

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**DECISION NOTICE AND REASONS FOR DECISION**

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**CITATION:** *COMPLAINT AGAINST MUNUPI WILDERNESS LODGE PTY LTD* [2024] NTLiqComm 28

**FILE NUMBER:** LC2024/020

**LICENSEE:** Munupi Wilderness Lodge Pty Ltd

**PREMISES:** Munupi Wilderness Lodge  
PIRLANGIMPI NT 0822

**LICENCE:** 80817657

**LEGISLATION:** Part 7, Divisions 3 and 4 of the *Liquor Act 2019*

**DECISION OF:** Ms Jodi Truman (Deputy Chairperson)  
Mrs Ebony Abbott-McCormack (Health Member)  
Mr Denys Stedman (Community Member)

**DATE OF HEARING:** N/A

**DATE OF DECISION:** 25 June 2024

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## **Decision**

1. On the basis that the Director of Liquor Licensing (**the Director**) has withdrawn the referral of this matter to the Commission for disciplinary action, the Liquor Commission (**the Commission**) pursuant to section 166(6)(a) of the *Liquor Act 2019* (**the Act**) dismisses the matter and cancels the hearing listed for 26 June 2024.

## **Reasons**

### **Background**

2. The licensee is the holder of Liquor Licence 80817657, trading as Munupi Wilderness Lodge (**the premises**) situated in Pirlangimpi on Melville Island. The nominee is Ms Kerri-Anne Benton.
3. The licence has the following authorities:
  - a. lodging authority;
  - b. special venture authority; and
  - c. light night authority.

4. On 24 May 2024, the licensee and Ms Benton were evicted from the land on which the premises are constructed. The Commission is informed that the premises are no longer being used for the sale, supply or consumption of liquor from that date.

## **The Referral**

5. On 31 May 2024, the Director referred this matter to the Commission for disciplinary action pursuant to section 166(1) of the Act.
6. The referral alleged several complaints against the licensee spanning a period from May 2023 to May 2024 and relating to numerous breaches of the Act. For the purposes of these reasons, it is not necessary to go into the facts of the complaint or each of the alleged breaches.
7. Pursuant to section 166(2) of the Act, upon receipt of such a referral, the Commission must conduct a hearing and pursuant to section 166(1) decide whether to take disciplinary action against the licensee.

## **Public Hearing**

8. Following receipt of the referral, the Commission listed the matter for a hearing at the next available date being 26 June 2024. Correspondence was sent to the licensee and to the Director on 7 June 2024 advising of the hearing date.
9. On 10 June 2024, the licensee via solicitor, Dr Danial Kelly, wrote to the Commission outlining several matters and highlighting the following items in particular:
  - a. “Munupi Wilderness Lodge Pty Ltd has very recently lost the ability to continue to trade at the material premises on Tiwi Island. As Mr Verity and others at the Commission know, the remaining alcohol held under the company's liquor licence has been moved and is in safe storage at Virginia. Munupi Wilderness Lodge Pty Ltd seeks the Commission's permission to sell the remaining alcohol to another liquor licence holder in Darwin. Can you please advise if the Commission is agreeable to that proposal?
  - b. Munupi Wilderness Lodge Pty Ltd wishes for the Commission to consider withdrawing the current complaint (LC2024/020) in relation to the company, including the hearing scheduled for 26 June 2024, as the company intends to surrender its liquor licence upon disposal of the remaining alcohol referred to in paragraph 1 above. Furthermore, Munupi Wilderness Lodge Pty Ltd is most likely going to enter into liquidation in the very near future, and almost certainly before the hearing scheduled for 26 June 2024. In those circumstances, we submit a hearing would not be a productive activity for any party.”
10. Following receipt of that email the Commission wrote on 11 June 2024 to the solicitor for the licensee identifying that any requests relating to the complaint would need to be sent to the Director, including any request for withdrawal and until then the matter remained listed for hearing.

11. On 25 June 2024, the Delegate for the Director wrote to the Commission and advised that the licensee had surrendered their licence and informed the Director they were “going into liquidation”. As such the Delegate stated the Director wished to “formally withdraw the complaint” against the licensee.
12. The Commission notes that section 166(6) of the Act clearly contemplates the Director’s power to withdraw a “matter” after it has been referred to the Commission.
13. That section however also makes clear that it is in the Commission’s discretion as to whether it dismisses a matter referred to it **after** it is withdrawn by the Director.
14. The Commission does not consider it appropriate to “review” the exercise of the Director’s discretion to withdraw. The Director has complete discretion to withdraw and is not required to provide reasons to the Commission. It is apparent that the licensee has surrendered their licence to the Director and that as a result the Director is satisfied that this is the appropriate action to be taken.
15. Based on the materials provided, in particular the correspondence received from the Director’s delegate dated 25 June 2024; and without making any determination whether disciplinary action should be taken against this licensee, the Commission has determined to exercise its discretion and dismiss this matter and cancel the hearing pursuant to section 166(6)(a) of the Act.
16. The Commission considers it remains unclear, due to the wording of section 166(1) and (7) of the Act, whether this is a decision requiring a Decision Notice however has decided to issue this brief Decision Notice to the parties to avoid any doubt.

### **Notice of Rights:**

17. Section 31 read with section 166(7) of the Act provides that the decision set out in this decision notice is reviewable by the Northern Territory Civil and Administrative Tribunal (“NTCAT”). Section 94(3) of the *NTCAT Act 2014* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
18. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for review of this decision are the Director and the licensee.



JODI TRUMAN  
DEPUTY CHAIRPERSON

On behalf of Commissioners Truman, Abbott-McCormack and Stedman  
25 June 2024