

# Northern Territory Licensing Commission

## Reasons for Decision

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<b>Premises:</b>	<b>Proposed Micro Brewery with 'On Licence'</b> 375 Stuart Highway Coolalinga NT 0835
<b>Proposed Licensee:</b>	The Northern Territory Brewing Company Pty Ltd
<b>Proceedings:</b>	Re-open the Hearing conducted between 30 November 2009 and 8 December 2009 in respect of an in-principle 'On Licence' Liquor Licence
<b>Members:</b>	Ms J M Large (Presiding Member) Ms C Bravos Mr W Grimshaw
<b>Appearances:</b>	By telephone link up- Mr P McGurr Lawyer for the Proposed Licensee Mr Durham Snr Mr Durham Jr  In person: Ms Kirstenfeldt for Director of Licensing
<b>Date of Hearing:</b>	1 December 2011

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## Background

- 1) On 24 December 2009, following a three day Hearing, the Northern Territory Licensing Commission (the Commission) determined to grant a conditional 'On Licence' for the Northern Territory Brewing Company Pty Ltd, to allow for a fully licensed restaurant ancillary to the Micro-Brewery being developed at 375 Stuart Highway, Coolalinga NT and the sampling of beer brewed by the Micro-Brewery.
- 2) At its meeting in October 2011, some twenty-two months after the grant of the conditional licence, the Commission expressed concerns regarding the delay of the commencement of the business and as a result, the Commission determined that it would re-open the Hearing. On 25 November 2011 McGurr Lawyers, who were representing the Northern Territory Brewing Company Pty Ltd were notified that the Hearing would be re-opened on Thursday 1 December 2011.

## The Hearing

- 3) At the commencement of the Hearing, the Commission set out the reasons for the re-opening of the Hearing, namely review and hear submissions as to the progress made to date and time line for future progress at the site.
- 4) Mr McGurr, on behalf of the proposed Licensee, submitted that there had been delays in proceeding with the development proposal due to the ill health of Mr Durham Snr. He had now received a final health clearance and was keen to proceed and a meeting of partners was scheduled for the end of the year.
- 5) Mr McGurr referred to activities on a nearby site where Coles Supermarket were embarking on a development and a new sign that had been erected which included a Tavern. The Commission advised that it had no information about a Coles supermarket in the area.

There had been some activity on the site recently but there was no application before the Commission for any liquor licence.

- 6) Mr McGurr referred to an imminent announcement in the Howard Springs area which would have major accommodation implications for the regions which would need to be considered by the NT Brewing Company. The Commission advised that it had no information about such an announcement.
- 7) Mr McGurr submitted that, after discussion with the two Mr Durhams, that the Northern Territory Brewing Company Pty Ltd wished to continue with the Micro-Brewery proposal in accordance with the conditional On Licence which was granted on 24 December 2009. He asked for the matter to be stood over for a further mention in March 2012.
- 8) No submissions were made on the behalf of the Director of Licensing.

## Consideration of the Issues

- 9) Some twenty-three months have now passed since the Commission granted a conditional 'On Licence' to NT Brewing Company Pty Ltd. This timeframe is clearly well over the timeframe expected by the Commission at the time of granting the licence as is evidenced by the full Commission decision in October 2011 to re-open the Hearing.
- 10) The Commission notes the submission by Mr McGurr that delays to the project have occurred primarily due to the ill-health of Mr Durham Snr.
- 11) However, the Commission is somewhat concerned that the current situation is that since 2009 the Commission has received no documented plans and only limited estimates of costs for the establishment of a micro-brewery with ancillary dining and bar facilities on the old heritage shed/hanger at 375 Stuart Highway, Coolalinga.
- 12) This was a concern to the Commission in 2009 and if the applicant is genuine in its proposal it needs to be resolved as soon as possible. The Commission is of the view that a further adjournment for mention would not be satisfactory.

## Decision

- 13) The Commission has determined that the in-principle licence granted to NT Brewing Company Pty Ltd in relation to the development of the old shed/hanger at 375 Stuart Highway, Coolalinga remains current subject to the following information being provided to the Commission through the Director of Licensing no later than 31 March 2012:
  - copy of a full set of site plans,
  - details of costs and funding arrangements,
  - a listing of partners (if any) who are involved in the project other than Mr Dennis Durham Snr and his two sons. Mr Dennis Durham Jnr and Mr Charles Durham.
  - a time line for the proposed commencement and finalisation of the works involved in the development.
- 14) The Commission emphasises that the conditional licence issued to NT Brewery Company Pty Ltd is in jeopardy of being cancelled. The full Commission's deliberations in October 2011 and the content of this decision should be construed by the NT Brewery Company Pty Ltd as withdrawing and limiting any reasonable expectation of a licence being issued unless the milestones set out in this decision are met to the satisfaction of the Commission.
- 15) Should the current conditional licence be cancelled, any future developments on the site which require a liquor licence would be the subject of a new application.

Mrs J M Large  
Presiding Member

9 December 2011