

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Foodland Stores Todd Tavern Milner Road Food Town Gapview Hotel
Licensees:	Venturin Nominees Pty Ltd M & J Pascoe and Daughters Pty Ltd, Pepity Pty Ltd Calltan Pty Ltd, Wrigm Pty Ltd, GRJP Pty Ltd Stewie Pty Ltd Tancor Nominees Pty Ltd Monney Pty Ltd
Licence Numbers:	80902690 80902628 80902945 80102200 80902951 80102399
Nominees:	Trevor Gleeson Leaonie Leach Carlos Pinheiro Peter Hahn and Jeaneete Hahn (Joint)
Proceeding:	Hearing Sought Under Section 33(2) of the <i>Liquor Act</i> to Vary Certain Conditions to the Liquor Licences in Accordance with the Alice Springs Liquor Supply Plan
Heard Before:	Mrs Jane Large (Presiding) Ms Brenda Monaghan Ms Helen Kilgariff
Date of Hearing:	21 August 2006
Date of Decision:	7 September 2006
Appearances:	Mr Paul Venturin-Foodland Stores Ms Leonie Leach-Todd Tavern Mr Robert Kennedy-Milner Road Foodtown Mr Carlos Pinheiro-Milner Road Foodtown Mr Peter Hahn-Gapview Hotel Mr Chris McIntyre-Deputy Director Licensing

Background

1. Following consultations with all relevant stakeholders during the week of 12 June 2006 to 16 June 2006 the Northern Territory Licensing Commission approved a revised Alice Springs Liquor Supply Plan.
2. Notifications under Section 33(1) of the *Liquor Act* of the variations to liquor licences resulting from the revised Alice Springs Liquor Supply Plan were sent to all Alice Springs Licensees.

3. The Licensees for the following licensed premises sought a hearing, in writing, in accordance with Section 33(2) of the *Liquor Act*.
 - Milner Road Foodtown
 - Todd Tavern
 - Venturin Nominees (incorporating Northside, Eastside and Flynn Drive Foodland)
 - Gapview Hotel

Consideration of the Issues

4. At the hearing on 21 August 2006 the Licensees expressed their concerns on various aspects of the Liquor Supply Plan with particular focus on the condition:

“Sale of fortified wine and cask wine for consumption off premises is restricted to one (1) item of either product per person per day and is only permitted to be sold during the last three (3) scheduled trading hours of each day.”

5. All Licensees expressed concerns about their liability if staff mistakenly served the same person more than one (1) item of either fortified wine or cask wine in one day. Changes of rostered staff, pressure of serving a number of customers in one time period and identification of customers were highlighted as likely causes for genuine mistakes.
6. The Commission reiterated the view earlier expressed in writing to some Licensees that the objective of this item was not to reprimand responsible Licensees or their employees who make honest mistakes. It agreed that including wording such as “knowingly or recklessly” within the licence condition would afford Licensees some protection against action being taken for honest mistakes. The final condition also makes it clear that a customer can purchase either one cask or one bottle of fortified wine but not one of each.
7. Ms Leach queried whether a husband and wife purchasing individual wine casks in one transaction using one credit card was permissible. The Commission pointed out that the condition related to “person” not “transaction” and, therefore, providing both parties were in attendance, the husband and wife purchase was allowable.
8. Ms Leach also queried whether multiple purchases of casks or fortified wine to several occupants of the same vehicle at a drive through bottle store was permissible. The Commission advised that so long as the licensee or their staff member was able to identify the number of persons in the vehicle involved in the purchases and was satisfied that all parties involved in the purchase were of legal drinking age and not intoxicated, then the sale was permissible. The obligation remained on the licensee however to take special care in such circumstances to ensure that the sale was not negligent or reckless.
9. In regard to restricted hours for the sale of fortified wine and wine casks Mr Venturin suggested it would encourage binge drinking and Mr Kennedy stated that an indigenous staff member had concerns of cultural disaffection. Ms Leach raised the problems of loitering and a switch to products of higher alcohol content. The impact of restrictions on tourists was also raised by several Licensees.
10. The Commission remains unconvinced by these submissions. The proposed Supply Plan focuses on risky drinking and problem drinkers and all the evidence it has gleaned to date confirms that problem drinkers ordinarily make their alcohol purchases earlier in the day—well before 6pm when cask wine and fortified wines become available. It is tourists and the non-problem drinkers in the general community who are more likely to make their purchases after 6pm when returning from tours or finishing work.
11. However, the Commission accepts that there might possibly be a change in buying patterns or an undesired change to a product of higher alcoholic content and for this reason it

intends to ensure that the Plan when introduced is closely monitored. If there is a significant and unintended problem, then it will be addressed expeditiously.

12. The Commission was pleased with the response of all Licensees present to provide statistics and informal monitoring on the impact of these changes.
13. Mr Venturin, Mr Kennedy and Mr Hahn raised the issue of the cost of installing enhanced camera surveillance. All of these premises currently have camera surveillance but at 2 – 4 frames per second and records are held for less than fourteen (14) days. These Licensees believed the current situation was satisfactory and had previously been used by the Police for successful prosecution of offenders.
14. The Commission is not satisfied that current surveillance is sufficient but accepts that “one size may not fit all.” For this reason, it maintains the condition that the level of camera surveillance must be to the satisfaction of the Director of Licensing. Licensees are asked to direct their queries to Mr Chris McIntyre Deputy Director of Licensing (South).
15. Mr Venturin expressed concern at the requirement to have a holder of a Responsible Service of Alcohol (RSA) Certificate on the premises at all times during trading hours. He stated that although he put all staff through the RSA courses sometimes qualified staff were not always available in the three outlets of Foodland due to rostering, sick leave and turnover of staff.
16. The Commission noted the problem but advised the Licensee that this was an important element of the Supply Plan. However, as the Foodland liquor premises are an integral part of the food store the managers of the food section could be RSA trained and their presence on premises would meet the requirement of this condition.
17. There was a general discussion on whether the trading hours for takeaway sales should commence and finish earlier. The Commission explained that when consulting with a variety of stakeholders the general consensus was that the current hours of 14:00 to 21:00 Sunday to Friday and 10:00 – 21:00 on Saturday and Public Holidays should be retained. Statistics showed that a decrease in alcohol-related harm and anti-social behaviour between 12:00 and 14:00 hours had been achieved without any increase in alcohol-related crime in the evenings.
18. Mr Venturin suggested several ways to assist in minimising harm from alcohol in Alice Springs including:
 - Licensees contributing to a better alcohol and drug education program; and
 - Changing the landscape of the Todd River.
19. Whilst these suggestions were outside the ambit of the Liquor Supply Plan the Commission agreed to bringing them to the attention of the Office of Alcohol Policy for consideration within the Alice Springs Alcohol Management Plan.
20. Overall, all Licensees agreed there was a need to address the anti-social problems resulting from the problem drinking experience in Alice Springs and were willing to participate in the Supply Plan.
21. They were advised that every effort would be made to finalise the Supply Plan and to give early notice to Licensees as soon as possible to allow the Plan to commence on 1 October 2006.

Decision

22. The Commission has taken on board all of the submissions made by Licensees at the hearing and commends them on their open willingness to discuss these issues.

23. As a result, we have made changes to Paragraph c) to the final Liquor Supply Plan outlined below so as to clarify the Commission's intent and protect innocent Licensees.
24. The Commission has not disregarded other issues raised by Licensees but after consideration of all views from the stakeholders involved, is satisfied that the Liquor Supply Plan outlined below is the most appropriate. The Commission will also continue to approve legitimate applications for the provision of Bush Orders and applications from catering companies and registered tour operators for special conditions allowing them to purchase such items as larger wine casks for their commercial needs. Some concerns have been expressed outside of this hearing about the impact on the elderly of the limitation placed on sales of casks and fortified wine until after 6.00pm. Should any Licensee or Community Organisation put forward a practical and workable solution to allow the needs of this group to be catered for without impacting on the integrity of the Plan, then the Commission will consider their proposal.
25. The Commission reiterates that the situation will be continually monitored and if unforeseen problems occur they will be addressed.

Alice Springs Liquor Supply Plan

The terms of the Alice Springs Liquor Supply Plan are:

- a) The trading hours for on premises sales and the current "light beer" restriction before 11.30am remain the same. The trading hours for takeaway liquor sales also remain the same as follows:
- Monday – Friday 14:00 – 2100 hours
 Saturday and Public Holiday 10:00 – 21:00 hours
 Sunday 12:00-- 21:00 hours
 There is no takeaway trading in all licensed premises on Christmas Day and Good Friday and no takeaway trading in stores on Sundays.
- b) The takeaway sale of all wine products is be restricted to container size of no larger than one (1) litre for fortified wine and no larger than two (2) litres for other wine products.
- c) Sales of fortified wine or cask wine can only be made during the last three (3) scheduled hours of trading each day. On any given day, sale to a person of more than one (1) bottle of fortified wine or one (1) cask of wine is prohibited and Licensees who knowingly or recklessly make such sales will be in breach of this condition.
- d) All Licensees are required to provide liquor product sales figures as directed by the Commission.
- e) Licensees who are licensed to sell liquor for consumption both on and off premises are required to provide liquor figures clearly identifying "on and off premises" sales.
- f) All staff involved in the service of alcohol hold a Responsible Service of Alcohol Certificate within one (1) month from commencement of employment. (With a reasonable period permitted for current staff to obtain certification.)
- g) A holder of a Responsible Service of Alcohol Certificate must be on premises at all times during trading hours. Hotel type premises that have separate drive through bottle shops are required to have a person who holds a Responsible Service of Alcohol Certificate in the bottle shop area in addition to the main area of the licensed premises.
- h) All stores and venues with drive through bottle shops are required to have camera surveillance to the satisfaction of the Deputy Director of Licensing.

Jane Large
Presiding Member