

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

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**MATTER:** APPLICATION FOR LIQUOR LICENCE

**REFERENCE:** LC2019/128

**APPLICANT:** ARLC NT Limited

**PREMISES:** Territory Rugby League Stadium  
72 Abala Road  
MARRARA NT 0812

**LEGISLATION:** Part III of the *Liquor Act 1978*.

**HEARD BEFORE:** Mr Russell Goldflam (Acting Deputy Chairperson)  
  
Ms Elizabeth Stephenson (Health Member)  
  
Ms Amy Corcoran (Community Member)

**DATE OF HEARING:** 12 December 2019

**DATE OF DECISION:** 20 January 2020

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**Decision**

1. For the reasons set out below and in accordance with section 29 of the *Liquor Act 1978* (NT) (“the Act”) the Northern Territory Liquor Commission (“the Commission”) has determined to issue a licence to ARLC NT Limited (“the applicant”) authorising the sale of liquor and consumption on conditions as set out below in the area of the Territory Rugby League Stadium, Marrara Sporting Precinct, Marrara, delineated in red on the plan set out at page 120 of Exhibit One admitted at the hearing of the application (“the premises”), and comprising: “Field No. 1” and “Field No. 2” of Section 4109, Hundred of Bagot, 105 Abala Rd, Marrara (“Warren Park”); the surrounding spectator area; and the licensee’s adjacent stadium and associated facilities; but not including the excluded areas described at paragraph 3a below.

**CONDITIONS**

2. The sale and supply of liquor is authorised from 12:00 hours to 23:59 hours every day except Good Friday and Christmas Day.
3. The following conditions apply, in addition to or in substitution for, as the case may be, the standard conditions applicable to an **AUTHORITY – ON LICENCE** licence:

- a. The excluded areas are:
- On the ground floor of the grandstand:<sup>1</sup>
    - the stairwells
    - the public toilet blocks
    - the players' physiotherapy rooms, shower block and toilets
    - the referees' showers and change rooms
    - the medical and drug testing rooms
  - On the first floor of the grandstand:<sup>2</sup>
    - the stairwells
    - the public toilet blocks
  - On the second floor of the grandstand:<sup>3</sup>
    - the stairwells
    - the toilet blocks
    - the "store"
    - the room between the female toilet block and the "match day control" room
    - the room between the male toilet block and the store
  - The ground level family spectator area bordering the southern boundary of Field 1 and Field 2.<sup>4</sup>
- b. The "corporate area" is the second floor of the grandstand on the premises.<sup>5</sup> The "non-corporate area" is the remainder of the premises.
- c. There is no restriction on the type of liquor that may be sold, supplied or consumed in the corporate area.
- d. The only liquor that may be sold, supplied or consumed in the non-corporate area is liquor with a strength no greater than 4.0% alcohol by volume.
- e. Liquor must be served in opened plastic or metal containers in the non-corporate area.
- f. A maximum of four alcoholic drinks is permitted to be sold to any one customer at any one time in the non-corporate area.

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<sup>1</sup> These excluded areas are delineated by the red hatched areas at page 121 of Exhibit One.

<sup>2</sup> These excluded areas are delineated by the red hatched areas at page 122 of Exhibit One.

<sup>3</sup> These excluded areas are delineated by the red hatched areas at page 123 of Exhibit One.

<sup>4</sup> This excluded area is delineated by the green hatched area at page 124 of Exhibit One.

<sup>5</sup> The corporate area is depicted at page 123 of Exhibit One.

- g. No liquor is to be sold, supplied or consumed on the premises while junior rugby league matches are in progress, unless a senior match is proceeding at the same time.
- h. A reasonable range of non-alcoholic beverages must be available for purchase by patrons during the hours of operation.
- i. Complimentary tap water must be available to patrons during the hours of operation.
- j. The licensee must install and maintain video surveillance equipment in accordance with Regulation 76 of the *Liquor Regulations*<sup>6</sup> as in force at the time of the issue of this licence, and as subsequently amended from time to time.
- k. Except during special events, liquor may only be sold or supplied from the bar on the ground floor of the grandstand,<sup>7</sup> the servery on the second floor of the grandstand,<sup>8</sup> and such booths within the premises as the Director of Liquor Licensing<sup>9</sup> approves in writing.
- l. Liquor may only be sold, supplied or consumed on the premises when the premises are being used for rugby league activities or special events.
- m. 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 subsequently amended from time to time.
- n. Special events
  - i. A “special event” is:
    - a “headline” rugby league event at which the licensee intends to sell liquor at a temporary booth or booths in the thoroughfare on the first floor of the grandstand; or
    - an event other than a rugby league activity.
  - ii. The licensee must, by prior written notice to the Director, seek the Director’s consent to a special event.
  - iii. The notice must be given at least 14 working days before holding the special event, or by such later date as may be permitted by the Director.

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<sup>6</sup> Hereafter, “the Regulations”.

<sup>7</sup> The bar is depicted at page 121 of Exhibit One.

<sup>8</sup> The servery is depicted at page 123 of Exhibit One.

<sup>9</sup> Hereafter, “the Director”.

- iv. The licensee must not permit the event to proceed if the Director gives the licensee written notice that the Director refuses to consent to the event.
- v. The Director is taken to have consented to a special event if:
  - The licensee has notified the Director of the special event in accordance with the foregoing conditions; and
  - The Director has not, at least 7 days before the special event, notified the licensee that consent to the special event is refused.
- vi. Subject to the *Liquor Act 2019* (NT)<sup>10</sup> and the powers of the Director, for the purpose of and during the special event the Director may at his or her discretion add temporary conditions to the licence and issue temporary authorities, including a special event authority.<sup>11</sup>
- vii. If the Director considers that a major event authority is required to permit the function to proceed, the Director shall refer the request for consent to a Member of the Commission, who may at their discretion add temporary conditions to the licence and issue temporary authorities, including a major event authority.<sup>12</sup>

## **Reasons**

### **Background**

- 4. The applicant organises and conducts Rugby League competitions and representative programs in the Northern Territory under the auspices of the Australian Rugby League Commission Limited (“the ARL Commission”).
- 5. The applicant currently holds a Special Liquor Licence SLL1800 issued on 30 September 2019 and valid until 1 April 2020 to sell liquor at the premises. It now seeks to obtain a full liquor licence for the sale, supply and consumption of liquor on the premises.
- 6. In 2012 the applicant commenced negotiations with the South Darwin Sporting League Incorporated (“the South Darwin League”) and with the Northern Territory government, for the redevelopment of Warren Park, at a cost of \$25 million, funded by the Northern Territory government.
- 7. With the redevelopment, the applicant has assumed exclusive possession of the western and central sections of Warren Park, with two new rugby fields (“Field 1” and “Field 2”), together with a grandstand and associated facilities. These arrangements are underpinned by leases pursuant to which the Northern Territory has leased Warren Park to the applicant for a term of 30 years from 25 January

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<sup>10</sup> Hereafter, “the 2019 Act”.

<sup>11</sup> On 28 October 2019, the Commission delegated its powers to issue a special event authority and to fix associated licence conditions to the Director (see s47(1)(r) and s48 of the 2019 Act.

<sup>12</sup> On 28 October 2019, the Commission delegated its powers to issue a major event authority and to fix associated licence conditions to a Member of the Commission (see s47(1)(o) and s48 of the 2019 Act.

2018, and the applicant has granted a licence to the South Darwin League to exclusive possession of the eastern third of Warren Park, including "Field 3".

### **The Application**

8. In March 2019, the applicant commenced the application process, and over the next six months discussions between the applicant and Licensing NT continued, during which the applicant provided further material in support of the application.
9. On 27 November 2019, following consultation, together with an assessment of the application, the Director referred the application to the Commission for hearing pursuant to s 28 and s 50(a) of the Act. The application was still incomplete, but in referring the application to the Commission at this stage, the Director was acting in compliance with a request from the Commission, which considered that in all the circumstances it would be appropriate and convenient to hear together the application and an associated application by the South Darwin League to permit it to sell and supply liquor from "Field 3" at Warren Park, immediately adjacent to the eastern boundary of the applicant's proposed premises.
10. The Commission records its thanks to the Director and his staff for expediting the processing of the ARLC NT application to enable the two hearings to be conducted together.
11. The Director provided the Commission with a brief of evidence ("the brief") including:
  - Memorandum from the Director setting out the circumstances of the application
  - Application dated 7 March 2019
  - Applicant's existing Special Liquor Licence SLL1800
  - Correspondence between applicant and Licensing NT
  - ASIC Certificate of Registration of Company dated 21 November 2018
  - Applicant's Constitution dated 30 October 2014
  - Documents certifying identity, managerial capacity, character and RSA qualifications of Mr Nigel Roy
  - Community Impact Statement
  - Public Interest Test responses
  - Applicant's Strategic Plan
  - Plan of proposed premises
  - Building fire safety inspection report dated 10 May 2019
  - Newspaper notifications of application dated 13 and 17 July 2019
  - Objection by Mr Brendan Lawson dated 16 July 2019
  - Response to objection by applicant dated 11 September 2019
  - Correspondence between Licensing NT and Department of Health ("DOH"), NT Police, NT Fire and Rescue Service ("NTFRS") and City of Darwin

## **Consultation**

12. As required by s 27 of the Act, notices of the application were published in the NT News and displayed on site. One objection was received, from Mr Brendan Lawson.
13. Also in accordance with s 27, notification was given to DOH, the NT Police and the City of Darwin. The NTFRS was also notified.
14. The Director informed the Commission that:
  - DOH responded, making no adverse comment.
  - NT Police advised that they had no objections, provided that full-strength alcohol was not supplied outside the corporate areas.
  - The City of Darwin advised that would not comment as the facility was owned by the Northern Territory Government.
  - NTFRS indicated that they supported the application.

## **The objector**

15. Mr Lawson is a resident of the Northlakes Estate, situated about 500 metres south-east of the proposed premises. Mr Lawson made a similar objection to the associated application of the South Darwin League, which had challenged the standing of Mr Lawson on the basis that he was not, as required by s 47(3)(a) of the Act, a person residing or working in the neighbourhood of the premises.
16. On 28 November 2019, the Commission notified the parties that it had determined that Mr Lawson was a valid objector, and accordingly Mr Lawson was provided with the above brief of evidence.<sup>13</sup>

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

17. The Director informed the Commission that the applicant and its associated persons have no previous adverse history of compliance with liquor licence conditions.

## **The hearing**

18. On 12 December 2019, the application proceeded as a public hearing in conjunction with the hearing of the South Darwin League application. Mr Richardson appeared on behalf of the applicant with the applicant's General Manager and nominated manager, Mr Nigel Roy. Mr Verinder appeared for the Director. Two other senior officers of Licensing NT, Ms Chin and Mr Wood, were also present. The Commission thanks them all for their attendance and assistance. Mr Lawson had previously advised the Commission that he had decided not to attend the hearing.

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<sup>13</sup> Details of the circumstances of this determination are set out in the Commission's Decision Notice (Reference LC2019/108) delivered on 16 January 2020 ("the South Darwin League decision"), at paragraphs [13] to [16].

19. The brief was tendered and admitted into evidence without objection. In addition and also without objection the applicant tendered the following documents:

- Sub-lease and Under-lease for Warren Park
- Applicant's Financial Reports for 2017 and 2018
- Applicant's current Food Business Registration
- Section 26A affidavits of Luke John Ellis and John Wilson dated 12 December 2019
- Probity documents for Mr Ellis and Mr Wilson

### **The applicable law**

20. This is an application for a liquor licence commenced in March 2019, prior to the coming into force on 1 October 2019 of the 2019 Act. Regulation 129 provides that in these circumstances, unless the applicant notifies the Director that it wishes to have the application determined under the 2019 Act, the application is to proceed and be determined under the 1978 Act. The applicant made no such notification, and accordingly, the application proceeded and is being determined under the 1978 Act.

21. As also required by Regulation 129, the applicant notified the Director the authority it seeks to have issued in conjunction with the licence, namely a public bar authority. In the view of the Commission, a public bar authority is not particularly suitable for this licence. Regrettably, none of the other available authorities appears to be particularly suitable either.

22. As this application is being determined under the 1978 Act, the Commission is not empowered to issue an authority or authorities in conjunction with this licence, and it is unnecessary for the Commission to express a view as to which authority or authorities it considers should be issued when the licence is converted and an authority or authorities are issued by the Director pursuant to s 324 of the 2019 Act. The Commission notes, however, that it has incorporated into the licence the prescribed conditions for public bar authorities set out in Regulation 76.

23. In considering the application by a body corporate, the Commission must consider a lengthy list of matters:

#### **ASSESSMENT OF THE APPLICATION**

- a. The suitability of the premises (s 28(2)(a))
- b. The business reputation and financial stability of the applicant (s 28(2)(c))
- c. The reputation and character of the secretary and executive officers of the body corporate (s 28(2)(c))
- d. The fitness and propriety of:
  - i. the applicant to hold a licence (s 28(2)(e))
  - ii. any person referred to in a s 26A affidavit to be an associate of the applicant (s 28(2)(f))
  - iii. if the Commission considers it appropriate, any other associate of the applicant (s 28(2)(g))
  - iv. the nominated manager to be the manager (s 28(2)(h))

- e. The validity of any objection to the application (s 47F);
- f. Any objection to the application (s 28(3B)(a))
- g. Any reply to an objection (s 28(3B)(b));
- h. Whether public notice of the application and consultation with the relevant agencies has been undertaken (s 27)
- i. What conditions to impose on the licence (s 29(1)(a) and s 31)
- j. The public interest and community impact test (s 6(1), s 6A and s 6B);
- k. The potential impact on the community (s 6(3)); and
- l. The objects of the Act (s 3).

24. The Commission has considered the application, the materials tendered in support of the application, the s 26A affidavits of Mr Ellis and Mr Wilson and the results of the investigations conducted by the Director in relation to the application. The Commission has applied the public interest and community impact tests. Having done so, the Commission has determined to grant the application and issue a liquor licence to the applicant, as detailed below.

### **The applicant's premises**

25. The premises are a modern, purpose-built rugby league stadium with two playing fields, located in Warren Park within the Marrara Sporting Precinct, a large sporting precinct. The closest residential area is the suburb of Anula, about 200 metres from the northern boundary of Warren Park, on the other side of a main road, McMillans Road. There is no pedestrian access from McMillans Road to the premises, which are securely fenced. The only access to the premises is by the gate at the south-western corner of the proposed premises. That gate will be locked and secured when the premises are not open.
26. Warren Park is also the home of the South Darwin League, which has a liquor licence on premises comprising a third playing ground bordering the eastern boundary of the applicant's proposed premises. The applicant's premises and the South Darwin League premises are separated by a secure fence with signs prohibiting the taking of alcohol beyond the boundary of the applicant's proposed premises. There is no public access across this boundary.
27. The premises are equipped with appropriate facilities for the preparation, service, sale and service of food and beverages, including liquor. The applicant is registered as a food business. There are extensive public parking and transport facilities.
28. The proposed main point of sale will be the Ground Floor Canteen, which also offers a limited food service. Liquor will also be supplied from a servery on the second floor corporate area of the grandstand. In addition, the applicant will supply liquor from up to four "pop-up" booths during special events at other locations on the proposed premises, including on a vacant thoroughfare at the back of the first floor of the grandstand.

29. In accordance with s 28(2)(a) of the Act, the Commission assesses the premises as suitable for the supply and consumption of liquor in the manner set out in the application.

### **The applicant**

30. The applicant has been registered as an unlisted public company limited by guarantee since 2014. The applicant complies with s 25(1) of the Act, which requires that a body corporate shall not hold a licence unless it is a corporation.

31. The applicant has provided extensive documentation regarding its operations, activities, financial circumstances and plans.

32. In accordance with s 28(2)(c) of the Act, the Commission assesses the applicant as having a satisfactory business reputation and as being financially stable.

33. The ARL Commission, the sport's governing body, is the sole Member of the applicant company. The applicant's Board comprises three directors appointed by the ARL Commission, which also appoints the applicant's Company two Secretaries and its General Manager. Clubs, Regional Leagues and Referees Associations that participate in rugby league in the Northern Territory can apply to the applicant's General Manager to become affiliates of the applicant.

34. The applicant's parent body, the ARL Commission, is the governing body of the National Rugby League ("NRL"), which is accredited by the Australian Drug Foundation's Good Sports Program. The NRL Member Protection Policy<sup>14</sup> includes the following section, headed "Responsible service and consumption of alcohol":

The NRL is committed to conducting sporting and social events in a manner that promotes the responsible service and consumption of alcohol. We also recommend that state associations and member clubs follow strict guidelines regarding the service and consumption of alcohol.

In general, the NRL policy is that:

- alcohol should not be available or consumed at sporting events involving children and young people under the age of 18
- alcohol-free social events will be provided for young people and families

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<sup>14</sup> Accessed at <https://www.playrugbyleague.com/media/1939/nrl-member-protection-policy-revised-27072015-002.pdf>

- food and low-alcohol and non-alcoholic drinks will be available at events held or endorsed where alcohol is served
- a committee member will be present at events held or endorsed where alcohol is served to ensure appropriate practices are followed
- safe transport options will be promoted as part of any event held or endorsed where alcohol is served.

35. At least some of the applicant's affiliated clubs have adopted the Good Sports detailed Alcohol Management Policy,<sup>15</sup> which in the view of the Commission is commendable.

36. In accordance with s 28(2)(e) of the Act, the Commission assesses the applicant to be a fit and proper person to hold a liquor licence.

### **The applicant's secretary and executive officers**

37. The Commission finds that the applicant's principal executive officers are its two current Directors, Mr Luke Ellis and Mr John Wilson, who reside interstate. During the hearing, the applicant informed the Commission that the ARL Commission is currently recruiting a third Director for the applicant, from within the Northern Territory.

38. 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, Mr Ellis and Mr Wilson, to be satisfactory, in accordance with s 28(2)(c) of the Act.

39. Section 28(2)(c) also requires the Commission to assess the reputation and character of the secretary of an applicant who is a body corporate. The applicant's registered secretaries are Ms Eleni North and Mr Martin Meredith. Ms North is also the registered secretary of the ARL Commission. Although the applicant has not provided the Commission with any information regarding these individuals, the Commission has accessed publicly available information about them.

40. The Commission assesses the general reputation and character of the applicant's executive officers, Ms North and Mr Meredith, to be satisfactory, in accordance with s 28(2)(c) of the Act.

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<sup>15</sup> For example, the Litchfield Bears Rugby League Club's policy, accessed at [https://7c23f0b2-c02b-4f65-8499-d0b0a3792f83.filesusr.com/ugd/91b2d5\\_6c66b55a80f24649a6b588bc73c95498.pdf](https://7c23f0b2-c02b-4f65-8499-d0b0a3792f83.filesusr.com/ugd/91b2d5_6c66b55a80f24649a6b588bc73c95498.pdf)

### **The licensee's associates**

41. No associates of the applicant have been referred to in the s 26A affidavits tendered in support of the application, and the Commission does not consider it appropriate to consider the fitness and propriety of any other associate of the applicant.

### **The nominated manager**

42. The applicant has nominated Mr Nigel Roy as the manager of the licence. In accordance with s 28(2)(h) of the Act, the Commission assesses Mr Roy, 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 manage the licence.

### **The objection and its reply**

43. As noted above, the hearing of this application was conducted in conjunction with a hearing of the associated application by the South Darwin League. One of the reasons the Commission determined to take this course was that the objector, Mr Lawson, had objected to both applications, and in particular, had expressed a concern that:

this application may be considered in isolation of the overall development of facilities at Warren Park and the Marrara sport precinct which may result in cumulative adverse effects on the amenity of the adjacent residential neighbourhood and social conditions in the wider community.

44. At the hearing, the South Darwin League submitted that no weight at all should be given to the objection to its application because the objector had elected not to attend the hearing. In the South Darwin League decision, the Commission rejected that submission, and made the following remarks, which are also of some relevance to the present application.

To be considered by the Commission, an objection by a valid objector must comply with the pre-conditions set out in s 47F(4).<sup>16</sup> Section 51(b) provides that persons who have lodged a valid objection “have standing to appear at a hearing”, but the Act does not require them to appear, or provide that their objection is only to be considered if they do so.

That said, the Commission accepts that the deliberate but unexplained absence of an objector is a relevant consideration for the purpose of assessing the weight that should be accorded to an objection.

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<sup>16</sup> (a) It must be in writing; (b) it must be signed; (c) it must set out the facts relied on to constitute the ground on which it was made; and (d) it must be lodged within the notification period.

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The Commission considers that the purpose of Part IV of the Act (headed “Objections and complaints”), together with the requirement in s 46A for the licensee to notify the community of the application by public advertisement, is to facilitate community participation in the process of determining applications for the substitution of premises, for the benefit of the community. Accordingly, these provisions should be construed liberally, in favour of would-be objectors, provided that they have complied with the threshold requirements of the Act to establish their standing and the validity of their objections.

45. This applicant did not challenge the validity of Mr Lawson’s objection, and the Commission finds that it is valid.

46. The objection and the applicant’s response can be summarised as follows:

- a. Objection: the applicant has applied for a licence to operate every day from noon until midnight. Response: the applicant intends only to operate during scheduled rugby league games, and for special events.
- b. Objection: the applicant seeks a “public bar” authority with few conditions. Response: it is intended only to use the premises for sporting and ancillary events.
- c. Objection: the neighbourhood is already subject to nuisance caused by another licensee in the Marrara Sporting Precinct. Response: that is irrelevant to this application.
- d. Objection: the applicant has not taken sufficient steps to mitigate against the risk of causing excessive noise. Response: licensees are subject to s 93 of the 2019 Act, which prohibits licensees from causing or permitting undue or unreasonable noise, and the *Waste Management and Pollution Control Act*. Noise during rugby league matches will be noise generated by the playing of rugby league, and not by the operation of the liquor licence. The applicant has undertaken measures to mitigate the risk of excessive noise, namely:
  - i. No supply, sale or consumption of liquor after midnight
  - ii. Construction of an “artificial earth wall” on the road adjacent boundaries, which will dampen noise.
  - iii. The corporate area function room is fully enclosed, with a balcony facing south, away from residential areas.
  - iv. A commitment to place speakers so that they direct noise away from neighbouring residential areas.

47. The Commission considers these issues further in its assessment below of the public interest and community impact tests.

### **Public notice and consultation**

48. The Commission is satisfied that public notice of the application was given and consultation was undertaken in accordance with s 27 of the Act.

## **Conditions**

### Trading hours

49. The Commission accepts that although the licence authorises the sale of liquor between midday and 2359 hours each day, the applicant does not intend to supply liquor at times other than in conjunction with scheduled rugby league activities at the premises, or when a special event is in progress. The Commission notes that if the applicant were to sell liquor after midnight, it would in due course become subject to the conditions set out at Division 10 of the Regulations, which the applicant might find to be onerous.
50. The Commission accepts that the intention of the applicant is to operate as it has explained, and that in these circumstances it is appropriate to allow trading during the hours that the applicant has sought. However, the Commission has determined to impose a condition, in terms similar to those proposed by the applicant in its application dated 7 March 2019, that the applicant notify the Director in advance of any "special events". The Commission has also imposed the condition set out at paragraph 3.1 above.

### Service of liquor

51. When consulted about the application, NT Police proposed that only mid-strength alcohol be supplied, sold or consumed in the non-corporate area of the premises. On 11 September 2019 the applicant indicated that this was already its policy. A condition is imposed accordingly, along with various other conditions that replicate the existing Special Licence conditions, and which are commonly imposed for major outdoor sporting events in the Northern Territory.

### Service of food

52. When the licence is converted pursuant to s 324 of the 2019 Act, if the applicant is issued a public bar authority, the licence will, by operation of Regulation 77, become subject to a condition that a full meal must be available at specified periods.
53. At this stage, the Commission considers that it is unnecessary to impose that condition on the licence, but the applicant is reminded that it should make appropriate arrangements in anticipation of the conversion, which must be undertaken by 1 October 2020.

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

54. The Commission is required to consider each of the fifteen objectives in s 6(2).
55. (a) *Harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised.*

Noting that the applicant's commitment to provide a safe, comfortable and fun venue for rugby league, the Commission considers that the grant of a licence authorising liquor to be sold for consumption at the premises on the conditions it has decided to impose (including those limiting the quantities and type of liquor and type of container which may be sold) will not raise a substantial risk of causing harm or ill-health to people or a group of people by the consumption of liquor.

56. *(b) Liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner.*

The Commission considers that, if granted a licence on the above-mentioned conditions, the licensee is likely to sell liquor in a responsible manner, and that its patrons would generally consume it in a responsible manner. The Commission has regard to the licensee's good compliance history, as adverted to above.

57. *(c) Public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises.*

The Commission notes the licensee's good record of successfully running regular sporting events over a lengthy period. The Commission has imposed conditions calculated to ensure that if major special events are held, appropriate temporary conditions will be imposed. The Commission notes that the applicant intends to engage security staff in accordance with industry standard regulations, as the occasion requires. The Commission considers that public order and safety are unlikely to be jeopardised by the operation of the licence subject to the conditions imposed in a modern, purpose-built sporting complex located in a large sporting precinct.

58. *(d) The safety, health and welfare of persons who use licensed premises must not be put at risk;*

The Commission does not consider that persons using the licensed premises would be exposed to a significant risk of harm. The applicant has installed a CCTV system to continuously monitor the premises.

59. *(e) Noise emanations from licensed premises must not be excessive.*

The Commission refers to and adopts (with alterations as required for this applicant) the following passages from the South Darwin League decision:

- e. As noted above, the primary issue raised by the objector is noise... no noise complaints have been made... by Mr Lawson in the 23 years since he has lived locally, during which... Warren Park [has operated] as a rugby venue.
- f. Nevertheless, the Commission considers that the recent development of Warren Park is something of a game-changer: at the Park there are now three rugby fields (instead of two, as previously), a large stadium and

substantial facilities. The Commission accepts that the development is likely to result in a significant increase in noise coming from Warren Park during rugby matches... [especially] from Field 1, where the main grandstand is sited. ... [However, in] the view of the Commission, 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.

- g. In 2018 the objector made representations to the Development Consent Authority (“DCA”) that a Noise Management Plan be incorporated into the Development Permit for Warren Park. However, the DCA declined to take that step on the ground that the majority of events occurring on site will be sporting events at a purpose-built sporting venue situated in a purpose-built sporting precinct.
- h. However, the objector is also and indeed more concerned about noise from non-sporting events at the proposed premises. The [applicant intends] to hold various functions, including commercial hiring ... open to the general public. The Commission considers that these events have the potential to generate a substantial amount of noise, although the Commission has received no evidence that would enable it to determine whether this would cause disturbance or annoyance to the objector or his immediate neighbours, who live some five hundred metres away from the licensee’s premises. However, some houses in the residential suburb of Anula are only about two hundred metres from the licensee’s new clubhouse, and the Commission considers that there is a real risk of excessive noise emanations from the licensee’s clubhouse in the direction of the licensee’s Anula neighbours.
- i. Despite the lack of a Noise Management Plan, the Development Permit<sup>17</sup> contains the following note:

The NTEPA has advised that the proponent shall adhere to their general environmental duty under section 12 of the *Waste Management and Pollution Control Act (WMPC Act)*. The proponent should carefully consider how compliance will be achieved with Section 12 of the WMPC Act in relation to the proposed development and its likely environmental impacts.
- j. The [applicant’s] obligation to comply with s 12 of the WMPC Act includes a requirement that if it causes noise to emanate that has or is likely to have an adverse effect on the amenity of the area, it must take all measures that are reasonable and practicable to prevent or minimise that adverse effect.

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<sup>17</sup> DP18/0114 for Warren Park dated 19 April 2018, tendered by the South Darwin League in support of its associated application.

k. In the view of the Commission, compliance with the NT Noise Management Guideline would satisfy the requirement to take reasonable and practicable measures.

60. The applicant has committed to complying with that Guideline, and the Commission has determined to include a condition to that effect on the applicant's licence.

61. Having regard to all of these matters, the Commission is satisfied that the regulatory framework provided by the combination of the Development Permit, the WMPC Act, the NT Noise Management Guideline and the noise condition the Commission has determined to impose on the licence are sufficient to meet the objective that the licensee not cause the excessive emanation of noise.

62. *(f) Business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school.*

The proposed premises are located within a designated sporting precinct, and supported by extensive public parking and transport facilities and services. The Commission is satisfied that this objective is met by the licensee.

63. *(g) A licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:*

- (i) by-laws made under the Local Government Act 2008; and*
- (ii) provisions of or under the Planning Act 1999.*

The Commission is satisfied that the applicant is duly authorised to occupy the premises in accordance with its lease from the Territory, that the applicant has obtained the requisite approvals from the Development Consent Authority, and that none of the regulatory agencies that have been consulted about the application have raised concerns that have not been addressed.

64. *(h) Each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business.*

The applicant's nominated manager has RSA certification and has managed the operation of the applicant's Special Licence. The Commission accepts that the applicant is committed to ensuring that staff it employs to sell or supply liquor will be appropriately trained and supervised.

65. (i) *The use of credit in the sale of liquor must be controlled.*

This issue is addressed to the satisfaction of the Commission by the standard condition in licences headed "**Credit**". No issues have been raised with the Commission that lead it to be concerned in relation to this objective.

66. (j) *Practices which encourage irresponsible drinking must be prohibited.*

As set out at paragraphs 34 and 35 above, the applicant's parent body and affiliated clubs (or at least, some of them) have appropriate policies in place to discourage irresponsible drinking. That is commendable.

67. (k) *It may be necessary or desirable to limit any of the following:*

(i) *the kinds of liquor that may be sold;*

(ii) *the manner in which liquor may be sold;*

(iii) *the containers, or number or types of containers, in which liquor may be sold;*

(iv) *the days on which and the times at which liquor may be sold.*

The Commission considers that this objective can be achieved by the conditions it has imposed.

68. (l) *It may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee.*

The capacity of the premises will be fixed by NTFRS in accordance with the condition of the licence headed "**Fire Precautions**".

69. (m) *It may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee.*

The Commission considers that it is neither necessary nor desirable to impose such conditions, while noting that the Director will be authorised to impose appropriate conditions for special events.

70. (n) *It may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices.*

No issues have been raised with the Commission that lead it to be concerned in relation to this objective, which the Commission considers is unlikely to be of concern for a licensee that predominantly supplies and sells liquor ancillary to a sporting event. The Commission accepts that the applicant intends not to promote the consumption of liquor by offering reduced prices or free drinks.

71. (o) *Any sale of additional liquor due to the grant of a licence or the relaxation of restrictive conditions will not increase anti-social behaviour.*

The Commission does not consider that the grant of a liquor licence to the applicant is likely to result in a significant increase in anti-social behavior within the precinct.

### **The impact on the community**

72. In considering the impact of the decision on the local community, as it is required to do, the Commission must have regard to five matters set out at s6(3)(a) of the Act, and in addition apply the community impact assessment guidelines.

73. (i) *The harm that might be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor.*

Having regard to the conditions imposed, the Commission does not consider that there is a significant risk of harm caused by excessive or inappropriate consumption of liquor from spectators at rugby league games. Although it is difficult to assess the risk of harm associated with future special events, the Commission anticipates that they will be relatively infrequent, and that any risks can be satisfactorily mitigated by the imposition by the Director of appropriate special conditions.

74. (ii) *The cultural, recreational, employment or tourism impacts.*

The Commission considers that the applicant has a substantial positive impact on recreation and a modest positive impact on employment. The applicant is a key partner in the redevelopment of one of the Northern Territory's major sporting venues.

75. (iii) *The social impact in, and the impact on the amenity of, the locality of the premises or proposed premises.*

The Commission considers that the Warren Park development has had a highly positive social impact on Darwin's rugby league community. This sporting code is widely followed and played, and the applicant is a substantial contributor to the rugby league community.

76. *(iv) The density of existing liquor licences within the community area.*

There are several licensed venues within the Marrara Sporting Precinct, but both in general and in the particular case of the applicant, these venues are patronised primarily for the purpose of participating and watching others participate in sport, and the consumption of liquor is an ancillary activity. For this reason, the Commission does not consider that this factor is of great significance in assessing the impact of the licence on the local community.

77. *(v) The volume of alcohol sales within the community area, and any increase in volume within the community area arising from the licence the subject of the application.*

Similarly, and for the same reason, the Commission does not consider that this factor is of great significance in the circumstances of this application.

78. *(vi) any other prescribed matter;*

No matters have been prescribed.

79. Section 6(3)(b) requires that the Commission also apply the community impact assessment guidelines. The Commission has done so.

80. Having considered all of these matters, the Commission is satisfied, in accordance with s6B of the Act, that the approval of the application meets the public interest and community impact test.

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

81. Finally, s 29(1) provides that after considering the application, the Commission must have regard to the objects of the Act in deciding whether to approve or refuse the application.

82. Throughout its consideration of this application, the Commission has steadily borne the objects in s 3 of the Act in mind. The Commission is satisfied that the grant of the application is in accordance with the primary object of the Act.

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

### **NOTICE OF RIGHTS**

84. Section 120ZA of the Act provides that a reviewable decision is a Commission decision that is specified in the Schedule to the Act. A decision to issue a licence pursuant to s 29 of the Act is specified in the Schedule and is a reviewable decision.

85. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision.
86. For the purpose of this decision, and in accordance with s 120ZB(1)(b) and (c) of the Act, the affected persons are the applicant and the objector, Brendan Lawson.



Russell Goldflam

MEMBER, NORTHERN TERRITORY LIQUOR COMMISSION  
20 January 2020

On behalf of Commissioners Goldflam, Stephenson and Corcoran