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The Indigenous purchase of the Crossing Inn

In 1989, at a time of upheaval in the Australian government's management of Aboriginal affairs, community groups at Fitzroy Crossing formed a company and, with an ADC loan, bought shares in several enterprises. These included a supermarket, shops, a caravan park and Fitzroy Crossing's only licensed hotel and source of takeaway alcohol, the Crossing Inn. While there was widespread support for the purchase of the supermarket and caravan park, buying into the Crossing Inn was controversial from the beginning. Local people hoped that as a development project, the purchases would improve their social and economic circumstances, and that owning the hotel would encourage people to drink on the premises (rather than off premises) and adopt a less damaging drinking style. Nearly 20 years later, several official inquiries found—and a good deal of public opinion agreed—that neither of these goals had been achieved.

The history of the Crossing Inn

The Crossing Inn has been part of the lives of the pastoral workers of the Fitzroy Valley in the Kimberley region of Western Australia since the 1890s. Joe Blythe, the first pastoralist in the region, established Brooking Springs station in 1888, and built his homestead where the Crossing Inn now stands. The settlement of Fitzroy Crossing takes its name from the place where travellers once forded the Fitzroy River. Blythe's rough shanty homestead originally served as a hotel and store, and his son held the first

official 'wayside house' licence in 1897. Amid the 'crazed' drinking style of the frontier, the pub undoubtedly did well (Pedersen & Woorunmurra 2007: 85, Hawke 2014). Today, Fitzroy Crossing has a settled population of approximately 1,500, and a mobile population of around 4,500 living in 45 discrete communities within a 200 km radius. The town lies in the southeast corner of Bunaba country, between Broome in the west and Halls Creek in the east; however, the region itself lies at the intersection of several traditional groupings of people who speak different languages: some from the Kimberley cultural bloc, others from the Western Desert region (Kolig 2000). In this instance, as in many others, the pub was part of the colonialist project: it aided the conquest of new areas. Pubs on the frontier provided accommodation and grog to new settlers as they pushed inland (hence the notion of the 'wayside house'), and introduced alcohol and drinking to those who had been displaced (Kirkby 1997: 28).



Fig. 27 Mural in Salem Shelter, Halls Creek

Source: M Brady

Apart from its drinking, the Kimberley region is noted for the violence of its frontier history. During the 'era of stockwhip and rifle', Aboriginal groups were violently displaced by pastoralists: it was colonisation in its harshest form (Kolig 2000: 14). There were massacres of Aboriginal people by police and pastoralists, outright warfare and strong resistance by Aboriginal people, both passive and active, exemplified in the exploits of Aboriginal warriors such as Jandamarra (Marshall 1988, Pedersen & Woorunmurra 2007, Hawke 2014). The arrival of the Catholic Church in the region in 1934 (at Rockhole Station and Balgo Hills), and the United Aborigines Mission (UAM) in the 1940s, provided Aboriginal people some protection from the excesses of the frontier (McDonald 2001: 56–7). In 1952, the UAM took over from the Department of Native Affairs' Depot at Fitzroy Crossing, running a children's home and distributing rations. The children's parents were largely working on the cattle stations of the Fitzroy Valley. This was the fertile land of Nyikina, Bunuba and Gooniyandi traditional owners, and the people had become part of the labour force of the cattle industry, joined later by the Walmajarri and Wangkatjunka groups who moved into the stations from the desert regions.

In 1965, the embryonic town of Fitzroy Crossing was isolated and remote; it consisted of a police station and residence, a post office and residence, an Australian Inland Mission nursing post, the UAM mission and the hotel, which was at the end of a track near the river. Ten Aboriginal people were employed at the hotel, with the men earning between £1 and £3 per week, and the women from £1 to £2 10s. At the time, the basic wage was £15 19s (Hawke 2014: 27–8). These Aboriginal workers lived near the hotel at a camp that lacked any amenities, was littered with tins and bottles, and where pigs and dogs roamed freely. The hotel's publican agitated for the removal of the camp and disclaimed any responsibility for it. According to Steve Hawke, it was the Licensing Court that suggested the creation of a proper native reserve to accommodate the Aboriginal people living there. The equal wages case for Aboriginal pastoral workers was in the offing, and the camp's population began to increase once the surrounding properties started evicting Aboriginal workers and their families; some people walked off the stations voluntarily. The evictions and mass unemployment that spread to the Western Australian pastoral industry followed the requirement for station-owners in the Northern Territory to pay Aboriginal workers award wages. It meant that the population of Fitzroy Crossing exploded during the late 1960s and early 1970s. The UAM 'packed people in' (Hawke 2014: 165), and different mobs from pastoral stations began to set up their own squatter camps in and around Fitzroy Crossing, such as

the people who walked off Noonkanbah in 1971.¹ This, together with the expectations of political change following the 1967 Referendum and the abolition of the last alcohol restrictions in Western Australia in 1971, made it a dramatic period of turmoil and transition (Oscar & Pedersen 2011: 89–90, Thorburn 2011). Not all Fitzroy Valley Aboriginal people were in favour of these changes at the time, or in retrospect: some believed that drinking rights 'ruined everything' and that equal wages did 'a lot of damage' (Marshall 1988: 23, 30).



Fig. 28 Liquor restrictions sign, Fitzroy Crossing, 2009

Source: M Brady

¹ These camps eventually became the different communities (or neighbourhoods) in and around Fitzroy Crossing. The Go Go Station mob became Bayulu; the Christmas Creek mob became Wangkatjunka; the residents of old Mission camp became Junjuwa community; the Noonkanbah mob from Loanbung became Kadjina and Yungngora; and the Fig Tree Camp people were incorporated as Kurnangki community (Hawke 2014: 196).

Selling grog

According to a local observer in the 1970s, young and old Aboriginal people imitated the drinking behaviour of their white peers in style and quantity, which is to say that Aboriginal men were no heavier drinkers than ‘respectable’ white men in the north of Western Australia (Kolig 1974: 51). The Crossing Inn was happy to supply them all. While talking about his life to Paul Marshall (1988: 76), Jock Shandley, a Walmajarri man and Fitzroy Valley drover, told of buying takeaways from the Crossing Inn:

I used to be a drinker myself. After Aborigines were given citizenship rights, we used to go in to the Fitzroy Crossing pub and tell Dick Fellon that we wanted rum or whiskey or whatever. He’d say, ‘Yeah, come into the store’. He’d give us as many bottles as we wanted. He had to make his money I suppose, and he must have made a lot of money out of us. I used to drink all that stuff back then, but I began to realize what it does to you. That’s when I stopped drinking.

The sale of copious quantities of canned beer from the Crossing Inn resulted in what locals described as ‘Fitzroy snow’; from the air, you could look down on shady trees and see, glinting in the sun, a carpet of white cans surrounding them where seated drinkers had chucked their empties. Moderate alcohol consumption was a style of drinking that never gained a foothold on the northern ‘frontier’, nor in Fitzroy Crossing. Hawke (2014: 190) has written about the ferment of new ideas, hope and activism in the town in the 1970s that ran alongside an orgy of self-destruction, as rampant drinking and alcoholism quickly became a feature of life in the fringe camps. According to Shandley (cited in Marshall 1988), the grog was too strong and it led people away from the old rules. In 1974, anthropologist Erich Kolig (1974) described the drinking problem at Fitzroy Crossing as ‘acute’; he reported that senior Lawmen—who, at the time, were attempting to revive traditional punishments—organised a roster of ‘prestigious men’ to patrol the public bar at the Crossing Inn, to remove drunken people and seclude them in bush camps (46).²

Oscar and Pedersen (2011: 92) noted that during these years, the non-Aboriginal owners of the Crossing Inn ignored the social and health consequences of their desire to make money. A study of morbidity rates at

2 According to Kolig (1974: 49), Aboriginal elders believed that the Western judicial system and the use of jail was ‘too soft’ by comparison with Aboriginal Law. However, he was pessimistic about whether the traditional *kerygma* (mythology, dreaming) would provide any solutions to people who were ‘sodden’ with grog—a situation, he said, which had no sacred precedent.

Fitzroy Crossing between 1978 and 1983 found that violence and alcohol were the most common causes of hospital attendance for both men and women (Holman & Quadros 1986: 31). By the 1980s, the hospital records showed that between 75 per cent and 85 per cent of fatal injuries incurred at Fitzroy Crossing were alcohol related (Moizo 1991: 184). An anthropologist who made fieldwork visits there, Bernard Moizo, described the situation at various times between 1980 and 1987. At the Crossing Inn in 1980, there were three bars: the lounge bar, the garden bar and the 'Blackfellow' bar. No bare feet were allowed in the first two and, as Aboriginal people were, for the most part, the only ones with bare feet, they congregated in the 'Blackfellow' bar, or went bush with their takeaways. Moizo explained:

The 'Blackfellow' or 'Aboriginal' bar was a large dark room with high concrete walls that separated it from the garden bar. There were no lights, no tables, no chairs, only two wooden benches. A huge grid, welded at the top of the bar on one end and fixed at the ceiling on the other end, symbolised quite clearly the racial relations within the pub. Aborigines handed the money through the square holes of the grid and were handed back glasses of beer ... I was struck by the atmosphere. Between twenty and thirty Aboriginal, [sic] men and women, most of them drunk, were shouting, arguing, swearing or fighting each other. The noise was amplified by the size of the room and the concrete walls. The ambience was pathetic, but it got worse when the iron curtain dropped down on the bar and the police walked in ... In the garden bar things were different: a few non-Aboriginals would enjoy their beer under the cool shade of centenarian trees. Here there was no shortage of tables, chairs or bar stools. Inside, in the air conditioned lounge bar ... a few customers emptied their stubbies ... Patrons in the garden and lounge bar were probably as drunk as were the Aborigines, but they were quiet and enjoyed their drinks in a pleasant ambience. (51–2)

Five years later, it was increasingly common to see young Aboriginal people in the more salubrious lounge or garden bars, but these drinkers were people holding regular jobs or who had been to Perth for schooling. On Friday nights, there were cheaper prices ('happy hour') in the garden bar where most of the non-Aboriginal population drank, but not in the Aboriginal bar, which was often closed on Friday nights.³ The clientele

3 Moizo (1991: 68, note 5) documented one occasion when around 40 Aboriginal people walked into the garden bar to protest about the unfairness of this and to demand 'their' bar be reopened on Fridays with 'happy hour' prices.

of the Aboriginal bar had dropped off, as more drinkers made the switch to takeaway alcohol. Once a taxi service became available in 1984, they used the pub as a bottle shop:

They called a taxi, were driven to the pub, bought a carton of beer and were dropped off in one of the many drinking spots in the bush around town. This presented some definite advantages. Firstly, one could choose with whom one would drink. Secondly it was easier to flee into the bush when the police arrived or when a fight was about to start. (56)

The advent of the taxi service, and the increasing availability of private vehicles, meant that grog could more easily be carted in larger volumes to a variety of drinking places, including those far away from the pub and town. Prior to this, open-air drinking with takeaway beer had taken place anywhere and everywhere, most often under trees close to the pub or, to avoid trouble when walking home, close to home communities. An Aboriginal man, 'Patrick', explained this practice to Moizo:

You see us Bunaba ... we drink here, right under that big fig tree. Number one place this one ... we are next to that hotel, when you want more grog you just go there and get some. Look behind, well there is that creek, if you need one good cool bath to sober you up a bit this is the place now ... I know that track all the way [home], even dead drunk I can go back home. (178)

Moizo mapped the spatial distribution of drinking spots, most of which were established in the late 1970s. These revealed the tendency for members of the same kin and language groups to choose to drink together. Despite, or perhaps because of this, disputes and arguments among drinkers frequently degenerated into violent fights, triggered by a drunken lack of control in speech, heedless mention of secret Law matters or jealousy. By mid-1988, the drinking was so problematic that local women formed an action group called Women Against Alcohol (WAA). The group was led by Topsy Chestnut, an influential Gooniyandi woman involved in community development work (cf. Hawke 2014).⁴ The WAA aimed to raise local awareness of problem drinking and alcohol-related domestic violence. Clinical research showed a high prevalence of alcohol-related problems among Aboriginal drinkers in the region (including

⁴ It is worth noting here that 1988 was also the year in which Aboriginal women in several other regions began to mobilise against alcohol-related troubles—in the Northern Territory at Wadeye, the Tiwi Islands and at Curtin Springs in the Pitjantjatjara lands.

Fitzroy Crossing), with two-thirds scoring two or more on the CAGE⁵ questionnaire, which is sensitive in detecting 'excessive drinking' (Hall et al. 1993: 1095, Hunter 1993). Three-quarters of this sample identified alcohol use as a major community concern in the Kimberley. In view of the amount of alcohol being consumed, this is not surprising; Hall and colleagues (1993) found that median consumption over a drinking occasion or day was approximately 10 standard drinks per person (i.e. 104.5 g of pure alcohol).⁶

Non-Aboriginal people monopolised most jobs in the town, which circulated among them without being advertised; they also dominating the local enterprises and businesses. The publican, for example, owned the supermarket, the caravan park and the shopping complex. Between 1985 and 1987, four Aboriginal people were employed at the pub for weekly rubbish collection. The low level of Aboriginal employment, their exclusion from participating in, and benefiting from, local enterprises, together with increasing problems associated with alcohol from the Crossing Inn, created growing dissatisfaction and a mood for change. The ADC, which was established to assist Aboriginal people to engage in business enterprises (among other aims), gave people an opportunity to buy into local businesses and to change things at Fitzroy Crossing.

The proposal to buy the Crossing Inn and other businesses

In 1988, the owner and licensee of the Crossing Inn, Jack Sandford, placed the business on the market, together with other holdings owned by his family over several decades: the supermarket, shops and a caravan park. Alerted to this impending sale, the ADC had the Sandford holdings valued; subsequently, the ADC (and its successors) became a significant player in the future of these Fitzroy Crossing enterprises. The ADC engaged Bill Arthur, a social scientist at the Aboriginal Economic Research Unit in Perth, to investigate the feasibility of purchasing the businesses for the Aboriginal communities of the region. Arthur's terms of reference included explaining to Aboriginal people the implications of the

5 CAGE is an acronym for the four questions that make up the questionnaire.

6 At the time, the National Health and Medical Research Council definition of a 'harmful' amount of alcohol was more than 60 g a day for males (Hall et al. 1993: 1096).

purchases, documenting Aboriginal support or objections, and putting forward ideas for a Trust structure and options for ownership and control of the enterprises.

Arthur's observation, that the issues were 'complex and new', was an understatement. As was the case with other Aboriginal hotel purchases, Aboriginal people at Fitzroy Crossing had limited educational backgrounds and little, if any, experience of planning or running such an enterprise; they were also completely unaware of the existence of mainstream community-owned hotels in South Australia, from whom guidance could have been sought. At most, some Aboriginal people at Fitzroy Crossing had experience running cattle stations; however, some of these had not been commercially successful.⁷

Arthur's (1988) Interim Report pointed to a difference of opinion within the Aboriginal community about buying into the hotel. Although they supported community ownership of the supermarket, caravan park and shops unconditionally, people were guarded about the purchase of a share in the Crossing Inn. Arthur reported that 'directly negative statements only apply to the hotel ... and people are uncomfortable about it at this stage'.⁸ Those who were most uncomfortable were older men (although only two older men had stated categorically that the community should *not* be involved with the hotel) and women. The supporters of the hotel purchase were mostly younger adults who appreciated the potential for commercial development, including Patrick Green, a Bunaba man, who was to have an ongoing role in the businesses. The supporters of the idea perceived its potential: capturing the hotel's profits would give local people the opportunity to purchase other enterprises, which would make them less reliant on government. Arthur (1989a) wrote:

The bottom line for them appears to be that if they don't own [these enterprises] then someone else will, and that by owning them they will stop the money flowing out of Fitzroy Crossing. (executive summary)

Arthur (1988) soon discovered another difficulty: that different players—the ADC and various Aboriginal community interests—held different perspectives on the *purpose* of the purchases. There was the ADC view, which saw the purchases in a commercial light; a local view, which saw

7 However, in 1991, ATSIC acquired Leopold Downs Station for the Bunaba people, a large and very productive cattle station with a river frontage (Thorburn 2011: 108).

8 Arthur's (1988) Interim Report was not paginated.

the purchases as a way to address a social problem; and another local view that saw the purchases as a means of generating both commercial and social benefits.

According to Arthur, local expectations that owning the hotel would alleviate excess drinking took precedence over commercial discussions of both the hotel and the supermarket. Despite these differing—divergent—aims, *someone* was going to buy the hotel and sell alcohol to the Aboriginal population (so the thinking went), in which case, it might as well be locally owned, enabling some measure of control over sales: the obvious ethical dilemma of profiting from the sale of a substance that was so patently damaging to so many Aboriginal people, notwithstanding. The problem, from the perspective of various Aboriginal community members, was the packaged nature of the deal: presumably the hotel could not be excised. To overcome the potential conflict between commercial success and negative social consequences, the Aboriginal community hoped to find directors of the company and managers of the facility who had 'special' qualities, not just commercial qualifications or experience in running businesses. As Arthur (1989a) explained:

People do not see the project in simply commercial terms. They see it as a development project and as a means of improving their social and economic circumstances through participation. Therefore to own the hotel as assets in which they have no involvement, has little or no attraction.

It seems that the majority of mature-age Aboriginal people ultimately were persuaded that owning the hotel would 'relieve the alcohol problem'. Their main concern was over the sale of bulk takeaway liquor from the Crossing Inn. It was suggested that, once they owned the hotel, takeaway sales could be restricted or prohibited to encourage people to drink inside the hotel:

In the old days the pub was open from 6 am. He [the owner] didn't care about our people. Wanting to buy in was wanting to control liquor sales and [we] didn't want them to wake up with a beer early morning. Let them have food in their guts first.⁹

Somewhat drily, Arthur (1989a) explained that: 'It is not that there is simply heavy drinking but that there is a certain style of drinking with features which I suggest were not envisaged by the Liquor Act' (10). Apart

⁹ Patrick Green, pers comm, 16 August 2012.

from curbing sales of takeaways, during these preliminary consultations, local Aboriginal people suggested a few other harm-reduction strategies that, it was thought, could be put in place once they owned the Crossing Inn. These included introducing by-laws to restrict the amount of takeaway alcohol that could be purchased using taxis; upgrading on-premises drinking areas to make the atmosphere more ‘civilised’; introducing more hotel entertainment to encourage social drinking; using the profits to mount alcohol-education programs; and hiring ‘certain Aboriginal staff’—that is, people with particular qualities who would be able to effectively control on-premises drinking.¹⁰

In view of subsequent events, it is significant that from the outset, takeaway sales were identified as a key problem and that there was a plan to restrict (or even stop) such sales. The loss of revenue presented another major dilemma, as Arthur (1989a) reported:

People can see that if drinking is limited then profits may be reduced and the project may not be able to repay the loan. Their concern here is that *they would be blamed* for the resulting lack of commercial success. I suggest that this issue represents something of a dilemma for people. (11, emphasis added)

Arthur’s observation implied that, under pressure from the Australian Audit Office and a tough new approach by the minister, the ADC had made its financial support dependent on the project’s commercial viability. This worried some people. Buying the Sandford holdings package was not a decision taken lightly by the Aboriginal people of Fitzroy Crossing. Eighteen months of consultations and meetings enabled people to air their views and debate the issues: it took that long for them to agree on a final structure for the company and the governance of the enterprises.

Leedal, governance and the sharing of benefits

In March 1987, Leedal Pty Ltd was incorporated as an investment company—not an Aboriginal corporation; the Fitzroy Crossing Trust was created at the same time, with Leedal as Trustee. Each of the Trust’s six beneficiary communities had different shareholdings within the Trust, which acquired a 50 per cent interest in the Crossing Inn, the supermarket

¹⁰ In retrospect, this seems an unduly optimistic aim. With intimate knowledge of the close kinship networks within Fitzroy Crossing, how was it possible for people to believe that Aboriginal staff—regardless of how well chosen they were—would be able to ‘control bar sales’?

and caravan park using a \$1 million loan, and an additional grant from the ADC. Several non-Indigenous people with liquor industry experience bought shares in the businesses as joint-venture partners with Leedal. One was the developer, joint-venture partner and manager of the Fitzroy River Lodge (Coppin 2006: 10). Three other non-Indigenous joint-venture partners were well-known identities in Kimberley towns (such as Broome, Halls Creek and Kununurra) where they owned high-profile and lucrative alcohol-oriented enterprises, including bars, liquor stores, hotels and tourist facilities.

The beneficiaries of the Fitzroy Trust were (and are) the Junjuwa, Marra Worra Worra,¹¹ Yiyili, Kadjina, Bayulu and Kurnangki communities. Following Arthur's suggestion, Junjuwa Community Inc., as the representative of the majority of local traditional owners, held the major stake: 40 out of 100 ordinary shares.¹² The remaining shares were divided between the five other communities: 12 shares each.¹³ Regarding the allocation of benefits, Arthur (1989a) explained that:

Beneficial ownership will extend to all communities of the Fitzroy Valley. Representatives of the communities will meet to discuss allocation of benefits. The spirit of this arrangement will be that Junjuwa (and finally the Bunupa of Junjuwa, being the traditional land group) will have the greatest and final say regarding all matters including allocation of benefits. Junjuwa can be seen as the principal (but not exclusive) beneficial owner. (i)

Leedal's (2014) board comprised a nominated representative from each of the six beneficiary communities. The ADC insisted that a legal adviser and an accountant or financial adviser be appointed to the board as well.¹⁴ Learning from the financial collapse of the Woden Town Club in late 1988, and incompetent management of the Oasis Hotel at Walgett,¹⁵ and mindful of enquiries into its conduct, the ADC was anxious to protect its investment and to ensure that professional advice was available to

11 Marra Worra Worra is not a community; it is an Aboriginal corporation and multipurpose resource centre designed to service decentralised communities. It is the oldest and largest Aboriginal resource agency in the Kimberley. It grew out of regular meetings about development programs held in the late 1970s by leaders of seven communities in the Valley (Sullivan 1996, Hawke 2014: 198).

12 Thorburn (2011: 111) reported that Junjuwa Community Inc. contributed \$100,000 to Leedal's investments: the existence of this original contribution provokes ongoing discussion about how much the organisation should 'earn' from Leedal.

13 Current Company Extract for Leedal Pty Ltd, ASIC database 2012.

14 Since approximately 2000, there has also been a 'chief operations officer' for Leedal.

15 Woden Town Club and the Oasis Hotel in Walgett had been purchased with ADC loans (see Chapter 6).

the Trust. As in other licensed hotels owned by Aboriginal community interests, the manager was (and still is) a non-Indigenous person. Staff working in the bar were also non-Indigenous; Aboriginal barmen were tried initially, but the peer-group pressure was found to be ‘too hard’ for them.¹⁶

The ADC (1990: 19) announced the deal in its 1989–90 Annual Report:

In February 1990, the Minister for Aboriginal Affairs, Mr Gerry Hand, officially opened the Region’s most important enterprise project for the year, at Fitzroy Crossing. The purchase of the town’s supermarket, caravan park and a half-share in the hotel and motel facilities in Fitzroy Crossing was undertaken on behalf of some twenty-five Aboriginal groups in the Fitzroy Valley. These enterprises are managed by a Trust Company whose board operates the ventures for the Aboriginal people.

It was anticipated that after repayment of the loan, the ‘benefits’ (i.e. financial benefits) of owning the hotel and other businesses would be substantial enough for distribution between several Aboriginal groups in the region. Indeed, there were discussions about how widely these should be shared out. Consultant Bill Arthur presented people with two options to consider. First, profits could be banked annually; communities could apply for loans or grants that would be decided upon by some kind of representative group. Alternatively, the annual profits could be shared out equally among the groups (meaning that each share would be rather small). To diminish the tensions that were likely to result from these arrangements, Arthur suggested that 40 per cent of the benefits be reserved for Junjuwa community, in recognition of the significant landowning status of Bunaba people. While two other language groups lived in the Junjuwa community, Junjuwa was where the most influential Bunaba people resided in 1989. It was thought that the financial benefits accruing from the hotel and other businesses could be used to support smaller communities that were short of resources, or to set up other ventures. Clearly, the Aboriginal people of Fitzroy Crossing believed that owning a 50 per cent share in the hotel would enable them to stimulate ‘social development’ through employment and training, as well as to improve the alcohol problem (Arthur 1989a).

¹⁶ Fieldnotes dated 21 June 1993, supplied by Bill Arthur. According to a Leedal spokesperson (interviewed in 2012), backpackers were the ‘backbone’ of the workforce at the Crossing Inn. Employing non-Indigenous bar staff is common practice in other Aboriginal-owned premises too.

In an attempt to give the structure a more social and community focus, and to enable community views to be made known to management (a suggestion made by Arthur after his earlier consultations), a Management Liaison Group (MLG) was established. The MLG sat between the board of directors and the Aboriginal communities in and around Fitzroy Crossing. The MLG, which had an open membership, was intended to represent the wider community, not just one faction; it was expected to have an understanding of the social problems of the hotel and be interested in improving the social and economic situation of the people (Arthur 1989a: 7).

Initially, Leedal owned less than a 50 per cent share in the Crossing Inn, and the Tarunda supermarket, Fitzroy shopping centre and caravan park outright. In 1989, the Fitzroy River Lodge, an extensive tourism accommodation facility that included a restaurant and bar, was built a short distance from the town. The Fitzroy Crossing Trust bought a share in that too.¹⁷ As one Leedal director stated:

In the past people would come in, set up a business and charge what they liked ... now you do business in Fitzroy Crossing with Leedal or you don't do business at all ... now we are big enough to say you either work with us or we will run you out. (Walker 1995: 5)

Evidently, Leedal soon developed an appetite for such investments. Enabled by further loans and grants, the Trust continued to acquire new properties and to increase its share in existing ones, including the Crossing Inn and the Fitzroy River Lodge.¹⁸ In corporate terms, following its inception, Leedal accumulated capital and grew its asset base, ostensibly to generate revenue for the communities it represented (Coppin 2006: 7). However, despite owning millions of dollars in assets with profits of

17 Fitzroy River Lodge has 40 motel units, 30 safari tents, 90 caravan sites, coach and camping facilities, pool, tennis courts and golf course. There are no takeaway facilities, only an on-premises licence.

18 For example, in 2001, the Trust bought a 42.5 per cent interest in Fitzroy Lodge, with the help of a \$1 million grant from ATSIC and a \$1 million loan from IBA. The purchase of Fitzroy Lodge brought into existence a joint-venture partnership between Leedal, Mapigan Pty Ltd, and IBA's holding companies, Fitzroy Inn Investments Pty Ltd and Fitzroy Lodge Investments Pty Ltd (Irving 2007: 6). Mapigan was a proprietary company, with Wayne Bowen (the licensee of the Crossing Inn) as the sole director and secretary (Irving 2007: 30). In 2006, the Trust borrowed a further \$750,000 from IBA to acquire further interests in the Fitzroy Lodge and the Crossing Inn; by 2007, Leedal owned a 70 per cent interest in the two joint-venture businesses, IBA held a 26.43 per cent interest and Mapigan held the remaining 3.57 per cent interest (Irving 2007: 31, Hope 2008: 114–15). Apart from the Crossing Inn and the Fitzroy Lodge, in 2007 Leedal owned seven other commercial interests in Fitzroy Crossing.

around \$1 million a year, Leedal's pursuit of these corporate goals occurred at the expense of the community; rather than distributing profits to its six 'beneficiary' communities, it donated relatively insignificant amounts, from time to time, to various community activities.

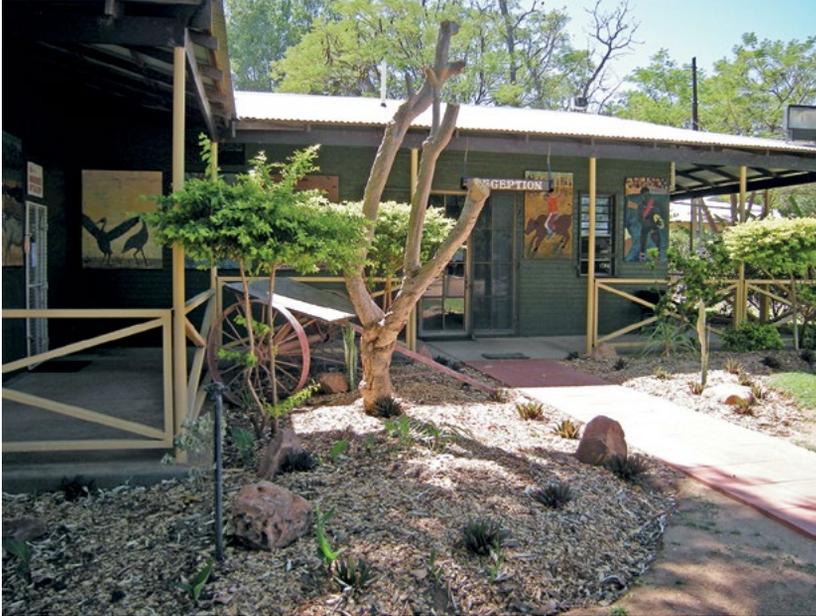


Fig. 29 The Crossing Inn reception, Fitzroy Crossing

Source: M Brady

The trajectory of alcohol-related harm 1989–2007

There is no doubt that, once it was partly owned by Aboriginal interests, the Crossing Inn implemented some harm-reduction measures. Soon after the purchase by Leedal—whose constitution obliged it to monitor alcohol consumption in the Fitzroy Valley (Leedal 2014: 5)—the Crossing Inn banned on- and off-premises sales of fortified wine (port) and sales of flagons. Subsequently, the hotel voluntarily reduced its hours of opening, banned sales of 4 L, then 2 L, casks of wine, and discounted mid-strength beer (Hope 2008: 123). However, owning only *half* of the business meant that Leedal had to negotiate any changes with its commercially driven joint-venture partners (one of whom was the nominee of the Crossing

Inn). In 1996, community leaders persuaded Leedal and the hotel's joint-venture partners to run a trial in which the sale of packaged alcohol was restricted until after 12 noon, as morning drinking was disrupting community employment projects. Although the trial was successful, the policy was discontinued due to disagreements among the partners. Restrictions, such as selling only light beer, or delaying takeaway sales until noon, were put in place in the football season and during funerals and other community events at the request of the community, and these interventions were reported positively to this author in 1998 (Brady 2005: 150). Nevertheless, the mere existence of the Crossing Inn, with its bars and particularly its off-premises sales, and its location as the only outlet for alcohol sales between Derby (260 km to the west) and Halls Creek (300 km to the east), constituted an irresistible attraction to a captive clientele. Financially, the hotel—and Leedal—made the most out of this monopoly.

In 1994, five years after the original part purchase of the Crossing Inn by Aboriginal interests, Fitzroy Crossing was described (along with Halls Creek) as having the highest drunkenness arrest figures in Western Australia (Midford et al. 1994: 5). Drinking in the Valley was said to be an 'unmanaged epidemic' involving a 'tide of poison' in which violence had become normalised (Oscar & Pedersen 2011: 92). Clearly, the hotel was *not* monitoring or slowing down alcohol consumption. During pay weeks, the area around the premises was populated by drunken staggering people, as described by a senior medical officer, Dr J Rowland:

There would be little fires lit in the bushes and people surrounding those fires, drunk and drinking, and people wandering around and bodies scattered in various poses all around ... many stuporous bodies on the ground ... people that are waving, drunk, bottles and rocks, all approach the ambulance and you don't feel very safe ... 'Which of these bodies lying around is the unconscious one we need to assess?' (cited in Hope 2008: 109)

Opposite the Crossing Inn was a poorly lit area known to all as 'Billabong Park' where drinkers consumed the takeaway alcohol bought at the hotel. At least one rape and one murder took place there. It was so dangerous that even the police were unwilling to enter. Late in 2006, by agreement between the police and the Shire (which owned the land), the area was closed. This action did not stop alcohol-related brawls and assaults; instead, the violence moved to people's homes, making policing even more difficult.

By 2007, the annual consumption of pure alcohol in Fitzroy Crossing was estimated to be 27 L per person, equating to 35 cans of beer per week for every person in town (Dr John Boulton, cited in Fitzpatrick et al. 2015b). As the Crossing Inn was the only source of packaged alcohol in town, and with takeaway sales far outweighing on-premises sales at the Crossing Inn and the Fitzroy River Lodge, the Crossing Inn was the source of the majority of those 35 cans per person, per week. According to evidence given later at a coronial inquest, the Crossing Inn's licensee reported that alcohol sales in the 2006–07 financial year totalled \$4 million (Strutt 2007b). By the time this calculation was made, Leedal had increased its equity in the Crossing Inn, giving the Aboriginal company majority (70 per cent) ownership.¹⁹

Aboriginal people of the Kimberley were suffering a complex social and health crisis; alcohol abuse was both a cause and a result of many of the problems (Western Australian Department of Health 2009). This crisis became evident in several ways—primarily through the high number of alcohol-related deaths and prevalence of fetal alcohol spectrum disorder (FASD). Between 2000 and 2007, there were 22 deaths of Aboriginal people in the Fitzroy Crossing region that required coronial investigation and that were believed to be linked with alcohol abuse. In one year alone, 2006, there were eight self-harm deaths. Drinking in pregnancy was also common. Out of a sample of 122 women in the Fitzroy Valley who gave birth between 2002 and 2003, one-quarter reported alcohol-related injuries and one in seven needed an alcohol-related hospital admission. Using the AUDIT C assessment tool, 60 of these women were found to drink alcohol at risky or high-risk levels during their pregnancies; 55 of these consumed seven or more standard drinks on a typical drinking day (Fitzpatrick et al. 2015b: 332).²⁰ The researchers considered that these calculations were probably underestimations, and noted that such levels of alcohol consumption were generally associated with high rates of FASD.

Aboriginal people, particularly those at Fitzroy Crossing, were gradually becoming aware of the existence of FASD. Many suspected that it was present among the community's children. Around half the students at the local primary–secondary school were reported to have 'learning difficulties' associated with FASD or with other social and environmental

19 In late 2006, Leedal acquired a further 27.14 per cent equity in the Crossing Inn from IBA, which still owned a 16 per cent partnership share in the Inn (IBA 2007: 135).

20 AUDIT = Alcohol Use Disorders Identification Test.

challenges (Irving 2007: 36). When assessments were conducted a few years later, 13 out of 108 children were found to have FASD or partial FASD, giving a prevalence of 120 per 1000, which is among the highest FASD prevalence in the world (Fitzpatrick et al. 2015a: 454). Of the children with FASD, 69 per cent had microcephaly, 85 per cent had weight deficiency and all had central nervous system damage, commonly showing as attention deficit hyperactivity disorder.

With all the drinking going on in town, the women's refuge was kept busy: 96 women sought refuge there over a six-month period in 2006, with one woman attending on 24 separate occasions in less than a year. Over a six-month period, 85 per cent of all trauma patients admitted to the local hospital/clinic were intoxicated (Irving 2007: 33, 39). These very high rates of alcohol-related harm began to provoke deep concern in the community, and local people, particularly women, started to mobilise to do something about them. Aware of these rumblings of discontent about alcohol consumption, the Crossing Inn voluntarily changed some of the rules about takeaway sales in late 2006 or early 2007. The hotel's licensee, presumably in consultation with Leedal, decided that packaged alcohol would no longer be sold to people walking into its takeaway shop—it would only be sold to people *driving in* with a vehicle. After this relatively minor adjustment, Leedal resisted further efforts to negotiate a voluntary accord to restrict sales of alcohol (Oscar & Pedersen 2011: 94).²¹ One participant reported at the time:

There are some self-imposed restrictions. We're saying the current restrictions are not working to their full potential. There's been the closure of Billabong Park across the road from the takeaway ... they used to go over there. Then the licensee upgraded it, but the downside was uncontrollable, there were rapes etc., it was very difficult to police. The Shire, whose land it is, said it was a breach. It was closed down but the purchase of alcohol continued. They had a ruling that you have to be in a vehicle to purchase but alcohol was being transported back into communities. There was a collapse of senior leadership in the communities and the same with the community in town, not functioning at all.²²

21 Leedal stated in 2007 that since buying the hotel in 1989, sales had declined by 29 per cent because of self-imposed restrictions (Taylor 2007).

22 Brady fieldnotes, 14 August 2007.

The mobilisation of the community

A tipping point was reached between December 2006 and December 2007, when the growing alarm expressed by community members and service providers within and beyond Fitzroy Crossing triggered a cascade of events. After a spate of alcohol-related suicides and other deaths at Fitzroy Crossing, in December 2006, the Kimberley Aboriginal Law and Culture Centre (KALACC)²³ wrote to the state coroner, insisting that a coronial inquest was needed ‘to jolt the systems of government, and *some elements within the local community*, into an appropriate level of response’ (Hope 2008: 2, emphasis added). Their request was supported by local MLA, Tom Stephens. The following July, a bush meeting of women from the four language groups of the Fitzroy Valley agreed to campaign for a 12-month moratorium on takeaway sales, citing unacceptably high levels of violence, assault, rape, suicide, incarceration, FASD, child abuse and neglect, and the low life expectancy and quality of life associated with harmful alcohol use.²⁴ They resolved to confront Leedal and to approach the director of Liquor Licensing. The plan caused uproar: its proponents were confronted with accusations, threats and coercion.²⁵ One of the proponents was Topsy Chestnut, who had been the chair of the WAA group in 1988. The July women’s meeting came up with three aspirations: to restrict full-strength alcohol, to invest in the needs of men and boys and to turn the police around to a more community-based policing style. Further community meetings were held in Fitzroy Crossing across all language groups at which people expressed concern about the levels of drinking, the deaths and the suicides. Senior women made a presentation to the senior men of KALACC outlining the damage alcohol was doing to the communities and seeking their support: ‘We want to bring about a future where we have respect for our culture, respect for our leaders, and safety for our children and families’, the women declared. At the end of July, the chair of KALACC, statesman John Watson, issued a press release supporting the moratorium.²⁶ In the following weeks, *The West Australian*,

23 KALACC is a peak body supporting the Law, culture and languages of 30 Aboriginal groups in the region.

24 These effects were listed in an Outline of Marninwarntikura Draft Submission to the Director of Liquor Licensing, 24 August 2007 (in the author’s possession). Senior paediatrician in the Kimberly Dr John Boulton also publicly called for urgent action on alcohol abuse (*ABC News* 2007b). The bush meeting was organised by the Marninwarntikura Women’s Resource Centre.

25 The stressful nature of this period is captured in interviews with protagonists in the film *Yajilarra* (Hogan 2009).

26 *Kimberley men resolve to support Fitzroy Crossing women* (2007). Media release, 31 July.

the national press and the ABC ran a flood of stories on the proposed takeaway ban. The media focused on the fact that the Crossing Inn was Aboriginal owned, with one front-page story describing the hotel as the Aboriginal pub 'that poisons its own' (*West Australian* 22 July 2007).

The director of Liquor Licensing gave the communities six weeks to find locally agreed solutions, after which he intended to commence formal proceedings under Western Australia's Liquor Control Act (Department of Racing, Gaming and Liquor 2008). Fortunately for everyone involved, by this time, the director had greater flexibility in decision-making, and could place less emphasis on purely 'legal' factors in decisions; this was as a result of the abolition of the previous Western Australian Liquor Licensing Court in May 2007. Prior to this, one Licensing Court judge had ruled that it was not within his power, or the Act itself, to restrict the sale of alcohol to promote public health (National Drug Research Institute 2007: 136).

There were last-ditch proposals by Leedal and its partners in the two licensed premises for additional self-imposed restrictions, such as having no alcohol sales on Sundays and Mondays. These were considered 'weak' by the women's group, as these days were already known to be slow sales days when there was little cash around. Even though the restriction would not affect the Fitzroy River Lodge,²⁷ its general manager circulated a petition during the six-week discussion period, urging customers to be 'calm and patient' and to write letters to the director of Liquor Licensing protesting against the proposed moratorium on takeaway sales:

Please be advised that the licensees of both the Fitzroy River Lodge and the Crossing Inn Hotel are doing what they can to resolve the issue to the satisfaction of all members of the community ... [You can] visit the Lodge and sign the current petition opposing a total ban on takeaway alcohol!

By this time, many different players were involved in an increasingly fractious, polarised and public debate. *The West Australian* and other media continued to print articles on alcohol-related problems and the role of Leedal. The bad publicity made IBA and its responsible federal minister increasingly uncomfortable. IBA, which had inherited the ADC's financial interests in Leedal, owned a 26 per cent interest in the Crossing Inn (down from 43 per cent in 2006). At the prompting of

27 The Fitzroy River Lodge (by this time 70 per cent owned by Leedal) already held a restricted licence that allowed residents only to consume alcohol in their rooms.

the Minister for Employment and Workplace Relations, Joe Hockey, IBA ordered a review of the hotel's sales practices and restrictions, and of the social and economic effect of the Crossing Inn and Fitzroy Lodge. IBA's review added to the quarrelsome atmosphere. On one side were those who supported the proposed moratorium on takeaway sales and the interrogation of Leedal's conduct. They included the original lobbyists for the takeaway ban (i.e. prominent Aboriginal women and senior Aboriginal men); the commissioner of police; the local member for Central Kimberley-Pilbara, Tom Stephens; the director of Liquor Licensing; and Aboriginal spokesperson Lionel Quartermaine, formerly a deputy chair of ATSIC. Arguing that there was nothing worse than 'our own people' living off the misery and illness of others', Quartermaine called for the Australian Securities and Investments Commission, rather than IBA, to investigate Leedal (Strutt 2007a). The other side included Leedal spokespeople who argued that banning takeaway alcohol would be a removal of Aboriginal people's rights, and those aligned with them who asserted that the review of Leedal was 'racist' (*ABC News* 2007c). Leedal fought tenaciously against what became an unstoppable flow of events (Oscar & Pedersen 2011: 92). An article published on the front page of *The West Australian* on 25 August 2007, headlined 'Grog hurts quarter of Kimberley under-fives', highlighted alcohol's damaging effect on babies; this made it politically impossible to oppose the restrictions.²⁸ From 1 October 2007, the sale of packaged liquor was restricted.²⁹ Perth barrister, George Irving, reviewed Leedal's practices as requested by IBA.³⁰ Meanwhile, the state coroner conducted an inquiry into multiple drug- and alcohol-related deaths.

The inquest

One week after takeaway restrictions were imposed, Coroner Alistair Hope arrived in Fitzroy Crossing to conduct hearings as part of an inquest into 22 Aboriginal deaths (including suicides) in the Kimberley that were

28 Dr John Boulton, pers comm, 18 July 2016. The article in *The West Australian* was by Jessica Strutt.

29 The director of Liquor Licensing imposed restrictions (initially for six months) from 1 October 2007 on the sale of all packaged liquor exceeding 2.7 per cent ethanol to anyone other than a lodger at either of the two licensed outlets in Fitzroy Crossing (the Crossing Inn and the Fitzroy River Lodge).

30 IBA proposed a review team consisting of its chairman, a staff member and Perth barrister, George Irving. However, Irving was concerned at the perceived bias in this approach, and the terms of the review were adjusted so that he alone would consult broadly and report back to IBA, who would in turn report to the minister. The review was announced on 25 July 2007.

associated with either alcohol or cannabis (Hope 2008). The abuse of alcohol was identified by all witnesses as a major cause of child neglect, domestic violence, assaults, threatening behaviour and abject poverty: noisy drinking and fighting kept hundreds of people awake at night—every night. The respected epidemiologist, Professor Fiona Stanley, gave evidence about alcohol's association with damage to the fetus. During the hearings, it became clear that the Crossing Inn was gravely implicated in many of the deaths. Two intoxicated male pedestrians were found to have been killed by drunk drivers on two separate occasions while walking away from the hotel, one being run over *twice*. Two individuals had drowned trying to cross the flooded Fitzroy River: one was trying to reach the Crossing Inn, the other was leaving the hotel. A man had died of a heart attack while drinking in Billabong Park opposite the takeaway outlet at the Crossing Inn. Others had committed suicide after consuming extraordinary amounts of alcohol bought at the hotel.

Of the 22 Kimberley deaths investigated by the coroner, most were caused by self-harm. The coroner was particularly concerned about a cluster of eight suicide deaths in 2006³¹ in the Fitzroy Crossing region.³² Most of these individuals had consumed copious amounts of alcohol; in 11 cases, the blood alcohol levels were over 0.2 per cent, which is extremely high (see Table 3). It is worth noting that a person with a blood alcohol concentration of between 0.200 and 0.300 may be disoriented, anxious, aggressive and violent, have poor coordination and trouble breathing. A blood alcohol reading of 0.318 (the highest noted in Table 3) indicates probable stupor; an individual so affected would have little comprehension of where they were—any higher and they would risk death from respiratory arrest (Brady et al. 2005). Blood alcohol concentrations as high as these provide irrefutable evidence that drinkers were able to access and consume extraordinary amounts of alcohol.³³

31 In 2006 alone, there were 21 Aboriginal deaths from self-harm across the Kimberley region.

32 The total population of the Fitzroy Crossing region was about 3500.

33 It is, of course, illegal to continue to sell alcohol (for on- or off-premises consumption) to a person who is already intoxicated.

Table 3 Alcohol-related deaths at Fitzroy Crossing investigated by the Western Australian coroner, 2007

Individual	Age	Date of death	Place of death	Blood alcohol level	Cause of death
1	56	13/03/2000	Fitzroy River	–	Drowned trying to reach the Crossing Inn
2	21	15/04/2000	Fitzroy River	–	Drowned in river after drinking at the Crossing Inn
3	35	26/05/2000	F. Crossing	0.318%	Run over (by drunk driver) Sandford Rd
4	17	14/02/2002	F. Crossing	0.226%	Hanging
5	57	28/01/2004	F. Crossing	0.140%	Multiple injuries, run over by two different drunk drivers near the Crossing Inn
6	29	18/11/2005	F. Crossing	0.238%	Hanging after attending the Crossing Inn
7	11	07/10/2005	F. Crossing, Perth hospital	–	Hypoxia (intentional or unintentional hanging)
8	52	12/01/2006	Billabong Pk, F. Crossing	0.189%	Ischaemic heart/coronary arteriosclerosis, died while drinking
9	33	16/04/2006	F. Crossing	0.236%	Hanging
10	40	10/10/2006	F. Crossing	0.157%	Hanging after attending the Crossing Inn
11	23	26/10/2006	F. Crossing	0%	Hanging
12	24	30/11/2006	F. Crossing	0.171%	Hanging
13	24	26/12/2006	F. Crossing	0.180%	Hanging

Source: Compiled from Hope (2008)

The coroner's inquiry and subsequent report ranged over many aspects of Aboriginal life in the Fitzroy Valley³⁴ and drew critical attention to the role played by the Crossing Inn. It was a matter of concern, Hope (2008: 108) observed:

That evidence at the inquest revealed that most of the alcohol purchased by [the] deceased persons ... was supplied by the Crossing Inn Hotel, a hotel part-owned throughout the relevant period by Aboriginal people

³⁴ Apart from alcohol and cannabis use, the coroner's report dealt with the social context surrounding the deaths, including government services to Fitzroy Crossing, housing, education, school attendance, mental health, the role of the police and the hospital.

through a Trust, The Fitzroy Crossing Trust, the trustee of which is a private company, Leedal Pty Ltd (Leedal), which had originally been incorporated through the instigation of the Aboriginal Development Council [sic], a Commonwealth Government organisation.

Hope found that Leedal's self-imposed restrictions had *not* been successful. He was dismissive of Leedal's claim to be selling alcohol responsibly and was unimpressed when the hotel's licensee claimed that the new takeaway sales ban was 'ill-conceived' and 'incorrectly implemented', since objective evidence clearly showed the measures to have been extremely effective (103, 123). Reminding Leedal that the original purpose of owning an interest in the Crossing Inn had been to correct local alcohol-related problems, Hope asked why the organisation had not supported the takeaway ban. More damaging was his focus on Leedal's failure to substantially benefit the community over its 18 years of operation. Instead of helping Aboriginal people in Fitzroy Crossing and surrounds, Hope pointed out that Leedal had harmed them, while making millions of dollars in profits and acquiring assets. The residents of the 'beneficiary communities' had received no distributions or dividends from Leedal's profits; nor had they 'escaped the damaging effects of alcohol abuse':

It is not surprising that members of the community beneficiaries are extremely concerned that there have been considerable social and economic and health costs which have resulted from the sale of alcohol, particularly from the Crossing Inn Hotel, but that community members have seen little or no benefits. (120)

Three of the deceased persons took their own lives in the community that was the largest shareholder in Leedal (and which therefore held a substantial interest in the Crossing Inn). In observing this tragic irony, Hope (2008: 124) suggested that Leedal should consider its credibility and 'not act in a way which would be seen by the local community as being motivated by self-interest'. His words reprised the insights of nineteenth-century temperance campaigners, one of whom wrote:

The secret of most of the mischief now worked by the [liquor] trade is that the monopoly of the sale of liquor is connected with private interests ... The brewer, the distiller, the publican, the shareholder, are all deeply interested in promoting the sale of liquor. (Wilson 1894: 7)

The aftermath

These events—the inquest, the attention of the director of Liquor Licensing, the investigations into FASD by prominent medical professionals and the intense public scrutiny—combined to provoke a series of outcomes and responses from government and associated agencies, the management of the Crossing Inn and Leedal itself.

Government responses

The Western Australian Government was quick to respond to the coroner's findings. It announced that a new alcohol and drug treatment service would be established in Fitzroy Crossing (Department of Indigenous Affairs 2008), and authorised the state's Drug and Alcohol Office to fund research on the effect of the restrictions. Produced by researchers at Notre Dame University, the first six-monthly monitoring report in March 2008 showed an overall reduction in harm: less violence, fewer police and emergency department callouts, fewer alcohol-related crimes and an increase in school attendance. After 12 months, the local emergency department reported a 36 per cent reduction in monthly presentations and reductions in the severity of injuries (Henderson-Yates et al. 2008, Akesson 2009).

The federal government also responded with alacrity. The public scrutiny of Leedal and its activities reflected negatively on IBA, which still owned a share in the Crossing Inn, and on Hockey as the responsible minister. Before Irving's review was completed, Hockey instructed IBA to sell its share of the Crossing Inn, retaining only its interests in the Fitzroy River Lodge and other investments (Barrass 2007: 6).³⁵ On 9 August 2007, ABC's *Message Stick* reported that, as a result of the Australian government's 'new stance on alcohol in Aboriginal communities', in connection with the imminent 'Emergency Intervention' in the Northern Territory,³⁶ as well

35 The chronology of events is as follows: on 23 July 2007, Joe Hockey demanded that IBA conduct an investigation into the social and economic effects of the Crossing Inn. On 25 July, IBA approached Irving to conduct the investigation, with a short turnaround of 10 days. The terms of reference were reviewed and released on 2 August. On 8 August, Hockey instructed IBA's board to sell its share in the pub 'after he became aware of the damage the hotel was doing to the community' (Barrass 2007: 6). At the time, Irving had not completed his report: he was still at Fitzroy Crossing. Irving's report is dated 13 September 2007.

36 This 'new stance' on alcohol is a reference to the tightening of liquor regulations affecting Indigenous communities, which accompanied the NTER (the 'Intervention') announced in September 2007.

as unfavourable media attention, IBA had offered to sell its share in the Crossing Inn to the other joint-venture partners. The sale was finalised some months later. Significantly, the Crossing Inn was not included in the IBA's map of 'principal investment sites' in its Annual Report for 2007–08 (IBA 2008: 22). However, it was not until the following year's Annual Report that IBA reported its divestment of the Crossing Inn (IBA 2009: 29). No attention was drawn to the fact that IBA gave Leedal a grant through its Economic Development Initiative that enabled Leedal to buy out IBA's share. Since the funds were categorised as a grant rather than a loan, they were quite separate from IBA's investment program (IBA 2009: 68).

Not everyone supported IBA's withdrawal from the Crossing Inn. Tom Stephens wanted IBA to stay involved and to stick to the original business plan, which was to ban the sale of takeaway grog (Barrass 2007). Irving (2007) also recommended that IBA should stay involved. On the basis of his government-sponsored investigation of the Crossing Inn, he advised the agency to provide mentoring, training and support to the community beneficiaries and Leedal, until Leedal could be 'transferred to an appropriate governance structure, comprised of the community beneficiaries' (47). Mentoring, training and support were clearly required; however, they would not be provided by IBA.

Changes at the Crossing Inn

Leedal's principals complained that they had been 'slandered', but they had in fact been shamed. Even the United Kingdom's *Independent* newspaper featured a story describing the strange irony of the fact that the Crossing Inn and the Fitzroy River Lodge were owned by 'the very people whom those businesses are "poisoning"' (Marks 2007). The directors of Leedal and the management of the Crossing Inn were forced to make changes: beginning in 2008, the hotel implemented several harm-reduction strategies that, arguably, should have been in place long before. As one community member stated:

It was easy for them before. They sold takeaways and said goodbye. It's only since the restrictions came in that the hotel's been forced to take responsibility, and [ask] the police for help.³⁷

37 Brady fieldnotes, 4 August 2009.

The ban on takeaway sales had an immediate effect on the Crossing Inn. In the three months before the restrictions, takeaway sales from the hotel had totalled 8,500 L of pure alcohol; in the three months following, they were down to 949 L of pure alcohol.³⁸ The hotel also experienced a surge in the number of Aboriginal people drinking *on the premises*. Extra security and staff had to be engaged. There was a 44 per cent increase in the amount of pure alcohol (by volume) purchased for consumption on the premises (from 819 L in July–September 2007, to 1,180 L in October–December 2007). Overall, the restrictions had a direct and immediate effect on the volume and type of alcohol sold: the amount of pure alcohol sold from the Crossing Inn reduced by 77 per cent.

In March 2008, in a letter to the researchers from Notre Dame University who were evaluating the effectiveness of the restrictions, the Crossing Inn's manager revealed the challenges of trying to bring rapid change to entrenched drinking styles:

The bars at the Crossing Inn took a dramatic change from having nearly nobody in [them] after 1.00 pm to having ... between 100 to 150 in the bars from 10.00 am till 10.00 pm most days. The ban has forced them to seek full strength beer in the bars. From my experiences from working in the bar I am well aware that this is not what they enjoy doing ... they have always chosen to take their alcohol way [sic] to drink. Whether it be at home with friends and family or under their favourite tree ... After the first week of the ban it was pretty obvious that they were not accustomed to drinking in the bars for a long period of time as opposed to drinking at home ... I had to come up with some sort of strategy to slow them down and try to help them drink responsibly and to give them some sort of break during trading hours. So it was decided to try the following, open the bar from 12.00 noon and then close from 3.00 pm till 5.00 pm to give them a breather ... but ... they just caught a taxi out to the Fitzroy River Lodge for the next 2 or 3 hours ... Quite often we are forced to close early. This of course has had a huge effect on our regular contractors and locals that used to drink at the Inn because now they just don't. These [Aboriginal] people are being forced to drink in an environment that they are not used to and don't want ... A lot of these people do not realise that they are not allowed to be drunk on [licensed] premises as a lot of them have not drunk in the bars and have only done so since this most irresponsible decision was handed down forcing them into the bars. (Henderson-Yates et al. 2008, appendix VIII: 109)

38 These takeaway sales would include sales of low-alcohol beer, and sales of full-strength beer made to lodgers at the Crossing Inn. Data from the Western Australian Drug and Alcohol Office, August 2009.

Usually only the haunt of tourists, the Fitzroy River Lodge reported large numbers of Aboriginal patrons drinking at their bar. Both the Crossing Inn and the Fitzroy Lodge were chaotic, inundated with uncontrolled drinkers who, it was reported:

Did not understand the strict bar regulations that applied. When refused service because of drunken behaviour and non-observance of other bar regulations, they became aggressive to staff and with each other. At the same time personal fights would develop between family members. (Henderson-Yates et al. 2008: 33)

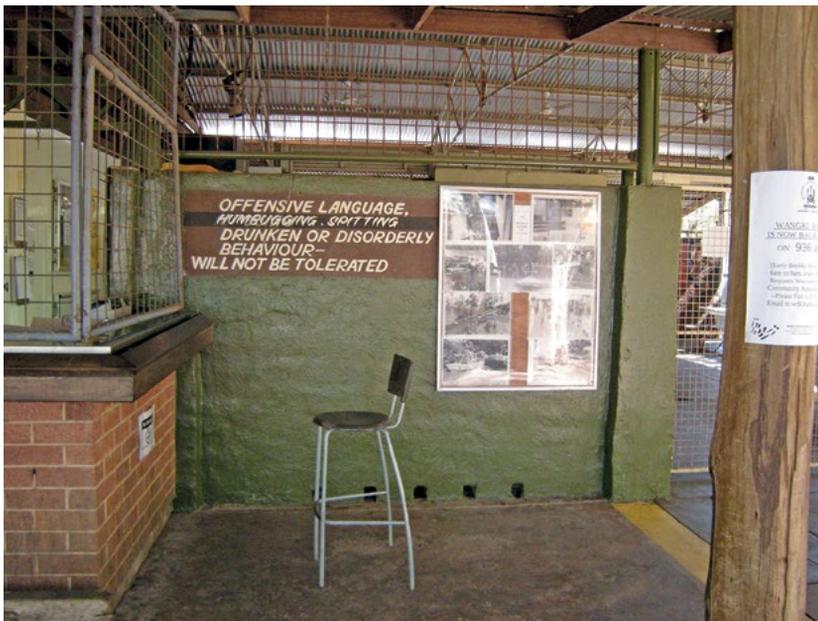


Fig. 30 Signage at the Crossing Inn

Source: M Brady

As a result, signs were installed behind the bar about the behaviours expected of customers on the premises (e.g. ‘no spitting, no humbug’), and the Crossing Inn displayed responsible service of alcohol posters.³⁹ The manager began to sit on a local alcohol and other drug management committee established by the Western Australia Drug and Alcohol Office, which was dedicated to reducing alcohol-related harm in the community. With so much attention now focused on the effects of alcohol on unborn

³⁹ These were reported in the *Leedal Newsletter* 2008, November (3).

children, the Crossing Inn agreed to have plastic beer glasses printed with FASD warning messages on them; the Fitzroy River Lodge refused to use them, arguing that it was a tourist facility.⁴⁰ The Crossing Inn started to provide hot food over the bar and lunches and afternoon teas in the gallery during the tourist season. Pamphlets were printed for members of the public explaining what the liquor restrictions were and why they had been imposed; new road signs were erected outside the town announcing the restrictions.

In the wake of the restriction on takeaway sales, there was a slight decrease in takings at the Tarunda supermarket (part of Leedal's holdings), which suggested that some Fitzroy Crossing residents were travelling away from home to purchase alcohol *and* food. It was still possible to buy sly grog in Fitzroy Crossing. Nevertheless, following a six-month review, the director of Liquor Licensing extended the restriction on the sale of takeaway liquor indefinitely (Department of Racing, Gaming and Liquor 2008, Oscar & Pedersen 2011). He declared that the restriction, which was subject to regular review, was in the *public interest*:

Negative impacts, and inconvenience experienced by those residents who wished to purchase full strength packaged liquor for takeaway, did not outweigh the social and health benefits that had been experienced by the broader community since October 2007. (Department of Racing, Gaming and Liquor 2008: 23)

Damage control at Leedal

The public exposure of Leedal's failings provoked it to improve its image by publishing a quarterly newsletter. Commencing in 2008, the newsletter featured (mostly) laudatory stories about its contributions to the community, business awards and appointments to its board, and an opinion column written by the chairman. That year, Leedal also implemented a strategic management plan to ensure that its directors had 'a clear understanding of all major business decisions before voting on them'. The aim was to 'develop the economic base of Fitzroy Crossing and to assist Indigenous community members who want to develop their own businesses'. A publicity pamphlet—'All about Leedal'—presented the names and qualifications of the company's bankers, auditors and legal advisers. Leedal also made several new professional appointments to its

40 Such an argument implies that FASD is not a problem for the general population: it is.

board, including a lawyer from a respected Perth law firm, and a new financial adviser. An earlier legal adviser had been found to be corrupt,⁴¹ and the original financial adviser had reportedly been responsible for Leedal's commercial strategy of redirecting profits to loan repayments and new investments, rather than the community.

Irving's review had found that, instead of instituting an orderly mechanism for the distribution of profits to beneficiaries, Leedal had gifted negligible sums of money—apparently at whim—to various clubs, organisations, school projects and individuals not directly associated with the shareholding communities (Irving 2007: 44–5). The issue was treated critically by the media⁴² and reiterated by Hope (2008: 120–1), who pointed out that Leedal had no plan in place that 'would involve some distribution of that income in the relatively near future'. The coroner urged the Department of Indigenous Affairs to intervene; however, neither it nor the Drug and Alcohol Office had any authority over Leedal (Department of Indigenous Affairs 2008: 23).

Stung by these revelations, in 2010, Leedal announced that it was providing \$250,000 to create a new charitable fund: Yapawarnti Fund Inc.⁴³ Directed by representatives from Leedal's six 'beneficiaries' (Junjuwa, Kurnangki, Marra Worra Worra, Kadjina, Bayulu and Yiyili), Yapawarnti's purpose was to support Fitzroy Valley's youth. Funding applications were to be assessed by the Yapawarnti board, the makeup of which was similar to Leedal itself: it included the directors of Leedal and the same chairman. The formation of this charitable association was Leedal's first (belated) attempt to share some of its profits in an orderly way with the communities that had made it rich—profits that included those derived from the sale of alcohol at the 'community' hotel.

41 The ADC had insisted from the beginning that there be a qualified lawyer and an accountant appointed as directors of Leedal. Unfortunately, the chosen lawyer was later struck off the roll of legal practitioners, after having been found guilty of embezzling money belonging to the Australian Paralympic Committee; he narrowly avoided jail (ABIX 2007).

42 There were headlines including 'ASIC must investigate profits from Fitzroy pub', *The West* 26 July 2007; 'Minister wants probe of Fitzroy pub profits', *The West* 10 August 2007; 'Leedal at centre of Fitzroy funds row', *The West* 1 March 2008.

43 The Yapawarnti Fund was Incorporated under the *Associations Incorporation Act, 1987* (WA) ('Investing in our children', *Leedal Newsletter* 7 August 2010).



Fig. 31 Rules of behaviour at the Crossing Inn bar

Source: M Brady

Analysing what happened in Fitzroy Crossing

Unlike other Indigenous-owned hotels, the project to buy the Crossing Inn and other businesses was carefully planned, with consultations carried out by a locally known researcher who worked with relevant communities and interest groups. Local residents genuinely hoped for improvements to drinking behaviour as a result of their partnership in the purchase. Of all the hotels purchased by Indigenous associations since the 1970s, the Crossing Inn purchase underwent the most thorough preliminary planning. Yet, the hotel came to be responsible for damaging sales of alcohol to the communities it was supposed to benefit most. Irving (2007), in his report to Minister Hockey and IBA, stated that the Fitzroy project had been successful and disastrous at the same time. He explained succinctly:

If success is measured by corporate growth then the Fitzroy Project, through Leedal, provides an outstanding example of social and economic development. Leedal is now the largest and most successful commercial enterprise in Fitzroy Crossing ... [However,] if success is measured in terms of community involvement in and ownership of the outcome of a project, or in terms of improvements to the community's wellbeing, then the Fitzroy Project must be judged as having failed the community it set out to benefit. (5, 6)

There are a number of interlocking explanations for what went so wrong: Leedal and its funders placed profits before people; governments, caught up in a period of upheaval in Aboriginal affairs policy, failed in their oversight; and the 'beneficiary community'—the Aboriginal communities of Fitzroy Crossing and surrounds—was neither willing nor able to intervene in the direction pursued by Leedal.

Putting profits before people

With community ownership enacted through representation on Leedal's board, it would not have been difficult to amend the Crossing Inn's licence to end the sale of takeaway alcohol. An approach to the liquor licensing authority in Western Australia, demonstrating community support and a plan to negotiate with local Aboriginal service providers in health and legal aid, would have sufficed. At the time, in the late 1980s and early 1990s, negotiations such as these were beginning to happen in parts of central and southern Australia (Gray et al. 1995, Brady et al. 2003, National Drug Research Institute 2007).

An informed observer of long experience, Stephens (cited in Barrass 2007: 6), blamed 'IBA and its joint venture partners' for diverting the project to the new goals of asset acquisition and rapid loan repayment. He reflected that:

A key feature of the initial business case upon which the joint venture was established involved a strategy that was widely endorsed within the local community and supported by me, involving an end to the sale of takeaway alcohol ... Instead, IBA and its joint venture partners have effectively put in place an alternative business strategy that has seen aggressive sales of takeaway alcohol underpinning these excessive profits and returns, allowing the joint venture partners to pay back their loans and cover their borrowings at a rate much faster than ever originally planned. This renegeing has compounded the human misery within Fitzroy Crossing and significantly contributed to the alcohol-related deaths and suicides within this community.

The focus on commercial rather than social goals for the Crossing Inn had commenced with community consultations, which revealed fears that, should the hotel and other enterprises not be a commercial success, Aboriginal people would be 'blamed' (Arthur 1989a: 11). When Leedal initially devoted considerable effort to repaying its \$1 million loan from the ADC, it was presumably responding to such pressure. Leedal decided

that its guiding principles were to develop an economic base in the region, which is understandable. The joint-venture partners encouraged this emphasis on profitability. Leedal originally owned less than half the shares in the businesses. The other partners in the original joint venture were part of the liquor industry; they were hardly likely to be sympathetic to public health strategies and ideas about harm reduction or social wellbeing. They were well-known Western Australian entrepreneurs who owned regional tourism and hospitality businesses in the Kimberley and elsewhere; their association with the business of selling liquor pointed Leedal in a particular direction. The less experienced Aboriginal board members, drawn from local communities, may have wished to take the business in a different direction, but their voices were not as strong. One early board member recalled:

We had no training when we started as directors of the company, no idea. We were making decisions about the business that were ill-informed. We relied on [name] and others [non-Aboriginal board members] to supply that information about the industry.⁴⁴

However, there is more to the story. The loan to the ADC was paid off relatively quickly. By the turn of the twenty-first century, the company was wealthy. Leedal acquired other assets and increased its equity in the Crossing Inn, strengthening its position. Why was Leedal persistently unwilling to keep faith with the original spirit of the purchase—to reduce alcohol harms, regardless of profits? Why did it not curtail off-premises sales for the benefit of the community? Leedal claimed to own assets worth more than \$10 million, held in trust for the six beneficiary communities.⁴⁵ Right from the beginning, Leedal had diversified its investments; it owned shops, a supermarket, the hotel, a tourist lodge and a caravan park. With such a diversified portfolio, Leedal could have lost some revenue from alcohol sales at the hotel without negatively affecting its overall financial security.⁴⁶ However, when members of a state committee of inquiry into alcohol-treatment services asked Leedal where its profits went, the chairman answered that after loan repayments, the priority was to ‘build the assets’. Leedal’s operations manager replied more fully:

⁴⁴ Brady fieldnotes, KP, interview, 2009.

⁴⁵ ‘All about Leedal’ (2009) [Pamphlet].

⁴⁶ By 1992–93, three to four years after its part purchase by Leedal, the Crossing Inn’s alcohol sales were estimated to be at least \$3 million and the Tarunda supermarket was not far behind with sales of \$2.2 million (Smith 2006: 263).

Regarding where the funds go, I want to emphasise that 10 years ago when I started here, the company owed more than \$1 million in a loan. Where does the money go? The Leedal Pty Ltd is a trust for the Fitzroy Trust. Obviously the funds stay within that trust. As mentioned ... each of the beneficiaries or communities that own the company have a director from each of those beneficiaries. We have four meetings a year—one every quarter—when funds or profits are available we put it to the board to decide what to do and it goes back to the communities and discusses it with council or community members to acquire a bigger percentage of what they had. This is where we have got to own 100 per cent of the Crossing Inn. When I first started here it was 42 per cent. In 10 years we acquired 10 per cent of that. This was 42 per cent as well, Patrick, am I correct. Now it is 70 per cent. (Subcommittee of the Education and Health Standing Committee 2010: 5–6, cf. Education and Health Standing Committee 2011)

It is not surprising that the operations manager's testimony gloried in Leedal's commercial success. Many accolades from the business and mining sector have been heaped upon the company and its directors, including the West Kimberley Small Business Award in 2013, the Rhinehart Development of Northern Regional WA Award in 2014, and the Horizon Power Leadership and Development Award in 2015.⁴⁷ However, rewarding this version of 'success' begs the question of whether an Indigenous business—more so, perhaps, than any other type of business—should be seeking to incorporate *social* benefits (or harms) as valid indicators of good (or less good) performance, or as part of their 'normal' commercial aspirations? (Arthur 1999).⁴⁸ In a discussion about welfare and enterprise, one commentator observed:

While from one perspective the drive to accumulate may be seen as a corruption of the original intent to alleviate the effects of Aboriginal unemployment and social dislocation, from the point of view of the Indigenous business leaders who run them, it may be seen as a normal commercial aspiration to retain profits for expanded operations. (Smith 2006: 264)

47 It should be noted that in the same year that Leedal's businesses won several awards, June Oscar, who was one of several leaders responsible for the ban on takeaway sales, was made a member of the Order of Australia in recognition of her work campaigning against alcohol-related harm—an accolade that was reported in the *Leedal Newsletter* (12 July 2013).

48 Another decision that could, arguably, be interpreted as being harmful to the physical wellbeing of local people occurred when Leedal awarded the franchise to operate a shop within its Tarunda Supermarket complex to a fast-food fried chicken outlet, rather than selecting a more healthy (although possibly less profitable) option. 'Rosie's Chicken' is a small takeaway franchise designed to compete with McDonald's and KFC.

Welcome to Fitzroy Crossing

Fitzroy Crossing is located on the bank of the Fitzroy River in the heart of the Kimberley region and is a great place for travelers to stop when heading either west, east or somewhere in between. It is a small town, but it has some big "Must See" attractions.

- Genkie Gorge National Park is just 18km north east of the town via a sealed road. Boat tours are available as well as walking trails which allow you to see all the beauty of the Gorge.
- Take a walk along the river via the Old Concrete Crossing.
- Visit the Crossing Inn which is the oldest pub in the Kimberley and has some great artwork around the outside of the building and has a good collection of local art on display in the art gallery.
- Mimbí Caves are an untouched cave system not far from the town, and you can enjoy a tour through them led by the traditional Aboriginal owners.

Enjoy Alcohol Responsibly

In an effort to address some of the alcohol related harm members of the Fitzroy Crossing community lobbied for a restriction on the sale of takeaway alcohol.

The community has been successful in their pursuit of alcohol restrictions and the following information is provided to help you enjoy your visit to the unique and spectacular part of the country.

The liquor restriction in Fitzroy Crossing relates to:

The sale of packaged liquor, exceeding a concentration of ethanol in liquor of 2.7 per cent at 20°C, is prohibited to any person, other than a lodger (as defined in section 3 of the Liquor Control Act 1988).

In practical terms this means you can only buy light beer as takeaway in Fitzroy Crossing.

What can you do?

- ✓ You can bring alcohol into town that you have purchased elsewhere for your own personal consumption (be aware that throughout WA it is against the law for persons of any age to drink in public, such as in the street or park).
- ✓ You can go to the Crossing Inn or the Fitzroy River Lodge and enjoy a full bar service.
- ✓ You can purchase takeaway light beer from the Crossing Inn.
- ✓ If you are staying at the Fitzroy River Lodge in a hotel room, you can purchase takeaway alcohol to have in your room (See Lodge staff for conditions).
- ✓ If you are staying at the Crossing Inn in a hotel room you can purchase takeaway alcohol to have in your room (See Crossing Inn staff for conditions).

What can't you do?

- ✗ If you are staying in a caravan park, you are not able to purchase takeaway alcohol other than light beer from the Crossing Inn.
- ✗ If you bring alcohol with you, you cannot sell it to others in Fitzroy Crossing.

These conditions are in place to protect the health and wellbeing of everyone living in the Fitzroy Valley as well as those visiting this wonderful part of the world. Your compliance with these conditions, while being a legal requirement, is also greatly appreciated by the community.



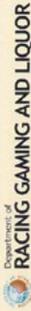




Fig. 32 Flyer explaining the liquor restriction in Fitzroy Crossing to members of the public

Source: Department of Racing Gaming & Liquor and WA Police

Failing to act for the community good

Many—probably the majority—of Fitzroy Crossing people had agreed to the community's purchase of equity in the Crossing Inn, believing that it would put an end to sales of takeaway alcohol and lead to on-premises, sociable drinking. The underlying hope was that the culture of explosive, binge drinking, would change. This did not happen, even though Leedal's growing equity in the Crossing Inn gave it greater power over the other partners.

The other way that Leedal was supposed to act for the community good was in returning money to community shareholders. This practice would usually distinguish classic community-owned hotels from typical commercial premises: it was what made the idea of community hotels so appealing to local citizens in South Australian towns in the late nineteenth and early twentieth centuries. However, Leedal failed to quarantine profits that could be distributed for the community's benefit. Profits from all its entities (including the hotel) were *reinvested*, and millions of dollars worth of assets were consolidated, while it made ad hoc and negligible donations to various local causes. When asked where the communities' funds had gone, Leedal's operations manager replied, disingenuously, that the board had 'believed that if we gave cash to communities ... [it would] end up back down at the pub' (Subcommittee of the Education and Health Subcommittee 2010: 5–6). It is unlikely that anyone ever seriously suggested that Leedal's profits should be distributed in the form of cash payouts to communities. That these can be disastrous was well documented in several instances some years ago; communities that manage compensation or royalty payments have long since devised numerous sensible alternatives to cash payouts (Altman & Smith 1994, 1999).⁴⁹

Leedal's failure to be receptive to the wishes of the community—its shareholders—raises an important question: how is 'community' defined and how are its wishes ascertained? By 2006–07, one expression of community wishes was the groundswell of concern over alcohol-related harms emanating from communities in and around Fitzroy Crossing (i.e. Leedal's member communities) that were backed up by reports from

49 Although, in previous years, mining royalties, compensation and other similar payouts have been paid in cash, these days, royalty and other distributions to Aboriginal communities are more likely to be allocated to community purpose projects (cf. the Central Land Council's website), www.clc.org.au/frequently-asked-questions/cat/clc.

visiting health professionals. Far from responding sympathetically to these genuine rumblings of alarm, Leedal consistently and vociferously opposed the suggestion of a six-month moratorium on takeaway sales.⁵⁰ Even more extraordinarily, once the trial restriction imposed by the director of Liquor Licensing was over, Leedal argued against its continuation, despite clear evidence of its positive effect. Highlighting the perversity of Leedal's stance, Coroner Hope (2008: 122) reminded the public that the original purpose of the acquisition of equity in the Crossing Inn had been to 'correct local alcohol problems'. At least one Leedal board member left over this issue: 'the crunch came when women called for restrictions and the board wouldn't support it. I resigned'.⁵¹

Leedal's opposition to the takeaway ban was evident in its self-published quarterly newsletter and in the submissions it made to every relevant state or federal government inquiry, senate committee or other investigation (Leedal 2009, 2013, 2014, Subcommittee of the Education and Health Subcommittee 2010). In these commentaries, Leedal labelled the restriction on takeaways 'prohibition': for example, the policy 'in many ways reflects "Prohibition"' (Leedal 2014: 7). In reality, the restrictions were merely a ban on the sale of packaged alcohol containing more than 2.7 per cent alcohol content, not a ban on *all* alcohol consumption. Nevertheless, Leedal's use of the term 'prohibition' was significant, for it allowed Leedal to draw a lesson from Prohibition in the United States in the 1920s—namely, that prohibition was a disaster that masked underlying problems (Leedal 2009, 2014: 2).⁵² Leedal (2014) also cited a controversial American sociologist, David Hanson, who is critical of the prevailing view of clinicians on the effects of alcohol consumption on health.⁵³ Confronted with the positive evaluation of the takeaway ban produced by Notre Dame University, Leedal's chairman claimed that the study was inadequate. He refused to accept the view expressed by politicians and others that the alcohol bans had improved conditions

50 This was proposed by June Oscar, Emily Carter, the women's group and the senior men of the KALCC.

51 NP, interview, 4 August 2009.

52 Leedal correctly pointed out that prohibition can be accompanied by an increase in illicit alcohol production. However, they failed to cite the World Health Organization, which found that during Prohibition in the United States, mortality from cirrhosis declined by around 50 per cent. They also ignored a wealth of international evidence on the efficacy of liquor sales controls in reducing harm (Edwards et al. 1995, Cook 2007).

53 David Hanson promotes the idea that alcohol improves cognitive functioning and is good for health; he argues that the public health approach endorsing alcohol restrictions is a puritanical and moralistic temperance movement in disguise.

and that children were eating and sleeping better.⁵⁴ Leedal's submissions to various inquires sought to direct attention away from alcohol-control measures and towards individual responsibility, alcohol education and the need for medical treatment and care for those with alcohol-use disorders. In other words, they sought to blame the consumer. In doing so, Leedal deployed the same argument the alcohol industry has relied on for decades (Burnham 1993, International Center for Alcohol Policies 2004, Sellman 2010, Leedal 2014).

By denying how serious the situation was in the past, and by publicly condemning the restriction on takeaways, Leedal was up against a strong body of community and expert opinion that perceived an overall improvement in life at Fitzroy Crossing. The awkwardness of Leedal's position, in which it both failed to act for the good of its own community and continued to deny its role in alcohol-related problems, was captured in questioning at a state Standing Committee in 2011:

Mr PB Watson (Committee member): Most people think that alcohol is a problem in the community. But you have got Aboriginal groups owning the places that sell liquor. Is that a problem? Is that an embarrassment to the communities, when their biggest problem is alcohol, but the people who are selling it are the communities themselves? Is that an issue to you?

Patrick Green (Leedal chairman): It is perceived as a problem. But 20-odd years ago we bought it so that we could curb the drinking problem.

Mr Watson: Has it worked?

Patrick Green: I would like to think that we were able to help the community in having access to alcohol on certain days and restricting it on others. (Subcommittee of the Education and Health Standing Committee 2010: 5–6, cf. Education and Health Standing Committee 2011)

Service providers at Fitzroy Crossing today deal with a community that is significantly different to the one that existed prior to the restriction on takeaways. Before the restrictions were in place, the town experienced

54 Following the introduction of restrictions in 2007, there were regular spikes in the count of alcohol-related injuries, continued alcohol runs to buy takeaway supplies elsewhere and some increases in emergency department presentations to the Fitzroy Crossing hospital. However, in 2011, a thorough and evidence-based Standing Committee report noted that *overall* there had been reductions in ambulance call-outs and presentations of domestic violence cases, and a decrease in overall alcohol-related trauma. Contrary to claims that up to 400 people had moved from Fitzroy Crossing into Broome to drink, a headcount found only 35 Fitzroy Crossing residents there (Education and Health Standing Committee 2011: 22).

almost constant late-night parties and disturbances that particularly affected children (Akesson 2009). While there are lingering problems, such as illegal sales of alcohol and increased movements of people to buy grog (Akesson 2009; Kinnane et al. 2009), no one ever claimed that stopping off-premises sales would solve all the alcohol problems; to the contrary, advocates of the takeaway ban had anticipated such effects.

Problematic local politics

What prevented the Leedal board members nominated by the six beneficiary communities from insisting on ending sales of packaged alcohol? There appears to have been no concerted effort to put community pressure on the board, despite overt dissatisfaction with Leedal's direction. Two prominent Aboriginal people resigned from the board in 1995 and, as mentioned previously, another board member resigned in protest when Leedal declined to support moves to trial a ban on takeaways in 2007. A former board member said simply, 'it started off good, but greed got to them'. Another former board member recalled feeling increasingly unhappy with Leedal's direction:

I got really unhappy about Board's direction, and it wouldn't engage with the community. I thought I could make a difference. [It] wouldn't engage with the community ... The original idea was to control corrupt and irresponsible service [of alcohol] but when aligned with [joint partner name], the focus was on making money, it lost its community focus. I became disillusioned with everything.

Unlike other community-owned pubs, both Indigenous and non-Indigenous, the Crossing Inn had no governing board of its own. The hotel has always been one branch of an extensive portfolio of businesses belonging to a proprietary company. The Leedal board governed the entire portfolio. However, overseeing shops and a caravan park is not the same as overseeing a hotel, especially one servicing a vulnerable community: the issues are manifestly different. In this respect, the Crossing Inn is unlike a Gothenberg-style hotel. Each of the Gothenberg-style hotels of rural South Australia, as well as numerous Aboriginal-owned licensed premises, such as the Finke Hotel, the Transcontinental Hotel and Mt Ebenezer Roadhouse, had boards whose sole responsibility was the hotel. Indeed, one of the principles underlying the cooperative ideal of community hotels was the election of local people to the hotel board, as this gave residents the opportunity to hear directly from the hotel manager about the status

and conduct of the hotel, and contribute to hotel policies. The absence of a hotel board undermined the capacity of local people to question the hotel's direction, effectively cocooning it from criticism.

A further explanation for the lack of action by community members, or Leedal board members, lies in the nature of people's affiliations and allegiances to different organisations and residence groups in the region, and the fact that people in key positions are related to one another (Thorburn 2011). Individuals may have been concerned about the direction taken by Leedal, but they were unable to change it. Several of Leedal's 'beneficial community' shareholders were corporations registered in their own right under the Office of the Registrar of Indigenous Corporations (ORIC)—a registration and monitoring body with considerable regulatory powers of intervention. In principle, this provided shareholders with some leverage, as they had the authority to seek assistance from ORIC. However, ORIC's powers to compel compliance with corporate law would not have had any effect on Leedal's policy on alcohol sales, which was within the law. Disputes over the composition of Leedal's board and the community bodies represented on it have further complicated matters.⁵⁵ Some prominent individuals have fulfilled multiple (and sometimes overlapping) roles and have retained these positions for extended periods. While this provides stability, it also contributes to conformity in (and domination of) an organisation's direction.⁵⁶ For example, the chairman of Leedal has been a director since 1991. The longest serving Leedal board member, he is also a company director of two of Leedal's beneficiary organisations⁵⁷ and chairman of the charitable fund set up by Leedal in 2010. In a small, close-knit and historically embedded population such as Fitzroy Crossing, these features of community representation are perhaps inevitable, even if they are not desirable. Rightly or wrongly, the perception in the local community was that 'no-one had input into Leedal'.

55 For example, Junjuwa, the major shareholder, was restructured. Although the community of Junjuwa still exists, in 2000 its administrative and economic arm was incorporated under a new name: Bunuba Inc.

56 A professional observer familiar with Leedal's business structure observed, drily, that the word 'plutocracy' comes to mind in this context.

57 These are Bunuba Inc. (previously known as Junjuwa Aboriginal Corporation), and Marra Worra Worra Aboriginal Corporation, both 'beneficiary organisations' of Leedal.

The original plan for consultation and governance had included an MLG, which was supposed to serve as a conduit between the communities and the business management arm of Leedal. This group was intended to have the *social* interests of the communities at heart; however, for reasons unknown, it lasted only a few years and folded in 1991. When the campaign for a trial ban on sales of packaged alcohol finally gathered momentum in 2007, it polarised opinion in the town, pitting family members and organisations against each other. If the MLG had still been in existence, perhaps these fractious relationships could have been improved?

In his early planning reports, Bill Arthur emphasised that the purchase of the Crossing Inn and other businesses was perceived by community members as a *community development* project. Anthropologist Patrick Sullivan has questioned whether an Aboriginal community organisation should ever become the controller of large businesses, suggesting that, as new projects are spawned in the name of the community, ‘the possibility of effective community control recedes’ (Sullivan 1996: 97). Community development theory has taught us that communities are not always homogeneous; that community leaders do not always act in the best interests of their people; and that government and community workers do not always share the same goals for development (Foster 1982, Rifkin 1986, cf. Purtil 2017). In the case of Leedal and the Crossing Inn, these lessons seem pertinent.

Who was responsible?

Three agents can be held responsible the Crossing Inn’s failure to restrain or arrest damaging sales of takeaway alcohol. First, Leedal, as a primarily Aboriginal organisation, bears responsibility. Although it was originally only half owned by Aboriginal interests, it was eventually fully Aboriginal owned. Leedal should have operated with more empathy and foresight. Rather than resisting (and in some cases undermining) those who expressed genuine concerns about the health and wellbeing of the community, and who had irrefutable evidence of alcohol-related harms, it could have collaborated with them. For the good of the community, it could have decided to cross-subsidise a reduction in its sales of alcohol by using income from its other enterprises. The deaths investigated by the coroner may not have occurred on the premises of the Crossing Inn; however, the alcohol sold there, its volume and manner of sale,

was undoubtedly to blame. It is fortunate from Leedal's perspective that Australia does not treat liability for alcohol-related harms in the way that Canada does (Solomon & Payne 1996).

Second, the Indigenous development bureaucracies that funded and partnered with Leedal are responsible for prioritising commercial aspirations over social considerations. Without abandoning commercial aspirations, the ADC and other agencies should have been more alert to the (potentially adverse) social implications of their investments. Stephens rightly identified the ADC (followed by IBA and their joint partners) as being complicit in the perpetuation of aggressive off-premises sales at the Crossing Inn, which generated 'excessive profits and returns' for Leedal. Admittedly, the roles and policies of these agencies were complicated by a series of bureaucratic upheavals in Indigenous affairs that coincided with the planning phase for the Crossing Inn's purchase, as described in Chapter 2. The original loan for the Fitzroy Crossing businesses came from the ADC, and the original negotiations were conducted with the ADC. However, by the time the actual purchase of the businesses took place, the Audit Office had begun investigating the ADC, resulting in a tightening up of its governance and investment strategy. The minister wanted *more attention* paid to the commercial viability of the ADC's investments and demanded greater public accountability (Pratt & Bennett 2004). With the advent of ATSIC in 1990, local ADC staff—the people who had helped to broker early consultations over Leedal and the purchase of the enterprises—were redeployed. The creation of ATSIC's development arm, the CDC, continued the focus on investments along strictly commercial lines, as well as the promotion of joint ventures between Indigenous and non-Indigenous business people (WS Arthur 1996). However, these restructurings and political upheavals do not absolve these agencies from an ongoing duty of care. It is extraordinary that, only two years before the Crossing Inn was publicly excoriated for its role in alcohol-related dysfunction and mortality, IBA described it as one of its 'most successful strategic investments' (IBA 2005: 12). Within two years, IBA's position became so untenable that it *opted out* of its stake in the Crossing Inn, thus abdicating any further responsibility for it.

The third failure of responsibility lies with the state government's alcohol regulatory mechanisms, which were not mobilised until widespread and long-lasting social, cultural, physical and emotional harm had been done. The state's liquor licensing authority eventually swung into action to support the community mobilisation (once it gathered momentum) in

2007, but why was it left to the community to do this? It seems odd that the director of Liquor Licensing did not step in sooner, particularly in light of the extent of alcohol-related harm and suicide that was documented throughout the 1990s (Hunter 1993, Hall et al. 1993, Midford et al. 1994), not to mention the volatile and dangerous drinking practices near the Crossing Inn and the adjoining Billabong Park. Further, in view of irrefutable evidence of a specific licensed premises being directly associated with measurable harm, it is remarkable that, in 2005, the director of Liquor Licensing had apparently been so impressed with the ‘strong’, self-imposed restrictions adopted by the owners of the Crossing Inn that he used the hotel as a model for other remote hotels in Western Australia (IBA 2005: 12). Perhaps this was because the hotel had instituted *some*—albeit insufficient—adjustments to its sales practices in response to community requests?

The director of Liquor Licensing intervened only when compelled by strong community opinion and when faced with the prospect of a coronial inquest into numerous alcohol-related deaths that had occurred on his watch. Both he and the coroner were influenced by the political climate generated by the Australian government’s tough new approach to alcohol consumption. The government’s declaration of the Northern Territory Emergency Response (NTER) in June 2007 in response to reports of child sexual abuse, violence and neglect in remote Aboriginal communities demonstrated its willingness to override locally instigated regimes to tighten up alcohol controls.⁵⁸

In addition to these three failures, there was also a failure to *keep track* of the health and wellbeing of the people of Fitzroy Valley. In retrospect, it seems anomalous that no external body was in a position to call attention to ‘sentinel events’ in the region much sooner: a spike in alcohol-related mortality, a spate of homicides, suicides and an increase in alcohol-related morbidity. ATSIC had shared responsibility for the oversight of Indigenous-specific health and alcohol program funding with federal and state health departments. All these bodies, in effect, ignored what turned

58 The NTER was initiated by the Australian Government in response to a Northern Territory inquiry into Aboriginal child sexual abuse that found it to be serious, widespread and often unreported (Altman & Hinkson 2007). The NTER included a number of measures, such as providing additional police officers in communities, and tightened existing alcohol-control measures. It declared Aboriginal communities, living areas and town camps to be ‘prescribed areas’, and banned the sale and consumption of alcohol in them (although there were already 107 restricted areas on Aboriginal land and only 15 allowed alcohol in one form or another); it also imposed restrictions on the sale of alcohol in the eight existing licensed clubs in remote communities.

out to be a deepening alcohol-related crisis in the Fitzroy Valley. Practical support, advice and ongoing evaluation of Indigenous governance was missing. An external review of Leedal's governance might have uncovered why board members felt powerless to change Leedal's direction.

Abandoning the ideals of a social enterprise

When preliminary discussions about the purchase of the Crossing Inn were taking place in 1988, people at Fitzroy Crossing were unaware of the rural communities in South Australia that owned their local pubs and had a say in how they were run; they were unaware that these cooperative efforts had a sound basis in alcohol-management and alcohol-control policies in Scandinavia and the United Kingdom. One of the founding principles of these community cooperatives, particularly those associated with the Gothenburg system, was that the hotel manager should not derive any personal profit from the sale of alcohol. 'Disinterested' management—the payment of a fixed salary to managers—was supposed to remove incentives for managers to encourage drunkenness. The coronial inquest in Fitzroy Crossing in 2007 disclosed that the managing partner of the Crossing Inn, Wayne Bowen of Mapigan Pty Ltd, had a remuneration package based on a formula in which he received 2 per cent of the hotel's sales and 10 per cent of its profit (Strutt 2007b).

Although Leedal's purchase of equity in the Crossing Inn was ostensibly motivated by harm reduction, which was supposed to be pursued by ending sales of packaged alcohol and relying on on-premises drinking, its policy was not modelled on the Gothenburg system, about which Leedal knew nothing.⁵⁹ Unhappily, packaged alcohol sales remained; the sale of alcohol contributed to widespread harm, and the profits derived from the hotel were not used for projects to reduce alcohol-related harm.⁶⁰ Without a community board specifically for the hotel, there was no focus on the hotel as a venue that required a special management style, aims, policies, serving practices, physical environment and facilities. As well, because the revenue from the hotel was not quarantined, its profits were Leedal's.

59 Bill Arthur (pers comm, 20 May 2015) observed that some useful lessons might have been learned from the 'Gothenburg' experiments in South Australian community-owned hotels had they known about them at the time.

60 This was the case up until 2010 and the establishment of the Yapawarnti Fund. However, this Fund is not explicitly oriented to reducing alcohol-related harm either.

By contrast, the profits generated by the South Australian community-owned hotels belonged to those hotels alone. With hotel boards made up of citizens from the local town, local people were able to decide on the allocation of a portion of these monies to local organisations, activities and facilities.



Fig. 33 Nk'Mip wine store, Osoyoos, British Columbia, 2013

Source: M Brady

Leedal's publicity material, although decorated with Aboriginal designs, does not market the Crossing Inn as 'community owned' or even 'Aboriginal owned'; instead, the hotel is described as 'The historic Crossing Inn'. The Fitzroy River Lodge does not mention that it is owned by Aboriginal communities either. This is in marked contrast to other, comparable Indigenous community projects associated with alcohol, such as the Aboriginal winegrowing venture at Murrin Bridge in New South Wales, which marketed its wine as coming from an Aboriginal-owned enterprise (McQuire 2011: 1). The Mt Ebenezer Roadhouse in northern South Australia openly states that it is owned by the Imanpa community. In Canada, the Nk'Mip Cellars and Resort in the Okanagan Valley of British Columbia makes a virtue out of the fact that it is 51 per cent owned by the Osoyoos Indian Band (Anderson et al. 2007).

The property is designed to attract tourists rather than members of the local First Nations band; nevertheless, Chief Clarence Louie's photograph is prominently displayed, holding a glass of red wine as if to demonstrate wine appreciation and moderate drinking. Like Leedal, Nk'Mip has many diversified investments; it owns and operates related enterprises catering to locals and tourists including a vineyard, winery, caravan park, golf course, cultural centre and museum, and a nature park. In the on-site shop, Nk'Mip sells its wine—with labels featuring indigenous rock art designs and artefacts—alongside First Nations masks, drums and other artefacts. In Australia and overseas, enterprises such as these have discovered that identifying and promoting themselves as being owned by the Indigenous community can be an effective marketing technique.

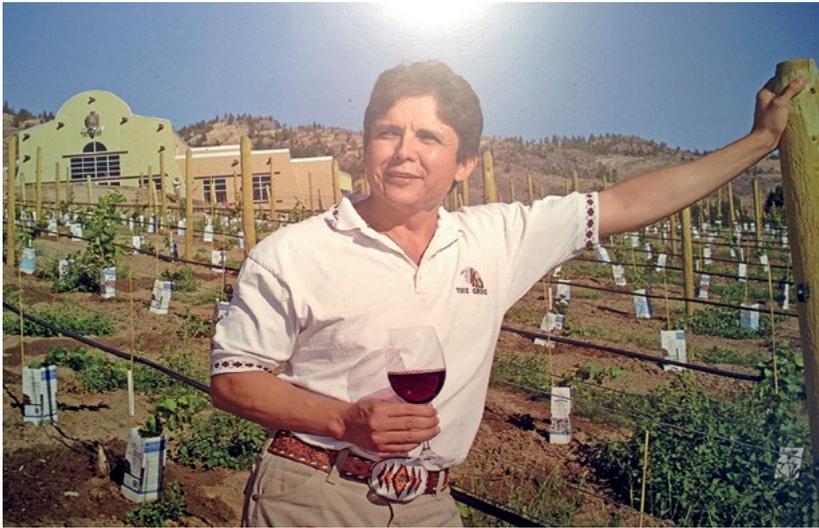


Fig. 34 Chief Clarence Louie, Nk'Mip, Osoyoos, British Columbia

Source: Nk'Mip promotional poster, 2013

The Crossing Inn is not a community-owned hotel in the 'classic' Gothenburg sense, nor is it a social enterprise of the kind discussed by researchers such as Defourny and Nyssens (2010). A social enterprise is generally understood as a market-oriented economic activity that serves a social goal. Commenting on the safeguards that protect the integrity of such enterprises, Defourny and Nyssens explain that, in Europe, governance structures for social enterprises aim for:

A democratic control and/or a participatory involvement of stakeholders [to] reflect the quest for more economic democracy, in the tradition of cooperatives. They therefore add to constraints on the distribution of profits with a view to protecting and strengthening *the primacy of the social mission, which is at the very heart of the organization*. (49, emphasis added)

Together with this kind of participatory cooperative governance, instituting strict constraints on who can benefit from the profits of such enterprises helps to avoid the risk that public subsidies will simply mean that more profits are distributed among owners or managers. Public support and subsidies are important, as they (usually) enable enterprises to avoid purely market-driven strategies. However, the Crossing Inn became part of the much larger business entity, Leedal, the Trustee for the Fitzroy Crossing Trust and, since profit is the bottom line of business, success in business is usually defined as monetary success (Foley 2003: 137).

During the planning process in 1988 and 1989, Arthur (1989b) drew attention to the fact that the project was set up as a Trust. 'It is the job of the Trustees', he observed:

To be aware of the socio-economic realities of the valley, and the distribution of the benefits. The Trustees have the final say in the event that the project is not fulfilling its aims and objectives, else why bother to have a Trust in the first place?

As it turned out, this was a pertinent question, for the larger business entity and its members, together with the outside agencies charged with the financing, surveillance and governance of the enterprises, failed to fulfil the community's original aspirations for the hotel's purchase. Having a monopoly over alcohol sales in Fitzroy Crossing and the surrounding districts presented numerous opportunities, which the company squandered. Leedal should have been able to experiment with strategies designed to change the drinking habits of the Crossing Inn's customers, thereby diminishing alcohol-related harms in the region. This would have enabled the company to confront the moral hazard of profiting from the sale of alcohol. Instead, it suited Leedal's principals to subsume, and thus obscure, the complex issues surrounding the sale of alcohol by the Crossing Inn under their wider and pre-eminent remit to be a successful business enterprise.

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