

**Liquor Commission of Western Australia  
(*Liquor Control Act 1988*)**

**Applicant:** Paul Spittle and Stephen Bianchini  
(*self-represented*)

**Respondent:** Waikiki Hotel (WA) Pty Ltd  
(*represented by Ms Jessica Patterson of Jessica Patterson Law & Consultancy Pty Ltd*)

**Intervener:** Director of Liquor Licensing  
(*represented by Mr Dylan Hawkey of the Department of Local Government, Industry Regulation and Safety*)

**Commission:** Ms Emma Power (Chairperson)  
Mr Jared Brotherston (Member)  
Mrs Pamela Hass (Member)

**Matter:** Application pursuant to section 25 of the *Liquor Control Act 1988* (the “Act”) for review of the decision of the Director of Liquor Licensing to conditionally grant a tavern restricted licence pursuant to sections 41, 62 and 68 of the Act in respect of premises located at 434 Safety Bay Road, Safety Bay, to be known as ‘Waikiki Beach Hotel’.

**Date of Hearing:** On papers

**Date of Determination:** 4 November 2025

**Determination:**

1. The decision of the Director of Liquor Licensing dated 20 January 2025 to conditionally grant the Respondent's application for a tavern restricted licence is affirmed.
2. The application for review is dismissed.
3. There is no order as to costs.

**Authorities referred to in determination:**

- *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208
- *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366
- *Woolworths Ltd v Director of Liquor Licensing* [2013] 45 WAR 446
- *Kapinkoff Nominees Pty Ltd v Director of Liquor Licensing* [2010] WASC 345
- *OSB Operations Pty Ltd v Jansen & Anor* [2006] WASCA 270

## Introduction

1. This is an application pursuant to section 25 of the *Liquor Control Act 1988* (WA) (the **Act**) for review of a decision made by a delegate of the Director of Liquor Licensing (the **Director**) on 20 January 2025.
2. By that decision, the Director conditionally granted the Respondent's application for a tavern restricted licence in respect of premises to be known as 'Waikiki Beach Hotel' situated at 434 Safety Bay Road, Safety Bay (the **Decision**).
3. The Applicants, Mr Paul Spittle and Mr Stephen Bianchini, had lodged objections to the Respondent's application and now seek a review of the Decision.

## Background

4. On 29 April 2024, the Respondent applied for the conditional grant of a tavern restricted licence pursuant to sections 41, 62 and 68 of the Act.
5. The proposed premises comprise a purpose-built, contemporary single-storey building with a total floor area of approximately 1,500m<sup>2</sup> and an intended patron capacity of 1,000 persons.
6. The site has a history as the former Waikiki Hotel, which operated for approximately 50 years until the early 2000s. Since its closure approximately two decades ago, the site has remained vacant.
7. The Respondent proposes standard trading hours permitted under section 98(1) of the Act: 6am to midnight Monday to Saturday, and 10am to midnight on Sunday, with variations for public holidays.
8. Both Applicants lodged objections pursuant to section 73 of the Act. On 10 February 2025, they jointly applied for review of the Decision pursuant to section 25(1) of the Act.

## Legislative Framework

9. The Commission's task is to undertake a review of the Decision on its merits and by way of rehearing. The Commission is not constrained by the need to find an error in the primary decision.
10. In determining this review, the Commission may affirm, vary or quash the Decision, and may make any incidental or ancillary order.
11. Pursuant to section 16(7) of the Act, the Commission is not bound by the rules of evidence and is to act according to equity, good conscience, and the substantial merits of the case, with as little formality and technicality as is practicable.
12. The central question for determination is whether the grant of the licence is in the public interest, as required by sections 33 and 38 of the Act.

13. Section 38(2) of the Act places the onus on the Respondent to satisfy the licensing authority that granting the application is in the public interest. This is a substantive legal burden requiring compelling evidence demonstrating that the proposed licence will genuinely serve the broader community's welfare.
14. Section 5 of the Act establishes the objects that must guide licensing decisions. The primary objects include:
  - a) regulating the sale, supply and consumption of liquor (s. 5(1)(a));
  - b) minimising harm or ill-health caused to people due to the use of liquor (s. 5(1)(b)); and
  - c) catering for the requirements of consumers for liquor and related services, and facilitating the use and development of licensed facilities, reflecting the diversity of consumer requirements (s. 5(1)(c)).
15. Section 5(3) provides that the primary objects take precedence over the secondary objects in section 5(2), but there is no hierarchy within the primary objects themselves. When tension arises between primary objects, the Commission must undertake a weighing and balancing exercise.
16. Section 38(4) of the Act sets out permissive matters the Commission may consider when determining whether an application is in the public interest, including:
  - a) whether harm or ill-health might be caused to people, or any group of people, due to the use of liquor (s. 38(4)(a));
  - b) whether the amenity, quiet or good order of the locality might be lessened (s. 38(4)(b));
  - c) whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity, or to persons travelling to or from places of public worship, hospitals or schools (s. 38(4)(c)); and
  - d) any effect the grant might have in relation to tourism, or community or cultural matters (s. 38(4)(ca)).
17. Pursuant to section 74(1) of the Act, an objection may be made to an application only on the following grounds:
  - a) that the grant of the application would not be in the public interest; or
  - b) that the grant of the application would cause undue harm or ill-health to people, or any group of people, due to the use of liquor; or
  - c) that if the application were granted -
    - (i) undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons in or travelling to or from an existing or proposed place of public worship, hospital or school, would be likely to occur; or

- (ii) the amenity, quiet or good order of the locality in which the premises or proposed premises are, or are to be, situated would in some other manner be lessened; or
  - d) that the grant of the application would otherwise be contrary to the Act.
18. The objectors (the Applicants) bear the onus of establishing the validity of their respective objections pursuant to section 73(10) of the Act.

## **Submissions**

### **Applicants' Submissions**

19. The Applicants filed extensive submissions opposing the grant of the licence. While the Commission has carefully reviewed all materials filed by the Applicants, it is not practicable to address every point raised in this determination. The Commission acknowledges the helpful summary of the Applicants' submissions provided by Counsel for the Respondent and Counsel for the Intervener, which has assisted the Commission in identifying the key issues for determination.
20. The Applicants' principal grounds of opposition can be summarised as follows:
- a) The Decision fails to properly apply the public interest test, particularly the primacy of harm minimisation under section 5(1)(b) of the Act;
  - b) The locality exhibits socioeconomic vulnerabilities that increase susceptibility to alcohol-related harm;
  - c) The proposed harm minimisation strategies are inadequate for a venue of this scale and capacity;
  - d) The grant would lessen the amenity, quiet and good order of Safety Bay, which is characterised as a tranquil, family-oriented coastal environment;
  - e) The close proximity to residential properties (40m), a proposed daycare centre (70m), schools, places of worship and medical facilities presents unacceptable risks of offence, annoyance, disturbance and inconvenience;
  - f) The 1,000-patron capacity is inappropriate for the residential setting and will generate significant traffic, parking and noise impacts;
  - g) There is an oversupply of licensed premises in the locality, with 28-29 active liquor licences already operating;
  - h) The consumer survey evidence is flawed and insufficient to demonstrate genuine consumer need;
  - i) The grant would be contrary to proper development of the liquor industry by introducing additional supply in an already saturated market; and

- j) The exceptional amenity values of Safety Bay's pristine coastal environment would be irreversibly compromised.
- 21. The Applicants submitted that the Decision places insufficient weight on vulnerable populations including children, elderly residents, and people with disabilities. They contended that the potential for harm outweighs any purported benefits.
- 22. The Applicants argued that the character of Safety Bay as an established, tranquil residential coastal area with no comparable licensed premises nearby means that a 1,000-capacity tavern would fundamentally alter community expectations and the established peaceful character.
- 23. The Applicants raised concerns about inadequate parking provision, asserting that the parking assessment fails to satisfy City of Rockingham requirements and that overflow parking would impact beach access and residential streets.
- 24. The Applicants questioned the reliability and methodology of the Respondent's consumer surveys, noting that only 104 of 244 submissions (42%) were eligible, representing just 0.4% of the locality population.

### **Respondent's Submissions**

- 25. The Respondent submitted that it has discharged its onus under section 38(2) of the Act and that the grant is in the public interest for the following reasons:
  - a) The locality, being a 3km radius around the proposed site housing approximately 24,500 people, with approximately 15,000 vehicles passing daily, has no licensed premises within 500 metres and the nearest tavern is over 2km away;
  - b) The site has a 50-year history as a hotel/tavern, and the City of Rockingham's planning policy expressly requires licensed premises on this site;
  - c) Consumer requirements have been demonstrated through surveys showing significant support (243 persons expressing support) and letters from residents and community members;
  - d) The Respondent has proposed comprehensive harm minimisation measures including special trading conditions, CCTV, food service requirements, responsible service of alcohol training, and measures to prevent secondary supply to minors;
  - e) The proposed premises will be professionally managed by experienced operators with exemplary compliance records;
  - f) The development has received all necessary planning approvals from the City of Rockingham and no objections were received from the Chief Health Officer, WA Police, or any other government authority;
  - g) The grant will advance multiple objects of the Act, including catering for consumer requirements, facilitating proper development of the liquor industry, and contributing to tourism and community cultural matters;

- h) Only two persons objected from a locality of approximately 24,500 residents, and no objections were lodged by any churches, schools, medical facilities, or other community organisations;
  - i) The absence of evidence supporting the objections, and the speculative and unsubstantiated nature of the concerns raised; and
  - j) Licensed premises of this kind can reasonably be expected in modern, built-up residential districts within the metropolitan area.
26. The Respondent emphasised that the proposed venue is described as an "upmarket community and neighbourhood-focused, family-friendly dining, drinking, socialising and entertaining venue" with a dedicated children's play area and strong food service component.
27. The Respondent submitted that the Applicants have not discharged their burden under section 73(10) of the Act of establishing the validity of their objections, and that even if any valid ground were established, the positive outcomes from granting the licence outweigh any potential negatives.
28. The Respondent noted that it is ready to proceed immediately with development and that all necessary infrastructure and approvals are in place.

### **Intervener's Submissions**

29. The Director submitted that it is open to the Commission to affirm the Decision on the following basis:
- a) The onus rests on the Respondent to demonstrate that the grant is in the public interest, and the Respondent has presented a detailed and professional application that discharges this obligation;
  - b) Applying the test established in *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208:
    - (i) The existing level of harm in the locality is lower than the State average based on demographic data;
    - (ii) The likely degree of harm from granting the licence will be low, given appropriate harm minimisation measures and licence conditions;
    - (iii) When compared against existing harm, the likely harm is not unacceptable; and
    - (iv) In the balancing exercise, the positive factors associated with the grant outweigh potential harms;
  - c) The locality's demographic profile (lower proportion of persons under 19, lower proportion of Aboriginal and Torres Strait Islander peoples, higher proportion of retirees with home ownership) suggests lower risk than the State average;

- d) The harm minimisation measures proposed, including conditions accepted from the Chief Health Officer, management practices, CCTV, food service requirements, and restrictions on promotions encouraging excessive consumption, adequately address potential risks;
  - e) The Applicants have not established the validity of their objections, with concerns being largely speculative, unsubstantiated, and not corroborated by evidence or any other party;
  - f) The Respondent's consumer evidence, while criticised, is appropriate for this jurisdiction and demonstrates consumer requirements - there is no minimum threshold required and the surveys constitute a representative sample;
  - g) Planning approval and the City of Rockingham's clear policy requiring licensed premises at this site are significant factors, though not determinative;
  - h) The amenity concerns raised are adequately addressed by the Respondent's proposed manner of trade and conditions; and
  - i) The grant advances the objects of the Act, including catering for consumer requirements (s. 5(1)(c)) and facilitating diverse licensed facilities (s. 5(2)(a)).
30. The Director noted that while references to the AUKUS project appear in the materials, the Director no longer relies on this aspect as population growth is not sufficiently certain.
31. The Director submitted that notorious facts support the proposition that licensed premises of this kind can reasonably be expected in modern, built-up residential districts within the metropolitan area.
32. The Director addressed specific points raised by the Applicants:
- a) The Applicants' assertion that harm minimisation is paramount misconstrues section 5 - there is no hierarchy within the primary objects, and all must be considered in a balancing exercise;
  - b) Weight given to vulnerable populations is a matter for the Commission's discretion, and harm minimisation measures address these concerns;
  - c) Comparisons with other classes of licence (restaurants, liquor stores, etc.) are of minimal relevance - the two other taverns in the locality (Shoalwater Tavern and Warnbro Tavern) are more relevant comparators, and neither objected;
  - d) The lack of evidence of widespread community opposition, despite public advertising, is significant; and
  - e) The precautionary principle does not apply to this decision as there is no threat of serious or irreversible environmental damage.



## **The Commission's Consideration**

### **Material Before the Commission**

33. The Commission has carefully reviewed all materials that were before the Director when making the Decision, as contained in the Index of Documents issued on 30 June 2025, as well as all primary and responsive submissions filed by the parties in these appeal proceedings.
34. The Commission acknowledges that the Applicants' submissions are extensive and exceed the page limits set by the Commission's Orders. While we have reviewed all materials, including submissions spanning multiple documents and in excess of 100 pages, it is not practicable or necessary to address every point raised. The fact the Commission may not have referred to a specific submission or piece of evidence does not mean it has not been taken into account.
35. This determination focuses on the key issues that are material to the decision.
36. We note and appreciate the helpful summaries and analysis of the Applicants' submissions provided by Counsel for the Respondent and Counsel for the Intervener, which have assisted the Commission in navigating the voluminous materials and identifying the central issues for determination.
37. We also note that some material contained in the Applicants' primary submissions was not before the Director when making the Decision and therefore, pursuant to section 25(2c) of the Act, has not been considered by the Commission in this review.

### **The Locality**

38. The Commission accepts that the relevant locality is properly defined as approximately a 3km radius around the proposed premises. This accords with the principles in *Liquorland (Australia) Pty Ltd v Director of Liquor Licensing* [2021] WASC 366, which emphasise that the locality denotes the geographical area surrounding and relatively close to the proposed site, being the neighbourhood of the site.
39. There has been no submission that the adoption of this locality would be inappropriate.
40. The locality is within the metropolitan area and comprises modern housing and infrastructure. The site itself is adjacent to a BP service station and forms part of a larger mixed-use commercial development.
41. The locality houses approximately 24,500 people and experiences significant daily vehicular traffic (approximately 15,000 vehicles passing daily). It is an established coastal residential area with a mix of housing types, recreational facilities, and community infrastructure.
42. The Commission notes that it is not proposed that packaged liquor be sold from the premises and the conditions on the licence expressly prohibit packaged liquor for off venue consumption from being sold from the premises.

43. As such, the considerations of section 36B of the Act does not form a part of the Commission's considerations for this decision.

### **The Onus and Standard of Proof**

44. The Respondent bears the onus of satisfying the Commission that the grant of the licence is in the public interest. The standard of proof is the balance of probabilities.
45. The Applicants (as objectors) bear the onus of establishing the validity of their respective objections pursuant to section 73(10) of the Act.
46. The Commission is not bound by the rules of evidence and may act on materials which have rational probative force. The task of assessing consumer requirements invites inferential reasoning and consideration of the collective force of the evidence.

### **Consumer Requirements**

47. The evidence before the Commission includes consumer surveys and letters of support demonstrating that a significant number of people support the establishment of the Waikiki Beach Hotel.
48. While the Applicants criticised the methodology and statistical reliability of the consumer surveys, the Commission notes that:
- a) There is no minimum threshold or statistical requirement prescribed by the Act or established by case law for demonstrating consumer requirements;
  - b) The surveys and supporting letters provide probative evidence of consumer demand, and no contrary or "anti-need" evidence has been presented;
  - c) The collective force of the evidence, including surveys showing 243 persons expressing support, letters from community members, and the absence of any licensed premises within 500 metres, supports the existence of consumer requirements;
  - d) The Court of Appeal in *Woolworths Ltd v Director of Liquor Licensing* [2013] 45 WAR 446 held that where there is evidence supporting a proposition and no evidence to the contrary, the licensing authority is obliged to find in favour of the proposition supported by evidence; and
  - e) The Commission may also have regard to notorious facts, including that licensed premises of this kind are commonly found in and serve modern residential communities within the metropolitan area.
49. The Commission is satisfied on the balance of probabilities that there is a consumer requirement for licensed services of the kind proposed in the locality.
50. The fact that only two persons lodged objections from a locality of approximately 24,500 residents, and that no objections were received from schools, churches, medical facilities, community groups or government authorities, is a significant factor supporting the conclusion that the proposal is not contrary to community expectations or needs.

## Historical Context and Planning Policy

51. The site has a significant history as the location of the former Waikiki Hotel, which operated for approximately 50 years until the early 2000s. This history is relevant to community expectations about land use at this location.
52. The City of Rockingham has published a planning policy which expressly states that licensed premises must be included in any development of this site. While planning approval does not bind the Commission's decision, it is a relevant factor. As noted in *Kapinkoff Nominees Pty Ltd v Director of Liquor Licensing* [2010] WASC 345, the Commission has an independent statutory duty to consider public interest matters, but the local government's knowledge of local factors and planning considerations are entitled to weight.
53. Section 40 of the Act supports giving consideration to planning approvals and local government policy.

## Minimisation of Harm and Ill-Health

54. The Commission has considered the potential for harm or ill-health arising from the grant of the licence, having regard to the framework established in *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208.
55. **Existing level of harm:** The evidence includes demographic data from the Australian Bureau of Statistics which shows:
  - a) A lower proportion of persons under 18 years compared to the WA average;
  - b) A lower proportion of Aboriginal and Torres Strait Islander peoples compared to the WA average;
  - c) A higher proportion of retirees and home ownership; and
  - d) Lower median incomes than the WA average, though this is offset by high rates of home ownership.
56. While the Applicants characterised the locality as socioeconomically disadvantaged, the evidence presents a mixed picture. The Director found that the main demographic consists of middle-aged people and retirees.
57. On balance, the Commission finds that the existing level of alcohol-related harm in the locality is no higher than, and likely lower than, the WA average.
58. **Likely degree of harm from the grant:** The Commission has considered:
  - a) The harm minimisation measures proposed by the Respondent, including:
    - (i) Conditions proposed by and agreed with the Chief Health Officer;
    - (ii) CCTV surveillance systems;

- (iii) Food availability during trading hours;
  - (iv) Responsible service of alcohol training for all staff;
  - (v) Monitoring of patron consumption and intervention protocols;
  - (vi) No promotions designed to encourage excessive consumption;
  - (vii) A dedicated children's play area with measures to separate children from direct exposure to liquor service areas; and
  - (viii) Management by experienced operators with exemplary compliance records;
- b) The conditions imposed on the licence by the Director, which include specific measures to address amenity, noise and anti-social behaviour issues;
  - c) The fact that packaged liquor will not be sold for consumption off the licensed premises;
  - d) The experience and track record of the Respondent's directors in operating compliant licensed premises; and
  - e) The ongoing regulatory oversight and enforcement mechanisms available under the Act, including section 117 complaints and section 95 proceedings if issues arise.
59. The Commission accepts that premises of this kind present inherent risks. Section 5(1)(b) requires minimisation of harm, not absolute prevention. The question is whether the harm minimisation measures proposed are adequate for the particular circumstances.
60. While the Applicants asserted that the harm minimisation strategies are "generic" and inadequate for a 1,000-patron venue, the Commission notes that the measures proposed are specific to this application and have been assessed as appropriate by the Director and the Chief Health Officer.
61. The Commission finds that, with the proposed harm minimisation measures and licence conditions in place, the likely degree of harm from granting the licence will be adequately minimised and manageable.
62. **Comparison and balancing:** When assessing the likely degree of harm against the existing level of harm, and weighing all relevant factors, the Commission finds that the grant of the licence, subject to appropriate conditions, is not contrary to the objective of minimising harm and ill-health.
63. The Commission has considered the Applicants' concerns regarding vulnerable populations including children, elderly residents, and persons with disabilities. While these groups warrant careful consideration, their mere presence in the locality does not preclude the grant of a licence. As confirmed in *Carnegies*, the task is to make specific findings about the level of harm likely to result from the particular application, having regard to the actual premises, its proposed manner of operation, and the conditions that will apply.

64. The proximity to a proposed daycare centre (approximately 70m) and schools has been considered. However, no objection was received from any childcare provider, school, or educational authority. The conditions imposed include specific measures to minimise children's exposure to liquor consumption within the venue.
65. Traffic and parking impacts are addressed through the planning approval process.
66. The Applicants raised concerns about exposure of school children to the venue. The Commission notes that many licensed premises operate in proximity to schools throughout Western Australia without causing the harms suggested by the Applicants.
67. The Commission considers that the proper operation of the venue, subject to regulatory oversight, will minimise any such concerns.

### **Amenity, Quiet and Good Order**

68. The Commission has considered whether the amenity, quiet or good order of the locality might be lessened by the grant of the licence.
69. The Applicants characterised Safety Bay as a tranquil, pristine coastal environment and submitted that a 1,000-patron tavern is incompatible with the peaceful, family-friendly character of the area.
70. The Commission acknowledges that Safety Bay is a coastal residential suburb. However, the Commission must also have regard to:
  - a) The site's 50-year history as a hotel/tavern location;
  - b) The site's location on Safety Bay Road with significant daily traffic (approximately 15,000 vehicles);
  - c) The site's position within a mixed-use commercial development;
  - d) The absence of any comparable licensed premises within 500 metres, meaning the locality currently lacks hospitality services of this kind;
  - e) The City of Rockingham's planning policy expressly requiring licensed premises at this site; and
  - f) The fact that the locality is within the metropolitan area, not a remote or rural location isolated from commercial activity.
71. The concept of amenity is relative and depends on what might be reasonably expected by a resident in the specific locality, as established in *OSB Operations Pty Ltd v Jansen & Anor* [2006] WASCA 270.
72. Given the site's historical use, its location on a major road with substantial traffic, its position within a commercial development, and the local planning policy requiring licensed premises, the Commission finds that a well-managed licensed venue of this kind can reasonably be expected at this location and is not fundamentally incompatible with the locality's character.

73. The Applicants raised concerns about noise, traffic, parking, light pollution, and late-night disturbances. The Commission notes that:
- a) Noise impacts have been assessed through an environmental noise assessment prepared by acoustic experts;
  - b) Traffic and parking have been assessed and approved through the planning process by the City of Rockingham;
  - c) Trading hours are standard hours under the Act, not extended hours;
  - d) The licence conditions include specific measures to address noise and amenity concerns; and
  - e) Mechanisms exist under the Act (particularly section 117) for residents to raise complaints if issues arise during operation.
74. The Commission finds that, subject to compliance with licence conditions and planning approvals, the grant of the licence is unlikely to unduly lessen the amenity, quiet or good order of the locality.

#### **Offence, Annoyance, Disturbance or Inconvenience**

75. The Commission has considered whether the grant would cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons travelling to or from places of worship, hospitals or schools.
76. The test is whether such impacts would be "undue" - that is, something that would be regarded by a reasonable person as undue, having regard to all relevant circumstances and taking into account what might reasonably be expected from premises of the kind licensed.
77. The nearest residence is approximately 40 metres from the proposed premises. This proximity requires careful consideration. However, the Commission notes that:
- a) The premises are located on a major road with significant existing traffic;
  - b) The site has a long history as a licensed premises;
  - c) The design of the premises includes measures to direct noise away from residential properties;
  - d) Licence conditions address noise management; and
  - e) No objection was received from the nearest residents.
78. The Applicants identified multiple places of worship and medical facilities within the broader area. The Commission notes that:
- a) No objection was received from any church, place of worship, hospital, medical facility, or healthcare provider;

- b) The distances to these facilities range from 1.6km to 4km or more;
  - c) Traffic on public roads is inevitable in any metropolitan area; and
  - d) The grant of a licence at this location is unlikely to materially impact access to or use of such facilities.
79. Having regard to all circumstances, including the site's location, history, and the absence of objections from residents, businesses, community facilities or government authorities other than the two Applicants, the Commission finds that the grant is unlikely to cause undue offence, annoyance, disturbance or inconvenience.

### **Other Public Interest Considerations**

80. The Commission has considered other matters relevant to the public interest assessment.
81. The grant of the licence will advance several objects of the Act:
- a) It will cater for the requirements of consumers for liquor and related services (s. 5(1)(c));
  - b) It will facilitate the use and development of licensed facilities, reflecting diversity of consumer requirements (s. 5(1)(c) and s. 5(2)(a));
  - c) It may contribute positively to tourism and community and cultural matters (s. 38(4)(ca)); and
  - d) It will provide a community meeting place and hospitality venue for an area currently lacking such facilities.
82. The City of Rockingham's Economic Development Strategy specifically notes that development of this site would increase the area's attractiveness for tourism and become a significant drawcard for visitors.
83. The Commission notes the Respondent's submission that the venue will accommodate local community groups and clubs, providing them with a meeting and social venue.

### **Existing Licensed Premises**

84. The Applicants contended that there is an oversupply of licensed premises in the locality, citing up to 28-29 licensed premises within the broader area.
85. The Commission notes that:
- a) The relevant comparison should be with premises offering similar services - in this case, taverns;
  - b) There are no licensed premises within 500 metres of the proposed site;
  - c) The nearest tavern (Warnbro Tavern) is over 2.3km away;

- d) The fact that restaurants, clubs, and liquor stores exist in the broader area does not mean that consumer requirements for a neighbourhood tavern are met; and
  - e) Neither of the two other taverns in the locality lodged objections.
86. The Commission does not find that the grant of this licence would result in oversupply. Rather, it would address a gap in hospitality services within the immediate area.

### **Validity of the Objections**

87. The Applicants bear the onus under section 73(10) of the Act of establishing the validity of their objections.
88. The Commission has carefully considered all concerns raised by the Applicants and recognises that the Applicants feel strongly about the application. However, the Commission finds that:
- a) Much of the Applicants' case is speculative and not supported by objective evidence;
  - b) The concerns raised are not corroborated by any other residents, community organisations, government authorities or businesses;
  - c) The absence of objections from schools, childcare centres, churches, medical facilities, and nearby businesses is significant;
  - d) Many of the concerns raised (such as inevitable noise, disturbance, anti-social behaviour, and harm) are general assertions not specific to this application or supported by evidence about how this particular venue, operated by experienced licensees, subject to the relevant licence conditions and regulatory oversight, would cause such negative impacts;
  - e) The Applicants' concerns about parking and traffic have been addressed through the planning approval process; and
  - f) The harm minimisation measures and licence conditions adequately address the risks identified.
89. The Commission acknowledges the Applicants' genuine concerns about their local area. However, on the evidence before the Commission, the Applicants have not established that the grant of the licence would be contrary to the public interest.

### **The Commission's Discretion**

90. Even if the Commission were to find that a valid ground of objection had been established, the Commission retains discretion under section 33(2)(b) of the Act to grant a licence on any ground or for any reason it considers in the public interest.



91. Having regard to the collective force of all the evidence, the multiple factors favouring the grant, the measures in place to minimise risks, and the limited weight to be given to unsubstantiated concerns, the Commission would in any event exercise its discretion to affirm the Decision.

### **Balancing Exercise**

92. The Commission's task requires weighing and balancing all relevant considerations. This involves considering:
- a) The primary objects in section 5(1) of the Act, which do not have a hierarchy among themselves;
  - b) The secondary objects in section 5(2), which take second place to the primary objects but remain relevant;
  - c) The permissive considerations in section 38(4); and
  - d) All evidence and circumstances specific to this application.
93. On balance, the Commission finds that:
- a) Consumer requirements exist for licensed services at this location;
  - b) The grant will advance multiple objects of the Act;
  - c) Harm minimisation measures are appropriate and adequate;
  - d) The likelihood of unacceptable harm or impact on amenity is low;
  - e) The positive outcomes from granting the licence outweigh potential risks; and
  - f) The grant is in the public interest.

### **Conclusion**

94. Having carefully reviewed all materials and submissions on their merits, the Commission is satisfied that the conditional grant of the tavern restricted licence to the Respondent is in the public interest.
95. The Respondent has discharged its onus under section 38(2) of the Act. The Applicants have not established the validity of their objections. The Commission finds that the Decision should be affirmed.
96. The Commission makes no order as to costs. While the Respondent has submitted that costs should be awarded due to the extensive and non-compliant nature of the Applicants' submissions, costs orders are rarely made in this jurisdiction. The Commission does not consider this matter warrants departure from that practice.

97. The Applicants, though unrepresented, were entitled under the Act to seek review and to present their case. The Commission has been able to navigate the materials and reach a determination notwithstanding the extent of the submissions.

### **Orders**

98. The Commission makes the following orders:

1. The decision of the Director of Liquor Licensing dated 20 January 2025 to conditionally grant the Respondent's application for a tavern restricted licence is affirmed.
2. The application for review is dismissed.
3. There is no order as to costs.



**EMMA POWER**  
**CHAIRPERSON**



**JARED BROTHERSTON**  
**PRESIDING MEMBER**



**PAMELA HASS**  
**MEMBER**