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Dear Committee Members,

I ask the members to assess section 255, *Police Power to Suspend license or authority*.

The fundamental issues with section 255 being;

- I. It is not consistent with any of the other legislation and powers given to relevant persons. Essentially the **Director of Licensing** can suspend in an emergency, the **Minister** in urgent cases of community wellbeing and the **Liquor Commission** after full investigations. Further directly below at 258, Suspension of licensed premises if drug order made. The Police Commissioner must write to the Liquor Commission whom take up a standard investigation with 28 days to respond before decisions of suspension can be made.
- II. As a result of the wording, in particular, "*....may suspend a licence or an authority if any of the following occurs, or is likely to occur, at or in the vicinity...*"
 - a. a breach of the peace;
 - b. a threat to public safety

The legislation essentially allows Police to close any venue in the Northern Territory for 48 hours for one instance of a breach of the peace or threat to public safety. I am aware in other shut down notices the rates of domestic violence in the local community have been referenced with no link to the licensed premise in question.

Further the Police Power goes on to allow Police to lay a complaint against a venue and punish them with a 48 hour closure prior to the outcome of those proceedings. Should that venue later be proven innocent what is the recourse for being closed?

The Commissioner of Police **may also suspend a licence or an authority if:**

- (a) the licensee, or the licensee's employee or agent, **is being investigated for an offence against this Act; and**
- (b) a police officer investigating the offence believes on reasonable grounds that the offence is likely to continue

- III. Our legal opinion indicates venues that are closed have no avenue to contest or dispute the closure under the act and have zero chance of a successful court case, regardless of evidence or factual accuracies. In essence venues have no natural justice.
- IV. It collides with fundamental legislation of the act and obligations of Licensees. For example if you deny an intoxicated person entry and that person becomes violent with staff and Police are called, Police can later use that incident to justify a section 255 under a Breach of the Peace or Threat to public safety.

V. It is very much open to abuse of Power.

While we can all understand that the need for action is required in emergencies Police have shown they will use this legislation to close businesses well outside the parameters of what the intended use is.

Our first-hand experience is an example of why continuing to allow this power to remain unchecked will continue to deprive licensees of natural justice, right to a fair hearing and due process.

In August 2018 I was handed a letter by Police with vague reference to 11 purported incidents over a six-week period and stated that I had 30 minutes to remove all my patrons and staff and close my venue for 48 hours. The 11 incidents represented less than 2% of all police callouts over that period.

The shutdown caused our business to incur significant costs and reputational damage. 24 hours into the shutdown there were absurd claims that there had been a massive decrease in Domestic Violence in Tennant Creek as a result of the shutdown. I understand this is based on Domestic Violence incidents being 2 the previous night rather than 3. Regardless, our business was targeted as the source of all of the town's troubles – all without a hearing, right or reply or testing of any evidence.

After applying through freedom of information, nearly 3 months later I received the details of the 11 incidents referred to and they are as follows:

1. 28th June 2215hrs – supposed drunk person observed by police
2. 19th July 2120hrs – police-initiated arrest
3. 21st July 1400hrs – minor (not served) removed from Hotel by Security and Police called
4. 26th July 2330hrs – drunk person located outside in the vicinity of Tennant Creek Hotel
5. 27th July 1946hrs – drunk persons denied entry to Hotel by Security and after becoming aggressive Police called
6. 27th July 2348hrs – drunk persons denied entry to Hotel by Security and after becoming aggressive Police called
7. 2nd August 2056hrs – person with scissors (non-violent) removed from Hotel by Security and Police called
8. 20th August 2240hrs – police pulled up out front of hotel and moved some people on
9. 20th August 2130hrs – police conducted standard licensed premises check and moved some people on
10. 20th August 2236hrs – police observed woman throwing hot chips at security officer out the front of the hotel
11. Couple walking along Paterson St arguing after having been at Tennant Creek Hotel

Given the relatively minor infractions and inclusion of where Security had followed appropriate protocols and removed / excluded persons and then called the Police that were now being used as justification for our shut down we sought legal advice and were essentially informed that the contexts of the incidents really have no bearing on anything and that we had no recourse to contest the closure, regardless of the frivolous nature of the incidents

The legislation essentially allows Police an unfathomably broad scope of reasons for closing any venue. Further they have shown willingness to use this power and will do so again.

It is also worth taking into consideration that neither before, during, or since our 48-hour closure in August 2018 have Police discussed with me any concerns with management style, improvements required, security practices or staff training. I was closed for 48 hours and opened again none the wiser on exactly what the Police complaints where or what was needed to be rectified.

In February 2019 a Police and Licensing investigation from March 2018 was put before the Liquor Commission for the Tennant Creek Hotel. 5 Police and Licensing officers provided statements that a patron was "extremely intoxicated and removed" the Liquor Commission dismissed the matter immediately after reviewing all CCTV and Police Body Cam (with audio) as it was obvious the patron was not drunk:

15. The Commission considers that the most salient items of evidence made available to it were the CCTV and BWV footage, which provide an objective and direct albeit necessarily incomplete record of JB's speech, balance, coordination and behaviour at the relevant time. The patent discrepancies between that record and the accounts of some members of the inspection party cause the Commission to experience some doubts about the accuracy of those members' accounts.

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19. The Commission is unable to be satisfied to the requisite standard that JB's speech, balance, coordination and behaviour appeared to be more than slightly impaired. Accordingly, the Commission is not satisfied that JB was drunk, and is not satisfied that the licensee or an employee of the licensee breached their duty to remove a drunk person. It follows that the Commission is not satisfied that the complaint should be upheld.

Under Clause 255 of the Bill before the Committee, Police could have suspended my venue for 48 hours during this investigation and being found innocent months later would have not mattered in the slightest.

Since 2017 I have been on the NT Government's Barkly Economic Advisory Committee, I have been on the Alcohol Management Plan Committee – Barkly Region since 2014 and have been a member of the Tennant Creek Liquor Accord since 2012. I have spent countless voluntary hours working with Government and the community to address problem drinking in our community, including presenting to the Riley Review in Tennant Creek about further Takeaway restrictions.

This whole saga has had a profound impact on me professionally and has placed a lot of stress on me, my family and our loyal staff. I implore the Committee to address this piece of legislation and its obvious flaws and potential to recklessly punish venues, staff and patrons.

Regards



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