

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR A LICENCE

REFERENCE: LC2019/100

LICENCE NUMBER: SLL1450 & SLL1451

PREMISES: **Asbuild Oval**
Asbuild Sporting Complex
Charles Darwin University Campus
PALMERSTON NT 0830

APPLICANT: Palmerston Magpies Incorporated

NOMINEE: Ms Michelle Pickett

OBJECTOR/S: Nil

LEGISLATION: Section 26, Part IV and V of the *Liquor Act 1978*.

HEARD BEFORE: Ms Jodi Truman (Deputy Chairperson)
Ms Elizabeth Stephenson (Health Member)
Ms Christine Hart (Community Member)

DATE OF HEARING: 14 August and 11 September 2019

DATE OF DECISION: 11 September 2019

Decision

1. For the reasons set out below and in accordance with section 29 of the *Liquor Act 1978* (“the Act”) the Commission has determined to issue a licence authorising the sale of liquor for consumption on or at the licensed premises to “Palmerston Magpies Incorporated”.
2. In accordance with section 31 of the Act, the licence shall be subject to the specific conditions (in addition to those general conditions of all such licences) that:
 - a. The liquor shall be sold pursuant to an authority as an on licence authorising the sale of liquor for consumption on or at the premises.
 - b. The licence shall be subject to and inclusive of such additional conditions as may at any time be:
 - i. Requested in writing by the Licensee;

- ii. Approved by the Liquor Commission, as the case may require, or imposed by the Liquor Commission as a condition of the granting of such a request by a Licensee; and
 - iii. Notified in writing by the Director-General to the Licensee.
 - c. Those conditions set out at the conclusion of these reasons in addition to the general conditions included in an on licence authority.
3. The licence will be issued immediately following the publication of this decision notice.

Reasons

Background

4. On 24 January 2019 an application was lodged with the Director-General of Licensing NT (“the Director-General”) by Mr Thomas Richardson, (“Mr Richardson”) of De Silva Hebron; as solicitor for Palmerston Magpies Incorporated (“the Applicant”) pursuant to section 26 of the Act. The Applicant is Palmerston Magpies Incorporated, which is the incorporated entity of the Palmerston Magpies Football Club (“PMFC”). The application sought an On Licence for premises located at Asbuild Oval, Asbuild Sporting Complex, Charles Darwin University Complex in Palmerston (“the premises”). At the time of lodgement Licensing NT deemed the application was incomplete.
5. On 6 February 2019, Licensing NT sent an email to De Silva Hebron requesting further information and documentation from the Applicant. On 28 February and 22 March 2019 further materials were provided on behalf of the Applicant. There remained material outstanding however it was determined by the Director-General that there was sufficient material to allow publication. The application was therefore advertised in the NT News on 30 March and 3 April 2019.
6. On 14 May 2019 the Applicant advised it would be representing itself for the purposes of the application. On 17 June 2019 Licensing NT met with Mr Russell Davey (“Mr Davey”), President of Palmerston Magpies Football Club, and Ms Paula Gerschwitz from MGA Insurance Brokers at Licensing NT offices to discuss the application and the outstanding information required.
7. During this meeting the Applicant advised there had been some changes with the proposal since initial lodgement. A request was made by Licensing NT that this be addressed by the Applicant when the relevant documentation was finally provided to allow referral to the Commission. It was noted by Licensing NT that so long as the proposed changes did not vary largely from the original application (and what was originally published) then the application would still be able to be referred accordingly.
8. Following the meeting; Licensing NT emailed the Applicant the information that was required to be provided. These documents were subsequently provided and the application was thereafter referred to the Commission.
9. As earlier noted the application is for an On Licence with respect to premises located at Asbuild Oval, Asbuild Sporting Complex, Charles Darwin University Complex in

Palmerston. The premises are the home ground for the PMFC consisting of two football/cricket ovals. It is situated in the Durack Sports Complex, Palmerston NT 0830.

10. The Premises are owned by Charles Darwin University ("CDU") who have entered into a licence agreement with Australian Football League Northern Territory ("AFL NT") for the use of the premises during the Northern Territory Football League ("NTFL") season. CDU has also entered into a similar agreement with Cricket NT for the use of the ground during the NT Cricket season.
11. The application is for:
 - a. The use of the bar facilities on the Ground Floor of the building or what later became known as the "Canteen Bar";
 - b. The boundary of the oval as indicated on the site map provided in the application; and
 - c. The First Floor Upstairs Bar of the building, which later became known as the "Clubhouse Bar".
12. It was noted that the Canteen Bar and surrounding grounds are for the use of the general public whilst the Clubhouse Bar are generally available for financial members of PMFC and corresponding clubs during the Cricket Season.
13. When the application first came before the Commission, in general terms the application proposal was for trading hours for "normal days" being from 12 noon to 11.00pm Monday to Sunday, i.e. seven (7) days per week. The application proposal was for:
 - a. The Canteen Bar to trade on "normal days" and offer alcohol service of beer and pre-mixed sprits. Further to trade on "other days" if requested to cater for special events to be hosted by sporting clubs utilising the grounds.
 - b. The Clubhouse Bar to trade on "normal days" and offer alcohol service of beer, cider and basic sprits. Further to trade on "other days" if requested to cater for:
 - i. special sporting events and
 - ii. as hire-venue for third partiesAnd to offer alcohol service on these occasions of beer, cider, wine, champagne and basic spirits.
14. The Commission was informed that "normal days" were:
 - a. during all Palmerston Magpie Football Club home games;
 - b. Australian Football League NT neutral games; and
 - c. public training nights.
15. Within the application there was also reference to Cricket NT and being able to operate during the cricket season and for their relevant homes games and training nights.

16. The Applicant stated it was their intention to:
 - a. Manage both bar areas under both sub-licences, i.e.
 - i Sub-licence held by AFLNT from 1 October to 30 April; and
 - ii Sub-licence held by NT Cricket from 1 May to 30 September;
 - b. Bar areas will be open on a regular basis during the AFLNT Football Season and during the scheduled AFL Matches;
 - c. Manage the bar areas in conjunction with the NT Cricket Management Committee during the NT Cricket season; and
 - d. Manage the bars at all other events scheduled at the Asbuild ground.
17. On 11 July 2019 pursuant to sections 28(1) and 50(a) of the Act the Director-General referred this application to the Commission to be determined by way of a public hearing. Notice was given to the Applicant that the matter would be listed for a public hearing on 14 August 2019.
18. When the matter came before the Commission on that date, the Commission advised the Applicant that the Commission considered there were a number of deficiencies with the application in its then form. These deficiencies were outlined to the Applicant. The Applicant was given the opportunity to either seek an adjournment of the hearing to reconsider its application or to proceed with the hearing on that date. The Applicant sought an adjournment.
19. At that time the Applicant was advised of the matters that the Commission considered needed to be further and better addressed. In accordance with the Applicant's request, the application was then adjourned for further hearing to 11 September 2019.
20. In terms of the Applicant, it is noted that the Applicant is currently registered with ASIC. On 13 June 2019, a copy of the constitution for Palmerston Magpies Incorporated was obtained. The Constitution outlines the composition of the Committee being:
 - a. The President;
 - b. Senior Vice Presidents (Administration);
 - c. A Vice President (Operations);
 - d. A Director (Junior Football);
 - e. Secretary;
 - f. Treasurer;
 - g. Public Officer; and
 - h. Any other office holder provided in the Schedule or appointed from time to time.

21. The Constitution further provides that unless elected directly as a separate office holder, the Committee must appoint one committee member to be the Club's Public Officer. The Schedule further provides that the association must have at least twenty (20) members.
22. In terms of its financial circumstances, the Applicant provided a copy of a Special Purpose Financial Report for Palmerston Magpies Incorporated for the year ending 31 March 2018 ("the 2018 Financial Report"). The 2018 Financial Report was accompanied by an Independent Auditor's Report from Lowrys Accountants ("the 2018 Lowrys Report") dated 12 June 2018 which noted that the Club had incurred a working capital deficiency for the period up to 31 March 2018 compared to a positive working capital position for the previous period.
23. The 2018 Lowrys Report went on to state:

"This represents a severe depletion of the Club's cash funds and indicates that the Club is now in high risk range of experiencing liquidity difficulties. We determined that this severe depletion of cash funds was due to the fact that the Committee Members did not adequately monitor the financial results of the Club during the year".
24. A Special Purpose Financial Report for Palmerston Magpies Incorporated for the year ending 31 March 2019 ("the 2019 Financial Report") was also provided. The 2019 Financial Report was accompanied by an Independent Auditor's Report from Lowrys Accountants ("the 2019 Lowrys Report") dated 31 May 2019 which noted that the Club had made a profit for the period up to 31 March 2019 and stated:

"This represents an improvement in the club's cash funds compared to last year. The Committee Members need to carefully monitor the financial results of the Club on regular basis during the coming years."
25. In terms of the relevant office holders, the Commission was provided with a number of documents in relation to the general reputation and character of the secretary and executive officers (as required under the Act). The Commission was not provided with any evidence to contradict these references; each of which confirmed the good standing of each of the relevant officer holders.

Disclosure of influential persons or potential beneficiaries

26. The Commission notes that section 26A(1) of the Act now requires Applicants to make an affidavit disclosing whether certain persons may be able to influence the Applicant, or expect a benefit from the Applicant, if the licence is granted. The Applicant has filed such an affidavit.
27. Mr Davey is the President of the PMFC. Mr Davey provided two (2) affidavits pursuant to section 26A of the Act disclosing that there are:

"...no other person/s other than the Committee of Palmerston Magpies Incorporated who will by any lease, agreement or arrangement be able to influence any decision made by the Committee and Financial Members in relation to the sale of liquor or the sale and consumption of liquor".

And that there:

“...is no other person other than the Directors of Palmerston Magpies Incorporated who by any lease, agreement or arrangement may expect any benefit from Palmerston Magpies Incorporated in relation to the sale of liquor or the sale and consumption of liquor”.

28. In his second affidavit Mr Davey Act disclosed that there are:

“...no other person/s other than the board of Palmerston Magpies Incorporated who will by any lease, agreement or arrangement be able to influence any decision made by the director in relation to the sale of liquor or the sale and consumption of liquor”.

And that there:

“...is no other person other than the board of Palmerston Magpies Incorporated who by any lease, agreement or arrangement may expect any benefit from Palmerston Magpies Incorporated in relation to the sale of liquor or the sale and consumption of liquor”.

29. As can be seen from the above, there appears to be very little understanding from the Applicant of what is required to be disclosed within the affidavit provided under section 26A. As an incorporated club and in accordance with the documents disclosed to the Commission, there are no “directors” and therefore reference to the same is nonsense. Likewise, whilst there is a committee, there is no “board”. It appears that the Applicant has utilised a “pro-forma” document with little consideration to the accuracy of its contents. As the Commission has noted previously, proper compliance with section 26A of the Act requires more than simply signing a pro-forma document.
30. With the greatest of respect to this Applicant, this lack of understanding and lack of compliance is unfortunately not unusual and has been the source of concern by the Commission in relation to a number of applications for some time now. This concern has been recorded in previous decisions and also brought to the attention of the Director-General and the Minister.
31. Be that as it may, a number of further questions were asked of the Applicant in relation to the various “influential persons or potential beneficiaries” that may be relevant during the course of the hearing and the Commission was ultimately satisfied that there were no individuals or organisations that were likely to exert any sinister influence over the Applicant’s operation of the premises.
32. It is also worth noting that the Act **prescribes** that upon the application being filed, together with the affidavit under section 26A, there must be investigations conducted by the Director-General in relation to the application. The Commission has received no information to indicate there have been any adverse matters discovered as a result of the investigation by the Director-General.
33. The Commission was informed by Licensing NT that the Applicant has held a number of Special Licences over the years and there “is no previous adverse history on the Applicant or Associated Persons”.

Advertising and Objections

34. Details of the application were advertised in the Northern Territory News on Saturday 30 March 2019 and Wednesday 3 April 2019 as well as having signage displayed at the premises for a period of 30 days. No objections were received from the public in the objection period.
35. It is noted that section 27(3) of the Act requires that the Director-General must inform:
- a. the Chief Executive Officer (“CEO”) of the Department of Health (“DOH”);
 - b. the Commissioner of Police; and
 - c. if the application relates to premises within the area of a shire council or a regional council - the Chief Executive Officer (“CEO”) of the council.
36. The Commission notes that the Director-General also forwarded a copy of the application to the Northern Territory Police, Fire and Emergency Services (“NTFRS”) for comment.
37. With respect to this application:
- a. The DOH made no adverse comment;
 - b. The NTFRS had no objections;
 - c. The NT Police advised they “support this application contingent to sale and provision of low and mid strength alcohol only in the general admission/public (non-member areas)”.
38. The Council for the City of Palmerston (“PCC”) initially lodged an objection to the application. This objection was lodged outside the objection period; however the Director-General exercised her discretion and allowed the objection. The objection was stated to rely upon s.47F(2)(b) of the Act on the basis that the grant of such a licence would adversely affect the “health, education, public safety or social conditions in the community”. The PCC highlighted that the granting of the licence “creates a new liquor license for the Palmerston municipality” and highlighted findings made in the “Alcohol Policies and Legislation Review Final Report” (“the Riley review”) specifically:
- “Recent Australian studies have considered the relationship between outlet density, in the context of the numbers of outlets and volume of sales in a particular LGA or postcode, and alcohol related harms. The most recent study has shown that off-site outlet alcohol sales and the total volume of alcohol sales within a region are important predictors of assault. On this basis, it is reasonable to conclude that policy decisions that ultimately increase total alcohol sales within a community or that increase numbers of on-site outlets (e.g. hotels/nightclubs or restaurants) are more likely to exacerbate, rather than ameliorate, harms associated with alcohol”.
39. In relation to this objection, the Applicant provided a response to the matters raised as follows:

“We Understand and support the Northern Territory's Alcohol interventions and the Riley Review.

The PMFC have held a restricted and Special Licence for over fifteen (15) years at the PMFC Facilities with no issues in relation to the security and sale of alcohol, we provide a responsible sale of alcohol.

The current PMFC Liquor application is not a new liquor licence, it is a transfer from being a special alcohol licence to a continuing liquor licence, the application does not and will not increase the current number of liquor licences/outlets in the territory and will still be required to meet all the checks and conditions of the *Liquor Act 1978*.

Currently the PMFC have had to re-apply every year for the special licence and by transferring the licence into a continuing licence, it allows the PMFC to forward plan and focus on providing the Palmerston people with a great football team they can support, additionally and enjoyable day out for Palmerston Families.

The PMFC are a family club and we have 14 teams of 30 players, plus their families attending our football games from Palmerston, then we have 589 members and a few hundred Palmerston supporters, we support healthy lifestyles and family orientated events for the City of Palmerston.

The application is only for homes games, special PMFC events and training nights, noting over 15 years of operation by the PMFC no issues or breaches have been issued.

The conditions within the new licence application will remain the same, for example mid strength alcohol only at downstairs public bar, the responsible sale of alcohol conditions, no take away alcohol sales and being subject to Liquor Licence inspectors checks, request, suspension and/or cancellation of the licence if breaches occur.

The PMFC hope the Palmerston City Council reconsider their objection and support our transfer of the licence request from a special licence to continuing licence.

The PMFC contribute a lot to our Palmerston Community and have some AFL greats at their club, who support many Palmerston families.”

40. Upon referral of the application, the Commission requested this response be provided to the PCC to see if there was anything further the PCC wished to provide to the Commission for its consideration in determining the application. As a result, on 9 August 2019 the PCC provided the following response:

“Given our desire to support local Palmerston sporting clubs after considering the further information provided, the City of Palmerston will withdraw their objection from the PMFC licence application. We withdraw our objection noting the conditions within the new licence application will remain the same to the previous licence arrangements for example mid strength alcohol only at downstairs public bar, the responsible sale of alcohol conditions, no takeaway alcohol sales and being subject to Liquor Licence inspectors' checks, request, suspension and/or cancellation of the licence if breaches occur.”

41. As a result there are no objections to this application.

Public Hearing

42. Pursuant to section 50 of the Act, the Director-General must refer *inter alia* applications under sections 26 of the Act to the Commission. Therefore these applications must be heard and determined by this Commission.
43. As earlier noted, on 11 July 2019 the Director General referred this application to the Commission. Pursuant to section 53 of the Act, the Chairperson of the Commission must fix the time and place for hearing and give notice to the relevant parties not less than 7 days before the hearing date. The relevant notice was sent to the Applicant advising the application would be listed for hearing to take place on 14 August 2019 at 10.00am.
44. Pursuant to section 53 of the Act; the Commission is not bound by the rules of evidence and may inform itself in the manner it considers appropriate and conduct the hearing, or part of the hearing, by use of telephone or online facilities. A hearing must also be conducted in public unless the Commission considers that a public hearing is likely to cause undue hardship to a person. No such submission has been made to this Commission and there is no evidence to suggest any such hardship.
45. The public hearing commenced at 10.00am on 14 August 2019 with Mr Russell Davey and Mr Shane Rust in attendance on behalf of the Applicant and Mrs Tania Chin in attendance to provide information and assistance to the Commission on behalf of the Director-General. In advance of the hearing, the Commission had advised the Applicant via Licensing NT that there were a number of deficiencies with the application that needed to be addressed prior to the hearing. These matters, amongst others, were also raised at that hearing and as earlier noted an application for an adjournment was successfully made by the Applicant so as to further address these matters.
46. When the matter returned before the Commission on 11 September 2019, the Applicant informed the Commission that the licence being applied for remained an “on licence”, but with the following revised proposed trading hours:
- a. Tuesdays from 1700 hours to 2300 hours;
 - b. Thursday from 1700 hours to 2300 hours;
 - c. Fridays from 1700 hours to 2300 hours;
 - d. Saturdays from 1200 hours to 2359 hours; and
 - e. Sundays from 1200 hours to 2300 hours.
 - f. The Canteen Bar to trade on “normal days” and offer alcohol service of light and mid strength beer and mid strength pre-mixed sprits in opened cans with a maximum of four (4) cans to be sold to any one customer at any one time. Further to trade on “other days” if requested to cater for special events to be hosted by sporting clubs utilising the grounds.

- g. The Clubhouse Bar to trade on “normal days” and offer alcohol service of beer, cider and basic sprits. Further to trade on “other days” if requested to cater for:
 - i special sporting events and
 - ii as hire-venue for third parties

and to offer alcohol service on these occasions of beer, cider, wine, champagne and basic spirits.

47. It was further proposed that there be no trading on Good Friday and Christmas Day, however the Applicant did propose a condition “unless any special requests by AFLNT or NT Cricket for sanctioned games on a case by case basis, e.g. Easter Commemoration Game”.

Assessment of the Application

48. As earlier noted, there were no objections to this application. This is despite the fact that the Applicant undertook its obligations with respect to public advertisement and consultation in accordance with the ordinary notice provisions required under the Act. The objection process is specifically provided for under the Act at section 47F. That section clearly identifies those persons who may make an objection, the specific *kinds* of applications that may be objected to, the *grounds* upon which an objection can be made and *how* the objection is to be made.
49. Although no objections under that section were made that is not the end of the matter. The Commission is required under the Act to assess the application according to the Act. The Act clearly identifies and prescribes the process to be undertaken and in particular those matters to be considered (where relevant) under section 6, together with the Minister’s guidelines issued under section 6A and the matters identified under section 6B of the Act.
50. In this regard it is important to recall at all times that the Act makes clear under section 6B that it is the Applicant who bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test. Even if there are no objections, the Applicant must still satisfy this Commission of those matters. Consistent with that, it should also be recalled that even if there is stated “support” of an application, that does not mean that the Commission will grant the application. The Applicant must satisfy the relevant criteria and it is the Commission’s obligation to ensure that has occurred for each and every application that comes before it.
51. As is clear from section 6(1) of the Act; when considering or determining an application under the Act in respect of a licence, this Commission **must** apply the public interest and community impact test as relevant to the application. Section 6(2) of the Act provides that:

“For subsection (1), the public interest and community impact test requires consideration of the following objectives:

- a. harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;
- b. liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
- 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;
- d. the safety, health and welfare of persons who use licensed premises must not be put at risk;
- e. noise emanations from licensed premises must not be excessive;
- 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;
- 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*;
- 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;
- i. the use of credit in the sale of liquor must be controlled;
- j. practices which encourage irresponsible drinking must be prohibited;
- 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;
- 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;

- 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;
- n. it may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices;
- 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.”

52. In addition, pursuant to section 6(3), the Commission must:

- a. consider the potential impact on the community in the area that would be affected by the outcome of the decision to grant or refuse an application or the changing of conditions of a licence and, in doing so, must have regard to:
 - 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; and
 - ii the cultural, recreational, employment or tourism impacts; and
 - iii the social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and
 - iv the density of existing liquor licences within the community area; and
 - 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; and
 - vi any other prescribed matter; and
- b. apply the community impact assessment guidelines.”

53. On 6 March 2018, pursuant to section 6A of the Act, the Minister by Gazette notice published community impact assessment guidelines for determining whether or not an application being considered or determined under section 6(1) satisfies the public interest and community impact test. Relevantly those guidelines are stated to

“...set out those matters that will be considered by the Commission when assessing the community impact of the application against the criteria set out in section 6A(1) of the *Liquor Act 1978*”.

54. Those matters are identified as follows:

Criteria	Matters to be considered
The potential harm or health impact that may be caused to people, or any group of people	Are there any ‘at-risk’ groups or sub-communities within the locality? This may include –

<p>within the local community area, due to the availability and accessibility of an additional liquor outlet.</p>	<ul style="list-style-type: none"> • children and young people; • Aboriginal people normally resident within the locality and those Aboriginal people that might be likely to travel to the locality from a dry community; • migrant groups from non-English speaking countries; • people in low socio-economic areas; and/or • communities that experience high tourist/visitor numbers. <p>Are there any community building, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • schools and educational institutions; • hospitals, drug and alcohol treatment centres; • accommodation or refuges for young or disadvantaged people; • child care centres; • recreational areas; • dry areas; and • any other area where young people may congregate or be attracted to. <p>What policies and procedures will the applicant implement to minimise any potential harm or health impacts to these 'at-risk' groups or sub-communities</p>
<p>Information about the location and area in which the premises is proposed to be so as to assess any social impact on the community. This includes information about the density of</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises.</p> <p>This could also include traffic and pedestrian impact and any plans developed to address these potential issues.</p>

licensed premises within the community area.	
Volume	<p>This may include projected sales volumes and marketing analysis, liquor type and customer demographic (where applicable this should be provided for both on and off premises sales).</p> <p>The Commission will consider information available to it about the current alcohol consumption rates for the community area.</p>
Any cultural, recreational, employment or tourism benefits for the local community area.	Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?
Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.	<ul style="list-style-type: none"> • What additional services will be provided other than simply an additional outlet for the sale of liquor – this may include accommodation or dining? • Will the proposed licensed premises provide additional choices of service or products that are no available in the area? • Will the proposed premises provide liquor in a manner known to be safe and to minimise adverse impacts? • Will it use existing premises improve or add to existing premises or is it a new premises?

55. As can be seen from the above, there are a large number of matters that this Commission must consider and that the Applicant must address (and satisfy the Commission of) under the public interest and community impact test and guidelines. The guidelines do make clear however that:

“...the Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits”.

56. In addition to those matters, section 28(2) of the Act also provides as follows:

“The Commission must consider an application for a licence, the accompanying affidavit made under section 26A and the results of investigations conducted in relation to the application and make an assessment of the following matters:

(a) the suitability of the premises in respect of which the application is made, having

regard to any law of the Territory which regulates in any manner the sale or consumption of liquor or the location, construction or facilities of premises which are used for that purpose;

- (b) if the Applicant is a natural person – the financial stability, general reputation and character of the Applicant;
- (c) if the Applicant is a body corporate – the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;
- (d) if the Applicant is a federation of clubs – the business reputation and financial stability of each constituent club and the general reputation and character of the secretary and executive officers of each constituent club;
- (e) whether the Applicant is a fit and proper person to hold a licence;
- (f) if a person is referred to in the affidavit under section 26A – whether that person is a fit and proper person to be an associate of a licensee;
- (g) if the Commission considers it appropriate – whether any other associate of the Applicant is a fit and proper person to be an associate of a licensee;
- (h) if the Applicant has nominated a person under section 25(2) to be its manager – whether that person is a fit and proper person to be the manager”.

57. Further the Act requires under section 28(3) as follows:

“In assessing whether an Applicant is a fit and proper person to hold a licence, the Commission must have regard to any matters prescribed by the Regulations relevant to that assessment”.

58. The Commission notes there are no such matters prescribed by the Regulations.

59. Although there are many matters for the Commission to consider, like any application, some of the matters are highly relevant to this application whilst others are not as significant.

60. In relation to the Applicant, the Commission notes that there **are** issues of concern in relation to the business reputation and financial stability of the Applicant. In fact there is positive evidence before the Commission that:

“The Committee Members need to carefully monitor the financial results of the Club on regular basis during the coming years.”

61. That however is not the end of the matter and the Commission does have evidence before it by way of the business plans provided that this is very much the focus of the current Committee.

62. The Act makes clear that the Commission (as the decision maker with respect to this application) **must** apply the public interest and community impact test and that it is the Applicant who **must** satisfy the Commission that the approval of the application meets

the public interest and community impact test. It is also important to understand that the Act makes clear that the Minister's community impact assessment guidelines form part of determining whether the application satisfies the public interest and community impact test. The wording of the legislation makes clear that this is not a matter of discretion for the Commission. The Commission **MUST** apply these tests and **MUST** be satisfied that they have been met.

63. In relation to the public interest and community impact test under section 6(2) of the Act, the Applicant provided "amended" written submissions as part of its application as follows:

(a) *harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;*

The Palmerston Football Club is located at: Asbuild Oval, Palmerston CDU campus, just off University Avenue, in Palmerston.

The Applicant is aware of the following 'at-risk' groups located nearby:

- Good Start Early Learning Childcare is also located on University Avenue, but this centre is not open on the weekends and closes shortly after 5pm on weekdays, so is not likely to be affected in any way by the proposed licence for the football club.
- Given its location to Palmerston CBD, the Palmerston Bus Depot, the Applicant is aware of itinerants, homeless and vulnerable people that travel through the Palmerston CDU campus or camp in and around the grassed area. The Applicant does not believe this licence will negatively impact this group, as the licence proposed is for on-premise consumption of alcohol only, in conjunction with sporting events and training. While operating its 'Special Licence' the football club has not had any issues with managing its bar, without further impacting the vulnerable people that may be in the vicinity. The proposed licence is connected with the football club and those people who support the Palmerston Football Club. General community members tend not to attend the football club during training nights, and on the weekend, with AFLNT games there is an entry fee (2019 was \$12 per person), which tends to limit those who enter the ground to be people involved and interested in football.

The Palmerston Football Club, like many sporting organisations, seeks to promote healthy lifestyles through physical activity and team-bonding activities. The Applicant does not believe that the licence will change the core business of the football club, which is to create, managed and promote football teams and the Club in general.

Given the proposed licence is at a football oval, we do not believe that the licence will attract community members not involved AFL NT competition or the Magpies football club (excluding for private functions), when further up University Avenue there are a number of other pubs, clubs and licensed restaurants, which are more attractive destinations for the general public.

The Applicant notes other community buildings in the area are:

- Marlow Lagoon Park and Recreation Area
- Palmerston WaterPark
- Durack Primary School
- Driver Primary School
- Gray Primary School
- Palmerston Shopping Area

The Applicant does not believe that this licence (if granted) would impact negatively on any of the schools, as they are not operational while the proposed licence is operational (after 5pm on weekdays and on the weekend) and does not offer takeaway alcohol. The Club does not intend to undertake alcohol advertising (externally from the football field), that would attract the attention of school kids in the area.

The Application is to offer sporting teams and sporting spectators with the option of consuming alcohol, as well as the ability for the Club to promote our function space for private bookings. This Licence is not seeking to add another 'general' licence to the area of Palmerston, more so to formalise the existing 'Special Licence' the Club has operated under for some time.

(b) *liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;*

As is required by the *Liquor Act 1978*, all staff involved in the sale and service of alcohol will have a current RSA certificate.

The Applicant has existing Policies and Procedures in place that require staff to monitor the consumption of liquor on the premises and actively take steps to ensure that patrons do not become intoxicated.

Staff involved in the sale of alcohol are not able to consume alcohol themselves while on duty.

During the times that alcohol is for sale, there will be a mix of alcohol levels, including light beer, as well as non-alcoholic drinks and water.

All mandatorily required liquor licence signage will be displayed in each area/room covered by the football club's license.

It is not likely that alcohol will be sold during sporting matches involving minors, as they tend to be played in the morning or around lunchtime. The Football Club will not tolerate any underage drinking, and will include a policy of asking for ID for anyone that looks 25 years of age.

Given the Palmerston Football Club does involve club members that are under 18 years of age, we want to continue our work in being a role model for these children. We regularly are involved in community messaging through the AFLNT, including 'No More' campaign, targeting domestic violence, which we are aware often involves alcohol. A number of former or currently Palmerston Magpie football players have also featured in the Recording Artists, Actors &

Athletes Against Drink Driving initiative, which we 100% support and will continue to do so.

We understand that the Club's licence must be managed in appropriate manner, with the key messages being responsible service and consumption of alcohol. We will promote the Sober Bob initiative. We have successfully operated a Special Licence without incident for many years, and will continue to do so if approved for the licence we are seeking.

(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 safety and good community reputation of the Applicant and the Palmerston Magpie Football Club is the number one priority for the Club. We are aware of the heightened risks associated with large numbers of people and have experienced and managed this on large/popular football games over the course of our Special Licence. We engage the services of a licensed crowd controlling company when necessary, as well as utilised the Club's volunteers, team managers, and staff, to ensure there are no issues or irresponsible consumption of alcohol during these times.

The Applicant will adhere to maximum capacity numbers provided to the Club from the NT Police, Fire & Emergency Services in all licensed areas.

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

The Club is seeking to increase membership and participating in all Palmerston sporting teams, we are seeking to draw the community to the Club through sport, not alcohol. Our number one priority is to ensure club Members, their family, spectators are well looked after in a safe and fun environment. As mentioned above, during larger patronised trading, we pay for the services of licensed crowd controllers, in addition to Club volunteers and staff to ensure a safe environment.

The ability to host well managed and successful sporting events is crucial to the financial security of the Application and Club in general. We need to show other sporting organisations and peak bodies that we are able to manage events, that include the sale and supply of alcohol, in order for the AsBuild Oval and our Football club to continue to seek more sports and events to be hosted by us. We note the AFL NT has a strict and comprehensive Alcohol Management Plan, which we seek to replicate under our operational policies and procedures.

The health and safety of persons at the venue will be further ensured through the following measures:

- i. The premises will be professionally cleaned regularly and kept in a neat, tidy, and welcoming manner
- ii. Food will be available at the premises while alcohol is being served

- iii. A Smoking Management Plan has been developed and will continue to be adhered to in an effort to reduce any harm caused by tobacco
- iv. The emphasis of the Club will continue to be on sport and sporting teams, where alcohol is available ancillary to the sporting action. This licence does not seek to make the club into a standalone bar or club with electronic gaming machines. We are not applying for gaming or takeaway alcohol.

(e) *noise emanations from licensed premises must not be excessive;*

This Application is made in conjunction with a sporting ground that hosts many sporting events, primarily football and cricket over the course of the year, where noise is not unreasonable. The Applicant does not expect the liquor service operation will increase the noise emanating from the venue, certainly not more than what has existed over many years which we have operated a Special Licence.

Private Functions will be held inside the function area, and we do not believe will result in excessive noise emanating from the venue. We do not that there are nearby residents, some of which are associated with the Club, and will ensure noise is appropriately managed, including when the Club conducts entertainment (live music).

(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 premise is a sporting ground, with bar and private function facilities, which opened in October 2006 and have operated a 'Special Continuing' licence soon after this time.

All nearby residents and businesses would be aware of the activities of the football club and other sporting organisations that utilise the sporting ground, which are operated by the Applicant in a manner not to cause nearby residents and neighbouring businesses undue offence, annoyance, disturbance or inconvenience to persons living or working nearby.

The nearest business is the Palmerston Campus of CDU, who is also our landlord. We haven't had any issues with them since operating the club and have their support to self-managed this facilitate, including in operating the proposed licence.

The hours we are proposing to trade, should not impact on the local schools or day cares in the area, which would be closed for the majority time of the trading, as well as nearby places of worship.

We are a family-orientated club, with many junior teams' part of the Palmerston Football Club, as well as many others that play cricket here. Our Club's goal is to attract families to join the Club to play sport. In order to do that, we need to

operate a Club that does not cause any Members or prospective members any undue offence, annoyance, disturbance or inconvenience.

Palmerston Hospital is not near the premise, but there are health clinics located in Palmerston CBD. We do not believe our licence and proposed trading hours would have any impact on these clinics, as they are likely to be closed when we are operating and there are other licensed premises in closer proximity to them than our Club, some of those which sell takeaway alcohol.

As previously mentioned, sporting matches and private functions are generally played on Fridays, Saturdays and Sundays, when most nearby businesses (excluding other licensed premises and some retail) are generally closed, and certainly when nearby schools and day-cares are closed.

(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. The Applicant has a strong history of complying with all laws, statues, Codes and provisions related to the service of alcohol at a licensed premise and expect to continue this into the future if granted a Club licence.
- ii. The Applicant is committed to ensuring that they operate the Premises, including under the new *Liquor Act 1978*, with all staff required to have a RSA on commencement of employment.
- iii. The Applicant will ensure maximum capacity numbers do not exceed those that have been issued by the NTPFES.
- iv. In the proceedings of opening the premises, the Applicant has and continues to comply with the requirements of a Food Business (Dept. of Health), Smoking (Dept. of Health), as well as compliance audits from Licensing NT.

(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 nominee is in charge of overseeing the operation of the licensed venue and will be assisted by the Club's Committee and volunteers.

The Nominee has familiarised herself with the relevant obligations under the *Liquor Act 1978* and the new *Liquor Act 1978*, set to commence 1 October.

The Club will consider Membership to the peak employer representative, in order to keep up to date with all relevant industry information.

All staff involved in the sale and service of alcohol will have their RSA certificate and will be trained in our policies and procedures relating the sale and consumption of alcohol. All staff will be supported in the role to serve alcohol responsibly and refuse service to anyone they feel is becoming intoxicated.

Our Alcohol Service Policy is that:

- Only RSA trained bar servers with current qualifications will serve alcohol.
- Food will be available at the premises while alcohol is being served
- No bottled alcohol will be served, only cans or plastic cups will be used
- Servers are aware of standard drink sizes and competent in measuring standard drinks.
- That service of double measures of spirits is prohibited.
- People under 18 will not serve alcohol.
- Any one that looks 25 and under will be asked to show their ID and that signage to this effect will feature in the licensed premises.
- During official 'sporting games' e.g. AFLNT games and NT cricket matches, only mid-strength alcohol will be available
- Excessive or rapid consumption of alcohol is not encouraged which includes not conducting:
 - Cheap drink promotions
 - Drinking competitions.

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

The Applicant has no intention of operating their business on the basis of offering credit to patrons attending the Premise. The Applicant will only accept credit/debit cards issued by an Authorised Deposit-Taking institution.

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

The Applicant, Club and Members are aware of the importance on taking a balanced and responsible approach to alcohol, in order to meet its duty of care and to uphold its reputation in sports and the broader community, including with Members, sponsors and partners.

We understand the risk associated with alcohol misuse and our role in minimising this risk – we want to be seen as a family friendly club that operates a successful sporting and private function facility.

The Applicant's record of operating this licensed premises under a 'Special Licence' that was continued over many years, is evidence of that.

In addition to our Alcohol Service Policy, we also have the following policies to ensure that alcohol is consumed in a responsible manner, including our Club Rules:

- Members must not compete, train, coach or officiate if affected by alcohol.
- Members must not provide, encourage or allow people aged under 18 to consume alcohol.
- Members must not participate in or encourage excessive or rapid consumption of alcohol (including drinking competitions).
- Members must not provide alcohol only player awards as a reward for reaching a milestone (e.g. bottomless glass).
- Members must not pressure anyone to drink alcoholic beverages.

As previously mentioned in this Application, the purpose of the premises is to provide a venue for playing football and cricket and other sports and events that are suitably held on the grounds, as well as private functions in the event function space.

There will be no external advertising of solely alcohol, no promotions if drink specials. There may be alcohol promotions in accordance with sponsorship around the grounds, which are necessary in order to keep the Club financials viable.

The Applicant has no intention of adopting any practices that may encourage irresponsible drinking or have an adverse effect on the Club.

Anyone found to be consuming alcohol irresponsibly will be dealt with through the Club's Disciplinary Committee.

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

(i) The kinds of liquor that may be sold;

All alcohol is opened at the bar, and only sold in cans (not glass). Non-Alcoholic drinks and low-alcohol beverages will be promoted and available at all times.

Complimentary tap water is available.

No shots will be available.

During official 'sporting games' e.g. AFLNT games and NT cricket matches, only mid-strength alcohol will be available

(ii) The manner in which liquor may be sold;

All alcohol is opened at the bar, and only sold in cans (not glass).

All staff involved in the sale and supply of alcohol will be suitably qualified and hold current RSA certificates.

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

Four drinks per person at any one time will be our policy.

No bottled alcohol will be served, only cans or plastic cups will be used

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

In order to support the sporting activities conducted on the premises, we are proposing to trade:

Tuesdays: 5pm – 11pm

Thursdays: 5pm – 11pm

Fridays: 5pm – 11pm

Saturdays: 12pm – 11.59 pm

Sundays: 12pm – 11 pm

Good Friday and Christmas Day: No trading unless any special requests by AFLNT or NT Cricket for sanctioned games on a case by case basis e.g. Easter Commemoration Game.

- (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 Applicant is committed to ensuring it provides a fun, family-friendly sporting stadium, which is open and accessible to anyone who wishes to attend. It is not the intention of the Club to turn away 'genuine' sports fans, or patrons attending private functions. The behaviour of patrons will continued to be monitored and managed by the Applicant and staff of the Club, as they have done so whilst operating their 'Special Licence'. During the larger sporting events, the Club has engaged licensed crowd controllers to ensure their duty of care responsibilities are managed throughout those events.

Any person found doing the wrong thing by the Club, and its licence (if approved) will be disciplined appropriately through the Club's Committee.

The Applicant, Club staff, managers etc. will ensure that numbers of persons allowed in the licensed premises are aligned with the maximum numbers provided by the NT Police, Fire and Emergency Services.

The licence is to support the sporting stadium and club, not to become a 'public bar'.

- (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 primary entertainment is that of the sporting stadium and Club or sports events, as well as a private function area for the general public to book for their events as they see fit (birthday parties etc).

The Applicant does intend to have live music and entertainment, for both the private events/functions and potentially for sporting events. This is certainly the 'norm' for large sporting events, where there is a live band that plays following a sports game or during the sports game, ie. Half time.

The Applicant will ensure that noise emanating from the premises does not cause undue noise issues for nearby residents, in accordance with this licence (if approved) and the *Liquor Act 1978*.

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

There will be no excessive drink promotions of discounted drinks or any other irresponsible promotions of alcohol.

We are aware of an industry Code of Practice in Promotions and will strictly adhere to that.

As detailed earlier, the operation of the bar and private function space is ancillary to that of sporting events and entertainment.

Our Club is family-orientated and supports responsible drinking only. We recognise the role that adults and athletes play to the community, particularly to impressionable children, so will ensure that all adults at the Club take responsibility for their own behaviour and take a responsible approach and use good judgment when consuming alcohol.

(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 Applicant does not expect any increase in anti-social behaviour to result from the granting of this licence.

It will be busy as usual for the Club, just with the certainty of having a licence in perpetuity verses a continuing special licence. With this certainty, the Club can move forward in its management of the bar services and function space in a responsible manner.

The Club wants to continue to attract young families into the sporting environment and as Members, and will only achieve this, if parents and the community hold the Club, its Committee, facilities and overall environment in high regard. One anti-social behaviour incident involving alcohol could ruin the Club's reputation – we are aware of this and will do everything in our power to ensure it doesn't happen.”

64. In relation to the community impact, the Applicant provided the following written submissions:

(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.

The Applicant believes that the business operations will attract very few 'at risk' groups to the licensed premises. As stated previously, the licensed premises is a sporting stadium, and not a 'public bar'. We also have a function area, that is only operated for private and pre-booked and paid for functions, again which is not likely to attract at risk drinkers.

There are itinerants in the vicinity but have not had any issues with them to date, while operating under our special licence and expect this to continue if this licence is approved.

We are not proposing any ability for patrons to takeaway alcohol and all staff will be trained in RSA. Staff and Club committee members will monitor and managed the sale and consumption of alcohol to ensure all of our obligations are adhered to under the *Liquor Act 1978* and that includes the excessive or inappropriate consumption of liquor.

As mentioned previously, the Club relies on new members and new families enrolling their children into the Clubs sport's programs. We rely on our family friendly and safe reputation to do this.

Children are welcome to our stadium, but the bar will not be operational during their sporting events, only for adult sporting games. Children must be supervised by their parent and guardian.

Our service and sale of alcohol will be in accordance with any Code of Practice, as well as the *Liquor Act 1978*.

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

The Applicant is an important community institution that manages a large sporting facility, where spectators expect to be able to responsibly, enjoy alcohol whilst viewing the sport or after completing the sport.

The sporting stadium received significant Government funding to be built and it is now up to the Applicant to maintain and ensure its viability moving forward. Currently cricket and football are played at the stadium and it is the Palmerston Magpies 'home ground'. The Palmerston Magpies have teams in all divisions of the AFLNT competition in both the men's and women's league.

The Club currently has approximately 500 members (currently going through our membership renewal process) and our goal is to increase this over the next 5 years to 1000. We want the Club to be seen as a pivotal part of the Palmerston community that in turn supports the community back. We want to be an inclusive and family-friendly Club that unifies the people that live and work in Palmerston, through the use of sports.

The Stadium has hosted first-grade cricket, training facilities for Australian teams and AFL sides. It is the largest sporting stadium in the City of Palmerston.

At the time of application, we employ 5 people in full time or part time work. There are several other positions at the licensed premises/football stadium that are funded by AFLNT. We also have approximately 40-50 people who regularly volunteer to work in various roles at the Club.

It is the Clubs intention to be able to invest into the local community by being able to offer an atmosphere where we encourage a strong cultural environment. A venue where families, players, supporters and volunteers have an influence over the sustainability of a club which provides a recreational outlet to the community in a safe environment.

With the introduction of several fly in players from all over Australia we hope to build the integrity of not just the Club but the NT in general where they have a positive experience at a community club they can tell their friends about. This in turn would be beneficial to our tourism and we hope this would encourage more people to come and visit and potentially even stay as permanent residents.

Our goal is to be able to employ a full business manager, with revenue generated, and a bar manager to assist in ensuring the club is viable for now in into the future.

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

The premises itself is a community-based sporting stadium, which hosts a private function area in addition to a canteen and bar.

The Applicant does not believe that the granting of this licence will negatively impact on the amenity of the area, or the premises, as it has been operating under a continuing 'Special Licence' with no issues for many years.

During busy or large 'game days' there is increase cars, and pedestrians, but often this occurs on the weekend when the university is closed, so there is sufficient parking and overflow parking options.

The premises have been used as the home ground for the Palmerston Magpies Football Club that is a popular fixture in both the Palmerston Community and the broader AFLNT community.

The Applicant only wishes to build on our positive reputation in the community moving forward.

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

The Applicant is aware that Karawara Training Restaurant in the CDU Palmerston campus operates a liquor licence, however this restaurant is not open every night or on the weekend. Across the road from the Applicant is the Palmerston Golf Club, which is a fully operating club with 55 pokie machines.

Further towards the Palmerston CBD, we are aware of a high density of licensed premises, being:

Cazalys Palmerston Club

Palmerston Tavern

Woolworths BWS

Coles Liquorland

Good Times Bar and Grill (previously Archies)

Landmark

Gateway Select Wine, Beer & Spirit

Pit Lane

One Stop Bottleshop

Madame Za/Rydges Palmerston

The Bell

Most of these venues are focused on takeaway alcohol or are fully functioning pubs and clubs (with TAB, pokie machines, full commercial kitchens etc).

We do not believe the granting of our licence will negatively on the area, given we have been operating for many years with a 'Special Licence' that had similar conditions and should be considered a minor business, compared with nearby licence premises.

Palmerston is a growth area, compared to other parts of the NT. We are here for the long term and our sole purpose is the role we play in the sporting community and the proper management of the sporting stadium – not the selling of large amounts of alcohol.

(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.*

As stated in the point above, we have been operating with a special licence, as well as in the past applying for special event authorise or temporary variations during large sporting events that fell outside our Special Continuing licence for many years.

The Trading hours will be proposing will allow us to be open on most training days, and over the course of the weekend when sporting events are usually played.

Therefore, the increase in volume should be quite limited. We are budgeting an increase in our current bar sales of \$30,000 per annum if this application is successful. The Club is a not-for-profit organisation, so this additional bar sales, will be put back into the Club and the facilities and activities we manage and operate.

We do not believe we are introducing any 'new' or additional volume of alcohol to the Palmerston community, as we see the proposed trading conditions will just see Club Members staying at the Club to consume alcohol verses attending other nearby licensed premises – which is currently the practice, particularly on training nights.

We are aware there is a high level of alcohol sold in the Palmerston area, given the high number of large takeaway outlets in the area, but are not seeking any ability to sell takeaway alcohol to Members, only to provide for on-premises consumption while the stadium is in operation or the function space is being used.”

65. In relation to the community impact assessment guidelines issued by the Minister pursuant to section 6A of the Act, the applicant provided the following written submissions:

- a. **The potential harm or health impacts that may be caused to people, or any group of people within the local community area, due to the availability and accessibility of an additional liquor outlet.**

- i This Application is to formalize the conditions of previous Special Licences that had historically been applied for by the Applicant.
- ii The Applicant understands and is aware of the risks associated with the sale of alcohol. However, it should be noted that this application will not create an additional liquor outlet, as the Applicant has previously operated under Special Licences in the past. This Application is made at the request of Licensing NT who have previously advised that no further Special Licences will be granted for operation of the Premises by the PMFC.
- iii The Applicant acknowledges that there are often large numbers of itinerants who travel through the area and utilise the open, grassed areas for makeshift camps and meeting grounds. Due to the nature of the Premises and the requested conditions of the licence, it is unlikely that the grant of a liquor licence will cause harm or adversely impact the health of any at-risk individuals in the area. As mentioned above, the service of alcohol will be restricted to those individuals who have entered the Premises with the intention of either watching or participating in AFL or Cricket events.

b. Are there any community buildings, facilities and areas within the locality?

- a) Asbuild Oval is situated within the Charles Darwin University Palmerston Campus. The residential suburbs of Holtze, Yarrowonga, Johnston, Driver, Elrundie and Gray are in the greater surrounding vicinity of the Premises. Within those residential suburbs are the following community buildings/areas:
 - 1. Palmerston Library;
 - 2. Palmerston Golf Course;
 - 3. Marlow Lagoon Pet Park & Recreation Area;
 - 4. Palmerston Shopping Centre;
 - 5. Durack Primary School;
 - 6. Palmerston Water Park;
 - 7. Gray Community Hall;
 - 8. Palmerston Golf and Country Club;
 - 9. Driver Primary School;
 - 10. Satellite City BMX Club;
 - 11. Phoenix Park;
 - 12. Royal Park;
 - 13. Buckingham Park;
 - 14. Sanctuary Lakes Park;
 - 15. Good Shepherd Lutheran School;
 - 16. Palmerston College 10-12 Campus;
 - 17. Palmerston Swimming and Fitness Centre;
- b) This Application is not expected to affect the operation of the schools as the campuses will not be open during the hours when alcohol will be sold during sports matches. While it is the intention to be able to operate the venue during any day of the week, the Applicant will restrict the service of

alcohol to patrons only during sporting matches or private functions held on behalf of local sporting clubs.

c. What policies and procedures will the Applicant implement to minimise any potential harm or health impacts to these 'at-risk' groups or sub communities?

- a) The Applicant has existing Policies and Procedures in place that require all staff to undergo and maintain Responsible Service of Alcohol (RSA). Some examples of the effective policies already in place are:
 - 1. Staff are also required to monitor the consumption of liquor on the premises and actively take steps to ensure that patrons are not becoming and do not become intoxicated. The Applicant ensures that drinking water, light snacks, non-alcoholic beverages and low-alcohol content beer are available to ensure that patrons are consuming alcohol responsibly.
 - 2. It is not likely that alcohol service will take place during sporting matches involving minors as the game times are usually outside the requested licence hours.
 - 3. Security is always in place to enable the above policies and procedures are vigilantly monitored.
 - 4. Alcohol will only be served and consumed at the Premises, there will be no takeaway facilities available for patrons.
- b) As part of its business model and practices the Licensee does not carry products that target or are favoured by at-risk groups.
- c) There is nothing to suggest that the grant of a Full Licence will cause the Applicant to deviate from their current responsible practices or operate the licensed area in a way that contravenes their responsibilities under the Liquor Act. Furthermore, there will be no takeaway facilities and all alcohol stored at the Premises will be locked within the building on site.

d. Information about the location and the area in which the premises is proposed to be so as to assess any social impact on the community. This includes information about the density of licensed premises within the community area.

- a) The Premises is situated in an area surrounded by community buildings and residential premises as stated above. The nature of the area means that there is likely to be an increase in pedestrian traffic as the Premises can be accessed from the University campus. The Premises has been used as the home of the Palmerston Magpies Football club for a number of years and has become a popular fixture in the Palmerston Community. We do not believe that the granting of a full liquor licence will negatively affect the social impact on the community. The Premises itself is a

community-based venue, hosting sporting events for local AFL and Cricket teams.

- b) As has been mentioned in this Application, the Applicant has historically applied for Special Licences through which to operate the bar facilities, the granting of a Full Licence is not expected to negatively affect or substantially increase the density of licensed premises in the area. The Applicant also advises that if the application is successful, they do not intend to implement any practices or policies that would cause a negative impact to the community.

e. Volume

- a) It not expected that the volume of alcohol sold in the area will increase significantly with the granting a Full Licence. The Applicant does not promote the sale of alcohol and will only operate the bar facilities during sporting matches or special events. As stated through the application, the Applicant already operates the Premises in the same manner through the use of Special Licences applied for each year. Cricket NT have historically done the same thing during the Cricket season and now wish to amalgamate the process by having one licence and licensee all year round.
- b) The Premises is primarily operated in order to financially support the PMFC club, it is not operated to profit the board of the PMFC or the AFLNT/Cricket NT. It is not expected that the volume of alcohol sold will increase to dangerous or hazardous levels if a full licence is granted.

f. Any cultural, recreational, employment or tourism benefits for the local community area.

- a) As has been mentioned a number of times in the Application, the Palmerston Magpies Football Club is an important community institution that has players represented in all four senior AFL NT Leagues, allowing both men and women to partake in the sport. It is a reality of attending sporting events in Australia, and indeed worldwide, that spectators expect to be able to enjoy an alcoholic beverage while supporting their team. In order for the PMFC to provide a full-service to their members and fans, it is vital that they be able to serve alcohol to all patrons over the age of 18 years who are attending games held at the Premises.
- b) The Applicant is finding it increasingly difficult to apply for Special Licences each year and agrees with Licensing NT'S assessment that a Full Licence would better suit their needs. Sport has always been a unifier of people, whether in support of the same team, or simply enjoying the athletic spectacle. At a time when the greater Darwin community is struggling to keep residents in the Territory, it is crucial that the clubs like the PMFC be able to continue effectively catering to the needs of community.

g. Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.

- a) It must be noted that this application will not create an additional liquor outlet; it is simply formalizing the current Special Licences that have been historically granted to the PMFC so that they will be able to cater the needs of the sporting community all year-round.
- b) As stated, the Palmerston Magpies are an important community association that provides a cultural identity for the residents of Palmerston and surrounding suburbs. Similarly the same benefits will be applicable to Cricket NT'S use of the premises during the cricket season, further benefitting another important sport played and enjoyed by members of the Community. One of the club's main source of income is drawn from the agreement they have with AFL NT that allows them to host events at the Premises and sell alcohol to Members and spectators. The Liquor Licence is a vital part of providing a full and enjoyable experience to supporters of the club."

66. The Applicant also made the following submissions concerning its application:

"...we do not intend this to be purely around the sale and consumption of alcohol it is also looking to be an outlet which provides an affordable dining option to cater to the needs of the Club members who wish to be involved in a community club environment much the same as any other sporting club in Australia.

Whilst we understand there are other licensed venues in the area we are looking to provide a culture and atmosphere where there is a level of pride in supporting a community club which is the future for our kids in an environment which is all about building community engagement through strong cultural values.

All liquor sales as previously mentioned will always be provided in a safe and responsible manner as we appreciate the sustainability of this Club and its license is to not increase consumption rather have it in a controlled safe environment which has the community interests as number one priority. We do not intend to cause any adverse impacts and will continually train and refresh all members on the responsible service and consumption of alcohol which we believe is a priority in being a destination club for new players, supporters and volunteers.

The premises for this license already exists and although there are no short term plans for renovations we are always looking for ways to improve and should the time come where we are financially viable the opportunity to do so will always be an option."

67. It is clear to the Commission from the material provided that a great deal more thought and consideration of the matters required to be taken into account by any Applicant, were taken into account by this applicant during the period of the adjournment. The Applicant returned to the Commission with a far greater understanding of what it wished to do as a club at the premises and the manner in which a liquor licence would **support** those objectives rather than simply to have a licence.

68. The Applicant also returned with evidence showing support for this application by Charles Darwin University who is the Licensor with respect to the premises and of AFL Northern Territory Limited who is the Licensee of the premises and who has sub-licensed the premises to the Applicant. There was also evidence of support from Northern Territory Cricket Association Inc. who also holds a licence for the premises and who has a hire agreement with the Applicant for the cricket season from 31 March to 1 October.
69. As a result of the additional information provided by the Applicant, the Commission is satisfied that the public interest and community impact tests have been met and that the approval of the application meets the public interest and community impact test. As a result, the Commission intends to grant the application for a licence.
70. As noted from the outset of this decision, the licence is pursuant to an on licence authority with all the general conditions associated with such an authority and the following additional conditions to be included:

As to Trading Hours:

The Trading Hours for the Canteen Bar and the Clubhouse Bar shall be between:

- a. Tuesdays from 1700 hours to 2300 hours;
- b. Thursday from 1700 hours to 2300 hours;
- c. Fridays from 1700 hours to 2300 hours;
- d. Saturdays from 1200 hours to 2359 hours; and
- e. Sundays from 1200 hours to 2300 hours.

No trading on Good Friday and Christmas Day.

As to liquor to be sold:

The Canteen Bar:

The Canteen Bar shall offer only light and mid strength beer and mid strength pre-mixed sprits, with such liquor to be sold in opened cans and a maximum of four (4) cans to be sold to any one customer at any one time.

The Clubhouse Bar:

The Clubhouse Bar shall offer alcohol service of beer, cider, wine, champagne and basic spirits.

As to additional events and circumstances:

The restriction to trading hours shall not apply to the following events and circumstances:

- a.
 - i. A club member's private function on the premises, being a function hosted by a member for invited persons on a complimentary basis only (such as a wedding or birthday party in the member's family, or a farewell for a member's workmate). There are no restrictions on the number of such functions which may be held;
 - ii. The hiring or use of all or part of the premises by a charitable organisation for a function the purpose of which is to raise money for a recognised charity and attendance at which is only by personal invitation or pre-sold ticket. There are no restrictions on the number of such functions which may be held.
 - iii. The commercial hiring of all or part of the premises by any person or body for a function the attendance at which is only by personal invitation and does not involve door sales (such as a business or trade conference or a product promotion) provided that the Licensee shall have given written notice of the proposed function or event to the office of the Director-General or Delegate at least seven (7) clear business days before the holding of the function or event, and provided that no person on behalf of the Director-General or Delegate shall have notified the Licensee that the holding of the proposed function or event is not consented to by the Director-General or Delegate. There are no restrictions on the number of such functions that may be held;
 - iv. A club fundraising, promotional event or sporting event open to the general public, provided that there shall not have been more than five such events at the licensed premises within the six month period immediately preceding any such event or promotion, and provided that the Licensee shall have given written notice of the proposed function or event to the office of the Director-General or Delegate at least seven (7) clear business days before the holding of the function or event, and no person on behalf of the Director-General or Delegate shall have notified the Licensee that the holding of the proposed function or event is not consented to by the Director-General or Delegate.
- b. Such additional events can be held on any day except for Good Friday and Christmas Day.
- c. Liquor may be sold or supplied to persons attending all such functions or events as described in (a) above from 1200 hours until 2359 hours. Without in any way limiting the generality of the need for compliance with the *Liquor Act 1978* and the conditions of the licence, while any function or event as above described is in progress the Licensee shall regard the issues of adequate security and undue noise abatement as prime concerns.
- d. The functions or events described in paragraphs (a)(i) and (a)(iii) of this condition shall not be publicly advertised, and any such advertising shall void the consent of the Director-General or Delegate which may otherwise have been able to be implied by virtue of this condition.

- f. Details of all functions or events held or staged pursuant to the provisions of this condition shall be recorded in a register book kept by the Licensee for such purpose and which shall be readily available on the licensed premises for inspection at any time by an Inspector of Licensed Premises. In the case of a member's private function, the name, address and membership or badge number of such member shall be clearly shown as part of the relevant entry.
- g. Any temporary or special variation of trading hours or other conditions sought by the Licensee outside the ambit of this condition can only take effect upon receipt by the Licensee of the approval in writing of the Liquor Commission, Director-General or Delegate first had and obtained.
- h. For the purposes of this condition, "written" shall include notification by facsimile or email to a facsimile number or email address published or provided by the Director-General or Delegate for the purpose of such communication.

71. It is noted that such additional conditions were discussed during the course of the hearing with both the applicant and the representative of the Director-General, who each confirmed their contents and understanding of the same.

Notice of Rights:

72. 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 section 29 of the Act is specified in the Schedule and is a reviewable decision.

73. 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.

74. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected person is the Applicant.



JODI TRUMAN
Presiding Member
Deputy Chairperson
23 September 2019