

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

PREMISES:	Munupi Wilderness Lodge Pirlangimpi Melville Island NT 0822
DATE OF HEARING:	10 August 2006
PROCEEDING:	Application for revocation and re declaration of Melville Island Restricted Area removing Munupi Wilderness Lodge from the Restricted Area and clarification of liquor licence conditions.
APPLICANT:	Munupi Wilderness Lodge Pty Ltd
NOMINEE:	Kerri-Ann Benton
HEARD BEFORE:	Brenda Monaghan

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1. Munupi Wilderness Lodge (the Lodge) at Pirlangimpi, Melville Island is a tourist-fishing lodge located just outside the community of Pirlangimpi. Michael Benton and David Taat have entered into a Grant of Licence with Tiwi Land Council and the Tiwi Aboriginal Land Trust allowing them to operate a business enterprise providing recreational hunting and fishing tours within defined areas of land and sea in and around the Tiwi Islands. Munupi Wilderness Lodge Pty Ltd (with Michael and Kerri-Ann Benton as directors) have further entered into a Lease Agreement with the Tiwi Aboriginal Land Trust granting to them a long term lease with rights of renewal.
 2. The Lodge is located within the Melville Island Restricted Area and therefore the operators, Michael and Kerri-Ann Benton, must currently apply for individual permits for their guests to enable them to drink liquor there. The guests are also restricted to the same quantities and types of liquor as any other permit holders on the Tiwi Islands. As business operators with both a national and international clientele, Mr and Mrs Benton would prefer to be able to offer their paying guests a wider choice of liquor. Further, they find the permit system a cumbersome and impractical process for their type of business where last minute reservations are not unusual. They consider that the restrictions of the permit system are negatively impacting on their business as some potential guests change their plans once they are advised of these liquor restrictions.

3. Kerri-Ann Benton as proposed Nominee for Munupi Wilderness Lodge Pty Ltd has applied for the Lodge to be removed from the Restricted Area to allow for her to apply for a licence to sell and supply liquor to bona fide guests and employees. This application requires the current declaration of the Melville Island Restricted Area to be revoked and then immediately re-declared removing from the restricted area the land upon which the Lodge is situated.
4. This is not the first application of this kind on the island. In 2005, Bedwin Pty Ltd t/as Top End Sportsfishing Safaris had the Johnston River Safari Base Camp and Lot 354 Milikapiti excised from the Dry Area by way of a revocation and redeclaration.
5. Part V111 of the *Liquor Act* sets out the procedure to be followed in declaring a restricted area and I am satisfied that the Commission has followed those procedures. All the appropriate persons have been contacted, their views sought and notice of the hearing date has been provided. I am satisfied that there are no objections from the local community, the Tiwi Land Council or the Police to the Lodge being removed from the Dry Area so as to enable it to obtain a liquor licence. I am also satisfied that all interested parties were notified of the hearing set down for 10 August 2006 at Munupi Lodge Pirlangimpi. At the hearing, no community members attended other than Mr and Mrs Benton. Staffs from Racing Gaming and Licensing were also in attendance. The Officer in Charge of the Pirlangimpi Police Station was spoken to later by me and he expressed no concerns about the proposed changes. Finally, all necessary documentation has been received with respect to this application.
6. In their documentation, the applicants are applying to remove the entire portion of the leased land from the Dry Area. This land forms part of Portion 1644 and includes an area of vacant scrub and grassland which is currently undeveloped. Upon inspection of the proposed area, I advised the applicants of my concerns about exempting the undeveloped area from the Dry Area as there is the potential (albeit small) for it to become a communal drinking area for problem drinkers. It seems to me to be unreasonable and undesirable to exempt from the Dry Area any more than the area ordinarily used by the Lodge for its tourist business. The scrub and grassland in question is never used by the business but it is accepted that at some stage in the future, the Lodge may be further developed. If and when that occurs, the area of land exempted from the Dry Area for this business enterprise may have to be extended. With no firm plans in mind at this stage, however, I am reluctant to increase the area any further than is currently required. The area that should be exempt is shown on the attached plan and includes the land containing the Lodge itself, the surrounding mowed lawn areas, the staff and management accommodation and the existing jetty.
7. The description of this land is as follows:

All that parcel of land within which is sited the facility known as the Munupi Wilderness Lodge, near Pirlangimpi in the Northern Territory of Australia containing an area of 9250 square metres more or less and bounded by straight lines connecting in succession the Zone 52 Map Grid of Australia co-ordinates listed hereunder:

<u>Point</u>	<u>Easting (metres)</u>	<u>Northing (metres)</u>
1	654438	8739650
2	654501	8739494
3	654445	8739475
4	654443	8739501
5	654421	8739492
6	654406	8739629
7	654418	8739649
1	654438	8739650

and in addition thereto the wharf structure and its approaches abutting the area described above.

8. Following the hearing, the Commission is satisfied that:

- a) Pursuant to s82 of the *Liquor Act*, and with reference to section 83 of the *Act*, the Commission has, in accordance with Part V111 of the *Act*, declared the area of land described in Schedule 1 to be a restricted area, with effect on and from the date of publication of this Notice in the Gazette or in a newspaper whichever is the latest); and
- b) Pursuant to s84 of the *Act*, the Melville Island Restricted Area (notice of which was published in Gazette No.G29 dated 21 July 2004) shall be revoked with effect on and from the date on which the declaration notified under paragraph (a) takes effect.

All that parcel of land above the low water mark (as at Lowest Astronomical Tide) in the Timor Sea Northern Territory of Australia known as Melville Island, but excluding the following areas:

- a) the parcel of land occupied by the licensed club operated by Pularumpi Community Club;
- b) the parcel of land occupied by the licensed club operated by Milikapiti Sports and Social Club Incorporated;
- c) Lot 354 Milikapiti (CUFT Volume 684/Folio 201 more particularly delineated on Survey Plan 4194 Melville Island);
- d) Johnston River Safari Base Camp, which is all the parcel of land surrounding the sport-fishing safari site abutting the Johnston River on Melville Island, Northern Territory of Australian, containing an area of 1.62 hectares more or less and bounded by straight lines connecting in succession the Map Grid of Australia (Zone 52) coordinates listed as follows:

Point	Easting (metres)	Northing (metres)
1)	747 861.52	8 722 113.83
2)	747 890.27	8 722 076.93
3)	747 822.35	8 722 013.41
4)	747 796.58	8 722 039.23
5)	747 747.52	8 721 991.92
6)	747 728.00	8 722 028.00
7)	747 686.73	8 722 048.96
8)	747 673.00	8 722 068.00
9)	747 693.00	8 722 099.00
10)	747 698.70	8 722 113.33
11)	747 735.28	8 722 112.62
12)	747 808.19	8 722 113.33
13)	747 861.52	8 722 113.83

- e) All that parcel of land within which is sited the facility known as the Munupi Wilderness Lodge, near Pirlangimpi in the Northern Territory of Australia containing an area of 9250 square metres more or less and bounded by straight lines connecting in succession the Zone 52 Map Grid of Australia co-ordinates listed hereunder:

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1)	654438	8739650

and in addition thereto the wharf structure and its approaches abutting the area described above.

Liquor Licence

9. The second task is for me to consider the licence conditions that should be imposed following the "in principle" decision of the Licensing Commission in July 2006 to grant a liquor licence to the applicants once the area was no longer "Dry". I consider that a licence should be granted on the following terms:
- The Licensed area should match the area that has been exempted from the Melville Island Restricted Area as a result of this decision.(See attached Map and description at paragraph 8).
 - The licence is granted so as to allow the Licensee to sell or supply alcohol to bona fide guest and staff only to drink within the licensed area or outside the restricted area (eg out at sea).

- c) The Licensed hours are from 10:00 hours to 01:00 hours daily, seven (7) days a week.
 - d) Adequate security of liquor both in transport from the barge or plane or on premises shall be maintained to the satisfaction of the Director of Licensing.
 - e) There is no restriction placed on the type of alcohol to be sold or supplied on licensed premises.
 - f) The Licensee has advised its normal delivery of alcohol will be by barge. It is noted however that bad weather or unforeseen circumstances may necessitate the Licensee using aircraft to deliver liquor supplies. In these circumstances, the Licensee must advise Police of these changed arrangements.
 - g) Finally, any alcohol to be delivered by either barge or plane must not be left unaccompanied at any time during transport.
10. There are further two comments that should be made at this stage. The Licence allows the Licensee to sell or supply liquor to staff. I understand that most staff are not Tiwi and only occasionally are staff from the Tiwi Islands employed by the Lodge. The Licensee is aware that staff who act as guides on fishing charters are often asked to join guests for a drink after a day's fishing. We have no concerns about allowing this practice to occur so long as the Licensee exercises special care to ensure that any supply of alcohol to Tiwi Staff is done in a responsible manner and with the Licensee remaining sensitive to the fact that the condition will be changed if any problems stem from it.
11. Further, it is the Licensee's responsibility to ensure guests of the Lodge are well aware of the Restricted Area provisions and that they must only consume liquor within the confines of the licensed premises. The Licensee should ensure that their promotional material and verbal and written advice to guests clearly defines the rules to ensure there are no breaches.

Brenda Monaghan
LEGAL MEMBER

1 September 2006