

Northern Territory Licensing Commission

Short Decision

Premises:	Old Elsey Roadside Inn Mataranka Homestead Tourist Resort
Nominees:	Kelly Bryant Helen Hawkins
Licence Numbers:	81301695 81200500
Proceeding:	Hearing Pursuant to Section 33 of the <i>Liquor Act 1978</i> “ <i>Mataranka Restrictions</i> ”
Heard By:	Mr Peter Allen (Chairman) Mr John Withnall Ms Shirley McKerrow
Date of Hearing:	25 & 26 February 2000

The Section 33 notices in this matter were consequent upon advice received by the Commission from the Mataranka Community Government Council after a series of public meetings and meetings of the Council in relation to the imposition of liquor trading restrictions in Mataranka in line with the restrictions applying in Katherine.

The proposal for on-premises trading to start at 11:30AM was entirely an initiative of the Council itself; neither of the two public meetings reached any such resolution and the Council concedes that public response to an 11:30AM start was “luke warm or apathetic”.

It is disappointing that there was no witness to speak for the Council. No Council member gave evidence in that capacity, and the Council’s actions and initiatives were unable to be examined and tested within the statutory hearing.

We concede Mr Cole’s point that the nature of the hearing was the licensees’ challenge of an administrative decision already taken by the Commission (ie. the decision to commence the statutory process of applying the changes), but the disaffected licensees were obviously going to avail themselves of the hearing by disputing the degree of community support for the changes, and the Council had acknowledged its interest in this process by having legal representation at the hearing. The matters the Commission considered in commencing the Section 33 process become matters for consideration in the hearing.

Evidence adduced by the Council was really only anecdotal; there was no evidence from the Council as to the democratic grounding of its proposals other than the documentation already received by the Commission as per the Hearing Brief; evidence was needed as to Council’s proposals reflecting the needs and wishes of an overwhelming majority of the local community.

The main concern of the Council would seem to have been the need to have restrictions imposed in Mataranka “in line with Katherine” in order not to corrupt the effectiveness of the Katherine trial (see the letter from the Council Clerk at folio 39 of the hearing brief).

Tina MacFarlane’s evidence was also of this nature; she was a member of the Council who had attended the second public meeting, but gave evidence on her own behalf and not as a Councillor.

There has been no evidence of any flow-on problems in Mataranka as the result of the Katherine trial.

On the whole of the material before it, the Commission is not persuaded that the proposals reflect the needs and wishes of the Mataranka community. There is no clear evidence of overwhelming support for the changes as had been the case in Katherine.

The Commission found a community clearly divided, rather than united.

In that circumstance the status quo should prevail as a matter of natural justice and legitimate expectations, and the Section 33 notices are hereby withdrawn.

This is not to say that the Commission does not recognise that Mataranka does have some alcohol related problems, and this present decision should not be taken as any indication that there will be no further monitoring and ongoing assessment of liquor licensing issues in the town or no further or other trials of possibly remedial restrictions.

We are simply saying that it is clear that Mataranka's problems are different from Katherine's, both in degree and scale, and the adoption of restrictions for Mataranka identical to those in Katherine is not supported by a clear broad based community mandate.

Counsel for Old Elsey Roadside Inn asks for an order for costs, which is refused.

We cannot see that either the Mataranka Community Government Council or this Commission has acted other than properly and responsibly in the part each has played in setting up the hearing that has taken place.

Full written reasons for this decision will be published in due course.

Peter R Allen
Chairman

26 Feb 2000