

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR APPROVAL OF MATERIAL ALTERATION

REFERENCE: LC2020/014

LICENCE NUMBER: FLL1036

LICENSEE: Beaver Brewery Pty Ltd

PREMISES: Beaver Brewery
2 / 14 Tang Street
COCONUT GROVE NT 0810

APPLICANT: Beaver Brewery Pty Ltd

LEGISLATION: Section 96 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Mr Bernard Dwyer (Health Member)
Ms Amy Corcoran (Community Member)

DATE OF HEARING: 26 March 2020

DATE OF DECISION: 8 April 2020

Decision

1. For the reasons set out below and in accordance with section 97(2) of the *Liquor Act 2019* (“the Act”), the Commission has determined to approve the material alteration to the licensee’s licensed premises at Unit 2 / 4 Tang Street, Coconut Grove, as sought by Beaver Brewery Pty Ltd (“the Licensee”).
2. Pursuant to section 97(3) of the Act, the approval of the material alteration is subject to the condition that whenever the outdoor area of the premises is open to the public for the consumption of liquor, the Licensee will deploy a suitable barrier across the driveway to prevent any vehicular access to the premises.

Reasons

Background

3. The Licensee is the holder of Liquor Licence number FLL1036 for the premises known as Beaver Brewery, 2 / 14 Tang Street, Coconut Grove.

4. On 4 February 2020, the Licensee lodged an application for approval of a material alteration to its licensed premises through the Territory Business Centre Darwin and paid the application fee.
5. The material alteration application seeks to extend the current approved outdoor liquor licensed area that is within the leased premises, but not including the driveway and three (3) car parks.
6. In support of the applications, the Licensee has provided the following documents:
 - Copy of plans of the current licensed area;
 - Copy of plans of the proposed extended liquor licensed area;
 - Covering letter from the Licensee dated 4 February 2020;
 - Community Impact Statement.
7. As the application relates to an extension of the outdoor licensed area and does not include any building works, no development permit, building permit or other technical plans were required to be submitted.

Consultation

8. The application was not advertised as the Director determined by way of email dated 3 March 2020 that there was insufficient public interest to warrant advertising of the application.
9. Because it was not advertised, there were no objections from the public.
10. In accordance with section 96(6) of the Act, notification of the application was sent to the Chief Executive Officer, City of Darwin on 1 March 2020. No response was received.
11. Whilst not legislatively required, notification was also sent to:
 - NT Police;
 - Department of Health;
 - NT Fire and Rescue.
12. NT Police replied via email dated 5 March 2020 stating it has no objection.
13. The Department of Health replied via email dated 2 March 2020 stating it has no adverse comments.
14. NT Fire and Rescue replied via email dated 2 March 2020 stating that it has no adverse comments and requests that the licensee erect appropriate signage relating to smoking. The smoking advice was subsequently emailed to the Licensee.

Compliance History

15. A check of the records held at Licensing NT indicates that there is no previous adverse compliance history against the Licensee. It is also noted that the Licensee holds a wholesale liquor licence with no adverse compliance history.

Public Hearing

16. The application for approval of material alteration to licensed premises was referred to the Commission by the Director on 24 March 2020.
17. On 26 March 2020, the Commission convened and determined pursuant to section 21(2)(d) of the Act that conducting a public hearing would not be worthwhile and in accordance with section 21(3) it was appropriate to conduct the hearing in private by way of written submissions.

Assessment of the Application

18. In considering the application, the Commission has had regard to the purposes of the Act (section 3), the application of the public interest and community impact test (section 49), the community impact assessment guidelines issued by the Attorney-General and Minister for Justice on 2 March 2018, pursuant to section 50, and the onus on an applicant to satisfy the Commission that the approval of the application is in the public interest and will not have a significant adverse impact on the community (section 51).
19. It is relevant that the application, whilst increasing the outside area available for the consumption of liquor, does not seek to change the way in which the Licensee trades within its leased property.
20. During the course of considering the application on 26 March 2020, Members expressed concern as to how the proposed extension is intended to operate having regard to the driveway and existing carparks.
21. By letter dated 27 March 2020, the Licensee was requested to explain how the extended area would operate safely with the existing carpark and traffic access arrangements. Confirmation was also sought that there were no issues from the body corporate or landlord in relation to the proposal to extend the current licensed area.
22. On 1 April 2020, the Licensee replied to the Commission and included a letter of support from the landlord. Mr Brown advised that neither the driveway nor carparks have been used since the cellar door opened in April 2019 and that "we will not allow vehicles inside the area whilst we are trading". Four photographs were supplied of street frontage and evidence of planters positioned across the driveway entrance to prevent vehicle entry.

23. On receipt of the additional advice, Members reconvened to give final consideration to the application.
24. Based on the evidence presented, the Commission finds on balance that there is no evidence to suggest any potential harm or health impact may be caused to people, or any group of people, within the local community area, due to the availability and accessibility of liquor as a consequence of the material alteration sought. The premises are only open for limited hours two days a week and the proposed extension of the licensed footprint will provide the Licensee with greater flexibility to better cater for the needs of patrons.
25. It is as a result of the matters outlined above that the Commission has decided to approve the material alteration to the Licensee's licensed premises as sought and as outlined at the start of this Decision Notice.

Notice of Rights

26. Section 31 of the Act provides for any decision of the Commission for which a decision notice is required under the Act is reviewable by Northern Territory Civil and Administrative Tribunal.
27. Section 97(4) of the Act requires the Commission to give a decision notice to the applicant after making a decision under subsection (2).



RICHARD COATES
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
8 April 2020

On behalf of Commissioners Coates, Dwyer and Corcoran