

Northern Territory Licensing Commission

Final Decision

Premises:	Lazy Lizard Caravan Park
Licensee:	Jan Bruce
Proceeding:	Application to vary Licence Conditions
Heard Before:	Mr John Withnall
Date of Hearing:	23 August 2001, and 23 July 2002
Date of Decision:	Interim decision on 30 August 2001 Final decision on 23 July 2002
Appearances:	Mr Fred Davis, for the Licensee, with Licensee in person

1. The Lazy Lizard Caravan Park has had a "Tavern" licence since opening that side of its business in April 2000. The licence was approved "in principle" in that category on 2nd November 1999 at the conclusion of a somewhat drawn out contested hearing of a repeat application.
2. An important factor in the Commission's decision at that time was the applicant's presentation of a concept of a family oriented bistro-like environment without gaming machines, TAB or any wagering facilities to sully that atmosphere. A special condition to this effect was later tightened, after complaint from the competing Pine Creek Hotel (one of the original objectors), to make it clear that raffle activities were also proscribed.
3. Mrs Bruce had applied for 2 a.m. closing seven nights a week, but the Commission allowed trading to midnight Sunday through to Thursday, and to 2 a.m. only on Friday and Saturday nights (ie. 2 a.m. on Saturday and Sunday mornings respectively).
4. The licensee Mrs Jan Bruce then applied for variations of her trading conditions to allow raffles on the premises by and in aid of local non-profit organisations, and to extend trading to 2.a.m. every night of the week as originally applied for.
5. This application was initially refused at a meeting of the Commission which took into account a perceived need to continue what was seen as the effective balance existing between the various Pine Creek liquor outlets. The application was not required to be advertised, as the Commission determined to refuse the application in any event.
6. Mrs Bruce then sought a hearing of the application, pursuant to section 50(1)(a) of the *Liquor Act*.
7. There were no objecting parties at the hearing, as the application had not been advertised, a circumstance which was of concern to me and which influenced me in reaching an interim decision to defer the matter for further evidence.
8. Before deciding to call for further evidence I had heard from Mrs Bruce and her legal representative Mr Davis, and received into evidence letters of support from the following:
 - Pine Creek Golf Club
 - Pine Creek Turf Club
 - Pine Creek Playgroup
 - Eurest Catering and Services Pty Ltd

- Mr Gary Brown
9. These letters all directly addressed the application, and were relevant to the Commission's task of assessing community needs and wishes in relation to the application. However, in my view more was needed; Mrs Bruce carried the burden in the hearing of persuading the Commission to overturn a decision already made.
10. I deferred the matter pending receipt of evidence of the views of
- the Pine Creek Community Government Council
 - the Pine Creek police
 - nearby residents
 - any other charitable groups who would like to benefit from raffle activities in the Lazy Lizard
 - the Pine Creek Aboriginal Advancement Association for the Kybrook community.
11. The foregoing matters were the subject of a published Interim Decision dated 30 August 2001.
12. The matter was eventually reconvened on 23 July 2002, at which time the following additional documentary evidence was received:
- Letter from the Pine Creek Community Government Council advising of the Council's neutrality in relation to the application.
 - Letter from Sergeant Maurice of the Pine Creek police expressing lack of police objection to either the extension of trading hours or the conduct of fund-raising activities in the licensed premises.
 - Letter from the Pine Creek Aboriginal Advancement Association expressing the positive support of the Kybrook community for "both the new trading hours and the right to run raffles".
 - Letters from over two dozen nearby residents in support of the extension of trading hours.
13. On 23 July 2002 I delivered the following decision *ex tempore*:

I approve the application to trade to 0200. The trade-off will be a noise condition which should not bother the licensee, on what was put to me; it will simply restrict the emanation of noise which disturbs the normal comfort of surrounding residents. It should not affect her trading, on the evidence. As to the application to run raffles, that will be approved so long as the raffle is run by non-profit organisations. The approval will not cover any raffle by any commercial organisation, and that will prohibit a situation where a non-profit organisation may employ a commercial management. We will only permit raffles to be run directly by the non-profit or sporting organisations for whose benefit they are being run.

The licensee may trade to 0200 starting today. We will have this morning's transcript typed up and that will be her warrant until such time as the consolidated licence is reprinted and issued. We will delay the commencement of raffles until such time as the licensee actually reads the written decision and has a chance to consider the conditional nature of the approval.

The situation therefore is that she can trade to 0200 starting tonight, with the new licence to be issued in due course. The new licence will also enable her to run raffles

in certain situations, but she is not to run those raffles until she receives the new licence into her hands.

John Withnall
Presiding Member

Delivered 23 July 2002