

# Director-General of Licensing

## Decision Notice

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<b>Matter:</b>	Application for Variation of Conditions of Liquor Licence
<b>Applicant:</b>	Milikapiti Sports & Social Club Inc Milikapiti, Melville Island
<b>Nominee:</b>	Mr Garry Cross
<b>Licence Number:</b>	80803649
<b>Legislation:</b>	Section 32A of the <i>Liquor Act</i>
<b>Decision of:</b>	Director-General of Licensing
<b>Date of Decision:</b>	10 September 2015

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### Background

- 1) The Milikapiti Sport & Social Club Inc (“the Club”) operates licensed premises located at the community of Milikapiti on Melville Island. The Club has been in operation for many years and was previously licensed for the sale of alcohol for consumption on and away from the premises. On 19 October 2007, as part of the Australian Government’s emergency intervention, the conditions attached to all liquor licences located on the Tiwi Islands were modified to restrict the strength of alcohol sold and the hours of trade. The changes to licence conditions for the affected premises included the removal of the authority to sell takeaway alcohol.
- 2) A liquor permit system has been in place for the Tiwi Islands for many years and, following the banning of takeaway alcohol sales from the Tiwi Island social clubs (including Milikapiti), residents holding a permit purchased their alcohol by placing orders with licensed premises in Darwin, following which the alcohol was shipped to the Tiwi Islands by weekly barge services. Orders for alcohol purchased by permit holders were limited to one carton of light or mid strength beer; or 2 six packs of full strength beer; or 2 six packs of premix drinks; or 3 bottles of wine.

### Current Situation

- 3) Mr Garry Cross, as Nominee of the Club, has applied pursuant to section 32A of the *Liquor Act* (“the Act”) for a permanent variation to the Club’s liquor licence conditions to again allow for the sale of takeaway liquor from its premises. Mr Cross has also sought a waiver of the requirement to advertise the application for variation of licence conditions.
- 4) On 14 November 2014, prior to lodging the application with the Director-General, the Club consulted with the Hon Minister Scullion, Federal Minister for Indigenous Affairs, seeking his views on the reinstatement of takeaway alcohol sales from the Club. Minister Scullion’s response highlighted that he is open to endorsing takeaway alcohol sales on the Tiwi Islands so long as the following conditions are met:
  - there is no increase in the strength and volume of alcohol purchased;
  - that mitigating harms in alcohol protected areas are addressed;
  - permit conditions are strengthened; and
  - that school attendance is considered within permit conditions.
- 5) Those issues have been addressed by the applicant in its submissions in support of the variation of licence conditions to authorise takeaway sales.

- 6) The Nominee has submitted that a committee will be established, in addition to the Social Club Committee, to determine how surplus funds from takeaway sales from the Club will be spent within the community, including on alcohol action initiatives to be developed to support demand and harm reduction. The Nominee has also agree to provide detailed sales statistics for all local takeaway sales so as to ensure there are no adverse outcomes with the reinstatement of that service to residents. That reporting will also allow for monitoring of the concerns raised by Senator Scullion

### **Comments from Additional Stakeholders**

#### **Northern Territory Police**

- 7) NT Police, both at the local level and through the Drug and Alcohol Policy Unit, have been consulted in respect of the application. Whilst NT Police do not oppose the application, concerns were expressed in respect of the lack of a permanent Police presence located at Milikapiti. Concerns were also raised in respect of the Club being the only organisation selling takeaway alcohol to Milikapiti residents and sought further information in regard to the establishment of a permit committee and the conditions that would be attached to liquor permits issued to residents.
- 8) It should be noted that there is no intention to direct permit holders to purchase their takeaway exclusively from the Club. Permit holders will still be entitled to purchase their takeaway alcohol from licensed premises in Darwin should they chose to do so. In reality it is anticipated that the majority of persons purchasing takeaway alcohol will utilise the convenience of being able to purchase directly from the Club in their own community rather than place an order and wait for the barge delivery.

#### **Northern Territory Department of Health**

- 9) The Primary Health Care District Manager supports the application for takeaway alcohol sales through the Club and, with the profits from sales being invested back into the community, sees the proposal as a win/win situation.

#### **Tiwi Land Council**

- 10) Tiwi Council did not provide a formal response to the application, however representatives did participate in the community consultation and are in support of the application.

#### **Milikapiti Council**

- 11) The Manager of the Milikapiti Council was involved in the consultation and supports the application.

### **Consideration of the Issues**

- 12) Licensing NT Alcohol Policy and Compliance Officers have undertaken extensive consultations over the past six months on the Tiwi Islands to ascertain the degree of support for the application. The response from residents consulted was the Club should be permitted to sell takeaway alcohol on a Friday afternoon after work thereby allowing people to take the alcohol away from high density housing areas for the purpose of going hunting and camping. The community is aware through consultations, that if the application is approved it will be on the condition of an initial trial period of 12 months.
- 13) The Club submits that the ban on takeaway sales has had a detrimental effect on its cash flow and ability to contribute to community initiatives through profits generated from those sales. The prospect of future takeaway sales by the Club has been included in the Milikapiti Alcohol Management Plan which was endorsed by Alcohol Reference Group members on 27 August 2014.
- 14) The Club has also provided material in support of the application outlining the conditions under which takeaway sales will be conducted and the return of profit to community

initiatives. Of significance, the Club proposes to sell takeaway alcohol for one day per week only, being Friday afternoons for approximately one hour.

- 15) Additional measures proposed by the Nominee include permit holders being required to attend the Club personally for takeaway sales to be conducted. Records of sales will be compiled into a report to be sent to Licensing NT and local Police for the purpose of monitoring sales and preventing purchasers from exceeding supply limits.
- 16) It must be emphasised that the reinstatement of takeaway sales through the Club is not expected to result in an increase in the purchase or consumption of alcohol on the Tiwi Islands. Alcohol is currently available to residents via the order and barge delivery service. There will be no increase in the restrictions on the volume and strength of alcohol that permit holders may purchase with the only real change being the convenience of being able to purchase takeaway supplies locally rather than from Darwin based suppliers. The proposal is also likely to reduce or eliminate issues that have arisen in the past with the collection of alcohol from the barge.
- 17) In support of the request to waive the usual advertising requirements for applications of this nature, Mr Cross notes that extensive community and stakeholder consultation has been conducted to date and that word of mouth is likely to be more effective than a newspaper advertisement given the remote location of the community concerned.

### **Decision**

- 18) The Club is seeking the reinstatement of its authority to sell takeaway alcohol from its premises in Milikapiti. As noted above, there were no significant concerns raised in the course of stakeholder consultations and the majority of affected residents are in support of the application.
- 19) Under the proposal put forward such sales would only be available to residents of Milikapiti holding a current liquor permit. Takeaway sales would take place only on Friday afternoons. The types and amounts of alcohol able to be purchased will be the same as is currently available under the existing arrangement of pre-ordering for barge delivery from Darwin based suppliers.
- 20) I am satisfied, taking account of the significant community and stakeholder consultations that have taken place to date, that no public interest would be served in having the Applicant provide further notification of the application, such as notification in a local newspaper, as contemplated by section 32A(2) of the Act.
- 21) The objects of the Act must be taken into account when considering an application for a variation of licence conditions. In this instance I am satisfied that the re-instatement of the authority to sell takeaway liquor from the Club will not have any negative impact on the social amenity of the community. The proposed hours of trade are extremely limited and significant arrangements have been planned for the management of the takeaway sales and the monitoring and reporting of any negative trends or occurrences of anti-social behaviour.
- 22) In addition, the approval of the application will provide greater regulation and oversight of takeaway alcohol sales than is currently possible with the order and freight arrangements currently in place. The variation will also result in Milikapiti residents being offered a choice in respect of the business from which they purchase takeaway alcohol. Whilst it is anticipated that most clients will purchase their alcohol from the Club the option of purchasing from the current Darwin outlets for delivery via barge remains available.
- 23) The fact that the profits from takeaway alcohol sales will be directed back into the community presents a compelling argument for the approval of the application. Similarly, the Clubs good record of managing its venue and the sale of alcohol prior to the takeaway

authority being removed from the licence conditions militates in favour of approving the very restricted hours of takeaway trade requested.

24) In accordance with section 32A of the Act the conditions attached to the liquor licence for the Milikapiti Sports & Social Club are varied by:

i) Inserting in the current Trading Hours Condition, under the trading hours for the Club

**(b) Takeaway (Trial Period 12 Months)**

Takeaway trading hours for Milikapiti Sports & Social Club shall be between:

Friday 16:30 and Friday 18:00

If a Public Holiday is declared on the Friday, then Takeaway sales only shall take place on the Thursday previous between 16:30 and 18:00 only

**Exceptions**

No Trading on Good Friday and Christmas Day

ii) And, Inserting after the Trading Hours Condition

**Permit Takeaway**

Takeaway is available to current listed Permit Holders who are residents of the Milikapiti Community only.

The permit holder must be present in order for the sale to be conducted.

The following amounts are allowed for takeaway sale, under permit conditions:

- One (1) carton of light beer (24 x 375ml cans, less than 3%); or
- One (1) carton of mid strength beer (24 x 375ml cans 3-4%); or
- Two (2) six packs of full strength beer (12 x 375ml cans over 4%); or
- Two (2) six packs of premix drinks (12 x 375ml); or
- Three (3) bottles of wine (750ml not fortified)

**Post Purchase**

Liquor sales that are takeaway are not to remain on the Licensed premise, after the transaction.

**Takeaway Reporting**

All Takeaway sales are to be registered electronically, against the listed permit document, sent from the Director-General, every Friday morning (or Thursday in the case of a Public Holiday)

This document is to register the permit holder that was supplied, as well as quantity. This document is to be electronically update with sales and sent to Police on the following Monday, for any compliance checks against barge delivery to permit holders.

A statement, in the form of a Statutory Declaration, is to be sent to the Director-General, every 3 calendar months from commencement of the Takeaway Sales trial stating the combined sales and profits from sales and outlining the expenditure to community initiatives.

iii) And, Replacing the Restricted Sales Condition wording with the following:

Authority restricted to mid strength and light alcohol beer sales only, with an alcohol per volume content of 3.99% or less, except for Takeaway allowance.

- 25) The variation of conditions shall commence on 16 October 2015 remain in force for a period of 12 months from that date. Following that period the operation of the Club, and particularly, takeaway alcohol sales, is to be reviewed to determine whether any adverse consequences have arisen as a result of the approval of the sale of takeaway liquor.
- 26) In determining to allow takeaway sales for one and a half hours, consideration was given to the number of currently active permit holders in the Milikapiti community. To enable the licensee to adequately control the provision of takeaway liquor it is seen that this period of time should allow an orderly service to be conducted.

### **Review of Decision**

- 27) Section 120ZA of the Act provides that a decision of the Director-General, as specified in the Schedule to the Act, is a reviewable decision. An application for a variation of liquor licence conditions under section 32A of the Act is specified in the Schedule and is a reviewable decision. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal ("NTCAT"). Any application for review of this decision must be lodged with NTCAT within 28 days of the date of this decision. For the purpose of this decision, and in accordance with section 120ZB(c) of the Act, the only affected person is the applicant.



**Seán Parnell OAM**  
**Director-General of Licensing**

10 September 2015