

NORTHERN TERRITORY LIQUOR COMMISSION
STATEMENT OF REASONS

MATTER: *APPLICATION FOR MATERIAL ALTERATION FOR SILKS DARWIN RACING [2024] NTLiqComm 31*

REFERENCE: LC2024/027

APPLICANT: The Darwin Turf Club Incorporated

PREMISES: Silks Darwin Racing
20 Dick Ward Drive
FANNIE BAY NT 0820

LICENCE NO.: FLL1043

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: 18 July 2024

Decision

1. On 18 July 2024 the Northern Territory Liquor Commission issued a decision notice that stated:
 1. In accordance with s 97 of the *Liquor Act 2019* (NT) (**the Act**) the Northern Territory Liquor Commission (**the Commission**) has determined to approve a material alteration to the Silks Racing Darwin premises operated by The Darwin Turf Club Incorporated (**the applicant**) at 20 Dick Ward Drive, Fannie Bay NT 0820 (**the premises**) with liquor licence FLL1043 (**the licence**).
 2. The approved alteration is to extend the footprint of the premises by adding the area labelled "Fenced Lawn Area Approx. 1730m²" on the plan at page 31 of Exhibit One admitted into evidence at the hearing of the application. The footprint of the extended premises is delineated by the red line on that plan.

3. The Commission attaches the following condition to the licence:

The Director of Liquor Licensing on their own initiative may review noise issues pertaining to the licensed premises, and the licensee shall implement such sound attenuation and noise mitigation measures as the Director in their discretion may notify to the licensee in writing at any time as having become in the Director's view a reasonable requirement in the circumstances then prevailing.

4. The Commission approves the immediate commencement of business in the enlarged premises.
2. The Commission stated that it would publish its reasons for this decision in due course. It now does so.

Reasons

Background

3. Since 8 November 2019, the applicant has operated Silks Racing Darwin (**Silks**), a licensed club with a \$5 membership fee and 12,000 members, at the Fannie Bay racecourse. The applicant also operates the licensed Darwin Turf Club, immediately abutting the premises. The Silks premises, with a capacity of 400 people, comprise a first floor covered balcony overlooking the racetrack, and a ground floor restaurant, bar, gaming area and deck. Three steps lead down from the deck to a 1,730m² fenced lawn area (**the lawn area**) alongside the racetrack. The lawn area is outside the premises. In recent years the Director of Liquor Licensing (**the Director**) has issued a liquor licence with a special event authority to the applicant authorising it to temporarily extend the footprint of the premises to include the lawn area, during the August Darwin Cup Carnival. The applicant now seeks to permanently extend the footprint of the premises to include the lawn area.

The Application

4. On 21 June 2024 the Director received and accepted the applicant's completed application for a material alteration. The applicant stated that it did not intend to install a bar or other facilities to supply or serve liquor on the lawn, but to use it only for special events and functions as an outdoor area where Silks patrons could consume liquor, for example, while watching a horserace. The applicant proposes to furnish the lawn area with chairs and umbrellas when it is in use.

Consultation

5. As the Director did not consider that it would be in the public interest to do so, the Director did not require the applicant to publish notice of the application. As required by s 96 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.

6. None of these agencies raised any concerns about the application.

The referral

7. On 2 July 2024 the Director referred the application to the Commission.
8. The Director provided the Commission with a brief (**the brief**) that included:
 - a. Liquor licence FLL1043 (Silks)
 - b. Liquor licence 80803820 (Darwin Turf Club)
 - c. Application for material alteration
 - d. Site plan of proposed extension
 - e. Public interest and community impact statements
 - f. Correspondence with stakeholders

The hearing

9. The Commission conducted a public hearing of the application on 17 July 2024. Mr Dewsbury, the licence nominee, appeared for the applicant, and Mr Wood appeared on behalf of the Director.
10. The Commission received the brief into evidence, and was further assisted by information provided at the hearing by both Mr Dewsbury and Mr Wood.

ASSESSMENT OF THE APPLICATION

11. The proposed alteration will nearly double the ground floor area of the premises. In the terms of s 95(1)(a) of the Act, this is “a significant increase in the area of the premises”, and accordingly an alteration that requires the approval of the Commission before being made.
12. 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 or other regulatory certification or approvals.
13. The applicant has provided plans and specifications for the proposed alteration.
14. Mr Dewsbury explained, and the Commission accepts, that extending the licensed footprint to include the lawn area is a natural extension of the premises, and addresses the inconvenience of having to monitor and prevent patrons from stepping onto the lawn from the ground floor deck if they are holding a drink. The Commission also accepts that liquor is not supplied to Silks patrons in glass containers except during functions conducted on the first floor of the premises. Accordingly, the Commission is satisfied that the risk of broken glass in the lawn area is low.
15. In the view of the Commission, it may have been preferable for the public to have been notified of this application, as it relates to premises that are in the

vicinity of a suburban residential district. However, the application was not lodged in time for public notification to be undertaken and the subsequent hearing to be completed before the August Darwin Cup Carnival. The applicant should assume that similar indulgence will not be extended in relation to any future liquor licensing applications.

16. The Commission accepts that on major event days such as the Darwin Cup, only Silks members are permitted to enter the premises, with a much larger crowd in the applicant's adjoining premises. At such events, the applicant engages the services of a private security provider. In addition, the licensee employs RSA marshalls to monitor patrons and discourage irresponsible drinking. The applicant also plans to install additional CCTV to monitor the lawn area. Silks and the adjoining Darwin Turf Club premises area are separated by a chain link fence that the Commission accepts is a suitable barrier to prevent non-members from accessing the lawn area.
17. In all the circumstances, the Commission accepts the applicant's submission, which was supported by the Director, that it is not necessary to fix a condition limiting supply to four drinks per person per transaction.
18. The Commission is aware that there have previously been complaints from nearby residents about noise emanating from the Fannie Bay racecourse, and considered limiting the hours or days on which the lawn area could be used as a venue for functions and events involving the consumption of liquor. However, the Commission accepts the applicant's submission that it does not intend to install speakers in the lawn area, that it already uses sound monitoring equipment to limit noise, and that it does not expect that the lawn area will be the preferred area for special events and functions. This is because the upstairs balcony is more attractive and sheltered for small functions, and the outdoor area in the adjoining Darwin Turf Club premises is more suitable for large functions. Moreover, the Commission has come to the view that because of the positioning of the Silks building directly between the lawn area and the homes of residents in the neighbourhood, noise coming from the lawn area is likely to be less intrusive than noise from the outdoor function area next door. For these reasons, the Commission has decided not to place restrictions on the days on which functions may be held on the lawn area. However, it has determined to fix the noise management condition set out at paragraph 3 of the decision notice.
19. As required by s 97 of the Act, the Commission has considered the public interest and community impact requirements set out at s 49. 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.

20. 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.



Russell Goldflam

CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
29 July 2024

On behalf of Commissioners Goldflam, Dwyer and Fong Lim