

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**DECISION NOTICE**

**MATTER:** *OWN INITIATIVE VARIATION OF CONDITIONS OF ALICE SPRINGS LIQUOR LICENCES [2026] NTLiqComm 5*

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<b>LICENSEE</b>	<b>PREMISES</b>	<b>LICENCE NO.</b>
Alice Food Concepts Pty Ltd	Flavours of India	80504862
Alice Springs Casino Operations Pty Ltd	Lasseters Hotel Casino	80103004
Alice Springs Golf Club Inc	Alice Springs Golf Club	81402352
Avxy Pty Ltd	Grill Me Crazy	FLL1074
Club Eastside Incorporated	Club Eastside	81402530
Epilogue Enterprises Pty Ltd	The Epilogue Lounge	80517222
Epilogue Enterprises Pty Ltd	The Tropic of Capricorn Restaurant	Licence approved but not yet issued
Gillen Club Incorporated	Gillen Club	81402891
Gunawan Concept Pty Ltd	Bella Alice	FLL1761
Investnorth Pty Ltd	Double Tree by Hilton Alice Springs	80103539
Iris Diplomat Operations Pty Ltd	Uncles Tavern	80305040
Iris Diplomat Trading Pty Ltd	Diplomat Hotel	80203967
Iris Gap View Operations Pty Ltd	Gap View Hotel	80102399
Iris Stott Terrace Operations Pty Ltd	Mercure Alice Springs Resort	80202179
Iris Todd Operations Pty Ltd	Todd Tavern	80102200

S&J George Pty Ltd	The NT Rock Bar	80818127
SGRD Café's Pty Ltd	The Locals	FLL1480
SGRD Pty Ltd	Bojangles Saloon and Dining Room	FLL1509
Simply Korean Pty Ltd	Simply Korean	FLL1422
Sporties87 Pty Ltd	Sporties Café & Restaurant	80504145

**LEGISLATION:** Section 113 of the *Liquor Act 2019* (NT)

**REFERENCE:** LC:OMV:2025-001

**CONSIDERED BY:** Russell Goldflam (Chairperson)

Professor Phillip Carson (Health Member)

Ms Rachael Shanahan (Community Member)

**DATE OF NOTICE:** 16 February 2026

## VARIATION OF CONDITIONS

1. Pursuant to s 113 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) varies the conditions of various Alice Springs liquor licences, as follows.
2. The Commission varies the conditions of Flavours of India, Lasseters Hotel Casino, Alice Springs Golf Club, Grill Me Crazy, Club Eastside, The Epilogue Lounge, The Tropic of Capricorn Restaurant, Gillen Club, Bella Alice, Double Tree by Hilton Alice Springs, Uncles Tavern, Diplomat Hotel, Gap View Hotel, Mercure Alice Springs Resort, Todd Tavern, The NT Rock Bar, The Locals, Bojangles Saloon and Dining Room, Sporties Café & Restaurant and Simply Korean (**the licences**) by inserting the following condition:

### **Full-strength alcohol only with a full meal**

From 1130 hours until 1500 hours on Wednesdays, Thursdays and Fridays, full-strength liquor must not be supplied, sold, served or consumed on the premises except when served with a full meal, as distinct from a light meal.

For the purpose of this condition, the definitions of “full-strength”<sup>1</sup>, “full meal”<sup>2</sup> and “light meal”<sup>3</sup> are as set out at reg 3 of the *Liquor Regulations 2019* (NT) (**the Regulations**).

This condition does not apply to the sale, supply or service of full-strength liquor to:

- (a) a bona-fide lodger or paying guest staying at the licensee’s accommodations, including by way of the following methods:
  - i. a minibar stocked with liquor in the guest’s room or unit;
  - ii. room service of liquor delivered to the guest’s room or unit;
- (b) members of a group of at least four persons who have ordered food to be shared between them, are consuming food on the premises at a table or counter, and are seated while consuming liquor.

3. The Commission varies the conditions of Todd Tavern, The NT Rock Bar, Bojangles Saloon and Dining Room, and Uncles Tavern (**the nominated licences**) by inserting the following condition. The Commission directs that this condition not commence unless and until the Director notifies the Commission that the applicable statutory and/or regulatory framework has been modified to authorise the sharing of government information<sup>4</sup> to and between the licensees of the nominated licences, so as to expressly authorise them to comply with this condition.

#### **On-premises identification system**

- (a) The licensee must establish an identification system (**the on-premises identification system**) to determine whether a person:
  - i. is prohibited from purchasing or consuming liquor by:
    - A. a banned drinker order (BDO) or court order under the *Alcohol Harm Reduction Act 2017*
    - B. a bail condition imposed under the *Bail Act 1982*, other than Part 3 of that Act;
    - C. a court order under the *Domestic and Family Violence Act 2007*;

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<sup>1</sup> “liquor that contains more than 3.99% ethyl alcohol by volume”

<sup>2</sup> “a meal expected to be served at a restaurant that is eaten when seated at a table or bar”

<sup>3</sup> “a meal that may be eaten with the hands while standing”

<sup>4</sup> “a record held by or on behalf of a public sector organisation and includes personal information” (*Information Act 2002* (NT), s 4)

- D. a banning notice imposed under s 212 of the *Liquor Act 2019*;
- E. an exclusion order imposed under s 220 of the *Liquor Act*;
- F. a provision under a law of the Territory or prescribed by regulation;

or

- ii. is subject to a decision (**a banning decision**) by the licensee of a nominated licence to prohibit entry to their licensed premises for a period that has not expired.
- (b) The licensee must make a banning decision for a period of not less than 48 hours for each person who the licensee has refused entry in accordance with sub-paragraph (e)(iii) or (e)(iv) of this condition, or who the licensee has removed from the premises in accordance with s 141 of the Act.
  - (c) The licensee must maintain and share with the licensees of the nominated licences a register of persons who are subject to a banning decision made by the licensee, including the name, a photograph (if available to the licensee) and the banning period for each person on the register.
  - (d) The licensee must use the on-premises identification system to screen persons who seek entry to the licensed premises before 15:00 hours on Wednesdays, Thursdays and Fridays.
  - (e) The licensee must refuse entry to the licensed premises to any person who:
    - i. does not present an apparently authentic form of identification that is recognised by the on-premises identification system;
    - ii. is identified by the on-premises identification system to be a person subject to an order, condition, notice, provision or decision under paragraph (a) of this condition;
    - iii. fails or refuses to undergo screening by the licensee, licensee's employee or licensee's agent using the on-premises identification system; or
    - iv. is intoxicated, violent, quarrelsome, disorderly or incapable of controlling their behaviour.
  - (f) During any trading period when patrons are being screened for entry to the licensed premises, the licensee must clearly display at each

entrance to the premises a notice that it is a condition of entry that patrons present identification and undergo screening.

4. The Commission varies the conditions of the nominated licences and the Lasseters Hotel Casino licence by inserting the following condition:

#### **Practices relating to disturbances**

The licensee must take reasonable steps –

(a) to prevent undue offence, annoyance, disturbance, noise or inconvenience to people who reside, work, study, worship or attend facilities that provide goods or services in the vicinity of the licensed premises, resulting from entertainment or activities on the licensed premises or the conduct of people making their way to or from the licensed premises; and

(b) to ensure public order and safety.

### **REASONS FOR THE VARIATIONS**

#### **Background**

5. On 20 November 2025 the Commission issued a Notice of Proposed Variation of Licence Conditions (**the Notice**), including a statement of reasons for the proposed variations, and an invitation to respond to the Notice.<sup>5</sup> The Commission received 29 responses to the Notice from almost all of the affected licensees and in addition a range of service providers, business organisations and individuals. The Commission has published all the responses it received on its website (with redactions for privacy and legal reasons).<sup>6</sup> It is therefore unnecessary to provide details of the content of the responses in these reasons. It is sufficient now to note that among the respondents there were strongly contrasting views.

#### **The Commission will not conduct a public hearing**

6. In the Notice, the Commission stated “On receipt of [the] responses, the Commission will give further consideration to whether to conduct a public hearing.”<sup>7</sup> The Commission has received and considered the responses, including the specific request from the licensees’ lawyers that the Commission conduct a public hearing.<sup>8</sup> This request is based in large part on the licensees’ contentions that they have been denied procedural fairness and that “[n]o evidence has been provided

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<sup>5</sup> Accessed at [https://agd.nt.gov.au/data/assets/pdf\\_file/0020/1573040/omv-2025-001-proposed-variations.pdf](https://agd.nt.gov.au/data/assets/pdf_file/0020/1573040/omv-2025-001-proposed-variations.pdf)

<sup>6</sup> Accessed at <https://agd.nt.gov.au/regulatory-services/liquor-commission/review-of-alice-springs-licence-conditions-2025>

<sup>7</sup> The Notice, [13]

<sup>8</sup> [Licensees’ response](#), [90]

which established any causal connection between on premises consumption of liquor and the allegations of disturbance at Yeperenye Centre and Headspace.”<sup>9</sup> The Commission considers these and other legal contentions raised by the licensees below.

7. The Commission has come to the conclusion that the anticipated public and private costs of conducting a hearing would outweigh its potential public and private benefits. In making this determination, the Commission has had particular regard to the following matters:
  - a. the limited scope of the variations to conditions the Commission has now determined to make, and the impact of the variations on licensees;
  - b. the desirability of completing this inquiry and implementing measures to reduce alcohol-related harm, without further delay;
  - c. there is no reasonable prospect that conducting a public hearing would lead the Commission to resile from the following key findings in the Notice:
    - i. “there is an entrenched pattern of widespread, public anti-social behaviour during weekday afternoons in the Alice Springs CBD”;<sup>10</sup>
    - ii. “much of this anti-social behaviour is directly associated with drinking at CBD venues”;<sup>11</sup>
    - iii. “the Commission is satisfied that people who have been drinking at CBD venues make a significant contribution to the disturbingly high incidence of anti-social behaviour at the Yeperenye Centre around the time when Alice Springs takeaway outlets open on weekdays”;<sup>12</sup> and
    - iv. “the marked increase of anti-social behaviour at the Yeperenye Centre on Wednesdays, Thursdays and Fridays is causally associated with the fact that during the week all the takeaway outlets in Alice Springs open at 15:00 hours on those days, but do not open on Mondays and Tuesdays”;<sup>13</sup>
  - d. by inviting and receiving responses from both the licensees and the general community, the Commission has provided them with an opportunity to be heard and accorded them procedural fairness;

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<sup>9</sup> Ibid, [88]

<sup>10</sup> The Notice, [32]

<sup>11</sup> Ibid, [33]

<sup>12</sup> Ibid, [23]

<sup>13</sup> Ibid, [20]

- e. in response to the Notice, the Commission received sufficient responses, many of which were extensive and detailed, from a broad range of respondents, to enable it to proceed from this inquiry's investigative phase to its determinative phase; and
  - f. on the basis of the responses received by the Commission, and in particular the responses from lawyers engaged by the licensees, it is reasonable to infer that there is a high probability that a public hearing would be unduly expensive, protracted and adversarial.
8. For these reasons, the Commission has determined that it is not appropriate to conduct a public hearing.

### **The legal contentions**

9. Several of the licensees provided individual responses to the Commission. In addition, Ryan & Co Solicitors (**Ryan**) provided a response on behalf of (a) the six Iris Group venues and (b) Hospitality NT, the members of which include both the Iris Group venues and the licensees of seven other affected venues, namely the Alice Springs Golf Club, Club Eastside, Gillen Club, Double Tree by Hilton, The NT Rock Bar, the Locals and Bojangles Saloon and Dining Room. Ryan wrote to the Commission on 1 December 2025 stating that it acts for these Hospitality NT members. Gardiner & Associates Lawyers (**Gardiner**) also lodged a response on behalf of the licensees of the Gillen Club and Eastside Club. In addition, Povey Stirk Lawyers and Notaries (**Povey Stirk**) wrote to the Commission in relation to the Notice on behalf of the licensee of Bojangles Saloon and Dining Room. It is unusual and undesirable for more than one firm of lawyers to claim to represent the same party in the same proceeding.
10. The licensees of the remaining six affected venues (Flavours of India, Grill Me Crazy, Epilogue Lounge, The Tropic of Capricorn Restaurant, Bella Alice, Simply Korean and Sporties Café and Restaurant) were not represented and did not respond to the Notice.
11. Ryan raised several legal contentions challenging the process, nature, scope and lawfulness of this inquiry. It is convenient to deal with these contentions before considering the substantive issues.

### **The first contention: no power to vary conditions of multiple licences**

12. Ryan challenges the power of the Commission to vary the conditions of multiple licenses at the same time.<sup>14</sup> The basis for this contention is that s 113 refers to “a licence” and “the licensee”. The Commission has used its powers under s 113 to vary the conditions of multiple licenses on multiple occasions. For example, on 20 December 2021, it varied the conditions of 138 licenses in a single decision.<sup>15</sup> The

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<sup>14</sup> [Licensees' response](#), [18] to [21]

<sup>15</sup> Accessed at <https://agd.nt.gov.au/media/docs/liquor-commission/variation-of-conditions/decision-notice-variation-licence-conditions-include-cctv.pdf>

Commission does not however suggest that it can recite itself into power. The answer to this contention is found in s 24(2) of the *Interpretation Act 1978* (NT), which provides that “[i]n an Act, words in the singular include the plural”.

13. The licensees’ lawyers refer to s 26 of the *Liquor Control Act 1988* (WA), which they submit is an “equivalent provision” to s 113, and they rely on a decision of the Supreme Court of Australia<sup>16</sup> that s 26 conferred on the Liquor Commission (WA) power to impose conditions on a particular licence, but not to all licences within a geographical area. However, s 26 of the *Liquor Control Act 1988* (WA) is by no means “equivalent” to s 113 of the NT Act. Section 26 confers power on the Liquor Commission (WA) to vary licence conditions where a licensee has applied to the Commission to review a decision of the Director of Liquor Licensing (WA). The Supreme Court held that accordingly, there was no power of the Commission to vary the licence of a licensee who had not applied to review a decision of the Director, and proceeded to set aside a decision in which the Commission had varied the licence conditions of 91 licensees, only 17 of whom had applied for a review.
14. Section 113 of the *Liquor Act 2019* (NT) contains no such restriction on the circumstances in which it is engaged. The Commission dismisses the contention that it has no power to vary the conditions of multiple licences under s 113.
15. The Commission agrees with the Ryan submission that each licence must be considered on a case-by-case basis. The Commission has done so.

**The second contention: the Commission must provide all evidence to the licensees**

16. Ryan contends that “if the Liquor Commission is permitted to conduct an inquiry then proper records of such an inquiry must be recorded and such evidence provided to Licensees, this includes minutes or records of meetings, video or photographic evidence as well as file notes.”<sup>17</sup>
17. Sections 21 and 23 of the Act require that when the Commission conducts a hearing it must do so in public (except in specified circumstances), and provide procedural fairness to the parties. It is up to the Commission to determine which documents are to be provided to the parties.<sup>18</sup> However, the procedural requirements established by ss 21 and 23 only apply to matters referred to the Commission by the Director under s 19, for which hearings are conducted. The current proceedings do not arise from a referral by the Director, but were instigated on the own initiative of the Commission.
18. The procedure for own initiative inquiries, including this one, is controlled by ss 113 to 115 of the Act. Section 116 expressly provides that an own initiative inquiry may

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<sup>16</sup> *Commissioner of Police v Liquor Commission of Western Australia* [2019] WASC 165

<sup>17</sup> [Licensees’ response](#), [24]

<sup>18</sup> Section 23(2)(c)

be conducted without a hearing, and that a hearing should only be conducted “if the Commission considers it appropriate”. The Act imposes procedural fairness requirements on the Commission, namely (a) to invite affected licensees to submit a response within 28 days of a notice of proposed variation (s 113(2)(c)); and (b) to consider any response submitted within the 28-day period (s 113(3)(a)). The Commission has conducted this inquiry in accordance with these requirements.

19. The Commission is unable to identify any support in the text of the Act for the contention that any or all evidence obtained by the Commission in the course of a s 113 inquiry must be provided to the licensees.
20. In the Northern Territory, the *Information Act 2002* (NT) (**the IA**) establishes and regulates people’s rights to access government information. The IA defines “government information” as “a record held by or on behalf of a public sector organisation”. The IA definition of “public sector organisation” includes “a tribunal of the Territory”, and the IA defines “tribunal” as “a body (other than a court) established by or under an Act that has judicial or quasi-judicial functions”.
21. Section 5(5)(b) of the IA provides that the IA does not apply to a tribunal in relation to its decision-making functions.<sup>19</sup> Furthermore, s 44 read in conjunction with s 49(c) of the IA provides that a tribunal is exempt from disclosing government information about a proceeding before the tribunal, because such disclosure is not in the public interest.
22. The Northern Territory Liquor Commission exercises quasi-judicial functions: it conducts hearings, evaluates evidence, applies rules, exercises discretion and makes decisions that affect peoples’ rights, privileges, duties and obligations. In short, the Commission is a tribunal for the purposes of the IA.
23. The Notice was issued in the course of a proceeding before the Commission, namely the proceeding that commenced when the Commission determined to conduct an own initiative inquiry, and concludes (subject to any review proceedings that may be commenced by a party to the proceedings) with the issue of this decision notice.
24. Accordingly, by operation of the IA, the Commission is not required to disclose the records demanded by Ryan.
25. Ryan asserts that the entitlement of the licensees to this evidence is a “fundamental right”.<sup>20</sup> Ryan makes that bare assertion without citing any supporting authority.
26. The Commission dismisses this contention.

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<sup>19</sup> Except in relation to the exercise by the Northern Territory Civil and Administrative Tribunal’s of its jurisdiction to hear and determine IA complaints.

<sup>20</sup> [Licensees’ response](#), [25]

### **The third contention: the Commission should not both investigate and decide**

27. Ryan submits, that “[t]he process adopted by the Liquor Commission in this matter sees it not only undertake the investigation but also make the decision”.<sup>21</sup> This is an accurate summary of the process of this inquiry, but that is the process established by the Northern Territory parliament for the Commission to follow when performing its statutory functions.

28. This particular inquiry illustrates the utility of conferring investigative powers on the Commission. As set out in the Notice, the Commission requested the Director to investigate one of the affected licences, The NT Rock Bar.<sup>22</sup> The Commission considers that the Director’s report of the results of that investigation was inadequate. The Commission invited the Director to respond to the Notice. The Director decided not to provide the Commission with a response. That decision, no explanation for which has been provided to the Commission, was unhelpful and disappointing. If the Director is, for whatever reason, unwilling or unable to assist the Commission to investigate a matter the subject of an ongoing Commission inquiry, then the Commission has no effective option other than to conduct the investigation itself, using the powers conferred on it by the Act.

29. The Commission dismisses this contention.

### **The fourth contention: the Minister, not the Commission is the appropriate repository of power to vary licence conditions in this case**

30. Ryan contends that “section 113 of the Act is not the appropriate legislative provisions to achieve what is proposed in the Notice, and that the powers fall within the ambit of the Minister’s powers under section 88”.<sup>23</sup> The Act confers separate but co-ordinated powers on both the Commission and the Minister to vary licence conditions. The Minister’s power to vary licence conditions is to be utilised only when “the Minister urgently believes [it] is urgently needed for the wellbeing of a community”. In the event of any inconsistency, the Minister’s power to vary licence conditions prevails over that of the Commission.<sup>24</sup> Ryan has neither advanced any reason nor cited any authority in support of this contention, which lacks merit, and is dismissed.

### **The fifth contention: the applicants were denied sufficient time to respond**

31. Ryan contends that the licensees were denied procedural fairness because the Commission refused the licensee’s application for an additional month to respond to the Notice. The application for an extension of time was based on Ryan’s request in a letter dated 1 December 2025 for:

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<sup>21</sup> [Licensees’ response](#), [25]

<sup>22</sup> The Notice, [45] – [47]

<sup>23</sup> [Licensees’ response](#), [27]

<sup>24</sup> Sections 88(5), 114(a)

copies of all evidence referred to and relied upon the Liquor Commission in the Notice. This includes, but is not limited to, letters from Mr Owen Cole and Congress, notes from consultation conducted, photos of the queues outside premises, incident reports, CCTV footage, Licensing NT Inspector reports, NT Police and Dept of Health reports, Drug & Alcohol Review reports as well as statistics regarding anti-social behaviour and alcohol related harm.

32. The Commission, for the reasons set out above, refused that request. The application for an extension of time was not supported on any other ground, and accordingly the Commission also refused the application for an extension of time. The time allowed to respond to the Notice was 28 days, the period fixed by statute for that purpose. There is no substance in this contention, and it is dismissed.

### **The sixth contention: apprehension of bias**

33. Ryan contends that the chairperson's conduct of a media interview with Alice Springs ABC Radio on 24 November 2025 about the Notice denied the licensees procedural fairness because it raised an apprehension of bias, and that accordingly the Commission members conducting the inquiry should step aside.

34. Ryan submits that "[i]t is unheard of for a decision maker to conduct media interviews and make public statements such as the chairperson has done".<sup>25</sup> The force of this robust statement might have been enhanced if Ryan had identified what it was that the chairperson said in his public statements that might give rise to an apprehension of bias. Ryan has not done so. The chairperson's radio interview on 24 November 2025 and his subsequent public statements about this inquiry were made in order, firstly, to inform the community of the contents of the Notice, and secondly, to invite the community to respond to the Notice. The chairperson did not in his public statements predict or prejudge the outcome of the inquiry. The Commission's decision to issue public statements about the inquiry in this way was motivated by the Commission's commitment to ensuring that procedural fairness was provided not only to the affected licensees (who were each sent a copy of the Notice) but also to the community, who the Commission also invited to respond to the Notice. The Commission's use of local media to inform the community of the existence of the Notice and the associated invitation to respond to it was natural and unremarkable.

35. In a separate submission, the licensee of Bojangles Saloon and Dining Room contends that the chairperson should recuse himself from this inquiry on the ground that he was a member of a Commission panel that made a decision adverse to the licensee in 2021, and which was subsequently overturned by the Northern Territory Civil and Administrative Tribunal (**NTCAT**). The licensee states "[g]iven the prior adverse findings and commentary made about Bojangles in that matter, there exists a **reasonable apprehension that the Chairperson has formed a fixed view about Bojangles' operation and character** [emphasis in original]".<sup>26</sup>

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<sup>25</sup> [Licensees' response](#), [38]

<sup>26</sup> [Bojangles response](#), p 35

36. The Commission's 2021 decision was to refuse an application by the current licensee for a licence to operate Bojangles.<sup>27</sup> In its decision, the Commission stated:

The Commission considers that Bojangles would be suitable premises for a restaurant, bar or pub during the day and evening. However, ...the Commission shares the opinion expressed by Superintendent Nobbs that the precinct is not currently conducive to late-night trading. Accordingly, the Commission does not consider that the applicant's premises, located as they are in the heart of the precinct, to be suitable for late night trading with a liquor licence.<sup>28</sup>

...

Having carefully considered the evidence and submissions on this issue, the Commission is not satisfied that the applicant would have the capacity to meet the very considerable challenge of safely managing the behaviour of Bojangles patrons in the early hours of the morning. This is not a criticism of the applicant. The Commission notes that even the highly experienced licensee of the well established licensed premises next door appears to be struggling to successfully meet this challenge in the current environment.

The Commission is not satisfied that opening an additional late-night venue in a precinct already experiencing very significant alcohol-related late-night problems will ameliorate, rather than amplify, those problems.<sup>29</sup>

37. As the licensee states, the Commission's decision was set aside by NTCAT. Having reviewed its 2021 decision, which included a detailed summary of evidence regarding late-night trading in the Alice Springs CBD, the Commission does not accept that it formed an adverse fixed view about Bojangles' operation and character. In its 2021 decision, having heard and accepted evidence and submissions from both NT Police and the Director of Liquor Licensing, the Commission was not satisfied that it was in the public interest to issue a licence authorising Bojangles to trade until 02:00 hours. NTCAT came to a different conclusion. In the Bojangles decision, the Commission made positive findings both about the licensee's character, and (as the above extract from the decision shows) the licensee's suitability to operate Bojangles during the day. The current inquiry is primarily directed to the conditions of licensees in relation to daytime trading.

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<sup>27</sup> Northern Territory Liquor Commission, *Application for Liquor Licence LC2021/027 (Bojangles decision)*, accessed at <https://agd.nt.gov.au/media/docs/liquor-commission/decisions/2021/Bojangles-DN-with-note-090622.pdf>

<sup>28</sup> Bojangles decision, [42]

<sup>29</sup> Bojangles decision, [61] – [62]

38. The well-established principles of apprehended bias are conveniently summarised in Halsbury's Laws of Australia as follows:<sup>30</sup>

A reasonable apprehension of bias exists where a fair-minded observer might reasonably apprehend that the judge might not bring an impartial and unprejudiced mind to the resolution of the question he or she is required to decide. The apprehension must be that of a fair-minded lay observer with sufficient understanding of the circumstances of the case to make a reasonable judgment, taking into account that the judge is a professional whose training, tradition and oath require him or her to discard the irrelevant, immaterial and prejudicial. There are two steps required to establish apprehended bias. There must be an identification of the particular relationship or circumstance said to give rise to the apprehended bias and then a logical connection must be made between that circumstance or relationship and the feared deviation from impartial decision making.

39. The Commission is of the view that no fair-minded observer who has listened to or read a transcript of the chairperson's public statements about the current inquiry might reasonably apprehend that the Commission panel (including the chairperson) might not bring an impartial and unprejudiced mind to making the Commission's decision.

40. The Commission is of the view that no fair-minded observer who has read the Commission's 2021 Bojangles decision might reasonably apprehend that the Commission panel (including the chairperson) might not bring an impartial and unprejudiced mind to making the Commission's decision in the current inquiry.

41. The Commission dismisses the contentions that the inquiry panel or any of its members should recuse themselves on the ground of apprehended bias.

### **Requirements for the exercise of administrative power**

42. In its submissions on behalf of the licensees of the Club Eastside and the Gillen Club, Gardiner stated (citations omitted):<sup>31</sup>

As the Commission is exercising its function administratively, then it must be expected to do so with regard to principles, considerations, and constraints which are attendant to the Executive acting in such a manner. As general observations, it is inter alia obligated to:

- a. Act for proper purposes and in good faith;
- b. Only take into account relevant considerations;
- c. Accord each of the responding parties procedural fairness;
- d. Have a sufficient factual basis to support its decision; and
- e. Act reasonably and properly in making its decision.

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<sup>30</sup> Cited in *Manolakis v Henderson* [2018] SADC 147 at [44] (citations omitted)

<sup>31</sup> [Club Eastside and Gillen Club response](#), [16]

43. The Commission agrees with and adopts this submission.

### **Section 113 empowers the Commission to add a licence condition**

44. Does the s 113 power conferred on the Commission “to vary the conditions of a licence or authority” include the power to add a condition to a licence or authority? The Commission has a duty to ensure that it does not fall into jurisdictional error. Therefore, although none of the respondents has raised this question, the Commission has turned its mind to it.

45. Section 113(1) provides:

The Commission may, on its own initiative, vary the conditions of a licence or an authority other than a condition added or varied by the Minister under section 88.

46. Arguably, the words in s 113(1) “other than a condition added or varied by the Minister under section 88” imply that the term “vary” in s 113(1) should be construed narrowly, to mean “amend”, but not to include “add”.

47. Section 88(1), which is in Part 4 (“Conditions on licences and authorities”) Division 1 (“General conditions”) of the Act, provides that the Minister “may add or vary any condition to a licence or authority that the Minister believes is urgently needed...”. The unconventional use of the preposition “to” in this clause raises the possibility that the words “or vary” were inserted as an afterthought by the draftsman. That hypothesis is supported by reference to s 88(2), which sets out a non-exhaustive list of the types of “conditions that may be added”, but does not include, as might have been expected, the word “varied”.

48. For the reasons that follow, the Commission is of the view that notwithstanding these terminological inconsistencies and peculiarities, when construed having regard to the text, the context and the purposes of the Act, s 113 confers on the Commission the power to:

- a. amend a condition or conditions;
- b. delete a condition or conditions; and
- c. add a condition or conditions.

49. In the view of the Commission, this construction is consistent with the natural and ordinary meaning of the phrase “vary the conditions of”.

50. Section 113 is contained within Part 4 Division 5 (“Application to vary conditions”) of the Act. Division 5 establishes the procedure by which licensees can apply “to vary the conditions of a licence or authority” (s 110(1)), and the phrase “vary the conditions” is consistently used throughout the Division (as well as in related provisions at s 19(b) and s 61). There is no other procedure established by the Act

that permits licensees to apply to add a condition or conditions to their licence (or, for that matter to delete a condition or conditions from their licence).

51. Since the commencement of the Act in October 2019, the Commission has received and determined numerous applications by licensees made under s 110 to vary the conditions of a licence or authority, and in many of these cases the application (and the ensuing decision) has included the deletion or addition of licence conditions, in response to changed circumstances. This commonly occurs in conjunction with an application under s 75 of the Act for the substitution of premises, when an applicant who has acquired a licence from a licensee whose operation has become defunct, seeks to establish new licensed premises in a different community, with different characteristics. In such matters, various conditions that applied to the licence over the previous premises may be obviously inappropriate for the new premises, and require deletion. Conversely, additional conditions may be required to meet the needs of the new premises and the community to which the premises have been relocated.
52. The legislature can not have intended to produce the absurd result that under the Act licensees (or, on its own initiative, the Commission) can take steps to have a condition amended, but can not take a step to either delete or add a condition of a licence or authority.
53. The Commission has previously submitted to the NT Government that s 113 be amended to confirm and clarify its meaning. However, the Commission is satisfied that, in accordance with the above analysis, it has correctly construed this provision as currently enacted. The answer to the question the Commission has asked itself at paragraph 44 above is “yes”.

### **Reconsideration of statements in the Notice**

54. A prominent feature of the licensees’ responses has been to challenge the correctness of certain findings and observations contained in the Notice. The Commission has reviewed those findings and observations, taking into account additional information it has received from the respondents.
55. Several of the licensees challenged the Commission findings set out at paragraph 7.c) above. For example, the Iris Group licensees response states “[t]he causal link between daytime on-premises consumption and CBD antisocial behaviour is unproven.”<sup>32</sup> The evidence gathered by the Commission in support of these findings is summarised at paragraphs 17, 18, 19, 24, 28, 29, 30, 31 and 40 of the Notice. Having considered the responses to the Notice, the Commission has identified no information in the responses that causes the Commission to doubt the correctness of these findings, which the Commission now confirms.
56. The Bojangles licensee took specific issue with the following statements in the Notice:

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<sup>32</sup> [Iris Group](#) response

- a. “Some of the people who congregate within and in the vicinity of the Yepereny Centre on Wednesday, Thursday and Friday afternoons are intoxicated, and it is reasonable to infer that the majority of these intoxicated persons have been drinking at the Todd Tavern, The NT Rock Bar and, earlier in the day, Bojangles” (paragraph 21). The Commission does not resile from this observation.
- b. “NT Police report that the three most ‘problematic’ venues are The NT Rock Bar, Bojangles and the Todd Tavern” (paragraph 38). This observation is based directly on information provided to the Commission by NT Police, and was reported by the Commission in good faith.
- c. “On Wednesday, Thursday and Friday from its opening time of 10:00 hours until about 13:00 hours, Bojangles in the CBD is heavily patronised by predominantly Aboriginal drinkers, with an estimated 70 to 80 patrons in the rear bar and beer garden” (paragraph 43). The Commission, having now received detailed information from the licensee supported by sales data, accepts that in fact Bojangles opens an hour later, at 11:00 hours, and is patronised from then until about 13:00 hours on Wednesday, Thursday and Friday by an estimated 20 to 30 patrons. Although the Bojangles licence authorises the licensee to commence trade at 10:00, the Commission inadvertently erred in the Notice when it stated that Bojangles actually opens at that time. The inaccurate estimate of patron numbers given by the Commission in the Notice was based on information given to the Commission by Licensing NT liquor inspectors in August 2025. Licensing NT has recently informed the Commission that patronage at Bojangles in its weekday morning sessions has declined in recent months.

57. At paragraph 71 of the Notice, the Commission stated:

The Commission has consulted with NT Police about the introduction of [the on-premises identification system] condition, and, consistently with their position when the Commission proposed a similar measure in 2021, NT Police have indicated that they would welcome it and share the data they have of banned persons with the participating licensees.

58. In their response to the Notice, NT Police state that although they support this proposed variation in principle, the sharing of government information that would in practice be required to implement this variation would likely require legislative amendment.

59. In the light of this response, the Commission sought clarification from NT Police about the nature of “the data they have of banned persons” that they would be willing to share with participating licensees. Having received that clarification, the Commission now accepts that the data of banned persons police are willing to share with licensees (and indeed that they already share with licensees) is information regarding “banning notices” police have issued under s 212 of the

Act.<sup>33</sup> These notices do not ban a person from consuming liquor, but prohibit persons from entering or remaining in a declared “high risk area” (the Alice Springs CBD is one such area) for a period of up to 14 days.

60. To the extent that paragraph 71 of the Notice suggested that NT Police have offered to also share details of persons who are on the Banned Drinkers Register (**BDR**), the Commission withdraws that suggestion, which was wrong, and was based on a misunderstanding by the Commission of information that had been provided to it by NT Police.

### **The public interest and community impact requirements**

61. Section 113(3)(c) of the Act requires the Commission to consider the public interest and community impact requirements listed in s 49 of the Act when exercising its powers under s 113 to vary licence conditions.

62. When considering, for example, an application for a liquor licence, the Commission must also consider the s 49 public interest and community impact requirements. In such a case the Commission must be satisfied that granting the application is in the public interest, and also be satisfied that granting the application will not have a significant adverse impact on the community. In other words, the applicant has a significant burden of proof.

63. The application of the s 49 requirements to a matter such as the current inquiry is rather different, in that instead of being required to determine whether it is “satisfied”, the Act confers on the Commission the power to:

Vary the conditions of the licence or authority as proposed in the notice or in another way the Commission considers appropriate.<sup>34</sup>

64. Section 49(2) lists ten public interest objectives, as follows:

- a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
- b. ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
- c. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
- d. protecting the safety, health and welfare of people who use licensed premises;
- e. increasing cultural, recreational, employment or tourism benefits for the

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<sup>33</sup> Section 216(2) provides: “To enforce a banning notice, a police officer may give licensees in the high risk area, and their employees, a copy of the notice and a photograph of the banned person.”

<sup>34</sup> Section 113(3)

- local community area;
- f. promoting compliance with this Act and other relevant laws of the Territory;
- g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
- h. preventing the giving of credit in sales of liquor to people;
- i. preventing practices that encourage irresponsible drinking;
- j. reducing or limiting increases in anti-social behaviour.

65. Section 49(3) lists ten matters the Commission must consider when assessing community impact.

- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;
- b. the geographic area that would be affected;
- c. the risk of harm from the excessive or inappropriate consumption of liquor
- d. the people or community who would be affected;
- e. the effect on culture, recreation, employment and tourism;
- f. the effect on social amenities and public health;
- g. the ratio of existing liquor licences and authorities in the community to the population of the community;
- h. the effect of the volume of liquor sales on the community;
- i. the community impact assessment guidelines issued under s 50;<sup>35</sup>
- j. any other matter prescribed by regulation.<sup>36</sup>

**The first proposed condition: full strength alcohol only with a full meal**

66. Responses to this proposed condition, the details of and rationale for which are set out in the Notice at paragraphs 56 to 58, neatly illustrate the polarisation of views within the Alice Springs community about alcohol: half of the respondents supported this proposal, and half of them opposed it. Although it is widely agreed that alcohol-related harm is a serious problem, when it comes to solutions, the community is sharply divided.

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<sup>35</sup> In the view of the Commission, no such guidelines are currently in force.

<sup>36</sup> There are no such "other" matters prescribed by regulation.

67. On the one hand, the proposal was supported by a number of key service providers, community leaders and members of the public. They included the Acting Commissioner of Police, the CEO of the Department of Health, the Mayor of Alice Springs, NT Council of Social Service, Central Australian Aboriginal Congress (**Congress**), the People's Alcohol Action Coalition (**PAAC**) and the Managing Director of the Yeperenye Centre. On the other hand, the proposal was opposed by all the licensees who responded to the Notice, as well as Tourism Central Australia, the Member for Namatjira and some private citizens. (Seven of the affected licensees, predominantly restaurateurs, did not respond to the Notice, and accordingly have not recorded either support for or opposition to this proposed variation.)
68. The competing views about the effect of this proposal on tourism exemplify the contours of the broader controversy. Tourism and hospitality industry participants argue that imposing further restrictions on the supply of alcohol will inconvenience, confuse and annoy tourists, and deter visitors from coming to and staying in Alice Springs. Others however argue that, particularly in recent years, visitation to Alice Springs has declined in no small part because of adverse publicity about the town,<sup>37</sup> and that in order to re-establish the image of Alice Springs as an appealing place to visit, it is necessary to reduce the incidence of public drunken anti-social behaviour in the CBD streets and shopping areas. The Commission readily accepts that there is merit in the arguments advanced on both sides of this debate.
69. The Commission is required to consider whether and to what extent this proposed variation would advance the objective of increasing tourism benefits for the local community area (s 49(2)(e)), and to consider the effect it would have on tourism (s 49(3)(e)). Having done so, the Commission has formed the view that this proposed variation (particularly with the modifications discussed below) is in itself unlikely to significantly impact Alice Springs tourism and visitation one way or the other. It is highly likely that, just as there are differing views within the Alice Springs community about measures such as this one, there will be differing views amongst people in Australia and overseas who are contemplating a visit to the Red Centre. The Commission doubts, however, that this relatively minor tweak to the town's existing liquor restrictions<sup>38</sup> will cause tourists to change their mind about whether to visit the town.
70. The Commission is also required to weigh these considerations against its assessment of all the other public interest objectives and community impact matters.
71. The Commission considers that the other public interest objectives of particular importance in this instance are:

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<sup>37</sup> The [Iris Group response](#) refers to "an unprecedented amount of negative publicity over the past eighteen months or so" that has adversely affected Alice Springs tourism (p 2)

<sup>38</sup> Regulation 110 provides that the only type of liquor that may be sold, served and supplied for consumption on licensed premises in Alice Springs before 11:30 on weekdays is low strength beer.

- a. ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner (s 49(2)(b));
- b. preventing practices that encourage irresponsible drinking (s 49(2)(i)); and
- c. reducing or limiting increases in anti-social behaviour (s 49(2)(j)).

72. The Commission considers that the other community impact matters of particular importance here are:

- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school (s 49(3)(a));
- b. the geographic area that would be affected (s 49(3)(b)); and
- c. the people or community who would be affected (s 49(3)(d)).

73. Of the three variations to licence conditions proposed in the Notice, this is the only one that applies to all of the licensees. Given that this inquiry has been undertaken with a view to reducing alcohol-related anti-social behaviour in the CBD, some licensees with premises outside the CBD have challenged the logic and utility of varying their licence conditions. For example, the licensees of Club Eastside and the Gillen Club (20 and 30 minutes walk from the CBD, respectively) state in their response:

There is therefore a complete lack of purpose or foundation for the Proposed Variation, or indeed any variation, of the Licensee's licences or authorities which would address matters specifically complained of or issues with Alice Springs CBD daytime anti-social behaviour.<sup>39</sup>

74. The Commission's difficulty in accepting this submission is that it fails to have regard to what is often referred to as the problem of "squeezing the balloon": if the Commission were to impose product restrictions that only applied to pubs and bars in the CBD, it is readily apparent that drinkers intent on avoiding the effect of these restrictions could simply transfer their patronage to other premises within walking distance (or a few minutes driving distance), where the restrictions do not apply.

75. Having considered all of the s 49 objectives and matters, and having also considered all of the licensee responses received on this issue (as s 113(3)(a) requires the Commission to do) as well as all of the responses from other respondents (as the Commission considers it is appropriate to do), the Commission has determined that it is appropriate to vary the conditions of the affected licences in accordance with the first proposed condition, albeit with some modifications and exceptions as now discussed.

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<sup>39</sup> [Club Eastside and Gillen Club response](#), [25]

76. Several licensees submitted that the definition of “full meal” (“a meal expected to be served at a restaurant that is eaten when seated at a table or bar”) is too vague. The Commission agrees that the precise meaning of this term, which has been adopted directly from the *Liquor Regulations 2019*, is one about which reasonable minds might reasonably differ. Liquor laws in other jurisdictions also regulate the service of alcohol in conjunction with food. For example, the *Liquor Control Act 1988* (WA) defines “meal” as:

(a) Food that is eaten by a person sitting at a table, or a fixed structure used as a table; with cutlery provided for the purpose of eating the food; and

(b) That is of sufficient substance as to be ordinarily accepted as a meal; and

(c) May consist of one or more courses,

but does not include any food prescribed not to be a meal.

77. The Commission has considered replacing the definition of “full meal” in this proposed condition with the Western Australian definition, but on balance considers that the preferable course is to stick with the Northern Territory’s own prescribed formulation, which has the advantage of brevity. The Commission has, however, amended the proposed condition by adding a reference to the prescribed definition of “light meal” (“a meal that may be eaten with the hands while standing”), which is to be distinguished from a “full meal”. The Commission is satisfied that when read together, these two definitions are in substance as clear as the WA provision set out above. Furthermore, these terms have been a feature of the NT regulatory scheme since they came into force in October 2019, and, as far as the Commission is aware, their meaning has not been the subject of controversy within liquor and hospitality circles.

78. The Commission accepts the submissions received from some licensees who provide hotel accommodation that paying guests should be exempted from the full-strength alcohol/full meal condition, and has modified the varied condition accordingly.

79. The Commission also accepts the submissions received from some licensees that special provision should be made for groups, including tour groups, who order food that is shared between them. The Commission has modified the varied condition accordingly.

80. In its response to the Notice, PAAC supported this proposed variation, but further submitted that the Commission should vary licence conditions by prohibiting the supply, sale and service of alcohol for consumption on Alice Springs premises before 12:00.<sup>40</sup>

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<sup>40</sup> [PAAC response](#), p 3

81. Irrespective of the merits of this proposal, the Commission considers that it would be a denial of procedural fairness to adopt it at this late stage of the current inquiry without providing licensees a further opportunity to respond, and accordingly, the Commission is of the view that it would not be appropriate to make this variation in the course of the current inquiry.

### **The second proposed condition: on-premises identification system**

82. The details of, background to and rationale for this proposed condition are set out at paragraphs 59 to 73 of the Notice.

83. This proposed condition was opposed by the licensees, among others. In addition it was not supported by any of the government agencies that responded to the Notice, including NT Health and NT Police. In her submission, Mayor Hill was supportive of on-premises screening, but only if it did not include Facial Recognition Technology.

84. In other parts of Australia, licensees generally appear to support the use of identification systems to screen patrons seeking entry to licensed premises for night-time trading in nightlife areas, because screening helps to keep out customers who cause problems, and could positively affect patron behaviours.<sup>41</sup>

85. The licensees submit that there is no evidence that screening reduces daytime antisocial behaviour, and that in contrast to venues catering to city nightlife crowds, daytime trading by the Alice Springs CBD venues is not high-risk.<sup>42</sup>

86. However, the Commission has difficulty accepting that submission, given that the licensees of the Todd Tavern, Bojangles Saloon and Dining Room and The NT Rock Bar informed the Commission that between them they exclude or remove on average about 50 persons a day during their five to six hour weekday morning and afternoon trading sessions.<sup>43</sup> The position taken by the licensees appears to be out of step with the views of their interstate counterparts.

87. Although a significant number of respondents were strongly supportive of this proposed condition, the Commission accepts that the on-premises identification system could only be viable if and when the NT government custodian of Banned Drinkers Register (**BDR**) data agrees to share that data with the affected licensees. The Commission also now accepts that there is currently no such agreement. Accordingly, the Commission has determined that it is not appropriate to now proceed with this variation. As stated at paragraphs 64 to 65 of the Notice, in

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<sup>41</sup> For examples, see: Farmer, C., Miller, P., Robertson, N. *et al.* Patron banning policy and practice in Queensland, Australia: key informant perspectives. *Crime Prev Community Saf* 24, 239–254 (2022). <https://doi.org/10.1057/s41300-022-00152-2>; and Palmer, D., Warren, I. and Miller, P. 2013, ID scanners in the night-time economy: Social sorting or social order?, *Trends and Issues in Crime and Criminal Justice*, vol. 466, pp 1-9

<sup>42</sup> For example, [Iris response](#), p 3

<sup>43</sup> The Notice, at [42], [43], [44]

proposing this condition, the Commission relied on a statement by the Minister for the Prevention of Domestic Violence to the Legislative Assembly on 29 July 2025 that “The Liquor Commission can/has imposed on-premises BDR”. It is now apparent that this statement was not one that the Commission is/was entitled to rely on.

88. In addition to the responses to the Notice, the Commission has considered two further publications that postdated the issue of the Notice.

89. Firstly, in December 2025, Deakin University published the final report of *LEarning from Alcohol (Policy) Reforms in the Northern Territory (LEARNT)*, an Australian Research Council funded project comprising four linked studies that investigated the impact of the BDR.

90. LEARNT provides a compelling evidentiary basis for the long-standing view expressed by the Commission, the NT Coroner and others that the effectiveness of the BDR is compromised because people on the BDR can and do continue to easily access alcohol that they consume on licensed premises. LEARNT researchers went into the community and interviewed people on the BDR and their families.<sup>44</sup>

Many of our participants stated that there had been no change in their alcohol use during their Banned Drinker Order (BDO). This was especially true for people who had been referred via the police pathway. This was corroborated by family members who observed limited change. For the most part, people went about their daily business, viewing the BDR as a relatively minor impediment. Participants identified that there were many other ways they could access alcohol beyond direct purchase from takeaway outlets.

91. LEARNT found that the operation of the BDR was associated with a reduction in individual and community levels of police interactions and assaults and emergency Department visits.<sup>45</sup> However, it also found:<sup>46</sup>

There was good evidence from three of the studies conducted, as well as ongoing police data that on-premise drinking remains a major source of alcohol for people on the BDR, and a source of broader alcohol-related harm in the community... One policy option is to pilot BDR scanning into venues which have been identified (i.e. increased police-recorded assaults) as being sources of alcohol for people on the BDR or sources of harm to the community.

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<sup>44</sup> LEARNT, p 4

<sup>45</sup> LEARNT, p 246

<sup>46</sup> LEARNT, p 247

92. Secondly, on 26 November 2025, NT Health issued a report of its Review of the Banned Drinkers Register (**the BDR Review**). The BDR Review report, which runs to four pages, states:<sup>47</sup>

While the Taskforce acknowledges the limitations of the BDR, it is considered to be an effective tool when combined with the suite of measures available across the Territory to address alcohol related harm in our community including local liquor accords, community alcohol management plans and increased treatment engagement pathways.

93. The BDR Review made four recommendations, the first two of which are that on-premises scanning be introduced for: (a) licensees who repeatedly breach the conditions of their liquor licence; and (b) clubs that wish to use on-premises scanning. The Commission notes that implementation of either of these recommendations would be subject to the same legal and policy impediments that prevent immediate implementation of the on-premises screening proposed by the Commission.

94. The BDR Review report states that it considered but determined not to recommend on-premises scanning for all licensed premises, because of policy, system and legislative policy changes that would be needed, and because of costs. The report does not identify which policies, systems or legislation would require change, what changes would be required, or how much the costs would be. The Review report does not include any cost/benefit analysis of on-premises scanning.

95. The paucity of detail in the BDR Review report is such that the Commission has not derived any assistance from it.

96. For the reasons that now follow, having considered both the public interest and community impact requirements, and the responses it has received from licensees and others, the Commission is of the view that it is appropriate to vary the conditions of four licensees to establish the proposed on-premises identification system. However, the Commission has directed that this condition not commence unless and until the support and co-operation of the relevant NT government agencies has been secured.

97. The Commission considers that the public interest objectives of particular importance in relation to this variation are:

- a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor (s 49(2)(a): persons are placed on the BDR because they consume alcohol at levels that harm themselves or others.<sup>48</sup> The implementation of this condition would reduce their opportunity to consume liquor, which in turn would advance this objective;

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<sup>47</sup> Accessed at [createsend.com/t-CC4819E4C905E9732540EF23F30FEDED](https://createsend.com/t-CC4819E4C905E9732540EF23F30FEDED)

<sup>48</sup> LEARNT, p 4

- b. ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner (s 49(2)(b)): persons on the BDR are persons who have engaged in irresponsible drinking. The implementation of this condition would advance the objective of ensuring liquor is consumed in a responsible manner on or in licensed premises;
- c. protecting the safety, health and welfare of people who use licensed premises (s 49(2)(d)): reducing the access by persons on the BDR to alcohol would advance the objective of protecting their safety, health and welfare;
- d. promoting compliance with this Act and other relevant laws of the Territory (s 49(2)(f)): the implementation of this measure would advance the objective of promoting compliance with laws pursuant to which persons can be placed on the BDR, including the *Alcohol Harm Reduction Act 2017*, the *Bail Act 1982*, the *Domestic and Family Violence Act 2007* and the *Police Administration Act 1978*; and
- e. reducing or limiting increases in anti-social behaviour (s 49(2)(j)): persons on the BDR are typically heavy drinkers who, it may reasonably be inferred, are relatively likely to engage in anti-social behaviour. By limiting the access of these drinkers to liquor, implementation of this condition would promote the objective of reducing anti-social behaviour.

98. The Commission considers that the community impact matters of particular importance in relation to this variation are:

- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school (s 49(3)(a));
- b. the risk of harm from the excessive or inappropriate consumption of liquor (s 49(3)(c)); and
- c. the effect on social amenities and public health (s 49(3)(f)).

99. The Commission considers that, having considered all the public interest and community impact requirements, it is appropriate to make this variation of conditions, subject to the direction the Commission has made to ensure that this condition not commence unless and until the support and co-operation of the relevant NT government agencies has been secured.

100. The Commission has also had regard to the responses to the Notice in relation to this proposed condition. In several responses, the licensees submit that as key information required to give effect to this proposed variation is government information, the proposed variation is non-viable unless the NT government changes its position and supports the implementation of the BDR on-premises. The Commission accepts these submissions, as is reflected in the pre-condition for the commencement of on-premises screening that the Commission has fixed.

101. Two respondents, including Mayor Hill, supported the introduction of this proposed variation provided it did not include Facial Recognition Technology (FRT). The Australian Information Commissioner found that the use of FRT by both Bunnings<sup>49</sup> and Kmart<sup>50</sup> breached the Australian Privacy Principles established by s 14 and Schedule 1 of the *Privacy Act 1988* (Cth), and ordered those businesses to cease this practice. However, the Administrative Review Tribunal has recently reviewed and overturned the most significant of the findings against Bunnings.<sup>51</sup> In any case, the use of FRT by Kmart and Bunnings can be distinguished from the long-established and widespread practice in many parts of Australia of using FRT to screen patrons who enter licensed premises, because patron screening is conducted with the knowledge and consent of the patron. By contrast, Bunnings and Kmart used FRT to screen all customers who entered selected stores, without the consent or, it would appear in most cases, the knowledge of the customer.

102. FRT is already in use at some Alice Springs licensed premises, including Bojangles Saloon and Dining Room, to screen night-time patrons. The Commission has received no information to suggest that this practice is not in accordance with the terms of the *Privacy Act 1988* (Cth).

103. As Mayor Hill has correctly pointed out, the proposed varied condition neither mandates nor prohibits the use of FRT. If the condition ever comes into effect, it will be the responsibility of licensees to ensure that they implement it in accordance with the law, including the *Privacy Act 1988* (Cth).

### **The third proposed condition: Practices relating to disturbances**

104. The details of, background to and rationale for this proposed variation are set out at paragraphs 74 to 81 of the Notice.

105. Ryan contends that the proposed “reasonable steps to ensure public order and safety” condition is beyond the power of the Commission to impose, because licensees do not have powers under the Act that extend beyond the boundary of the premises.<sup>52</sup> The Commission accepts that as a general statement of principle, the common law in Australia provides that licensees do not have a duty of care towards intoxicated patrons after they have left the licensed premises.<sup>53</sup> Licensees do however have “a duty to take reasonable care to prevent injury to patrons from the violent, quarrelsome or disorderly conduct of other persons”.<sup>54</sup> To comply with

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<sup>49</sup> *Commissioner Initiated Investigation into Bunnings Group Ltd (Privacy)* [2024] AICmr 230

<sup>50</sup> *Commissioner Initiated Investigation into Kmart Australia Limited (Privacy)* [2025] AICmr 155

<sup>51</sup> *Bunnings Group Limited and Privacy Commissioner* (Guidance and Appeals Panel) [2026] ARTA 130 (4 February 2026)

<sup>52</sup> [Licensees' response](#), [85] – [86]

<sup>53</sup> See, for example, *Cole v Sth Tweed Heads Rugby Club* [2004] HCA 29; 217 CLR 469

<sup>54</sup> *Adeels Palace Pty Ltd v Moubarak; Adeels Palace Pty Ltd v Bou Najem* [2009] HCA 48 at [26]

that duty, licensees are required to take reasonable steps to mitigate the risk that patrons will engage in violent, quarrelsome or disorderly conduct.

106. The Act expressly imposes responsibilities on licensees in relation to events and circumstances beyond the boundary of the licensed premises. The Notice refers to s 160 (m)(1)(i) in that regard. A further example is that licensees are prohibited by s 93 from causing or permitting undue and unreasonable noise on or in the premises that affects the amenity of the neighbourhood.

107. Furthermore, in determining whether to issue a liquor licence, the Commission is required to consider:

the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school<sup>55</sup>

108. The third proposed condition does not require licensees to engage in conduct beyond the boundary of the premises, or to do more than to take “reasonable steps”. The Commission dismisses this contention by Ryan.

109. Responding licensees also raised a related concern that this proposed variation would impose a duty on security staff to engage in conduct in a public place outside the premises, and would be inconsistent with the limits on the powers of security officers. Mayor Hill raised a similar concern. However, the proposed condition does not extend the powers of licensees, their staff or the security officers they engage. Indeed, any such condition would be invalid to the extent that it purported to extend the powers of any person beyond their lawful limits.

110. Clause 3.5 of The Code of Practice for Security Officers<sup>56</sup> established under the *Private Security Act 1988* provides that security officers must:

Where employed to do so, carefully monitor the behaviour of visitors to any premises for which they are responsible for guarding or other members of the public so that problems can be detected early and where necessary act swiftly with the aim of protecting the health and safety of members of the public and the property they are responsible for guarding.

111. The proposed condition is consistent with and supportive of this clause, with its focus on careful monitoring, early detection and swift protective action. Examples of reasonable steps a licensee might take in accordance with the proposed condition might be:

a. conduct roving patrols of the premises to detect early signs of trouble brewing;

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<sup>55</sup> Section 49(3)(a)

<sup>56</sup> Accessed at <https://nt.gov.au/media/docs/business-and-industry/business-and-professional-licences-and-registration/security-licences/code-of-practice-for-security-officers.pdf>

- b. cease selling, supplying and serving alcohol to patrons who show early signs of becoming troublesome;
  - c. removing identified individual trouble-makers from the premises rather than large groups, to reduce the risk of violence occurring outside the premises; and
  - d. when it is apparent that violence may be imminent, requesting police to attend sooner rather than later.
112. This proposed condition is supported by a number of respondents, including NT Police and NT Health.
113. The Commission considers that the public interest objectives of particular importance in relation to this variation are:
- a. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises (s 49(2)(c)); and
  - b. reducing or limiting increases in anti-social behaviour (s 49(2)(j)).
114. The Commission considers that the community impact matters of particular importance in relation to this variation are:
- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school (s 49(3)(a)); and
  - b. the people or community who would be affected (s 49(3)(d));
115. The Commission considers that, having considered all the public interest and community impact requirements, and the responses it has received from licensees and others, it is appropriate to make this variation of conditions.

## **Conclusion**

116. The Commission has been requested to reduce the harm caused by drunken anti-social behaviour in the Alice Springs CBD on three weekday afternoons. The Commission has found that this harm is persistent and serious, and that it is causally associated with the sale, supply and service of alcohol consumed on licensed premises on those days in the period leading up to opening time of the town's takeaway outlets.
117. The Commission is acutely aware that the underlying causes of the problems it has identified are beyond its power to address. All the Commission can do is vary licence conditions. Some licensees have suggested that takeaway trading hours be relaxed, to alleviate the 3 pm "bottleneck". The Commission is not of the view that extending takeaway trading hours would reduce harm, but more to the point,

the Commission has no power to extend liquor trading hours that have been limited by Regulations prescribed by the Northern Territory Government.

118. As foreshadowed in the Notice, the Commission now makes recommendations to supplement the limited variations of conditions it has determined to make, as follows:

- a. Resources be allocated to restore the recently depleted complement of liquor inspectors based in Alice Springs;
- b. RSA training include information about Foetal Alcohol Spectrum Disorder; and
- c. The nominated licensees provide (or continue to provide, as the case may be) free finger food to drinkers during morning sessions.

119. The issues the subject of this inquiry are ones that affect not only licensees but the entire Alice Springs community. Accordingly, the Commission was gratified that so many agencies, organisations and individual members of the community took the trouble to respond to the Commission's invitation to have their say. The Commission particularly thanks those community leaders and senior executives of key government agencies who responded, including Ms Asta Hill (Mayor), Mr Bill Yan MLA (Member for Namatjira), Mr Travis Wurst (Acting Commissioner of Police), Mr Chris Hosking (CEO, NT Health), Mr Owen Cole (CEO, Yeperenye Pty Ltd) and Ms Donna Ah Chee (CEO, Congress).

### **NOTICE OF RIGHTS**

120. Section 31(1) read with s 113(4) 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* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of this decision

121. In accordance with s 31(2) of the Act, the persons who may apply to NTCAT for a review of this decision are the Director, the licensees of the licences, and the persons who made a submission that was the subject of this decision.



RUSSELL GOLDFLAM

NORTHERN TERRITORY LIQUOR COMMISSION  
16 February 2026

On behalf of Commissioners Goldflam, Carson and Shanahan