

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *ITALIAN SPORTS AND SOCIAL CLUB APPLICATION FOR A LIQUOR LICENCE [2024] NTLiqComm 2*

REFERENCE: LC2023/037

APPLICANT: The Italian Sports and Social Club Incorporated

PREMISES: The Italian Sports and Social Club
131 Abala Road
MARRARA NT 0812

LEGISLATION: Part 3 Division 4 of the *Liquor Act 2019*

HEARD BEFORE: Mr Russell Goldflam (Chairperson)
Professor Phillip Carson (Health Member)
Ms Rachael Shanahan (Community Member)

DATE OF HEARING: 13 December 2023

DATE OF DECISION: 13 December 2023

DECISION

1. On 13 December 2023, in accordance with section 48 of the *Liquor Act 2019* (NT) (**the Act**), the Northern Territory Liquor Commission (**the Commission**) determined to issue a liquor licence to The Italian Sports and Social Club Incorporated (**the applicant**).
2. The licensed premises is The Italian Sports and Social Club situated at 131 Abala Road, Marrara NT as designated in the plan comprising “Area A” and “Area B” annexed to this decision notice (**the licensed premises**).
3. The licence will be issued with a club authority for Area A and a sporting event authority for Area B.
4. The permitted hours of trading within Area A of the premises are 12:00 to 24:00 every day of the year, except Good Friday and Christmas Day.

5. Trading hours for Area A of the premises for Christmas Day, Good Friday and New Year's Day are as prescribed by Regulation 38(2), 38(2A) and 38(3) respectively of the *Liquor Regulations 2019 (the Regulations)*.
6. The sale, supply, service and consumption of liquor in Area B of the premises is permitted only between 12:00 and 18:00 on weekend days on which afternoon senior football matches are being played on the premises.
7. In Area B, the sale, supply and service of liquor is only permitted from a bar in the stadium depicted on the annexed plan as a rectangular building located adjacent to the half-way line of the football pitch.
8. Where hours of trading or conditions fixed by the Commission are more restrictive than those prescribed by the Regulations, the more restrictive conditions fixed by the Commission apply and prevail.
9. Subject to paragraph 8 above, the conditions of the licence will include those set out in Part 4 Division 1 (for Areas A and B), Division 3 (for Area B) and Division 6 (for Area A) of the Regulations.
10. The following additional conditions are fixed for Area A and Area B:
 - a. The licensee must comply with the *Northern Territory Noise Management Framework Guideline* issued by the Northern Territory Environment Protection Authority in September 2018 and as may be varied from time to time.
 - b. The licensee must establish, maintain and operate in accordance with a noise complaints register and noise complaints management policy.
 - c. The licensee must prominently display on the premises information about the National Health and Medical Research Council *Australian guidelines to reduce health risks from drinking alcohol*.
 - d. The licensee must provide a substantial range of no-alcohol and low-alcohol beverages.
11. The following additional conditions are fixed for Area B:
 - a. Liquor is only to be permitted to be sold or served in opened plastic or metal containers.
 - b. A maximum of four alcoholic drinks is permitted to be sold to any one customer at any one time.

- c. The sale, supply, possession or consumption of liquor is not permitted at events using amplified sound other than announcements or notifications issued in the ordinary course of or incidental to the conduct of a sporting event.
12. The licence will be issued immediately following the publication of this decision notice.
13. The Commission approves the appointment of Mr Maurizeo (Maurice) d'Arrigo as the licence nominee.
14. Liquor must not be sold under the licence until the Director of Liquor Licensing (**the Director**) gives written approval to do so, following the provision to the satisfaction of the Director the applicant's:
 - a. staff induction program;
 - b. staff training program;
 - c. procedures manual; and
 - d. noise complaints management policy.
15. When the Commission announced its decision to the parties immediately following the hearing of the application on 13 December 2023, it stated that would publish its reasons for the decision in due course. The Commission's reasons are set out as follows.

REASONS

Background

16. In 1972 the Italian Club Darwin Incorporated (**the Club**) obtained a lease, which was apparently converted in 1986 into a Crown Lease Perpetual, over premises at 131 Abala Rd, Marrara to be used as a clubhouse and for ancillary purposes. The Club still uses the same name on its website (www.italiansnt.com.au) and Facebook page, but since at least 2010 it has been incorporated in the name of the applicant, "The Italian Sports and Social Club Incorporated". Among the Objects of the Club are "to provide, promote and foster social and sporting activities for its Members" and to "become and remain the holder of any licence or permit under the *Liquor Act*".
17. In pursuit of those objects, for over fifty years the Club, which is a non-profit organisation, has conducted social and cultural events at its clubhouse, which, along with approximately 14 other licensed sporting and social clubs, is situated within the Marrara Sporting Complex in Darwin.

18. The clubhouse is situated alongside a football pitch, the home ground of the University Azzurri FC, which is strongly affiliated with and sponsored by the Club. University Azzurri FC has Level 3 accreditation with the Good Sports Program, and in 2015 received the NT Good Sports Club of the Year award for “its leadership in adopting the policies and programs developed by Good Sports in relation to alcohol and healthy eating”.
19. Since its establishment the Club has applied for and been granted numerous liquor licences. Prior to the coming into force of the Act in October 2019, the Club was granted annual licences under the *Liquor Act 1978*, such as a “Continuing Special Licence to Sell Liquor” issued in March 2017. Since the commencement of the Act, the Club has been granted “one-off” licences with a special event authority. In 2023, the Director issued 11 such licences to the Club.
20. From the information provided by the Director to the Commission, it appears that there have never been any complaints against the Club or the applicant arising from the supply, sale, service or consumption of liquor at the clubhouse.
21. Government measures imposed in response to the COVID pandemic restricted opportunities for Darwin residents to engage in social and sporting activities, and as a consequence, many community organisations, including the Club, were placed under significant economic stress. Following the lifting of these restrictions, the Club’s Committee developed a business plan with an objective of ensuring the long-term financial viability of the Club. In accordance with the plan, the Club has decided to recruit and engage a part-time manager, and aims to generate revenue by hiring out the clubhouse for private social functions, community events and cultural activities. The Club estimates that it will need to host 50 such events each year to break even.

The Application

22. On 29 August 2023, the applicant lodged an application for a liquor licence with the Director. At the hearing, the applicant confirmed that it was seeking a licence with a club authority.

Consultation

23. As required by s 57 of the Act, notices of the application were published in the NT News on 7 October 2023 and on the Director’s website. The applicant displayed a notice of the application at its premises.

24. In accordance with s 56 of the Act, notification was given to Department of Health (**DOH**), NT Police and the City of Darwin. The Director also consulted with Northern Territory Fire and Emergency Services (**NTFRS**).

25. The Director informed the Commission that:

- DOH responded with a suggestion that opening hours be 12:00 rather than the 10:00 proposed by the applicant, in line with most other Marrara Sporting Complex licensees.
- NT Police advised that they had no objection to the application.
- The City of Darwin did not provide a response.
- NTFRS did not provide a response.

The objector

26. Brendan and Maria Lawson (**Mr and Mrs Lawson**), who are long-term residents of the neighbourhood, lodged an objection on the ground that the amenity of the neighbourhood would be adversely affected.

The referral

27. On 23 November 2023, pursuant to s 59 of the Act, the Director referred the application to the Commission to be determined by way of a public hearing. Notice was subsequently given to the applicant and the objectors that the matter would be listed for a public hearing on 13 December 2023, the next available date convenient to the Commission.

28. The Director provided a brief to the Commission that included the following documents (**the brief**):

- a. Application for liquor licence
- b. Affidavit and Declaration of Associates pursuant to s 54 of the Act
- c. Public Interest and Community Impact Assessment summary pursuant to ss 49 to 52 of the Act
- d. List of drinks available from the bar
- e. Applicant's Certificate of Incorporation
- f. Applicant's Constitution
- g. Probity documents for applicant's executive officers:
 - i. Mr Massimo Di Toro, President (**Mr Di Toro**)
 - ii. Mr William Finocchiaro, Vice President
 - iii. Mr Felix Matarazzo, Treasurer
 - iv. Mr Maurizeo (Maurice) D'Arrigo, proposed Nominee (**Mr D'Arrigo**)
- h. Letter from applicant's accountant re financial stability of applicant

- i. Record of management committee decision to apply for a liquor licence
- j. Smoking management plan
- k. Site plan
- l. Crown Lease Perpetual over the premises
- m. Certificate of Food Registration
- n. Business Plan
- o. Evidence of public notification of application
- p. Objection and applicant's response to objection
- q. Correspondence with stakeholders

The hearing

29. On 13 December 2023 the application proceeded as a public hearing. Mr Di Toro, Mr D'Arrigo and Mr Shepherd appeared on behalf of the applicant. Ms Ganzer and Ms De Busch appeared for the Director. Mr and Mrs Lawson appeared as the objectors. The Commission thanks them all for their attendance and assistance.

30. The brief was tendered and admitted into evidence without objection.

31. In addition and also without objection the Commission admitted various documents into evidence, including three liquor licences previously issued to the applicant and further material from Mr and Mrs Lawson.

32. The Commission heard oral evidence from officers of the applicant, and from Mr Lawson.

ASSESSMENT OF THE APPLICATION

33. In accordance with s 59 of the Act, the Commission has considered:

- a. the applicant's affidavit required by s 54;
- b. the suitability of the premises to be licensed, having regard to any law of the Territory regulating the sale, supply, service or consumption of liquor or the location, construction or facilities of those premises;
- c. the financial stability and business reputation of the applicant;
- d. the general reputation and character of the secretary and executive officers of the body corporate;
- e. whether the applicant, including the nominee designated by an applicant, is a fit and proper person to hold a licence;
- f. the objection to the application made under s 61; and

g. the response provided by the applicant under s 62.

34. In accordance with s 49 of the Act, the Commission has also considered whether issuing the licence is in the public interest, and whether the licence will have a significant adverse impact on the community. The applicant bears the onus of satisfying the Commission of these matters. Section 50(3) of the Act states that the “mere addition of a new licence or licensed premises in a community is not taken to be a benefit to the community”.

The applicant

35. The Commission finds that the applicant complies with s 53(1) of the Act, which requires that a body corporate shall not hold a licence unless it is a corporation. The applicant is an incorporated association.

36. The applicant has provided appropriate documentation regarding its operations, activities, financial circumstances and plans.

The applicant’s associates

37. Section 54 of the Act requires applicants to depose an affidavit disclosing whether certain persons may be able to influence the applicant, or expect a benefit from the applicant, if the licence is granted. The Commission is satisfied that the applicant has complied with the disclosure requirements of s 54.

38. The Commission considers that it is appropriate to consider whether each of the following persons, each of whom is an associate of the applicant for the purpose of s 55, is a fit and proper person to be an associate of the applicant:

- Mr Massimo Di Toro
- Mr William Finocchiaro
- Mr Felix Matarazzo
- Mr Maurizeo (Maurice) D’Arrigo

39. Having had regard to the ample material tendered by the applicant attesting to the character, experience and qualifications of the above-named persons, the Commission finds that each of them is a fit and proper person to be an associate of the applicant.

The suitability of the applicant’s premises

40. The Commission assesses the premises as suitable for the supply and consumption of liquor in the manner set out in the application.

The financial stability, general reputation and character of the body corporate

41. The Commission assesses the applicant as having a satisfactory business reputation and as being financially stable.

The general reputation and character of the applicant's secretary and executive officers

42. Having been provided with appropriate evidence regarding their reputation, character and work history, the Commission assesses the general reputation and character of the applicant's executive officers and secretary to be satisfactory.

Whether the applicant is a fit and proper person to hold a licence

43. The Commission assesses the applicant to be a fit and proper person to hold a licence.

Whether the licensee's nominee is a fit and proper person to hold a licence

44. The applicant has nominated Mr D'Arrigo as the licence nominee. The Commission assesses Mr D'Arrigo, who holds current RSA certification and has provided appropriate documentation of his reputation, character and work history, to be a fit and proper person to hold the licence.

Public notice and consultation

45. The Commission is satisfied that public notice of the application was given and consultation was undertaken in accordance with s 57 of the Act.

The objection

46. The Commission is satisfied that Mr and Mrs Lawson are qualified to make an objection pursuant to s 61(4)(a) of the Act, and that their objection is based on a ground permitted by s 61(2)(a)(i) of the Act. None of the parties suggested or submitted otherwise. Contrary to the requirement at s 61(5)(b) of the Act, the letter of objection appears to have been unsigned, but none of the parties complained about this, and the objectors followed up by sending a signed letter to the Commission elaborating on their objection, and then by appearing in person at the hearing to give evidence. The Commission attaches no weight to this trivial and no doubt inadvertent instance of non-compliance by the objectors.

47. In substance, the sole ground of the objection is that noise emanating from the premises will adversely affect the amenity of the neighbourhood because it will be

undue and unreasonable, or, in other words, that it will cause annoyance or disturbance to neighbouring residents.¹

48. In their subsequent letter to the Commission dated 4 December 2023, Mr and Mrs Lawson, without expressly withdrawing their objection, focussed on conditions they submitted should be imposed on the licensee to mitigate the risks of excessive noise. The Commission proceeds on the basis that the objectors maintain their objection to the application. It would be unfair to dismiss an objection merely because the objectors have made some constructive proposals to remedy the potential problems they have identified.²

49. For the purpose of this application, the objection is particularly relevant to s 49(3)(a) of the Act, which requires the Commission to consider “the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside... in the vicinity of the proposed licensed premises” when determining whether issuing a licence or authority will have a significant adverse impact on the community. To mitigate any such impact, the Commission may formulate and impose conditions on a licence.

50. In considering what amounts to “undue and unreasonable noise”, the Commission is guided by the Supreme Court of Western Australia’s authoritative statement as to what constitutes substantial and unreasonable noise.³

The test of unreasonableness is objective. The reasonableness enquiry involves a balancing exercise between the defendant's right to use his or her land freely, and the right of the plaintiff to enjoy his or her land without interference. The reasonableness requirement thus reflects the need for give and take between neighbours living within a community...

Among the factors relevant to whether interference is unreasonable are the nature and extent of the harm or interference, the social or public interest value in the defendant's activity, any hypersensitivity of the user or of the use of the plaintiff's land, the nature of established uses in and character of the locality, whether all reasonable precautions were taken to minimise any interference, and the type of damage suffered...

¹ The Commission has previously held that the “undue and unreasonable noise” standard in s 93 of the Act in substance means the same as the standard for “annoyance or disturbance” arising from noise in s 160(1)(m)(ii) of the Act. See Northern Territory Liquor Commission, *Disciplinary Action* LC2020/042 (18 January 2021) at [21], accessed at https://cmc.nt.gov.au/_data/assets/pdf_file/0009/965880/decision-notice-pint-club-incorporated.pdf

² See Northern Territory Liquor Commission, *South Darwin Sporting League Incorporated Application* LC 2019/108 (16 January 2020) at [39], accessed at cmc.nt.gov.au/_data/assets/pdf_file/0010/784603/Decision-Notice-South-Darwin-Sporting-League-Inc.pdf

³ *Ammon v Colonial Leisure Group Pty Ltd* [2019] WASCA 158, [119] to [121] (citations omitted)

51. The applicant's premises are located on the eastern edge of the Marrara Sporting Complex, separated from the Northlakes Estate residential suburb by the width of a golf fairway. The closest home to the applicant's clubhouse is less than 100 metres away. The objectors' home in Sunningdale Court, where they have lived for over 25 years, is about 250 metres from the clubhouse. The Commission has previously found that noise emanating from the PINT Club, another licensed club within the Marrara Sporting Complex situated about the same distance away from the objectors' home, caused annoyance and disturbance that severely vexed Mr and Mrs Lawson and their neighbours.⁴

52. Recently, in September 2023, Mr and Mrs Lawson had cause to complain about noise from amplified speakers at a junior football awards event conducted at the applicant's premises. Unfortunately, although their complaint was acknowledged, appropriate measures were not taken to turn down the volume at the time. As the applicant apologetically explained in its response to the objection, this event was run by the University Azzurri FC, and was an alcohol free event. This unfortunate incident highlights the fact that much of the noise that emanates from the Marrara Sporting Complex is not noise that can be regulated by the Commission or other agencies responsible for administering the Act. As the Commission has previously stated in a matter in which Mr Lawson objected to an application for a licence by another club elsewhere within the Marrara Sporting Complex:⁵

When a football ground is located within licensed premises, the noise of a crowd at a football game is not, properly considered, noise emanating "from licensed premises". It is, rather, noise emanating from a football game.

53. In that matter the Commission observed that a person's obligation to comply with s 12 of the *Waste Management and Pollution Control Act 1998* includes a requirement that if they cause noise to emanate that has or is likely to have an adverse effect on the amenity of the area, they must take all measures that are reasonable and practicable to prevent or minimise that adverse effect. The Commission expressed the view that compliance with the *Northern Territory Noise*

⁴ Northern Territory Liquor Commission, *Disciplinary Action* LC2019/059 and LC2019/121 (17 March 2020) at [20], accessed at https://cmc.nt.gov.au/_data/assets/pdf_file/0003/804477/Decision-Notice-PINT-Club.pdf

⁵ Northern Territory Liquor Commission, *South Darwin Sporting League Incorporated Application* LC 2019/108 (16 January 2020) at [49], accessed at cmc.nt.gov.au/_data/assets/pdf_file/0010/784603/Decision-Notice-South-Darwin-Sporting-League-Inc.pdf

*Management Framework Guideline (the Framework)*⁶ issued by the Northern Territory Environment Protection Authority would satisfy the requirement to take reasonable and practicable measures. That remains the view of the Commission.

54. The Commission has previously endorsed and applied the “Agent of Change” Principle set out at Section 3.4.5 of the Framework:⁷

Where changed conditions are introduced into an environment, (for example through a new use, or changed operating conditions), the reasonable expectations of the existing land users should be respected. This applies to both venue operators and residents.⁸

55. In this matter, both the applicant venue operator and the objector residents are long-term, well-established locals. The applicant has held and operated liquor licences for many years and the Commission has heard no evidence that those operations have ever generated any noise complaints. In contrast to the PINT Club, which the Commission found had assumed the role of change agent with the burden of mitigating harm caused by that change, the applicant does not propose to undertake works that would constitute a material alteration to its premises by significantly changing either the external appearance or the facilities of the premises relating to the supply or consumption of liquor.⁹

56. However, the Commission does consider that the applicant is, in one respect, the change agent in the context of this application. Like the PINT Club in 2017, the applicant has developed and is instituting a new business model which, if successful, will result in a significant increase in private functions, social activities and cultural events at which liquor is sold, supplied, served and consumed at the clubhouse. The applicant hopes to host on average one such event every week. Prior to COVID, the applicant informed the Commission, it hosted on average about one such event per month.

⁶ Accessed at https://ntepa.nt.gov.au/data/assets/pdf_file/0004/566356/noise_management_framework_guideline.pdf

⁷ Northern Territory Liquor Commission, *Disciplinary Action* LC2019/059 and LC2019/121 (17 March 2020) supra n. 4 at [128]

⁸ Supra, n. 6 at p. 72

⁹ See Northern Territory Liquor Commission, *Disciplinary Action* LC2019/059 and LC2019/121 (17 March 2020) supra n. 4 at [107] ff and [128]

57. The Commission has assessed whether the noise emanating from the premises will have a significant adverse impact on the community. In doing so, the Commission has had regard to the following matters:

- a. There have apparently been no noise complaints against the Club associated with the supply and consumption of liquor over its 50 year history at the premises.
- b. Fourteen other licensed premises are located within the Marrara Sporting Complex, at least one of which (St Mary's Sporting and Social Club, which has a late night authority) is closer to the objectors' home than the applicant's clubhouse. In addition, the Marrara Sporting Complex includes various sporting arenas and stadiums that generate significant crowd noise. This one additional venue is unlikely to produce a significant increment in the amount of noise pollution in the neighbourhood.
- c. All the entertainment on the premises will be conducted and performed from inside the clubhouse.
- d. The liquor licence will not operate before midday or after midnight.
- e. The licence will operate with a club authority and accordingly be subject to reg 42 of the Regulations, which:
 - i. requires the licensee to seek the consent of the Director to hire the premises to a person to conduct a function, or to host a function attended by members of the public; and
 - ii. limits the number of functions hosted by the licensee and attended by members of the public to no more than 6 in any 6 month period.
- f. The applicant estimates that half of the events it hosts will not involve the supply or consumption of liquor.¹⁰ Accordingly, the Commission estimates that the number of occasions on which a liquor licensed event is conducted on the premises will increase from about once a month to about twice a month.
- g. The applicant has recently installed acoustic panelling, acoustic curtaining and directional speakers in the clubhouse to minimise noise pollution; and plans in February 2024 to install further acoustic panelling, acoustic curtains on all doors and windows, and thicker carpet tiles.

¹⁰ Unchallenged evidence of Mr Shepherd at the hearing of the application

h. An executive officer of the Club, Mr Di Toro, has 32 years of experience as a producer and manager of audio-visual projects, and is committed to playing an active role in managing any noise issues that arise at the premises.¹¹

58. The Commission is satisfied that, with the conditions it has determined to impose to mitigate the risk of noise pollution, issuing a licence to the applicant will not have a significant adverse impact on the community by way of undue offence, annoyance, disturbance or inconvenience to persons who reside in the vicinity arising from noise emanating from the premises.

59. One of the conditions the Commission has determined to impose is that the licensee comply with the Framework. The Commission makes the following observations to assist the applicant to comply with the Framework.

60. To put the technical language of the Framework into more readily understandable terms, and at the risk of over-simplifying matters, the Commission notes that the Framework recommends that for the day/evening period (which is defined in the Framework to be a period that ends at 23:30), noise emanating from the licensed premises that is heard at the home premises of a resident of the neighbourhood, be limited to no more than 5 decibels higher than background noise levels at the home premises.¹²

61. The Framework states that “typical existing background noise levels” for external locations in suburban residential areas are less than 45 decibels before 18:00, less than 40 decibels between 18:00 and 22:00, and less than 35 decibels after 22:00.¹³

62. The Commission has previously found that background noise levels in the objectors’ suburban residential street are not atypical.¹⁴

63. The Commission has previously received expert evidence that noise emanating from premises to the home of a resident of the neighbourhood will be between 5 and 10 decibels louder outside the home than inside the home.¹⁵

¹¹ Unchallenged evidence of Mr Di Toro at the hearing of the application

¹² The Framework, pp 73 – 74

¹³ The Framework, p 56

¹⁴ Northern Territory Liquor Commission, *Disciplinary Action* LC2019/059 and LC2019/121 (17 March 2020) supra n. 4 at [141]

¹⁵ *Ibid*, at [28]

64. The Framework recommends that between 23:30 and midnight a technically more complex formula be applied. The Commission simply suggests that after 23:30, the licensee reduce the volume of any noise emitted from the premises.

65. Mr and Mrs Lawson submitted in their letter to the Commission dated 4 December 2023 that “noise levels should not exceed 35 [decibels] at the closest residential area boundary [of our home] during evening and night times”. In the view of the Commission, the Framework allows for higher levels of noise than this. To comply with the Framework’s “background + 5” standard, between 18:00 and 22:00, the noise from the premises reaching the objector’s yard should be no more than about 45 decibels, and from 22:30 to 23:30 it should be no more than about 40 decibels.

Whether issuing the licence is in the public interest

66. To determine whether the issue of the license is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in s 49(2) of the Act:

- (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 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.

67. Having considered each of these objectives, and having regard to the unblemished record of the applicant as an operator of liquor licences over a lengthy period, the Commission is satisfied that it is in the public interest to issue the licence.

Whether the issue of the licence will have a significant adverse impact on the community

68. To determine whether it is satisfied that the issue of the licence will not have a significant adverse impact on the community, the Commission must consider the matters set out at section 49(3) of the Act:

- (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 section 50;¹⁶
- (j) any other matter prescribed by regulation.¹⁷

69. The Commission has set out above in detail its consideration of the s 49(3)(a) matter. Having also considered all of the other matters in s 49(3), the Commission is satisfied that the issue of the licence will not have a significant adverse impact on the community.

¹⁶ The Commission considers that there are no community impact assessment guidelines currently in force

¹⁷ The Commission notes there are no "other" matters prescribed by regulation

70. In summary, the Commission is satisfied, in accordance with s 49 of the Act, that:

- a. the applicant is a fit and proper person; and
- b. issuing the licence or authority is in the public interest; and
- c. the licence or authority will not have a significant adverse impact on the community.

Conditions

71. The Commission has determined to fix the additional conditions set out at paragraph 10 above, and the pre-conditions for the commencement of supplying liquor set out at paragraph 14 above.

72. In the course of the hearing, the applicant varied its proposed hours of trading to those suggest by DOH, and the Commission has fixed hours of trading accordingly.

73. Also during the hearing, in response to the objectors' concerns about noise coming from music being played outside the clubhouse, the applicant amended its application by restricting the operation of the liquor licence for private functions, social activities and cultural events to the confines of the clubhouse. This was a significant concession by the applicants, and augurs well for future neighbourly relations between the licensee and the objectors.

74. However, the applicant maintained its proposal that liquor be available for spectators and participants at senior football games, which are held on weekend afternoons. The Commission has acceded to this proposal, and applied conditions specific to "Area B" of the premises, comprising the outdoor area around and including the football pitch, and the adjoining small stadium building. The Commission has determined to issue a sporting event authority for Area B, which is more appropriate than the club authority the Commission has determined to issue for "Area A", the clubhouse.

75. The Commission has determined to restrict bar service in Area B to a bar located within the stadium.

The objects of the Act

76. Section 3(4) of the Act provides that in performing its function to decide whether to issue the licence and authorities, the Commission must have regard to the primary and secondary purposes of the Act.

77. The Commission considers that the issue of the licence and authorities with the conditions imposed is consistent with the purposes of the Act.

78. For these reasons, the Commission has determined that the application should be granted, and that a licence and authorities be issued on the conditions set out at the commencement of this Decision Notice.

EXTENSION OF TIME

79. Section 60(2)(b) of the Act provides that the Commission must make a decision whether to issue the licence and authority within 28 days of the expiry of the 14 day period allowed for an objection to be lodged with the Director after public notification of the application. In this case, the objection period expired on 6 November 2023. Accordingly, the Commission's deadline for making its decision was 4 December 2023. The Commission was unable to meet this deadline. The Director referred the application to the Commission on 27 November 2023. The Commission scheduled the application for hearing on 13 December 2023, the first reasonably available opportunity, and announced its decision in the matter to the parties on that date, immediately following the hearing.

80. In these circumstances, the Commission has determined to exercise its discretion to extend the time allowed to make its decision by 9 days until 13 December 2023.

81. The Commission is required to give a decision notice to the parties as soon as practicable after making its decision. In this instance, it was not practicable to provide a notice of the decision together with reasons for the decision until after the Commission's office had re-opened following the Christmas break.

NOTICE OF RIGHTS

82. Section 31(1) read with section 60(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* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.

83. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of this decision are the Director, the applicant and Mr and Mrs Lawson.


RUSSELL GOLDFLAM
CHAIRPERSON

NORTHERN TERRITORY LIQUOR COMMISSION

5 January 2024

On behalf of Commissioners Goldflam, Carson and R Shanahan

ANNEXURE: Plan of licensed premises

Area A is the area bounded in blue

Area B is the area bounded in red

