

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Alice Springs Memorial Club
Licensee:	Alice Springs Memorial Club Inc
Licence Number:	81402285
Nominee:	David Harvey Hunt
Proceeding:	Complaint Pursuant to Section 48(2) of the <i>Liquor Act</i>
Heard Before:	Mr John Flynn Mrs Jane Large Ms Helen Kilgariff
Date of Hearing:	30 March 2006
Date of Decision:	3 May 2006
Appearances:	Senior Inspector Wayne Sanderson Mr David Hunt, Nominee Mr George James, President

1. This is a complaint pursuant to Section 48(2)(c) of the *Liquor Act* against the Alice Springs Memorial Club for breaches of Section 106C.
2. The facts of the breach are admitted. On Saturday 22 October 2005 Senior Licensing Inspector Wayne Sanderson and Licensing Inspector Jamie Orr attended the premises a little after midnight. They observed a male, Michael Anthony Walsh, who was unsteady on his feet and asked him to produce evidence of his age. He produced identification which showed that he was seventeen (17) years of age. He admitted himself being served at the bar and consuming liquor throughout the evening. It would seem that he had had at least four (4) cans of beer and at least two (2) cans of Rum and Cola.
3. The Club on that evening was holding a social event for over eighteen (18) year olds in tandem with the Crusty Demons, an entertainment group. It was an approved event and there was no necessity for visitors to sign the book.
4. Michael Walsh had been accompanied by his parents and had dined in the restaurant. He stayed after his parents left and he was able to avoid a security check as he had earlier entered the premises quite legitimately and at no time was he asked for proof of age.
5. There certainly was security on the premises and the Licensing Inspectors asked other patrons for proof of age and as there has been no complaint about others it can be assumed that those checked were above the age of eighteen (18).
6. In favour of the Alice Springs Memorial Club there has been no past breach or suspected breach of their licence and the Club has been in existence for in excess of forty (40) years.
7. The present Nominee has been employed for eleven (11) years and has been the manager for the past eight (8). The Club provides an amenity in Alice Springs which is patronised by all age groups and in addition provides a sporting amenity.
8. Whilst security was provided this does not exonerate the Club in any way from continuing to ensure that underage drinkers are not supplied with alcohol. It is the responsibility of the bar staff, the Manager or other employees of the Club in relation to the premises to

continually monitor the service of alcohol on the licensed premises. It would appear that the bar staff were not sufficiently instructed about their responsibility under the *Liquor Act*, particularly in relation to supplying liquor to minors or intoxicated persons.

9. The Commission saw Michael Walsh in the Commission Hearing Room and one's impression is that even though he is now over the age of eighteen (18) he still gives the appearance of possibly being under eighteen (18). Whoever served him alcohol should have checked on his age.
10. The breach is further exacerbated by the fact that Michael Walsh was obviously unsteady on his feet and admitted to the Licensing Inspectors that he could not drive home. Even if he were over the age of eighteen (18) years he probably should not have been served alcohol.
11. Senior Inspector Sanderson, the complainant, did not call for a suspension of the licence given the prior good record of the Club. The assurance by the Club that they were tightening their checking procedures and the fact that Mr Walsh had entered the premises legitimately.
12. This panel of the Commission is aware of another panel's decision to suspend a licence for a day for a similar complaint. This can be differentiated by the fact that the underage drinker had obtained entry quite legitimately with his parents.
13. Notwithstanding the difference it is necessary to emphasise the seriousness of such a breach and the licence in respect of takeaway liquor will be suspended for one (1) day, the day being Saturday 13 May 2006 and the Club must put a prominent notice in the takeaway area on that day and the preceding day to the effect that they are unable to supply takeaway liquor because of the breach of their licence.
14. In addition the licence will be suspended for one (1) day, that day being a Tuesday, but that suspension will be suspended for one (1) year. If however any complaints against the Licensee or Nominee in relation to any aspect of operation of the licensed premises are lodged during this time with the Commission, and are subsequently upheld against the Licensee or Nominee as constituting a breach of the *Liquor Act* or of any licence condition, then in addition to whatever penalty may be imposed in relation to the further complaint, the Commission may also notify dates for the deferred part of the suspension hereby imposed to be served in relation to this matter.

John Flynn
Chairman

3 May 2006