

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

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| <b>Applicant:</b>                        | Chief Health Officer<br>( <i>represented by Ms Rebekah Cook of the State Solicitor's Office</i> )                                                                                                                                                                                                                                  |
| <b>Respondent:</b>                       | Murdoch Pine Golf Pty Ltd<br>( <i>represented by Mr Phil Cockman of Canford Hospitality Services</i> )                                                                                                                                                                                                                             |
| <b>Commission:</b>                       | Ms Pamela Hass (Presiding Member)<br>Mr Jared Brotherston (Member)<br>Ms Mary Brown (Member)                                                                                                                                                                                                                                       |
| <b>Matter:</b>                           | Application pursuant to section 25 of the <i>Liquor Control Act 1988</i> (the "Act") for review of the decision of the Director of Liquor Licensing to conditionally grant a Tavern Restricted licence for premises known as Outta Bounds. The Applicant asks the Commission to impose further trading conditions on that licence. |
| <b>Date of lodgement of Application:</b> | 25 October 2024                                                                                                                                                                                                                                                                                                                    |
| <b>Date of Hearing:</b>                  | 26 February 2025                                                                                                                                                                                                                                                                                                                   |
| <b>Date of Determination:</b>            | 16 June 2026                                                                                                                                                                                                                                                                                                                       |
| <b>Determination:</b>                    | The decision of the Director of Liquor Licensing is affirmed and the application for review is dismissed.                                                                                                                                                                                                                          |

**Authorities referred to in determination:**

- *Chief Health Officer v Walmah Enterprises Pty Ltd* (LC 13/2023)
- *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208

## BACKGROUND

1. This application is brought under section 25 of the *Liquor Control Act 1988* (“the Act”) to review the decision of the Director of Liquor Licensing to conditionally grant a tavern restricted licence to Murdoch Pine Golf Pty Ltd in respect of premises trading as Outta Bounds, located at 24 Baker Court, North Lake.
2. The application was originally lodged on 7 December 2023 as an application for a special facility licence (amusement venue) under section 46 of the Act and regulation 9A(18) of the *Liquor Control Regulations 1989*. That licence type permits liquor sales to persons attending premises for amusement-based activities.
3. Following further assessment, the applicant agreed on 8 March 2024 to substitute the application to one for a tavern restricted licence under section 46B. This substitution was necessary because the proposed manner of trade extended beyond the scope of an amusement venue, including the intention to supply liquor to patrons not directly participating in golfing or recreational activities. The substitution ensured that the licence class appropriately reflected the intended operation of the premises, consistent with section 46(2) of the Act.
4. The proposal involves a substantial redevelopment of the existing Murdoch Pines Golf Driving Range into a modern, multi-use recreational facility. The venue would feature an 18-lane outdoor driving range, six indoor golf simulators, a putting green and recreational amenities, alfresco dining and seating areas, meeting and function rooms, and integrated food and beverage services. The venue would be designed as an open plan facility intended to cater to a wide range of patrons, including adult recreational users, families, and junior golfers engaged in training and athletic development.
5. A central issue in the application was the request under section 120(1)(e) to permit unaccompanied juveniles on the licensed premises. The applicant proposed that unaccompanied juveniles be permitted until 5:30pm each day for the purpose of participating in or viewing sporting, recreational or leisure activities.
6. The Chief Health Officer (CHO) lodged a Notice of Intervention under section 69(8a)(b), raising concerns about the potential for harm to children and young people arising from exposure to alcohol in a sporting and leisure environment. The intervention emphasised:
  - a) the high visibility of alcohol throughout the venue;
  - b) the anticipated regular attendance of junior golfers;
  - c) the request to permit unaccompanied juveniles on the premises; and
  - d) evidence regarding the normalisation of alcohol consumption in association with sport and leisure activities.

7. The CHO proposed a number of harm minimisation conditions aimed at reducing children's exposure to alcohol, including:
  - a) restricting alcohol consumption to areas not visible from sporting activities;
  - b) prohibiting alcohol during junior events or before midday;
  - c) storing liquor out of sight;
  - d) prohibiting alcohol advertising and promotion;
  - e) separating liquor sales from food sales; and
  - f) restricting juvenile access to alcohol consumption areas.
8. The applicant did not agree to most of these conditions, citing operational impracticality and inconsistency with the venue's open plan design.
9. In assessing these proposals, significant regard was had to the Liquor Commission's decision in *X-Golf Nedlands* (LC 13/2023). That decision found that similar conditions, while well intentioned, created disproportionate inconvenience in open plan recreational venues and were difficult to implement, monitor and enforce.
10. On 27 September 2024, the Director determined that the applicant had discharged its onus under section 38(2) of the Act and conditionally granted a tavern restricted licence.

## **The Review**

11. On 25 October 2024, the CHO lodged a Review Application on the following grounds:
  1. *The Director erred in relying on the decision of the Liquor Commission in matter LC 13/2023 (X-Golf Nedlands). In particular:*
    - (a) *The decision in X-Golf Nedlands was based on the particular factual circumstances of that case, which were not in evidence before the Director.*
    - (b) *The Director did not rely on the reasoning of the Liquor Commission in X-Golf Nedlands but merely applied its conclusions, which is illogical or irrational.*
    - (c) *The conditions imposed by the Liquor Commission in X-Golf Nedlands were materially different, in that:*
      - (i) *unaccompanied juveniles were not permitted on the premises in X-Golf Nedlands; and*
      - (ii) *advertising and promotion of liquor at the X-Golf Nedlands premises was prohibited.*
  2. *The Director failed to consider the merits of this particular case and erred by failing to impose the trading conditions sought by the Applicant. In particular, the Director failed to properly consider, or consider at all, the following matters:*

- (a) *the venue is currently used by a significant number of junior golfers and it is anticipated that the proposed venue will be very attractive to junior golfers;*
  - (b) *the consequences of permitting unaccompanied juveniles to attend the licensed premises;*
  - (c) *the proposed manner of trade at the venue and the proposed use of QR codes;*
  - (d) *the evidence submitted by the Applicant in relation to the harmful impact of the exposure and normalisation of alcohol use on juveniles attending leisure settings;*
  - (e) *the Applicant's submissions in relation to the following conditions:*
    - (i) *The sale, supply and consumption of alcohol is limited to a dedicated area that is not visible to those participating in sporting activities at the venue.*
    - (ii) *No unaccompanied juveniles are permitted within the designated alcohol consumption area at the premises.*
    - (iii) *The sale, supply, and consumption of liquor on the licensed premises is prohibited at any time when the premises is being predominantly used for junior lessons/activities or any other junior event. On such occasions, alcohol products or promotions should not be visible at the venue.*
    - (iv) *Liquor is to be stored for sale in a location not visible to patrons.*
    - (v) *There is to be no alcohol or alcohol brand advertising or promotion at the premises, with the exception of a price list at the point of sale. Beer taps must not display product names or brand images that faces patrons.*
    - (vi) *A physically/visibly separated and designated point of sale system and area for liquor to be sold separately to food and non-alcoholic items.*
    - (vii) *Alcohol is not to be available any day before midday, with the exception of pre-booked adults-only events and functions.*
3. *The Director paid insufficient regard to the submissions made by the Applicant regarding the harmful impact of the exposure and normalisation of alcohol on juveniles attending leisure settings. Despite the Applicant's submissions in relation to the impact of the exposure to alcohol on juveniles, and the increased risk of underage drinking and related harms and other alcohol related harm or ill-health, the Director did not impose any of the conditions identified in Ground 2. As a consequence, the conditions imposed on the licence do not adequately reflect the requirements under the Liquor Control Act 1988 (WA), namely the primary object of minimising harm or ill-health caused to people, or any group of people, due to the use of liquor, and the secondary object of encouraging responsible attitudes and practices towards the consumption of liquor that are consistent with the interests of the community."*

12. The CHO suggested it would be open for the Commission to vary the decision and grant the licence with the following conditions:
- a) The sale, supply and consumption of alcohol is limited to a dedicated area that is not visible to those participating in sporting activities at the venue.
  - b) No unaccompanied juveniles are permitted within the designated alcohol consumption area at the premises.
  - c) Unaccompanied juveniles are permitted at the venue up until 5:30pm daily.
  - d) The sale, supply, and consumption of liquor on the licensed premises is prohibited at any time when the premises is being predominantly used for junior lessons/activities or any other junior event. On such occasions, alcohol products or promotions should not be visible at the venue.
  - e) Liquor is to be stored for sale in a location not visible to patrons.
  - f) There is to be no alcohol or alcohol brand advertising or promotion at the premises, with the exception of a price list at the point of sale.
  - g) Product names and brand images displayed on beer taps must not face patrons.
  - h) A physically/visibly separated and designated point of sale system and area for liquor to be sold separately to food and non-alcoholic items.
  - i) Alcohol is not to be available any day before midday, with the exception of pre-booked adults-only events and functions.
  - j) Food is to be available at all times alcohol is available for sale and consumption at the venue.
13. The Review Application was heard by the Commission on 26 February 2025.

### **Applicant's submissions**

14. The CHO seeks a review of the Director's decision to conditionally grant a tavern restricted licence to Murdoch Pine Golf Pty Ltd in respect of the premises known as Outta Bounds at North Lake. The CHO does not challenge the grant of the licence itself. The sole issue in dispute is whether additional licence conditions should be imposed pursuant to section 64 of the Act in order to minimise harm and protect public health, particularly in relation to juveniles.
15. The CHO intervened in the original application pursuant to section 69(8a) of the Act and made extensive submissions supported by expert and epidemiological evidence. The review before the Commission is by way of rehearing on the merits. The Commission is required to make its own determination afresh, on the balance of probabilities, having regard only to the material that was before the Director, and is not required to identify error as a precondition to exercising its discretion.

16. The CHO submits that the licensing authority has a broad statutory discretion under section 64 to impose conditions it considers to be in the public interest or otherwise desirable to achieve the objects of the Act. Those objects include ensuring the safety, health and welfare of persons attending licensed premises and, critically, minimising harm or ill-health caused to people, or any group of people, due to the use of liquor.
17. Central to the CHO's case is the proposition that juveniles are particularly vulnerable to alcohol related harm, and that exposure to alcohol consumption, promotion and availability in sport and leisure environments contributes to the normalisation of alcohol use. The CHO submits that such normalisation influences children's attitudes towards alcohol, increases the likelihood of early initiation, and is associated with higher levels of risky drinking behaviour in adolescence and later life.
18. The CHO relies on expert evidence from Professor John Toumbourou and Professor Simone Pettigrew, which establishes that children and adolescents who observe alcohol being consumed in recreational or child-focused settings are more likely to perceive alcohol use as socially acceptable and expected. This exposure increases the risk of alcohol consumption prior to the legal drinking age and heightens the likelihood of subsequent alcohol related harms.
19. The CHO submits that the Respondent's venue is expected to attract a substantial number of unaccompanied juveniles as part of junior golf training, lessons and athletic development pathways. Juveniles are therefore anticipated to be a core demographic for the venue, rather than incidental or occasional patrons. This feature materially distinguishes the present application from other leisure-based licensed venues where juveniles are either excluded or only attend in a limited or incidental capacity.
20. A further distinguishing feature identified by the CHO is the Respondent's business model. While the venue includes golf simulators and mini golf facilities, the CHO submits that the service of alcohol is not merely ancillary to sporting activities. The venue incorporates bar, dining, alfresco and boardroom facilities that are intended to be available to patrons who are not participating in golf activities, and to members of the general public seeking to consume alcohol.
21. The CHO submits that this dual purpose operation significantly increases the likelihood that juveniles attending the venue for sport or recreation will be exposed to alcohol consumption, display and promotion. In these circumstances, the association between alcohol and athletic or leisure pursuits is reinforced, contrary to harm minimisation objectives.
22. The CHO contends that the Director erred by relying on the conclusions of the Liquor Commission's decision in *X-Golf Nedlands* without engaging with the underlying reasoning or recognising the materially different factual circumstances. In *X-Golf Nedlands*, unaccompanied juveniles were prohibited from attending the venue and junior activities were not a significant component of the business model, factors which were critical to the Commission's decision not to impose additional conditions.
23. By contrast, in the present case, unaccompanied juveniles are expressly permitted and are expected to attend regularly. The CHO submits that this factual distinction renders reliance on *X-Golf Nedlands* inappropriate without careful consideration of how those differences affect the assessment of harm and the public interest.

24. Applying the principles articulated in *Carnegies Realty Pty Ltd v Director of Liquor Licensing*, the CHO submits that there is a clear and direct nexus between the proposed manner of trade and the risk of harm to juveniles. That harm arises primarily through the normalisation of alcohol consumption in a setting that is attractive to children and adolescents and designed for their regular attendance.
25. The CHO submits that the likely degree of harm is substantial, given the well established evidence concerning the developmental impacts of early exposure to alcohol. The likelihood of exposure is said to be high, given the expected frequency of juvenile attendance and the prominence of alcohol service throughout the venue.
26. The CHO further submits that the identified risks are capable of being effectively mitigated through targeted and proportionate licence conditions, without undermining the viability of the Respondent's business or preventing adult patrons from consuming alcohol.
27. To that end, the CHO seeks the imposition of additional conditions including:
  - a) restricting alcohol consumption to a dedicated area not visible to sporting activities;
  - b) prohibiting unaccompanied juveniles from that area;
  - c) limiting or prohibiting alcohol service during junior lessons, activities or events;
  - d) restricting alcohol availability before midday, except for adults-only functions;
  - e) prohibiting alcohol and alcohol brand advertising and promotion (other than a price list at the point of sale);
  - f) requiring liquor to be stored out of public view;
  - g) mandating a physically and visibly separate point of sale for alcohol; and
  - h) restricting branded displays such as beer taps facing patrons.
28. The CHO submits that these conditions would materially reduce juveniles' exposure to alcohol, weaken the association between alcohol and sport or leisure, and reduce the risk of secondary supply, while still allowing adult patrons to access liquor in a controlled manner.
29. In response to the Respondent's submissions, the CHO emphasises that survey evidence from patrons or members of the public regarding perceived risk carries little probative weight in the absence of expertise in alcohol related harm. The CHO submits that the expert and epidemiological evidence already before the Commission provides a sufficient evidentiary basis for the imposition of conditions.
30. Ultimately, the CHO submits that, in circumstances where unaccompanied juveniles are expected to attend the venue regularly and alcohol service forms a substantial component of the business model, the public interest requires the imposition of additional conditions to minimise harm. The CHO contends that failure to impose such conditions would expose juveniles to unnecessary and avoidable risk inconsistent with the primary objects of the Act.

## Respondent's submissions

31. The Respondent submits that the Director's decision was correct and should be affirmed. The Respondent contends that the additional trading conditions sought by the CHO are unnecessary, disproportionate and would impose unjustified operational and financial burdens on a low risk venue.
32. The Respondent characterises the premises as a low risk and low impact licensed venue, with the primary focus being golf-related activities, including an interactive driving range, golf simulators and mini golf. The sale and consumption of alcohol is described as ancillary to the principal purpose of the venue, rather than a driver of patron attendance.
33. In support of this characterisation, the Respondent relies on early trading data which indicates that golf activities account for approximately 62% of revenue, while alcohol sales account for approximately 22%. This is said to demonstrate that alcohol is not central to the business model and that the venue does not operate as a bar or tavern in the conventional sense.
34. The Respondent submits that the role of the CHO is limited to identifying potential risks of harm, whereas the licensing authority must undertake a broader evaluative task that balances the multiple, and sometimes competing, objects of the Act. It is submitted that the primary object of minimising harm does not override the other primary objects of the Act, including catering for consumer requirements and the proper development of the liquor industry.
35. The Respondent emphasises that identifying a theoretical potential for harm is not sufficient to justify the imposition of restrictive conditions. Relying on authority including *Carnegies Realty Pty Ltd v Director of Liquor Licensing*, the Respondent submits that a clear and specific nexus must be demonstrated between the alleged harm, the proposed manner of trade, and the degree to which harm is likely to increase.
36. It is submitted that the CHO has failed to demonstrate such a nexus. The Respondent argues that assertions regarding juvenile exposure to alcohol are generalised, speculative and unquantified, and do not establish that the proposed operations at Outta Bounds will materially increase harm or ill-health.
37. The Respondent relies on survey evidence indicating that 98.9% of respondents considered the venue posed no risk of harm or ill-health to people in the locality. While acknowledging that surveys are not determinative, the Respondent submits they provide relevant contextual evidence of community perception and support.
38. The Respondent further relies on national and state-based health data demonstrating long term declines in alcohol consumption, including among young people. It is submitted that fewer young people are drinking alcohol, the age of initiation has increased, and rates of risky drinking have declined, which undermines the CHO's contention that exposure at this venue will materially worsen juvenile outcomes.
39. The Respondent submits that structured leisure activities, including organised sport, are widely recognised as protective factors against risky alcohol consumption among young people. The venue is described as providing a supervised, structured recreational environment that is more likely to delay alcohol initiation than encourage it.

40. The Respondent disputes the CHO's assertion that alcohol service is a central feature of the venue. It is submitted that alcohol is offered as a complementary service to adults engaging in golfing activities and that the venue is not designed to attract juveniles seeking access to alcohol, given pricing, supervision, lighting, visibility and the absence of typical risk enhancing features such as loud music or congested standing areas.
41. In relation to *X-Golf Nedlands*, the Respondent submits that the Director did not improperly rely on that decision, but rather took guidance from relevant principles applicable to similar amusement-style venues. It is contended that the Director considered the CHO's submissions and deliberately declined to impose additional conditions after weighing practicality, proportionality and harm minimisation measures already in place.
42. The Respondent submits that the Director expressly considered the CHO's proposed conditions and determined that many would create impractical operational challenges without delivering commensurate harm reduction benefits. The Respondent notes that certain CHO-supported conditions were in fact adopted, including restrictions on unaccompanied juveniles after 5:30pm and food availability requirements.
43. The Respondent argues that the proposed additional conditions are punitive and business damaging, particularly given the open plan design of the premises. Conditions such as dedicated consumption areas, separated points of sale, and visual screening of alcohol are said to be impractical, difficult to enforce, and inconsistent with the intended manner of trade.
44. The Respondent submits that the open, well-lit layout of the venue allows for effective monitoring of patrons, reduces concealment opportunities, and supports responsible service of alcohol. This design is said to mitigate risk more effectively than rigid spatial segregation.
45. The Respondent further submits that modern ordering systems, including QR code-based ordering and controlled staff delivery of alcohol, already reduce the visibility and accessibility of alcohol without the need for additional conditions. It is contended that proposed advertising and storage restrictions would achieve little beyond inconvenience.
46. In relation to conditions restricting alcohol service during junior lessons or before midday, the Respondent submits that junior activities are not a dominant component of the trading model and that the venue is predominantly aimed at adult patrons. Any marginal benefit of such conditions is said to be outweighed by enforcement difficulty and operational disruption.
47. The Respondent also submits that the Act does not identify the minimisation of juvenile exposure to alcohol or the prevention of normalisation as independent statutory objects. While acknowledging these as legitimate public health aspirations, the Respondent contends that Parliament did not elevate them to controlling considerations warranting the proposed level of restriction.
48. The Respondent emphasises that the venue has been trading without incident under the current conditions and that no evidence has been adduced of actual harm arising from its operations. It is submitted that the existing conditions, together with the venue's harm minimisation policies are sufficient.

49. The Respondent characterises the Outta Bounds development as a significant community asset and a substantial private investment, transforming an underperforming site into a high quality recreational facility that benefits the local community and tourism sector.
50. Ultimately, the Respondent submits that the Director correctly concluded that the positive benefits of the application outweigh any potential negative impacts. It is contended that the additional conditions sought by the CHO are unnecessary, disproportionate and unsupported by evidence of a measurable increase in harm.
51. The Respondent therefore submits that it is open to the Commission to affirm the Director's decision in full and to decline to impose the additional trading conditions sought by the CHO.

## **LEGAL AND STATUTORY FRAMEWORK**

52. The Commission is not required to find error on the part of the Director when undertaking a review under section 25 of the Act, but the Commission instead undertakes a full review and makes a determination on the basis of the same materials that were before the Director when the decision was made.
53. Section 25(4) of the Act states that on a review under section 25, the Commission may:
  - a) affirm, vary or quash the decision subject to the review; and
  - b) make a decision in relation to any application or matter that should, in the opinion of the Commission, have been made in the first instance; and
  - c) give directions:
    - i) as to any question of law, reviewed; or
    - ii) to the Director, to which effect shall be given; and
  - d) make any incidental or ancillary order.
54. Section 16 of the Act prescribes that the Commission:
  - a) may make its determination on the balance of probabilities: [section 16(1)]; and
  - b) is not bound by the rules of evidence or any practices or procedures applicable to courts of record, except to the extent that the licensing authority adopts those rules, practices or procedures or the Regulations make them apply: [section 16(7)(a)]; and
  - c) is to act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms: [section 16(7)(b)]; and
  - d) is to act speedily and with as little formality and technicality as is practicable: [section 16(7)(c)].
55. In addition, the Director is obliged to comply with the requirements of procedural fairness when exercising the powers conferred by the Act.

56. The Director and the Commission also:
- a) must take into account those matters relevant to the objects of the Act; and
  - b) may take into account the matters set out in section 38(4) of the Act.

## **DETERMINATION**

57. The Commission has undertaken a full review of the evidence and submissions and the Commission now makes a determination on the basis of all the same materials that were before the Director when the Decision was made.
58. The review is conducted by way of rehearing on the material that was before the Director. The Commission must determine the matter afresh on the balance of probabilities, exercising its own discretion and considering the public interest in accordance with sections 37, 38 and 64 of the Act.
59. The Commission has been provided with a large amount of material from the parties to assist in the determination. The fact that a particular piece of evidence has not been specifically referred to in these reasons, should not be construed as a failure by the Commission to consider that evidence or submission. The Commission assures the parties that all materials provided by the parties have been carefully considered in making the determination.
60. This matter concerns an application for review pursuant to section 25 of the Act by the CHO, seeking to vary the Director's decision to conditionally grant a tavern restricted licence to Murdoch Pine Golf Pty Ltd for premises known as Outta Bounds.
61. The CHO does not oppose the grant of the licence itself but seeks the imposition of additional trading conditions directed to minimising harm, particularly in relation to the exposure of juveniles to alcohol consumption in a recreational setting.
62. The Respondent submits that the Director's decision should be affirmed and that the proposed additional conditions are unnecessary, impractical, and disproportionate to the level of risk posed by the venue.
63. The Commission's task is therefore confined to whether the additional conditions sought by the CHO are in the public interest or otherwise desirable, having regard to the objects of the Act, including harm minimisation, the regulation of liquor, and catering for consumer requirements.
64. The Commission accepts that harm minimisation is a primary object of the Act. However, it does not operate in isolation and must be balanced against other relevant considerations, including the development of licensed facilities and consumer demand.
65. The Commission further accepts that the concept of harm extends beyond physical injury to include social and cultural harms, including the normalisation of alcohol consumption, particularly in environments frequented by juveniles.
66. The CHO relies on substantial research evidence indicating that exposure to alcohol consumption in leisure and sporting environments may influence juveniles' attitudes and behaviours, including early initiation and risky consumption patterns.

67. The Commission accepts that such risks exist in a general sense and that the association between alcohol consumption and leisure activities may constitute a relevant form of harm.
68. However, the Commission is required to assess not merely theoretical or generalised risks, but the nature, likelihood, and extent of harm arising from the specific proposal before it.
69. The evidence demonstrates that the proposed venue is a purpose-built golfing and recreational facility, with alcohol service operating as a secondary or ancillary component of the overall business model. Financial and operational evidence indicates that golf-related activities constitute the primary driver of patronage and revenue, with alcohol sales comprising a significantly smaller proportion of overall income.
70. The Commission accepts that the venue is designed as a low key, low impact facility, with features such as good lighting, clear sightlines, seating, and structured activity spaces that support supervision and controlled patron behaviour.
71. The Commission also notes that the locality is characterised by relatively low crime rates and a stable socioeconomic environment, with available data indicating lower levels of alcohol related harm compared to the State average.
72. The Respondent has proposed and implemented a range of harm minimisation measures, including staff training, ID verification, monitoring, CCTV, and clear policies to prevent the sale or supply of liquor to juveniles.
73. The Commission considers that these measures, together with the existing conditions imposed by the Director, provide a structured and enforceable framework for minimising harm and ensuring responsible service of liquor.
74. The CHO submits that additional conditions are necessary to reduce visibility and exposure to alcohol, particularly through measures such as dedicated consumption areas, restrictions on advertising, and limitations on trading times.
75. The Commission has carefully considered each of the proposed conditions. In doing so, it has had regard to their practical operation, proportionality, and likely effectiveness in reducing harm.
76. In relation to the proposed dedicated consumption area and associated restrictions, the Commission accepts the Respondent's evidence that the venue is designed as an open plan recreational space, such that physical separation would be difficult to implement and enforce.
77. The Commission is not satisfied that the imposition of such conditions would materially reduce harm, particularly in circumstances where liquor consumption is already subject to supervision and responsible service requirements.
78. Similarly, the proposed restrictions on advertising, storage, and display of liquor would impose operational constraints while offering limited additional benefit, given that access to alcohol information is already controlled and subject to responsible service obligations.
79. In relation to the proposed restrictions on trading times and juvenile access, the Commission accepts that unaccompanied juveniles may attend the venue consistent with the Act and subject to conditions imposed by the Director.

80. The Commission is not satisfied that further restrictions of the kind proposed are necessary, particularly where the evidence indicates that the venue is not designed to attract juvenile drinking and includes safeguards to prevent such conduct.
81. The Commission also notes that participation in structured sporting and recreational environments may, in some circumstances, operate as a protective factor against harmful drinking behaviours among young people.
82. While this does not negate the risks identified by the CHO, it reinforces the need for a balanced and evidence based assessment of the proposal in its specific context.
83. The Commission further finds that the Director did not err in having regard to the decision in *X-Golf Nedlands* as a guide to approach and principle, rather than as a binding precedent. The Director's reasons demonstrate that the CHO's concerns were considered and that certain conditions were adopted, while others were rejected on the basis of impracticality or limited utility.
84. The Commission is satisfied that the Director undertook the required balancing exercise and that the decision to grant the licence subject to conditions was properly open on the evidence.
85. Having conducted its own assessment, the Commission is not satisfied that the additional conditions sought by the CHO are necessary or desirable to achieve the objects of the Act or to protect the public interest.
86. The Commission concludes that the existing conditions, combined with the Respondent's operational controls and the statutory framework, are sufficient to address the risks identified.
87. In those circumstances, the Commission is not persuaded that variation of the Director's decision is warranted.

## ORDERS

88. The decision of the Director of Liquor Licensing dated 27 September 2024 to conditionally grant the licence is affirmed.
89. The application for review is dismissed.



**PAMELA HASS**  
**PRESIDING MEMBER**



**JARED BROTHERSTON**  
**MEMBER**



**MARY BROWN**  
**MEMBER**