

Northern Territory Licensing Commission

Reasons for Decision

Premises:	The Deck Bar (formerly Petty Sessions)
Licensee:	Brewhouse Pty Ltd
Licence Number:	80304385
Proceeding:	Interpretation of Approval Granted
Decision By:	Mr Craig Spencer
Date of Decision:	12 April 2005
Appearances:	Ms Karen Houlihan-Nominee

Background

1. Members Withnall, Clough and Spencer met with the owners of the restaurant then still known as Petty Sessions but now known as The Deck. At this meeting, the licensee presented Members with a new concept proposal for the premises and sought approval to undertake substantial material alterations. In addition, they requested a suspension of the licence to undertake these alterations.
2. Approval was given by these members for the suspension of the licence to undertake the material alterations.
3. A request was received for the Commission to clarify the interpretation of an issue relating to the approval granted relating to the use of certain furniture in an area of the premises.
4. It was decided that it was appropriate to conduct a viewing of the premises and the furniture in question.
5. Subsequently, on Tuesday 12 April 2005, various members of the Commission attended at the premises including Members Clough and Spencer who were involved in the granting of the approval. Member Withnall, the Presiding Member for the approval, was neither present at the viewing nor available to assist with this interpretation. As the issue directly related to an interpretation of a current approval, it was considered appropriate that a Member of the panel which gave the approval should provide the interpretation. Based on discussions at the premises on the day of the viewing, Member Spencer was appointed as he had significant discussions with the Licensee and Management relating to the furniture.

Discussion

6. The concept of alfresco dining is that it is to be seen by the public as a dining area not a bar area. Therefore, it is consistent with that basic concept that persons are seated within alfresco dining areas.
7. The alfresco dining area of the premises incorporates all outside areas of the premises, including what is referred to as the Beer Garden. This Beer Garden area directly adjoined to the main area of the premises. This main area is in effect a Bar area with no restriction applying for persons to be seated.
8. To address this issue, the approval specifically required that the Beer Garden area be screened off. The purpose of this requirement was so that persons in the main bar area of

the premises could not be seen standing and blur the distinction between the bar area and the alfresco dining area. This in effect restricted the visibility of those outside the premises seeing in and those inside seeing out.

9. At the viewing of the premises, there were located Tables and Chairs in the outside alfresco dining area and also inside in the bar area.
10. In addition, the owners had other furniture which the owners called Tables and Chairs but will be referred to as Bars and Stools to distinguish them from the Tables and Chairs mentioned above.
11. These Bars and Stools were significantly higher than the Tables and Chairs. The Bars were similar to the type of furniture used in hotels and taverns for persons to stand around. The Stools were consistent with stools seen at a fixed bar in bar areas of hotels and taverns.
12. Neither Bars or Stools were consistent with furniture used in dining areas or alfresco dining areas of another alfresco dining areas including Mitchell Street, nor including another premise which the owners of this premise operate in Mitchell Street.
13. It is acknowledged that while the Bars and Stools can be used for persons to be seated at and to eat meals, they are more consistent with having persons standing at or around.
14. It was interesting that the Tables and Chairs were to be used inside the premises in the bar area and in the other alfresco dining area. However, the Bars and Stools were to be exclusively used in the Beer Garden area where the specific screening condition applied. It would appear that the use of such Bars and Stools would, whether intentional or otherwise, circumvent the condition of the approval as the Bars and Stools would allow persons to sit higher than normal if at the Tables and Chairs.
15. It was raised with management as to whether or not they were prepared to raise the height of the screening used around the Beer Garden to compensate for the increased height of the Bars and Stools. Management indicated that they were not.

Decision

16. This written decision is confirmation of the decision made at the premises on the day of inspection.
17. The use of the Bars and Stools is not permitted in the alfresco dining areas of the premises including the beer garden area.
18. In effect, this clearly means the use of these Bars and Stools is restricted to use inside the premises.

Craig Spencer
Member