

Delegate of the Director of Liquor Licensing

Decision Notice

MATTER:	Complaint pursuant to section 160 of the <i>Liquor Act 2019</i>
LICENSEE:	LBR (NT) Pty Ltd
PREMISES:	De Lago Resort on Lake Bennett
LICENCE:	80315760
LEGISLATION:	Part 7, Division 3 of the <i>Liquor Act 2019</i>
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	15 May 2025

DECISION

1. For the reasons set out below, as a delegate of the Director of Liquor Licensing (the Director), I uphold a complaint against the licensee LBR (NT) Pty Ltd (the licensee) for conduct contrary to section 79(3) of the *Liquor Act 2019* (the Act) being

Allegation 1

Notice of Bankruptcy, etc.

A licensee, must in the approved form, notify the Director if the licensee:

- (c) Compounds with the licensee's creditors or makes an assignment of the licensee's property, interest or remuneration for the benefit of the licensee's creditors.

2. Upon Completion of the investigation into the complaint, I am satisfied that the following action should be taken:

- a. Pursuant to section 163(1)(a)(ii) of the Act take no further action

3. For the reasons set out below, as a delegate of the Director of Liquor Licensing (the Director), I uphold a complaint against LBR (NT) Pty Ltd (the licensee) for conduct contrary to section 90 the *Liquor Act 2019* (the Act) being:

Allegation 2

Proper Maintenance

A licensee must keep the licensed premises and all machinery, equipment, fittings furniture furnishings and any other items use in connection with operations under the licence maintained in good order and repair and in a safe and reasonably clean condition.

4. Upon Completion of the investigation into the complaint, I am satisfied that the following action should be taken:

- a. Pursuant to section 163(1)(a)(ii) of the Act take no further action

5. For the reasons set out below, as a delegate of the Director of Liquor Licensing (the Director), I uphold a complaint against LBR (NT) Pty Ltd (the licensee) for conduct contrary to section 92 of the *Liquor Act 2019* (the Act) being:

Allegation 3

Public Health Conditions

A licensee must comply with any public health notice issued to the licensee or in relation to the licensed premises by the Chief Health Officer under the *Public and Environmental Health Act 2011*.

6. Upon completion of the investigation into the complaint, I am satisfied that the following action should be taken.

- a. Pursuant to section 163(1)(a)(ii) of the Act take no further action

7. For the reasons set out below, as a delegate of the Director of Liquor Licensing (the Director), I uphold a complaint against LBR (NT) Pty Ltd (the licensee) for conduct contrary to section 160(1)(g)(i) of the *Liquor Act 2019* (the Act) being

Allegation 4

The licenced premises are no longer being used:

- (i) For the sale, supply, service or consumption of liquor.

8. Upon completion of the investigation into the complaint, I am satisfied that the following action should be taken.

- a. Pursuant to section 163(1)(a)(ii) of the Act, take no further action

REASONS

Background

9. LBR (NT) Pty Ltd (the licensee) is the holder of liquor licence 80104092 for premises known as "De Lago Resort on Lake Bennett", situated at 769 Chinner Road, NT, 0822 (the premises). The nominee of the premises was Andrew Gunn.
10. The LBR (NT) Pty Ltd went into voluntary administration on 29 May 2024. ASIC appointed Daniel Cantone of Oracle Insolvency Services as the administrator.
11. On 21 June 2024, Jenny Kimber, Principal Licensing Officer advised that De Lago Resort had "been shut down by the NT Health".
12. On 19 August 2024 a complaint was lodged with the Director pursuant to section 160 of the Act, the grounds for the complaint being pursuant to subsection 79(3), 90, 92 and 160(1)(g)(i).

13. The complaint was in the approved form and specified the grounds for the complaint, was signed and lodged with the Director in compliance with the requirements of section 160(2) of the Act.
14. A delegate of the Director accepted the Complaint on 19 August 2024 within the 14 days prescribed period, and the administrator was given notice of the substance of the complaint in compliance with the section 162(1) of the Act within the prescribed period, and invited them to provide a response to the complaint.
15. On 6 September 2024, Daniel Cantone (administrator) wrote to the Director in relation to the complaint, stating the “Liquidator does not propose to provide any response regarding the allegations raised and will move towards finalising the liquidation in the near future”.

COMPLIANCE HISTORY

16. Nil compliance issues have been recorded against the Licensee.

ACTION AFTER INVESTIGATION

17. On completion of the investigation as a delegate of the Director I may do any of the following:
 - Take no further action if satisfied that there are no grounds or evidence to justify taking further action, or the matter does not warrant taking further action’
 - Give the licensee a formal warning in relation to the complaint;
 - Mediate the complaint;
 - Issue an infringement notice in relation to the complaint;
 - Enter into an enforceable undertaking with the licensee; or refer the matter to the Commission for disciplinary action.
18. Those actions listed above notwithstanding sections 79(3), 90, 92, and 160(1)(g)(i) of the Act does not have a prescribed penalty provision, nor is it a matter for which an infringement notice may be issued pursuant to schedule 6 of the NT Liquor Regulations (the Regulations).
19. It necessarily follows, those actions prescribed in section 163(1) of the Act are therefore limited in determining this matter.
20. On considering the materials, it is reasonable to believe all four allegations may be taken to fall within the lower scale of seriousness as follows.

Allegation 1

21. It is noted that LBR (NT) Ltd Pty leased the premises in December 2020, the transfer of the liquor licence occurred in May 2021 and the previous Licensee had been issued with a Public Health Order in 2018. Licensing NT’s records also indicated that the premises had not operated for a long period of time prior to the transfer of the liquor licence.
22. Prior to the transfer being finalised, the Manager from Environmental Health contacted Licensing NT advising the Department was continuing to work with the Applicant on the

premises and they are satisfied with the continual progress being made. It was further indicated that this should be progressing in the near future.

23. It appears that the ongoing work required and restrictions to fully operate the premises in order to comply with the Public and Environmental Health Act 2011 had a devastating impact on the businesses financial resources and potential to earn an income, resulting in LBR (NT) Pty Ltd going into voluntary liquidation.

Allegation 2

24. Due to the financial burden of trying to comply with the Public and Environment Act 2011, I accept that, the Licensee was unable to properly maintain the premises.

Allegation 3

25. Due to the ongoing financial costs and not being able to meet the required timeframes of a Public Health notice, and Order the Licensee opted to go into voluntary liquidation.

Allegation 4

26. Due to the restrictions placed on the Licensee under the Public and Environmental Health Act 2011, the premises was unable to operate and generate and income and pay its overheads.
27. I am aware that the lease agreement signed between the Lesser and Lessee states under clause 16.7, at the end or sooner determination of the term hereby created to complete all such applications, deeds, documents and papers and do all such acts, matters and things as may be necessary to transfer the licence or licenses in respect of the Premises the Lessor or as the Lessor shall otherwise in writing direct.
28. In November 2024, the Lessor submitted paperwork for the transfer of liquor licence however, as result of the application being incomplete, it was not accepted by Licensing NT and returned to the Lessor.
29. As at 23 May 2025, the premises is still subject to a Public Health Order under section 32 of the Public and Environmental Health Act 2011.

REVIEW OF DECISION

30. As a decision of a delegate of the Director, this notice must state the decision and reasons for it, as well as advise an affected person of their right to seek a review of the decision and the manner in which it may be done.
31. Section 27 of the Act provides for a licensee or the complainant to seek a review of the decision within 28 days after the written notice is given to the person, and the application must be in the approved form and state the grounds for the review, and the facts relied upon to establish the grounds.

32. Accordingly, the affected persons in relation to this decision are Daniel Cantone, Oracle Insolvency Services as the administrator LBR (NT) Pty Ltd.



Bernard Kulda
Delegate of the Director of Liquor Licensing

Date: 23 May 2025