

NORTHERN TERRITORY LIQUOR COMMISSION

DECISION NOTICE

MATTER: *DISCIPLINARY ACTION AGAINST BARROW CREEK HOTEL LICENSEE* [2025] NTLiqComm 41

REFERENCE: LC2025/046

LICENCE NUMBER: 81202253

LICENSEE: Les John Pilton

PREMISES: Barrow Creek Hotel
22247 Stuart Highway
Davenport NT 0872

LEGISLATION: Part 7 Division 4 of the *Liquor Act 2019*

HEARD BEFORE: Mr Russell Goldflam (Chairperson)
Ms Elizabeth Stephenson (Health Member)
Ms Rachael Shanahan (Community Member)

DATE OF HEARING: 19 November 2025, 4 December 2025, 8 December 2025

DATE OF DECISION: 17 December 2025

DECISION

1. Following a public hearing conducted on 19 November 2025, 4 December 2025 and 8 December 2025 of complaints under the *Liquor Act 2019* (NT) (**the Act**) against Les John Pilton (**the licensee**), the holder of liquor licence 81202253 (**the licence**) over premises known as the Barrow Creek Hotel at 22247 Stuart Highway, Davenport NT 0872 (**the premises**), the Northern Territory Liquor Commission (**the Commission**) takes disciplinary action by suspending the licence from 1 January 2026 until the Chairperson or a Deputy Chairperson of the Commission is satisfied that the licensee has:
 - a. Done all things required to enable the Director of Liquor Licensing (**the Director**) to refer to the Commission an application for a material alteration to the premises to:
 - i. increase the area of the premises used for the sale, supply, service or consumption of liquor to include or approximately include the yellow shaded area on the plan at page 29 of Exhibit One admitted into evidence in the hearing of this matter;
 - ii. construct a shade structure in the increased area that is compliant with the *Building Act 1993*; and

- iii. install fencing in a form approved by the Director to demarcate the extended boundary of the premises.
- b. Upgraded the toilets used by patrons of the premises to a standard compliant with the requirements of the *Public and Environmental Health Act 2011*.
- c. For the purpose of compliance with reg 101(3) and 101(4) of the *Liquor Regulations 2019*:
 - i. installed a kitchen in compliance with the requirements of the *Public and Environmental Health Act 2011*;
 - ii. obtained and produced a current Certificate of Food Business Registration
 - iii. engaged a cook; and
 - iv. done all things required to establish and maintain a meal service in compliance with reg 101(3) and reg 101(4).
- d. For the purpose of compliance with s 105:
 - i. provided the Director with a single email address (**the nominated address**);
 - ii. set up and put into operation the email account for the nominated address on both a functioning mobile telephone and a functioning computer; and
 - iii. demonstrated the capacity to respond by email to emails sent by Licensing NT or the Commission to the nominated address within 48 hours.
- e. For the purpose of compliance with reg 107(7):
 - i. established and maintained a register that records interruptions to the service of a reasonable range of fuels and oils, including:
 - the date and time of the interruption of service;
 - the date and time of resumption of service;
 - the details of what products became unavailable;
 - the reasons for the interruption of service; and
 - steps taken to restore service;
 - ii. notified the Director within 24 hours of any interruption of the availability of a reasonable range of fuels and oils; and
 - iii. notified the Director within 24 hours of any resumption of the availability of a reasonable range of fuels and oils.
- f. Provided a written or verbal report to the Director on the 10th day of each month (or the next business day should that date fall on a weekend) from 10 January

2026 and continuing until the licensee re-commences operating the licence. The monthly report must address the following matters:

- i. progress since the previous monthly report of significant steps taken towards meeting the conditions that must be complied with before the Commission lifts the suspension of the licence;
- ii. previously unanticipated impediments that might delay the resumption of trade;
- iii. any other matters that the Director reasonably requests the licensee to report upon.

2. The Commission notes that it is satisfied that grounds for this disciplinary action exist and that the disciplinary action is appropriate in relation to those grounds.

STATEMENT OF REASONS

BACKGROUND

3. Barrow Creek is on the Stuart Highway 283 km north of Alice Springs, approximately halfway between Alice Springs and Tennant Creek. Since the construction of the Overland Telegraph Station at Barrow Creek in 1872, it has been a stopping off point for wayfarers travelling between Adelaide and Darwin. In 1932, the Barrow Creek Hotel opened, and since 1988, Mr Les Pilton has been its licensee, currently operating with a wayside inn authority. With its pressed tin ceilings and patterned cement blockwork, the original building (which has been placed on the Northern Territory Heritage Register as a place of historic value) remains substantially intact.
4. On 11 July 2022 the Director issued a formal written warning to Mr Pilton after finding that on 23 May 2022 he had contravened two statutory requirements, namely:
 - a. s 137, which requires a licensee to ensure that every employee whose responsibilities involve serving patrons or supervising the service of patrons holds a current responsible service of alcohol (**RSA**) certificate, a copy of which the licensee is required to keep; and
 - b. s 293 in conjunction with reg 101(3) of the *Liquor Regulations 2019* (**the Regulations**), which require that licensed premises operating with a wayside inn authority must have available for purchase by patrons a full meal at breakfast, lunch and dinner times.

THE COMPLAINTS

5. On 24 July 2025, Ms James and Ms Da Costa, liquor inspectors in the Alice Springs office of the Director, attended the premises and made the following observations:
 - a. between 12:20 hours and 15:47 hours liquor was supplied and served to patrons who were outside the licensed area of the premises on approximately 110 occasions, in apparent breach of s 46 of the Act;

- b. full meals were not available for purchase by patrons, in apparent breach of reg 101(3) of the Regulations and s 293(1) of the Act;
 - c. complimentary tap water was not available to patrons during the hours of operation, in apparent breach of reg 101(6) of the Regulations and s 293(1) of the Act; and
 - d. a reasonable range and supply of motor fuels and motor oils was not available for purchase by the travelling public, in apparent breach of reg 101(7) of the Regulations and s 293(1) of the Act.
6. On 15 August 2025, a delegate of the Director, Ms Sowerby, accepted a complaint (**the first complaint**) against the licensee in relation to the above-mentioned matters. On 20 August 2025, Ms Sowerby sent notice of the complaint to the licensee by email, and invited the licensee to respond to the complaint.
7. On 29 July 2025 liquor inspectors attended the premises and requested the licensee to produce documents to establish compliance with s 137 of the Act. In response, the licensee produced two current RSA certificates, one of which was for a person no longer employed at the premises, and two expired certificates, one for the licensee himself, and the other for a current employee. This was in apparent breach of s 137(1) of the Act. The licensee did not produce a record in the approved form of the names of all employees who hold a certificate, in apparent breach of s 137(3)(a) of the Act.
8. On 3 September 2025, Ms Sowerby accepted a further complaint (**the second complaint**) against the licensee in relation to the above-mentioned alleged breach of s 137, and in addition alleging that the licensee had contravened s 98(1), which prohibits the making of an unapproved material alteration to premises. The particulars of this second allegation were that the licensee had significantly increased the area of the premises used for the consumption of liquor without the prior approval of the Commission.
9. On 3 September 2025 a liquor inspector hand-delivered notice of the second complaint to the licensee, and personally invited the licensee to respond to the complaint.

PRE-HEARING EVENTS

10. For reasons that will be set out later in this notice, it is necessary to set out in some detail the licensee's conduct following the making of these two complaints.
11. Section 105 of the Act requires licensees to provide written notice of any change of their contact information, including their email address, within 14 days of the change. On 14 January 2025, liquor inspectors had conducted an audit of the premises, in the course of which the licensee supplied a bigpond.com email address (**the bigpond address**). Between 14 January 2025 and 21 August 2025, the licensee provided no notice to the Director that he had changed his contact information.
12. When Ms Sowerby emailed notice of the first complaint to the licensee, she directed it to both the bigpond.com address and a gmail.com address (**the gmail address**) that Licensing NT also had on file for the licensee.

13. On 22 August 2025, Ms Da Costa, one of the liquor inspectors who had attended the premises on 24 July 2025 and 29 July 2025, telephoned the licensee to check that he had received the notice of the first complaint. The licensee denied having received the notice, and, when Ms Da Costa told him the two email addresses it had been sent to, he told her that those email addresses “do not send automatic notifications” and gave her a third email address (**the Barrow Creek Hotel email address**), which he confirmed he wished to have recorded by Licensing NT as his primary contact. A Licensing NT officer then sent the notice of the first complaint to the Barrow Creek Hotel email address.
14. On 3 September 2025, a liquor inspector handed notice of the second complaint to the licensee, at the premises.
15. On 5 September 2025, liquor inspectors again attended on the licensee at the premises, and invited him to respond to the complaints. He responded that he had not yet read the complaints, and undertook to attend the offices of Licensing NT in Alice Springs the following week to give an interview about the complaints.
16. The licensee did not attend for interview, either the following week, or subsequently.
17. On 22 October 2025, Mr Bernard Kulda, a delegate of the Director, referred the first and second complaints to the Commission, and provided the Commission with a brief (**the brief**) of the evidence the Director proposed to rely on, as well as audio and video recordings made during liquor inspectors’ attendances at the premises. On 6 November 2025, the Commission sent a notice to the licensee that the complaints would be heard on 19 November 2025, together with an electronic copy of the brief. Regrettably, the Commission only sent the notice of hearing by email to the bigpond address.
18. On 10 November 2025, Mr Kulda telephoned the licensee about the upcoming hearing. The licensee said that he would email a response to the complaints by 12 November 2025.
19. On 12 November 2025, having received no response, Mr Kulda again telephoned the licensee, and sent him a copy of the notices of complaint by SMS text. The licensee replied with the following text message, in response to the second complaint:

I am texting you some information to help overcome the current situation which after 37.5 years of operating makes me very disheartened.

Responses to Complaint :

1. I ask every prospective employee if they have a current RSA CERTIFICATE. If they reply yes, I tell them that they have to produce a copy to me.
2. The area of the premises used for the consumption of alcohol has increased through your own Department's support in its development through the Visitor Experience Enhancement subsidy schemes. I have been told that the area has to be shown as a variation for the Licence and the Inspector undertook to send me the required paperwork to be fulfilled but that variation paperwork has never been sent or given to me. I am more than happy to complete that paperwork to be compliant.

Bernard, I send this to you to show faith and I will send responses to the Substance following this.

Regards, Les Pilton.

20. On 17 and 18 November 2025 the licensee sent Mr Kulda further texts in response to the second complaint.
21. On 18 November, the Commission re-sent the notice of hearing and the brief to the licensee at the Barrow Creek Hotel email address.
22. On the evening of 18 November 2025, the licensee informed Mr Kulda that he would not attend the hearing in Alice Springs the next day because of “staff restrictions”, but might be available to attend by telephone or videolink. Mr Kulda suggested to the licensee that he apply to the Commission for leave to appear remotely. The licensee made no such application. The licensee told Mr Kulda that he had not read the brief because he had not been able to download it and to do so he would need to “create an account”.
23. The licensee provided no response to the first complaint to either the Director or the Commission prior to his eventual appearance at the hearing, on 4 December 2025.

THE HEARING COMMENCES

24. The matter commenced as a public hearing on 19 November 2025. Mr Kulda appeared on behalf of the Director. Ms Sowerby and Ms James were also in attendance. There was no appearance by or on behalf of the licensee. In order to assist it to determine how to proceed, the Commission received evidence from Mr Kulda, Ms Sowerby and Ms James in relation to their communications with the licensee since 24 July 2025. The summary of those communications set out above is substantially based on this evidence, as well as material in the brief, including statutory declarations by Ms James and Ms Da Costa.
25. At the conclusion of this evidence, the chairperson stated:

We should give Mr Pilton a further opportunity to respond to these complaints, and particularly in circumstances where it may be that he just hasn't really had an opportunity to read the material.

The Commission will give careful consideration as to whether or not there are some matters not referred to it, but which arise from the matters that have been referred to it, as the Commission is empowered to do under section 166(4) of the *Liquor Act*, and those matters would include whether there has been a breach of or a contravention of:

- s 90 of the *Liquor Act* which requires “a licensee must keep the fittings, furniture, furnishings and any other items used in connection with operations in good order and repair and in a safe and reasonably clean condition”;
- s 100 of the *Liquor Act*, which prohibits the supply of liquor on credit;

- s 105 of the Liquor Act, which requires a licensee to give the director written notice of any change in their e-mail address within 14 days of the change; and
- whether or not the Licensee and the Licensee's nominee (the same person) is a fit and proper person to hold the licence.

If the Commission were to find that the licensee is not a fit and proper person to hold the licence, then he would be no longer eligible to hold it. The consequences of that would be inevitably a suspension of the licence for a period, either until the licensee had become a fit and proper person, or until the licence had been transferred to a person who is a fit and proper person to hold the licence, or a nominee had been appointed for the licence who had been found to be a fit and proper person to be the licence nominee.

The Commission might also consider whether or not to cancel the licence itself and whether to disqualify the licensee from holding a licence for a particular period. Those are very serious steps indeed and would have very serious implications for the licensee, particularly if, as we've just heard, he is considering selling the premises, because the value of the premises might be adversely affected if the licence were cancelled.

And in those circumstances, given such potential serious consequences, the Commission will take all reasonable steps available to it to give the licensee an opportunity to participate in the hearing and respond to the matters in the complaints, as well as to the other matters I've foreshadowed.

26. While the hearing was still in progress, the Commission telephoned the licensee. At the suggestion of the chairperson, who informed the licensee that "this is a very serious matter" and "there is a possibility that your licence could be at risk", the licensee agreed to attend the hearing on 25 November 2025. The chairperson urged the licensee to seek legal advice.
27. Following the hearing on 19 November 2025, the chairperson wrote to the licensee (with a copy to the Director), reciting the matters set out at paragraph [25] above. The next day, 20 November 2025, Licensing NT officers drove again to the premises, and delivered by hand to the licensee the complaints, the brief, the audio and audio-visual recordings, and the chairperson's letter.
28. Subsequently, on being informed that the licensee had engaged legal representation, the Commission accepted a request by the licensee to postpone the resumption of the hearing to 4 December 2025.

THE HEARING CONTINUES

29. The hearing resumed on 4 November 2025 and continued on 8 December 2025. Mr Penman of counsel appeared for the licensee, who attended in person.
30. It is convenient to summarise the grounds of complaint that the Commission considered, together with the licensee's response to each ground:

No.	Ground	Particulars	Source	Response
1	s160(1)(b)	s46: unauthorised supply of liquor	First complaint	Admitted
2	s160(1)(b)	s293: contravene licence condition r 101(3): make full meals available	First complaint	Admitted
3	s160(1)(b)	s293: contravene licence condition r 101(6): make free water available	First complaint	Admitted
4	s160(1)(b)	s293: contravene licence condition r 101(7): make fuels available	First complaint	Admitted
5	s160(1)(b)	s137(1): all staff RFA certified s137(3): maintain RSA records	Second complaint	Contested
6	s160(1)(b)	s98(1): unapproved significant increase of licensed area	Second complaint	Admitted and demurred
7	s160(1)(b)	s90: maintain premises in safe, clean condition and in good order	s166(4)	Admitted
8	s160(1)(b)	s100: no sales on credit	s166(4)	Contested
9	s160(1)(b)	s105: notify change of contact info	s166(4)	Admitted
10	s160(1)(h) s160(1)(i)	Licensee not fit and proper Nominee not fit and proper	s166(4)	Contested

31. As can be seen from the above, the licensee admitted that six of the alleged contraventions of the Act were made out. The Commission upholds those six grounds of complaint.

32. The alleged facts of ground 6 were admitted, but Mr Penman submitted that it would be oppressive to uphold that ground as it was based on the same facts as ground 1. It was not disputed that it was the licensee's long-standing practice to supply and serve alcohol to local Aboriginal patrons through a hatchway at the end of the bar (within the licensed premises) that opened on to an outside area (not within the licensed premises), where these patrons would consume the alcohol.

33. Over the course of the hearing the following documentary evidence was admitted, all without objection:

- Exhibit 1: Brief, 51 pages 22 October 2025
- Exhibit 2: Kulda email 4 Dec 2025 including: Compliance record file notes 22 June 2022 to 31 July 2024; warning letter to licensee 11 July 2022; email from Ti Tree police 2 December 2025
- Exhibit 3: 5 video and 2 audio recordings made by Licensing NT officers
- Exhibit 4: Record of pre-paid drinks supplied by licensee to Aboriginal patrons on 30 November, 1 December and 2 December 2025
- Exhibit 5: Sliding scale of liquor that licensee permits be supplied to Aboriginal patrons at given times in the day
- Exhibit 6: Licensee's RSA register and RSA certificates
- Exhibit 7: Patrons' petition 19 Nov 25 and updated 8 Dec 25, with 25 names

34. The following persons were sworn or affirmed to gave oral evidence:

- Amber James, Liquor Inspector, Licensing NT
- Holly Sowerby, Principal Compliance Officer, Licensing NT
- Leticia Da Costa, Senior Compliance Officer, Licensing NT

- Les Pilton, licensee

35. The Commission now summarises the evidence given by these witnesses, with a focus on what they said about the matters in dispute.

Ms James

36. Ms James stated that on 29 July 2025, she attended the premises and asked Mr Pilton to show her both the RSA certificates and the licensee's register of RSA certificates. Mr Pilton showed her four certificates, two of which had expired. He did not produce a s 137(3) register, and said "that's all he had on him at the time".

37. During her visit to the premises on 24 July 2025, Ms James had seen another person, for whom no RSA certificate had been provided, supplying and serving alcohol through the hatchway to Aboriginal patrons standing outside the licensed area. On at least one such occasion, the transaction appeared to have taken place without payment being tendered.

38. Ms James observed patrons drinking in the yard outside the premises, and a car driving away from the premises with persons in it holding cans of beer purchased at the premises. Ms James and her colleague Ms Da Costa filmed this, and the recordings were admitted into evidence.

39. On 24 July 2025, Ms James went to the female toilets and noticed an electrical outlet was loose from the wall, leaving exposed wires, and all the windows were either broken or had missing slats. One of the toilets was out of order. The hand dryer was plugged in but was not working.

40. On 24 July 2025 the only type of fuel available was diesel. The premium unleaded and standard unleaded fuel pumps were both out of service. When she returned to the premises on 29 July 2025, premium unleaded fuel was also available.

41. Ms James said that licensees' contact details are recorded on the government's "LORIS" system, and that at the time the first and second complaints were laid, the licensee's recorded address on LORIS was the bigpond address. Ms James has never received any emails from the licensee, from any email address.

Ms Sowerby

42. Ms Sowerby stated that none of the emails she sent to the bigpond address, the gmail address or the Barrow Creek Hotel email address "bounced". The licensee did not respond to any of these emails.

Ms Da Costa

43. Ms Da Costa gave evidence in accordance with the account set out at paragraph [13] above of her conversation with Mr Pilton on 22 August 2025. She confirmed that in that conversation, Mr Pilton said that he preferred that the Barrow Creek email address be used by Licensing NT as his primary contact. Also in that conversation Mr Pilton asked what the complaint was about, and she told him it was about serving patrons outside the

premises. Ms Da Costa made a contemporaneous record of this conversation in a statutory declaration declared that day, in which she declared:

Mr Pilton stated he does not serve liquor outside the licensed area. He only serves liquor in the bar. He stated it is not his fault the "Abo's" take it outside the licensed area to consume it.

This evidence was not challenged in cross-examination.

44. Ms Da Costa stated that when she and Ms James returned to the premises on 29 July 2025 they personally asked the licensee, who was at the premises, to produce the RSA certificates and register.

Mr Pilton

45. Mr Pilton is 76 years old and has been the licensee of the premises since 29 April 1988. Mr Pilton is responsible for four arms of his business: food, fuel, accommodation and refreshments. There is no community at Barrow Creek, and no government-provided utilities, so he is also responsible for maintaining the supply of power and water, and for sewage disposal. He wishes to sell the business and retire, and expects to do so by April 2026.

46. Within a radius of 45 km of Barrow Creek there are about 180 Aboriginal people, of whom about 30 are drinkers. Since Ti Tree changed to light beer, trade has increased. Aboriginal patrons only want VB.

47. He has a long-standing arrangement with his regular customers, Aboriginal residents of two nearby communities, Tara and Willora, by which they pre-pay the purchase of cans of full-strength beer to drink later that day. The drinks are supplied only between 12:30 hours and 16:00 hours, according to a sliding scale that in effect limits supply to one beer every half hour, up to a maximum of six cans. If a patron does not drink all the beers they have paid for, their entitlement is carried forward to the next day. 90% of the pre-payment is done using the SmartCard issued by Social Services.

48. Local Aboriginal people who are station workers are permitted to buy and drink up to 9 beers in a day.

49. These arrangements do not apply to the general public.

50. The hatchway has been used as a serving area since before Mr Pilton acquired the licence in 1988. It is used because Aboriginal people don't want to comply with the dress standards for the bar, don't like to wear footwear and don't like to be confined. The licensee relied on the Exhibit 7 petition in support of this evidence.

51. Mr Pilton explained that when he had told Ms Da Costa on 22 August 2025 that he only served patrons inside the bar, he meant that the hatchway, where the supply and service takes place, is within the licensed area, because the hatchway counter is set into the wall that marks the boundary of the premises. He conceded that the patrons being served are standing outside the licensed area.

52. Mr Pilton said that he had only ever seen patrons drive away with beer they had bought at the premises once, and on that occasion he had banned them for a few days.
53. There have been 4 incidents of anti-social behaviour this year. Police are rarely called to deal with trouble at Barrow Creek. The licensee relied on the statement from the remote sergeant at Ti Tree (in Exhibit 2) that issues of concern to police at Barrow Creek had decreased over the last six months, and that the sergeant had only been called to attend Barrow Creek once for an alcohol-related incident.
54. Mr Pilton maintains a s 137(3) RSA register, which he tendered as evidence, along with three current RSA certificates and three expired certificates. The register was last endorsed by a police officer or liquor inspector on 14 January 2025. Mr Pilton said he did not know why he did not produce the register when asked to do so on 29 July 2025. According to the register, on 23 November 2025 Mr Pilton obtained a refresher RSA certificate for himself, and on 24 November 2025 the other staff member whose certificate had expired had also refreshed her certificate. However, the licensee did not produce these two certificates, and their existence has not been verified by the endorsement of a police officer or liquor inspector on the register. Mr Pilton gave oral evidence that he and his employee had both done the refresher course on 23 November 2025.
55. He stated that he had never authorised the male person (whose name is Lachlan) observed by liquor inspectors on 24 July 2025 supplying alcohol through the hatchway to patrons outside the premises, to serve alcohol. He said he did not know that Lachlan had served alcohol until he looked at the video recordings of this occurring with his lawyer "two weeks ago".
56. Mr Pilton stated that he does not access his email addresses frequently because he is too busy, and prefers to use his mobile phone. When an email is received, an alert does not show up on his phone. He was unable to explain why he nominated the bigpond address to the liquor inspector who conducted an audit of the premises in January 2025 as his primary contact method, when he prefers to be contacted face to face or by telephone. He said that although on 22 August 2025 he had requested the first complaint be emailed to the Barrow Creek Hotel email address, at that time his computer, which had broken down in about May 2025, had not been replaced, and so he had not been able to receive the email, and had not read the complaint. He later replaced the computer, but it broke down after 6 weeks and has not been repaired, because Mr Pilton has been too busy to take it to the computer repair shop in Alice Springs. He has however recently taken his printer/copier in to the computer repair shop to be repaired.
57. Mr Pilton stated that he had always had unleaded premium petrol on sale, but after receiving legal advice from his counsel he withdrew that evidence, and confirmed that on 24 July 2025 the only available fuel was diesel.
58. Mr Pilton does not recall the audit inspection conducted in 2022, or receiving a warning letter about, among other things, the need to comply with RSA certification rules, the need to apply to vary the licensed area and the requirement to make meals available.
59. The Commission pauses to note the following evidence contained in Exhibit 2, of file notes made by Licensing NT officers:

- on 22 June 2022, the licensee collected an envelope with an RSA register and an application form to amend a licensed area from the Alice Springs office of the Territory Business Centre;
- on 27 October 2022, a liquor inspector attended the premises and advised a staff member that drinking outside the licensed area was not allowed until the area extension had been approved;
- on 31 March 2023, a liquor inspector attended the premises and advised the licensee's wife, Ms Helen Pilton, that people are only permitted to consume alcohol within the licensed area;
- on 3 November 2023, a liquor inspector attended the premises, observed patrons drinking outside the approved licence area and brought this to the attention of a staff member; and
- on 31 January 2024, a liquor inspector attended the premises, observed patrons drinking outside the approved licence area and told Mr Pilton that this needed to be addressed. Mr Pilton said he was waiting on instruction and has been provided details.

60. In his evidence at the hearing, Mr Pilton initially said that when he had acquired the licence in 1988, a liquor inspector had offered to help him apply to extend the area of the premises, but that since then he had had no further communications from Licensing NT about this issue.

61. He did not recall collecting an application for a material alteration from the Territory Business Centre on 22 June 2022. He did not know what was in that paperwork because it was the tourist season, when he is busy. After the tourist season, it slipped his mind. The inspectors never mentioned the issue again to him. None of his staff passed on the inspectors' reminders in 2022 or 2023 about this. When he was reminded about it in 2024, as he told the inspector, he was waiting on instruction.

62. He said that licensing officers had told him that they would give him the paperwork and go through it with him, but never did so. When the hearing resumed on 8 December 2025, he said he had arranged to meet Ms Sowerby on 9 December 2025 to obtain the paperwork to apply for an extension to the premises.¹

63. Mr Pilton said that he did not believe that he had ever read the 2022 letter warning him about the need to make meals available. The licensee had to close the kitchen after the ceiling sustained water damage, which has now been repaired. The remaining work required is to paint the ceiling and repair an opening over the door. This work will be completed by Christmas, and a cook will be employed by Christmas.

64. Currently, both diesel and unleaded 95 petrol are available. The premises also have two recharging stations for EVs. Fuel can run out during the tourist season, when there is high demand, and particularly if Ti Tree (83 km to the south) runs out of fuel.

¹ On 17 December 2025, Ms Sowerby informed the Commission that on that date, the licensee had attended the Alice Springs office of Licensing NT and submitted the material alteration application and supporting documents.

65. Barrow Creek has a supply of non-potable bore water, and drinking water has to be purchased in Alice Springs by the cask and transported to the premises. When the hearing resumed on 8 December 2025, Mr Pilton stated that the previous day he had commenced to supply complimentary drinking water from a cask in the bar at the premises.

CONSIDERATION

66. Ms James, Ms Sowerby and Ms Da Costa were all impressive witnesses, whose evidence was largely supported by contemporaneous written records they had made of their involvement in this matters, and whose evidence was barely challenged in cross-examination. The Commission accepts their evidence.

67. Mr Pilton's evidence was often evasive, inconsistent, argumentative or non-responsive. Where his evidence is contradicted by documentary evidence or the testimony of other witnesses, the Commission rejects Mr Pilton's evidence.

68. The Commission generally accepts Mr Pilton's account of his trading practices at paragraphs [47] to [49] above, although it notes that notwithstanding Mr Pilton's evidence, the SmartCard, which is issued to participants in the Australian government's Enhanced Income Management scheme operated by Services Australia, can not lawfully be used to purchase alcohol.²

69. The Commission considers that Mr Pilton's explanation of his "pre-payment" arrangement is sufficient to answer the eighth ground of complaint – that he supplies alcohol on credit. The Commission does not uphold that ground of complaint, and dismisses it.

70. Mr Pilton also contested the fifth ground of complaint, that he had contravened the requirements to ensure that all employees who serve patrons have current RSA certification. Uncontradicted evidence received by the Commission clearly establishes that on 24 July 2025, the RSA certification of both Mr Pilton and one other staff member had expired. On Mr Pilton's own evidence, he did not remedy this breach for another four months, until after the Commission had commenced to hear these complaints. The Commission does not accept Mr Pilton's evidence that he had no knowledge that "Lachlan", who is apparently not RSA certified, ever supplied and served alcohol. It beggars belief that the only occasion on which Lachlan did so was 24 July 2025, when liquor inspectors observed him working at the hatchway over an extended period. Similarly, it is implausible that the licensee, who lives on the premises and by his own account is personally responsible for the running of the business, was completely unaware of Lachlan's activities behind the bar. The Commission upholds this ground of complaint.

71. At first blush, Mr Penman's submission (made before Mr Pilton gave evidence) that the facts in support of ground 1 (unauthorised supply of liquor) were substantially the same as those relied on in support of ground 6 (unapproved significant increase of licensed area) appeared to be well founded. However, although there was no contest about the facts in relation to ground 1, Mr Pilton's evidence in relation to ground 6 raised a serious factual dispute between the parties. To summarise, the Director's case is that, between

² See <https://www.servicesaustralia.gov.au/enhanced-income-management-and-smartcard>

June 2022 and January 2024, her officers reminded the licensee or his employees on five separate occasions to address this outstanding issue. Mr Pilton's evidence is that he was led to believe by the Director's officers that it was their responsibility to address the issue, and not his. The Commission accepts the evidence on this issue adduced by the Director. The Commission finds that the licensee intentionally ignored the clear advice given to him over a substantial period that he make an application for a material alteration, and furthermore, that his evidence to the Commission on this issue lacked candour. In these circumstances, the Commission considers that the facts underlying ground 1 are not duplicated by the facts underlying ground 6. The Commission upholds both ground 1 and ground 6.

72. Grounds 2, 3, 4, 7 and 9 are all admitted, and the Commission upholds them. None of them, when considered in isolation, is a particularly serious contravention of the Act. However, when the eight grounds of complaint that have been upheld are considered together, a serious question arises in relation to ground 10, namely whether the licensee is a fit and proper person to hold the licence.

73. In *Disciplinary action against Wagait Beach Supermarket* [2024] NTLiqComm 10, at [72] to [73], the Commission considered the principles to be applied in determining whether a person is fit and proper to hold a liquor licence. The Commission stated:

In *Australian Broadcasting Tribunal v Bond* [1990] HCA 33; (1990) 170 CLR 321, the High Court considered the meaning of the expression "fit and proper" in relation to licensees under the *Broadcasting Act 1942* (Cth).

Mason CJ stated, at 349:

[A] licensee has a responsibility to exercise the power conferred by the licence with a due regard to proper standards of conduct and a responsibility not to abuse the privilege which it enjoys... A licensee which lacks a proper appreciation of those responsibilities or does not discharge them is not, or may be adjudged not to be, a fit and proper person.

Gaudron and Toohey JJ stated, at 380:

The expression "fit and proper", standing alone, carries no precise meaning. It takes its meaning from its context, from the activities in which the person is or will be engaged and the ends to be served by those activities... in certain contexts, character (because it provides indication of likely future conduct) or reputation (because it provides indication of public perception as to likely future conduct) may be sufficient to ground a finding that a person is not fit and proper to undertake the activities in question.

In *Qadir v Department of Transport* [2015] NTSC 86, Kelly J stated, at [52]:

A decision about whether an applicant is a "fit and proper person" for a particular role or purpose requires a consideration of the qualities necessary to fulfil the role or purpose. It would also generally require some consideration of the person's moral integrity and rectitude of

character as well as the applicant's knowledge, ability and honesty as it relates to the role in question.

In applying to this matter the principles that emerge from these authoritative decisions, the Commission is of the view that it has to consider whether [the licensee] has a proper appreciation of the responsibilities required to fulfil the role of being the holder of the liquor licence, and whether he has the qualities – the character, knowledge, ability and honesty – needed to discharge the responsibilities of a liquor licensee.

74. The Commission considers that the following evidence is relevant for the purpose of determining whether Mr Pilton is fit and proper to be the licensee of the Barrow Creek Hotel. Firstly, in his favour:

- a. Mr Pilton has been the licensee for 37 years, long enough to know how to keep this very remote wayside inn running, in a very challenging environment.
- b. Barrow Creek is the only fuel and rest stop in the 200 km stretch of the Stuart Highway between Ti Tree and Devil's Marbles, and the only liquor outlet easily accessible to residents of Willora (33 km to the south) and Tara (14 km to the east). Arguably, the "fit and proper" standard is lower because the licensee is performing an essential service by keeping this wayside inn open, and if he closes there is a limited prospect anyone else will step in to take over, particularly over the summer.
- c. Mr Pilton has developed a close and apparently effective relationship with local drinkers, who apparently support his unorthodox trading arrangements, which have features that appear to moderate the excessive and harmful use of alcohol.
- d. Ti Tree police report that there has been little alcohol-related trouble at Barrow Creek in recent months.
- e. Being an authentic old-style Territory outback character who eschews bureaucracy and communications technology might make Mr Pilton unfit to be a modern metropolitan licensee, but arguably does not make him unfit to run an authentic old-style Territory outback pub.

75. On the other hand:

- a. Failure to apply for material alteration: on his own evidence, Mr Pilton has known about this issue since 1988. He denied that this had ever been raised with him after 1988. When confronted with evidence that in fact it has been repeatedly raised with him and his staff, he resorted to memory failure, preoccupation with other matters and evasiveness. He falsely denied collecting the application form on 22 June 2022. Then he said he hadn't read it, that he didn't remember getting it, that he had lost it, that he might have filed it, that it could have been thrown away, and that he wasn't required to fill it in as that was the job of Licensing NT.
- b. Continuing to trade in breach of s 46: Mr Pilton's prevarication when asked about his practice of supplying liquor for consumption outside the licensed area has

been described above. His justification for engaging in racially discriminatory trading practices is arguably inconsistent with contemporary industry and community standards.

- c. Permitting takeaway trade: The licensee asserted that the liquor inspectors' video evidence of beers being placed in a car and then driven away was extraordinary, and that this had only ever happened once before. The Commission does not accept this assertion. There is no more than a remote possibility that the inspectors just happened to see and record an event that has only ever occurred once before.
- d. Responding to Licensing NT: The Commission has summarised at paragraph [57] above the licensee's extensive evidence regarding his use (or non-use) of email. The second complaint was hand-delivered to the licensee on 3 September 2025, but he claims that he did not read it. He did not respond to the Director's invitation to respond to the complaints. He told Licensing NT in person that he would come to Alice Springs the following week to be interviewed. He did not present for an interview, or contact Licensing NT to explain why, or arrange to be interviewed on a later date, or, when asked at the hearing to explain this, offer an explanation. The Commission finds that the licensee deliberately engaged in a course of conduct calculated to avoid being confronted with the adverse outcome of the Director's investigations of his compliance with the Act and his licence conditions.
- e. Condition of the premises: the state of the female toilets, the lack of meal service, the failure to provide complimentary water (belatedly remedied, after the commencement of the hearing), the lack of a continuously available reasonable range of fuels and oils, together with recent adverse reports by environmental health officers about pollution and waste management issues, all signify a long-standing, chronic failure to maintain the premises in accordance with prescribed standards.
- f. Truth and accuracy: The licensee's evidence was riddled with assertions and claims that were either demonstrably false or patently unbelievable, including:
 - i. Licensing NT had never asked him to apply for a material alteration
 - ii. He will have a cook employed and the kitchen functioning by Christmas
 - iii. His failure to read any of the warnings or complaints he'd received was innocent and justifiable in the circumstances
 - iv. His supply of liquor to patrons outside the premises was beyond his control
 - v. He never allows patrons to take liquor they have purchased from the premises away in cars

76. The above-instanced long-established patterns of improper behaviour, together with the licensee's inability or refusal to take responsibility for this behaviour, point to a lack of "due regard to proper standards of conduct" for a licensee. The licensee's lack of candour in his sworn evidence gives rise to a real question regarding whether he has the character and honesty required of the holder of a liquor licence.

77. The Commission finds that prior to the hearing, Mr Pilton did not have a proper appreciation of the responsibilities required to fulfil the role of being the holder of the

liquor licence. The Commission however accepts that by the conclusion of the hearing, Mr Pilton may have acquired that appreciation. The Commission is concerned that Mr Pilton lacks the qualities needed to discharge the responsibilities of a liquor licensee. The Commission however accepts that Mr Pilton's unsatisfactory response to the Director's investigation, and his unimpressive conduct as a witness may have been more a reflection of inadequate management and communication skills in an extremely challenging work environment, rather than being due to poor character and dishonesty.

78. In all the circumstances, the Commission is not satisfied, and does not find that the licensee is not a fit and proper person to hold the licence.

DISCIPLINARY ACTION

79. However, having upheld eight grounds of complaint, the Commission considers that in order to deter the licensee from continuing to act in contravention of the Act and his licence conditions, and to send a message to other licensees of the importance of compliance with the regulatory framework within which they exercise their privilege to operate a liquor licence, it is appropriate to take the substantial disciplinary action set out at the commencement of this decision notice.

80. The disciplinary action the Commission has decided to take is calculated to remedy all of the instances of non-compliance with the law that have been identified in this decision notice, and to provide the licensee with a clear and specific set of instructions as to what he is required to do in order to be able to recommence the sale, supply and service of liquor. The Commission considers that in all the circumstances of this matter, the licensee must not be permitted to resume trading as a liquor licensee until he has undertaken the remedial measures the Commission has identified.

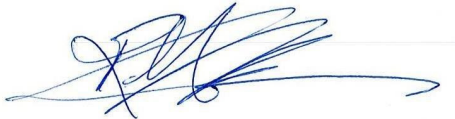
PURPOSES OF THE ACT

81. Section 3(4) of the Act requires that in determining this matter, the Commission must have regard to the primary and secondary purposes of the Act, and must do so in a way consistent with those purposes. The Act and Regulations establish clear minimum standards for the conduct of liquor licensees. In the view of the Commission, to allow the licensee to continue to trade without ensuring that the remedial measures the Commission has identified have been implemented, would not be consistent with the purpose of protecting the community through the responsible sale, supply, service, promotion and consumption of liquor (s 3(2)(a)), or the purpose of contributing to the responsible development of the liquor industry (s 3(2)(b)).

NOTICE OF RIGHTS

82. Section 31(1) read with s 166(7) 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 s 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Director and the licensee.

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

RUSSELL GOLDFLAM
CHAIRPERSON, NORTHERN TERRITORY LIQUOR COMMISSION

17 December 2025

On behalf of Commissioners Goldflam, Stephenson and Shanahan