NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER:	**APPLICATION FOR VARIATION OF CONDITIONS OF LIQUOR LICENCE**
REFERENCE:	**LC2019/131**
APPLICANT:	**Pirlangimpi Indigenous Corporation for Community Development**
PREMISES:	Garden Point MELVILLE ISLAND NT 0822
LEGISLATION:	Section 32A(1) of the *Liquor Act 1978*
HEARD BEFORE:	Mr Russell Goldflam (Acting Deputy Chairperson)
	Mr Bernard Dwyer (Health Member)
	Mr Blair McFarland (Community Member)
DATE OF HEARING:	15 January 2020
DATE OF DECISION:	11 November 2020

Background

1. The Pirlangimpi Indigenous Corporation for Community Development (**the applicant**) is the liquor licensee of the Pirlangimpi Community Club (**the premises**) at Garden Point on Melville Island, some 120km north of Darwin.

2. Pursuant to a licence issued by the Northern Territory Licensing Commission on 11 October 2006, the former licensee of the premises was authorised to sell liquor for removal and consumption away from the premises, on conditions.[1] Indeed, the Commission is informed that the premises had operated with a licence to sell take-away alcohol from the premises since 1990.

3. In 2007, the *Northern Territory National Emergency Response Act 2007* (Cth) (**the NTNER Act**) was enacted. Section 13(5) provided that:

[1] In 2007, the licensee was the Pirlangimpi Progress Association Incorporated. The licence was transferred to the current licensee in about 2010.

> The Commonwealth Minister may, by notice in writing given to the licensee and the Commission, determine that the conditions of the licence are varied in a way specified in the notice.

4. On 19 October 2007 the then licensee of the premises was given notice in writing that in accordance with s13(5) of the NTNER Act, the Minister for Families, Community Services and Indigenous Affairs, the Hon. Mal Brough MP, had decided to vary the conditions of the licence by, among things, disallowing takeaway alcohol sales (**the Brough Determination**). The notice given was in the form of a letter from Lynne Curran, "Group Manager, Office of Indigenous Policy Coordination" to Wayne Prior, Manager, Pirlangimpi Community Club (**the Curran notice**).

5. Similar notices were sent to the licensees of several other similar premises, namely: the Barunga Community Store, the Gunbalunya Sports and Social Club, the Milikapiti Sports and Social Club, the Nauiyu Club, the Peppimenarti Club, the Wudululk Progress Aboriginal Association Store, the Wurankuwu Aboriginal Corporation and the Nguiu Club.

6. One of these premises, the Milikapiti Sports and Social Club, is also located on Melville Island, about 20 km from Pirlangimpi.

7. In due course, the Northern Territory Licensing Commission issued varied liquor licences with conditions in accordance with the Curran notice to the former licensee of the premises.

8. On 10 September 2015 the Director-General of Licensing (**the Director-General**) granted an application by the Milikapiti Sports and Social Club to re-authorise it to sell takeaway alcohol, on conditions, for a period of twelve months, whereupon the licence conditions would be reviewed "to determine whether any adverse consequences have arisen as a result of the approval of the sale of takeaway liquor."[2]

9. In his decision, the Director-General noted that prior to lodging its application, the Milikapiti Club licensee had consulted with the Commonwealth Minister for Indigenous Affairs, seeking his views on the reinstatement of takeaway alcohol sales from the Club.

10. The Director-General went on to state:

> Minister Scullion's response highlighted that he is open to endorsing takeaway sales on the Tiwi Islands so long as the following conditions are met:

[2] Director-General of Licensing, *Decision Notice, Application for Variation of Conditions of Liquor Licence Number 80803649,* 10 September 2015, at [25].

- 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.[3]

11. On 24 September 2015 the applicant in turn applied to the Director-General to vary its licence conditions by reinstating takeaway sales, on Thursdays from 1600 hours to 1800 hours (**the 2015 application**).

12. The Director-General decided to defer consideration of the 2015 application pending completion of the Milikapiti Club's review. It appears that the applicant was informed of this decision. That review was not completed in twelve months, as originally envisaged by the Director-General. In the event, it took more than two years.

13. On 27 October 2017, the *Liquor Amendment (General Policy Direction) Regulations 2017* (NT) commenced, providing that when considering an application for a new take-away liquor licence, the Director-General "must take into account the government moratorium policy that no new take-away liquor licences be issued for two years".

14. On 6 November 2017, the Director-General, having completed the review, determined not to further vary the Milikapti Club licence conditions. Notwithstanding the completion of the Milikapiti Club review, it appears that the Director-General took no further action to process the 2015 application.

15. On 28 February 2018, substantial amendments to the Act came into force (**the 2018 amendments**), including: the insertion of s24(2) into the Act, the effect of which was to prohibit the issue of new takeaway licenses for a period of 5 years; and a requirement for applicants to satisfy the Commission that approval of applications meets a public interest and community impact test.

16. The applicant subsequently inquired with Licensing NT about the progress of its 2015 application, and was invited to make a further application, which it did on 28 August 2018 (**the 2018 application**). The Commission accepts the applicant's contention that it lodged the 2018 application in the mistaken belief that the 2015 application was not pending because it had either not been received by Licensing NT, or that it had been considered and refused by the Director-General.[4] The 2018 Application was incomplete in that it did not include material addressing the public interest and community impact test.

[3] Ibid, at [4].

[4] There is independent evidence that Licensing NT officers shared this mistaken belief: see paragraph 58 below.

17. It appears that no significant steps were taken by the Director-General to further progress the 2018 application until 21 June 2019, when advice was sought from the Solicitor for the Northern Territory regarding the effect of s24(1) on the 2018 application. Advice was received on 12 September 2019 to the effect that the s24(1) prohibition barred the 2018 application from being granted. As will be seen, this advice, which was based on somewhat faulty instructions, was unhelpful.

18. On 13 December 2019, the Director of Liquor Licensing (**the Director**), after further consideration of the history of the matter, referred the 2015 application to the Commission, purportedly pursuant to s150 of the Act. Section 150 is a transitional provision regulating the procedure to be utilised for dealing with applications made before the commencement of the *Licensing (Director-General) Act 2014*, on 1 January 2015. On receipt of the referral, the Commission formed a tentative view that the applicable transitional provision of the Act was not s150, but s169, which regulates the procedure to be utilised for dealing with certain applications made before the commencement of the *Liquor Legislation Amendment (Licensing) Act 2018*, on 28 February 2018.

19. Following receipt of the referral, the Commission identified the following four preliminary issues, namely:

    1. Was the letter dated 19 October 2007 by Lynne Curran to Wayne Prior valid notice of a valid determination by Minister Brough to vary the conditions of the licence pursuant to section 13(5) of the *Northern Territory National Emergency Response Act 2007* (Cth)?
    2. If the answer to Question 1 is yes, does the Determination prohibit the Commission from considering and granting the application?
    3. Does section 24(2) of the Liquor Act 1978 (NT) prevent the Commission from granting the application?
    4. Is section 169 of the Liquor Act 1978 (NT) applicable to the application?

20. On 15 January 2020 the Commission conducted a hearing into these preliminary issues. The Commission also consulted with the Commonwealth Minister for Indigenous Australians, Hon. Ken Wyatt MP, and received written submissions from the Director and the applicant. Final submissions were received by the Commission from the applicant on 21 March 2020.

Preliminary Issues

21. On 18 May 2020, following a delay occasioned by the suspension of normal business during the COVID-19 pandemic "lockdown", the Commission informed the parties that it had determined to answer the four questions above as follows:

1. Yes
2. No
3. No
4. Yes

22. The Commission notified the parties that it would publish its reasons for these determinations in the Decision Notice issued at the finalisation of the proceedings. These are the reasons.

Issue One: Was the Curran notice valid?

23. The applicant contends that the Curran notice was invalid because it was an instance of the purported exercise of a delegated power by a person without delegated authority.

24. Section 128 of the NTNER Act authorised the Minister to delegate his powers or functions under the Act to the Secretary of the Department; or, either directly or by sub-delegation by the Secretary, to an "SES employee" or "acting SES employee".

25. The applicant submitted that there was no evidence capable of satisfying the Commission that Lynne Curran was an SES employee or an acting SES employee. So much may be accepted: the Commission requested Minister Wyatt to provide it with the documents relied on by the Commonwealth to establish that the Curran notice was a notice given by the Minister. Minister Wyatt's response did not include any documents that were evidence that Ms Curran was a delegate of the Minister pursuant to s128 of the NTNER Act. In the absence of any evidence to support a finding that Ms Curran was a duly authorised delegate of the Minister, the Commission proceeds on the basis that she was not.

26. Accordingly, on the basis of the evidence made available to it, the Commission finds that if Lynne Curran had purported to exercise a Ministerial power that had been delegated to her, such conduct would have been beyond power.

27. In support of its contentions, the applicant submits that:

> The response by the Minister for Indigenous Australians dated 2 March 2020 asserts that the letter signed by Ms Curran was "*notice given by the then Minister for Families, Community Services and Indigenous Affairs*".

28. However, the terms used in 2020 by Minister Wyatt to characterise the exercise of a power conferred on his predecessor in 2007 can not and do not determine whether the exercise of that power was valid. The answer to that question depends on the terms of the statute conferring the power, and the terms of the instruments issued in connection with the purported exercise of that power.

29. The applicant submits that the Curran notice "is not a notice in writing from the Commonwealth Minister as required by s13" of the NTNER Act.

30. In the view of the Commission, this submission is misconceived, because s13 of the NTNER Act does not require that the notice be "from the Commonwealth Minister". The Commission construes s13(5) of the NTNERA Act as a provision that:

    a. confers on the Minister a power to determine that the conditions of a licence be varied;
    b. imposes as a condition for the valid exercise of that power that the licensee be given written notice that a determination has been made; and
    c. provides that the notice must specify the way in which the licence has been varied.

31. In the view of the Commission, s13(5) neither expressly provides nor necessarily implies that the Minister must personally (or by his delegate) issue the notice.

32. Relevantly, the Curran notice states:

> The Minister has asked me to inform you of *his decision* to vary the conditions of your licence, in accordance with subsection 13(5) of the NTNER Act. (Emphasis added)

33. Ms Curran does not assert that she made the decision to vary the licence conditions, or purport to act with delegated authority to do so. With the above words, she identifies herself as the messenger, not the author of the message.

34. This construction of s13(5) of the NTNER Act is supported both by common sense and judicial authority. Ministers, who work at the apex of large bureaucratic systems, make executive decisions. Their agents and servants then notify affected persons of those decisions. A requirement that the Minister be both decision-maker and notifier would be administratively impractical, and the Commission is satisfied that the legislature could not have intended that to be the procedure established by s13(5) of the NTNER.

35. As the Full Court of the Federal Court stated in *Northern Land Council v Quall* [2019] FCAFC 77; 268 FCR 228[5]:

> where a power or function is conferred on a Minister in circumstances, given administrative necessity, the Parliament cannot have intended the Minister to exercise the power or

[5] *Northern Land Council v Quall* [2019] FCAFC 77, 268 FCR 228, per Griffiths and White JJ (with whom Mortimer J agreed) at [47], citing *New South Wales Aboriginal Land Council v Minister Administering the Crown Lands Act (the Nelson Bay Claim)* [2014] NSWCA 377; 88 NSWLR 125, per Basten JA, at [12].

> function personally, an implied power of delegation (or agency) may be inferred.

36. In this case, the Commission infers that s13(5) implied a power of agency to public servants working in the Department of Families, Community Services and Indigenous Affairs (**FACSIA**) to issue notices at the direction of the Minister.

37. The applicant relies on *O'Reilly v State Bank of Victoria Commissioners* (1983) 153 CLR 1 (***O'Reilly***) in support of its contention that the NTNER Act does not imply "a wholesale delegation of powers to comparatively minor officials".[6]

38. Although *O'Reilly* was reversed by a subsequent decision of the High Court in relation to the issue of the scope of legal professional privilege, it remains an authoritative statement of the Australian law in relation to delegated authority.

39. Importantly, the majority in *O'Reilly* distinguished between a statutory power of delegation and an implied principle of agency. As Gibbs CJ stated:

> [W]hen a Minister is entrusted with administrative functions he may, in general, act through a duly authorized officer of his department… the functions of a Minister are so multifarious that the business of government could not be carried on if he were required to exercise all his powers personally.
>
> …
>
> there exists, as the Parliament must have known, a practical necessity that the powers conferred on the Commissioner [of Taxation] by the Act should be exercised by the officers of his Department who were acting as his authorized agents.[7]

40. Similarly, Wilson J stated:

> It seems to me that a clear distinction is to be drawn between the delegation of a power and the exercise of that power through servants or agents… No permanent head of a department in the Public Service is expected to discharge personally all the duties which are performed in his name and for which he is accountable to the responsible Minister.[8]

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[6] *O'Reilly v State Bank of Victoria Commissioners* (1983) 153 CLR 1, per Gibbs CJ at 12.

[7] Ibid, at 11-12.

[8] Ibid, at 31.

41. In the view of the Commission, the Curran notice is not an exercise of delegated power, but the exercise of the Minister's power though a servant or agent. Lynne Curran did not either use her own discretion to exercise a power, or purport to do so. She simply carried out the instructions she had been given by the Minister, and expressly said that this is what she was doing ("The Minister has asked me to inform you…").

42. The Commission has also considered whether the Brough Determination was itself valid.

43. Minister Wyatt provided the Commission with a letter (**the Brough letter**) signed by Minister Brough addressed to the Northern Territory Minister for Racing, Gambling and Licensing, Hon. Chris Burns MLA, dated 11 October 2007 regarding "the Northern Territory's *Review of Permits and Licensed Premises in Prescribed Areas*", the recommendations of which were attached to the letter. Recommendation 4 was that the licence conditions of the premises (together with the eight other premises identified at paragraph 5 above) be varied in the same terms as the variation set out in the Curran notice.

44. Minister Brough stated in his letter that "I support the Review's recommendations for licensed premises in prescribed areas, as attached. The Northern Territory Licensing and Regulation Commission should immediately advise the affected licences (sic)."

45. The Brough letter, when considered in conjunction with the Curran notice, is prima facie evidence that Minister Brough did determine to vary the applicant's licence conditions, in accordance with s13(5) of the NTNER Act.

46. The Commission notes the written submission by the applicant that "the language utilised in the [Curran notice] is not consistent with the language in [the NTNER Act], in that it does not reflect that the Minister has made a determination within the meaning of s13(5). At best the [Curran notice] speaks of a decision made by the Minister." The Commission rejects this submission. In the circumstances of this matter, there is no substantial distinction between a "determination" and a "decision".

47. Following the issue of the Curran notice, the conduct of the Northern Territory and Commonwealth authorities, and indeed of the licensee was consistent with a determination having been made by Minister Brough. The Club stopped selling take-away, and the Northern Territory Licensing Commission issued an amended licence that did not authorise the sale of takeaway liquor.

48. No evidence has been adduced to the Commission tending to rebut the prima facie evidence that Minister Brough made a s13(5) determination.

49. The Commission finds that the Curran notice was a valid notice issued on 19 October 2007 of a valid determination by Minister Brough made on or about 11 October 2007 to vary the conditions of the applicant's licence pursuant to s13(5) of the NTNER Act.

Issue Two: does the Brough Determination prohibit the Commission from considering and granting the application?

50. On 23 December 2019, the Commission invited Minister Wyatt to provide a response in relation to this issue. On 2 March 2020, Minister Wyatt replied as follows:

> As you know, under the *Stronger Futures in the Northern Territory Act 2012*, I hold concurrent powers with [the Commission] to vary conditions on liquor licences and liquor permits in Alcohol Protected Areas. As such in the first instance, it is recommended that any applications to vary licence conditions in the Northern Territory are made directly to [the Commission] for its consideration.
>
> In considering applications to vary licence restrictions, I understand the Northern Territory Government carefully considers whether any proposed variations in alcohol restrictions or licence conditions would result in an increase in alcohol-related harm.[9] Given the significant impact alcohol can have on individuals and communities, it is important to ensure that any proposed changes to alcohol management involve local people, do not disrupt families and maintain strong communities.
>
> I would appreciate it if you could continue to keep me updated on this matter.

51. The Minister's "concurrent powers" referred to above are conferred by *Stronger Futures in the Northern Territory Act 2012* (Cth) (**the Stronger Futures Act**), which superseded the NTNERA Act. Section 12(5) provides:

> The Minister may, by written notice given to the licensee and the NT Licensing Commission, determine that the conditions of the licence are varied in a way specified in the notice, from the day specified in the notice and for a period (if any) specified in the notice.
>
> Note: If the Minister proposes to make a determination under subsection (5), the procedure in section 13A must be followed first

52. Section 13A of the Stronger Futures Act provides:

> **13A Procedure before making determination modifying NT liquor licence or permit**
>
> (1) Before making a determination under subsection 12(4), 12(5), 13(3) or 13(4) that modifies a NT liquor licence or NT liquor permit, the

[9] Minister Wyatt appears to suggest that decisions regarding proposed variations of liquor licence conditions are made by the Northern Territory Government. In fact, on 28 February 2018, when the *Liquor Commission Act 2018* (NT) commenced, power to make these decisions was conferred on the Commission, an independent statutory authority.

Minister must consult the NT Minister and the NT Licensing Commission about the proposed modification by giving them a written notice.

(2) The notice must:
   (a) set out information about the proposed modification; and
   (b) invite the NT Minister and the NT Licensing Commission to give written comments to the Minister about the proposed modification before the end of the consultation period in subsection (3).

(3) The consultation period is:
   (a) the period specified in the notice, which must be at least 14 days after the day the notice is given; or
   (b) if the Minister agrees in writing to a longer period—that longer period.

(4) When making a determination under subsection 12(4), 12(5), 13(3) or 13(4), the Minister must have regard to any written comments of the NT Minister and the NT Licensing Commission that are given to the Minister during the consultation period in subsection (3).

53. Section 13A of the Stronger Futures Act, which had no counterpart in the NTNERA Act, establishes a more consultative scheme than its predecessor statute did for the orderly exercise of the "concurrent powers" of the Commonwealth Minister and the Commission.

54. The Commission infers from the statement by Minister Wyatt cited at paragraph 50 above that the Commonwealth does not consider that the Commission is prohibited by the Brough Determination from determining an application to re-authorise the applicant to sell liquor for consumption off the premises. This is because, to use Minister Wyatt's terminology, the Commonwealth regards the Minister's powers as being concurrent with those of the Commission.

55. Supported by a helpfully careful and detailed analysis of the Act and the NTNER Act, the Director similarly submits that s13(5) of the NTER Act does not fetter the Commission in varying the conditions of a licence under section 32A of the Act, although the Commission's decision can be overridden by the Commonwealth Minister. The applicant supports the Director's submission on this issue. The Commission accepts this submission

56. The Director has also recommended that "it would be prudent to seek the views of the Commonwealth Minister". That advice is consistent both with the course taken with respect to the 2015 Milikapiti application,[10] with the tenor of Minister Wyatt's communications with the Commission in relation to this matter,[11] and

[10] See paragraph 10 above.

[11] See paragraph 50 above.

with the consultative scheme established by s13A of the Stronger Futures Act.[12] The Commission accepted this advice, and sought the views of the Commonwealth Minister throughout these proceedings.

Issue Three: Does section 24(2) of the Act prevent the Commission from granting the application?

57. As mentioned above at paragraph 17 above, in 2019 the then Acting Director-General was advised that s24(2) of the Act prohibited the Commission from varying the conditions of the applicant's licence to permit the sale of liquor for consumption away from the licensed premises (**the 2019 s24 advice**).[13]

58. The 2019 s24 advice was premised on instructions that the only application on foot was the 2018 application. That was incorrect: the 2015 application was, and remains extant. Unlike the 2018 application, the 2015 application had been lodged before the statutory moratorium on new takeaway licences came into force (and moreover, before the Regulation referred to at paragraph 13 above was prescribed).

59. A further difficulty with the 2019 s24 advice is that it was premised on instructions to the effect that the licence had been "permanently varied… to remove conditions which permitted the sale of takeaway alcohol". Those instructions were arguably misleading in that they failed to advert to the specific terms of the Curran notice, which relevantly stated "No takeaway sales will be allowed", but did not expressly state that a determination had been made to revoke, let alone permanently revoke the authority to sell liquor for consumption away from the premises. Arguably, the Brough Determination had the effect of suspending the authority to sell takeaway alcohol, rather than revoke it.

60. Even disregarding these erroneous instructions, the Commission is disinclined to accept the 2019 s24 advice. Firstly, the tentative view of the Commission (notwithstanding a brief submission to the contrary from the applicant), is that the s24(2) prohibition is binding on the Commission, whether or not an application under consideration was made before the commencement of the prohibition.

61. Secondly, whether or not the applicant's licence was "permanently varied" by Minister Brough, or alternatively that its conditions were in part "suspended", the Commission's tentative view is that a licence variation by way of the restoration of authority to sell takeaway liquor for a licensee whose licence had previously authorised the sale of takeaway liquor does not constitute the issue of a "new takeaway liquor licence". If so, then s24(2) is not engaged by this application.

[12] See paragraph 52 and 53 above.

[13] This advice was settled and provided by Mr Timney, who at time was an officer of the Solicitor for the Northern Territory, before taking up his current appointment as the inaugural Director of Liquor Licensing on 1 October 2019.

62. In any event, in his submissions to the Commission, the Director now resiles from the s24 2019 advice, firstly, on the basis that the proposed takeaway condition would not be “new”, and secondly on the basis that the previous takeaway authority was not revoked, but merely disallowed for the time being.

63. The applicant adopts the submissions of the Director, and also submits that s24(2) is inapplicable to applications made before the moratorium commenced.

64. For the reasons advanced by the Director, the Commission finds that s24(2) of the Act does not prevent it from granting the application.

Issue Four: Is section 169 of the Act applicable?

65. This issue concerns which transitional provisions of the Act apply to the 2015 application. The determination of this issue has significant repercussions for the applicant: if the application were determined in accordance with s150, the applicant would not be required to comply with the substantially more stringent approval procedures established by the 2018 amendments.

66. The Director’s referral memorandum to the Commission had submitted that s150 was the operative procedural provision. However, at the preliminary hearing on 15 January 2020, all parties conceded that s169 is applicable.

67. That concession was properly made. Section 150 of the Act is expressed to apply to certain applications made before the commencement of the *Licensing (Director-General) Act 2014* (NT), which came into force on 1 January 2015.

68. Section 169 of the Act is expressed to apply to certain applications made before the commencement of the *Liquor Legislation Amendment (Licensing) Act 2018* (NT), which came into force on 28 February 2018.

69. The 2015 application was lodged on 24 September 2015. Obviously, s150 is inapplicable. The Commission finds that s169 is the operative transitional provision, the effect of which is that the Commission is required to determine the matter in accordance with the Act as in force after its commencement on 28 February 2018.

The Application

70. As a consequence of the determination of the preliminary issues, for the application to proceed the applicant was required, among other things, to publish notice of the application as specified by the Director, and to lodge material capable of establishing that the public interest and community impact test was satisfied.

71. During the hearing of the preliminary issues in January 2020, the Commission indicated that it was concerned to ensure that notification of the affected community on Melville Island would be effective and appropriate. Accordingly, on 18 May 2020, the Commission wrote to the Director as follows:

> The Commission requests that… you cause notice of the application to be given to members of the Melville Island Community using media and language suitable for community members.

72. The applicant elected to maintain the 2015 application and withdraw the 2018 application. On 15 October 2020 the applicant provided a public interest and community impact submission to the Director. On 28 October 2020 the Director transmitted an updated referral of the application to the Commission.

Consultation

73. The Director has informed the Commission that, in compliance with the Commission's request, notices regarding the application were displayed on the Notice Board at the Pirlangimpi Store. The applicant asserts that it has also used Facebook to notify the community of the application. The Director has also informed the Commission that "throughout 2016 Licensing NT personnel travelled to the community and undertook extensive community consultations, with all stakeholders."

74. The Director further informed the Commission that "for completeness, formal notification of the application was sent to Police and the Chief Executive Officer of the Tiwi Islands Regional Council."

75. The Director informed the Commission that in their response, NT Police raised objections to the granting of the application.

76. On 30 October 2020, Acting Deputy Chairperson Goldflam wrote to the Director as follows:

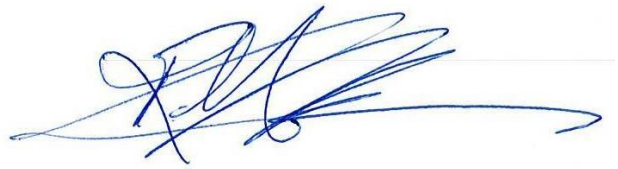
> Thank you for the Updated Referral of the Application for a Variation of Licence Conditions by Pirlangimpi Indigenous Corporation for Community Development dated 28 October 2020.
>
> I note that at paragraphs 46 and 51 of Mr Wood's Memorandum there are references to extensive community consultation. However, the brief does not appear to contain records of the conduct or results of this consultation. The Commission would be assisted in its consideration of this matter by evidentiary material in relation to this issue.
>
> I also note the email in the brief dated 13 October 2020 from NT Police to Mr Wood. On its face, the proposal by police that all three Tiwi licensees align their takeaway conditions appears sensible. This might be achievable by hearing this application in conjunction with a s113 review of the two other affected licensees. What is your view about adopting this course? In addition, the police propose a significant change to the current practice of supplying Tiwi residents with liquor by barge. What

is your view about how, if at all, the Commission could address this proposal?

Hearing interrupted

77. On 11 November 2020, the Minister for Small Business introduced the *Liquor Further Amendment Bill 2020* to the Northern Territory Legislative Assembly. If enacted, the Bill will terminate these proceedings on its commencement. The Bill also provides that "any previous decision of the Commission [in relation to this application] is of no effect."

78. So far as the Commission is aware, the Bill has not yet been enacted or commenced. In these unusual circumstances, the Commission considers that it is now in the interest of the applicant, the community and the administration of the Act to publish this Decision Notice, and the reasons for its determinations made on 18 May 2020.



Russell Goldflam

ACTING DEPUTY CHAIRPERSON, NORTHERN TERRITORY LIQUOR COMMISSION
11 November 2020

On behalf of Commissioners Goldflam, Dwyer and McFarland