

**NORTHERN TERRITORY LIQUOR COMMISSION**  
**DECISION NOTICE**

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**MATTER:** SHUTAN PTY LTD APPLICATION FOR MATERIAL ALTERATION [2024] NTLiqComm 6

**REFERENCE:** LC2024/004

**LICENCE NO:** 80503046

**APPLICANT:** Shutan Pty Ltd

**PREMISES:** Hanuman Restaurant Darwin  
93 Mitchell Street  
DARWIN CITY NT 0800

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

**HEARD BEFORE:** Ms Jodi Truman (Chairperson)  
Mr Phil Carson (Health Member)  
Mr Denys Stedman (Community Member)

**DATE OF HEARING:** 7 February 2024

**DATE OF DECISION:** 9 February 2024

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**Decision**

1. For the reasons set out below and in accordance with section 97 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) approves an application by Shutan Pty Ltd (**the licensee**) for a material alteration to premises described as Hanuman Restaurant Darwin at 93 Mitchell Street, Darwin City NT 0800 (**the licensed premises**).
2. The Commission approves the altering of the licensed premises by extending the licensed footprint in accordance with the area identified in red hatching on the site plan provided to the Commission on 5 February 2024 and marked exhibit 2 on the application.
3. The applicant is authorised to continue to conduct business comprising the sale, supply, service and consumption of liquor within the footprint of the existing licenced premises during the course of the works being conducted to alter the premises.

4. However, no such business may be conducted on the altered licensed premises except in accordance with arrangements for which the Director of Liquor Licensing (the **Director**) has given the applicant written approval, following the provision of documentary evidence to the satisfaction of the Director that the applicant has obtained the necessary fire safety and building approvals, including a certificate of occupancy, in respect of the altered premises.

## **Reasons**

### **Background**

5. The licensee has held this licence for a considerable period and conducted a very successful and popular restaurant from the premises over many years, being popular amongst locals and tourists alike.
6. The proposal is to extend the licensed area of the premises to include an area described in the application as “the terrace”. Following the advent of COVID-19, and the associated shift towards conducting public events in well-ventilated areas, the applicant had, during the dry season, previously utilised this area enabling patrons to purchase and consume food and drink in the open air.
7. Apart from these occasions, the forecourt is simply a pedestrian thoroughfare open to the public. The proposal was the extension would cater for an additional 30 to 40 patrons and would be separated by an unobtrusive temporary paling fence and potted plants to separate the “terrace” from the public. The extension would increase the licensed footprint by approximately 100 sqm.
8. Pursuant to section 95(1)(e) of the Act a material alteration which results in a significant change to the premises facilities related to the sale, supply and service of liquor requires the approval of the Commission.

### **The application**

9. On 3 June 2023, the licensee lodged an application with the Director for a material alteration of the licensed premises.

### **Consultation**

10. The representative of the Director, in the exercise of her discretion pursuant to s 96(4) of the Act, did not require the licensee to publish notice of the application.
11. As required by s 96(6A) of the Act, the Director consulted with NT Police, the Department of Health, and the City of Darwin regarding the application. Both the NT Police and Department of Health responded stating there was “no objection” to the application. There were no other responses received.
12. The Director also consulted with NT Fire and Rescue Service (NTFRS) who responded stating they “support this application”, but noted permits and inspections may need to occur following completion of any works.

## Referral to the Commission

13. On 19 January 2024, the Director referred the application to the Commission. There was no explanation about the time taken to refer the matter to the Commission since being lodged in June 2023.
14. Given the uncontroversial nature of the application and that there were no objections, the Commission exercised its discretion pursuant to section 21 of the Act to conduct the hearing by written submission as a hearing in public would not be worthwhile. Notice was given to the Applicant on 25 January 2024.
15. The Director provided the following documents to the Commission with the referral (**the brief**):
  - a. Current liquor licence for the licensed premises
  - b. Application for approval of a material alteration to a licensed premises
  - c. Photographs of the proposed licensed area
  - d. Lease for premises
  - e. Copy of identification for Jimmy Shu (**Mr Shu**)
  - f. Exemption of the public notice requirement
  - g. Correspondence with stakeholders

## The hearing

16. On 7 February 2024, the Commission met in person and the application proceeded by way of consideration of the written materials. The referral brief became exhibit 1 and (as noted earlier) the proposed licensed area became exhibit 2.

## Assessment

17. In accordance with section 97 of the Act, the Commission has considered the public interest and community impact requirements. The Commission notes that the proposed alteration is one that has occurred in the past without incident and that the applicant has had no compliance issues reported in the last 3 years. In addition, the increase to the licensed footprint by this application is approximately 100 sqm and will provide for only 30 to 40 additional patrons.
18. The Commission does not consider this to be a significant increase in all the circumstances. The Commission also considers this alteration will enhance the viability of this popular and locally owned business, which provides a significant amenity to the local community and tourists alike.
19. The Commission accepts the alteration will enhance the premises and considers that the alteration will not result in any difference in the type of liquor sold by the licensee. Whilst there may be an increase in the amount of liquor sold, the Commission does not consider this to be significant given the nature of the premises.

20. The Commission is therefore satisfied that the alteration will be in the public interest, and that it will not have any adverse impact, let alone a significant adverse impact, on the community.
21. The Commission is also 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.
22. The Commission also notes the requirements under section 96 upon the licensee to provide written proof to the satisfaction of the Director of certain plans, specifications and any permits issued in respect of the premises. This was not included in the referral by the Director.
23. However, the Commission considers that this requirement for any such documents can be adequately addressed by an additional order that no sale, supply, or service may be conducted on the altered licensed premises except in accordance with arrangements that the Director has given written approval to; including any necessary approvals or certificates. An order to this effect will therefore be made by the Commission.
24. 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.
25. For these reasons, the Commission approves the material alteration.

## **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.



JODI TRUMAN

CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
9 February 2024

On behalf of Commissioners Truman, Carson and Stedman