

# NORTHERN TERRITORY LIQUOR COMMISSION

## DECISION NOTICE

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**MATTER:** APPLICATION FOR MATERIAL ALTERATION OF LIQUOR LICENCE

**REFERENCE:** LC2022/049

**LICENCE NUMBER:** 81304562

**LICENSEE:** LOD NT Pty Ltd

**PREMISES:** The Lodge of Dundee  
20 Dundee Place  
DUNDEE NT 0840

**LEGISLATION:** Sections 96 of the *Liquor Act 2019*

**HEARD BEFORE:** Ms Jodi Truman (Deputy Chairperson)  
Mr Bernard Dwyer (Health Member)  
Ms Amy Corcoran (Community Member)

**DATE OF HEARING:** 19 October 2022

**DATE OF DECISION:** 19 October 2022

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### **Decision**

1. For the reasons set out below and in accordance with section 97 of the *Liquor Act 2019* (“the Act”), the Northern Territory Liquor Commission (“the Commission”) has determined to approve a material alteration to liquor licence 81304562 (“the licence”) held by LOD NT Pty Ltd (“the licensee”).
2. The material alteration that is approved is a significant renovation of the existing premises including a new bar/restaurant extension to the existing kitchen and greater alfresco dining area in accordance with the plan submitted as part of this application and was tendered in evidence as exhibit 2 in these proceedings.
3. The inclusion of the new bar/restaurant extension of the premises will not come into effect until such time as the licensee provides written proof to the satisfaction of the Director of Liquor Licencing (“the Director”) that a certificate of occupancy has been issued in respect of the structure that is to be erected on that land, and any certifications and approvals necessary under the *Fire and Emergency Act 1996* have been provided.

4. That upon the inclusion of the new bar/restaurant in accordance with order 3 above, the licensee shall not be permitted to serve, sell or supply alcohol from the current bar area which shall become a shop/café for food and groceries.
5. In accordance with section 97(5) of the Act, the licensee is permitted to continue to conduct business within the original licenced footprint, provided that the area which is to become the new bar/restaurant extension of the premises is securely fenced off to prevent access by the public until such time as the licensee can satisfy the requirements stipulated in paragraph 3.

## **Reasons**

### **Background**

6. LOD NT Pty Ltd is the holder of liquor licence number 81304562 for premises known as situated at 20 Dundee Place, Dundee Beach, NT 0840.
7. On 31 August 2022, an application for a material alteration was lodged by Mr Andrew Pope, nominee of the premises. The application for material alteration was described in the referral as:

- “A significant renovation of the existing premises, including a new bar/restaurant extension to the existing kitchen for greater dining alfresco area with updated disabled access and ramps to cater for a wider range of clientele.
- The current bar area will stay as a shop/cafe for food and groceries.

All material alterations will be within the existing licensed footprint.”

And further:

“As per the Development Plans, there is no change to the current red line area of the licence, but internally all serving bars will change.”

8. The following supporting documents were supplied:
  - Public Interest and Community Impact Assessment Summary.
  - Construction Plans.
  - Current food and beverage menu.

### **Publication and Consultation**

9. The application was published in the NT News on 10 September 2022. A green sign was erected and the application advertised on the Director’s website. The Commission was informed that the Director was satisfied that the applicant has complied with the requirements to advise of the application. As a result of the public advertising of the application, there were no formal objections received.
10. In accordance with s.96(6A) of the Act, the following were notified of the application.

- The Chief Executive Officer of the Agency administering the *Public and Environmental Health Act 2011*, namely the Department of Health
  - The Commissioner of Police.
11. Due to the nature of the application the Northern Territory Fire & Rescue Service (NTF&RS) was also notified of the application.
  12. Only the NT Police responded stating they “have no objections to this application”.

## **Compliance**

13. The Commission was informed at the hearing that there have been no compliance issues with respect to this licensee or the nominee.

## **The referral and hearing**

14. On 29 September 2022, pursuant to Section 96 of the Act, the Director referred this application to the Commission to be determined by way of a public hearing. Notice was subsequently given to the licensee that the matter would be listed for a public hearing on 19 October 2022.
15. On 19 October 2022, the application proceeded as a public hearing. Mr Pope appeared in person on behalf of the licensee and Mr Mark Wood appeared via video link for the Director. The Commission thanks them both for their assistance. The Commission indicated its decision at the completion of the hearing. These are our reasons.

## **ASSESSMENT OF THE MATTER**

16. Section 97(1) of the Act provides:

### **97 Decision on material alteration of licensed premises**

- (1) In considering an application to make a material alteration to licensed premises, the Commission must consider the following:
  - (a) Any objection to the application made under section 61;
  - (b) Any response provided by the applicant under section 62;
  - (c) The public interest and community impact requirements.
17. In addressing the Community Impact considerations, the Licensee stressed that it was keen to progress this application and begin a \$3 million investment into the licenced premises and the Dundee Beach area. It noted that there was to be no change to the licenced area, but a significant alteration to the serving bar areas that it believed would “provide a sustainable improvement in hospitality, tourism and employment offerings for the area and broader community”.
18. The licensee noted that it believed this material alteration would “only have significant benefits to the local community, with no negative impacts”. The licensee highlighted

that the current building infrastructure of the Lodge of Dundee was “old and tiresome” and that the “construction plans for the new Lodge of Dundee development would transform this beautiful spot of the Northern Territory for the benefit of locals and visitors to the area”.

19. The licensee submitted that the current Lodge of Dundee's services would continue and “only improve with the new building and improved amenities”. It was noted that the Lodge of Dundee “operates seven days a week from the early morning for the striving local fishing industry through to dinner service and entertainment at night”. It further highlighted that the nature of the business was around “responsible consumption of alcohol and meals and largely attracted tourists and families. Many locals also enjoy the meals and drinks service, given the next closest licenced premises is 6 kilometres away”.
20. In terms of cultural, recreational, employment or tourism benefits; the licensee highlighted that if the application were approved, it would have “significant benefits for the local community area”. It was noted that despite the current facility being “old and failing infrastructure”, it was a “focal point for Dundee Beach and the nearby community” and provided a “genuine tourist attraction, a base for 25 fishing charters., recently built 12 family cabins and a campground that fits 100 groups and much more”. The licensee went on to state that:

“The material alterations will transform the community, increase local employment, engage with local trades during construction and revitalise the area immensely.

Once built, we are planning on increasing our current staff levels of 12 to 20 in order to service our expected increase in customers.

Having a facility that can provide air conditioning comfort as well as the famous beach side views that Dundee provides will make this area more attractive for tourists to make the one-hour drive from Darwin to visit the area. It will also extend the season for the drive market and locals visiting as it will offer a more pleasant experience with air condition dining area all year round.

The new build will include accessible facilities that come with modern buildings, making the area of Dundee Beach more friendly for people with disabilities.”

21. The Commission also accepts the submissions made concerning the circumstances of this licensee being in an area located some significant distance from locations known to the Commission as having problems with crime. It is further noted that the closest resident is 250 metres away from the premises, there is no place of worship nearby and the nearest school being six kilometres away.
22. In relation to other licences; the Commission was informed there was a community club license and lodging authority locally however the next nearest licenced venues were thirty kilometres and fifty kilometres away, respectively, with the next nearest take away license being 30kms away.
23. Whilst the Commission notes that it is anticipated there will be a “15 to 20% increase” in volume of liquor sales if the material alteration were granted, it is noted that this

would be commensurate with a likely increase in visitors to the local area because of the material alteration and increase in services.

24. Having considered all the evidence, the Commission is satisfied that the application is in the public interest and that there will be no adverse community impact. Accordingly, the application is approved on the conditions set out at the commencement of this decision notice.
25. The Commission notes that the licensee referred to the likelihood of “eventually” demolishing the building that currently houses the area marked “roadside inn” on the map attached to the licence, or what was also referred to as the “pub/shop” and “the current bar area”. Precisely when that will occur however is unclear. As the Commission indicated, if such a demolition occurred, it would fall within the definition of “material alteration” as it presently stands, thus requiring the licensee to return once again to seek permission. Whilst the Commission would have hoped to be able to avoid having to require the licensee to return, given the date for such changes is unclear, it is unavoidable. The Commission reminds the licensee of the importance of ensuring compliance with these requirements before carrying out any demolition of any structure in future.
26. Further, the Commission notes that the nominee made clear during the hearing that it was not the licensee’s intention after the new bar/restaurant extension was completed to continue to serve, supply or sell alcohol from the “current bar area” and that would become a shop/café for food and groceries whilst decisions were made as to whether it would be demolished. Given the licensee’s intention to make that area a shop/café for food and groceries and to avoid the licensee finding itself in breach of any take away or grocery store conditions, the Commission has determined to make orders that provide clearly that upon the extension being completed, the “current bar area” will no longer be able to be used for the service, supply or sale of alcohol.

### **Notice of Rights:**

27. Section 31(1) read with section 166(7) of the Act provides that the decision set out in this decision notice is reviewable by Northern Territory Civil and Administrative Tribunal (“NTCAT”). Section 94(3) of the NTCAT Act provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
28. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of the decision are the Director, the Licensee.



JODI TRUMAN  
DEPUTY CHAIRPERSON, NORTHERN TERRITORY LIQUOR COMMISSION  
24 October 2022

On behalf of Commissioners Truman, Dwyer, and Corcoran