

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Evolution Cafe
Licensee:	The Pink Bus Pty Ltd
Licence Number:	80303858
Proceedings:	Application for Variation of Licence Pursuant to s32A of the <i>Liquor Act</i>
Heard Before:	Mr Richard O'Sullivan (Chairman) Mr Paul Fitzsimons Mr John Brears
Date of Hearing:	9 October 2014
Date of Decision:	15 October 2014

Background

- 1) The Pink Bus Pty Ltd, through Director Mr Jason Wright, has made application to extend the trading hours of Evolution Café, situated at 21 Hartley Street, Alice Springs. The application seeks a variation of the premises liquor licence, pursuant to Section 32A of the *Liquor Act* ("the Act"). Currently the licence held enables trading from 11.00am to 1.00am the following day, seven days a week. The application is seeking to extend trading hours from the current 1:00am closing to 2:00am closing, seven days a week
- 2) Two submissions were lodged in response to the advertisement of the application. An objection submission from Dr John Boffa on behalf of the People's Alcohol Action Coalition ("PAAC") was determined as valid under the Act and therefore the Commission is required to conduct a Hearing into the application and objection. The second submission was from Senior Sergeant Pauline Polychrone of the NT Police. It was couched by way of conditional support for the application subject to a 3 month trial of the trading hour extension, a 1:00am lock out being imposed and the maintenance of existing security arrangements. In an Objections Decision handed down on 8 August 2014 the Commission determined that these conditions were suggestions for inclusion in a licence, rather than an objection stipulation

The Hearing

- 3) The Chairman advised that the Northern Territory Licensing Commission ("the Commission") would take into account the objection lodged by PAAC in determining its decision. However, as a representative of PAAC was not present to give evidence in support of its objection, and be questioned and cross examined on the

veracity of its evidence and reasons for objection, the Chairman advised the Commission would place less weight on the PAAC objection submission.

- 4) Mr Wright outlined the reasons for making the application for an extension of trading hours to 2:00am each morning. His main arguments were to create what he termed a level playing field with other licensed venues who are able to trade until 2:00am and to respond to patron demand for a 1 hour trading extension.
- 5) Mr Wright advised the Hearing that he provided a 24 seater bus to transport patrons back to their motels or hostels, particularly for tourists, and to Lasseters Casino, as many locals wanted to continue socialising beyond his closing time of 1:00am. He advised that the provision of this bus service was at a cost to his business of approximately \$150 per day. He also stated that the bus service assisted to get people off the street quickly after closure and that clearing the venue and environs quickly minimised any likelihood of disturbance.
- 6) Mr Wright outlined the current operational practices adopted for his premises. He advised that although his licence enabled him to commence trading at 11:00am he had discontinued opening for lunch as there was insufficient patron interest. Instead the venue now opens at 4:00pm as the preference of the Alice Springs patrons was for later attendance at the venue.
- 7) In relation to the venue and meal service Mr Wright advised the Hearing that around 120 meals would be served on a busy night. However to capture this market he had to price meals at around \$10 and that meal costs were cross subsidised by bar takings. Tour groups formed a major element of meal sales.
- 8) During the Hearing the Commission sought his response to the conditions of licence suggested by Police, being a three month trial of extra licence hour, a 1:00am lockout and maintenance of security arrangements. In relation to a trial period and maintenance of security arrangements, Mr Wright advised that he took no issue with a trial period and that if the extra trading hour was granted, existing security would be extended to cover the entire licensed time. However on the issue of a 1:00am lockout, he advised that this would not place his business on a level playing field with other licensed venues who did not and would not have a similar licence condition imposed.
- 9) Licensing Inspector Chris Wade advised the Hearing that there had been no issues of licence breach or problem client behaviour at the premises since Evolution Café began operation early in the year.

Consideration of the Issues

- 10) The Commission has noted the objection from PAAC relating to the need to change the drinking culture in Alice Springs and that an extension of drinking hours will have the potential to add to alcohol fuelled violence.
- 11) Most licenced venues in Alice Springs, including restaurants, have licensed trading until 2:00am. From evidence outlined in the Hearing, Evolution Café attracts a mix of young patrons, including tourists. Many move on to other venues after Evolution

Café ceases trading at 1:00am, particularly to Lasseters Casino, enabled through the provision of a bus service.

- 12) It is evident that some of the patrons of Evolution Café would prefer to stay on at that premises, rather than seek alternative, later closing venues after 1:00am. Premises such as Lasseters Casino and Bojangles are able to trade up until 6:00am. From the evidence produced there are patrons who would stay on at Evolution Café until 2:00am, should the application be approved rather than go elsewhere where a licence permits service of alcohol until 6:00am.
- 13) The licence category under which Evolution Café operates is that of a Tavern. It is normal in the Northern Territory for a Tavern licence to have trading until 2:00am the following day. Evolution Café does suffer a disadvantage to other similar premises by having lesser hours enabled under its licence. The Commission has heard that the current owner and Nominee has managed the premises without any significant issues and appears to operate a well-controlled venue. The Commission therefore cannot envisage any major impediment to it granting the application for licence variation by extending trading time by 1 hour.
- 14) The Commission does not consider there is a need to grant the application for a trial period. If the Licensee permits the premises to be operated in a way that breaches its licence conditions, and/or the Act, a complaint can be brought before the Commission resulting in tighter licence conditions or reduced trading hours if a breach is upheld.

Decision

- 15) The application by The Pink Bus Pty Ltd, trading as Evolution Café, for an extension of trading hours from 1:00am to 2:00am 7 days a week is formally approved and confirms the Ex Tempore Decision advised on 9 October 2014.

Richard O'Sullivan
Chairman

October 2014