

Northern Territory

LIQUOR COMMISSION

DECISION NOTICE

MATTER: VARIATION OF THE CONDITIONS OF THE FOLLOWING LICENCES

LICENSEES

LICENCE NUMBERS

5 Star Supermarket Nightcliff	80900858
Adelaide River Inn	81301156
Adelaide River Show Society	81401681
Airport Tavern	80100307
Alice Springs Golf Club	81402352
Alice Springs Turf Club	81402441
Alice Springs Hockey Association	81404794
Alyangula Golf Club	81403495
Anula Foodland	80900814
Aralia Supermarket	80900119
Ayres Rock Residents Club	80303242
Banyan Tree Resort	81115510
Beachfront Hotel	80315200
Berry Springs IGA X-press	80903666
Berry Springs Tavern	80318712
Bestfoods Darwin	80916778
Boab Resort	80900070
Buff Club	81401025
BWS – Beer Wine Spirits (Bakewell)	80919180
BWS – Beer Wine Spirits (Cavenagh Street)	80917513

BWS – Beer Wine Spirits (Gateway)	81018420 FLL1004
BWS – Beer Wine Spirits (Karama)	80904482
BWS – Beer Wine Spirits (Leanyer)	80903527
BWS – Beer Wine Spirits (Nightcliff)	80901630
BWS – Coolalinga	80916856
BWS – Katherine	80900131
BWS – Nhulunbuy	80904537
BWS Beer Wine Spirits – Humpty Doo	80904426
BWS Beer Wine Spirits- Casuarina	80903616
Casuarina All Sports Club	81415370
Cazalys Palmerston	81416400
Club Eastside	81402530
Cooinda Lodge Kakadu	81200350
Corroboree Park Tavern	80304179
Daly River Inn	81200388
Daly Waters Pub	81303324
Darwin Bowls and Social Club	81401469
Darwin Golf Club	81401431
Darwin IGA X-press	80901929
Darwin River Tavern	80304941
Darwin Sailing Club	81401392
Darwin Ski Club	81401269
Darwin Surf Lifesaving Club	81405009
Darwin Trailer Boat Club	81401081

Dinah Beach Cruising Yacht Association	81404283
Douglas Daly Park	81204990
Dunmarra Wayside Inn	81200366
Fair Price Foodland	80903795
Frontier Hotel	80100274
Fusion On The Wharf	81118453
Gateway Select Wine, Beer & Spirits	81019034 FLL1019
Gillen Club	81402891
Gove Country Golf Club	81401770
Gove Yacht Club	81401564
Gray Supermarket	80915260
H Hotel	80218601
Happy Foodland Supermarket	80900808
Hi Way Inn	81201209
Hibiscus Tavern	80303086
Howard Springs Supermarket	80901218
Howard Springs Tavern	80303036
Humpty Doo & Rural Area Golf Club	81416621
Humpty Doo Hotel Motel	80100418
Jabiru Golf Club	81403051
Katherine Club Incorporated	81400598
Katherine Country Club	81401075
Katherine General Store	80900703
Katherine Hotel	80101789

Lake Bennett Wilderness Resort	80315760
Landmark Alice Springs	81002471
Liquor Downunder NT	81018776
Liquorland Casuarina Shopping Centre	80900175
Liquorland Casuarina Village	80903600
Liquorland Coolalinga	80918948
Liquorland Mitchell Centre	80917125
Liquorland Northlakes	80903416
Liquorland Palmerston	80903361
Liquorland Pinelands (Holtze)	81018823
Litchfield Motel	80104092
Malak Supermarket	80900725
Malandari Store	80903761
Mataranka Supermarket	80900058
MINT Club	81401031
Moil Supermarket	80900820
Moulden Supermarket	80904159
Nightcliff Sports Club	81401342
Noonamah Tavern	80315190
Northern Territory Rugby Union	81416080
Novotel Atrium Darwin	80104103
NT Oriental Emporium	80900103
Nutrien Ag Solutions Ltd (formerly Landmark Katherine)	81115530

Nutrien Ag Solutions Ltd (formerly Landmark Darwin)	81016250
Palmerston Game Fishing Club Incorporated	81416460
Palmerston Golf & Country Club	81403928
Palmerston Tavern	80303220
Parap Fine Foods	80901852
Parap Road Store	80901652
Pine Creek Hotel	81301673
Pine Creek Turf Club	81416380
PINT Club	81401481
Pit Lane Liquor	81017321
Plaza Karama Tavern	80304474
Portuguese & Timorese Social Club	81415300
Post Office Store	80900325
Quality Hotel Darwin Airport	80818062 FLL1050
River View Motel & Caravan Park	80900042
Rum Jungle Tavern	80317827
Sandpalms Tropical Motel	81215590
St Mary's Football Sporting and Social Club	81404811
Stone House Wine and Kitchen	80318998
Stuart Hotel	80100963
Stuart Park Corner Store	80901846
The Bark Hut Inn	81200994 FLL1005
The Bell Bar and Bistro	80319095
The Cavenagh	80101040

The Hotel Darwin	80300296
The Lazy Lizard Caravan Park	80316511
The Lodge of Dundee	81304562
The Parap Tavern	80315250
Timber Creek Hotel	80304074
Top Springs Hotel	81203330
Tracy Village Social & Sports Club	81401508
United Coolalinga	80901363
United Humpty Doo	80901296
University Pirates Rugby Union Football Club	81416818
Victoria River Roadside Inn	81200372
Vintage Cellars	81000258
Virginia Store	80900092
Wagait Supermarket	80904232
Wagaman Supermarket	80901274
Walkabout Tavern	80316140
Wanguri Supermarket	80901824
Wharf Oyster Bar and Takeaway	81104982
Winnellie Cellars	81000208
Winnellie Hotel	80101056
Winnellie Supermarket	80900614
Woodroffe Fresh Food Supermarket	80915420
Wulagi Supermarket	80900864
Zuccoli IGA Fresh	80919500 FLL1023

LEGISLATION: Section 113, *Liquor Act 2019*

CONSIDERED BY: Mr Richard Coates (Chairperson)
Ms Jodi Truman (Deputy Chairperson)
Mr Bernard Dwyer (Health Member)
Ms Amy Corcoran (Community Member)

INTRODUCTION

1. The Northern Territory Liquor Commission (the Commission) determines to vary the conditions of the above-named liquor licences in the following manner:
 - a. To insert the following condition in the licence for all licensees outlined at the commencement of this Notice with such condition to come into effect 60 days after the date of this Decision unless the licensee satisfies the Director of Liquor Licensing (the Director) that; having regard to existing infrastructure, remoteness of the premises, cost of compliance relative to business size and any other relevant practical consideration, a longer period is required to install the CCTV surveillance system:

Closed Circuit Television Condition

The Licensee must install, maintain and operate a camera surveillance system in compliance with any requirements and guidelines prescribed by the Director or any Code of Practice issued by the Commission, including CCTV camera surveillance at the point of sale designed and operated so as to record information regarding the items purchased, the use of the BDR scanner, interactions between the purchaser and the salesperson, the appearance of the purchaser and the appearance of the salesperson. The licensee must retain all data captured by the camera surveillance system for not less than 14 days.

REASONS

Background

2. On 29 October 2021, in accordance with section 113(2) of the *Liquor Act 2019*, the Commission issued written notice comprising proposed variations of licence conditions together with reasons for the proposed variations (“the notice of proposed variations”) to the above-mentioned licensees (“the licensees”) and invited them to submit a response to the proposed variations within 28 days. See notice dated 29 October 2021.

3. The notice was copied to the following stakeholders:
 - a. Commissioner of Police, Jamie Chalker APM;
 - b. Hospitality NT; and
 - c. Retail Drinks Australia.
4. The Commission received responses from the following:
 - a. Milikapiti Sports and Social Club;
 - b. Endeavour Group Limited; and
 - c. Retail Drinks Australia.
5. The response from the Milikapiti Sports and Social Club ("Milikapiti licensee") sought exclusion from the proposed variation. The basis for this request by the Milikapiti licensee was as follows:

"Firstly all of our patrons getting takeaway have very stringent requirements already –

1. Permit required – this includes having an address in the community and proof that they live there
2. They must be a member of the club to be able to purchase takeaway
3. We have a manifest of who has purchased alcohol and where i.e.; barge – club, and they are marked off as they purchase from the club
4. They require their ID to be scanned on the BDR. – no ID, no purchase.

Further to this we are only open 1 night a week on Saturdays and they can only purchase 1 carton of mid strength alcohol (24 pack) or ½ carton full strength (12 pack).

The \$863 to purchase the CCTV would be the cheapest part as we would have to fly someone over to the island to do the installation (approx. \$1200) supply accommodation and the cost of their time.

I am considering upgrading all of my security at a later date as we have an Arlo system at the moment. Also to consider is that the CCTV would possible not capture the information you require as we work in a very small space with a wall between us and the customers.”

6. The response from the Endeavour Group in substance sought details of what should occur when an equipment malfunction occurred. It was otherwise generally supportive of the proposed variation.
7. In relation to the response from Retail Drinks Australia; this was in fact received on 26 October 2021, just prior to the issuing of the notice of proposed variation. It provided “recommendations” to the Commission. Those matters have been considered carefully by the Commission prior to finalising this Decision.

Consideration

8. Section 113(3) of the Act provides that the Commission may vary the conditions of the licence or authority as proposed in the notice or in another way the Commission considers appropriate after considering:
 - a. any response of the licensee submitted within the 28-day period;
 - b. the results of any hearing;
 - c. the public interest and community impact requirements.
9. In relation to the response from the Milikapiti licensee, the Commission had noted in its written notice dated 29 October 2021 that it accepted that for some remote areas there would be potential additional time and cost that may be required if the system were to be professionally installed and therefore agrees that some discretion would need to be afforded to those licensees.

10. With this in mind and noting the response from the Milikapiti licensee, together with the fact that the takeaway licence is only utilised for one and a half (1 ½) hours, one day a week, the Commission has determined it is reasonable in all the circumstances to exclude the Milikapiti licensee from this variation.
11. Although the Pirlangimpi Social Club did not provide a response, the Commission is aware of the conditions of its licence because of the Commission's recent decision to vary specific licences on 2 December 2021. As noted in that decision at paragraph 18, the Pirlangimpi Social Club is also restricted to takeaway sales on one day a week, namely Thursday. The Commission was also further informed by the Director that the Pirlangimpi Social Club has "similar significant restrictions" to that of the Milikapiti licensee and only utilises its takeaway license for two (2) hours one day a week. In these circumstances the Commission has determined it is reasonable in all the circumstances to exclude the Pirlangimpi Social Club from this variation.
12. In determining which licensees are affected by this variation, the Commission has relied upon the accuracy of a list of the relevant licences provided by the Director. The Commission notes it may be possible that there are other clubs and licensees like that of the Pirlangimpi Social Club and the Milikapiti licensee who have not provided a response to the proposed variation and therefore whose circumstances have not been closely considered by the Commission. It may also be that there are some anomalies within the list. However notice was given and no additional concerns were raised. Acknowledging these possibilities however the Commission encourages such licensees to come forward and to make application to vary their licence should they find the requirement to comply with this additional condition too onerous in all the circumstances of their licence.
13. The Commission has also considered the response from the Endeavour Group and proposes to issue a Code of Practice that will address the concern raised in relation to equipment malfunctions.

14. As noted previously, most licensees already have CCTV installed covering the point of sale and other than a requirement to now maintain the operation of that equipment and retain the footage for at least 14 days there has been no further submissions provided to the Commission to suggest there would be additional obligations or cost placed upon such licensees.
15. It is for these reasons that the Commission maintains its view that there would be benefit in having all takeaway outlets set out in this decision notice install CCTV surveillance at the point of sale to ensure compliance with BDR requirements and to reduce the incidence of sales to intoxicated and/or underaged persons, in addition to any other breaches of the Act.
16. In order that any adverse consequences associated with these changes might be monitored, the Commission has decided to delay the commencement of the variation for 60 days and to provide for some discretion to the Director considering certain matters.
17. The Commission notes the “recommendation” made by Retail Drinks Australia that there be a “12-month notice period” provided to applicable licensees. The Commission does not find there to be any proper basis on the material before it for such a lengthy notice period, however there will be discretion granted for the Director to grant a longer period where the Director has been satisfied that it is appropriate to do so.
18. Having been guided by the Purposes of the Act in section 3 and the considerations specified in section 49 of the Act, the Commission has determined that it is appropriate to vary the conditions of these licences in the manner detailed in paragraph 1 above.

Notice of Rights

19. Section 31 of the Act provides that any decision of the Commission for which a decision notice is required is reviewable by NTCAT and the following persons (relevantly) may apply to NTCAT for a review:

- a. in all cases – the Director;
- b. in the case of a decision regarding a licensee or a licensee’s licence, authority or licensed premises – the licensee.

20. In accordance with the substance of section 31 of the Act any application for review of this decision must be lodged within 28 days of the date of this decision

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by a series of loops and a long horizontal stroke ending in a sharp point.

CHAIRPERSON

Northern Territory Liquor Commission

20 December 2021

On behalf of Commissioners Coates, Truman, Dwyer, and Corcoran