

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR MATERIAL ALTERATION

REFERENCE: LC2022/018

APPLICANT: Club Eastside Incorporated

LICENCE NUMBER: 81402530

PREMISES: 28 Undoolya Road, Alice Springs

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

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

DATE OF HEARING: 20 April 2022

DATE OF DECISION: 20 April 2022

Decision

1. For the reasons set out below, in accordance with section 97 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to approve an application by Club Eastside Incorporated (**the applicant**) to make a material alteration to its licensed premises at 28 Undoolya Road, Alice Springs (**the licensed premises**), as follows.
2. The approved material alteration comprises the installation of an additional point of sale for food and liquor in the form of a modified shipping container positioned along the eastern side of the beer garden fence, adjacent to the existing BBQ structure in the licensed premises, as depicted at page 27 of the brief provided to the Commission on 30 March 2022 by the Director of Liquor Licensing (**the Director**).
3. The Commission approves the arrangements for business to be conducted on the premises, commencing forthwith.

Reasons

Background

4. Club Eastside is a popular licensed venue in suburban Alice Springs that operates a liquor license with a club authority, a takeaway authority (to sell liquor to club members) and a late night authority.

The application

5. On 8 March 2022, the licensee nominee lodged an application for approval of the material alteration set out at paragraph 2 above. The applicant stated that the club's membership and revenue had significantly grown over the last three years, and that it wished to expand its facilities to meet demand by establishing an additional point of sale for food and beverage service within the existing footprint of the licensed premises.
6. In accordance with section 96 of the Act, the applicant supplied:
 - a. A copy of the plans and specifications for the alteration;
 - b. A copy of a permit under the *Building Act 1993* to carry out the alteration;
 - c. A summary of advice in relation to the premises provided by NT Fire and Rescue Services; and
 - d. Evidence that the propose alteration would not result in a contravention or failure to comply with applicable law.

Consultation

7. The application was published in the NT News on 12 March 2022 and on the Director's Applications web page for a period of 14 days. A sign notifying the application was displayed at the premises.
8. No objections were received.
9. The Director notified the following agencies of the application:
 - a. Department of Health
 - b. NT Police
 - c. Alice Springs Town Council
 - d. Northern Territory Fire and Rescue Services

10. None of these agencies that responded opposed the application, although the NT Police queried whether liquor supplied from the shipping container would be stored in a secure manner. Subsequently, a Senior Compliance Officer from Licensing NT carried out an inspection of the container and reported that it is “extremely secure”.

The licensee’s record of compliance

11. The Director informed the Commission that there are no non-compliance issues recorded against the licensee or the venue under the Act.

The referral

12. Having received the application, the Director determined that the proposed works amounted to a material alteration as set out at section 95(1)(e) of the Act, in that they constituted “a significant change to the premises’ facilities related to the sale, supply, service or consumption of liquor”. Accordingly, on 30 March 2022 the Director referred the application, together with the supporting material that had been provided by the applicant, to the Commission.

The hearing

13. Pursuant to section 21 of the Act, the Commission can conduct a hearing by way of written submissions only, if it is of the opinion that a public hearing is not appropriate because the matter is not controversial or that conducting the hearing in public would not be worthwhile. In this instance, the Commission formed that opinion, and determined to hear the application by way of written submissions only, namely the material referred to above provided to the Commission by the Director.

Assessment of the application

14. In assessing the application, the Commission was required to consider any objections to the application (there were none) and the public interest and community impact requirements.

15. To determine whether the approval of the alterations is in the public interest, the Commission is required to consider how, if implemented, they 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. To determine whether it is satisfied that the approval of the alterations 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:

- (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.

The Commission notes there are no such “other” matters prescribed by regulation.

17. Having considered these matters, the Commission is satisfied that it is in the public interest to grant the application, and that it will not have a significant adverse impact on the community. The new point of sale is situated within the existing licensed

premises, and will serve to reduce congestion at the bar, and the period patrons have to wait to be served food and drinks. The licensee provides an amenity to the community, and the Commission is of the view that the alteration will enhance that amenity. The Commission considers that the alteration will not significantly add to the risk of harm associated with or arising from the supply and consumption of liquor at the premises.

The objects of the Act

18. Section 3(4) of the Act provides that in performing its function to decide whether to grant the application, the Commission must have regard to the primary and secondary purposes of the Act.

19. The Commission has done so, and considers that its decision is consistent with the purposes of the Act.

Notice of Rights

20. 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.

21. 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 and the licensee.



Russell Goldflam

ACTING DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
28 April 2022

On behalf of Commissioners Goldflam, Dwyer and Hart