

Northern Territory Licensing Commission

Trial Restrictions on the Sale of Liquor in Alice Springs Decision on Licence Conditions following Evaluation of the Trial

10 July 2003

Background – Decision to Implement a Trial

In a Decision dated 1 March 2002 the Commission determined to vary licence conditions with the effect of triggering a trial period of restrictions on the sale of liquor in Alice Springs. The Decision arose from a Hearing conducted pursuant to Section 33 (3) of *Liquor Act 1978*.

The trial and varied licence conditions are described as follows at page 22 of the Decision:

Decision

The Commission will conduct a trial of restrictions on the sale of liquor in Alice Springs. The trial will be of twelve months duration, commencing 1 April 2002, concluding 31 March 2003.

The trial restrictions will apply to all licences in Alice Springs unless otherwise notified in writing by the Commission. Likely exemptions include the Alice Springs Airport and “mini-bars” in licensed accommodation. Exemptions may include specific tourist activities such as ballooning excursions and “The Old Ghan:” and may include bona-fide “bush orders” subject to the development of appropriate licensing regimes.

Trial Licence Conditions

For the sale of liquor for consumption away from the premises, (commonly referred to as “take-aways”), trading shall not commence before 2:00PM on any weekday and shall cease no later than 9:00PM.

“Take-away” trading hours will remain unaltered on Saturdays, Sundays and Public Holidays.

No liquor of any type or description shall be sold or supplied for consumption away from the premises in containers larger than two (2) litres.

For the sale of liquor for consumption on the premises, no liquor other than light beer shall be sold or supplied prior to 11:30AM on any weekday.

This condition shall not apply on any weekday that is a gazetted Public Holiday.

For the purposes of the trial “light beer” shall be defined as a brewed beverage of not more than three per-cent (3%) ethyl alcohol by volume.

Commission’s Directions for Evaluation of the Trial

In order to ensure that the trial restrictions were the subject of a competent evaluation and that the principal stakeholders and broader membership of the Alice Springs community were given a fulsome opportunity for input into the evaluation and the crafting of recommendations, the Commission established an Evaluation Reference Group (ERG).

The scope of the evaluation and the role and structure of the Evaluation Reference Group are described at pages 23 and 24 of the Commission’s Decision of 1 March 2002, which in part, reads as follows:

Evaluation of the Trial Restrictions

The trial will be the subject of an independent, scientific and professional evaluation. The evaluation will focus on the overall effect of the trial restrictions and the complementary measures. The evaluation process will provide opportunity for community comment.

The principal mechanism for community comment will be through an Evaluation Reference Group (ERG).

The ERG will be composed of a balanced representation of community, government and business organisations, active in Alice Springs. Organisations will be limited to one representative; formally nominated by their organisation.

The principal functions of the Evaluation Reference Group will be to act as a reference point for input from community groups and individual community members regarding the trial and the evaluation, and make recommendations to the Commission on liquor licence conditions and related matters post-trial.

The ERG will meet regularly and provide minutes of all meetings to the Commission and to the Deputy Director of Licensing (Alice Springs). Minutes will record the attendance of members.

A formal evaluation will be conducted independently of the Commission and the Evaluation Reference Group. It will be supervised by the Department of Health and Community Services which will ensure an appropriate degree of separation is maintained between the Department and the persons or persons actually conducting the evaluation.

The evaluation report will be a Report to the Licensing Commission and contain comment regarding licence conditions and related matters. It is expected the report will be scientific in nature and that any recommendations contained therein will be supported by relevant data and detailed analysis.

The ERG will provide critical comments to the Licensing Commission regarding the evaluation process and any recommendations contained in the evaluation report.

Copies of the evaluation report will be available to all interested persons and organisations and be readily accessible by the community-at-large.

Terms of Reference for the Evaluation Reference Group (ERG) are shown at page 24 and 25 of the Commission's earlier decision.

Licence Conditions, Post-Trial

The trial of restrictions concluded as earlier determined on 31 March 2003. The licence conditions that formed the basis of the trial continued post-trial, pending the conduct of the evaluation and the Commission's study of the evaluation reports and other relevant material.

At page 25 of its Decision of 1 March 2002 the Commission described the process that would apply, post-trial, to the determination of future licence conditions. That process was described as follows:

Licence Conditions Post-Trial

The trial will conclude on 31 March 2003. The licence conditions to be applied after this date will be a matter for the Commission to determine. When determining licence conditions the Commission will consider the evaluation report and any recommendations contained therein, the comments and recommendations of the Evaluation Reference Group and any other material deemed relevant by the Commission at the time. The Commission may on its own motion conduct meetings, commission further research and take any other action deemed necessary to ensure that any decision it might make is made in the light of full and relevant information.

In its deliberations towards this present Decision, the Commission implemented the process described above, as forecast in its Decision of 1 March 2002.

Formal Reports on the Evaluation

The evaluation reports and the report of the Evaluation Reference Group passed to the Commission on Monday 2 June and immediately released by the Chairman for public access. Also received was a survey of Aboriginal town camp residents.

The titles and authors of the various reports can be described as follows:

- “Report to the Licensing Commission: Summary Evaluation of the Alice Springs Liquor Trial”, prepared by Dr Ian Crundall and Mr Chris Moon, dated May 2003.
- “Report to the Licensing Commission, Alice Springs Liquor Restrictions Trial, Monitoring Report”, prepared by Mr Chris Moon, dated May 2003.
- “Report on Alice Springs Liquor Trial”, compiled by the Evaluation Reference Group, dated May 2003.
- “A survey of the attitudes of Aboriginal town camp residents to the Alice Springs liquor licensing restrictions”, a submission by the Tangentyere Council, dated 28 May 2003.

The Commission commends the authors and all others involved in the preparation of the above reports. The evaluation process was undertaken in accordance with a strict timeframe. The dedication of those involved in the principal reports and their capable management of the many variables they are certain to have encountered along the way bears testimony to their professionalism.

The public release of the evaluation reports elicited a response in the form of a critique authored by Associate Professor Dennis Gray for the Tangentyere Council and the Central Australian Aboriginal Congress. The critique titled, “Review of the Summary Evaluation of the Alice Springs Liquor Trial”, triggered a “Response” from Dr Crundall dated 27 June 2003 and further comments from Associate Professor Gray, received by the Commission on 30 June. That these additional materials were made available within the timeframe demanded by the Commission is commended.

All seven documents referred to above have been studied by the Members of the Commission during their deliberations towards this Decision.

Other Material Considered by the Commission

Other documents or correspondence received and considered by the Commission are as follows:

- Letter from the Alice Springs Town Council titled “Evaluation of Trial Restrictions” and signed by Her Worship the Mayor. The letter sets out the Council’s position as formally resolved at its Ordinary Meeting of 26 May and is dated 4 June 2003.
- Letter from the Central Australian Aboriginal Congress, signed its Director, Ms Stephanie Bell and dated 17 June 2003. The letter provides considered comments and criticisms of the evaluation process.
- Letter from Dr Crundall, written in response to the above letter from the Central Australian Aboriginal Congress and dated 25 June 2003.
- Uncorrected proof Hansard of the Northern Territory Legislative Assembly dated 17 June 2003; a Ministerial Report by Dr Peter Toyne, Minister for Central Australia; Dr Richard Lim, Member for Greatorex in reply.
- Letter from the Central Australian Rural Practitioners’ Association, signed by Dr Peter Tait and dated 23 June.

Supplementary to the various formal reports and responses the Chairman and other Commission representatives met with a range of community representatives in the days following the public release of the evaluation reports. A number those with whom the Chairman met with were members of the Evaluation Reference Group.

- Acting on behalf of the Commission the Chairman met with:
 - Ms Dianne Loechel*, Alice Springs Liquor Licensees' Association
 - Ms Jane Vadivelloo*, on behalf of the Tangentyere Council
 - Dr Peter Toyne, MLA, Minister for Central Australia
 - Ms Donna Ah Chee*, on behalf of the Central Australian Aboriginal Congress
 - Mr Brycen Brook*, Central Australian Alcohol and Other Drugs Services
 - Her Worship, Ms Fran Kilgariff, Mayor of Alice Springs and Mr Rex Mooney, Chief Executive Officer of the Alice Springs Town Council
 - Mr Michael Griffin, on behalf of the Arrernte Council
 - Mr Robin Bullock*, representing the Central Australian Tourism Industry Association
 - Dr Richard Lim, MLA, Member for Greatorex
 - Mr Loraine Braham*, MLA, Member for Braitling
 - Mr Nick Gill*, Manager, Drug and Alcohol Services Association (DASA)
 - Superintendent Trevor Bell*, Northern Territory Police
- Acting on behalf of the Commission, Mr Chris McIntyre, Deputy Director of Licensing, interviewed Ms Mary Ridsdale* and Mr Brian Rees*, residents of Alice Springs and Members of the Commission at the time of its decision to implement a trial of liquor restrictions.
- Acting on behalf of the Commission, Member Barbara Vos interviewed Mr Chris McIntyre*, Deputy Director of Licensing (Southern Region) and a resident of Alice Springs.
- The full Commission met with Mr Chris Moon* and Dr Ian Crundall*.

Meetings held with those persons marked with an asterisk* were electronically recorded. The Commission has studied copies of the transcripts. The comments of Dr Toyne and Dr Lim are recorded in the Hansard. The letter from the Mayor clearly describes the Town Council's position on the restrictions.

The Commission maintains a file of relevant media items from electronic and print sources. Items pertinent to the trial of restrictions and have been copied to and studied by Members of the Commission.

It is important to recognise that much of the information and comment provided to the Commission, both from the formal reports and correspondence and the less formal material, goes to matters outside the Commission's jurisdiction. Our jurisdiction is limited to the setting of liquor licence conditions and this decision can only be directed to that end.

Recommendation of the Evaluation Reference Group

In order to consider the wide range of material in an appropriate and orderly manner it is necessary for the Commission to determine a starting point for its deliberations. To this end the Commission views the Report compiled by the Evaluation Reference Group (ERG) as the base document, to be considered, firstly on its face and then in the light of the other reports and inputs. The Commission

adopts this position, as the ERG was responsible for the provision of critical comments regarding the evaluation process and the recommendations contained in the final report. Further, when setting licence conditions or varying the conditions of existing licences the Commission is required to have regard to the needs and wishes of the community and the ERG was specifically and carefully structured to be broadly representative of the community; the community of Alice Springs.

Given the importance placed by the Commission on the workings and recommendations of the ERG and the direction contained in the Commission's Decision of 1 March 2002 that the ERG "will be composed of a balanced representation of community, government and business representatives it is relevant to detail its membership in this Decision.

The ERG membership, as reported at page 1 of the Group's Report on the trial is comprised of representatives of the following organisations:

- Department of Health and Community Services
- Northern Territory Police
- Alice Springs Town Council
- Tangentyere Council
- Arrernte Council
- Central Land Council
- Central Australian Aboriginal Congress
- Chamber of Commerce and Industries
- Central Australian Tourism Industry Association
- Australian Hotels' Association (NT Branch)
- Alice Springs Liquor Licensees' Association
- "Quality of Life" sub-committee of the "Alice in Ten" project, which later became the Substance Misuse Action Group.

In the Commission's view the ERG membership conformed to the Commission's requirements for balanced representation of the broader community. It met regularly, was competently chaired by Dr Ian Crundall, recorded its minutes and made its minutes and deliberations available to principal stakeholders and the public-at-large.

Not surprisingly, the ERG Report deals with many matters well beyond the jurisdiction of the Commission. Nonetheless it is clear from the report that the ERG has approached its difficult role with enthusiasm and competence and that the members relished the opportunity to robustly debate their competing points of view within a dedicated environment. The Commission commends the endeavours of the Group and its Chair, Dr Ian Crundall. The Commission supports the recommendation that the ERG continues to be recognised as a key advisory group in any future activities dealing with liquor in Alice Springs.

The Group's recommendations are arrayed in summary form at pages 10 and 11 of its Report. Approximately half the recommendations fall well outside the Commission's statutory role. Recommendations that fall within or arguably touch on, the Commission's jurisdiction are listed below, (some with a modicum of editorial amendment).

The Commission recognises that the not all recommendations listed are supported by the full membership of the ERG.

Recommendations supported by all members of the ERG:

- That the continuing escalation in the sale of high alcohol content liquor (notably fortified wine in the form of Port) be addressed as a matter of urgency
- That a Working Party be formed to develop a cooperative approach for the effective implementation of Section 122 of the Liquor Act, particularly as it relates to treatment options
- That the Licensing Commission be responsible for maintaining a liquor database and producing regular reports similar to those provided for the evaluation

Recommendation supported by Congress, the Substance Misuse Action Group (SMAG), the Tangentyere Council, the Central Lands Council and ATSIC:

- That the restrictions be modified over the next three to twelve months so that the sale of alcohol in unit containers (one can or cask or bottle etc.,) worth less than nine cents per pure alcohol millilitre is banned, except for 24 can cartons of beer. (The Commission notes that the other members of the ERG oppose this recommendation.)

Recommendations supported by the Substance Misuse Action Group (SMAG):

- That the Commission provides monthly figures on alcohol sales preferably expressed as retail sales
- That licensed premises display information about the National Health and Medical Research Council Responsible Drinking Guidelines and Codes of Practice

Recommendations supported by the Australian Hotels' Association (AHA):

- That liquor other than light beer should be available for consumption on licensed premises between 10:00AM and 11:30AM, but only in conjunction with food
- That licensed premises that are also accommodation providers be able to sell liquor, other than light beer, to bona fide travellers who are guests of those premises for consumption on the premises between 10:00AM and 11.30AM

Recommendation supported by all ERG members (with the exception of the AHA):

- That the licence condition permitting only light beer to be available for consumption on the premises prior to 11:30am is retained

Recommendation supported by CATIA and the Police:

- That container sizes revert to the sizes available prior to the trial

Recommendation supported by all members (except CATIA and the AHA, which expressed an opposite view):

- Those current (ie, the trial) opening hours for "take-aways" are maintained

Recommendations supported by SMAG and the Department of Health and Community Services:

- That signs be erected to inform people about the boundaries that apply to the law about being unable to drink alcohol within two kilometres of a licensed venue
- That there be improved signage about the opening hours for licensed premises

Other Recommendations to the Commission

Two of the other reports passed to the Commission contain a list of recommendations. The reports are, (with shortened titles), the “Summary Evaluation of the Alice Springs Liquor Trial” prepared by Dr Ian Crundall and Mr Chris Moon, and the “Survey of Aboriginal Town Camp Residents”, submitted by the Tangentyere Council. Recommendations pertinent to the Commission’s licensing jurisdiction are included in this Decision for completeness of record, and to provide a “check-list” for decision, comment and appropriate action by the Commission.

Recommendations from the “Summary Evaluation of the Alice Springs Liquor Trial”:

- It is recommended that all three restrictions be continued. A further restriction on two litre Port casks should be trialed for three months in conjunction with a focused campaign designed to reduce further substitution. This extension should be reviewed in three months and if there is no clear gain then all container limits should be removed.
- It is recommended that the local Aboriginal leadership devise strategies in conjunction with Licensing Commission and Police members of the local liquor industry. A partnership approach should underlie this recommendation.
- It is recommended that a database of harm indicators be maintained and readily interrogated and that the Licensing Commission take responsibility for maintaining a liquor database and the production of regular reports like those in this evaluation that can be made readily available to Alice Springs.

Recommendations from the “Survey of Aboriginal Town Camp Residents”:

- The current restrictions should be strengthened
- No “take-away” alcohol should be sold on Sundays
- That the Licensing Commission support and future applications by town camp Housing Associations to be declared as a restricted area under Section 74 of the Liquor Act
- Where possible, there should be a reduction in liquor outlets in Alice Springs, No new licences should be granted unless it can be demonstrated to the Licensing Commission that such licences are part of a strategy to reduce alcohol related harm
- Restrict the supply of fortified wine and spirits
- Strengthen laws and consequences for traders selling alcohol to intoxicated persons and minors
- In the case of future restrictions, provision should be made for an interim review to address measures that may adversely affect the outcome of the restrictions and the community as a whole

Complementary Measures

The Commission when considering the recommendations contained in the three reports referred to earlier noted that many of the recommendations were relevant to what the Commission regards as “complementary measures”.

The Commission referred specifically and with some feeling, to complementary measures in an earlier Decision, published 31 May 2001. The tenor of that Decision was that the Commission would not move to implement restrictions or a trial thereof in the absence of suitable initiatives to be implemented or trialed in tandem with the proposed restrictions. The Commission determined this position following a lengthy period of extensive community consultation during which many respondents to the Commission’s widely advertised draft restrictions plainly stated that restrictions alone will not work!

The Commission's position regarding the proposed trial of restrictions was confirmed in a "Position Statement" published by the Chairman on 30 June 2001.

That position was as follows: (Emphasis as per the original Statement)

The trial will not proceed as proposed. The Commission will leave the proposed trial "on the table" until such time as suitable complementary measures are available to be implemented or trialed in tandem with the proposed trial restrictions on the sale of liquor.

Any proposed restrictions and other initiatives should be interrelated so that each complements the other, thus optimising any opportunity for better overall effectiveness.

*It is expected that most complementary measures will be newly developed for the purpose of the trial while some may be significantly enhanced existing measures. To simply bundle together existing measures with the proposed liquor restrictions will **not** suffice; the community has commented on the proposed restrictions against the background of the "status quo".*

In response to the Commission's publicly stated position a number of community-based organisations set about developing a suite of suitable complementary measures. The Commission found these measures to be suitable for trialling in tandem with the trial restrictions. The Commission's findings are contained in its Decision dated 1 March 2002.

Before returning to consider the various recommendations and the trial restrictions it is necessary to plainly restate the Commission's view that restriction alone will not work and that appropriate complementary measures remain an essential ingredient of any package designed to lessen liquor-related problems in the community. The Commission is aware from the information and recommendations contained in the various reports that the complementary measures were implemented to differing extents and with various degrees of success. Some, it appears were barely implemented, while others produced commendable results.

Beyond noting the reports and restating its position, the Commission has no plans to analyse the complementary measures, or to award praise and attribute blame. The Commission has no such jurisdiction; these are matters for the community organisations involved and their funding bodies.

Consideration of the Recommendations

Prior to returning to a consideration of the recommendations it is important to confirm that the primary function of this Decision is to determine those conditions that will attach to liquor licences in Alice Springs for the reasonably foreseeable future.

This Decision will be primarily directed to a consideration of those recommendations that arise directly from the terms of the trial restrictions. Time constraints demand that the other recommendations of worth are "wait-listed" for later comment or decision by the Commission.

Trading Hours for "Take-away" liquor

Trading hours in effect during the trial period as per the Commission's Decision of 1 March 2002 and pending this Decision are as follows:

For the sale of liquor for consumption away from the premises, trading shall not commence before 2:00PM on any weekday and shall cease no later than 9:00PM.

It should be noted that the "take-away" trading hours for Saturdays, Sundays and gazetted Public Holidays were not disturbed by the Commission's Decision of 1 March 2002.

Our study of the ERG Report reveals that all but two of its members resolved that the "take-away" trading hours applicable to the trial should continue; dissenting voices being CATIA and the AHA. The ERG Report informs the Commission that the later "take-away" hours "are generally regarded as positive. The AHA and CATIA acknowledge the views of their fellow members but express a

concern regarding “the impact of this measure on the broader community, and in particular, tourists.

The Commission notes that the Town Council’s position, as resolved at its meeting of 26 May 2003, is that it “would like to see the hours lifted but complementary measures increased”. The Member for Brainting, Loraine Braham MLA, was of a similar view citing that not only tourists but senior citizens and others who prefer to shop earlier in the day are disadvantaged by the later opening hours.

Messrs Crundall and Moon suggest in their “Summary Evaluation” of the trial “that all three restrictions be continued”. At page 22, under “Stakeholder Feedback and Comment”, they report that “most respondents, including Police, felt that the later opening hour contributed to the relative quietness of the Mall over lunchtimes”. The authors report further on this at page 23 where they record the Police view that the “decrease in CBD incidents is attributable to increased patrols rather than the restrictions”. The Commission, from its own observations is aware of a change in Police tactics including the use of bicycle patrols and applauds these initiatives. In his meeting with the Chairman, Police Superintendent Bell indicated that the shorter trading period had usefully enabled him to concentrate his resources and thus implement initiatives such as bicycle patrols.

The Commission does however note that the later opening time “take-away” liquor may have led to an escalation of the problems experienced in town camps and that such problems have occurred later in the evening.

The recommendations that flow from the “Survey of the attitudes of the Aboriginal town camp residents” suggest that the “current restrictions should be strengthened”, arguably a clear statement of support for the trial “take-away” hours or even a lesser trading period. The Commission also notes the call by some organisations for a “take-away-free-day”, ideally Sunday. Also suggested was an alignment of the Saturday, Sunday and Public Holiday trading hours with the trialled shorter trading hours on weekdays.

In his “Review of the Summary Evaluation of the Alice Springs Liquor Trial”, at page 24, Associate Professor Gray asserts that in that in the light of his review of the evidence this restriction has been effective and, “from a public health perspective, support for their retention is justified”.

In regard to the concerns of CATIA and the AHA the Commission notes that it has approved a number of applications from registered tourist operators designed to minimise any inconvenience suffered due to the later opening times and advises that it stands ready and available to consider similar applications on their merits. The Commission acknowledges that this does not necessarily assist independent travellers but can advise that it has approved applications for the sale of limited amounts of “take-away” liquor by accommodation providers and that again, it stands ready and available to consider such applications according to their merits.

The Commission’s view is that on the material before there is a sufficient level of community support for trial “take-away” trading hours and that some benefits have been obtained. We again note and acknowledge the role of the Police and that the shorter trading hours have enabled an effective concentration of their resources.

The Commission’s Decision for “Hours of Trade” is to leave the “take-away” trading hours condition in place in all licences that permit the sale of liquor for consumption away from the premises.

Size of Permitted Containers

The Commission’s Decision of 1 March 2002 was that:

No liquor of any type or description shall be sold or supplied for consumption away from the premises in containers larger than two (2) litres.

The intended effect of this condition was to prohibit the sale of four and five litre wine casks, a drink of choice for many of the community’s problem drinkers. It is clearly demonstrated within the reports and other material put before the Commission that those denied their drink of first choice

shifted immediately to two-litre casks of port and that, at least in the early months of the trial, there were increased levels of alcohol-related harm and anti-social behaviour.

Although divided on the action the Commission should take the ERG reports it is “unanimous in agreeing that the continuing escalation in the sale of high alcohol products (most notably fortified wine in the form of Port) is detrimental and recommend that it be addressed as a matter of urgency”.

The report, “Summary Evaluation of the Alice Springs Liquor Trial” prepared by Dr Ian Crundall and Mr Chris Moon, recommends a continuation of this element of the trial for an additional three months. This recommendation comes with caveats that the extended trial should “be in conjunction with a focussed campaign designed to reduce further substitution” and that if a further review reveals “there is no clear gain then all container limits should be removed”.

The Tangentyere Council’s “Survey of the attitudes of Aboriginal town camp residents” recommends that the Commission “restrict the supply of fortified wine and spirits. The Council attaches the following comments to its recommendation:

Measures should be implemented to restrict the consumption of fortified wine and spirits. Measures should be considered to ensure that the cheapest alcoholic beverage on the market at any time is beer. While Tangentyere Council recognises that beer also presents health and social problems to the community, it sees this measure as one of harm minimisation. Tangentyere Council supports the current proposal by Central Australian Aboriginal Congress regarding pricing of alcoholic beverages.

The Congress proposal regarding the pricing of liquor products is referred to at page 4 of the ERG Report under the heading “Pricing Strategy”, and is reported as supported by ATSIC, the Central Land Council and SMAG, (the Substance Misuse Action Group).

The view of Congress is that the trial restrictions have failed to reduce per capita consumption of alcohol in Alice Springs and that this is due to product shift away from four and five litre wine casks to other inexpensive and unrestricted products such as port and sherry. Congress argues people drinking in order to get drunk will select their product of choice on the basis of price rather than taste. Two questions arise from this premise. Firstly, how is it known that the persons referred to by Congress, “drink to get drunk”? Secondly, how is it known that such persons base their choice on price rather than taste?

A second premise upon which Congress relies is the suggestion that there will always be new forms of “cheap bulk grog” on the market and that this will undermine attempts at restrictions. Congress believes that this problem can be overcome by the insertion of conditions into liquor licences that restrict the sale of liquor products below a designated price per millilitre of pure alcohol.

To implement their “pricing strategy”, Congress recommends the modification of the restrictions so that the sale of liquor in unit containers, (that is, one can or cask or bottle), is banned, other than for cartons of beer.

Congress argues the effect of this strategy will be to ensure that full strength beer, whether in half or full cartons, will be the least expensive form of alcohol available. Congress believes this will lead to a shift by heavy drinkers away from port to full strength beer with a resultant lowering of pure alcohol consumption amongst many of those who excessively consume the cheap ports and wines. It is also suggested that the heavy-drinking culture may change, particularly for younger people who might desist from the currently cheaper high impact products in favour of beer.

It is clear that Congress has given considerable thought to this strategy as the information provided to the Commission includes an extended rationale for this recommendation together with detailed comparisons of various products by percentage of alcohol and cost per millilitre of alcohol.

As stated earlier, ERG support for the “pricing strategy” recommendation is restricted to Congress, the Tangentyere Council, ATSIC, SMAG and the Central Land Council. The ERG Report lists a

number of grounds put forward by other members for not supporting the Congress proposal. These grounds include:

- *Implications for fair trading and legal challenges that might ensue*
- *The practicalities of implementing any such scheme, given the indeterminate nature of what the final list of affected products might be*
- *The further inconvenience imposed on the larger population and the fuel this might add to community tensions as community members may see themselves as being “punished” due to the behaviour of groups within the community*
- *The lack of evidence that the price elasticity of the proposal has been appropriately formulated*

The Commission regards such concerns as reasonable in the current circumstances and will not move to implement the proposal recommended by Congress. In the Commission’s view, extensive community consultation and a significant level of community support would be essential before the Commission could consider implementing the Congress proposal. Any consultation would need to be based on a firm and readily explainable proposal and appropriate research.

With regard to the proposal put by Dr Ian Crundall and Mr Chris Moon that the restrictions on container size continue for a further three months; the Commission is not attracted to this recommendation; the trial has concluded and we must now act to diminish sales of the high-impact ports. We earlier noted the concern of all ERG members that the escalation in the sale of cheap port must be addressed as “a matter of urgency”; this theme prevails throughout the material considered by the Commission.

In response the Commission can choose to further vary the conditions of liquor licences and simply prohibit the sale of port, either in casks or in total. But to what benefit! The “problem drinkers” will simply shift to another product, perhaps spirits or one of the increasing range of ready-to-drink mixes?

“Product substitution” is not unique to Alice Springs; it has been an issue in other trial restrictions and remains of concern in Tennant Creek. An earlier trial initiated by licensees during 1997/98 prohibited the sale of the larger wine casks prior to 4:00PM and imposed purchase limits of one cask.

The Commission’s position in that there is little point in banning port. To do so would simply lead to further and further product substitution, the logical and ultimate consequence of which would mean there would be very few liquor products left for the reasonable enjoyment of the Alice Springs community.

In the current circumstances the Commission sees it has little choice but to remove the restriction on container size, knowing full well that the effect of the deleting this restriction will be the return of four and five litre wine casks. The matter should not rest here, it is clear there are numbers of serious problem-drinkers within the Alice Springs community and strategies other than simply banning specific products are needed to ameliorate this situation.

The Commission’s Decision with regard to Container Size is to remove the two-litre limit:

Light-Beer Only Prior to 11:30AM

The Commission’s Decision of 1 March 2002 was that:

For the sale of liquor for consumption on the premises, no liquor other than light beer shall be sold or supplied prior to 11:30AM on any weekday.

- *This condition shall not apply on any weekday that is a gazetted Public Holiday.*

- *For the purposes of the trial “light beer” shall be defined as a brewed beverage of not more than three per-cent (3%) ethyl alcohol by volume*

The reports and material considered by the Commission indicates that support for the retention of this condition is close to universal across the reports and the organisations involved therein. A clear exception is the Australian Hotel’s Association, which also represents the licensed clubs. The Association’s view is that an exception should be made and liquor other than light beer permitted when that liquor is consumed with a meal.

The Commission notes that special licences and temporary variations to existing licences are available upon application to the Director of Licensing for special events such as Cup Days and the Finke Desert Rally, and that food is normally available and often promoted at such events.

The Association also submits that the service of liquor other than light beer should be permitted to bone-fide travellers and lodgers. The Association details several thoughtfully constructed means and safeguards by which such service might safely occur. In response the Commission notes that the option of service from “mini-bars” in guest accommodation was available throughout the trial and remains available. Further, the Commission advises that during the period of the trial it approved an application for a “house guests only” bar and that it remains open to considering such applications on their merits.

Noting the broad support for retention of this licence condition the Commission remains of the view that it’s a better public health option to “wait until the sun is over the yard-arm”.

The Commission’s Decision is to leave the so-called “light beer” condition described above in place in all licences that permit consumption on the premises.

Community Attitudes Towards to Trial Restrictions

When setting licence conditions or when varying the conditions of existing licences, the Commission is required by Section 32(d) of the Liquor Act to have regard to “the needs and wishes of the community”.

The various surveys indicate a sufficient level of community support for the Commission to leave elements of the conditions that applied during the trial in place as licence conditions.

The Commission is obliged, as it should be, to remain cognisant of community opinion and cannot assume silence is consent or support simply prevails over time and without question. In the event “needs and wishes” change or other schemes or strategies are put before us for consideration, the Commission is bound to assess, in the first instance, the level of community consultation and support for such schemes.

Decision on Licence Conditions

The licence conditions to apply to all licences, the subject of the trial restrictions, are as follows:

For the sale of liquor for consumption away from the premises, (commonly referred to as “take-aways”), trading shall not commence before 2:00PM on any weekday and shall cease no later than 9:00PM.

- “Take-away” trading hours will remain unaltered on Saturdays, Sundays and Public Holidays.

For the sale of liquor for consumption on the premises, no liquor other than light beer shall be sold or supplied prior to 11:30AM on any weekday.

- This condition shall not apply on any weekday that is a gazetted Public Holiday.
- For the purposes of the trial “light beer” shall be defined as a brewed beverage of not more than three per-cent (3%) ethyl alcohol by volume.

These licence conditions are congruent to the conditions that applied throughout the period of the trial restrictions except that the restriction on container size and thus the prohibition on the sale or supply of four and five litre “wine casks” has been removed.

Although the intended change to licence conditions is less restrictive than those that applied during the trial, the Commission is nonetheless bound by the provisions of the *Liquor Act* and therefore required to notify licensees of its decision to vary licence conditions. Accordingly the Commission will, pursuant to Section 33 (1) of the *Liquor Act*, issue the required notices to licensees at the earliest practicable opportunity. Section 33(2) provides licensees with 28 days following receipt of the Commission’s notice within which to seek a hearing.

It is open to individual licensees to inform the Commission immediately upon the publication of this Decision or any time prior to the expiration of the 28 day period provided by Section 33(2) that a hearing will not sought. Upon receipt of written advice to this effect, the Commission will issue an amended licence containing the conditions described above and the licensee may commence trading in accordance with those conditions.

In the event that a licensee seeks a hearing, the conditions of their licence that applied during the trial of restrictions shall remain in force until such time as a hearing is conducted and the matter determined.

Supplementary Decision or Position Statement

As indicated earlier the primary purpose of this Decision has been to consider those recommendations contained within the various reports and other material provided to the Commission, that arise directly from the terms of the trial restrictions, and on the basis of this information, to determine licence conditions.

Although this focus essential to the proper pursuit of the Commission’s statutory role, it of necessity sets aside much of the valuable information material put before us. The Commission will continue to study the material now before it and is likely to publish some form of supplementary decision or position statement on a number of the issues not covered in this Decision.

Peter R Allen
Chairman