

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *APPLICATION FOR MATERIAL ALTERATION AND VARIATION OF LICENCE CONDITIONS BY MOORISH CAFÉ AND POCO BAR [2024] NTLiqComm 27*

REFERENCE: LC2024/025

APPLICANT: Lucky Saddle Pty Ltd

PREMISES: Moorish Café and Poco Bar
37 Knuckey Street
DARWIN NT 0800

LICENCE NO.: 80500894

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

HEARD BEFORE: Mr Russell Goldflam (Chairperson)
Mr Bernard Dwyer (Health Member)
Ms Katrina Fong Lim (Community Member)

DATE OF DECISION: 21 June 2024

Decision

1. For the reasons set out below and in accordance with ss 97 and 112 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to approve:
 - a. a material alteration to the premises of Lucky Saddle Pty Ltd (**the applicant**) trading as Moorish Café and Poco Bar at 37 Knuckey St Darwin NT 0800 (**the premises**) with liquor licence 80500894 (**the licence**); and
 - b. a variation of the conditions of the licence.
2. The approved alteration is to enlarge the al fresco Poco Bar of the footprint of the premises to the area marked in pink on Annexure One to this decision notice.

3. The variation of conditions is to bring forward the commencement of the hours of operation of the licence in the Moorish Café from 11:30 hours each day of trading to 11:00 hours each day.
4. The Commission further varies the conditions of the licence by omitting the section in the licence appearing under the heading “Application of the Authorities”, and substituting the following under that heading:

The restaurant bar authority and late night authority and the prescribed conditions as set out in Divisions 16 and 10 of Part 4 of the *Liquor Regulations 2019* (NT) (**the Regulations**) apply only to the area labelled “Moorish” to the right of the yellow line marked on the plan of the Licensed Premises depicted below.

The small bar authority and the prescribed conditions as set out in Division 17 of Part 4 of the Regulations apply only to the area labelled “Poco Bar” to the left of the yellow line marked on the plan of the Licensed Premises depicted below.

5. The Commission approves the immediate commencement of business during the extended hours of operation.
6. No business is to be conducted in the extended area of the Poco Bar until the Director of Liquor Licensing (**the Director**) has given notice in writing to the licensee that they are satisfied that the licensee has obtained all regulatory approvals required in order to commence trading in that area.

Reasons

Background

7. The applicant operates a licensed restaurant (**Moorish Café**) in Knuckey St, within the Darwin CBD, trading from 11:30 hours to 02:00 hours each day with a restaurant bar authority and a late night authority. The applicant also operates an adjoining “hole in the wall” bar (**Poco Bar**) at the rear of the restaurant with outdoor tables on the pavement of Spain Place, trading from 10:00 hours to 24:00 hours each day with a small bar authority.¹

The Applications

8. On 28 March 2024 the applicant lodged with the Director of an application for a material alteration. The application stated:

We would like to extend the licensed area of Poco Bar from its current area towards Cavanagh St. The extended requested area is 3.88 m x 7 m and sits alongside the current licenced area.

¹ See Northern Territory Liquor Commission, *Application for material alteration, new authority and variation of conditions* (LC2021/03, 17 November 2021) accessed at https://cmc.nt.gov.au/_data/assets/pdf_file/0008/1074167/reason-decision-lucky-saddle-pty-ltd.pdf

9. The Commission notes that the proposed extension of the premises is situated partly on land belonging to Downtown Pty Ltd, the licensee's landlord (who supports the application) and partly on the pavement of Spain Place, which is the property of the City of Darwin. The licence includes a condition that the licensee trade in accordance with the terms of the Permit to Occupy Outdoor Dining Area (Licensed) that has been issued to the licensee by the City of Darwin.
10. In about March 2024 the applicant informed the office of the Director that it also sought to vary the hours of operation of Moorish Café by opening half an hour earlier, so as to align with its advertised lunch service, from 11:00 hours to 14:30 hours. In belated compliance with s 110(3) of the Act, on 19 June 2024 the applicant accordingly lodged an application to vary conditions with the Director in the approved form.

Consultation

11. As required by the Director, notification to the public of the applications was given by publishing a notice in the NT News on 29 April 2024, by posting details of the applications on the Director's website, and by displaying a green sign on the premises. In addition, the applicant took the sensible step of consulting directly with several nearby business, including three other liquor licensees, about the applications.
12. No objections were received to the applications.
13. As required by ss 96 and 111 of the Act, the Director consulted with the Department of Health, NT Police and the City of Darwin. The Director also consulted with the NT Fire & Rescue Service.
14. None of these agencies raised any concerns about the applications. The City of Darwin provided a letter of support for the proposal to extend the footprint of the Poco Bar.

The referral

15. On 17 June 2024 the Director referred the applications to the Commission.
16. The Director has provided the Commission with a brief (**the brief**) that includes:
 - a. Liquor licence 805000894
 - b. Application for material alteration
 - c. Application for variation of conditions
 - d. Public interest and community impact statements
 - e. Letter of support from landlord
 - f. Letter of support from City of Darwin
 - g. Correspondence with stakeholders

The hearing

17. Pursuant to s 21 of the Act the Commission may direct that a hearing be conducted by way of written submissions if the Commission is of the opinion that it is not appropriate in the circumstances to conduct a public hearing because to do so would not be worthwhile or if the matter is not controversial. The Commission, having formed that opinion, determined to conduct the hearing by written submissions.

ASSESSMENT OF THE APPLICATIONS

18. Material alterations requiring the Commission's prior approval are described by s 95(1) of the Act as follows:

- (a) a significant increase in the area of the premises used for the sale, supply, service or consumption of liquor;
- (c) a change to an entrance to or an exit from the premises;
- (d) a significant change to the external appearance of the premises;
- (e) a significant change to the premises' facilities related to the sale, supply, service or consumption of liquor.

19. Although the proposed increase in area is small – less than 30 sq m – it will nearly double the size of the current Poco Bar footprint, so the Commission accepts that the proposed alteration is “a significant increase in the area of the premises” requiring the approval of the Commission.

20. The Commission is satisfied, having regard to s 95(2) of the Act, that the alteration will not result in a contravention of any law of the Territory that regulates the sale of liquor or the construction of facilities used for the sale of liquor. The Commission accepts that the material alteration will not involve any construction work, but apparently there may be some survey and associated work required. Pursuant to s 97(5) of the Act, the Commission approves as an arrangement for the commencement of business in the extended area of the Poco Bar the requirement set out at paragraph 6 above.

21. The applicant has provided plans and specifications for the proposed alteration.

22. In accordance with ss 97 and 112, the Commission has considered the public interest and community impact requirements. The Commission is comfortably satisfied that the alteration and the variation of conditions will be in the public interest, and will not have a significant adverse impact on the community.

23. As required by s 3(4) of the Act, the Commission has had regard to the purposes of the Act, and considers that its decision has been made in a way consistent with those purposes.

Correction of an error

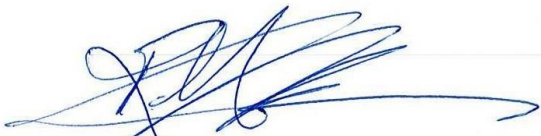
24. On 19 May 2020 the licence was issued with a restaurant bar authority and a late night authority. On 17 November 2021, the Commission issued a decision notice approving a material alteration to the licence. That notice erroneously referred to “the pre-existing restaurant authority” and further stated that the licence was subject to the prescribed licence conditions for a licence with a restaurant authority. In accordance with the Commission’s decision, the current licence provides that those conditions, which are more restrictive than the conditions prescribed for a restaurant bar authority, apply to trading in the Moorish Café.

25. The Commission now considers that this error should and can be corrected, by making the variation set out at paragraph 4 above.

NOTICE OF RIGHTS

26. Section 31(1) read with section 97(4) of the Act provide 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* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.

27. In accordance with section 31(2) of the Act, the persons who may apply to NTCAT for a review of this decision are the Director and the licensee.



Russell Goldflam
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
21 June 2024

On behalf of Commissioners Goldflam, Dwyer and Fong Lim

Annexure One

