

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**DECISION NOTICE AND REASONS**

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**CITATION:** *PORKIN SMALL GOODS: APPLICATION FOR NEW LIQUOR AUTHORITIES* [2023] NTLiqComm 36

**REFERENCE:** LC2023/035

**LICENCE:** 80900119

**NOMINEES:** Manfred Mletsin and Ryan Hamilton

**APPLICANT:** Porkin Pty Ltd

**PREMISES:** Porkin Small Goods & Coffee  
60 Aralia Street  
NIGHTCLIFF NT 0810

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

**HEARD BEFORE:** Mr Russell Goldflam (Chairperson)  
Dr Sean Taylor (Health Member)  
Mr Bernard Dwyer (Health Member)

**DATE OF HEARING:** 25 October 2023

**DATE OF DECISION:** 7 November 2023

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**Decision**

1. At the conclusion of a hearing it conducted on 25 October 2023, the Northern Territory Liquor Commission (**the Commission**) determined in accordance with section 48 of the *Liquor Act 2019* (NT) (**the Act**) to issue a restaurant bar authority and a catering authority forthwith to Porkin Pty Ltd (**the licensee**) for liquor licence 80900119 at premises at 60 Aralia Street, Nightcliff NT 0810 (**the licence**).
2. The conditions of the licence are amended to include the authority conditions set out in Part 4 Division 14 (“Restaurant bar authority conditions”) and Division 5 (“Catering authority conditions”) of the *Liquor Regulations 2019* (NT) (**the Regulations**).
3. The Commission stated that it would issue a notice of this decision with reasons as soon as practicable. The reasons are as follows.

## **Reasons**

### **Background**

4. The applicant is a registered company owned, directed and managed by Manfred Mletsin and Ryan Hamilton (**the nominees**), who are also the licence nominees. In mid-2022 the applicant acquired the long-standing Aralia Street Supermarket in Nightcliff, along with its liquor licence and grocery store authority. The nominees transformed what had been a traditional suburban licensed grocery shop into “the corner store that makes and serves great drinks, premium fresh produce, offers boutique wine and helps you do the last-minute breakfast, dinner or lunchbox grocery run”.<sup>1</sup> The applicant now seeks to build its business by converting its existing café on the premises to a restaurant bar, and expanding its catering operation to include the supply of liquor.
5. On 4 September 2023, the applicant, having paid the prescribed fee, completed the lodgement of an application for a liquor licence and restaurant bar authority with the Director of Liquor Licensing (**the Director**).

### **Consultation**

6. As required by section 57 of the Act, notices of the application were published on 16 September 2023.
7. In accordance with section 56 of the Act, notification was given to the Department of Health, NT Police and the City of Darwin, as well as to Northern Territory Fire and Rescue Services.
8. No objections to the application were received by the Director, and none of the stakeholders contacted by the Director raised any objections.

### **The licensee’s record of compliance**

9. The Director informed the Commission that the licensee has no history of non-compliance with the conditions of its licence or the Act.

### **The referral**

10. On 10 October 2023, pursuant to section 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 that the matter would be listed for a public hearing on 25 October 2023.
11. The Director provided the following documents to the Commission with the referral:
  - a. Application for new authorities
  - b. Liquor licence 80900119
  - c. Affidavit and Declaration of Associates pursuant to section 54 of the Act
  - d. ASIC company extract for applicant

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<sup>1</sup> Licensee’s website ([www.porkin.com.au](http://www.porkin.com.au), accessed 2 November 2023)

- e. Public Interest and Community Impact Assessment summary pursuant to sections 49 to 52 of the Act
- f. Letters of support from local businesses
- g. Food Registration Certificate
- h. Financial records
- i. Commercial lease over premises
- j. Landlord's letter supporting the application
- k. Site plan
- l. Menu, drinks list and photographs of existing café
- m. Correspondence with stakeholders

### **The hearing**

12. On 25 October 2023, the application proceeded as a public hearing. Both nominees appeared on behalf of the applicant. Ms Christine Free appeared for the Director. The Commission thanks them for their attendance and assistance.
13. The brief was tendered and admitted into evidence without objection.
14. The Commission also accepted into evidence a site plan showing the refurbishment of the premises.

### **ASSESSMENT OF THE APPLICATION**

15. Section 59 of the Act requires the Commission to consider the following when considering an application for an authority:
- a. the applicant's affidavit required by s 54;
  - b. the suitability of the premises to operate with the proposed authorities, 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 body corporate;
  - d. the general reputation and character of the secretary and executive officers of the body corporate;
  - e. whether the applicant and the nominees designated by an applicant, are fit and proper persons to hold a licence;
  - f. whether each associate of the applicant is a fit and proper person to be an associate of a licensee.
16. The licence was transferred to the licensee in 2022. The Commission infers that the Director, acting pursuant to his delegated powers,<sup>2</sup> authorised the transfer, and that, as is required by s 73(1A) of the Act, the Director was satisfied that both the transferee and each of the nominees were fit and proper

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<sup>2</sup> Delegation by Liquor Commission, 29 January 2020

persons. The Commission accepts the Director's submission that in the circumstances of this application it is unnecessary to further inquire into the probity of the applicant licensee.

17. 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**

18. The applicant, which has already established its eligibility and suitability to be the licensee of the premises with a grocery store authority, has provided satisfactory documentation regarding its operations, activities, financial circumstances and plans.

### **The applicant's associates**

19. The Commission does not consider it appropriate to consider whether any associates of the applicant apart from the nominees are fit and proper persons.

### **The suitability of the applicant's premises**

20. The new restaurant bar is located entirely within the existing footprint of the premises, which have been reconfigured so as to accommodate both the licensed grocery store and an area for patrons to consume food and drink.
21. There are separate points of sale for grocery store/bottle shop customers, and patrons of the restaurant bar/café. The licensee needs to maintain separate records of its sales from the store, in order to comply with the "25% grocery store cap" provisions set out at reg 53 of the Regulations.
22. The premises can accommodate up to 34 diners in its existing café, which will henceforth operate as a restaurant bar.
23. The Commission assesses the premises as suitable for the supply and consumption of liquor as a licensed restaurant bar, and as suitable for the provision of a food and beverage service for consumption elsewhere, pursuant to a catering authority.

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

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

### **Public notice and consultation**

25. The Commission is satisfied that public notice of the application was given and consultation was undertaken in accordance with ss 56 and 57 of the Act.

### **Whether issuing the licence is in the public interest**

26. 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.

27. The Commission has had regard to all of these objectives and, in particular, it considers that, due to its small size, the character of the business and the licensee's demonstrated capacity to successfully operate a liquor licence, this is a low-risk venture.

28. 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**

29. 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 following matters set out at s 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 s 50;
  - (j) any other matter prescribed by regulation.
30. The Commission notes there are no such “other” matters prescribed by regulation, and considers that there are no guidelines currently in force under s 50.
31. The applicant bears the onus of satisfying the Commission of the relevant matters.
32. Having particular regard to the fact that the licensed premises have attracted no objections from the community or the statutory stakeholders, and are indeed supported by several proprietors of other businesses in the Aralia Street Shopping Centre, the Commission is satisfied that the issue of the additional authorities will not have a significant adverse impact on the community.
33. Having considered all of these matters, 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 authorities is in the public interest; and
  - c. the authorities will not have a significant adverse impact on the community.

### **The objects of the Act**

34. Section 3(4) of the Act provides that in exercising its power to issue a licence with conditions, the Commission must have regard to the primary and secondary purposes of the Act.

35. Among the secondary purposes of the Act in s 3(2) are to regulate the sale, supply, service, promotion and consumption of liquor in a way that:

- contributes to the responsible development of the liquor industry and associated businesses in the Territory; and
- stimulates the tourism and hospitality industries.

The Commission considers that the manner in which it has exercised its power in this matter is consistent with the purposes of the Act.

36. For these reasons, the Commission has determined that the application should be granted, and that the authorities be issued.

### **NOTICE OF RIGHTS**

37. 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.

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



Russell Goldflam

CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
7 November 2023

On behalf of Commissioners Goldflam, Taylor and Dwyer