

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Application for the grant of a licence with a community club authority
APPLICANT:	Limbunya Recreation Association Inc.
PROPOSED PREMISES:	Limbunya Station 8540 Buntine Highway Buchanan NT 0852
OBJECTORS:	Nil
LEGISLATION:	<i>Liquor Act 2019</i> - Part 3 and 4
DECISION OF:	Southern Region Manager - Licensing and Compliance
DATE OF DECISION:	18 June 2024

BACKGROUND

1. Pursuant to section 52 of the *Liquor Act 2019* (the Act), Ms Kira Wilde lodged an application for a liquor licence with a **community club authority** on 29 May 2024. The application was incomplete, with the remaining materials being provided on 13 June 2024.
2. The licence sought is to allow for a staff social club for the employees and bona-fide visitors to Limbunya Station, a remote cattle station whose closest licensed premises is Top Springs Hotel, approximately 300 km away. Snacks and light food will be available at all times during trading hours. The inherent nature of these remote staff social clubs results in special diners and BBQ's for special events and the like.
3. The premises will sell pre-packaged beer, wine and spirits including a range of low and mid-strength options, as well as non-alcoholic products.

CURRENT SITUATION

4. The station is situated on NT Portion 02092, and covers approximately 5200 square kilometres. It is owned by Wonga Ag Pty Ltd (ACN 652 545 590) as a perpetual pastoral lease and is sub-leased to the Northern Livestock Company Pty Ltd (ACN 658 211 342).
5. Mr Tim Gallagher, a director of the Northern Livestock Company Pty Ltd has provided consent for the use of the proposed facilities for a staff social club.

6. Consequently the staff at the station have registered the Limbunya Recreation Association Incorporated (the Association) under the *Associations Act 2003* and IA3775 refers for these purposes.
7. Ms Kim Wilde is the Public Officer of the Association and is the applicant in this matter.
8. The applicant has provided the material prescribed in section 52 of the Act including:
 - an affidavit made under section 54;
 - a draft notice of the applications;
 - evidence necessary to satisfy the onus specified in section 51;
 - a summary of the evidence suitable for publication; and
 - the application fee.

ADVERTISING AND OBJECTIONS

9. On 29 May 2024 as a delegate of the Director I determined upon application, there were no public interest issues arising from this application and exempted the matter, pursuant to section 57(2A) of the Act, from the requirements for public notice pursuant to section 57(3) of the Act.
10. In compliance with section 56(4) of the Act, notification of this application was sent to the Commissioner of Police, the Department of Health and the Victoria Daly Regional Council.
11. Although not a prescribed requirement, notification was also provided to the Northern Territory Fire and Rescue Service as is customary.
12. On 31 May 2024, the Department of Health advised they had no adverse comments in relation to this matter.
13. No other stakeholder has provided a response to the notification.
14. Accordingly, no adverse comments or objections were received in relation to this application.

APPLICATION

15. The applicant has provided a comprehensive suite of materials in support of the applications including all materials prescribed by the Act.
16. The authority sought by the applicant is in pursuance of section 47(1)(l) of the Act.

17. The determination of applications under section 60(1) of the Act has been conditionally delegated by the Liquor Commission to the Director of Liquor Licensing. The limitation including the authorities which may be granted under delegation includes a **community club authority**.
18. The prescribed hours of trade under a community club authority are "...the hours specified in the authority issued to the licensee". This provides a very wide discretion to the determiner in relation to the hours of trade.
19. The applicant has sought the following hours of trade:
- | | |
|-----------|----------------------------|
| Monday | 17:00 hours to 20:00 hours |
| Tuesday | 17:00 hours to 20:00 hours |
| Wednesday | 17:00 hours to 20:00 hours |
| Thursday | 17:00 hours to 20:00 hours |
| Friday | 17:00 hours to 23:59 hours |
| Saturday | 12:00 hours to 23:59 hours |
| Sunday | 12:00 hours to 23:59 hours |
20. The application as well as the *Liquor Regulations 2019* (the Regulations) are silent in relation to trade on Good Friday and Christmas Day. The wide discretion given in the Regulations would allow for trade on these days. The applicant has made no mention of these days specifically, only the general days and hours of trade.
21. Given the members of the Association are residents of the station, which is situated in a remote location it is reasonable to suggest they will be at the premises during the holiday periods. Accordingly, it is appropriate to not place prohibitions on the sale of liquor on these traditional days.
22. It is noted the applicant will not be providing meals, only snacks and minimal food offers unless for specific events.

DISCLOSURE OF PERSONS

23. Section 54 of the Act requires the applicant to make an affidavit disclosing each person who, if the licence is issued, may:
- (a) be able to influence the applicant; or
 - (b) expect a direct or indirect benefit from the applicant.
24. I am satisfied by the materials provided by the applicant in relation to this requirement.

RESULTS OF INVESTIGATION

25. Section 58 of the Act enables the Director to conduct an investigation into an application as considered appropriate. No materials have been provided or discovered to indicate there are any adverse matters in relation to this application.
26. The proposed premises are intended to be a small and discrete staff social club for employees of the Northern Livestock Company Pty Ltd, and their bona-fide guests for social and family-oriented activities.
27. The station is extremely remote, located approximately 650 km south west of Katherine, and only 100 km from the Western Australia border.
28. The nearest licensed premises is Top Springs Hotel, approximately 300 km away and it is the stated intention of the applicant to provide a safe location for staff to socialise without the risk of travelling such distances, particularly at night.
29. This will also prevent the risk of drink driving, and animal strike in such a remote location.
30. The licence will allow the staff to be well-supervised and build a sense of community and camaraderie. It also boosts morale and provides support to staff in such a remote location.
31. In my experience poor behaviour or the like is not tolerated on these stations, and generally any person who does not behave in an appropriate manner is quickly removed.
32. Having spent a considerable time in this region, and also on remote stations I am cognisant of the benefit such a social club provides to the staff.

FINANCIAL STABILITY

33. The applicant has provided materials sufficient to satisfy me in relation to their financial position.
34. I am satisfied they meet the requirements in relation to financial stability.

FIT AND PROPER PERSON

35. Section 59(3)(g)(i) of the Act requires the decision maker to consider whether the applicant and as the applicant is a body corporate, their nominated licensee, are fit and proper to hold a licence.
36. Mr Joshua Castle is the Station Asset Manager, and has been appointed as the proposed nominee.
37. Mr Castle has provided identification and probity documents, including character references, along with a clear criminal history check and work history.

38. The applicant is an incorporated association under the *Associations Act 2003* (NT) and is at this time, compliant with their obligations under that Act.
39. Having considered the materials provided I am satisfied the applicant and proposed nominee are fit and proper persons to be granted the authority and act as nominee.

PUBLIC INTEREST AND COMMUNITY IMPACT

40. Section 49 of the Act requires the decision maker to be satisfied the applicant is fit and proper, the licence or authority is in the public interest and will not have a significant adverse impact on the community.
41. The first branch of the requirement has already been addressed.
42. It remains to consider whether the application is in the public interest, to do so consideration must be given to the objectives prescribed in section 49(2) of the Act which include:
 - a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - b. ensuring liquor is to be sold, supplied, served and consumed on or in licensed premises in a responsible manner;
 - c. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
 - d. protecting the safety, health and welfare of people who use licensed premises;
 - e. increasing cultural, recreational, employment or tourism benefits for the local community area;
 - f. promoting compliance with this Act and other relevant laws of the Territory;
 - g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
 - h. preventing the giving of credit in sales of liquor to people;
 - i. preventing the practices that encourage irresponsible drinking;
 - j. reducing or limiting increases in anti-social behaviour.
43. In determining whether there would be a "significant adverse impact on the community" section 49(3) of the Act requires the Commission "must consider the following":
 - a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;

- b. the geographic area that would be affected;
 - c. the risk of harm from the excessive or inappropriate consumption of liquor;
 - d. the people or community who would be affected;
 - e. the effect on culture, recreation, employment and tourism;
 - f. the effect on social amenities and public health;
 - g. the ratio of existing liquor licences and authorities in the community to the population of the community;
 - h. the effect of the volume of liquor sales on the community;
 - i. the community impact assessment guidelines issued under section 50;
 - j. any other matter prescribed by regulation.
44. The Act is clear in that the applicant bears the onus of satisfying the decision maker of the relevant matters, irrespective of whether no objections were received as is the case in this matter.
45. In relation to the issue of the community impact and public interest, those matters have previously been published under section 6A of the *Liquor Act 1978* and in force immediately before the commencement of the *Liquor Act 2019* are taken to be community impact assessment guidelines issued under section 50 of the Act.
46. Those matters remain as previously published in numerous decisions by the Liquor Commission.

CONSIDERATION CRITERIA

47. With regards to the matters raised in section 49(2) of the Act, I note the following:
- a. minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised:

I am satisfied the restrictive nature of membership or invitation being the only means of admission to the premises will minimise the potential for harm.
 - b. ensuring liquor is to be sold, supplied, served and consumed, on or in licensed premises in a responsible manner:

Having considered all the material, it is unlikely any liquor sold, supplied, served and consumed will be done so in an irresponsible manner. The nature of the business model and limited hours of sale would not support the excessive consumption of liquor.

- c. safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises:

The proposed licensed premises are not large and unlikely to attract large numbers of patrons. It is located within the Limbunya Station and the only nearby residents are staff or invited guests of the station.

- d. protecting the safety, health and welfare of people who use licensed premises:

The policies developed by the applicant, and the nature of the business model applicable to the premises are considered to adequately protect the safety, health and welfare of people who are likely to use the licensed premises during its hours of operation.

- e. increasing cultural, recreational, employment or tourism benefits for the local community area:

The business model highlights the recreational and social aspect of this consideration. The club is intended for the use of members and bona fide guests of the station for events, operations and social activities. It is not a public bar for the general public to frequent.

- f. promoting compliance with this Act and other relevant laws of the Territory:

There are no materials provided which would suggest the applicant will not comply with the Act and any other relevant laws. As written earlier, they are compliant with their obligations under the *Associations Act 2003*.

- g. ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business:

I am satisfied the applicant will appropriately manage and supervise service staff.

- h. preventing the giving of credit in sales of liquor to people:

No issues have been raised to suggest there is any concern in relation to this objective.

- i. preventing the practices that encourage irresponsible drinking:

No issues have been raised to suggest there is any concern in relation to this objective.

- j. reducing or limiting increases in anti-social behaviour:

No issues have been raised to suggest there is any concern in relation to this objective.

48. Turning to the matters under section 49(3):

- a. the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school:

There are no materials to suggest there is a significant risk of undue offence, annoyance, disturbance or inconvenience likely to be caused by the granting of this authority. The premises are extremely remote. The only nearby residents will be members of the Association, and more likely than not, socialising at the licensed premises.

- b. the geographic area that would be affected:

The proposed premises are in on a remote cattle station situated approximately 600 km south west of Katherine and 100 km from the West Australian border. The nearest licensed premises is Top Springs Hotel, some 300 km away.

- c. the risk of harm from the excessive or inappropriate consumption of liquor:

As previously indicated, there is no materials to suggest there will be excessive consumption of liquor.

- d. the people or community who would be affected:

Given the nature of the operation it is unlikely there will be adverse impact on the community by the granting of this authority.

- e. the effect on culture, recreation, employment and tourism:

There is nothing to suggest there will be an adverse effect from the conduct of this licence.

- f. the effect on social amenities and public health:

It is unlikely there will be any significant adverse impact on the social amenities and public health by the granting of this authority to the applicant.

- g. the ratio of existing liquor licences and authorities in the community to the population of the community:

This will be the only licensed premises for 300 km.

- h. the effect of the volume of liquor sales on the community:

The minimal and restricted nature of the operation is unlikely to significantly increase the volume of liquor sales in the area.

- i. the community impact assessment guidelines issued under section 50:

These have been considered and referred to earlier in this matter.

49. Section 85 of the Act has previously required a term of the licence to be fixed and it is to remain force until it expires or is abandoned, surrendered or otherwise dealt with.
50. This section has since been amended to simply hold a licence to remain in force until it expires or is abandoned, surrendered, suspended or cancelled.
51. The proposed licensed premises is a rectangular area of 17 m x 37 m including a bar and storeroom, grassed areas and tables and dining facilities.
52. Having regards to the foregoing, I am satisfied that the granting of the authority as sought is in the public interest and will not have an adverse effect on the community.

DECISION

53. On the basis of the information provided in relation to this matter and with reference to sections 48 and 60 of the Act, I have determined to issue the licence with a **community club authority** to Limbunya Recreation Association Incorporated (IA3775), for the premises situated at Limbunya Station, 8450 Buntine Highway, Buchanan.
54. The conditions applicable to the licence are in accordance with the regulations prescribed for this authority as well as the following:
 - a) The hours of trade are:

Monday	17:00 hours to 20:00 hours
Tuesday	17:00 hours to 20:00 hours
Wednesday	17:00 hours to 20:00 hours
Thursday	17:00 hours to 20:00 hours
Friday	17:00 hours to 23:59 hours
Saturday	12:00 hours to 23:59 hours
Sunday	12:00 hours to 23:59 hours
 - b) At all times the premises are open for trade snacks and other food must be available for purchase.
 - c) The sale of liquor is restricted to members of the Association and their bona-fide guests. The sale of liquor to the general public is strictly prohibited.
 - d) The licensee is to maintain a register and members must sign-in along with their guests when entering the premises.
 - e) All liquor must be opened at the time of sale and no takeaway sales are permitted.

REVIEW OF DECISION

55. Section 27 of the Act provides for the applicant or a person who made a submission the subject of the decision, to seek a review of a decision made by the delegate of the Director.
56. The Director delegated the determination of applications for a **community club authority** made under section 52 of the Act by instrument to persons specified in Schedule 2 of the instrument. This decision was made by a person referred to in that schedule.
57. An application for review must be lodged with the Director within 28 days after written notice of the decision is given to the person and must be in the form approved by the Director, stating the grounds for the review and the facts relied on to establish the grounds.
58. Accordingly, the affected persons in relation to this decision are, Limbunya recreation Association Incorporated and the Department of Health.



Mark Wood
Southern Region Manager - Licensing and Compliance
Delegate of the Director of Liquor Licensing

18 June 2024