

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Nguiu Club Bathurst Island NT
Licensee:	Nguiu Club Association NT
Licence Number:	80303731
Hearing:	Hearing Under Section 33 of the <i>Liquor Act</i> Re Change of Conditions of Licence
Commission:	Mr John Flynn (Chairman) Ms Brenda Monaghan Mrs Veronica McClintic

The Nature of the Hearing

1. On 14 February 2006, the Commission Sent to the Licensee of the Nguiu Club a notice pursuant to s 33 of the *Liquor Act* notifying it of a change in its licence conditions. The change was to impose the following additional condition on the licence:

Heavy Beer: The on licence sale of heavy beer is prohibited.

2. On 10 March 2006, the Licensee exercised its right under s 33(2) of the *Act* to request a hearing in relation to the conditions of the licence.
3. The Licensee has now indicated its willingness to accept the additional condition for trial period of three (3) to six (6) months. The Commission is well aware that this decision has not been an easy one for the Licensee. We acknowledge this fact and thank the Nominee and the Club Committee for agreeing to work with the Commission in taking a step towards addressing the liquor problems within the Nguiu Community. They should be congratulated for their responsible attitude in dealing with this matter.

The Decision

4. In light of the Licensee's willingness to accept the condition for a trial period, the Commission has decided to impose the condition, review the condition after 6 months and, in the meantime, to adjourn this hearing.

Reasons

5. The Commission has received evidence in the form of statements from BSgt David Wilson, the Officer in Charge of the Nguiu Police Station; Ms Wendy Mackay who was until very recently the Health Services Manager for the Tiwi Islands, resident in Nguiu; Mr Kevin John Doolan, who is employed by the Tiwi Islands Local Government as the Tiwi Youth Diversion/ Development Co-ordinator; Mr Gawin Tipiloura, who, in addition to his traditional responsibilities, is the President of the Nguiu Community Management Board; and Mr Peter Jones, a Senior Policy Officer with the Racing, Gaming and Licensing Division of Northern Territory Treasury. In addition the Commission has received a report from Dr McLaren, and has before it a range of other documents including the Tiwi Islands Alcohol Management Plan, tables of statistics relating to Police callouts and suicides on the Island, a number of its own prior decisions in relation to complaints against the Club under s 48 of the *Act*, and the findings of the Coroner in relation to the deaths of four (4) young Tiwi people handed down in November 1999.

6. At the initial directions hearing, the Licensee indicated its intention to call evidence from a number of witnesses. Because the Licensee has now agreed to the proposed condition for a trial period, it has not filed statements from those witnesses. Nor has there been a hearing at which any of the witnesses who have given statements were cross-examined. An opportunity will be afforded to the Licensee to call evidence and cross-examine witnesses at the adjourned hearing date should that prove necessary.
7. It is fair to say that the evidence which is presently before the Commission indicates that excessive consumption of alcohol by some members of the Nguiu community contributes to significant problems in the Nguiu community including suicide and attempted suicide; domestic and other violence; and children wandering the streets hungry, in fear, and at risk from violence.
8. The rate of suicides and attempted suicides in the Nguiu community is alarmingly high. There have been ninety-four (94) attempted suicides reported to Police since November 2004 and Sgt Wilson is aware of others which were dealt with by the Nguiu Mental Health team and were not officially reported to Police. There have been six (6) successful suicides in that same time. Data extracted from the Coroner's findings for unnatural deaths on Bathurst Island since January 2000, indicates the presence of high levels of alcohol in the bloodstream of the majority of suicide victims at the time of death.
9. It is fair to say also that the evidence presently before the Commission indicates a connection between the problem drinking and the Nguiu Club. The former Health Services Manager, Ms Mackay, has given evidence of large numbers of alcohol related injuries on nights when the club is open and very few when it is closed, and Sgt Wilson has given similar evidence in relation to police callouts to alcohol related incidents.
10. There is also evidence that the harm done to the community by excessive consumption of alcohol is likely to be reduced if the Nguiu Club were not permitted to sell full strength beer. Both Ms Mackay and Sgt Wilson have given evidence that the Club served only mid-strength and light beer for a short period in January 2006 and that, during that period, alcohol related incidents and injuries decreased dramatically.
11. The primary object of the *Liquor Act* is to regulate the sale, provision, promotion and consumption of liquor –
 - (a) so as to minimise the harm associated with the consumption of liquor; and
 - (b) in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor. [s3(1)]
12. Further objects of the *Act* include protection and enhancement of community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor. [s3(2)(a)]
13. In determining the conditions of a licence, when taking into account the public interest, the Commission must take into account such of the criteria in s6(2) that are relevant to the application or conditions under consideration. [s6(1)(b)]
14. S 6(2) includes the following relevant criteria.
 - Harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised. [s6(2)(a)]
 - Public order and safety must not be jeopardised. [s6(2)(c)]
 - The safety, health and welfare of persons who use licensed premises must not be put at risk. [s6(2)(d)]
 - Practices which encourage irresponsible drinking must be prohibited. [s6(2)(j)]

15. The Act recognises that it may be necessary or desirable to impose as a condition a limit on the kinds of liquor that may be sold. [s6(2)(k)(i)]
16. Taking into account these matters, the evidence so far before the Commission, and the willingness of the Licensee, communicated through its Counsel, to consent to the imposition of a prohibition on the on licence sale of full strength beer for a trial period, the Commission is of the view that such a condition should be imposed on the licence of the Nguui Club, to be reviewed after six (6) months. The Commission will also seek the immediate assistance of Racing Gaming and Licensing to monitor and evaluate the impact of the prohibition not only on Police and health statistics but also its impact on the wider Nguui Community throughout the evaluation period. Finally, should the prohibition of heavy beer have a positive impact on alcohol related problems at the Club such that the current level of non-Tiwi security is no longer required, then the Commission will entertain an application from the Club to vary that licence condition.
17. The Licensee has requested that the new condition is not applied for two (2) weeks to enable existing stock to be sold. The Commission considers this to be reasonable.

Other Matters

The Permit System

18. The Licensee has requested the Commission to review the system of permit sales on Bathurst Island. The whole of the Tiwi Islands is a restricted area under Part VIII of the Act. Permits are issued to a number of residents to purchase alcohol either through the Club or from outlets in Darwin, and to bring it onto the Islands. Earlier this year, when the Commission decided to prohibit the on premises sale of heavy beer to the Club, it was informally advised that the earlier problems with takeaway liquor sales had settled down. More recent advice from Nguui police, however, supports a conclusion that takeaway liquor continues to cause problems.
19. Evidence from each of the witnesses who have given statements confirm that these takeaway sales contribute to the community problems arising from problem drinking and the Commission agrees with the Licensee's suggestion that it would be desirable to undertake a review of the permit system. However, that is not something the Commission is able to do in the present hearing. This hearing is concerned solely with the s33 Notice given to the Licensee by the Commission on 14 February 2006.
20. The Commission may issue a permit subject to such conditions as it thinks fit. [s87(3)] A permit may be revoked by the Commission at its discretion [s94] and a new one with changed conditions issued [s87(3)]. Although the Commission may do this on its own motion, it would need to have material before it to enable it to make an informed decision. The Commission will recommend to the Director of the Racing, Gaming and Licensing Division that he implement a process of consultation with the stakeholders on the Tiwi Islands with a view to reviewing the permit system and recommending any appropriate changes to the Commission. The Commission would welcome the input of the Nguui Club into this process.

Other Licensed Premises on the Tiwi Islands

21. The Commission is aware that there are three (3) other clubs on the Tiwi Islands. One of those, the Wurankuwu Club, is on Bathurst Island, reasonably easily accessible to residents of Nguui. There are, at present, no issues in relation to these clubs before the Commission. However, the Commission wishes to make it clear that if the condition of the Nguui Club licence prohibiting the on licence sale of heavy beer causes law and order problems in, or disruption to, those other communities, the Commission may need to review the licence conditions of one or more of the other clubs.

22. The other Clubs must ensure that they properly control any problem drinkers who migrate from Nguiu Club to their premises when the ban comes into force. We understand that the Licensee at Wurankuwu Club is considering a change to licence conditions to prohibit the sale of heavy beer at their Club also. We commend this proposal and see it as a very sensible way of protecting their own licence. We suggest that the Licensees of the two Clubs on Melville Island consider NOW the practical steps they will take to ensure that responsible drinking on their premises is maintained.

Decision

1. With effect from Tuesday 20 June 2006, the Nguiu Club licence is varied by adding the following condition:

Heavy Beer: The on licence sale of heavy beer is prohibited.

2. There will be an ongoing evaluation of the effectiveness of this licence condition and a review after six (6) months, following consultation with the Nguiu Club, the Nguiu Community, Police, Health and other relevant bodies.
3. The Licensee is to display a notice in the form of the attached* notice advising of the changed conditions of the licence such notice to be placed in a prominent position in the Nguiu Club for a period of at least one (1) month.
4. This hearing is adjourned to a date to be advised.

John Flynn
Chairman

5 June 2006

Attachment ***Notice of Change of Licence Conditions**

- 1) With effect from Tuesday 20 June 2006, the Nguiu Club licence is varied by adding the following condition:

Heavy Beer: The on licence sale of heavy beer is prohibited.

- 2) There will be a review of the effectiveness of this licence condition after six (6) months, following consultation with the Nguiu Club, the Nguiu Community, Police, Health and other relevant bodies.

The Northern Territory Licensing Commission records its appreciation for the work done by the Nguiu Club to achieve changes to the Licence in the interests of the Nguiu Community.

John Flynn
Chairman

Northern Territory Licensing Commission