditions. The focus of local residents' objections, the ensuing public hearing and the Commission's decision approving the applications (**the 2022 decision**)<sup>2</sup> was on the impact of noise and disturbance to neighbours arising from the licensee's public bar operations. Concerns regarding the possible adverse impact of the licensee's takeaway operations were not raised or considered in those proceedings.
9. The licensee is also a registered wholesaler of liquor under Part 3 Division 1 of the Act, and supplies its products to retailers both in Alice Springs and around Australia.<sup>3</sup>
10. In the 2022 decision, the Commission stated, at [1(d)]:

Subject to the restricted trading hours on certain days prescribed by Regulation 75 of the *Liquor Regulations 2019*, the trading hours of the licence will be every day, from 11:30 to 24:00.

11. With the benefit of hindsight, it is apparent that this condition, which was clearly intended to regulate the operation of the public bar authority, is on its face inconsistent with reg 72 of the Regulations, which limits the hours of operation for a producers' authority to between 10:00 and 22:00. In the view of the Commission, a licence condition fixed by the Commission is invalid to the extent of any inconsistency between that condition and a condition prescribed by the Regulations.
12. The hours of operation for licensees in the Alice Springs local government area trading with a takeaway authority or a grocery store authority are prescribed by regs 95 and 52 respectively, in conjunction with Schedule 3 of the Regulations. Those hours are more restrictive than the hours of operation for producers' authority licensees, as follows:

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<sup>2</sup> Northern Territory Liquor Commission *Application for a material alteration and variation of conditions Alice Springs Brewing Co* (LC2022/002, 11 February 2022)

<sup>3</sup> <https://www.alicespringsbrewingco.com.au/pages/about-us>

### Alice Springs region: only Alice Springs local government area

	Takeaway authority only	Takeaway and other authority	Grocery store authority
Monday and Tuesday	closed	closed	closed
Wednesday – Friday (except Public Holidays)	15:00 – 19:00	15:00 – 19:00	15:00 – 19:00
Wednesday – Friday (Public Holidays only, other than Good Friday and Christmas Day)	11:00 – 20:00	11:00 – 20:00	11:00 – 20:00
Saturday	11:00 – 20:00	11:00 – 20:00	11:00 – 20:00
Sunday	closed	12:00 – 21:00	closed
Good Friday and Christmas Day	closed	closed	closed

13. In addition, regs 98B and 56A respectively prescribe that in the local Alice Springs government area, licensees with a takeaway authority or grocery store authority must not sell takeaway liquor to a person who has already been supplied or sold takeaway liquor that day.
14. The prescribed conditions referred to in the two foregoing paragraphs came into force on 5 March 2024. They consolidated and continued conditions that had originally been imposed on 27 January 2023 under s 88 of the Act, which confers power on the Minister for Alcohol Policy (**the Minister**) to add or vary a condition to a licence that the Minister believes is urgently needed for the wellbeing of a community that might be affected by the licence.
15. On 12 March 2024 the licensee entered into an enforceable undertaking in accordance with s 159(3) of the Act requiring it to install, maintain and operate an identification system in compliance with ss 130 and 131 for the sale of liquor for consumption off the premises.<sup>4</sup> As a result, the licensee detects and refuses attempts by persons on the Banned Drinkers Register to purchase takeaway liquor.

### The request to the Commission

16. On 30 May 2024 the Commission received a letter from the Peoples Alcohol Action Coalition (**PAAC**) requesting it to vary the licence conditions. PAAC stated:

It has come to our attention that some Alice Springs residents, amongst whom there may be problem drinkers, are taking advantage of the lack of restrictions on take-away sales under the Brewing Company's

<sup>4</sup> [https://industry.nt.gov.au/data/assets/pdf\\_file/0019/1400059/enforceable-undertaking-alice-springs-brewing-co.pdf](https://industry.nt.gov.au/data/assets/pdf_file/0019/1400059/enforceable-undertaking-alice-springs-brewing-co.pdf)

Producer's Authority in order to obtain liquor on days and at times when it is otherwise unavailable in Alice Springs.

The conditions also make it possible for those who live in restricted or prohibited areas to purchase liquor manufactured by the Brewing Company.

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The information we have received is admittedly anecdotal, but it indicates that persons who would be otherwise denied purchase are able to obtain liquor at this outlet. The fact that the Brewery Company's Licensee has installed a Banned Drinker Register (BDR) terminal would indicate that it has had cause to be concerned about possible sales to people who are on the Register. Whilst commendable, the use of a BDR terminal will not serve to prevent sales to those whose residence would otherwise see them declined service, and nor will it assist in the enforcement of other restrictions...

In our submission, all licensees who are allowed to sell take-away liquor, no matter where it is produced, should be subject to the same rules. To allow otherwise is to permit the undermining of restrictions that are intended to reduce the unacceptably high levels of alcohol misuse and the well-known consequences that plague the town and the wider central Australian region.

17. On 12 June 2024, the chairperson of the Commission requested the Southern Region Manager, Licensing & Compliance, Licensing NT, Mr Wood, to invite the licensee to enter into a further enforceable undertaking to address the concerns identified by PAAC. On about 1 August 2024, Mr Wood advised that the licensee had declined to accept this invitation.
18. On 8 August 2024 the Commission met and determined to issue a notice to the licensee under s 113(2) of the Act proposing to vary the conditions of the licence, and to invite the licensee and affected stakeholders to submit a response to its proposed variations.

### **Consideration**

19. The Commission considers that the concerns raised by PAAC are serious. That said, on the basis of the limited information it has received to date, it would be premature for the Commission to make any findings adverse to the licensee, and the Commission makes no such findings at this stage. If the licensee has in fact been selling substantial quantities of takeaway liquor on Mondays and Tuesdays in recent months, such trade would be undesirable, for two reasons. Firstly, it would undermine the effectiveness of the measures taken by the Minister set out at paragraphs 12 to 14 above. Secondly, it would potentially give the licensee an unfair competitive advantage over other licensees in Alice Springs who are authorised to sell takeaway liquor.

20. The Commission will not implement the variation it has proposed at paragraph 2(a) above unless and until it receives evidence that justifies a finding that the licensee has engaged in the sale of substantial quantities of takeaway liquor on days when all other local takeaway outlets are closed. The Commission requests the Director to exercise her powers under s 156 of the Act to obtain from the licensee records of its retail sales of liquor for consumption off the premises for, say, the months of May, June and July 2024, and for a similar period of trade in the same months in 2022, prior to the imposition in January 2023 of the current trading day restrictions. The Commission requests that these records be for trading on every day of the week, so that the Commission can assess whether or not there is a significant disparity between trade on Mondays and Tuesdays, and trade on other days.
21. The Commission does not count on receiving evidence capable of supporting a finding that some customers of the licensee have been patronising the premises in order to evade regs 56A and 98B, which prohibit the purchase of takeaway liquor by an individual more than once a day. Nevertheless, the Commission is currently minded to vary the licence conditions to require the licensee to comply with the “one transaction per day” scheme. The Commission invites the Director to inform the Commission of whether the identification system currently used by the licensee can be used to alert sales staff that a patron has already purchased takeaway liquor that day from another outlet.
22. The Commission has regard to the real possibility that the current prohibition of sales on Mondays and Tuesdays, which was imposed by the Minister, may one day be removed or varied by the Minister. The proposed variation has been drafted to accommodate any such future changes.
23. Whether or not the Commission ultimately determines to restrict the licensee’s trading hours for the sale of takeaway liquor to those that apply to other Alice Springs outlets, the Commission’s current view is that the current conditions should be varied to address the anomaly it has identified at paragraph 11 above.
24. Unless the Commission receives evidence that satisfies it that the licensee does not deliver liquor to customers who have placed an order on the licensee’s website, the Commission’s current view is that the licensee should, like other licensees who deliver liquor to a person off the licensed premises, be subject to the requirements of reg 97.
25. The licensee has entered into an enforceable undertaking to be subject to the identification system requirements in s 130 of the Act. The Commission’s current view is that it is preferable that this requirement be incorporated into the conditions of the licence. The proposed licence condition would be more durable, clear and transparent than the enforceable undertaking the licensee has entered into.
26. As the licensee is already operating an identification system, as described at paragraph 15 above, the Commission’s current view is that the licensee should be subject to the same requirements in relation to CCTV surveillance of transactions as other licensees who are authorised to sell liquor for consumption off the premises. Such a system is required to detect and enforce compliance with s 130 of the Act, which regulates the use of the identification system.

27. The Commission requests NT Police to inform the Commission about the PALI patrols if any, it conducts at the premises, and to make any further observations or submissions in relation to the issues discussed in this notice.

### **INVITATION TO RESPOND**

28. In accordance with s 113(2)(c) of the Act, the Commission invites the licensee to submit a response to the proposed variations within 28 days after the date of this notice.

29. In the particular circumstances of this matter, the Commission also invites the following persons to submit a response within 28 days of this notice:

- The Director
- PAAC
- NT Commissioner of Police
- All licensees in the Alice Springs local government area who operate with a takeaway licence or a grocery store licence.

Russell Goldflam



CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
19 August 2024

On behalf of Commissioners Goldflam, Abbott-McCormack and Stedman