

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE AND REASONS FOR DECISION

CITATION: *DARWIN AIRPORT RESORT OPERATING COMPANY PTY LTD: APPLICATION FOR EXTENSION OF TIME [2025] NTLiqComm 12*

FILE NUMBER: LC2025/008

APPLICANT: Darwin Airport Resort Operating Company Pty Ltd

PREMISES: Darwin Airport Resort
1 Sir Norman Brearley Drive
MARRARA NT 0812

Liquor licence number: 80117466

LEGISLATION: Section 6(3) of the *Liquor Commission Act 2018*
Sections 3(4) and 19(g) of the *Liquor Act 2019*

DECISION OF: Ms Jodi Truman (Deputy Chairperson)
Dr Phil Carson (Health Member)
Ms Katrina Fong Lim (Community Member)

DATE OF DECISION: 15 April 2025 (on the papers)

DECISION

1. Pursuant to section 6(3) of the *Liquor Commission Act 2018* (**the LC Act**), the Commission has determined to grant the application by Darwin Airport Resort Operating Company Pty Ltd (**the Applicant**) to extend the time fixed by the Commission at paragraph 5(b) of its decision issued on 21 April 2023¹ (**the 2023 decision**) within which certain works must be carried out and completed.
2. The Commission has determined to extend the time for completion to 31 January 2026 or such further date as the Director of Liquor Licensing (**the Director**) or their Delegate approves.

¹ *Darwin Airport Resort Operating Company Pty Ltd: Joint Application for Material Alteration and Substitution of Licence [2023] NTLiqComm 10*

REASONS

Background

3. On 30 November 2022, joint applications were lodged by Mr. Andrew Giles of law firm HWL Ebsworth on behalf of Darwin Airport Resort Operating Company Pty Ltd (**the licensee**) seeking material alteration and substitution of premises involving the licences with respect to the premises known as Mercure Darwin Airport Resort and Novotel Darwin Airport.
4. Publication and consultation in accordance with the *Liquor Act 2019* (**the Act**) occurred and no objections were received.
5. The application was referred to the Commission and the matter proceeded as a hearing on 21 March and 12 April 2023. A significant aspect of that hearing related to the proposal concerning the licensing of the “to be established” RV Park. A great deal of evidence was provided to the Commission concerning the RV Park and what was proposed. In fact, it was the proposals surrounding the RV Park that were a significant reason for the hearing being adjourned part heard to 12 April 2023.
6. The various matters raised by the applicant before the Commission in relation to the RV park are set out in the 2023 decision. The Commission does not propose to repeat those matters here.

2024 Application

7. On 13 March 2024, Mr. Andrew Giles (**Mr. Giles**) solicitor for the applicant sent a 2½ page letter to the Director of Liquor Licensing (**the Director**). Mr. Giles stated that there were certain outstanding works with respect to the construction of the RV park. It was noted on behalf of the applicant that over \$21 million worth of construction had already been completed and that the further estimated cost of works yet to be completed were approximately \$10 million; with approximately \$6 million of that to be spent on the RV park.
8. On behalf of the applicant, it was noted that there had been delays incurred due to unforeseen circumstances, particularly relating to the requirement for significant consultation during the design phase and an inability to access the site whilst construction was being undertaken to stage 3 of the work.
9. Despite these delays it was submitted that it was believed construction could be completed by April 2025. As a result, an application was made for an extension of time to that date.
10. As a result of that request, the Commission reconvened the same panel that had determined the application in 2023. After considering the materials, on 27 March

2024² the Commission granted an application for the extension of time until 30 April 2025 (**the 2024 decision**).

The current Application

11. On 9 April 2025, Mr. Giles sent a 5-page letter to the Director. Mr. Giles stated that there continued to be outstanding works with respect to the development. Mr Giles noted that:

“... the nature of the works has not significantly changed in the context of material alterations ... Importantly however, we note that significant refurbishment works have been undertaken to the accommodation ... and the delays are in part due to the nature of in-sequence construction programs that have been prepared and adhered to by the competent contractors engaged ...”.
12. Mr Giles then outlined the relevant outstanding works which continue to include the construction of the RV park. It was also noted that “significant” refurbishment works had been completed to villas and renovation works were “ongoing” in the “new ‘Novotel Restaurant’”. Various concept designs and renders were provided outlining the work being undertaken.
13. The large expenditure “exceeding \$20,000,000” made by the applicant was again noted on behalf of the applicant and that the further estimated cost of works yet to be completed remained approximately \$10 million; with \$200,000 of that having “been completed” and the remaining outstanding.
14. On behalf of the applicant, it was noted that there had been delays incurred “due to unforeseen circumstances”, particularly “in engaging competent contractors pursuant to a competitive tender process”.
15. Despite these delays it was submitted that it was believed construction of the RV Park would be “commencing in June 2025” and that “the Applicant predicts that the construction will be completed by **31 January 2026** and respectfully seeks an extension to do so”.
16. The Director referred the application to the Commission under cover of correspondence dated 9 April 2025. Within that referral the Director’s Delegate, namely Mr Mark Wood (**Mr Wood**), noted the following:
 - a. The licensee was “genuinely undertaking the works and not unnecessarily delaying or not utilising the licence”.
 - b. The “Director had been liaising with the licensee and is satisfied they are exercising best endeavours to undertake the works and comply

² Darwin Airport Resort Operating Company Pty Ltd: Application for Extension of Time [2024]
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with the requirements of the Commission. The delays appear to be outside of their control”.

- c. That “(o)n the basis of the ongoing engagement between the licensee and the Director and the materials provided in this most recent request, there is nothing to suggest the licensee is not exercising best endeavours in this matter”.

17. As a result, the Director supports the request for an extension of time.

Assessment of the application

18. By way of formality, the Commission again notes that although s 19 of the Act provides that the Commission is responsible for deciding any matter the Director refers to it, the Act does not prescribe a procedure for dealing with an application to extend a time period that forms part of a licence condition fixed by the Commission.
19. There is accordingly no prescribed application fee, no requirement to notify the public of the application or consult with stakeholders, no prescribed procedure for the referral of the application by the Director to the Commission, and no provision setting out the matters the Commission must consider when determining the application.
20. Pursuant to Part 2 Division 3 of the LC Act, in order to deal with a matter such as this, the Commission is required to convene by three or more members. In accordance with this requirement the same panel that determined the 2023 decision and the 2024 extension considered the application. Due to the nature and circumstances of the application, the Commission determined that a public hearing would not be worthwhile and pursuant to section 21(d) of the Act considered the application on the papers. That undertaking was completed on 15 April 2025.
21. As noted by the Commission in the 2024 decision, the Commission considers that the power to grant the extension of time being sought arises by operation of section 6(3) of the LC Act together with sections 3(4) and 19(g) of the Act.
22. In both the 2023 and 2024 decision the Commission made clear that time could be extended to “such later date as the Commission approves”. The applicant has applied for this extension before the expiry of the time granted and therefore the Commission is empowered under section 6(3) of the LC Act “to do all things that are necessary or convenient to be done for, or incidental too, the performance of its functions”.
23. The Commission has determined that this application for extension of time falls within that power and as a result has determined to extend time as sought by the applicant to 30 January 2026.

24. Within the referral made by the Director to the Commission of this application, the Director suggested that the Commission could delegate to the Director or her Delegate the power to determine any future application for an extension of time.
25. The Commission has considered this suggestion very carefully and has determined that in the particular circumstances of this matter and in light of the very significant works already undertaken by the applicant that any future application for an extension is a matter that can be appropriately dealt with by the Director or their Delegate. As a result, the Commission has also determined that again the applicant should do everything within its power to complete the works required by 31 January 2026, however if there is a requirement for any additional extension of time, that may be deal with by the Director or their Delegate.

NOTICE OF RIGHTS

26. Section 31(1) read with section 60(3) 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 2014* 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 the decision are the applicant and Director.



JODI TRUMAN
DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
15 April 2025

On behalf of Commissioners Carson and Fong Lim