

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

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**MATTER:** BANUBANU BEACH RETREAT APPLICATIONS FOR VARIATION OF CONDITIONS AND MATERIAL ALTERATION [2025] NTLiqComm 39

**REFERENCE:** LC2025/032

**APPLICANT / LICENSEE:** Banubanu Holdings Pty Ltd

**PREMISES:** Banubanu Beach Retreat  
Dhambaliya/Bremer Island  
Nhulunbuy NT 0881

**LICENCE NUMBER:** FLL1304

**LEGISLATION:** Sections 97 and 112 of the *Liquor Act 2019*

**HEARD BEFORE:** Mr Russell Goldflam (Chairperson)  
Professor Phillip Carson (Health Member)  
Mr Denys Stedman (Community Member)

**DATE OF HEARING:** 5 November 2025

**DATE OF DECISION:** 2 December 2025

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### **DECISION**

1. For the reasons set out below and in accordance with ss 97 and 112 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to approve applications by Banubanu Holdings Pty Ltd (**the licensee**) to:
  - a. Make a material alteration to its premises at Banubanu Beach Retreat, Dhambaliya/Bremer Island, Nhulunbuy NT 0881 (**the premises**) by altering the footprint of the premises to the area bounded in yellow on the plan at Annexure One to this decision notice.
  - b. Vary the conditions of liquor licence FLL 1304 (**the licence**) over the premises by varying the trading hours to:

Between the hours of 08:00 and 23:59 hours – seven (7) days a week.

## **REASONS**

### **BACKGROUND**

2. The licensee operates the Banubanu Beach Retreat on the northeast tip of Dhambaliya/Bremer Island (**Dhambaliya**), about 15 km – a 40 minute boat trip or 15 minute flight – from Nhulunbuy on the Gove Peninsular. Guests are accommodated in six cabins overlooking the beach. The current footprint of the premises is confined to the Retreat’s pavilion restaurant. Gutjangan, a Yolngu family outstation, is located about 1.5 km southwest of the Banubanu Beach Retreat. The licensee occupies the premises under a lease from the registered owner of Dhambaliya, the Arnhem Land Aboriginal Land Trust.

### **THE APPLICATION**

3. On 5 August 2025 the licensee applied for a material alteration to extend the footprint of the premises to include the existing and planned additional six accommodation units, a proposed extension to the restaurant, and the beachfront. The licensee also applied to vary a condition of the licence by extending trading hours, which are currently from 11:00 hours to 22:00 hours every day.

### **PUBLICATION AND CONSULTATION**

4. As permitted by ss 96(4) and 111(1) of the Act, a delegate of the Director of Liquor Licensing (**the Director**) determined not to require the licensee to publish notice of the applications. In accordance with ss 96(6A) and 111(3) of the Act, the Director notified the Department of Health, NT Police and Nhulunbuy Corporation of the applications. The Director also notified the Northern Territory Fire & Rescue Service. None of these agencies raised any concerns or objections.

### **THE REFERRAL**

5. On 9 September 2025 the Director referred the applications to the Commission, and provided the Commission with a brief that included the following documents (**the brief**):
  - a. Memorandum of Mark Wood, Delegate of Director, 9 September 2025
  - b. Liquor licence FLL 1304
  - c. Section 43 affidavit and declaration of associates
  - d. Public interest and community impact assessment summary
  - e. Deed of assignment of lease from Banubanu Pty Ltd to Banubanu Holdings Pty Ltd, 29 January 2025

- f. Landlord's consent to assignment of lease, 21 February 2025
- g. Draft plan of proposed footprint of premises
- h. Architect's plans for proposed restaurant deck
- i. Correspondence with stakeholders

## THE HEARING

6. On 5 November 2025, the first available date convenient to both the licensee and the Director, the Commission conducted a public hearing of the application. The licence nominee, Ms Eileen O'Doherty, and the sole director of the licensee, Mr Gian Fulvio Inserra, appeared on behalf of the licensee. Mr Mark Wood appeared for the Director, accompanied by Ms Kristy Shresta. The Commission thanks them for their considerable assistance.
7. Without objection, the Commission received the following documents into evidence:
  - a. The brief
  - b. Plans of the proposed footprint
  - c. Letters of support for the applications from
    - i. Helen Martin, Chairperson, Banubanu Advisory Board
    - ii. Acting Superintendent Bell, Nhulunbuy police station
    - iii. Carly Smith, Nhulunbuy Fire and Rescue Brigade Social Club
    - iv. Shane Whitten, CEO, Nhulunbuy Corporation
  - d. Aboriginal Areas Protection Authority (**AAPA**) documents:
    - i. Certificate, 27 August 2025
    - ii. Report from Northern Land Council, 30 May 2006
8. The Commission has also had regard to the lease over the premises between the Arnhem Aboriginal Land Trust and Banubanu Pty Ltd commencing 9 December 2014, with a term of 25 years, a copy of which the licensee provided to the Commission on 22 September 2025. In January 2025, with the consent of the Arnhem Land Aboriginal Land Trust, the lease was assigned to the licensee. Term 30 of the lease prohibits the lessee/licensee from supplying or allowing the consumption of liquor on the lease area or elsewhere on Dhambaliya, subject to Term 30.3, which provides:

If permitted by law, the Lessee may permit employees, agents, contractor, consultants or invitees to take liquor onto the Lease Area:

- a. In accordance with law and the relevant permit requirements;
  - b. So long as liquor is consumed responsibly; and
  - c. Such liquor is consumed on the Lease Area and not on the beach or other public areas in the vicinity of the Lease Area.
9. At the hearing, the Commission requested a final version of the proposed altered footprint of the premises. On 28 November 2025 Mr Wood sent the Commission an updated plan of the altered footprint in accordance with matters discussed at the hearing.
10. Mr Wood informed the Commission that the licensee has no adverse compliance history, and that the Director supported the applications.
11. Ms O'Doherty gave evidence, which the Commission accepts, that:
- a. The licensee has a respectful and positive relationship with the Gutjangan community, and to maintain and develop the relationship it has established the Banubanu Advisory Board.
  - b. The licensee does not sell liquor to Gutjangan residents, but on occasions community members purchase food from the restaurant and hitch a ride to and from the mainland.
  - c. The licensee offers its guests the opportunity to go on cultural tours provided by the Gutjangan community.

## **ASSESSMENT OF THE APPLICATION**

12. Sections 97 and 112 of the Act read together require that in assessing these applications, the Commission must consider the licensee's s 54 affidavit and the public interest and community impact requirements. The Commission has done so. Had there been objections to the applications, the Commission would also have been required to assess these, and any responses to them by the licensee. There were no such objections.
13. The Commission is satisfied that the licensee has made adequate disclosure of persons of influence and potential beneficiaries, and has properly declared its associates, in accordance with s 55 of the Act. No issues of concern to the Commission arise.
14. The Commission is satisfied that the approval of the applications is in the public interest, and will not have an adverse impact on the community. In making this finding, the Commission has considered the ten public interest objectives set out

at s 49(2) of the Act and the ten public interest matters set out at s 49(3) of the Act.

15. In coming to this view, the Commission has given particular consideration to the following issues:
- a. The meaning of Term 30.3 of the lease is less than crystal clear. However, the Commission is satisfied that, properly construed, the words prohibiting the consumption of liquor “on the Lease Area and not on the beach or other public areas in the vicinity of the Lease Area” prohibit the consumption of liquor on the beach in the vicinity of the Lease Area, but do not prohibit the consumption of liquor on the beach *within* the Lease Area. Accordingly, the Commission is satisfied that approval of the application to extend the footprint of the premises to include a beach area within the Lease Area is consistent with, and is indeed contemplated by, the terms of the lease.
  - b. Having considered the AAPA Certificate, the Commission is satisfied that the proposed footprint is compliant with the Certificate. The proposed footprint does not include any area containing a recorded or registered sacred site, or a Restricted Works Area.
  - c. The underlying purpose of the application for the material alteration is to enhance the visitor experience for people staying at the Banubanu Beach Retreat, by allowing them to consume alcohol in their cabin, on the beach adjacent to their cabin and on the deck that is planned as an extension to the restaurant. The application to vary a condition of the licence by extending the hours of operation is also made for the purpose of enhancing the visitor experience. Having regard to the remote location of the premises, the small scale of the enterprise and its exclusive “eco-resort” character, the Commission is comfortably satisfied that approving the applications will increase recreational, employment and tourism benefits for the local community area, without creating a risk of increased alcohol-related harm, either to patrons of the premises or members of the nearby community.

## **THE OBJECTS OF THE ACT**

16. Section 3(4) of the Act requires the Commission to have regard to the purposes of the Act, and to determine the applications in a way consistent with those purposes. The Commission has done so.

## **NOTICE OF RIGHTS**

17. Section 31(1) read with ss 97(4) and 112(3) of the Act provide that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (**NTCAT**). Section 94(3) of the *NTCAT Act 2014* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.

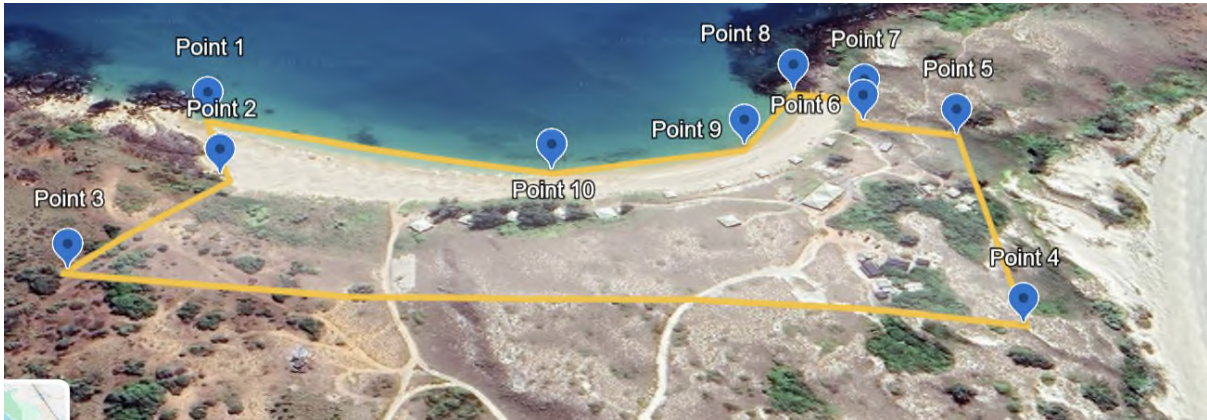
18. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Applicant and the Director.

A handwritten signature in blue ink, appearing to read 'R. Goldflam', with a long horizontal flourish extending to the right.

Russell Goldflam  
CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
3<sup>rd</sup> December 2025

On behalf of Commissioners Goldflam, Carson and Stedman

## ANNEXURE ONE



Point	Latitude	Longitude
1	-12.0757994	136.8181457
2	-12.0762568	136.8182696
3	-12.0769999	136.8177666
4	-12.0772718	136.8215955
5	-12.0759855	136.8215118
6	-12.0758428	136.8211122
7	-12.0757211	136.8211306
8	-12.0755834	136.8208175
9	-12.0760242	136.8205658
10	-12.0762165	136.8197122