

NORTHERN TERRITORY LIQUOR COMMISSION
REASONS FOR DECISION

MATTER: APPLICATION FOR MATERIAL ALTERATION

REFERENCE: LC2022/048

LICENSEE: Palmerston Golf and Country Club Inc

PREMISES: University Avenue
PALMERSTON NT 0830

LICENCE NUMBER: 81403928

LEGISLATION: Part 4 Division 2 of the *Liquor Act 2019*

HEARD BEFORE: Mr Russell Goldflam (Acting Deputy Chairperson)
Ms Elizabeth Stephenson (Health Member)
Ms Christine Hart (Community Member)

DATE OF HEARING: 26 October 2022

DATE OF DECISION: 27 October 2022

Decision

1. On 27 October 2022, the Northern Territory Liquor Commission (**the Commission**) issued the following decision.
 - a. In accordance with section 97 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to approve a material alteration to licence 81403928 held by the Palmerston Golf and Country Club Inc (**the licensee**), comprising:
 - i. enlargement of the liquor licensed area to the area bounded in red depicted on page 54 of Exhibit One exhibited at the hearing of the application;
 - ii. extension of the current buildings to incorporate new toilets, a commercial kitchen, an enlarged club entrance, enlarged indoor and outdoor bistro seating, a separate sports bar and lounge, and a new pro shop/kiosk within the new licensed area;
 - iii. inclusion of a mini golf course within the new licensed area; and
 - iv. enlargement of the gaming area.

- b. The Commission approves the arrangements for conduct of business to continue by the licensee during the construction phase of the material alterations as set out in Exhibit Two as amended by Exhibit Four exhibited at the hearing of the application (**the arrangements**).
 - c. The Commission fixes as a condition of its approval of the material alteration that the licensee not be permitted to depart from the arrangements other than in accordance with written approval issued by the Director of Liquor Licensing (**the Director**) or their delegate.
 - d. The Commission notes that the Northern Territory Environmental Protection Agency has issued the Northern Territory Noise Management Framework Guideline, which provides direction to assist compliance with the noise pollution standard fixed by the *Waste Management and Pollution Control Act 1988*.
2. The Commission indicated that it would publish a statement of reasons for this decision. These are the reasons.

Reasons

The application

3. The licensee, the holder of a liquor licence with a club authority and a takeaway authority, operates an 18-hole golf course, the venue of the annual Northern Territory PGA tournament, and associated hospitality facilities. The licensed premises are currently in two separate areas, comprising the clubhouse and attached buildings, and an area formerly used for lawn bowls. The licensee is also licensed to operate gaming machines on the premises.
4. By application dated 10 June 2022, the licensee applied to extend the footprint of its liquor license, in conjunction with a multi-million dollar major upgrade of its facilities. The associated construction works are expected to take in excess of twelve months. When completed, the Palmerston Golf and Country Club will offer members and guests enhanced dining and recreational facilities, including a mini-golf course and larger pro-shop. The planned refurbishments included a minor extension to the existing gaming room, but no increase in the number of gaming machines operated by the licensee.

Consultation

5. As required by section 96 of the Act, notices of the application were published in the NT News on 20 August 2022, and on the Director's website. No objections were received.
6. In accordance with section 96 of the Act, notification was given to Department of Health (**DOH**), NT Police and the City of Palmerston, as well as the NT Fire and Rescue Service. In response, none of these agencies raised any concerns about the application.

The licensee's record of compliance

7. The Director informed the Commission that the licensee has no adverse compliance history in relation to the operation of its liquor licence.

The referral

8. The proposed alterations constitute a material alteration as defined by section 95(1) of the Act, and accordingly, on 26 September 2022 the Director referred the application to the Commission to be determined by way of a public hearing. Notice was subsequently given to the Applicant that the matter would be listed for a public hearing on 26 October 2022, the earliest date convenient to the parties and the Commission.
9. The Director provided the following documents to the Commission with the referral (**the brief**):
 - a. Application for material alteration
 - b. Liquor licence number 81493028
 - c. Public Interest and Community Impact Assessment statement
 - d. Various site plans and architectural drawings
 - e. Notice of Determination from Consent Development Authority dated 20 May 2022
 - f. Correspondence with stakeholders

The hearing

10. On 26 October 2022, the application proceeded as a public hearing. Mr Hewer, the general manager of the licensee, together with Mr Sommerville, the construction manager, appeared on behalf of the applicant. Mr Wood appeared for the Director. The Commission thanks them for their attendance and assistance. In particular, the Commission commends the licensee for ensuring that both Mr Hewer and Mr Sommerville were present and well prepared to answer the Commission's questions.
11. The brief was tendered and admitted into evidence without objection.
12. In addition and also without objection the applicant tendered detailed drawings of the construction staging plans.

ASSESSMENT OF THE APPLICATION

Public notice and consultation

13. The Commission is satisfied that public notice of the application was given and consultation was undertaken in accordance with the Director's requirements under section 96(4) of the Act.

Public interest and community impact requirements

14. In accordance with section 97(1) of the Act, the Commission has considered the public interest and community impact requirements of the Act, which in turn are set out in sections 49 to 51 of the Act.
15. To determine whether the issue of the license is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in section 49(2) of the Act:
 - (a) minimising the harm or ill-health caused to people, or a group of people, by the consumption of liquor;
 - (b) ensuring liquor is sold, supplied, served and consumed on or in licensed premises in a responsible manner;
 - (c) safeguarding public order and safety, particularly when large numbers of people would be attracted to licensed premises or an area adjacent to those premises;
 - (d) protecting the safety, health and welfare of people who use licensed premises;
 - (e) increasing cultural, recreational, employment or tourism benefits for the local community area;
 - (f) promoting compliance with this Act and other relevant laws of the Territory;
 - (g) ensuring each person involved in the business conducted at licensed premises receives training suitable to the person's role in the business;
 - (h) preventing the giving of credit in sales of liquor to people;
 - (i) preventing practices that encourage irresponsible drinking;
 - (j) reducing or limiting increases in anti-social behaviour.
16. The Commission has considered each of these objectives. The Commission is satisfied that the proposed material alterations will not result in a significant increase in the harmful sale, supply or consumption of liquor. On the other hand, the Commission is satisfied that the proposed material alterations will significantly improve recreational and employment benefits for the local community area. The Commission is satisfied that it is in the public interest to issue the licence.
17. To determine whether it is satisfied that the issue of the licence will not have a significant adverse impact on the community, the Commission must consider the matters set out at section 49(3) of the Act, as follows:
 - (a) the risk of undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity of the proposed licensed premises or who are using, or travelling to or from, a place of public worship, a hospital or a school;

- (b) the geographic area that would be affected;
 - (c) the risk of harm from the excessive or inappropriate consumption of liquor;
 - (d) the people or community who would be affected;
 - (e) the effect on culture, recreation, employment and tourism;
 - (f) the effect on social amenities and public health;
 - (g) the ratio of existing liquor licences and authorities in the community to the population of the community;
 - (h) the effect of the volume of liquor sales on the community;
 - (i) the community impact assessment guidelines issued under section 50;
 - (j) any other matter prescribed by regulation.
18. The Commission notes there are no such “other” matters prescribed by regulation.
19. The applicant bears the onus of satisfying the Commission of the relevant matters. Even if there are no objections, the applicant must still satisfy this Commission of those matters.
20. Having considered all of these matters, the Commission is satisfied that the proposed material alterations will not have a significant adverse impact on the community. Indeed, the Commission is satisfied the alterations will have a significant beneficial impact on the community.

Liquor trading during construction

21. Given the magnitude of the proposed works and the length of time it will take to complete them, the licensee has developed detailed plans to enable it to continue to operate during the construction phase. The Commission has viewed those plans and approves them, which authorises the licensee to continue to conduct its business, and in particular its trade in liquor, during this period, in accordance with section 97(5) of the Act.
22. In addition, and pursuant to its power to attach conditions to the approval of a material alteration conferred by section 97(3) of the Act, the Commission has fixed the condition set out at paragraph 1(c) above, to provide flexibility to the licensee in the event that, as is readily foreseeable, the construction plans require modification as the project progresses.

Amenity considerations

23. In its Notice of Determination, the Development Consent Authority stated that it anticipated that the Commission would consider “amenity considerations including hours of operation and noise”. The Commission has done so. The licensee has not applied to change the conditions of its liquor licence, including the trading hours, which are not unusual for a facility of this nature.

24. In relation to noise, section 93 of the Act prohibits all liquor licensees from causing or permitting their employees or patrons to cause undue and unreasonable noise that affects the amenity of the neighbourhood. The Commission does not consider that the proposed alterations are likely to result in a significant increase in noise. However, in its decision the Commission has reminded the licensee that it is also subject to the noise pollution provisions of other legislation, and referred the licensee to the Northern Territory Noise Management Framework Guideline issued by the Northern Territory Environmental Protection Agency.

The objects of the Act

25. Finally, section 3(4) of the Act provides that in performing its function to decide whether to approve a material alteration, the Commission must have regard to the primary and secondary purposes of the Act.

26. Throughout its consideration of this application, the Commission has steadily borne the purposes in section 3 of the Act in mind. The Commission considers that the approval of the material alteration with the condition imposed is consistent with the purposes of the Act.



Russell Goldflam

ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
2 November 2022

On behalf of Commissioners Goldflam, Stephenson and Hart