

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Complaint pursuant to section 160 of the <i>Liquor Act 2019</i>
LICENSEE:	Tamsing Pty Ltd
PREMISES:	Litchfield Outback Resort
LICENCE:	80104092
LEGISLATION:	Part 7, Division 3 of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	24 March 2025

DECISION

1. For the reasons set out below, as a delegate of the Director of Liquor Licensing (the Director), I uphold a complaint against Tamsing Pty Ltd (the licensee) that on 15 August 2024 it had breached the *Liquor Act 2019* (the Act) by:
 - a. On two (2) occasions contravened section 130(2) by selling liquor after scanning an identification that was not an approved form of identification.
 - b. On six (6) occasions contravened section 130(2) by selling liquor to a patron without scanning the patron's approved form of identification on the identification system.
2. Upon completion of the investigation into the complaint, I am satisfied that the following action should be taken:
 - a. Pursuant to section 163(1)(d) of the Act, issue the licensee with Five (5) Infringement Notices pursuant to section 131(1) of the Act for contravening section 130(2) of the Act on five (5) occasions.
 - b. Pursuant to section 163(1)(b) of the Act, issue the licensee a formal warning for contravening section 130(2) of the Act on three (3) occasions.

REASONS

Background

3. Tamsing Pty Ltd (the licensee) is the holder of liquor licence 80104092 for premises known as "Litchfield Outback Resort", situated at 49 Rum Jungle Road, Batchelor, NT, 0845 (the premises).
4. The joint nominees for the licensee are Michael, Janet, Christian and Roison McElwee.

5. The licence includes a restaurant bar authority, takeaway authority, lodging authority, public bar authority, late night authority and adult entertainment R-rated authority. The trading hours pursuant to the public bar and late-night authority are therefore from 10:00 am to 1:00 am seven days per week. The licence further provides that in relation to the takeaway authority, liquor shall be sold only for consumption away from the premises during the following hours:
 - a. Sunday to Friday inclusive between the hours of 10:00 and 22:00.
 - b. Saturday and Public Holidays between the hours of 09:00 and 20:00; and
 - c. No trading Good Friday or Christmas Day.

The Complaint

6. On 19 August 2024, Licensing NT received information from Remote Sergeant Matthew Ridolfi of NT Police of a vehicle that was intercepted in Adelaide River on 15 August 2024 at approximately 18:00 hours. The search of the vehicle identified a large quantity of liquor:
 1. Seventeen (17) 1 litre bottles of Bundaberg Rum
 2. Nine (9) 700ml bottles of Bundaberg Rum
 3. One (1) carton (30 cans) of Great Northern Original
 4. Two (2) 2 litre casks of Yalumba Chardonnay
 5. Two (2) 2 litre bladders

NT Police suspected that the liquor was being transported to Wadeye and was subsequently seized.

On 20 August 2024, Licensing NT requested till tapes from 6 Licensed premises within the rural area of Adelaide River whereby it was identified that the above sales of liquor were purchased from the Litchfield Outback Resort.

7. On 15 October 2024, Senior Compliance Officer Bianca Argoon lodged a complaint with the Director pursuant to section 160 of the Act, the grounds for the complaint being pursuant to subsection 160(1)(b) in that:
 - a. The licensee or the licensee's employee contravened another provision of this Act of the regulations, whether or not it constitutes an offence.
 - b. The complaint was in the approved form specifying the grounds for the complaint, was signed, and lodged with the Director in compliance with the requirements of section 160(2) of the Act.
8. On 16 October 2024, a delegate of the Director accepted the complaint pursuant to section 161(2)(a) of the Act. The licensee was informed of the complaint the same day, via email and given 14 days to respond.

9. The substance of the complaint was in relation to events of 15 August 2024 and stated as follows:

Allegation 1

- (a) On 15 August 2024 at approximately 16:47 hours, it is alleged that the licensee or licensee's employee, sold and supplied liquor and failed to use the identification system.
- (b) On 15 August 2024 at approximately 16:56 hours, it is alleged that the licensee or licensee's employee, sold and supplied liquor and failed to use the identification system.
- (c) On 15 August 2024 at approximately 16:58 hours, it is alleged that the licensee or licensee's employee, sold and supplied liquor and failed to use the identification system.
- (d) On 15 August 2024 at approximately 17:07 hours, it is alleged that the licensee or licensee's employee, sold and supplied liquor and failed to use the identification system.
- (e) On 15 August 2024 at approximately 17:08 hours, it is alleged that the licensee or licensee's employee, sold and supplied liquor and failed to use the identification system.
- (f) On 15 August 2024 at approximately 17:20 hours, it is alleged that the licensee or licensee's employee, sold and supplied liquor and failed to use the identification system.

Allegation 2

- (a) On 15 August 2024 at approximately 17:13 hours, it is alleged that the licensee or licensee's employee sold and supplied liquor and failed to use an approved form of identification of the individual when operating the identification system.
- (b) On 15 August 2024 at approximately 17:16 hours, it is alleged that the licensee or licensee's employee sold and supplied liquor and failed to use an approved form of identification of the individual when operating the identification system.

The investigation

10. On 16 October 2024, Senior Compliance Officer Bianca Argoon, an appointed inspector pursuant to section 16 of the Act commenced an investigation that involved reviewing:
- a. The licensee's CCTV footage of cameras at the point of sale for 15 August 2024.
 - b. The data of scans obtained from the identification system used by the licensee and the till tapes provided by the licensee.
11. After comparing Till Tapes, BDR Data and reviewing CCTV Footage, it was determined that on six (6) occasions the licensee or licensee's employee failed to scan an approved identification card and on two (2) occasions the licensee or licensee's employee scanned an unapproved form of identification as outlined below:

16:47 – Male wearing white shirt and blue shorts purchased one (1) x bottle of Squealing Pig wine, paying EFT. No ID was scanned during the transaction.

16:56 – Two males known to Licensing NT as Henry Miler and Mark Gumbaduck (both appear to contribute to money used to purchase) purchased six (6) x 1 litre bottles of Bundaberg Rum, paying cash. No ID was scanned during transaction.

16:58 – Henry Miler purchased four (4) x 1 litre bottles of Bundaberg Rum, paying cash. No ID was scanned during this transaction.

17:07 – Female wearing black hat and black singlet purchased 2 x Great Northern stubbies, paying EFT. No ID was scanned during this transaction.

17:08 – Henry Miler purchased two (2) x 2litre casks of wine, paying cash. No ID was scanned during this transaction.

17:13 – Female wearing a blue dress purchased three (3) x 1 litre bottles of Bundaberg Rum, paying cash. An ID was presented and scanned by staff (BDR Transaction Reference number 46002588), however was not recognised as an approved form of ID.

17:16 – Female wearing blue dress purchased three (3) x 1 litre bottles of Bundaberg Rum, paying cash. An ID was presented and scanned by staff (BDR transaction Reference number 46002746), however was not recognised as an approved ID.

17:20 – Henry Miler purchased one (1) x 1 litre bottles of Bundaberg Rum and five (5) x 700ml bottles of Bundaberg Rum, paying EFT. No ID was scanned during this transaction.

12. On 25 October 2024, the licensee provided their response to the complaint advising:

- a. “After speaking with both employees about what happened between the hours of 16:47 and 17:20 on 15/8/24 as shown in the video, please find my interpretation of what I believe happened, re independent purchases”
- b. “On speaking with the two people involved serving the takeaway and after explaining what I saw on the CCTV to them, that I saw one of them scanning customers ID card at 4:51 for the purchase of takeaway alcohol, but when they came back a minutes later he did not. His explanation was that he thought having just scanned him and didn’t have to do it again.”
- c. “As for the next time his excuse was, that he told the other person serving that he had already scanned him early and it was ok.”
- d. “As for the other non-scanning, no reason given just red face.”
- e. “One of the persons involved had just recently completed his RSA in July 2024 and believe that he had done everything correctly, because he had scanned them early and got clearance, he did not have to do it again so soon. As for the other person serving, he accepted the advise from the other person, that he had scanned them earlier and was given the OK from him.”
- f. “Meeting with both parties involved. At the meeting Janet explained to them that every takeaway sale must be scanned and why. They accepted that. Janet then told them that more training was needed and they would have to sit the AHA NT course immediately or before they were next on shift. (they completed the course before their next shift started) As for the volume of alcohol sold, they both believed that as

these sales were purchased separately and as the customer was not intoxicated so it was ok. On further questioning about the amount of alcohol sold, their answer was that it was their experience while working in Darwin, they could sell or purchase any amount of alcohol from the major stores in Darwin."

- g. "These people no longer work for us."
- h. "We believed that the people that purchased the alcohol have experience of how to get alcohol, they watched till I was not around out front, and it was during shift change and the tour buses were coming out of Litchfield Park purchasing drinks etc and there was a line up people. In the footage supplied, you can see they engage local residents with permits to purchase alcohol for them (outside camera) whilst it was busy."
- i. "Since coming to Batchelor, Janet and I have walk a fine line to maintain a balance to have a good working relationship with the local police, a good working relationship with the local community and the Aboriginal groups in town and have so since purchasing the pub."
- j. "The fine line is ensuring that the restricted sales we do regarding certain groups do not result in action taken against us for racial discrimination (we and our staff are threaten with this regularly) The fine line is also the safety of our staff, our selves, and our property, the balance is to control what we sell. We work very hard at controlling the volume of takeaways and enforcing alcohol rules daily."
- k. "Janet and I have been in the Pub industry for over 30 years and are very embarrassed over the volume sold, we did not know that these were all connected to one party, their car was not parked out front and out of camera vision. Janet and I work and live on the premises, work on the floor with our staff and the minute you think all is working well, certain members of the staff interpret their own version of what they were told, and this event happens."
- l. "In all our years of running Pubs in the NT, Timber Creek Wayside Inn (24/7) and the Rum Jungle Tavern, we have never had any complaints laid against us on any matter."
- m. "Action taken to rectify complaint. Issued a new policy on takeaway and the BDR. Retrained the members of staff. One on one sessions with staff on service of takeaway and the BDR and why it is in place. Resit, and the completion of the AHA NT, RSA which has a takeaway and BDR section. Consult with management on the volume of the takeaway alcohol been purchased, before authorising sale. We still consult with the local police, in regards to certain visitors and vehicles that come from alcohol restricted areas."
- n. "The persons involved with these sales no longer work for us."
- o. "Since this incident, we have been audited by liquor commission, who checked the original certificates including the re sit certificates of AHA NT, RSA of all staff, including management and have not heard anything back."

13. Sections 129 and 130 of the Act in conjunction with Regulation 106(1)(b) of the Liquor Regulations 2019 (the Regulations) require licensees operating a takeaway authority to use and maintain an identification system. The system (the BDR scanning system) requires licensees to scan an approved form of identification for each customer who wishes to purchase takeaway liquor, using a government supplied scanner that checks whether the customer is on the Banned Drinker Register. Licensees are prohibited from selling liquor to persons unless, having first scanned the identification document and the system indicates that the patron is not prohibited from purchasing liquor.
14. CCTV footage clearly shows the six (6) separate interactions at 16:47, 16:56, 16:58, 17:07, 17:08 and 17:20 involving two (2) of the licensee's employees, and four (4) patrons purchasing takeaway liquor. On all occasions, the employees are seen completing the sale of liquor without scanning the patron's identification on the identification system.
15. CCTV footage clearly shows on two (2) transactions involving the licensees' employees and another patron at 17:13 and 17:16 the employee scanning an identification that was not an approved form of identification.

Compliance History

16. No compliance history has been recorded against the Licensee.

ACTION AFTER INVESTIGATION

17. Section 163(1) of the Act provides that on completion of an investigation, as a delegate of the Director I may do any of the following:
 - a. Take no further action if satisfied that there are no grounds or evidence to justify taking further action, or the matter does not warrant taking further action;
 - b. Give the licensee a formal warning in relation to the complaint;
 - c. Mediate the complaint;
 - d. Issue an infringement notice in relation to the complaint;
 - e. Enter into an enforceable undertaking with the licensee; or
 - f. Refer the matter to the Commission for disciplinary action.
18. As a delegate of the Director, I have taken into consideration the licensee's response wherein they have provided remaining employees with additional training and their undertaking to terminate the two (2) employees involved in these incidents of their employment. should any further errors occur with takeaway liquor sales.
19. Based on the evidence referred to above, pursuant to section 163(1)(d) of the Act I have determined to issue the licensee with five (5) infringement notices and a formal warning pursuant to section 163(1)(b) of the Act.
20. I also take this opportunity to warn the licensee that any future indiscretion of contravening section 130 or section 138 of the Act may result in referral to the Northern Territory Liquor Commission for disciplinary action.

21. Within 14 days of making this decision the Act requires the complainant, licensee and the Commission to be given a copy of the notice.

REVIEW OF DECISION

22. As a decision of a delegate of the Director, this notice must state the decision and reasons for it, as well as advise an affected person of their right to seek a review of the decision and the manner in which it may be done.
23. Section 27 of the Act provides for a licensee or the complainant to seek a review of the decision within 28 days after the written notice is given to the person, and the application must be in the approved form and state the grounds for the review, and the facts relied upon to establish the grounds. An application for a review can be lodged at DirectorLiquorLicensing@nt.gov.au
24. Accordingly, the affected persons in relation to this decision are Tamsing Pty Ltd, NT Police and the inspector.



Bernard Kulda
Delegate of the Director of Liquor Licensing

Date: 3 April 2025