

Northern Territory Licensing Commission

Decisions on Whether Objections will Proceed to Hearing

Premises:	Milikapiti Sports and Social Club
Applicant:	Milikapiti Sports and Social Club Inc.
Nominee:	Leslie Bruce Woodbridge
Licence Number:	80803649
Objectors:	Mr Alan Hudson, CEO Tiwi Islands Shire Council A/Commander Robert Rennie NT Police, Fire & Emergency Services
Legislation:	Sections 4F to 47I of the Liquor Act and Section 28 of the Interpretation Act
Decision Of:	Philip Timney (Legal Member)
Date of Decision:	15 October 2011

Background

- 1) By Application dated 23 March 2011 Mr Les Woodbridge, Nominee of the Milikapiti Sports and Social Club Inc, sought amendments to the liquor licence conditions for the purpose of extending the trading hours by permitting trading on one extra day per week (Thursday), reinstating the authorisation for the sale of take away alcohol between the hours of 6.00 to 6.30 pm on Saturdays only and permitting the sale of mid-strength pre mixed spirits during normal trading hours.
- 2) The Application was advertised in the NT Times on Wednesday 6 July 2011 and Friday 8 July 2011 pursuant to Sections 119(3) and 32A(3)(a) of the Act.
- 3) The advertisement was as follows:

Mr Leslie Woodbridge on behalf of Milikapiti Sports and Social Club Incorporated, hereby give notice that it has applied to the Northern Territory Licensing Commission for a variation to its liquor licence condition at the premises known as "Milikapiti Sports and Social Club" located at Snake Bay, Melville Island NT 0822.

The Clubs current trading hours are as follows:

- *Tuesday 16:30 hours and Tuesday 19:30 hours*
- *Wednesday 16:30 hours and Wednesday 19:30 hours*
- *Friday 16:30 hours and Friday 19:30 hours*
- *Saturday 16:30 hours and Saturday 19:30 hours*

The proposed permanent variations are:

- *For the sale of Mid Strength RTD's (Ready to Drink) during normal trading hours 16.30 hours – 19.30 hours on Tuesday, Wednesday, Thursday, Friday and Saturday: and*

- *an additional Trading day of each Thursday between 16:30 hours and 19:30 hours; and*
 - *The sale of Takeaway Alcohol from the Club on Saturday (only) between the hours of 18.00 hours – 18.30 hours; consisting of:*
 - *12 X 375ml cans of full strength beer*
 - **Or**
 - *24 x 375ml cans of mid strength beer*
 - **Or**
 - *24 x 375ml cans of light beer*
 - **Or**
 - *24 x 375ml cans of mid strength RTD (Ready to Drink).*
- 4) Pursuant to Section 47F(4)(d) an objection must be lodged within thirty (30) days after the publication of the last notice, namely on or before Sunday 7 August 2011.
- 5) Section 47F of the Act prescribes the circumstances in which an objection may be made, specifies the grounds for objection and identifies the persons entitled to object to a particular application. Relevant to this application Section 47F provides -

47F Person may object to certain applications

- (1) *Subject to this Section, a person, organisation or group may make an objection to the following applications:*
- (b) *an application for a variation of the conditions of a licence, as notified under Section 32A;*
- (2) *The objection may only be made on the ground that the grant of the licence, variation of conditions, substitution of other premises or material alteration may or will adversely affect –*
- (a) *the amenity of the neighbourhood where the premises the subject of the application are or will be located; or*
- (b) *health, education, public safety or social conditions in the community.*
- (3) *Only the following persons, organisations or groups may make an objection under sub-Section (1):*
- (c) *a member or employee of the Police Force acting in that capacity;*
- (e) *an Agency or public authority that performs functions relating to public amenities, including health, education and public safety;*
- 6) Two objections were lodged in response to the application and the applicant who has provided responses to those objections pursuant to Section 47G of the Act. Under Section 47I of the Act the Commission must determine whether objections received are to proceed to Hearing.

Objection from Mr Alan Hudson, CEO Tiwi Islands Shire Council:

- 7) Mr Hudson's objection was contained in a letter dated 29 July 2010. As a result this objection was received within the prescribed period. The Tiwi Islands Shire Council is a public authority that performs functions relating to public amenities, including health,

education and public safety in the area where the licensed premises are located and, as such, is authorised to lodge an objection by Section 47F(3)(e) of the Act.

- 8) Mr Hudson advised that the Council had met on 27 July 2011 to discuss the application and that he had been instructed to lodge the objection on the following grounds. Council strongly opposes the request for Thursday trading as this is the day on which most people within the Shire are paid. The current break from trading allows families the opportunity to use their payments for family reasons without priority being given to drinking. Continued trading later in the week will also be disruptive socially and impact disruptively on work attendances. Council is not opposed to extended trading on Mondays as an alternative to Thursdays.
- 9) In respect of the application to reinstate the take away component of the licence, Council objects to this being available on Saturday afternoons as this will extend drinking in the community to Sundays. This will impact on the Council's responsibility for community safety and the demands placed on the Night Patrol. Council also notes the lack of a permanent Police presence in Milikapiti with only one Aboriginal Community Police officer stationed in the community. Council strongly opposes the proposal to sell take away alcohol on weekends. Council does not oppose the sale of mid strength ready to drink alcohol products.

Objection from A/Commander Robert Rennie, NT Police, Fire & Emergency Services:

- 10) Commander Rennie is a member of the Northern Territory Police Force and is entitled, pursuant to Section 47F(3)(c) of the Act, to lodge a complaint. The letter of complaint is dated 24 August 2011 and was lodged more than two weeks after the close of the objection period. No request for an extension of time within which to lodge the objection was made by Police, nor was any explanation provided for the lodgement of the objection outside the prescribed period.
- 11) Commander Rennie advises that Police do not support the application on the basis that the 3 days on which the Club is currently shut allows for more money in the community to be spent on basic food necessities rather than alcohol. He also expresses grave concerns in relation to a take away licence on the basis this may lead the Club to breach its licence due to pressures that will come with Club employees dealing with family members. He states that without a Police presence during take away hours there would be no guarantee that the limits on the quantity of alcohol available for take away sale would be adhered.
- 12) Commander Rennie noted Police concerns with the proposal to sell mid-strength RTD products as they are easier to drink than beer and will lead to increased consumption within the 3 hour trading period. He also states that Bundaberg Rum has the ability to make customers aggressive and violent and that the majority of violence investigations in the Melville Islands are directly related to alcohol and cannabis. He notes that the Pirlingimpi Police do not support any application that allows an extra day of trading and a take away licence which increases alcohol consumption within the communities.
- 13) Commander Rennie concludes by stating that the application goes against the direction of harm reduction and minimisation and supply reduction that stakeholders have been working towards since the NT Emergency Response.

Applicant's Response to Objections:

- 14) By letter dated 15 August 2011 Mr Woodbridge responded to the objection lodged on behalf of the Tiwi Islands Shire Council. He states that the community and Club members do not want trade trading on Mondays and Thursday is the preferred option due to coincidence with the barge delivery of alcohol on Fridays. He states that members who purchase take away alcohol will be required to leave the Club immediately with their purchase.

- 15) Mr Woodbridge states that they are seeking reinstatement of the take away licence so that members can purchase alcohol on Saturday's to take fishing or to consume whilst watching the football. He advises that there are two ACPO's stationed in Milikapiti not one, and that Police are forty minutes away at Garden Point.
- 16) Mr Woodbridge states the application in respect of mid strength RTD alcohol is a result of members, particularly women in the community, wishing to have this product available.
- 17) In respect of the objection from A/Commander Rennie, Mr Woodbridge responded by letter dated 3 September 2011. He noted that the objection was received outside the objection period. He states further that take away sales would not need to be monitored by Police as he, in his capacity as Manager of the Club, would be the only person issuing take away alcohol. He goes on to outline the processes and requirements for members wishing to purchase take away alcohol. He states that the Club should be judged on its merits and past performance and should be given the opportunity to demonstrate that it can operate under the proposed amendments to the conditions of its licence.
- 18) Mr Woodbridge makes a number of submissions in support of the Club becoming the permit committee and handling the supply of all take away in Milikapiti. That is not a matter that is concerned with the current application and is not a matter that is currently before the Licensing Commission for consideration.

Consideration of the Issues

- 19) The applicant has outlined the reasons for seeking the variations which are consistent with the aim of reinstating some of the licence conditions that were removed at the time of the Northern Territory Emergency Intervention.
- 20) As noted above, the objection lodged on behalf of NT Police was received some 16 days after the close of the objection period and, as a result, does not comply with the requirements of Section 47F(4)(d) of the Act. A strict application of that Section renders the Police objection invalid. However, in performing a function under the Act, the Commission must have regard to the objects of this Act and must perform its function in a way that is consistent with those objects.
- 21) Objects of the Act that the Commission must take into account include the minimisation of harm associated with the consumption of alcohol and the protection and enhancement of community amenity. In that regard the Commission would be greatly assisted by obtaining the views of Police who reside in and perform their duties in the community within which the liquor licence is located. The requirement for this type of input is more pronounced where a licence is located in a remote Aboriginal community where the Commission is unlikely to have access to contemporary and relevant information in respect of any harmful impact on the community arising from alcohol consumption that may be exacerbated by the licence variations sought in this application.
- 22) Clearly the acceptance of the late objection will have a detrimental impact on the Licensee, at least to the extent it will need to respond to two objections rather than just the one that was lodged within time. Any disadvantage that may arise to the Licensee in this instance is ameliorated to some extent in that the application would have been referred to a Hearing in any event in respect of the Council objection. It is also noted that the Police objection has been referred to the Licensee who has afforded itself of the opportunity to respond to the substance of the objection.
- 23) Balancing the above circumstances I find that, in the interests of ensuring the Commission has the best information available to it in order it to determine the application, the Police objection should be accepted and that objection should be considered at a Hearing. In order to "validate" the Police objection The Chairman exercised the power available under Section 127 of the Act to extend the time within which the Police objection may be lodged until 24 August 2011, being the date on which the objection was actually lodged.

24) For an objection to have validity it must raise the adverse impact of the proposed licence amendments to *the amenity of the neighbourhood where the premises the subject of the application are located or relate to the health, education, public safety or social conditions in the community*. On the basis of this requirement I consider the objections raised by the Tiwi Islands Shire Council and the NT Police Fire and Emergency Services are valid and require a Hearing.

Decision

25) The Commission has determined that the objections lodged on behalf of the Tiwi Islands Shire Council and Northern Territory Police Fire and Emergency Services are valid and require a Hearing pursuant to Section 471(7) of the Act.

Philip Timney
Legal Member

19 October 2011