Northern Territory Licensing Commission

Reasons for Decision

Premises:	Northside Foodland: 80902690 Eastside Foodland: 80902628 Flynn Drive Foodland: 80902945 Hoppy's Cash Store: 80902573 BP Gap Deli: 80902634 Scotty's Place: 80804707 Bojangles Saloon: 80802460 Tyeweretye Club: 81404827 Alice Springs RSL Club: 81402279 Alice Springs Memorial Club: 81402285 Alice Springs Golf Club: 81402352 Federal Sports Club: 81402530 PINT Club: 81402685 Todd Tavern: 80102200 Outback Inn Resort: 80203860
Proceedings:	Hearing conducted pursuant to Section 33(3) of the *Liquor Act 1978*
Heard Before:	Mr Peter Allen (Chairman) Mr John Withnall Mrs Mary Ridsdale
Date of Hearings:	4, 5 & 6 December 2001 10, 11, 12 & 13 December 2001 5, 6 & 7 February 2002
Date of Decision:	1 March 2002
Appearances:	Mr Murray Preston for the Licensees Mr Alan Wilkes for the RSL Club Mr John Stirk, Counsel Assisting the Commission

Trial of Restrictions on the Sale of Liquor in Alice Springs

Background

Restrictions on the sale of liquor are the subject of long-standing debate within the Alice Springs community. It would be unusual for any week to pass without liquor or liquor related issues being referred to in the local media. It is regularly the subject of letters to the editor, editorial comment, news and current affairs.

The debate has raged for many years and grew in intensity when in 1995, the former Liquor Commission implemented restrictions on the sale of liquor in Tennant Creek and gained further momentum in 2000 when the Commission trialled restrictions in Katherine. Restrictions were implemented on a continuing basis in Katherine, albeit in a form amended from the trialled versions, on 30 March 2001.

In Alice Springs, opinions differ between those persons in the community willing to accept a lesser availability of liquor in the expectation that the community and particularly some of its members will benefit and those who acknowledge that serious problems exist but insist they are not part of the problem and therefore the opportunity to purchase liquor across the current range of hours and products ought remain intact.

In order to resolve this impasse, the former Minister for Central Australia facilitated a meeting of community groups, business organisations and others on Friday 9 March 2001.

This meeting was attended by some forty (40) representatives drawn from a wide range of community groups, Northern Territory Government departments, health professionals, the Alice Springs Town Council and representatives of business, liquor licensee and tourism organisations. The Chairman of the Licensing Commission attended, as did Mrs Mary Ridsdale and Mr Brian Rees; Alice Springs based Members of the Commission. The Commission's participation was limited to an observer and advisory capacity.

The Commission reported on this meeting and the events that followed in a decision titled, "Proposal to trial restrictions on the sale of liquor in Alice Springs – Report on Community Consultation". This decision was handed down on 31 May 2001 and is entered as Exhibit 6 in these proceedings. The following extracts from the Commission's decision of 31 May are relevant here as the proposed trial of licence conditions, the subject of this hearing, had its genesis at Dr Lim's meeting on Friday 9 March 2001.

At page 2.

Initially, the meeting agreed on three broad principles:

> *That there is an alcohol problem in Alice Springs, in particular, the problems associated with take-away alcohol.*
>
> *That something has to done to address the problems of alcohol abuse and the anti-social behaviour that it causes.*
>
> *That not everyone agrees with what steps have to be taken to deal with the problem.*

After three hours of discussion, resolutions accepted by the majority of the participants were passed to the Licensing Commission as recommendations for action by the Commission.

The recommendations were:

1. *That cask wine is limited to 2-litre size only. In other words, we will no longer be able to purchase 4 and 5 litre casks of wine in Alice Springs from any outlet.*

2. *That trading hours be limited to:*

   2:00PM to 9:00PM on Mondays to Fridays
   10:00AM to 9:00PM on Saturdays and Public Holidays
   12Noon to 9:00PM on Sundays for hotels only.

3. *That all Clubs have the same take-away hours and conditions as the hotels.*

4. *That the restrictions are trialled for a 12-month period followed by an evaluation of the trial.*

Representatives of liquor licensees and tourism organisations did not support the recommendations.

At page 3.

The Commission's response to the recommendations of the meeting of 9 March was to put the recommendations in front of all members of the Alice Springs community and to seek their views.

The recommendations were put to the community by notices published in the Alice Springs News of 18 April and the Centralian Advocate of 20 April.

Notices that contained the same wording were placed into mailboxes at the Alice Springs Post Office and distributed by Australia Post throughout Alice Springs.

The notices referred to the meeting of Friday 9 March and listed the recommendations of that meeting under the heading, "Proposed Trial Restrictions".

The notices stated in bold print:

> *The Commission is seriously considering the introduction of these restrictions, **on a trial basis for 12 months**, commencing on 1 July 2001.*

Also shown in bold typeface was:

> *The Commission is very keen to hear your views on the proposed trial of restrictions.*

The notice provided a mailbox address, a fax number and an e-mail address with which to put your opinions to the Licensing Commission.

The Commission's intention was to ensure that all members of the Alice Springs community were well aware of the possibility of trial restrictions, what those restrictions would be and how to put their opinions to the Commission.

The closing date for your views was given as Wednesday 16 May, later extended to midnight on Friday 18 May.

Two thousand, five hundred (2,500) pieces of correspondence were submitted to the Commission.

At page 4:

The opinions received from the community were articulately and powerfully expressed and fell readily into two divergent groups, those for and those against the restrictions, poles apart with very little common ground and both with significant numbers in their favour.

*Common ground of the otherwise divergent views were the many respondents who claimed that **restrictions alone will not work!***

*The Commission's decision in regard to the future of the proposed trail of restrictions is **at page 5** of Exhibit 6 and is of significance in the matter now before the Commission. The decision was as follows, emphasis added.*

The Commission will not walk away from the proposed trial of restrictions. Nor will we implement the proposed trial from 1 July. We remain unanimous that something must be done!

*The Commission will leave the proposed trial "**on the table**" and at the head of our agenda and will work with an appropriate group or groups from the community to develop suitable initiatives to be implemented or trialled in tandem with the proposed restrictions.*

Ideally the proposed restrictions and other initiatives will be linked in such a way that each complements the other and thus provides better overall effectiveness. The process will be carefully monitored.

In its penultimate paragraph **at page 5** of Exhibit 6 the Commission said, emphasis added.

***The proposed trial of restrictions remains as a work in progress**, ready and available for implementation when suitable accompanying initiatives have been developed.*

The Commission's position regarding the proposed trial of restrictions was confirmed in a "Position Statement" published by the Chairman on 30 June 2001. The statement is entered as Exhibit 7.

Complementary measures are referred to at 3.1 on page 2, emphasis unaltered.

*The trial will **not** proceed as proposed. The Commission will leave the proposed trial "on the table" until such time as suitable **complementary measures** are available to be implemented or trialed in tandem with the proposed trial restrictions on the sale of liquor.*

Any proposed restrictions and other initiatives should be interrelated so that each complements the other, thus optimising any opportunity for better overall effectiveness.

It is expected that most complementary measures will be newly developed for the purpose of the trial while some may be significantly enhanced existing measures. To simply bundle together existing measures with the proposed liquor restrictions will not suffice; the community has commented on the proposed restrictions against the background of the "status quo".

The Evaluation is referred to at 3.3 on page 2 of Exhibit 7.

The terms of reference for the evaluation of any trial of a package of measures should be constructed well in advance of any proposed commencement date and effectively communicated to the Alice Springs community.

In the period following its handing-down of the above decision, Members of the Commission continued to consult with a wide-range of individuals and organisations in Alice Springs. Individuals and organisations with which the Commission met include, Mr Reg Harris, Ms Ann Cloke, Dr Ian Crundall, Ms Eileen Hoosan of the Regional Council of ATSIC, the Centralian Australian Tourist Information Association (CATIA), Dr John Boffa and the Peoples' Alice Alcohol Coalition, Mr Nick Gill of DASA, the Central Land Council, Mr Ged Williams of the Alice Springs Hospital, the Arrernte Council, the Arrernte Women at Happy Valley, Mr Mary Prunty of Holyoake, Mr David Woods of the Ngartke community, the Mayor and Aldermen of the Alice Springs Town Council and Mr William Tilmouth of the Tangentyere Council.

On Thursday 26 July 2001 the former Minister for Central Australia conducted an "Alice Springs Alcohol Issues Forum". Participation at the forum was similar to that of the meeting held 9 July. Liquor licensees were represented at the forum and spoke on a number of issues. The purpose of the meeting was to further discuss the issue of liquor restrictions in Alice Springs.

Participants in the forum resolved in favour of four outcomes. A document listing the four outcomes forms Exhibit 16.

Outcome #1 was that the *"Alice in Ten Quality of Life Project, Substance Misuse Working Group" coordinates the development of resolutions in discussion with community groups.*

"Liquor, Hotel and Club Licensees" are shown listed at Outcome #1, as one of a numbers of organisations with which the Working Group was to conduct discussions.

Outcome #3 was that the Working Group, *Liase with the Licensing Commissioner to ensure effective processes and outcomes. The Licensing Commission to provide the Commission's expectations in writing prior to 10 August 2001*.

The Forum resolved that Mr Nick Gill would chair the Working Group.

The Chairman wrote to Mr Nick Gill on 1 August. The Chairman's letter is entered as Exhibit 8. The Commission's "Position Statement" of 30 June 2001, referred to earlier in this decision as Exhibit 7 was attached to and referred to in the Chairman's letter.

The Chairman's letter states, in part:

The Commission's expectations can be found paragraphs at 3.1, 3.3 and 4.0 of the Position Statement.

The expectations listed below apply in addition to those contained within the Position Statement.

- *All meetings of the Group to be fully and formally minuted and copies forwarded to the Licensing Commission.*

- *All organisations listed at #1 of the outcomes of the forum held 26 July, to be fully consulted and involved to the fullest extent possible in the deliberations of the Group.*

- *The recommendations of the Working Groups to be ratified by the Alice In Ten, Quality of Life Steering Committee prior to being put to the Commission.*

These additional expectations are designed to ensure the Commission is provided with a firm foundation for its decisions arising from the recommendations of the Working Group.

Mr Nick Gill wrote to the Chairman on 15 October 2001. Attached was the Report of the Alcohol Measures Advisory Group.

Mr Gill's letter entered as Exhibit 9, states:

On Monday 1st October the final report of the Alcohol Measures Advisory Group was presented to the Alice in Ten Steering Committee.

The Steering Committee unanimously supported the recommendations of the Group, and has instructed the preparation of a Cabinet Submission to seek funding for two of the measures which will require additional funding.

The report attached to Mr Gill's letter dated 15 October forms part of Exhibit 9. It identifies a range of complementary measures to accompany the proposed trial of liquor restrictions.

The Commission considered Mr Gill's letter and the attached report at a Special Meeting held 17 October 2001. The "Minutes of Meeting", entered as Exhibit 10, show the Commission's decision, made at the Special Meeting.

(The) Commission determined to implement restrictions in Alice Springs as follows:

1. *Takeaway trading hours to be limited to:*

   2:00PM – 9:00PM- Monday to Friday
   10:00AM – 9:00PM- Saturday & Public Holidays (No Change)
   Noon – 9:00PM- Sunday (No Change)

2. *No liquor to be sold or supplied in containers* ***larger than two (2) litres****.*

3. *On-premises consumption:*

   No liquor, other than light beer to be sold or supplied on premises before 12 Noon. (*Not more than 3% alcohol content.)*

   Note: This is a Commission initiative and has not previously been subject to community consultation.

4. *Trial restrictions to commence 1 January 2002, for twelve (12) months.*

5. *Trial to be thoroughly and professionally evaluated. Evaluation Plan to be finalised before 1 January 2002 and advertised throughout Alice Springs.*

6. *Trial restrictions to apply to all hotels, stores, clubs and restaurants.*

7. *Commission will review the conditions of all licences in the broader Alice Springs region to ensure that any potential for conflict with the trial restrictions is eliminated.*

When considering the Report attached to Mr Gill's letter of 15 October (Exhibit 9) the Commission took particular note of what the Report referred to as the principle underlying the National Drug Strategy, a three-pronged approach to Public Health Substance Misuse Issues.

The Report identified the "three-prongs" as Supply Reduction, Demand Reduction and Harm Reduction. The Report contained details of "six major Strategic Areas in which a range of Demand Reduction and Harm Reduction measures can be introduced".

The Commission viewed these proposed measures as being complementary to the restrictions left "on the table" by its decision of 31 May 2001. Its decision at the Special Meeting held 17 October

to conduct a trial of restrictions was made in order that the Demand and Harm Reduction measures described in the Report (Exhibit 9) could be bracketed with Supply Reduction measures in accordance with the National Drug Strategy.

Licensees were notified of the Commission's decision in letters signed by the Chairman, dated 25 October 2001. The letters are headed, "Notice Pursuant to Section 33(1) of the Liquor Act". Each letter sets out the specific licence conditions intended for the licensee and informs the recipient of the opportunity provided by Section 33(2) to request a hearing within 28 days of receipt of the letter. The letters form Exhibit 1.

The public was notified of the intended trial of liquor restrictions and changes to licence conditions by notices published in the "Centralian Advocate" and the "Alice Springs News".

Hearing

The licensees listed at the head of these reasons sought a hearing within the statutory period.

The hearing was in essence a unification of fifteen hearings, each hearing the individual statutory right of each of the licensees.

All except the R.S.L. Club were legally represented by Mr Murray Preston, who agreed to the hearings being procedurally merged into one all-inclusive hearing to assist with economies in relation to the presentation of each licensee's case and expert and representative evidence of common applicability.

The R.S.L. Club tendered written submissions (Exhibit 26) through its president, Mr Alan Wilkes.

The Commission heard evidence from the following witnesses:

(Called by Mr Preston)

- Geoffrey Booth - Secretary/Manager of Alice Spring Golf Club
- Paul Christie - Committee member of Golf Club
- Brian Pepper - Life member of Golf Club
- Bill Ferguson - Manager of the Tyeweretye Club
- Geoffrey Trewin - Manager of the Outback Resort
- David Hunt - Manager of the Memorial Club
- Scott Hallett - Manager/Director of the Goldfields Hotel in Tennant Creek
- Robert Benson - Manager of the Federal Sports Club
- Paul Venturin - Manager/Director of the Foodland group
- Chris Vaughn - Manager/Director of Bojangles
- Avril Vaughn - Director of Bojangles
- Trevor Gleeson - Manager of the PINT Club
- James Southam - Manager/Director of Hoppys
- Michael Hatzimihail - BP Gap Deli
- Shona Harris - Manager of Scotty's Tavern
- Dianne Loechel - Manager/Director of Todd Tavern

- Ray Loechel - Director of Todd Tavern
- Mark Delahunty - Resident of Alice Springs

(Through Counsel Assisting the Commission):

- Gary Moseley - Superintendent of Police at Alice Springs
- John Boffa - Peoples Alcohol Action Coalition
- Donna Ah Chee - Deputy Director C.A.A.P.U
- Fran Erlich - Mayor of Alice Springs
- Nicholas Gill - Manager of DASA
- Richard Lim - MLA for Greatorex
- John Elferink - MLA for Macdonnell
- Dennis Gray - Associate Professor at the National Drug Research Institute, Curtin University of Technology, WA
- Timothy Stockwell - Professor, Director of the National Drug Research Institute, Curtin University of Technology
- Ian Crundall - General Manager, Alice Springs Region, Department of Health and Community Services

The nature of a hearing requested pursuant to s.33 of the Liquor Act was characterised by the Supreme Court of the Northern Territory in *Tennant Creek Trading Pty Ltd, Whyteross Pty Ltd, Charles Keith Hallett and Tennant Creek Hotel Pty Ltd v. the Liquor Commission of the Northern Territory of Australia and Julalikari Council Aboriginal Corporation, 1995 NTSC 50*, as being neither an appeal nor a review but a challenge of the Commission's decision to vary conditions.

In *Woolworths (South Australia) Pty Ltd -v- Northern Territory Liquor Commission, SC 98 of 1999 (unreported)*, the Court approved the assertion by the Commission that it is for a disaffected licensee in this situation to avail himself of such a hearing to persuade the Commission to the licensee's point of view.

This remains the basis of the aggregated hearing in the present case. The Commission agrees with Mr Preston that we must consider each of the fifteen challenges on its discrete merits. That is not to say that evidence of common application will not be so considered, but the task of persuasion remains that of each licensee in relation to its own licence conditions. That being so, it is convenient to summarise hereunder the evidence presented by each of the challenging licensees.

Golf Club, per Geoffrey Booth, Paul Christie and Brian Pepper:

The club has been built up from "dire straits" to a present rating in the top 100 courses in Australia. It has been a hard road to establish such a facility in Alice Springs. Tourists are now a major aspect of the business, and the tourists expect club facilities similar to what they are accustomed to in other parts of the country. Green fees and club-house utilisation are the major sources of income (take-away liquor sales being only a very minor aspect), and the club fears a loss of custom and the club's national rating if unable to sell a normal product range before noon, especially "heavy" beer to players. An anticipated loss of corporate events would also be financially disastrous.

Currently every dollar is critical, and a drop in income would not only seriously prejudice course maintenance but would reduce the club's continuing ability to sponsor initiatives such as the junior "away" tournaments.

In terms of actual numbers, however, the loss of the 10 to 12 window of opportunity each morning would probably only affect less than ten people Mondays to Thursdays. The primary focus is concern for Sunday mornings, when the regular competition attracts upwards of a hundred people, with morning match-play designed to have players back in and seated by 11.30AM, ready for the barbecue. The majority of afternoon players tee off around noon, and are accustomed to having a quick drink before doing so.

The Club is very disciplined, and presents a very controlled environment. It is a major tourist facility with an Austalia-wide reputation, and its inclusion in the trial cannot have any relevance to the Alice problems.

The Commission understands that the Sunday morning match-play referred in the Club's evidence might not be presently being conducted.

Tyeweretye Club, per Bill Ferguson:

The club was formed in the early nineties because Aboriginal drinking was out of control and at that time only two venues in Alice would accept Aboriginal customers. The club caters for four groups, is very disciplined and family oriented.

Shop trading starts at 8:30AM, with food available from that time, and members tend to come in early in anticipation of the bar opening at 10:00AM. Most drift off after 12 noon, when take-away liquor becomes available elsewhere, but they will not be staying on to the new take-away time of 2:00PM because they will not have come in to the club at all in the new situation. They will spend the mornings drinking stored take-away outside the club if only light beer is available inside. Then if they have been drinking outside between 10 and 12, this will affect their rights of entry into the club when the light beer limitation lifts at 12 Noon.

Light beer has been "pushed" in the club, but all light beer initiatives have been unsuccessful. Even though light beer sells at half the price of "heavy" beer, the club still has stocks of light beer which are now years old. The members don't drink it.

The main concern is that there will be an upsurge of storage of takeaway for consumption the next morning, with consequential impact on the well being of members.

Outback Inn Resort, per Geoffrey Trewin:

The facilities operated by this group are strictly controlled.

A large part of the Alice problems are to be seen as being a cultural differential rather than necessarily a consequence of alcohol abuse.

70% of guests are international. Most take various early morning tours, and are back looking for a drink by around 11:00AM. These guests are totally unrelated to the town and its problems.

Difficulties are foreseen with inbound tour operators. The light beer limitation will add another uncompetitive edge to the town. Tourism is the biggest business in town.

Memorial Club, per David Hunt:

The club is community minded and family oriented, and a long way from a front bar environment.

Recently renovated at a cost of millions, membership is currently 2640 and on the rise, 95% "European" and 5% Aboriginal.

Take-away is not a large part of turnover; the club would sell only about two cartons of beer each day before 2:00PM and between four and eight large wine casks a week, mainly to pensioners.

The main bar opens at ten during interstate daylight saving, not until eleven at other times of the year. It is mainly shift workers and retirees who tend to come in early and be gone by noon. The club would consistently have between a dozen and 30 customers drinking between 10 and 12, and

80% of such consumption is full strength beer. It is apprehended that the loss of this morning clientele will affect profitability.

Federal Sports Club, per Robert Benson:

Takeaway sales are not significant, the club would sell only about five of the large wine casks in a week. Out of a total membership of just over 500, the club services some 200 members each day.

The club has a strong morning clientele of about two dozen customers, including some Word War 2 veterans, and many shift workers from Pine Gap, the Police and Fire and Emergency workers. Very rarely will any of these order a light beer, although mid-strength beer is becoming a big seller and may be on the way to overtaking sales of full strength beer.

It is not seen that people looking for a drink before lunch have an alcohol problem.

Anti-social behavioural problems have been visible in Alice Springs for the last twenty years, but these days the police have a stronger handle on it and the problem has diminished. Other (named) towns in Australia have far worse problems of this nature. A large part of Alice's problems can be related to louts rather than to alcohol.

What is proposed is a swipe with too broad a brush. Problem drinkers will remain problem drinkers regardless of having to wait to buy the first drink of the day.

The Committee feels that the club may have to delay opening at all until noon; to be open but restricted to light beer is probably not viable.

RSL Club, per Alan Wilkes:

The Club remains true to national R.S.L. aims and character, existing primarily to foster the welfare of returned veterans and their families. We are governed by a national body, and by our very nature are a disciplined body. While the club does have a broader social aspect (social membership being half the total membership of the club), its main focus is to provide a service for ex-Diggers and their families.

The club demographic is "by and large pensioners", whose social lives are different: they come in early for a drink and a chat, and perhaps a bet, and leave early. Between 10 and 12 on any given weekday morning, there would be between five and ten such persons in the club, not always the same ones. Sunday mornings would see twenty to forty such members.

To force them to now drink light beer or drink later in the day is to misunderstand a generation that has earned the right to be left to this lifestyle in peace.

An exemption from the proposed light beer restriction would not damage in any way the thrust of the trial.

Although submitted that the club demographic is "by and large pensioners" the Commission noted that the club's evidence also referred to 638 financial members, 208 ordinary members and 111 affiliate members; being relatives of the above or serving members of the Police, Fire and Ambulance Services. In addition, the club has 319 social members, being in the main, members of sporting teams associated with the club.

Foodland Group, per Paul Venturin:

There were trial restrictions in 1994/95, when licensees were asked to co-operate in limiting cask wine sales to one per person, and not before 4.00 p.m. This resulted in a significant increase in the sales of port, broken glass everywhere in public car parks, and an upsurge of break-ins probably because the wine drinkers didn't get fired up until the hours of darkness.

The chain stores did not stick to the restriction, but Foodland did, even though it was very difficult to police as consumers moved from one outlet to another.

That restriction had no effect on turnover because of product substitution. The new restriction won't affect turnover either, as Foodland voluntarily does not sell Fruity Gordo, the current product of choice. The new restrictions will move the trend to another product and a decision will then have to be made in respect of the new product of choice. Cask business is only 5% of liquor sales, but it was the No. 1 seller back when it was stocked. Used to sell six pallets (of 240 casks each) every week before deciding not to stock it.

The trial will not affect turnover, but the major concern is product substitution. The market for ready-mixed drinks is already increasing significantly, now 15% of sales, with a customer base for it which is currently 50% indigenous.

The trial will not work. Other initiatives are needed, such as the creation of an Aboriginal liaison officer, employment solutions and more police resources. A previous work program for indigenous people had 150 businesses prepared to employ an Aboriginal person, but attracted only two recruits.

The anti-social problem is not as bad as it used to be, and is not necessarily an alcohol issue. It's the disregard of youth for people and property.

It is feared that the licensees will be disregarded in any evaluation process, and that it will always be one sided.

Bojangles, per Chris and Avril Vaughn:

Has marketed aggressively to the stage of getting 4000 patrons a week, 50% of them tourists. However, the locals tend to come in after work; between opening time of 11:30AM and noon the clientele are all tourists, who normally have only a brief window of opportunity to visit premises in Alice. They should not have to be told that they cannot order what they want, and that there is no freedom of choice for that first half-hour. It will prejudice future tourism, and will be a disaster for the promotion of 2002 as "The Year of the Outback".

The light beer restriction was not heard of until announced.

Bojangles does not serve the problem market. The restrictions will not serve the problem market either. The problem is a core group of people with nowhere to belong, whose own communities have thrown in the towel on them. DASA is a revolving door for them; the solution needs to be somewhere short of gaol but beyond DASA.

It is offensive to have to explain the restriction to travellers who are not part of the problem.

PINT Club, per Trevor Gleeson:

Cask wine is not a big seller, sometimes two or three casks a week, sometimes none. The concern is with the light beer condition.

The club was originally a closed shop for Telstra and postal workers, but after being opened up to general membership there are now more non-Telstra members than there are Telstra members. The membership is mature and conservative; there are very few young members. People coming in off the street are not catered for.

The club is located in the old Alice Springs Post Office, a heritage listed building, and renovations are planned which will include a postal museum. The renovations also cover plans to build up a lunch trade. At the moment the club does not open until noon on weekdays, so that the light beer restriction will only affect the club for an hour on Sundays. But when the renovations were finished the club proposed to apply to open at 10:00AM.

Now however the members are saying that they will not come in if restricted to light beer, and the proposed luncheon initiative could not now be successful. The club was looking to the future with confidence, but this has put all its plans on hold.

Hoppy's, per James Southam:

There have been dramatic improvements in Aboriginal alcohol-related behaviour over the last 15 years. The present problems are nothing like they were. When Hoppy's first started in 1989, for the first years the police had to be called on a daily basis to scenes of aboriginal fighting, violence, glass breaking. By 1996/97 the calls to police had reduced to about once a fortnight, and these days it would be maybe once in three months.

The venue has suffered 55 or 56 break-ins. There has been only about one a year over the last five years; the time before that accounts for the other 50.

In the early eighties the scene in town was drunken Aborigines on corners and shop fronts to a disgusting degree. It is so much improved today. They are a quarrelsome rowdy people, and that should not be seen as alcohol related but a different set of values. The situation currently seen in town is a separate issue from the alcohol issue.

The lawlessness is mostly at night. Pushing the cycle another two hours into the night makes no sense.

During the previous trial of delaying cask wine sales to 4:00PM, the sales of fortified wine increased 700%. Smashed glass was everywhere.

The current market for their cask wine and fortified wine is 99.99% aboriginal; for the pre-mixes it is about 50/50.

Without cask sales there will be a re-identification of their changed needs. The problem will remain unaffected. The problem is Aboriginal violence. The restrictions will just make the thrust groups feel good but do nothing for the alcoholic.

There is an awareness that the premises are on various groups' lists of problem premises, but there are people involved in the issue who are hellbent on blood. It was recalled that on one occasion one of the prohibitionists dropped a young person off at the shop to deliberately try and provoke an unlawful sale.

When Hoppy's first started, the liquor sales were about 75% of total turnover; these days it is about 25%.

BP Gap Deli, per Michael Hatzimihail:

The venue is a service station, delicatessen, hot food and liquor outlet. It has a take-away licence. No mechanical work is done.

In any group of ten buying alcohol, six of them will buy some fast food.

Currently cask wine accounts for 25% of liquor sales. The cask market is Aboriginal, with a few Americans who use it to make punch. Sales of port amount to about a carton a week, but during the period of the previous cask restriction, port sales went up to five or six cartons a week. The reduction of the permitted size of the wine cask will not make any difference, it will just see a shift to something else.

The venue used to be broken into a lot, but not now for the last four or five years. There is now a feeling of safety that was not there before.

Scotty's Tavern, per Shona Harris:

The tavern is seen as a heritage tavern. It opens at 11:30AM and would average 20 to 30 patrons in the first hour, 80% of them tourists and 20% locals. Tourists are always in a hurry, and wanting to try Australian beer and wine.

The objection to the light beer limitation is not a case of calculating what will be a small loss over the first hour, but with the impact on the venue's lunches. The tourists just won't be in. The problem will impact on the whole tourist industry.

Everybody is against these restrictions. They breach our civil liberties. Mostly what is seen as aboriginal public drunkenness is a case of cultural difference.

The footloose bored youths need something to do, to get them off the streets. Royalties should go into necessary programs rather than commercial investments.

It would make more sense to delay the banks opening until later in the day rather than the liquor outlets. It would have more effect on the problem.

Todd Tavern, per Dianne and Ray Loechel.

A lead-in period of at least a month is required for disposal of stock in hand, because there has been a total lack of consultation in relation to the light beer condition.

The restrictions will not affect trading at all, the premises will simply be more congested while open.

The venue has only one bar that opens at 10:00AM, and its clientele is 98% Aboriginal and its sales 99.6% heavy beer. Between 10 and 12 we might have 350 or 150 patrons, depending on the availability of money. It's a myth about the Riverside bar being problematic; they are generally good-humoured people, presenting no more or less problems than anywhere else. Seldom do the police have to be called.

There is generally a group of 50 to 60 people waiting for the bottleshop to open, about half of them actual customers. There are no behavioural problems at the moment, but it will become very congested by the longer wait and the more people waiting.

When the Loechels first took over, bottleshop trading was directed almost entirely at Aboriginals. The initiation of a wider range of product has increased sales such that Aboriginals are now about 30 to 40% of the bottleshop's market. More large wine casks are sold than any other product, but is decreasing with the increasing popularity of port and ready-mixed spirit drinks. The cask restrictions will not achieve anything because other products will be substituted.

The problems in Alice, assaults and windows being broken and the like, is a consequence of youths now staying out later at night, probably out of boredom.

Mrs Loechel as a member of the "DASA committee" was told at every meeting she attended that she should not be there because of a conflict of interest as a licensee. She has found all the committees of which she has attended meetings to be very one sided and dominated by persons seeking restrictions. The Loechels fear for the independence of any evaluation body, and its anticipated overweighting with Aboriginal groups.

Additionally, all of the challenging clubs emphasised their financial commitment to various sporting and community groups in the town.

Mr Preston called two other witnesses:

Mr Mark Delahunty, who has lived in Alice Springs all his life, is a member of the Memorial and Federal clubs and a visitor of most licensed premises in the town. He gave evidence that the restrictions issue has been a live topic of conversation in Alice, and the community sees restrictions as an imposition on the population in general rather than a deterrent to the problem group. The compression of drinking time by two hours is not going to affect the per capita consumption, but will affect the hospitality industry badly.

Anti-social behaviour in the mall is mostly teenagers, and "alcohol is not what they're on". It is not as bad as it used to be when it was an adult problem. It is getting better all the time. As late as 1997 it was common to see aboriginal drunks in the Mall at breakfast time, but not anymore.

Mr Delahunty is a wine collector. His cellar includes bottles larger than two litres. The restrictions will tend to deflect his buying patterns away from local suppliers.

Mr Scott Hallett is the manager of the Goldfields Hotel in Tennant Creek, and has been with the Hotel since before the introduction of the Tennant Creek restrictions. The hotel's take-away trade is about the same as before the restrictions, but in a different product mix in the absence of large wine casks. Sales of wine are down about 90%, but there has been an increase of some 500% in sales of fortified wine over the last five years. That market is 95% aboriginal. There is much more glass underfoot than there used to be.

Complementary Measures:

The Commission's decision to conduct a trial of restrictions, made at a Special Meeting on 17 October 2000 was triggered by the Report attached to Mr Gill's letter to the Chairman of 15 October, now Exhibit 9. The Commission's initial consideration of the Report is described earlier in these reasons, as has the Commission's position that a trial of restrictions would not proceed in the absence of suitable complementary measures.

The Commission's published position to the effect that no suitable complementary measures equals no trial restrictions gives the measures the status of a threshold matter in that the Commission should assess the suitability of the measures before assessing other evidence.

In his evidence relating to complementary measures Mr Gill relies on the information contained in the Report of the Alcohol Measures Advisory Group, Exhibit 10 refers.

At page 1 the Report refers to the identification of six (6) major strategic areas in which a range of Demand Reduction and Harm Reduction measures can be introduced and suggests the Key Measures contained within the major strategic areas could form the basis of an Alice Springs Alcohol Strategy.

Again at page 1, the Report indicates that funding will be required for three (3) key measures; namely the Community Day Patrol, Extension of Sobering Up Shelter Hours and an evaluation, presumably the evaluation of any trial restrictions and complementary measures.

Page 2 of the Report lists the major strategic areas as Priority Areas 1 to 6 with a range of key measures listed for each area including the Extension of Sobering Up Shelter Hours.

The six Priority Areas are shown listed as, Youth, Public Behaviour/Policy/Law and Order, Safer Drinking Environment, Community Control, Legislative Measures and the Licensing Commission and Treatments and Interventions.

At pages 3 and 4, the Report lists the specific measures identified as complementary measures to a trial of restrictions on the sale of liquor, specifically

- Drop in Centre and Grog Free Entertainment,
- Youth Link Up Service,
- Community Day Patrol,
- Prescribed persons,
- Brief interventions by primary health workers, and
- Targeted intervention with frequent Sobering Up Shelter (SUS) Clients and an Extension of SUS hours.

The Report lists intended Outcomes for each of the above complementary measures and provides a detailed Implementation Plan for each measure.

Mr Gill's evidence relies on other documents in addition to the Report entered as Exhibit 10. Specifically the "National Alcohol Strategy – A Plan for Action 2001 to 2003-04", a publication of the National Drug Strategy, endorsed by the Ministerial Council on Drug Strategy in July 2001 and "Alcohol in Australia – Issues and Strategies, a publication of the National Drug Strategy, endorsed

by the Ministerial Council on Drug Strategy in July 2001. These documents are entered as Exhibits 23A and 23B respectively.

During cross-examination by Mr Preston, Mr Gill was able, without hesitation, to link the key measures shown at page 2 of Exhibit 9 to material contained in Exhibits 23A and 23B and to provide a detailed explanation of the proposed measures in the context of the National Drug Strategy.

On the basis of Mr Gill's evidence, the Commission is satisfied that with the exception of prescribed persons, the proposed complementary measures listed above and contained at pages 3 & 4 of Exhibit 10 are suitable.

The Commission is advised by a letter to Counsel Assisting the Commission from the Minister for Central Australia (Exhibit 42) that the Government will fund "a range of measures designed to complement the proposed restrictions".

The Minister's letter details the Government's commitment to the complementary measures and informs the Commission that the otherwise unfunded measures referred to at page 1 of the Report attached to Mr Gill's letter of 15 October (Exhibit 9) will be funded by the Northern Territory Government. The measures are; an extension to the Tangentyere Community Night Patrol to allow it to operate from Monday to Saturday from midday to 1:00AM, extension of the Sobering Up Shelter hours to allow it to operate seven days a week and the secondment of an experienced research officer for the conduct of an evaluation. The Minister's letter informed the Commission that that the Government will contribute over $250,000 in cash and kind towards these measures.

Consideration of the Licensees' cases

It was submitted in the evidence of Mr Paul Venturin for the three Foodland stores that licensees were somehow surprised by the Commission's decision to vary licence conditions as announced on 25 October 2001. It was further suggested that the Commission's decision was contrary to earlier decisions and announcements and in effect, an about face taken without consultation with licensees.

This submission is not supported by evidence.

Licensees were invited to and attended the meeting conducted by the former Minister for Central Australia on Friday 9 March 2001. Licensees took the opportunity given to the community-at-large to comment on the proposed trial of restrictions. The Commission's decision made on 31 May 2001 was handed down in the Commission's Hearing Room in Alice Springs. The time and place of the handing-down was advertised in the Alice Springs print media and widely reported.

The handing-down was attended by members of the public, representatives of business and community organisations and licensees. The Chairman read the decision in its entirety. The published decision was widely circulated and extensively commented on by print and electronic media. The decision is entered as Exhibit 6.

The Commission's "Position Statement" dated 30 June entered as Exhibit 7 confirms the Commission's position as stated in its decision of 31 May 2001.

Extracts from Exhibits 6 & 7 relevant to the licensee's submission that "they were surprised" appear earlier in these reasons.

The extracts clearly indicate the Commission's position in relation to the future of the proposed trial of restrictions; specifically that the Commission would leave the proposed trial "on the table", that the proposed trial "remains as a work in progress" and that the Commission would leave the proposed trial "on the table until such time as suitable complementary measures are available to be implemented or trialled in tandem with the proposed trial restrictions on the sale of liquor".

Exhibit 7, the Position Statement, was widely circulated, copies were provided to those in attendance at the Alice Alcohol Issues Forum conducted by the former Minister at the Red Centre Resort on Thursday 26 July 2001.

Licensees attended this forum and "Liquor, Hotel and Club Licensees" are listed at Outcome #1 of the forum, Exhibit 16 refers. The Chairman's letter to Mr Gill entered as Exhibit 8 lists the Australian Hotels' Association and the Alice Springs Liquor Licensees' Association as complementary addressees. The Chairman's letter was circulated with Exhibit 6 (Decision dated 31 May) and Exhibit 7 (Position Statement) attached.

It was also submitted that the Commission's "sudden about face" was prompted by the change of Government on 10 August 2001.

In the light of such submissions it is important to note that the decision, position statement and correspondence referred to above and which form Exhibits 6, 7 and 8 are dated, 31 May, 30 June and 1 August respectively; all prior to the change of Government on 10 August 2001.

Returning to Exhibit 7, the Position Statement of 30 June, the extract referred to earlier plainly states, "the Commission will leave the proposed trial 'on the table' until such time as suitable complementary measures are available to be implemented or trialled in tandem with the proposed trial restrictions".

The Report containing complementary measures came before the Commission with Mr Gill's letter of 15 October (Exhibit 9).

The Commission perceiving the complementary measures to be suitable determined to implement a trial of restrictions. As shown at Exhibit 10, this decision was made on 17 October and cannot be labelled as "sudden" and a "surprise" decision of the Commission made as an immediate or early result of the change of Government.

It has also been submitted that various announcements made by the Minister for Central Australia will somehow influence the Commission as it considers its decision in the current matter. Counsel for the Licensees tendered a media item from the Centralian Advocate of Friday 1 February, entered as Exhibit 48. The item is headed "Grog bans here by next month". Extracts specified as being relevant to the licensees' concerns are as follows:

> *There is a reasonable probability that restrictions will go forward.*
>
> *To date there has been nothing brought forward in the hearings that would stand in the way of that.*

The Commission assumes that members of the Minister's staff, present from time to time during the hearing conveyed their impressions and understandings of the evidence to the Minister and that he accepted their advice.

Neither the Minister nor any other member of the Government has prevailed on the Commission or its Chairman to implement the proposed trial of restrictions.

Certain patterns of protest emerge clearly from the evidence from the individual licensees:

- The stores (including BP Gap Deli) do not expect to lose money, because of anticipated product substitution. Their objection to the changes is based more on a prognostication of likely ineffectiveness in the light of past experience and local knowledge.
- With the exception of the stores and the Todd Tavern, all of the other challenging licensees whose licences permit take-away sales concede that take-away is only a minor part of their operations.
- It is the surprise inclusion of the light beer condition that has precipitated the "objections" by all licensees other than the stores.
- All the clubs fear an adverse financial impact.
- Many of the on-premises licensees fear that the light beer condition will impact adversely on the town's reputation as a tourist destination.

- None of the clubs, and none of the challenging licensees, who do not have a take-away licence, see themselves as any part of the problem.

- The problem is seen to be (a) Aboriginal (b) not necessarily alcohol-related in its public visibility, and (c) far less an obvious problem over the last several years than it used to be.

Mr Preston points to a "shift of argument" away from the anti-social behavioural problem and more to the reduction of alcohol-induced ill health. Certainly the licensees' perception of the Alice Springs problem is somewhat narrower than that of those witnesses working in the various health fields. However, Associate Professor Gray summarised the differing viewpoints by saying that the "Aboriginal problem" seen in Alice Springs as anti-social behaviour is just the visible tip of an iceberg of broader spectrum community problems.

One of the main indicators of the need to try and moderate alcohol consumption in Alice is said to be the high per capita alcohol consumption figure for the town, which is some 1.5 times the Australian average on Professor Gray's adjusted figures. The Hauritz report put the Alice per capita consumption at 2.5 times the national average, but as Professor Gray explains, this was simply a reflection of the per capita wholesale purchase figures for the town without adjustment for the regionalisation of consumption.

It has been suggested that there should be nothing intrinsically alarming about that average, given that the national figure is an average for the whole country (not just the rest of the country) with its very wide range of climatic conditions, and one might expect a higher consumption in the hotter climes. A survey of water consumption, it was suggested, might be expected to also give a per capita result for Alice higher than the national water figure.

Professor Gray's actual adjusted figure for alcohol consumption in Alice Springs is 16.44 litres of pure alcohol per head per year (which was for the year 1997/98, vide Exhibit 31). To try and make that more immediately meaningful, if consumed in the form of full strength beer it would convert to less than a litre of beer per head per day for every adult in the Alice Springs region, which is just under four and a half of the smaller hotel glasses, or two and a half stubbies.

Looked at as 4.5 standard drinks a day, the figure may not immediately appear to warrant too high a level of concern for the broader community, but it is the patterns of consumption making up that average that can be harmful. Professor Stockwell tells us that 51% of alcohol consumption across the broader Australian community is by way of binge drinking, the consumption to excess on occasion. He also tells us that aboriginal communities tend to have more abstainers than the broader community, such that those Aboriginals who do drink are usually drinking significant amounts in terms of associated harm.

In that the consumption figures do not pick up on the harmful patterns, Professor Stockwell suggests (Exhibit 38) that the focus should be on risky patterns of use and risky drinking environments rather than on the average consumption. Dr Crundall too was of the opinion that changes in consumption patterns are more important than the raw consumption figures. He is of the view that the more compelling statistics are those that are indicative of the harm in the community; if there was no harm from a level of alcohol consumption, nobody would care.

Such harm statistics as have been made available to us indicate much higher levels of harm amongst the Aboriginal community than the rest of the community. For instance, Figure 5.9 in Exhibit 41, admitted only for its reproduction of relevant statistics, shows alcohol assault-related in-patient admissions at the Alice Springs Hospital to be 95% aboriginal. Of the extraordinary numbers of persons taken into protective custody ("PC"s) by the police (Exhibit 2) are 99% Aboriginal.

Dr Crundall agrees that there are higher levels of alcohol related harm within the Aboriginal community, while nevertheless not resiling from it remaining a whole-of- community problem. Professor Gray expresses the same opinion; saying that while it is undoubtedly a whole community problem there is no doubt that it is exacerbated within the Aboriginal community. His statistics in Exhibit 31 give a per capita alcohol consumption figure for Aboriginal consumption in Central Australia which is significantly higher than for non-aboriginal consumption. The MLA for

MacDonnell, John Elferink, a person with considerable familiarity (as a Territory police officer) with Aboriginal drinking problems, is also of the view that while the central Australian alcohol problem is not an indigenous problem per se, nevertheless the indigenous people are over-represented within the problem.

Given such over-representation, the validity of focus of the proposed restrictions on the larger containers and on take-away availability has in no way been displaced by anything presented by or on behalf of any of those licensees with take-away licences. Indeed, it will be obvious from the foregoing summaries of the licensees' evidence that there was only what might be fairly characterised as token resistance to the trial of these two measures.

There were submissions in favour of having the restriction on container size apply only to cask wine, but the Commission does not accept such a proposal. Admittedly the ubiquity of the wine cask was a prime focus of the condition, but by no means the only one. The breadth of the condition is designed to facilitate the focus on product substitution.

The evaluation of the nature and extent of any negative effects of product substitution will be one of the relevant outcomes of the trial. The best evidence remains that consumption is a function of both demand and availability, and that reducing availability does produce a reduction in consumption statistics. To what extent and effect remains to be seen in this case, but as a trial the Commission remains convinced that these two measures are effectively directed.

The over-representation of aboriginal drinkers in the Alice problem does lend weight to the dismay of the disaffected on-premises licensees at the light beer condition, and their perception that they are not part of the problem. They do not see themselves as part of any harmful drinking environment.

It is the case, as many witnesses complained, that the reduction of full-service bar hours was not included in the proposals put out by the Commission for public comment. It is not the case, as Dr Lim asserts, that this measure is therefore unjustifiable.

The Commission's power and responsibility to use section 33 of the Act to take the initiative on community divisions on alcohol issues was endorsed by the Court in the Tennant Trading case referred to above. A general limitation of bar service to light beer in the mornings is not without publicised precedent: a similar condition was included in the first part of the Katherine trial, and is an element in the current restrictions there that has been retained. As in Katherine, the initiative is seen here by the Commission primarily as a necessary corollary to the delayed availability of take-away liquor, the provision of a measure of protection to the effectiveness of the trial of that condition.

Hence so many of the licensees do not see the relevance of the light beer condition to their own venues.

There would appear on the evidence to be some justification for several aspects of their antipathy to the new condition, and the Commission has determined to soften its rigour in two key areas of application.

Firstly, upon due reflection the Commission can acknowledge that the application of the light beer condition to Sundays may be seen to be inconsistent with the expressed primary purpose of the condition, given that on Sundays take-away liquor will remain available from 12 noon rather than from the later starting time of 2.00 PM for weekdays. The Commission will therefore limit the light beer condition to weekdays.

Secondly, the evidence has demonstrated that restricting the commencement of full bar service to noon may prejudice the success of the luncheon initiatives of most of the complaining on-licence venues, and the Commission has come to the conclusion that the likelihood of this admittedly undesirable outcome can be largely obviated by bringing the commencement of full service back to the Commission's conventional restaurant opening time (for service of liquor) of 11.30 AM. This should considerably assist not just most of the clubs but also the tourist-oriented public venues that claim to cater to a demanding lunchtime tourist element.

The evidence does not persuade the Commission to weaken the trial of this initiative any further. While the Commission's primary and immediately practical motivation for the light beer condition is to complement the late take-away trial; it is nevertheless also an acknowledgment of the perceived need to seek to reduce the alcohol consumption figure across the Alice community as a whole. The expert witnesses are adamant that it is not just an Aboriginal problem, however visible that element. Exhibit 31 shows separate per capita consumption figures on the basis of Aboriginality and non-Aboriginality. While the Aboriginal figure is half as high again as the non-Aboriginal figure, the non-Aboriginal figure is itself still 50% higher than the national average. Associated levels of community harm are indicated by the non-Aboriginal consumption figure standing alone. The rest of the iceberg is out there.

We have carefully considered the claims of each of the on-premises venues to be different, but in the case of the clubs have found more similarities than differences. There will be some inequities and perhaps some unforeseen anomalies; those licensees experiencing specific problems should ensure that the evaluation of the trial picks them up and that the Commission is made aware of them. Special variations of licence will remain available for organised functions and special events.

The Commission is not oblivious to the sense of frustration felt by most of the licensees in relation to the light beer condition, but the scheme of the Liquor Act precludes any expectation on the part of licensees that licence conditions are ever set in concrete, and the very existence of the Act precludes expectation at the consumer level of unfettered access to alcohol as of right.

Decision

The Commission will conduct a trial of restrictions on the sale of liquor in Alice Springs. The trial will be of twelve months duration, commencing 1 April 2002, concluding 31 March 2003.

The trial restrictions will apply to all licences in Alice Springs unless otherwise notified in writing by the Commission. Likely exemptions include the Alice Springs Airport and "mini-bars" in licensed accommodation. Exemptions may include specific tourist activities such as ballooning excursions and "The Old Ghan:" and may include bona-fide "bush orders" subject to the development of appropriate licensing regimes.

Trial Licence Conditions:

For the sale of liquor for consumption away from the premises, (commonly referred to as "take-aways"), trading shall not commence before 2:00PM on any weekday and shall cease no later than 9:00PM.

- "Take-away" trading hours will remain unaltered on Saturdays, Sundays and Public Holidays.
- No liquor of any type or description shall be sold or supplied for consumption away from the premises in containers larger than two (2) litres.

For the sale of liquor for consumption on the premises, no liquor other than light beer shall be sold or supplied prior to 11:30AM on any weekday.

- This condition shall not apply on any weekday that is a gazetted Public Holiday.
- For the purposes of the trial "light beer" shall be defined as a brewed beverage of not more than three per-cent (3%) ethyl alcohol by volume.

Evaluation of the Trial Restrictions:

The trial will be the subject of an independent, scientific and professional evaluation. The evaluation will focus on the overall effect of the trial restrictions and the complementary measures. The evaluation process will provide opportunity for community comment.

The principal mechanism for community comment will be through an Evaluation Reference Group (ERG). Dr Ian Crundall has been identified as the Chair of the ERG. The selection of Dr Crundall is endorsed and applauded by the Commission.

The ERG will be composed of a balanced representation of community, government and business organisations, active in Alice Springs. Organisations will be limited to one representative; formally nominated by their organisation.

The Commission is aware that various actions have been taken to establish the Evaluation Reference Group and to mobilise resources for the evaluation. The Commission views such actions as reasonable in the circumstances. Dr Crundall and agencies likely to be involved in a trial of restrictions, implementation of complementary measures and an accompanying evaluation needed to be prepared in the event a decision to proceed with a trial was handed down.

Nevertheless the Commission does have some concerns arising from the advance preparation; in particular it is concerned that the number of organisations being formally considered and/or lobbying for inclusion in the ERG exceeds the optimum necessary for balanced and representative membership.

The letter to a range of organisations signed by Dr Crundall and entered as Exhibit 45 lists twelve (12) organisations invited to nominate for membership of the reference group; a number regarded by the Commission as ample for the purposes of the Group.

A letter to the Chairman from Mr Nick Gill, dated 31 January 2002 and entered as Exhibit 46, seeks to nominate a further three additional members to the twelve already proposed.

As a consequence of the Commission's concerns it will jointly and finally determine the membership of the reference group in consultation with Dr Crundall. The Commission expects to complete this process no later than Friday 8 March. Stakeholder organisations and the community-at-large will be informed regarding the membership. The number and range of bodies likely to be confirmed as members of the ERG together with the required interaction of the group with the community will provide ample opportunity for the views of other organisations and interested persons to be put before it.

The principal functions of the Evaluation Reference Group will be to act as a reference point for input from community groups and individual community members regarding the trial and the evaluation, and make recommendations to the Commission on liquor licence conditions and related matters post-trial.

The ERG will meet regularly and provide minutes of all meetings to the Commission and to the Deputy Director of Licensing (Alice Springs). Minutes will record the attendance of members. Licensing Commission representatives will be available to attend specific meetings of the ERG at the request of Dr Crundall.

A formal evaluation will be conducted independently of the Commission and the Evaluation Reference Group. It will be supervised by the Department of Health and Community Services which will ensure an appropriate degree of separation is maintained between the Department and the persons or persons actually conducting the evaluation.

The evaluation report will be a **Report to the Licensing Commission** and contain comment regarding licence conditions and related matters. It is expected the report will be scientific in nature and that any recommendations contained therein will be supported by relevant data and detailed analysis.

The ERG will provide critical comments to the Licensing Commission regarding the evaluation process and any recommendations contained in the evaluation report.

Copies of the evaluation report will be available to all interested persons and organisations and be readily accessible by the community-at-large.

Evaluation Reference Group – Terms of Reference:

1. Provide the principal avenue for community groups and individuals to comment on the trial of liquor restrictions and the evaluation.

2. Provide a mechanism for progress information about the trial of liquor restrictions and the evaluation to be disseminated to the community.

3. Facilitate access to data and other information sources of relevance to the evaluation.

4. Assist in any way necessary to ensure the evaluation is conducted in an independent, scientific and professional manner.

5. Meet regularly to maintain an overview of the impact of the liquor restrictions and associated measures.

6. Provide advice, and comment as appropriate on any activities initiated in relation to the trial of liquor restrictions or the associated evaluation.

7. Work in partnership with other stakeholders to ensure coordination and consistency in activities related to the trial and the evaluation.

8. Upon completion of the trial of liquor restrictions, make recommendations to the Licensing Commission regarding liquor licence conditions and related matters.

9. At the conclusion of the trial, provide critical comments to the Licensing Commission regarding the evaluation process and the recommendations contained in the final Report to the Commission.

It is of critical importance that the activities of the ERG are reported to the community-at-large and that the ERG is well organised to receive, acknowledge and record input from the community.

It is of similar importance that the community is kept informed regarding the progress of the evaluation, by way of quarterly reports published in the Alice Springs media.

The Commission will move to amend the terms of reference and modify the evaluation process if deemed necessary to maintain the integrity of the evaluation or the surrounding processes or to respond to changed circumstances. Any such amendment or modification shall be jointly agreed between the Commission and Dr Crundall. Stakeholders will be consulted to the extent deemed appropriate in the circumstances.

Licences:

Licences containing the conditions specified in this decision will be drafted by the Deputy Director of Licensing (Alice Springs), signed by the Chairman on behalf of the Commission and issued to the licensees of the premises listed at the head of this decision no later than 31 March 2002.

For those licensees that did **not** when notified on 25 October 2001, seek a Hearing pursuant to s.33 (3) of the Act, the Deputy Director of Licensing will draft Notices to be signed by the Chairman on behalf of the Commission.

The Notices will contain, as appropriate, the licence conditions specified in this decision.

The Notices will be served pursuant to s.33(1), prior to close of business on Friday 8 March 2002. The twenty-eight (28) days provided to licensees by s.33(2) stands abridged to fourteen (14) days by the Commission using the powers contained at s.127(1).

Licence Conditions Post-Trial:

The trial will conclude on 31 March 2003. The licence conditions to be applied after this date will be a matter for the Commission to determine. When determining licence conditions the Commission will consider the evaluation report and any recommendations contained therein, the comments and

recommendations of the Evaluation Reference Group and any other material deemed relevant by the Commission at the time. The Commission may on its own motion conduct meetings, commission further research and take any other action deemed necessary to ensure that any decision it might make is made in the light of full and relevant information.

Peter R Allen
Chairman

1 March 2002