

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

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**MATTER:** APPLICATION FOR SUBSTITUTION OF PREMISES

**LICENCE NUMBER:** 81416070

**REFERENCE:** LC2019/108

**LICENSEE:** South Darwin Sporting League Incorporated

**PREMISES:** South Darwin Sporting League  
105 Abala Road  
MARRARA NT 0812

**APPLICANT:** South Darwin Sporting League Incorporated

**LEGISLATION:** Section 46A of the *Liquor Act*.

**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:** 16 January 2020

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**Decision**

1. For the reasons set out below and in accordance with s 46A(6)(a) of the *Liquor Act 1978* (NT) (“the Act”), the Northern Territory Liquor Commission (“the Commission”) has determined to approve the substitution of the premises of the South Darwin Sporting League Incorporated (“the licensee”) from its old premises as depicted by the area coloured green to its new premises as depicted by the area hatched in blue on the plan at page 67 of Exhibit One tendered at the hearing of this application, and comprising: “Field No. 3” at the eastern end of Section 4109, Hundred of Bagot, 105 Abala Rd, Marrara (“Warren Park”); the surrounding spectator area; and the licensee’s adjacent clubhouse.

**Reasons**

**Background**

2. The licensee, which was incorporated in 1981, is a not for profit sporting club that currently has two affiliate members, the South Darwin Rugby League Club, and the South Darwin Rugby Union Club. In 1987 the licensee was granted a

Crown Lease in Perpetuity over Warren Park, which the licensee has operated as a rugby<sup>1</sup> venue, as well as other team sports.

3. In 1998 the licensee obtained a liquor licence with Authority – Club (Incorporated), which has been a major source of revenue for the licensee. The licensee’s clubhouse and licensed premises were located near the middle of Warren Park.
4. In 2012 the licensee commenced negotiations with the governing body of rugby league in the Northern Territory, the Australian Rugby League Commission NT (“ARLC NT”), and with the Northern Territory government, for the redevelopment of Warren park, at a cost of \$25 million, funded by the Northern Territory government.
5. With the redevelopment, the licensee’s clubhouse was demolished, and the licensee moved its operations to the eastern end of Warren Park, with a new clubhouse adjacent to the southern boundary of a new rugby field (“Field 3”). ARLC NT has taken occupancy 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 with a term of 30 years.

### **The Application**

6. In anticipation of the change to the location of its premises, on 25 October 2018 the licensee applied to the Director-General of Licensing (“the Director-General”) for approval for the transfer of the premises from its then current site to the new premises. Although the application was for a material alteration under s 119 of the Act, the Director-General dealt with it as an application for substitution of premises under s 46A of the Act. The Director-General was correct to do so: in reality, the application was clearly for the substitution of old premises with new premises.
7. On 4 August 2019, following consultation, together with an assessment of the application, a Delegate of the Director-General referred the application to the Commission for hearing pursuant to s 46A(5AA) and s 50(c) of the Act.
8. The Director-General provided the Commission with a brief of evidence (“the brief”) including:
  - Memorandum from the Director-General’s Delegate setting out the circumstances of the application
  - The Licensee’s existing liquor licence 81416070
  - Application for material alteration dated 25 October 2018
  - Development Permit dated 19 April 2018
  - Section 26A affidavit deposed by Mark Anderson, the licensee’s nominated manager, dated 20 March 2019

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<sup>1</sup> For convenience, the Commission has taken the liberty of using the term “rugby” in this decision notice to refer to rugby league and/or rugby union.

- Community Impact and Public Interest Assessment statement
- Plan of old and proposed new premises
- Newspaper notifications of application dated 25 and 29 May 2019
- Objection by Mr Brendan Lawson dated 11 June 2019
- Response to objection by licensee dated 31 July 2019
- Correspondence between Licensing NT and Department of Health ("DOH"), NT Police, NT Fire and Rescue Service ("NTFRS") and City of Darwin

9. Prior to the hearing, the Commission also received:

- an undated signed letter from Mr Lawson that the Commission finds was sent to the Director-General on 3 June 2019 to initiate the objection
- the Northern Territory Environment Protection Authority ("NTEPA") *Northern Territory Noise Management Framework Guideline* (the "NT Noise Management Guideline")
- an affidavit deposed by the licensee's Chairman, Mr Martin Kelly, dated 11 December 2019

### **Consultation**

10. As required by s 46A of the Act, notices of the application were published in the NT News and displayed on site. One objection was received.

11. Also in accordance with s 46A, the Director-General notified DOH, the NT Police and the City of Darwin. The NTFRS was also notified.

12. The Director-General informed the Commission that:

- DOH responded, making no adverse comment.
- NT Police advised that they had no objections.
- The City of Darwin advised that it had no issues with the application.
- NTFRS indicated that they supported the application.

### **The objector**

13. Mr Lawson is a resident of the Northlakes Estate, situated about 500 metres south-east of the proposed new premises. The licensee 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. On 18 October 2019 the Commission directed the parties to make submissions by 30 October 2019 on this issue.

14. The principal basis for Mr Lawson's objection was his concern that noise emanating from the licensee's premises would cause undue annoyance or disturbance to residents of the neighbourhood. Mr Lawson was one of several residents of the neighbourhood who had been complaining since 2017 about noise from another licensee whose premises are located within the Marrara Sporting Complex, the PINT Club. Those complaints were heard by the Commission, including two members of this panel, Member Goldflam and Member Stephenson, commencing on 18 November 2019, when the

Commission attended the Marrara Sports Complex and the Northlakes Estate, and participated in a noise experiment conducted to assist the Commission to determine whether noise from the PINT Club had caused annoyance or disturbance to residents of the neighbourhood.

15. The Commission anticipated that the visit to the Marrara Sporting Complex and Northlakes Estate on 18 November 2019 would assist it to determine the preliminary issue of the objector's standing in relation to these proceedings. Accordingly, the Commission decided not to determine the issue of the objector's standing until after it had conducted the hearing of the PINT Club complaints.
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.

### **Another applicant**

17. The brief disclosed that ARLC NT had also applied for a licence to sell liquor for consumption from the premises it occupies at Warren Park. The Commission considered that in all the circumstances it would be appropriate and convenient to hear the application of the licensee and the associated application of ARLC NT together.
18. Some of the documentation required by Licensing NT to compile the ARLC NT brief was still outstanding when the Commission listed both applications for hearing. The Commission records its thanks to the Director of Liquor Licensing ("the Director") and his staff for expediting the processing of the ARLC NT application to enable the hearings to be conducted together.

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

19. The Director-General informed the Commission that the licensee has no previous adverse history of compliance with its liquor licence conditions.

### **The hearing**

20. On 12 December 2019 the application proceeded as a public hearing in conjunction with the hearing of the ARLC NT application. Mr Bonig appeared on behalf of the applicant with the licensee's Chairman, Mr Kelly. Ms Chin appeared for the Director. Two other senior officers of Licensing NT, Mr Verinder 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.
21. The brief was tendered and admitted into evidence without objection. In addition, the licensee tendered Mr Kelly's affidavit referred to at paragraph 9 above.

## The applicable law

22. Section 326 of the *Liquor Act 2019* (“the 2019 Act”) provides that an application for substitution of licensed premises made under s 46A of the 1978 Act is to proceed and be determined under that Act unless the applicant notifies the Director otherwise. No such notice having been given, the Commission proceeded to hear and determined the application under the 1978 Act.
23. Although the licensee styled its application as being for “material alteration”, the Commission is satisfied that by the date of the hearing the licensee had conceded that its application should be heard as an application for substitution of premises. For example, in his affidavit of 11 December 2019, Mr Kelly referred to the licensee’s application of 25 October 2018 as being for a “liquor licence transfer”. Similarly, the licensee’s undated Community Impact Statement, which the Director-General’s delegate informed the Commission was lodged some time after the original application, states:
- The current application seeks to obtain approval of the Director-General of Licensing for the continued operation of the Liquor Licence at the New Premises... The Liquor Licence is to continue on the same terms and conditions with the sole exception the licensed area will be much smaller than previous.<sup>2</sup>
24. In the course of the hearing, the licensee’s submissions were consistently premised on the basis that the application was one for substitution of premises under s 46A. The Commission has proceeded accordingly.
25. In its application of 25 October 2018, the licensee, in addition to seeking approval to move to new premises, sought to vary its licence conditions. However, at the outset of the hearing Mr Bonig confirmed that the licensee’s application to vary conditions of the licence was withdrawn.
26. In addition, he submitted (and Ms Chin agreed) that in accordance with the decision of the Commission delivered on 20 September 2019 in relation to an application for substitution of premises by Woolworths Group Ltd (“the Dan Murphy decision”),<sup>3</sup> the Commission has no power to vary conditions of a licence when determining an application for substitution of premises under s 46A of the Act. As the Commission explained in the Dan Murphy’s decision,

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<sup>2</sup> The Commission was not provided with the dimensions of the old area and the new area, but on the basis of the plans provided, they appear to the Commission be different shapes, but much the same size.

<sup>3</sup> See paragraphs [131] ff of that decision. The Commission’s decision was the subject of an application for review by the unsuccessful applicant. In *Woolworths Group Limited v Northern Territory Liquor Commission, Foundation for Alcohol Research and Education Ltd & Ors* [2019] NTCAT 37, the Northern Territory Civil and Administrative Tribunal confirmed the Commission’s view on this issue: see [79] – [82] and [95] ff. The Commission is informed that the NTCAT decision is currently subject to an application for judicial review in the Supreme Court of the Northern Territory.

s 46A in its terms confers power on the Commission only to either approve or refuse an application for substitution of premises.

27. Before the Dan Murphy decision was delivered, a differently constituted panel of the Commission had varied conditions in another substitution of premises matter (“the Darwin Turf Club”).<sup>4</sup> However, in making that decision, the Commission had not been assisted by submissions regarding the limited scope of its power when dealing with a s 46A application.
28. The Commission now reaffirms that, in accordance with the Dan Murphy decision, but contrary to its earlier Darwin Turf Club decision,<sup>5</sup> there is no power to vary conditions of a licence when considering an application for substitution of premises. The application to vary conditions, had it not been withdrawn, would have been dismissed.
29. The issue is significant in part because in his objection, Mr Lawson had advocated for the imposition of various conditions on the licence. Were it empowered to do so, the Commission would have considered whether to vary the conditions of the licence along the lines proposed by the objector.
30. In considering this application, the Commission is required to have regard to the following:
  - a. The s 26A affidavit (s 46A(5A)(aa));
  - b. Any objection to the application (s 46A(5A)(a));
  - c. Any reply to objectors (s 46A(5A)(b));
  - d. The public interest and community impact test (s 6(1));
  - e. The potential impact on the community (s 6(3)); and
  - f. The objects of the Act (s 3, s 6(1) and s 46A(6)).

### **The s 26A affidavit**

31. Mr Anderson deposed that there are no influential persons or potential beneficiaries of the licensee’s operation of its liquor licence.
32. Given the complexity of the arrangements for tenure of Warren Park and the licensee’s status as lessee (of the Northern Territory), sub-lessor (to the Northern Territory) and licensee (from the ALRC NT) of the premises, the Commission considers that the s 26A affidavit should have identified the Northern Territory and ALRC NT as persons who by a lease, agreement or arrangement might influence or benefit from the licensee’s operation of the licence.

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<sup>4</sup> Darwin Turf Club application for substitution of premises, delivered 27 August 2019. Member Goldflam presided as the legal member of the Commission over the hearing of this matter.

<sup>5</sup> The variation to the Darwin Turf Club conditions, being as they were of a formal or clerical nature, could have been authorised by s 33(6) of the Act.

33. However, the relevant lease documents were provided to the Commission by the ARLC NT in the course of its associated hearing, and Mr Kelly has explained the arrangements in some detail in his affidavit.
34. Having regard to that evidence, the Commission considers that the s 26A affidavit does not give rise to a concern that the application should not be granted.

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

35. At the hearing, the licensee submitted that no weight at all should be given to the objection because the objector had elected not to attend the hearing. The Commission disagrees. 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>6</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.
36. 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.
37. In addition, the licensee contended that the objection was not compliant with s 47F(4). Firstly, the licensee asserted that the complaint had not initially been made in writing. That contention was disposed of when Mr Lawson provided the Commission with his letter of 3 June 2019 referred to at paragraph 9 above.
38. The licensee further contended that the objection was non-compliant with s 47F(2), which relevantly provides that an objection may only be made on the ground that the grant of the substitution may adversely affect the neighbourhood’s amenity, or community health, public safety or social conditions. The Commission rejects this contention. The Commission considers that when Mr Lawson’s letters of 3 and 11 June 2019 are read together, although his objections are rather diffuse and in some respects speculative, it is tolerably clear that he did object to the grant of the application, and that he did so on the grounds that it may adversely affect both the neighbourhood amenity and community health, public safety or social conditions. Mr Lawson’s primary concern was that the grant would, in conjunction with the potential grant of a second licence at Warren Park to the ARLC NT, result in noise disturbance to residents of the neighbourhood.
39. It is the case, as the licensee pointed out in its response dated 31 July 2019, that Mr Lawson proposed some variations to the licence to mitigate his concerns. (At that stage of these proceedings, it may be noted, the licensee had also proposed its own licence variations.) That, however, does not

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<sup>6</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.

derogate from the validity of Mr Lawson's objection. In the Commission's view it would be unfair to "disqualify" an objection merely because it included some constructive proposals to remedy the problems identified by the objector without having to take the drastic step of cancelling the licence altogether. Mr Lawson could hardly have been aware in June 2019 that some months later the Commission would determine that it had no power to vary licence conditions when considering an application for substitution of premises.

40. 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.
41. The Commission, having determined that Mr Lawson was a valid objector, now determines that his objection is valid. The issues raised by the objector will be addressed in the Commission's assessment below of the public interest and community impact test.

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

42. The Commission is required to consider each of the fifteen objectives in s 6(2).
43. (a) *Harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised.*
- The objector expressed concern that there are insufficient measures to prevent members of the public purchasing and consuming liquor at the premises. However, the Commission considers that alcohol-related harm to patrons of the licensee is satisfactorily mitigated by the "club-specific" conditions of the club liquor licence, including the conditions headed "**Obligations of the Management Committee**", "**Consumption by Members and Guests**", "**Sale to Members and Guests**", "**Club's Constitution Not To Be Changed Without Approval**", "**Members Register to be Kept**", "**Visitor's Book to be Kept**", "**Maximum of Six (6) Visitors**", "**Public Advertising**" and "**Sales to Public**". The combined effect of these conditions is to generally limit the sale and consumption of liquor on the premises to properly admitted members of the club and their guests, except around the time of rugby fixtures.
44. The Commission has heard no evidence to suggest that the substitution of the premises is likely to affect the licensee's established pattern and practice of supplying liquor.
45. (b) *Liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner.*



The Commission has regard to the licensee's good compliance history, as adverted to at paragraph 19 above.

46. (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.

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

The Commission received no evidence raising concerns in relation to this objective.

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

As noted above, the primary issue raised by the objector is noise. Mr Kelly points out in his affidavit that no noise complaints have been made against the licensee by Mr Lawson in the 23 years since he has lived locally, during which the licensee has managed Warren Park as a rugby venue.

49. 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, although this will more likely be attributable to noise from Field 1, where the main grandstand is sited, than from the licensee's proposed premises at Field 3. Moreover, 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.

50. 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.

51. However, the objector is also and indeed more concerned about noise from non-sporting events at the proposed premises. The licence's Club conditions permit it to hold various functions, including commercial hiring and club fundraising or promotional events 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.

52. Despite the lack of a Noise Management Plan, the Development Permit 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.

53. The licensee'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.

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

55. The Commission notes that the Club conditions require the licensee to notify "the Director-General" (a position now superseded by the position of Director) of planned commercial hiring, and fundraising or promotional events open to the general public. The Director in turn can withhold his consent for the function to proceed.

56. The Commission expects and respectfully requests the Director to exercise this power so as to restrain the licensee from causing excessive noise emanations, by withholding consent for the holding of such functions unless the licensee undertakes to comply with the applicable provisions of the NT Noise Management Guideline.

57. 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 Club condition of the liquor licence are sufficient to meet the objective that the licensee not cause the excessive emanation of noise.

58. (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.

59. (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 licensee has obtained the requisite approvals from the Development Consent Authority, and notes that the City of Darwin has been consulted about the application and has raised no issues.

60. (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 Commission has received no evidence to suggest that the licensee has failed to appropriately manage and supervise its bar staff.

61. (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 condition in the licence headed “**Credit**”.

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

No issues have been raised with the Commission that lead it to be concerned in relation to this objective. The Commission notes that to its credit, one of the licensee’s two affiliate clubs, the South Darwin Rugby League Football Club Inc., has an Alcohol Policy based on the widely recognised “Play by the Rules” template.<sup>7</sup> The Policy, which the Commission considers is appropriate and responsible, includes the following statement:

We will not endorse or support events, celebrations or end of season trips that involve anti-social or excessive consumption of alcohol.

63. (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 the conditions of the licence referred to at paragraph 43 above will operate so as to achieve this objective.

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<sup>7</sup> Accessed at: [www.playbytherules.net.au/resources/templates/alcohol-policy](http://www.playbytherules.net.au/resources/templates/alcohol-policy)

64. (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**”.

65. (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 is satisfied that the condition of the licence headed “**Club Condition**” is appropriate to reasonably limit the entertainment that may be provided on the premises for pre-booked special functions and events.

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

The Commission considers that this issue is adequately addressed by the condition of the licence headed “**Public Advertising**”.

67. (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 has received no evidence to suggest that the substitution of premises will lead to an increase in anti-social behaviour.

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

68. 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.

69. (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 Commission accepts that the harm to the community will be satisfactorily minimised by the operation of the “club-specific” conditions of the licence identified at paragraph 43 above.

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

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

71. (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 community. These sporting codes are widely followed and played, and the licensee is a substantial contributor to the

rugby community. The Commission notes that the South Darwin Rugby League Club, to its credit, is not currently sponsored by a brewer or other liquor manufacturer.

72. (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.

73. (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.

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

No matters have been prescribed.

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

76. 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**

77. Finally, s46A(6) 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.

78. Throughout its consideration of this application, the Commission has steadily born the objects in s3 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 read in conjunction with its further objects.

### **Notice of Rights**

79. 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 approve a substitution of premises pursuant to s46A of the Act is specified in the Schedule and is a reviewable decision.

80. 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.

81. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected persons are the licensee and the objector.



Russell Goldflam

MEMBER, NORTHERN TERRITORY LIQUOR COMMISSION  
16 January 2020

On behalf of Commissioners Goldflam, Stephenson and Corcoran