

# NORTHERN TERRITORY LICENSING COMMISSION

## REASONS FOR DECISION

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<b>PREMISES:</b>	<b>Planet Tenpin (The Planet)</b>
<b>LICENSEE:</b>	Grape Pty Ltd
<b>LICENCE NUMBER:</b>	80816952
<b>NOMINEE:</b>	Mr David John Bailey
<b>PROCEEDING:</b>	Vary Licence Conditions
<b>OBJECTOR:</b>	Darwin City Council
<b>HEARD BEFORE:</b>	Mr John Flynn (Chairman) Mr John Brears Mr Ian O'Reilly
<b>DATE OF HEARING:</b>	28 February 2006
<b>APPEARANCES:</b>	Mr David Bailey, Nominee Ms Kim Leslie, for Darwin City Council

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1. The Planet is an entertainment complex in the Darwin suburb of Nightcliff. As well as offering tenpin bowling, mini-golf, and a children's play gym as indicated on their letterhead (but not a climbing wall as referred to in the current licence), the premises offers various electronic and other game machines popular with young people, and seven pool tables, four in a carpeted dedicated area and three in the general games area.
  2. The relevant elements of the current licence are:
    - Trading hours: Sunday - Thursday 1700 - 2200 hours, and Friday and Saturday 1700 - 2400 hours.
    - Advertising and signage: the words "bar", "happy hour" and "beer" are not permitted in external signage or promotional material.
    - Promotions: liquor-related promotions are not permitted other than when a liquor seller is a sponsor. On these occasions approval for temporary variation must be sought.
    - Designated areas for liquor consumption: the current licence excludes "the rock climbing, children's climbing and play area" and the dedicated carpeted pool table area. (The rock climbing area has since been dismantled and replaced with mini-golf.)

3. Mr Bailey applied to vary the licence on 10 August 2005, in the following terms:
  - Trading hours to be extended Sunday to Thursday 1200hrs – 2200 hrs
  - Trading hours to be extended Friday and Saturday 1200hrs – 2400hrs.
  - Use of internal signage and internal promotions from time to time.
  - Service of cask wine in glasses.
  - Licensed area to extend to the whole concourse, including the currently excluded pool table area.
4. Mr Bailey's application was advertised as required. The only objector was Darwin City Council. This was determined to be a valid objection by the Legal Member of the Commission on 10 January 2006.
5. Darwin City Council's objection was resolved at a Council meeting on 25 October 2005. In summary, their objections were:
  - The potential for customers to use the premises mainly for the consumption of alcohol, rather than as an adjunct to using the entertainment facilities.
  - Typical daytime users are pre-school aged children in family or other organized groups during school terms, and children and young people during school holidays. This user group is incompatible with extending the hours liquor may be served.
  - The concourse being accessible to these users, sometimes unsupervised, even if parents or carers are present.
  - The premises' proximity to residential areas.
6. Commission members questioned Mr Bailey regarding incidents of alcohol consumption or attempted consumption on the premises by under age patrons; incidents of patrons over-consuming alcohol, the proximity of other licensed premises, and amount of alcohol sales (to gauge consumption patterns).
7. Mr Bailey's responses indicated forethought and responsible management practices regarding these matters. Under-age drinking is attempted most often by young patrons trying to bring alcohol into the premises, disguised in a variety of packaging. Patron behaviour is monitored by staff for this purpose. Also, the range of liquor products for sale on the premises is fairly restricted and externally purchased products are therefore easily identified.
8. Staff regularly seek identification if they are in doubt of a patron's age. There has only been one incident of a patron being ejected due to intoxication, and it appeared that this person had consumed some alcohol before entry.
9. Mr Bailey's observations of patronage were that the majority of users were on the premises for ninety (90) minutes to two (2) hours, the time it takes to play a couple of games of tenpin, to give small children a run in the play gym, or to attend a party or function involving the available activities. The amount of alcohol sold roughly equates to about two drinks per adult.

10. Ms Leslie indicated that from a town planning perspective, services are considered in close proximity if they are within about 400 metres. There are no other licensed premises within this distance of The Planet. The closest establishment is probably Darwin Tennis Centre on Bagot Road, approximately a kilometre away. The closest hotel is The Beachfront on Casuarina Drive, more than two (2) km distant. However there are two take-away alcohol outlets in close proximity of The Planet.
11. The lack of nearby premises where alcohol can be consumed socially appears to add weight to Council's argument regarding patrons using the premises to simply drink. However the Commission was impressed by Mr Bailey's attitude and high awareness of his responsibilities and social obligations in this regard.
12. The Commission agrees with Mr Bailey that there are management difficulties presented by the current arrangement of excluded areas, in that patrons can drink alcohol at one set of pool tables (those more likely to be frequented by children because they are located with other game machines), but excluded from others a short distance away. Further, the children's gym and mini-golf areas are separated from the concourse by a fence and gate similar to pool fencing, thereby clearly delineating this area as one where alcohol is excluded.
13. The Commission accepts Council's concerns regarding the compatibility of the establishment's daytime customers on weekdays. The Commission also accepts that Mr Bailey is seeking to be more responsive to customer requests and feedback. There was no evidence that alcohol is being served to anyone other than users of the entertainment facilities of the establishment, as the existing licence requires. Also, there was no convincing evidence that the presence of minors on the concourse at times when alcohol can legally be consumed was detrimental to them. This already occurs after 5.00pm.
14. The Commission notes Mr Bailey's comments regarding special licences; that these have been granted without difficulty, and they have operated well, even for extended periods such as the Arafura Games and various championships.
15. The Commission has therefore decided to vary the hours of the licence, but not to the extent requested by Mr Bailey. The Commission has agreed with the rest of Mr Bailey's requests, with some provisos.
16. The Commission is not advocating that The Planet become a kind of drinking establishment similar to a hotel. The purpose of serving alcohol at The Planet is as an extra amenity for those engaged in the recreation activities it provides. Attention is drawn to the first of the Special Conditions of the Licence, which remains after the proposed variations: "Liquor shall only be sold to bona-fide players, spectators and paying users of the equipment provided within Planet Tenpin." The Commission encourages members of the public and the Darwin City Council to monitor these changes and report any arising concerns to the relevant authorities.

17. The Commission makes these decisions because of its confidence in the current Nominee's exemplary record and practice. On the whole, current staffing levels and management practices appear to be sufficient to manage the proposed licence variation.

## **Decision**

18. The hours of trade of the Licence to be altered as follows:
  - Monday to Thursday: 1700 to 2200 hours
  - Friday: 1700 to 2400 hours
  - Saturday: 1200 to 2400 hours
  - Sunday: 1200 to 2200 hours
19. Reasonably discreet internal signage and internal promotions are allowed. Written promotional material (pamphlets and the like) can include reference to availability of alcohol. External signage and advertising in the media are prohibited.
20. Cask wine is allowed to be served by the glass.
21. Alcohol is allowed to be consumed on all areas of the concourse (refer attached plan).
22. The Nominee is to ensure that enough staff undertake Responsible Service of Alcohol courses to enable a trained staff member to always be available to serve alcohol during trading hours.
23. The Licence be altered to reflect the following changes to the premises:
  - References to "Planet Tenpin" should be replaced by "The Planet".
  - References to "rock climbing" or "climbing areas" should be replaced by "mini-golf".

John Flynn  
CHAIRMAN

17 March 2006