

## **NORTHERN TERRITORY LICENSING COMMISSION**

### **REASONS FOR DECISION**

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**APPLICANT:** Mannin Pension Fund Pty Ltd

**APPLICATION:** Application for a Tavern Style Liquor Licence with takeaway

**DATE OF HEARING:** 2 & 4 March 2006, 19 & 20 June 2006

**PROPOSED PREMISES:** Rum Jungle Tavern  
5 Nurndina Street  
Batchelor NT 0845

**OBJECTORS:** NT Police  
Mr Rob Hobbs, Historic Retreat  
Mr Robert Davis, resident and operator of  
Rum Jungle Motor Inn

**HEARD BEFORE:** Mr J Flynn (Chairman)  
Ms B Monaghan  
Mr P Costigan

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**DECISION:** The Application for a takeaway licence is adjourned. At the request of the applicant, the hearing panel will reconvene to consider the adjourned application no earlier than six (6) months after the premises open for business.

### **REASONS FOR DECISION**

- 1) When we made the decision recently to grant an “in principle” tavern licence for on premises consumption to the applicant, we adjourned the question of whether or not to include a takeaway component for further consideration. We have now had the opportunity to consider this matter and have reached a decision on this aspect of the application.
- 2) The McElwees have put forward some persuasive arguments in support of the granting of a takeaway licence to them. Their probity and ability to manage a good hotel or tavern has not been questioned. We accept that they will be responsible licensees with a community focus and a history of dealing with “problem drinking” in Timber Creek.
- 3) The Commission must remain aware, however, that once we have granted a licence, it can easily be on sold subject to basic probity requirements

being fulfilled. We must be satisfied therefore that it is appropriate to grant a further takeaway licence in Batchelor based principally on neighbourhood amenity issues and not principally on the good character of the applicant.

- 4) The evidence before us suggests that one of the main reasons the community generally supports another takeaway outlet in Batchelor is to provide competition in the hope of creating a cheaper supply of alcohol. The applicants, by their own admissions see take away (to be sold from behind the bar) as a minimal part of their business. With such minimal sales envisioned, it is doubtful they could make great inroads into the Batchelor pricing structure and we do not find this argument compelling.
- 5) The main neighbourhood amenity issue for us to consider is the impact further takeaway might have on the social fabric of Batchelor. Concerns about increased noise, litter and antisocial behaviour that occurred regularly in the public areas of Batchelor when the club was open are well documented. There is good evidence, however, that the club was badly run and conversely that during that period, Batchelor won "Tidy Town" at least once.
- 6) The police and some objectors oppose the takeaway component of the application. Superintendent O'Brien, who was in charge at Batchelor both during the Club's operation and after its closure, gave compelling evidence of the improvement to the amenity of the township once takeaway from the club ceased. We cannot ignore his evidence and note that the major offenders were the students from Batchelor College (a Dry campus) who had nowhere to drink takeaway apart from public spaces within the town area.
- 7) The 8 point proposal put forward by the applicant regarding the sale of take away alcohol is certainly a very responsible attempt to maintain the amenity of the Batchelor area. This includes the proposal to require customers to register for takeaway on the basis that only those with a private residential address where they can consume their drink (or tourists passing through) will be eligible to buy. As Batchelor College is a Dry campus, the students could not buy takeaway from the applicant's outlet unless we assume they could persuade the licensee that they had another private space available to them. (NB They could however, continue to buy from the other licensed premises on the edge of town.)
- 8) Whilst we support harm minimisation strategies, we query whether the refusal to serve takeaway to those who do not have private homes to go to could be construed as indirectly discriminatory. Whilst we in no way reject this proposal, it is not without its practical problems and the impact of this condition on relationships in the town would be a matter for careful consideration.
- 9) Further, if a customer declares that he is not going to drink in public areas, the publican would have to serve him/her at least the first time. He

would then have to devise some way of checking up on the customer. The difficulty in policing any breaches of the registration system is apparent.

10) Over the past fortnight, the hearing panel have weighed up the positives and negatives with respect to the granting of a takeaway licence to the applicant. We accept that proposed restrictions on opening hours for take away sales and on the persons eligible to buy are both serious attempts at harm minimisation strategies. We have some lingering concerns however about the likely effectiveness of some aspects of those strategies. We have therefore decided to give the applicants time to establish their tavern for on premises drinking and to adjourn this application for further consideration no earlier than six (6) months after the premises open for business. We emphasise that this decision is not affected in any way by the 12-month moratorium on fresh takeaway licence applications announced recently. We simply remain undecided as to whether or not the takeaway licence should be granted and intend to revisit the issue when the tavern is up and running.

11) A further matter is worth addressing in this decision. At the hearing, we discussed whether there was any support for an Alcohol Management Plan for Batchelor. The applicant, the other publican and the police welcomed this idea-as did the Commission. To this end, the Commission will ask the Office of Alcohol Policy to discuss with major stakeholders including Batchelor College and the Coomalie Council the viability, benefits and scope of such a proposal.

John Flynn  
Chairman

17 July 2006