

**LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY**

**SUBSTANCE ABUSE COMMITTEE**

*Membership:*

Ms M Scrymgour MLA (Chairperson)  
Ms S J Carter MLA  
Mr Len Kiely, MLA  
Dr R S H Lim MLA  
Mr E McAdam MLA  
Mr G Wood MLA

***COMMITTEE BRIEFING***

Tape-Checked Verbatim  
**TRANSCRIPT OF PROCEEDINGS**

**29 November 2002**

**Mr D Rice,**  
Director of Licensing, Northern Territory Treasury  
**Mr P Jones**  
Senior Policy Officer, Racing, Gaming and Licensing Division of Treasury

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**Mdm CHAIR:** Welcome back again to this second briefing, to the committee. The meeting is open to the public and is being recorded. A transcript will be produced and eventually tabled in the Legislative Assembly. Please advise if you want any part of your evidence to be in-camera, the decision to this will be at the discretion of the committee. You are reminded that evidence given to a committee is protected by parliamentary privilege. For the purposes of the Hansard record I ask that you state your full name and the capacity in which you appear today, and that is at each time when you speak so that we can get the recording of it, thank you.

**Mr Peter JONES (Senior Policy Officer –Racing, Gaming and Licensing Division of Treasury):** Introduction.

**Mr David RICE (Director of Licensing – Northern Territory Treasury):** Introduction.

**Mr Robert PERRY (Senior Licensing Officer –Racing, Gaming and Licensing – NT Treasury):** Introduction.

**Mdm CHAIR:** You would know all the MLA's sitting around the table, or would you like me to go through where each Member comes from, alright then we might just open the questions. Has every Member received a copy of the letter that we wrote to David? I suppose the purpose of when we wrote was to get the picture back to go through some of the issues, but I suppose some of it has come back out of our visits to some of the remote communities, in particular where we have looked at some of the communities that had licensed premises on them, to have the discussion again and go through some of them.

We did circulate this morning, and I am not sure if you got it, the article that came out of the Australian in particular to Nguuu, on the Tiwi Islands, which I know is before the Commission and there are probably things that we can't discuss of that, but just a broad discussion on the rules and regulations and enforcement.

**SECRETARY:** I have forwarded a copy of that to Peter yesterday.

**Mdm CHAIR:** The Liquor Act. That was the second... ..

**Mr WOOD:** Yes I thought that was the Liquor Act.

**Dr LIM:** Can you see that.

**Mdm CHAIR:** The second issue besides that was looking at the revue of the Liquor Act that I understand is currently being undertaken.

**Mr RICE:** I'm sorry, an update of the Liquor Act.

**Mdm CHAIR:** The Liquor Act, we could start with the Liquor Act.

**Mr RICE:** Okay, the Liquor Act has been subject to a review for quite a number of years, hopefully we are going to see an outcome in the not too distant future. The latest review is being reciprocated as a result of a need to address national competition policy requirements and we have taken the opportunity at the same time to look at some administrative updates that are required to present the Act in a more manageable state. AS the CHAIR has referenced these matters are yet to go before Cabinet so we can't really speak in great detail about what has been tabled in the review of the proposed amendments. But suffice to say that there are quite a number of issues that had to have been addressed, and the process that I understand will take place will be an interest to this committee in that, once cabinet has signed off on the proposed amendments, then it is my understanding that the recommendations will become public and the input will be general members of the community, in particular licensees through the Australian Hotels Association and the License and Clubs Associations and those people who are otherwise concerned with availability of liquor in the community.

So there is the NCP review, a partial administrative review in place at the moment, both of those matters are on foot and are about to be considered by Cabinet, and following Cabinet's consideration there is the capacity there for further amendments to come from community consultation.

**Dr LIM:** I would like to lead off with a question to the director about something Gerry raised earlier. What do you see is the philosophy behind licensing, particularly alcohol outlets.

**Mr RICE:** Licensing?

**Dr LIM:** Alcohol outlets. The philosophy, not the functions of it... ..

**Mdm CHAIR:** But when someone makes an application for a license. Or even before that.

**Dr LIM:** No, the philosophy behind, you're thinking of awarding a license.

**Mr RICE:** The objectives that I am required to administer to are harm minimisation, in the main. And I guess as a secondary issue, to help business in this regard, those people that want to make liquor available through wholesale or retail outlets.

**Mdm CHAIR:** Help in what way?

**Mr RICE:** Help them in terms of getting their application as complete as possible to allow the Licensing Commission to have full consideration of their claims to a license. And I also help any objectors in that regard as well, so that the Commission is best placed to be able to adjudicate as to whether or not a license should be issued, and if it should issue and under what terms and conditions.

**Mdm CHAIR:** Doesn't that cause a conflict.

**Mr RICE:** For me? No it doesn't because all parties are aware... ..

**Mdm CHAIR:** Well even for the Commission, if you are helping somebody to get their submission up for approval or to be looked at, you are the one that has to approved it, and then the Commission help the objectors who don't want the license. How do you operate and deal with that?

**Mr RICE:** It is a matter of being very clear to both the applicant and any objectors of the position of the Director and his staff, in that what we are trying to do is to facilitate a full consideration of all matters by the Licensing Commission. The Licensing Commission is a relatively busy-body, as you might appreciate. And if we get, and we do occasionally get applications going to the Commission that have to be deferred to a later date because applications are incomplete or the evidence that an objector wants to present hasn't been properly put together and made available through the proper channels.

So what we are trying to do when I say that we are helping both the applicant and the objectors, if there are any, is that we want to make sure that they appreciate all of the requirements of the Commission on the part of the applicant and for that reason we have a check-list and we otherwise give them any advice. We make ourselves available for any advice that they might want to request of us, but we will do the same thing to the objector, so that we are not taking any particular side but we are making sure that the full material which is required by the Commission to be able to make a decision is available at the time.

**Dr LIM:** So what you are saying is that, essentially your role is more administrative than anything else.

**Mr RICE:** Up to that particular point.

**Dr LIM:** Okay, let me put this to you. I suppose a licensee or an applicant, where the philosophy behind that application is to be in the business and therefore one wants to maximise ones profits. Maybe you cannot speak on behalf of the Commission but, what will be the Commissions philosophy, if you like, in regards to say a business person applied for a license to make money, whatever business you are in, what is the role of the Director and Commission in terms of alcohol licensing?

**Mr RICE:** Sure. The Commission considering an application for a liquor license, has to have due regard to harm minimisation principals of the Liquor Act. But it also has to have regard for the needs and wishes of the community in

terms of any license that it proposes to issue. The Commissions approach in more recent times has been to put the owners clearly on the part of the applicant to go and demonstrate to the Commission that there is a need and a wish within the community for this license, this type of license and for the hours that are proposing any other conditions that are proposed with the liquor license, similarly it would be up objectors to demonstrate that there isn't such a need or a want in the community.

**Mr WOOD:** What do you, without getting into too much of the reason, what do you regard as the community?

**Mr McADAM:** Are you asking from a government policy here, or are you... ..

**Mr WOOD:** No, the new Act actually described neighbourhood. And I was wondering if community and neighbourhood are regarded as the same thing.

**Mr KIELY:** Isn't the Commissioner required to just go by the Act? Or are you asking him to make an interpretation for you Gerry?

**Mr WOOD:** I am just asking my question, I haven't looked at it in that detail. I am want to know whether the community is the community as a whole or as the community -----

**Mr KIELY:** I am just not sure whether it is appropriate for him to comment on a government... ..

**Mr WOOD:** Well this is the Substance Abuse Committee and these are the people who are there to answer the questions, I just need a clarification of what you have them regarded as, total community or just the local community, when you say community.

**Mr RICE:** If I can perhaps respond by way of reference to the Supreme Court ruling on community.

**Mdm CHAIR** That would be great.

**Mr RICE:** Similar matters have been before the Supreme Court and that particular issue has been addressed and it was addressed in such a way that, it was Sally Thomas who suggested that the community was if you stood on a water tower and looked around, that was a community. And basically what I understand she was trying to say there was that, if you have got to put a liquor license at this particular point, she would want you to have regard for anyone that that license might impact upon in the surrounding area.

So I guess the interpretation of that within a urban area maybe a little different than in a rural area, and that is then up to the Licensing Commission to determine how it considers the community at the time of the application.

**Mr JONES:** Because this is on the public record, in the hearing yesterday in relation to the Bathurst Island Club, this is a hearing collected by the Licensing Commission. This issue came up and the Commission stated a view then that because it was an Aboriginal community that the club is run by a group which is called the club and it is a community club, and so they were also looking into what is the Charter of the club in terms of its constitution to see how as a community organisation it was running a licensed premises, but also what it was doing in terms of other things it was doing as part of a club and as part of a community, what it was doing in terms of responsible serving and helping people, in terms of the responsible consumption of alcohol.

So I think in terms of Aboriginal communities, the community is a bit different and where licensed premises are run by clubs that aren't clubs as such, as opposed to an individual person who has applied for a liquor license. Yes the ----- are stating a different view and of course the other thing on the public record is the recent 'ski-club case' where the Commission there is taking a very active view in terms of what is a club and how is that club relating to its surrounding community.

**Ms CARTER:** On the issue on opening hours, to areas that are different, No. 1 for example is at Nguiu where the club is open fairly short in comparison to say, the CBD period of time. And I just wondered to what extent a short period of opening hours contributes to 'binge drinking' and I am asking you based on your experience and your knowledge from studies and things like that, with regards to shorter periods how that effects drinking behaviour, as opposed to say 'Mitchell Street' in the CBD precinct with the nightclubs which are open almost, probably 18 hours a day, or

something like that. I certainly am aware that patrons, young people don't actually go out to go to them until say 10 o'clock at night, and in the preceding hours they will be at home watching television and drinking in order to get 'charged up'

**Mdm CHAIR:** Before they go there?

**Ms CARTER:** Before they go there, and then they get there at say, midnight or whatever and then they ramp up the activity until 3, 4 in the morning. So there is 2 different styles of opening hours and I just wondered from your experience how do they contribute to drinking behaviour?

**Mr RICE:** Sue thank you for the question, I would like to preface my answer by advising the committee that the liquor licensing hours don't necessarily reflect the hours that the Commission deems most appropriate. They could be hours that have been applied for, they could be hours that have been reduced because of objections through the application process and by agreement they have been put to the Commission which then approves them. Or they could have evolved to where they are at, at the moment in terms of strategies that have been employed to try and reduced the level of harm that might have been apparent in that particular community. It is not entirely down to the Commission as to the hours that exist out there at the moment, in general terms.

I think the shorter hours, certainly in some instances, have a tendency to contribute to 'binge drinking'. You have mentioned the community view and I think that is a classic case in point, there are others such as Ali Curung whereby liquor is available for relatively short periods of time, available in plastic containers as opposed to being sold in the commercial stubby or can for take-away. So you have basically got an open container which requires to be consumed pretty quickly before you lose the effervescence or the coolness of the drink.

And towards the end of the session there is also a tendency for people to bank up their stock of supplies, so they have got enough to ----- down in the final minutes of the time before they have to leave the premises. The actual hours should not contribute to increased levels of harm in my view, the responsibility for managing a license is vested in the licensee and through the licensee in some cases to a nominated manager. That manager or the licensee must conform with the requirements of the Liquor Act and any conditions that the Licensing Commission has placed on the license, which primarily are to ensure that people who shouldn't have access to alcohol, don't have access to alcohol, and those people are mainly people under the legal drinking age of 18, people who are already intoxicated or people who for whatever reason have been banned for a period of time.

So in my view the reduce hours can work, if they are managed adequately. But I suggest that there problems with the management of those 2 particular licenses in that there is a availability or opportunity to 'binge drink'.

**Mdm CHAIR:** And Mitchell Street, the long opening hours?

**Mr RICE:** There have been some academic studies that show that levels of harm increase with availability, so I wouldn't attempt to be critical of those observations and conclusions, but we know that there are communities outside of Australia that have 24 hour availability of liquor, and in some cases within Australia 24 hour availability of liquor. I think it is a matter of still addressing the levels of harm that accrue from whatever licensing provisions are available. And it gets back then again, to the ability of the licensee/nominee to be able to manage the license that they hold and I guess that then draws us to the logical implications for policing and enforcement through both Northern Territory Police and through the inspectors in my office.

**Dr LIM:** Let me follow up on a special note. This stockpiling, a licensee is not allowed to supply alcohol to a person who is perceived to be intoxicated. Anybody who is drinking for a long period of time you can assess as to, 6 drinks you think might fall over or 12, he is going to fall over. If somebody starts to stockpile, and continues to buy the stockpile, is the licensee responsible for saying, 'hang on you have got 6 bloody drinks on your table already, go away, because in the next half an hour you are going to be falling flat on your face, you have got 6 cups you can't have anymore' and refuse to sell, is there something within the inspectory that stops this thing from happening?

**Mr RICE:** It is my view that in those circumstances the licensee, the nominee and through their staff have got a duty of care to anticipate the capacity of the person who is ordering the drinks, to be able to handle them and still remain sober. There are ways and means that people employ to get more than their fare share of drinks and they do that through other agents, I guess that is the main way they do that.

In terms of the liquor requirements of my inspectors or more likely to be the case, is police who are also liquor inspectors under the Liquor Act, the licensing inspectors, is that no one should reach a state of intoxication. They might be able to go to the bar while they are sober and order their 6 VB's in their open containers, but if you know that that person has a propensity to fall over after they have had 6 or after 4, 3 or whatever, then I would you are failing in your duty of care and my inspectors and police would both be able to see that person become intoxicated and that would then be a breach of the license. So that is the way we will enforce it but it is difficult in a remote community.

**Mr WOOD:** Can I just ask about 'duty of care', it comes from 2 aspects. One is this article in today's 'Australian', basically it is saying, and I can't say that it has any proof, but the policeman here is saying that suicides were linked directly to the Nguuu club. So one of them is saying that the club has a duty of care to make sure, you are saying harm minimisation, but if it could be proved that this club is directly related, by the manner in which it carried out its license, contributed to -----suicides, in theory could it be liable?

**Mr RICE:** In this, yes.

**Mr WOOD:** And secondly, that is still away, but if you now were alerted to a particular problem, as a licensing commission, do you have now duty of care to make sure, because you are the lower link in the chain I suppose, that you will now inspect that place perhaps more often, because it has been brought to your attention to try and overcome this problem, not so much suicides, but overcome what appears to be that the club is not running correctly?

**Mr RICE:** The 2 answers to those points are, yes I do believe we do have a role and a duty of care in our own right to take note of that sort of issue and to respond, and I believe we are doing so. Yes we are paying greater attention to the activities of the new... ..

**Mr WOOD:** Do you have enough inspectors, considering the Territory, considering the problems we are dealing with?

**Mr RICE:** We have enough inspectors to consider all matters, there is always the opportunity to consider matters in more detail if you have got additional resources, but there has got to be a limit to any resource available.

**Mr WOOD:** I suppose I could ask, would you like some more?

**Mr KIELY:** No-----.

**Mr WOOD:** I know,-----

**Mdm CHAIR:** Well I suppose if I look at remote communities and I pick, I mean when you talk about these sort of things and this has been an issue on Nguuu. I mean the Tiwi Islands is part of my electorate, and so is Gunbalanya. But as part of the committee's trips around some of the remote communities, and one very recent community down in the Katherine region, and I am not sure if that has gone before the Commission but that community, I think the licensee or the person who was holding the license to sell alcohol at that community, was looking at not only extending the time but also the limits, the take-away limits to that community. And people had said to the community that they had felt that their concerns hadn't been weighed-up, and that they were going to appear before the Commission not as a concerned community representative, as a representative of the council was it, or of the store, wasn't that the capacity in which she was appearing?

**Ms CARTER:** Just a community.

**Mdm CHAIR:** She was going to first, in her official capacity in which she was appearing at the council, that community felt that the concerns of the wider community, in particular the women, hadn't been properly consulted and their fear was that the consultation, I am still trying to grapple with the process that happens when an application is made and I know there is a process in which you go through your way up, you talk to the applicants and objectors. But in communities there seems to be this barrier and I may be wrong but it just appears, and this is from talking to a lot of the women and children in terms of their view when someone in the club or the licensee or the nominee applies for an extension or something, what the consultation of that is.

And it goes back to resources I suppose, whether you had adequate resourcing. With Nguiu I know in the past there hasn't been, and look I lived in that community for 4 years, and there was a lack of and I have seen a lack of police, well I shouldn't say policing but inspecting of some of those premises over there. Everyone goes shock-horror in terms of, this is terrible stuff and people read it and say 'this is terrible stuff' but this stuff was happening for a long time over there and now we have got a police officer there and there are certain processes happening. It is getting out to the wider community.

**Mr RICE:** The Coroner Greg Cavenagh handed down a report in late 1999, which was somewhat critical of the way the Licensing Commission allowed alcohol to be available. Alcohol was involved in I think, about 3 or 4 suicides at that point in time and had been attributed to some extent of 5 at that point, some of them had been attributed to alcohol as a factor in the suicide. I was required to attend the community, very early in 2000 in response to that because we do recognise that we have got a responsibility to do whatever is possible by way of controlling the license or cancelling a license if necessary, to prevent that sort of occurrence in the community.

The circumstances of my arrival on the Island wasn't too good, in that I was met by police and taken to a house where someone suicided the night before, so that was a great start to the day's meeting that I was about to have.

But what we are attempting to do, is to address communities in terms of taking greater degree of interest and control in the way liquor is available or prohibited in their particular communities, and I think the restricted area provisions of the Liquor Act have perhaps been seen as a bit of a panacea for all problems and for all time and that was proven to be a wrong perception on the part of the community leaders. And as most people with knowledge of prohibition in any regard, has never had any long term consequences.

So I am saying there is a reliance on the restricted area provisions, perhaps an over reliance. And then when a liquor license is sought, it is sought by the community and there is a great deal of consultation that takes place, both in regard to declaring the area restricted and in terms of issuing a license in a remote community. Where it comes to the point as perhaps you have alluded to, that an existing license might want a various license so that there is an increased capacity to deliver by way of hours or increased limits on the availability of liquor to an individual. We have ways of determining for the advice of the Commission, as to whether or not that community is managing its access to liquor in a reasonable way at that point in time, and perhaps deserves the opportunity to have increased access. And I guess that get back to Sue's earlier point as to what is better, is it the short hours or the long hours and what are the implications of both. We believe that the number of hours must be relative to the community's capacity to manage those hours, so by way of health statistics and police records, comments from community councils and so on we put ourselves in a position to be able to put a report to the Commission to be able to inform itself and the Commission has got its own authority to inform itself in anyway it sees fit. So it doesn't have to stop at what we have advised it, it may choose then to visit the community itself and determine for itself whether or not the needs and wishes of all the community members are being represented in the application, relative to the level of harm that might already exist in the community.

And I personally think the Commission does a very good job in considering both a new application for a license or a variation to an existing license.

I think most of the problems are in managing existing licenses and yes, I think this committee is right in reflecting on the fact that my office has got a particular duty of care, to ensure that licensees and nominees are managing their licenses to the objects of the Liquor Act and harm minimisation.

**Ms CARTER:** David, 20 years ago here in Darwin when I was nursing in A&E in the hospital, the only place that I can remember that stayed open late was Dick's Nightclub, which I think stayed open until 3 a.m., not that I know because I didn't go there... ..

**Mdm CHAIR:** I went there, it was a good rage.

**Ms CARTER:** But when you worked in A&E, on Friday and Saturday nights they were your 2 busy night of the week and by about 1 in the morning they were starting to settle down by 1 o'clock, most nights we were getting pretty quite by 11 or 11:30 at night except for those 2 nights. Over the years we have seen an increase in opening hours, particularly in the CBD, why is that, is it purely because, like I was in my 20's at that era 20 years ago here, we just took it as normal in our lives that clubs shut at 11 o'clock. You didn't think 'Gee I'd really like to stay up until 4:30 in the morning getting pissed every second night', it just wasn't part of what was considered to be normal in life, we were-----animals, we slept in the night, we played in the daylight hours. Whereas there seems to have been a

significant change now, I can't go door-knocking in most of my electorate until after 3 o'clock in the afternoon on a Saturday or Sunday because huge numbers of people are quite 'brrrrrr' at lunch time still.  
So what has changed in the last 20 years to end up with incredible long opening hours in the CBD?

**Mr RICE:** Have you got a week?

**Ms CARTER:** A younger population.

**Mr KIELY:** Sue, I go to Melbourne, and to Canberra and up here and I have always noted that the opening hours or the trading hours, their market their fad sort of things. There was 24 hour trading in Canberra and if you reckon people wouldn't do, you should have been down there when that was on.  
Up here I used to work in Cavenagh Street when the 'Don' or whatever was there, people would come pouring out of there at 3, 4 in the morning heading down to 'Fannie's'.

**Mdm CHAIR:** Try the old 'Dolphin'.

**Mr KIELY:** They would be pulling in for a feed at that hour in the morning. I mean I don't think it's, I think the hours are less now. I have been down town at 2 in the morning trying to hunt for a beer and it is impossible.

**Ms CARTER:** Is there a pattern changing, what is behind that sort of thing, is it purely pressure from licensee to have the tills open longer or, ... ..

**Mr RICE:** Well firstly I think we will come from a position of fact, and the fact was back in those days the nightclub type premises actually traded until 6a.m..

**Ms CARTER:** You can tell I didn't know.

**Mr RICE:** And there was an inquiry into alcohol use that prompted government and ultimately the Liquor Commission as it was, to adopt recommendations for a committee to reduce the hours to 4 a.m. So the reduced hours in terms of the availability of alcohol over the period of the night, I think there is increase availability in terms of the number of opportunities that you have got, which gives a different appreciation and can confuse the observer I think. As to what is happening in terms of availability I think Darwin and the Northern Territory generally is responding to the same pressures that exist in every other state of Australia in regard to the capital city in particular and what is happening on the world stage. People have the assumption that you would be able to get access to liquor at any time and there is that demand and I think we then work back from there to restrict that so that we have a least some settlements of control over availability.

If the incidence of harm in the community was increasing with existing availability of liquor, I am sure you would see another scenario whereby the availability would be 'pegged back' further say, to 2 a.m. as it was from 6 a.m. to 4 a.m.. But to the best of my knowledge that is not happening, certainly people are getting out, more people perhaps in later hours are getting out than perhaps did in the days of 'Dick's'. But I don't think that is translating in terms of levels of harm and crime and so within the community.

**Mdm CHAIR:** Elliot.

**Mr McADAM:** Yes, I have just got one question and any of you 3 gentlemen can feel free to answer. I think we are all very familiar with your role, in respect to the licenses etc.. But I just want to find out what the link, is there any linkage from any direct linkage from the Liquor Commission in respect to new adjudication.

This is my own personal view, I believe the Liquor Commission's role is perhaps limited in that respect, there has to be some capacity for the Liquor Commission to have that role incorporated, in maybe as a result of this new review. And I don't know if that is part of it, but I mean you guys -----to a certain extent, you are aware of all the circumstances that are happening around, in regards to a whole number of issues. And I think that Living With Alcohol, and I thought the degrees of effect were getting a very good response, that appears to be wound back etc. So my question is, do you believe that the Liquor Commission has a role, has a capacity to provide an alcohol education component or not necessarily directly, but to co-ordinate or to have some sort of linkage?



**Mr RICE:** I acknowledge that there is a lack in that regard but I don't believe that the Office of Racing Gaming and Licensing has a charter to involve itself in any sort of education campaign. The body that did have that responsibility, as you mentioned was the Living With Alcohol program people, within what was Territory Health Services. That program was wound down for whatever reason but I believe that the education program, withstanding, having been wound back in that organisation that agency, still should resolve within that agency. Their the ones that have got the best appreciation in terms of the actual harm that is accruing but can I just add that, in the days of Living With Alcohol program there were 2 staff from that program outposted to my office, so there was a great link and great co-ordination.

**Mdm CHAIR:** Would they assist the Commission David, in terms of weighing up the argument and looking at the health impact.

**Mr RICE:** Definitely. It had 1 Aboriginal Health Officer, or Liaison Officer, I forget the particular title that it was given, but that person would go out and review the effort to see of restricted area provisions, in the various dry areas of the Territory. Anyone that was looking at a license application, that person would go and consult with the community and they were generally of Aboriginal background so they could relate very well to the community.

**Mr KIELY:** When you talk about the education there, and you talk about the alcohol and population of drinkers, what about in cases of say, New Years Eve at the community club. Do you work with the council and say 'okay there is a license over here and these are the requirements of the license' and try and raise the level of understanding and awareness of council members as to requirements under the law, so it has more empowering of the governing body rather than, -----with the governing body to understand the law to be able to assert their knowledge and therefore assert the law. So then there is ----rather than saying to the individual, this is more looking at the controlling body, which I see in this case I see is the council, not so much the club.

**Mdm CHAIR:** The club is a legal entity in its own right. Council doesn't control the club.

**Mr WOOD:** No, it is violently separate.

**Mdm CHAIR:** And sometimes it is an obligation of the nominee or the licensee, I mean he is the one that gets the license and he has a duty of care to his club executive in his club.

**Mr KIELY:** Yes, I was just thinking----when we were down there, we were bridging the gap.

**Mr McADAM:**-----you ask me to give my answer to Len, but I mean in the case of that particular community, there are obviously has been a big problem over a long period of time, okay. So you guys have got certain compliances as soon as you walk out of it, you know what I mean, until you call back the next time.

**Mr RICE:** Yes.

**Mr McADAM:** So when I say capacity, I mean to be able to say perhaps to the licensee or the members of that club, 'listen you have this duty of care for these reasons', so as part of a penalty, I don't know if that is the right word, 'but as opposed to fining you or as part of a fine, we want you to fund a alcohol, education program'. That sort of stuff, it's a little bit different, but I believe on some occasion, it depends on what will work, but perhaps the commission should have that capacity.

**Mr KIELY:** Apart from granting a license?

**Mr McADAM:** Yes, you know what I mean, as opposed to just saying 'yes, no, yes, no'.

**Mr RICE:** I will briefly respond and then I will hand over to Peter Jones. But the events of New Year have certainly focused our minds on the need to involve the council and the people, in managing the situation on both Tiwi Islands. And to that end, Peter has been instrumental as our man on the ground over there, in trying to get them to recognise the need for a liquor management plan. And certainly an education component could be part of a condition put into the license as a result of that, they are still working on that.

**Mr McADAM** My point is, you could direct that now if necessary.

**Mr RICE:** We could.

**Mr JONES:** It could, and indeed the club in the past has funded some programs like that. Funding has gone to, I am not quite sure if it was the Tiwi Health Board or the group that was there before the Tiwi Health Board was established. The club has provided some funding in the past for mental health and other sort of programs in those areas, I can't tell you what things they are funding at the moment though.

**Mdm CHAIR:** Can I, just before you answer because I am going to have to go, I have got to get on a charter, thank you for appearing. I will hand the CHAIR over to you Elliot if that is alright, before I go. See you everyone.

**Mr KIELY:** While we are on the subject of the club, not substance abuse as such, but is there anything prohibiting community clubs from applying for a poker machine license.

**Mr RICE:** Yes, currently poker machine licenses are only available to licensed premises with a take away facility. That restricts a lot of communities. There are some communities with limited take-away facilities but they have never seen fit to apply for a license and I think given the criteria that were applied to assessing their application and then subsequently, that are considered by the Commission in approving an application, I can't think of one club that would be suitable for housing a management of poker machines. So the chances of them getting poker machines would be very, very limited.

**Mr WOOD:** Because there is a lot of gambling going on... ..

**Dr LIM:** Then overall, has the alcohol consumption in the Northern Territory increased or decreased?

**Mr RICE:** I believe it has increased.

**Dr LIM:** Okay. My next question is, I suppose there is always a hard-core co-hort of alcohol consumers in the Territory. I wonder whether the increase in alcohol consumption in the Territory, is due to the hard-core co-hort drinking more and the general population, actually drinking less? Is that a fair assumption to make or not?

**Mr RICE:** Look, it is a complicated matter, I think the final report of the Living With Alcohol program, was that there might have been an overall increase in the amount of liquor consumed in the Territory, but on a per-capita basis it probably hasn't increased and the amount of lighter alcohol has increased in contrast to heavy alcohol. So you can say by volume that there might have been an increase, but then you look at it per-capita and you look at the actual alcohol by volume, the volume of the pure alcohol, and it has probably decreased.

**Dr LIM:** I just sense that that has actually happened. The hard-core co-hort are actually increasing in their consumption, but generally the people are becoming more health conscience and are being more concerned. It is a gut feeling, I have got nothing to back that up with but it is just what I observe.

**Mr WOOD:** That is what alcohol is, a gut feeling.

**Dr LIM:** No, no. It might be a gut feeling but this gut feeling has never had any alcohol for years.

**Mr WOOD:** I actually have the opposite and I was going to ask you a question about marketing because I see the types of drinks that are being drunk now, it has shifted dramatically away from beer to more of these sort of designer drink. And I was just going to ask, do you have a role in looking at the type of marketing of alcohol products and it's possible effects on younger drinkers and I refer especially to the marketing of all the coloured drinks, which are vodka mainly, it doesn't taste anything like vodka they taste like lemonade, or whatever it is Mulberry and all those things. Which are basically-----and as the figures come out that binge drinking is best seen in amongst young females and is on the increase, is this part of your role or is it governments role?

**Mr RICE:** It is certainly part of my role to make the impacts of any new drinks that come on the market, and to relate to my -----as to what their experiences might have been. There are some products that have been attempted to be marketed in the Territory and we have just said 'No', the sorts of things that we are talking about are the Icy-pole sticks, that have been available in nightclubs.

When you look at the actual facts behind these things, they are certainly marketed at young people, they are certainly to attract people to drink but the amount of alcohol in one of those Icy-pole sticks is minuscule compared with the amount of alcohol in a standard beer. You would have to, I think my calculations are, you have to consume about 5 of those to get anywhere near a standard beer and the price of them was about twice the price of a standard beer, so the economics of it suggested that it wasn't going to be a thing that was abused anyway, but it was certainly a gimmick to attract people into drinking.

I think it is just the way the community has matured, if I can use that word, in that going back even before the 20 years that Sue went back on earlier, you hardly saw females drinking in licensed premises anyway.

**Ms CARTER:** That is why I don't know.

**Mr RICE:** And I think the type of drinks that you are talking about Gerry, are the ones that are designed to make sure that more and more younger females come onto licensed premises, which in turns attracts the younger guys to those premises to make the business grow.

**Mr WOOD:** Well it is cool. You go to-----they marketed a cool product, it looks bright, lights up a whole fridge, it is meant to attract. The point is that, whether we've matured or not, if the health statistics are showing that we are getting more health problems for instance, from the consumption of alcohol, it may not always be in sense of alcoholics, but whether we are getting other related problems occurring. It is a case of the big companies basically doing their thing, which is a profit thing, as against the overall health of the community?

**Mr RICE:** I don't think that you can jump to the conclusion that the availability of these designer drinks is contributing to increased levels of harm. Certainly it may be contributing to increased levels of consumption in certain categories within the community, but our primary concern is with levels of harm. And whilst the consumption of these drinks is up, and there is no evidence being brought to my attention or of my inter-state counterparts, to demonstrate that the availability of those drinks has done anymore than bring new people into the market, as opposed to increased harm.

I think we have to accept that as a legitimate marketing job.

**Dr LIM:** I was just looking at what is like when you use to by 'Star Wine' and ----- . I mean that was the drink of our years, that was the drink, the cheap university drink because you couldn't afford anything else.

**Mr KIELY:** I get to feel that when we talk about youth binge drinking and you know, 16 to 25 year olds. What sort of trends are we seeing on the take-away market, because I know within my seat the drink-driving laws and all this sort of thing, people are tending to by the drink and take it home and they will drink at home.

These take-aways, and particularly in my co-hort, have we got any information on that because the health issues of my group will be suffering. I am not looking at the pub at 2 in the morning, but turning up with-----and all this sort of business, what have we got on take-aways.

**Mr McADAM:** I wouldn't mind betting that Indigenous communities would be 90%, in terms of take-aways.

**Dr LIM:** Mr CHAIRman excuse me, thank you. (Dr Lim leaves room)

**Mr RICE:** I certainly believe that the way take-away facilities are managed is pretty reasonable, but that doesn't mean that they don't contribute to unreasonable levels of harm in the community. It is the way people access them, by getting an older person someone who is 18 or above and sober, possibly not even a drinker to go and buy legitimately form the take-away. So the licensee or the take-away attendant is doing nothing legally or morally wrong. But once that grog gets out into the public area, whether it be down by the river or put in the back of a car and snuck into a dry community, it is not being consumed in a controlled environment.

You could perhaps argue for lowering the legal drinking age, where people will be forced to, or perhaps encouraged to drink in a controlled environment, not that I am encouraging that, but I think most of the problems that we perceive are

associated with alcohol do occur through liquor that is accessed legally through take-aways and then consumed in a way that produces harm.

**Mr KIELY:** And that is -----your profits, if it sold legally and everything complies on the premises then that's it.

**Mr RICE:** There is some thought from that if we can demonstrate that a licensee is not adhering to his duty of care requirements. In other words, if we can prove that he was aware that that person who was buying the alcohol was taking it back over to the Todd River bed and it was going to be consumed there by people he knew were acquaintances of this person and they were prone to becoming intoxicated everyday through this legal availability of alcohol, then I think we would have a case to put to the Commission that that licensee is not fit and proper to hold a license. But it is a pretty hard chain of events that you have got to link to be able to prove that the person is not fit and proper.

**Ms CARTER:** With regard to licensed corner shops in the Northern Territory, is that quite an unusual event across Australia to have. Like for instance, in the Westralia Street Shopping Centre you would be aware that there are 2 small goods shops with licenses 150 yards apart. To my mind we have over-licensed these sorts of places, but is that unusual in Australia? or it is a... ..

**Mr RICE:** The jurisdictions are split, I have actually got the figures, I think from memory in relation to supermarkets the Northern Territory, Western Australia and I think Queensland don't allow them but the other jurisdictions do. Whether they... ..

**Ms CARTER:** Or the other way around, because we license these supermarkets

**Mr RICE:** Oh sorry, I know there is 3 that don't.

**Mr KIELY:** Victoria does.

**Mr RICE:** I think it is Western Australia, Queensland and Tasmania perhaps that don't, the other do. But in relations to the others that do I don't know whether they actually, what there conditions are, whether they take ----- to account or whether they just say 'if you are a supermarket than you are allowed to sell liquor'. The problem that you then have is problems of discrimination where, and particularly to NCP principles, if you allow 1 person or 1 person who does it as an activity to do and another person who is equally qualified or equipped to do it, and you prevent him from doing it, then you are in breach of national competition.

So if you allow 1 supermarket to sell liquor and then you don't allow another one just on the basis that there is too many liquor outlets, the NCP won't wear it. And you will have all sorts of problems.

**Mr KIELY:** That is how Queensland, the -----are getting around in Queensland I think, in all the clubs.

**Mr RICE:** Yes, because in Queensland to have a take-away liquor outlet you have to own a hotel, they call them 'stand alones' but they are allowed into a hotel.

**Mr JONES:** Your outlet doesn't have to be part of you hotel in Queensland, but it has to be part of your hotel license.

**Mr RICE:** Say if Woolworths, brought a hotel under its name or a -----then they could have a take-away.

**Mr JONES:** Can I just say the Commission's approach to licensing supermarkets is that the availability of liquor has to be ancillary to its main line of groceries and other items. So liquor is always ancillary. And to back that up we have got an application before the Commission that is hopeful of -----in Smith Street being able to open just its liquor store on a couple of days over Christmas/New Year when its grocery items will be closed, whilst the groceries available out at the other 'Woolies' store, which does not have a liquor license.

I would suggest that the Commission will hold its ground that liquor is ancillary to groceries in a supermarket environment and they have got no show of getting that approved.

**Ms CARTER:** Is there any move, for example that particular example in Westralia Street 2 premises and a park opposite. When I had my office there, there was calls from some people that I should be doing more to move the St. Vincent De Paul centre away, with the belief that it was the St. Vincent's centre that was causing the average man problems in the park.

While it went on there and I became more aware of the problems, I have now got the impression that St Vincent's has nothing to do with the problem there at all. And it is the 2 supermarkets who sell alcohol and anywhere in the Territory where you have got a supermarket selling alcohol or a take-away selling alcohol and a park, you are going to have what is perceived as an itinerant problem.

**Mr KIELY:** Not in Wulagi!

**Ms CARTER:** Not in Wulagi, why not?

**Mr KIELY:** Not in the Wulagi area.

**Mr WOOD:** Because Len goes around at night with his big stick.

**Ms CARTER:** Why not?

**Mr McADAM:** Can I just say, did you want either gentlemen to respond to that?

**Ms CARTER:** Well if he could just respond, because I know there I talk from time to time about by-backing licenses from supermarkets and stuff like that. Is there any progress on this sort of situation?

**Mr RICE:** Nothing is happening with by-back but in terms of 2 liquor licenses being in places such as Westralia Street, if you took 1 away I don't think there would be any less alcohol consumed.

**Ms CARTER:** No, you are right.

**Mr RICE:** So it is just not the number of liquor outlets. I think any liquor outlet that is in close proximity, not only to a park but to some other facility that is available to support people who are prone to drinking in public, then you have got a reasonable big problem. So I think to a certain extent the location of St. Vincents is a factor.

**Ms CARTER:** Contributes?

**Mr McADAM:** Most of us have got other commitments, did you guys want to sum up in any way or do you have any other questions, otherwise we are going to have to... ..

**Ms CARTER:** Just perhaps if you could comment, how do you feel things are going in the Territory?

**Mr RICE:** When I joined the Liquour Commission, which was probably 7 or 8 years ago, there were all sorts of extremes about 'blood houses', drunken activities in various premises around town. There was the crowd controllers who would be punching someone and their bloody faces would be on the pages of the paper... ..

**Mr KIELY:** -----strip joints everywhere.

**Mr RICE:** Strips joints everywhere, I will take that thank you. But I think the perception, certainly my perception is that there has been a vast improvement in all of those activities, or the problems that were associated with that activities, because the activities are no longer there.

So I think things are improving, and I think we still have a long way to go and I think the focus shouldn't be so much on the itinerant drinking in certain areas of urban Northern Territory, but as to why those itinerants happen to be in those urban areas, and that is a very complex matter in itself.

**Mr McADAM:** Thank you both very much, it has been enlightening as always. Thank you for coming in, both Peter and Robert. I don't know -----particularly in my electorate.

**Ms CARTER:** And mine.

**Mr McADAM:** I wish you and your families all the best for Christmas, don't drink too much over Christmas. And also just before I go I want to extend our appreciation to Pat, Liz and Kim for their support. Is it Kim?

**Mr KIELY:** Yes.

**Mr McADAM:** For their support over the duration of the year, for our committee the Substance Abuse Committee. So thank you have a nice Christmas. And also to other committee members, have a great time, keep safe. And that is it for 2002, all the best.