

# NORTHERN TERRITORY LICENSING COMMISSION

## REASONS FOR DECISION

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<b>PREMISES:</b>	<b>MILIKAPITI SPORTS &amp; SOCIAL CLUB</b>
<b>LICENSEE:</b>	Milikapiti Sports & Social Club
<b>LICENCE NUMBER:</b>	80803649
<b>NOMINEE:</b>	Mr Nicholas Heenan
<b>PROCEEDING:</b>	<b>Complaint pursuant to Section 48(2) of the Liquor Act arising out of the conduct of the business at the licensed premises.</b>
<b>COMPLAINANT:</b>	Sergeant Tanya Woodcock
<b>HEARD BEFORE:</b>	Mr Peter Allen
<b>DATE OF HEARING:</b>	13 August 2001
<b>DATE OF DECISION:</b>	17 August 2001
<b>DATE OF THESE REASONS:</b>	27 December 2001
<b>APPEARANCES:</b>	Mr Kelvin McIntyre for the Licensee Mr Peter Wilson assisting the Commission

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The complaint was made out in two letters from Sergeant Tanya Woodcock of the Tiwi Islands Police. The letters were signed by Sgt Woodcock on 2 May 2001 and 7 May 2001 respectively and addressed to the Registrar of the Racing and Gaming Commission.

Strictly speaking the complaints should have been addressed to the Director of Licensing whose office replaced that of the Registrar upon the enactment of the *Northern Territory Licensing Commission Act* in February 2001. No submissions were made during these proceedings or at any other time in relation to the semantics of the addressee's title. The letters were accepted by the Commission as complaints pursuant to s48 of the Liquor Act 1978.

In her letter dated 2 May, Sgt Woodcock alleges that Mr Heenan, the nominee, is not a fit and proper person. Sgt Woodcock grounds this allegation on her concerns that Mr Heenan has sold take-away liquor to persons not holding an appropriate permit, and in particular, to relations of Mr Heenan. Sgt Woodcock advises that "full cartons are sold for take-away, despite the six-pack restriction.

In her letter dated 7 May, Sgt Woodcock supports her complaint with information that the Pirlangimpi Police attended the club on the night of Friday 4 May 2001 and made the following observations.

*Approximately 150 people attended the club during the two-hour opening period. Most of the patrons were observed to be extremely intoxicated prior to closing time, and were observed being served full strength beer in this state. The bar staff appeared not to take any consideration of the sobriety of the patrons. Unfortunately however, the attending Police were unable to control the sale of liquor due to the following reasons.*

*Bags of up to 12 beer cans were being purchased and handed over the fence to non-permit holders. This occurred regularly and required members to close down the side sections of the premises and remain at the boundaries to prevent the passing out of alcohol.*

*Patrons were purchasing numerous cans of beer and then exiting the premises through holes in the fences.*

*Patrons became aggressive and were arguing at the front gate. One highly intoxicated patron threatened to shoot Police members and was eventually arrested. Numerous other fights broke out in the community after closing time.*

In closing her letter Sgt Woodcock asserts that “the staff and Licensee of the Club do not have control of the premises” and expresses concerns regarding the inadequate fencing of the licensed area. She submits that “the Milikapiti Club should be closed until such time as the club committee are prepared to repair the premises, employ a Licensee who is capable of taking control of the premises, employ staff to patrol the boundaries and control the crowd, and implement a formal permit system for the sale of take-away liquor”.

At the commencement of proceedings, Mr Wilson informed the Commission that discussions between the parties had been fruitful and that the complaint “would be proven by consent”.

Mr Wilson advised that the parties were in discussions aimed at developing licence conditions that may satisfy the Police and the Commission and sought time for further discussions. An adjournment was granted for this purpose.

On resumption a draft agreement was put before the Commission and amended in discussions between the Commission and the parties. Mr Wilson and Mr Strange undertook to provide a final and agreed draft for the Chairman’s consideration.

The hearing was adjourned. Subject to the Chairman being satisfied with the draft agreement, the parties agreed that the hearing need not resume.

The agreed additional licence conditions were received by the Commission by letter from Mr Wilson dated 16 August and accepted by the Chairman on 17 August 2001.

The conditions are as follows.

Nominee:

12. (a) *Subject to condition 12(b), the Nominee is to be a full time employee of the Licensee who has successfully completed the patron care course and must be on the licensed premises at all times during trading hours.*
- (b) *In the event that the Nominee is unable to attend the licensed premises at any time during trading hours, the Nominee shall ensure that a suitably qualified Assistant Manager who has also successfully completed the patron care course is on duty during the Nominee's absence.*

Security:

13. *A minimum of two (2) licensed crowd controllers must be on duty at all times during trading hours. The licensed crowd controllers must have successfully completed a suitable training course approved by the Commission and hold current licences issued pursuant to the provisions of the Private Security Act 1995.*

Fences:

14. *The fencing surrounding the licensed premises shall at all times be maintained to the satisfaction of the Officer in Charge of the Police at the Tiwi Islands.*

Beer Sales:

15. *All liquor sold for consumption on the licensed premises shall be opened by bar staff at the point of sale.*

Permit Holders and sale of take-away liquor:

16. (a) *A list of current liquor permit holders, certified from time to time by the Director of Licensing, is to be maintained at the point of sale on the licensed premises.*
- (b) *Written records of all sales of take-away liquor including details of the date and quantity of each sale are to be maintained by the Licensee for a period of 12 months from date of sale and be available for inspection by a police office or licensing inspector upon request.*

Improper Behaviour:

17. *Liquor shall not be sold during any period of indecent, violent, quarrelsome or riotous conduct and during any such period the bar must close and remain closed until that conduct ceases.*

The additional licence conditions having been agreed between the parties and accepted and signed by Mr Strange for the Licensee, the licence was amended with effect 22 August 2001.

The complaint having been agreed between the parties as proven, it was open to the Commission, subject to hearing from Mr Strange, to impose an appropriate penalty. It will be apparent to the licensee that its early agreement that the complaint be found proven and its energetic participation in the crafting of the additional licence conditions saved it from a period of suspension. The immediate agreement of the Police to the proposed conditions was also of great assistance to the licensee.

Had the hearing proceeded and the complaint been upheld on the full breadth and detail of the information contained in Sgt Woodcock's letter of 7 May 2001, the imposition of a significant penalty involving a lengthy suspension of the licence would have been the most likely result. Such a penalty may have lead to an assessment of the licensee's fitness to conduct the business.

As the Commission was reliably informed that Mr Heenan was no longer the Nominee, the complaint that he is not a fit and proper person, as alleged in Sgt Woodcock's complaint dated 2 May 2001, did not proceed.

In the event that Mr Heenan applies to become the Nominee at some future time, the Commission is likely to conduct a formal assessment of his fitness. Such assessment may be conducted in the form of a hearing with Mr Heenan and any other interested parties being invited to make submissions.

**Peter R Allen**  
**CHAIRMAN**

**27 December 2001**