

## Director of Liquor Licensing

### Decision Notice

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<b>MATTER:</b>	Application for a material alteration
<b>LICENSEE:</b>	Northern Territory Water Ski Association Incorporated
<b>PREMISES:</b>	Darwin Ski Club 20 Conacher Street Fannie Bay NT 0820 Australia
<b>LICENCE NUMBER</b>	81401269
<b>LEGISLATION:</b>	Part 4 Division 2 of the <i>Liquor Act 2019</i>
<b>DECISION OF:</b>	Delegate of the Director of Liquor Licensing
<b>DATE OF DECISION:</b>	22 May 2026

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#### DECISION

1. For the reasons outlined below in accordance with section 97 of the *Liquor Act 2019* (the Act), and with reference to the delegations provided by the Northern Territory Liquor Commission (the Commission) dated 5 July 2025, as a delegate of the Director of Liquor Licensing (the Director) I approve the application by the Northern Territory Water Ski Association Incorporated for a material alteration to the premises, being the construction and commissioning of a containerised bar, additional to the existing points of sale within the open area of the licensed premises.
2. Pursuant to section 97(3) of the Act, the approval of this application is conditional upon the below:
  - a. The use of the containerised bar is prohibited until such time as the licensee has provided any necessary certifications, including but not limited to requirements under the *Building Act 1993* and the *Fire and Emergency Act 1996*, to the satisfaction of the Director or their delegate, and received written consent for the use of the containerised bar.
  - b. The Director reserves the right to impose conditions on this approval, or the use of the bar as they consider lawful and relevant.
  - c. The licensee will comply with any directions provided to them in relation their Camera Surveillance Plan as approved by the Director, and as provided for in the *Code of Practice for CCTV Systems in Licenced Premises*.

## REASONS

### BACKGROUND

3. On 27 February 2026 Mr Paul Gurr, Public Officer on behalf of the licensee lodged an application with the Director seeking a material alteration to the premises.
4. The application was for material alterations to the premises pursuant to section 95 of the Act to install a containerised bar within the existing licensed premises.
5. The matter, having been processed in accordance with the provisions of the Act, was referred to the Commission in the usual manner on 19 May 2026.
6. On 22 May 2026, the Chairperson of the Commission refused the referral returning it to the Director for determination under the delegations as she was satisfied this application fell within the matters which may now be dealt with under those delegations.

### APPLICATION

7. The application included the materials prescribed by the Act.
8. There were no proposed changes to the conditions of the licence and the application was simple in nature and uncontroversial.
9. It is noted however; the Commission conducted a site inspection at the premises on 20 May 2026 at which time admissions were made by Mr Gurr that the containerised bar had been used for events prior to the application and any approval.
10. On 22 May 2026, the Commission determined, with reference to the delegations dated 5 July 2025 made pursuant to section 37 of the *Liquor Commission Act 2018*, not to accept the referral and return it to the Director for determination.
11. This application is therefore made under that delegation and the subsequent delegation by the Director dated 6 August 2025.

### PUBLICATION & CONSULTATION

12. Public notices of the application were published in the usual manner in the NT News on 7 March 2026, at the premises and also on the Director's website.
13. These notices provided information of the application and an opportunity for persons to lodge an objection if they wished.
14. The licensee confirmed on 23 March 2026 the notices had been published for the prescribed period, and the Director is satisfied the licensee has complied with the requirements.
15. No objections were received in relation to this matter.
16. Notification of the application was provided to those prescribed in subsections 96(6) and (6A) of the Act, with no adverse comments having been received.

17. Although not a prescribed party under subsections 96(6) and (6A) of the Act, the Northern Territory Fire and Rescue Service noted the following:

- All proposed building works are to be undertaken in accordance with the building approval process under the *Building Act 1993*.
- Upon completion of the building works and issue of an Occupancy Permit, NTFRS *may* conduct an inspection to confirm compliance with the *Northern Territory Fire and Emergency Act 1996*. (emphasis added)

## ASSESSMENT OF THE APPLICATION

18. Section 95(1) of the Act requires a licensee to seek the prior written approval of the Commission before the following material alterations are made to licensed premises:

### **95 Limit on material alterations**

(1) The prior written approval of the Commission is required before any of the following material alterations are made to licensed premises:

- (a) a significant increase in the area of the premises used for the sale, supply, service or consumption of liquor;
- (c) a change to an entrance to or an exit from the premises;
- (d) a significant change to the external appearance of the premises;
- (e) a significant change to the premises' facilities related to the sale, supply, service or consumption of liquor.

19. The works are within the existing approved licensed area and do not change the access or egress for the premises, nor is it considered to be a significant change to the external appearance of the premises.

20. From this it is accepted subsection (a)(c) and (d) are not enlivened.

21. For consideration is whether the works constitute a significant change to the premises' facilities related to the sale, supply, service or consumption of liquor<sup>1</sup>.

22. Whether the application is a significant change turns on the definition of the word "significant", and in the absence of any further definition in the Act, the natural meaning of the word must apply.

23. For these purposes the natural meaning of the word includes "...sufficiently great or important to be worthy of attention" and "...leading to a different result or to an important change".

24. A like matter provides guidance to this application in which a licensee similarly sought to erect a containerised bar, with the distinction being it is intended for regular use<sup>2</sup>.

25. The Director at that time considered the works to fall within the definition of section 95(1)(e) of the Act, being a "...significant change to the premises' facilities related to the sale, supply, service or consumption of liquor" by application of the natural meaning of the words.

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<sup>1</sup> *Liquor Act 2019*, s95 (1)(e).

<sup>2</sup> Northern Territory Liquor Commission, *Decision Notice – Club Eastside Incorporated – application for material alteration*, LC2022/018 at 20 April 2022.

26. For completeness, the Director having formed the opinion the works were a material alteration, the matter was referred to the Commission in the usual manner and there was no consideration necessary by the Commission as to whether it was a material alteration as defined.
27. Accordingly, the precedent set by that matter may be considered persuasive in this matter, and it is therefore taken this is a material alteration.
28. There has been no opposition to this application and no adverse comments, nor any relevant compliance actions with this licensee.
29. It was however identified at the site visit, through admissions made by Mr Gurr, that the bar had already been used on several occasions.
30. Section 95(1) of the Act requires a licensee to obtain "...prior written approval of the Commission...before...material alterations are made to licensed premises".
31. Section 98 of the Act provides an offence provision, for which a complaint and disciplinary action can arise, for not obtaining the prior approval of the Commission.
32. Section 99 of the Act also provides a power to the Commission to require a licensee to remedy unauthorised alterations.
33. Although these powers are provided, traditionally it has been considered more appropriate for the Commission and the Director to work with the licensee to obtain the necessary approvals, albeit after the fact.
34. There has been no issues arising from the unauthorised use of the bar prior to this application, and it has not been identified by inspectors as an issue before. It could therefore be argued tacit consent for the use of the containerised bar has been given prior to this application by inspectors, as they will have attended the premises for compliance activity and will have noted the use of the additional bar.
35. It necessarily follows that there is no public interest in taking disciplinary action against this licensee for their obvious breach of the Act.
36. Of more import is getting the bar approved and certified for use.
37. The licensee will also need to obtain any relevant certifications, such as an occupancy permit and any approvals necessary under the *Fire and Emergency Act 1996*.
38. For completeness, compliance with the *Building Act 1993* and the *Fire and Emergency Act 1996* fall outside of the remit of the Commission and the Director. The Act does however prescribe if action is taken by the relevant authorities who have charge of those Act against the licensee, it constitutes grounds for a complaint against the licensee under our Act.
39. On 22 May 2026, Mr Gurr provided an updated Development Permit (DP 10.0481A) for the containerised bar area, along with an Occupancy Permit.

40. It is also noted the licensee is working with the Director in relation to updating their CCTV plan for the premises, as required by the *Code of Practice for CCTV Systems in Licensed Premises*.<sup>3</sup>
41. This plan will likely include the containerised bar once finalised.
42. The licensee is already held to compliance with this Code and therefore it requires no further determination at this time as failure to comply may result in disciplinary action being taken.

### **Public interest and community impact requirements**

43. In accordance with section 97 of the Act, I have considered the public interest and community impact requirements and am comfortably satisfied that the alteration will be in the public interest, and that it is unlikely it will have any adverse impact on the community.
44. The intention of the licensee is to use the bar for peak service periods and large events to reduce pressure on the existing points of sale within the premises..
45. Section 3(4) of the Act requires a person exercising a power under this Act to have regard to both the primary and secondary purposes of the Act, with the primary purpose focussing on harm minimisation.
46. The proposed works arguably fall within the harm minimisation aspect, as the additional point of sale will provide better oversight of the operation and reduce pressure on existing points of sale during large events where staff's ability to engage with patrons is reduced by the tempo of the operation.
47. It may also be taken to support the secondary purposes regarding the regulation of the sale, supply, service, promotion and consumption of liquor and facilitates a diversity of associated services for the benefit of the industry.
48. As required by that section this decision has been made in a manner consistent with those purposes.

### **REVIEW OF DECISION**

49. Section 27(1) of the Act provides for those persons prescribed to seek a review of a delegate's decision by the Director.
50. An application for a review of a decision must be made to the Director within 28 days after written notice of the decision is given to the person, in the approved form stating the grounds on which it is made, and the facts relied on to establish the grounds.



**Mark Wood**  
Delegate of the Director of Liquor Licensing  
22 May 2026

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<sup>3</sup> Northern Territory Liquor Commission, *Code of Practice for CCTV Systems in Licensed Premises, Liquor Act 2019* (s20) dated 26 April 2023.