

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Tod End Hotel
Licence Number:	80100335
Application:	Variation of Liquor Licence Conditions
Objectors:	Ms Lois Fong Mrs Susan Rowe
Relevant Legislation:	Sections 3, 6, 32A of the <i>Liquor Act</i>
Members:	Brenda Monaghan (Presiding) Jane Large John Brears

- 1) Mr Max Oldfield, the Nominee of the Top End Hotel, has applied to vary the Liquor Licence for the Top End Hotel as follows:
 - a) To advise of a change in entertainment and use of the licensed areas formerly known as the Retro Bar (now the Honeypot) and Beachcombers Nightclub (now the Beehive); and
 - b) To seek a variation of hours with respect to the Beehive.
- 2) The application was advertised on 17 and 18 August 2005 in the NT News. It advised the public that the new concept was *"to provide a venue which offers 'up-market' R rated entertainment cabaret shows with meals available from lunchtime onwards"*. The applicant sought no change to the licensed hours for the Honeypot in the advertisement but failed to address the proposed change of trading hours for Beachcombers (the Beehive). The fact that this issue was not advertised appears to have been an error. At the hearing, Mr Oldfield made an oral application to the Commission that the opening hours for the Beehive be varied from 8.00pm to 11.00am daily in line with the current trading hours for the Honeypot (ie 11.00am to 4.00am the following day.)
- 3) The hearing proceeded on 1 December 2005 and the two (2) objectors, Lois Fong and Susan Rowe participated in the hearing process. All parties and Commission members attended at the licensed premises to view the renovations and Mr Oldfield gave full details of the manner in which the venue would be used.
- 4) The front entrance to the Honeypot is discreet with relatively conservative signage. It is the only point of entry for members of the public. Security officers are posted at this entrance to ensure that the dress code is complied with and to ensure that underage or intoxicated persons do not gain entry. The front doors enter into a foyer where a cashier is positioned to take the cover charge currently set at \$20 after 9.00pm. The foyer is located some distance from the rooms where the R rated shows are held and there is no possibility that dancers or performers can be viewed by passers-by.
- 5) The décor and furnishings accord with the concept of an "upmarket" establishment. The Honeypot Lounge is the main entertainment area and consists of a well-furnished room with a bar, tables and chairs and a stage area. Mr Oldfield confirmed that performers/dancers would remain on the stage area and that the current strip-show guidelines that require a distance of one (1) metre to be retained between performers and the public would be complied with. There will be a bar manager and security present during the shows.

- 6) Along one wall of the Honeypot is a mezzanine area accessed by a short flight of stairs. This area contains a number of “private dancing areas” individually separated from each other and from the main bar area by moveable wooden screens. Each booth is furnished with an armchair or chaise lounge, cushion/s and a mirror. Mr Oldfield advised that patrons could request a “private dance” from a chosen dancer following payment of an extra fee. He was adamant that apart from the dancing, no sexual services of any kind were offered or allowed and that he chose his dancers very carefully to ensure that this rule was maintained and respected.
- 7) The former Beachcombers Nightclub, which is accessible via a corridor leading from the Honeypot lounge, has been refurnished in the same style as the Honeypot. It also contains a bar area, a stage and a number of tables and chairs. If the licensed hours are changed, Mr Oldfield intends to conduct a Friday Businessman’s Lunch in this area-where patron’s will be entertained by a floorshow from the dancers. Unless private functions are booked or demand requires it, Mr Oldfield does not intend to regularly use this room for other than the Friday lunches. Once again, the dancers will comply with the Stripshow Guidelines.
- 8) The camera surveillance system is comprised of some twenty-nine (29) cameras which we understand more than comply with the camera surveillance guidelines.
- 9) Mr Oldfield made the comment that the problems he has had in the past, in complying with the Noise conditions in the licence, will be lessened by the new use for the premises. He further advised us of the precautions in place, in the form of insulation, double glazing, substantial doors etc, to prevent sound escaping from the premises. We accept his submissions on this issue and will add no further noise conditions to those already included in the licence.
- 10) The basis of Ms Fong's written objection was public safety outside the venue with specific concerns for minors who often frequent the Darwin Entertainment Centre (the DEC) for performances. Her objections must therefore be limited to this issue. At the hearing, she expressed a concern about R rated shows being held during the daytime and she gave a personal account of a situation where her child had been enticed onto licensed premises after he had attended a performance at the DEC. She also provided a petition signed by a number of parents from a local school expressing their concern about the location of an adult entertainment venue operating daily so close to the DEC.
- 11) Mrs Rowe’s concern was for the protection of the moral fibre of our society. Mrs Rowe is a pastor of a local church and stated that, whilst fully acknowledging that R rated movies and shows were commonplace events in Darwin, this did not mean that they had to be condoned. Ms Rowe challenged the Commission to refuse to allow a further such establishment to be licensed.

Our Decision

- 12) The reality of this application is that the Top End Hotel has a “Tavern” licence and is currently able to entertain its patrons with striptease dancing etc so long as the published “Stripshow Guidelines” are followed. These guidelines have been in force for a number of years. They are aimed at the following:
 - a) ensuring that advertising carries an R18 rating and warns that the show might offend;
 - b) protecting minors and passers-by from inadvertent or surreptitious viewing;
 - c) preventing audience participation; and
 - d) ensuring appropriate presence and supervision by management at every show.

So long as these conditions are met, such shows are not restricted to evenings and Licensees are entitled to entertain interested patrons at any time during licensed hours.

- 13) We do not intend to prevent the licensee from running R Rated shows so long as these Guidelines – or any amended Guidelines that may come into force in the future - are complied with. We consider that adults entering the premises or reading the advertisements for shows must be made aware of the restricted rating and the fact that the shows may offend. They can then choose whether or not they wish to attend.
- 14) We note the concerns of Ms Fong for the safety of children who may well be walking past or gathering near the Top End Hotel. We also note her concerns about ensuring that people still feel safe when using the car park across the road from the Hotel. We intend to include a Concept clause in the licence to ensure that the premises are retained as an “upmarket” establishment with a dress code and a clientele who act responsibly in order to ensure that any undesirable element is discouraged from attempting entry to this venue. The requirement for security will also help to ensure that the safety of the immediate neighbourhood is maintained and that undesirable persons are discouraged from loitering outside the premises.
- 15) Ms Fong was also concerned about the nature of the advertising for the Club. We note that there has been at least one occasion where an advertisement for the Honeypot in the NT News did not include the appropriate warnings. We remind the Licensee to ensure that this does not happen again and that the Stripshow Guidelines in future are strictly complied with. In summary, we consider that Ms Fong’s concerns can be addressed by appropriate conditions in the licence.
- 16) The concerns of Mrs Rowe are not easily addressed in any meaningful way. It is the reality in Western society today that a wide range of sexually explicit material is readily available for those who choose to view it. The cinemas show a wide range of sexually explicit movies with the safeguard of ensuring that minors are denied entry as governed by the particular rating given to each movie. We consider that the Honeypot Club should not be prevented from showing R rated performances so long as minors are excluded and only consenting adults who choose to be there can gain entry.
- 17) The Licensee also seeks a change in the opening hour for the Beehive from 8.00pm to 11.00am - in line with the hours that apply for the Honeypot. We consider such a request reasonable. The restriction in the current licence was reflective of the fact that the area was used as a nightclub. We consider that there is no good reason to prevent the Licensee from using the Beehive from 11.00am onwards for use as proposed by the Nominee. We also note that the objection made by the body corporate of Northgate Plaza (residential units next door) was withdrawn on the basis that the members were satisfied that the proposed change in use would not detrimentally affect them.
- 18) The Commission has no concerns with the Honeypot lounge and the Beehive lounge as regards the main stage areas. The Stripshow Guidelines clearly relate to any shows proposed for these public areas and Mr Oldfield fully acknowledges this fact and confirms his intention to comply with the Guidelines.
- 19) The Commission considers however, that the Private Dancing areas will require special consideration and special conditions. The reason for this is that the conduct of the dancers and the patrons whilst in these private booths is not easily regulated and such private performances in licensed areas were not envisaged at the time the guidelines were drafted. We intend to include the following special conditions in the licence:

Screened Private Dancing Areas: Private dancing shall only be conducted in the screened areas on the Mezzanine (the Mezzanine Area) at the Honeypot in accordance with the approved Stripshow Guidelines, except to the extent that the guidelines may be inconsistent with the following conditions:

- a) The Mezzanine Area generally must be under direct surveillance by at least one (1) security officer and a responsible member of management at all times when it is in use. Both must be available to respond immediately should that be required;

- b) The Nominee must ensure that all performers, security personnel and other members of staff are aware of the Stripshow Guidelines and the special conditions relating to the screened private dancing areas.
 - c) The Mezzanine Area generally must be subject to camera surveillance as required by the Director of Licensing;
 - d) The one (1) metre non-contact rule required by the Stripshow Guidelines is relaxed to allow unavoidable non-sexual contact but sexual intercourse, oral sex and any other intimate sexual contact between a performer and a patron or any other person in the screened private dancing areas is not permitted.
 - e) The performer must not entice, encourage or permit the patron or patrons to commit or participate in any lewd or sexually explicit act. The performer shall discourage and prevent any such attempted action on the part of any patron.
- 20) Further conditions need to be inserted in the Licence as follows:
- a) Concept: The Concept of the Honey Pot Club is to provide a high standard of adult entertainment (such as Cabaret Acts and R rated floor shows) in quality surroundings and offering quality service. High Dress standards will be required of patrons.
 - b) Camera Surveillance: The Licensee shall comply with such requirements for camera surveillance required under the Camera Surveillance Guidelines and the re-issue of this varied licence is conditional upon the Director of Licensing being satisfied that appropriate camera surveillance measures have been taken by the licensee.
 - c) Trading Hours: Trading hours for the Beehive (formerly Beachcombers) are varied to allow daily trading from 11.00am to 4.00am the following day. The trading hours for the Beehive (formerly the Retro bar) remain unchanged.
 - d) The normal Late Trading provisions shall be included requiring among other things, an appropriate number of Licensed Crowd Controllers and adequate security within the premises and in the immediate area.

Brenda Monaghan
Presiding Member

12 December 2005