

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: *DARWIN SERVICES CLUB APPLICATION FOR EXTENSION OF TIME [2025] NTLiqComm 20*

REFERENCE: LC2025-009

LICENCE NO.: 81401558

APPLICANT:5223 Darwin Services Club Incorporated

PREMISES: 70 The Esplanade
DARWIN NT 0800

LEGISLATION: *Liquor Act 2019, Liquor Commission Act 2019*

HEARD BEFORE: Mr Russell Goldflam (Chairperson)
Ms Ebony Abbott-McCormack (Health Member)
Ms Rachael Shanahan (Community Member)

DATE OF HEARING: 6 May 2025

DATES OF DECISION: 12 May 2025

Decision

1. For the reasons set out below the Northern Territory Liquor Commission (**the Commission**) has determined to extend the time by which Darwin Services Club Incorporated (**the licensee**) is required to be ready to re-commence operating liquor licence 81401558 (**the licence**), to 24 May 2026.
2. The Commission varies its order at paragraph 2(d) of its decision in *Complaint against Darwin RSL Incorporated [2024] NTLiqComm 19*, to the following:

That should the licensee not be ready to re-commence operations by 24 May 2026, the licence is cancelled immediately.
3. The Commission varies its order at paragraph 2(b) of its decision in *Complaint against Darwin RSL Incorporated [2024] NTLiqComm 19* that the licensee take specific action, to the following:

The licensee must provide a report to the Director of Liquor Licensing (**the Director**) on the 24th day of each month (or the next business day should that date fall on a weekend) from 24 June 2025 and continuing until the licensee re-commences operating the licence. The monthly report must address the following matters:

- i. progress of the works at the premises since the previous monthly report;
 - ii. completion since the previous monthly report of significant steps associated with the recommencement of trade, such as execution of agreements, engagement of key service providers and grants of regulatory approval;
 - iii. previously unanticipated impediments that might delay the continuing progress of the works; and
 - iv. any other matters that the Director reasonably requests the licensee to report upon.
4. Access by non-parties to material received into evidence at the hearing of the application is permitted only by leave of the Chairperson.
5. The Commission requests the Director to promptly inform the Commission of any event coming to the attention of the Director that may result in an application for a further extension of time by the licensee.

Reasons

Background

6. On 24 May 2024, the Commission upheld a complaint against the licensee on the ground that the then premises of the licence were no longer being used for the sale of liquor.¹ An issue examined in that matter was the licensee's search for new premises as a result of the destruction by fire of its previous premises in Cavenagh Street, Darwin. The Commission suspended the licence for a period of 12 months and ordered that the licence be automatically cancelled if the licensee was not ready to re-commence operations "...as and from the 12-month suspension period".
7. Subsequently, the licensee, which has continued to hold the licence, changed its name from "Darwin RSL Incorporated" to "Darwin Services Club Incorporated".
8. On 3 February 2025, the Commission approved an application to substitute the premises from Cavenagh Street to new premises at Old Admiralty House, 70 The Esplanade, Darwin, and to vary the conditions of the licence. That application attracted objections, resulting in a contested public hearing.²

The application to extend time

9. On 10 April 2025 the licensee wrote to Licensing NT seeking to extend the time allowed for the licensee to re-commence operations. On 16 April 2025, the Director referred the application to the Commission.
10. Section 6(3) of the *Liquor Commission Act 2018* provides:

¹ *Complaint against Darwin RSL Incorporated* [2024] NTLiqComm 19

² *Darwin Services Club applications for substitution of premises and variation of licence conditions* [2025] NTLiqComm 5 (**the substitution decision**)

The Commission has the power to do all things that are necessary or convenient to be done for, or incidental to, the performance of its functions.

11. As the Commission has recently stated:³

[A]lthough s 19 of [the *Liquor Act 2019*] 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.⁴

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.

Pursuant to Part 2 Division 3 of the *Liquor Commission Act*, in order to deal with a matter such as this, the Commission is required to convene by three or more members.

...

The Commission considers that the power to grant the extension of time sought arises by operation of s 6(3) of the *Liquor Commission Act* together with ss 3(4) and 19(g) of the [the *Liquor Act 2019*].

Consultation

12. As stated above, there was no requirement to notify the public of the application or consult with stakeholders. The delegate of the Director noted: firstly, that no application had been made for the Northern Territory Civil and Administrative Tribunal (**NTCAT**) to review the substitution decision; and secondly, that all material issues relating to the future operation of the licence had been agitated and considered by the Commission in the substitution decision. The delegate consequently suggested that there was minimal public interest in the application to extend time. Accordingly, the Director did not consult with stakeholders or require the licensee to notify the public of the application to extend time.

The licensee's record of compliance

13. Apart from the complaint against the licensee that was upheld in May 2024, the licensee has no history of non-compliance with the conditions of its licence.

³ *Armada Hotels and Leisure Pty Ltd: application for extension of time* [2025] NTLiqComm 15 at [14] to [18]

⁴ In this instance the time period in question is not a condition of the licence, but an element of an order made by the Commission. Nothing turns on that distinction for the purposes of considering this application.

14. Of greater relevance to this application is whether the licensee has been compliant with the Commission's May 2024 order that the licensee provide monthly reports to the Director of its progress towards recommencing the operation of the licence. The Commission received into evidence eleven monthly progress reports for the period June 2024 to April 2025. Commendably, they show that the licensee has been conscientiously compliant with this order.

The referral

15. In referring the application to the Commission, the Director made the following recommendations:
- a. the hearing of the application be conducted "on the papers";
 - b. the application be granted; and
 - c. the Commission delegate to the Director the power to deal with any future applications by the licensee for a further extension of time.
16. The Director provided a bundle of documents to the Commission with the referral (**the brief**), notably including:
- a. Director's Memorandum to Commission, 16 April 2025
 - b. Certificate of Incorporation
 - c. Email correspondence between Licensing NT and the licensee
 - d. Approval to conduct major work on a heritage place, 31 March 2025
 - e. Plan of proposed renovation works
 - f. Minutes of Darwin Services Club AGM, 1 March 2025
17. In relation to the first of the Director's recommendations, the Commission has had regard to the fact that the proposed relocation of the former RSL clubhouse to Old Admiralty House had previously been the subject of considerable media interest, as well as robust controversy (as is evident from a reading of the substitution decision). Section 21 of the *Liquor Act 2019* (**the Act**) establishes a presumption that a hearing conducted by the Commission be held in public. In this matter, the Commission did not consider that the presumption had been rebutted.
18. Accordingly, the Commission determined to conduct a public hearing of the application, and notified the public of this by publishing a notice of the hearing on its website and, on 25 April 2025, in the NT News.

The hearing

19. On 6 May 2025 the application proceeded as a public hearing. Mr Paul Winter (**Mr Winter**), the chairman of the applicant's board, appeared on behalf of the licensee, together with Mr Guy Dunne (**Mr Dunne**) and Mr Darren Lynch (**Mr Lynch**), directors and principals of DCL Hospitality Services Pty Ltd (**DSL**), the proposed manager of the premises. Mr Jeffrey Dunn, a member of the licensee's Board and patron of Darwin RSL, also attended. Mr Wood appeared

for the Director with Senior Licensing Officer Raut. No-one else attended the hearing.⁵

20. The Commission admitted the following documents into evidence:
 - a. Exhibit 1: the brief
 - b. Exhibit Two: Licensee's 11 monthly reports to Director, June 2024 to April 2025
 - c. Exhibit Three: Draft management agreement between the licensee and DSL, 14 April 2025
 - d. Exhibit Four: DSC letter to Heritage Branch, 13 January 2025
 - e. Exhibit Five: Bridgeman Report, 16 January 2025
 - f. Exhibit Six: Architectural plans for Old Admiralty House
 - g. Exhibit Seven: 7 rendered views of proposed developed premises
 - h. Exhibit Eight: email from Mr Winter to the Commission, 22 April 2024
21. The Commission ordered that access by non-parties to material in the exhibits that are determined by the Chairperson to be commercial-in-confidence material in the exhibits not be permitted.
22. The hearing was conducted with a minimum of formality. The Commission conducted a portion of the hearing that concerned commercial-in-confidence information in private.
23. In the course of the hearing the Commission received the following additional evidence:
 - a. Although the management agreement between the licensee and DCL has not yet been executed and some minor details are still being finalised, both parties are strongly committed to entering into and implementing the agreement, which is an essential element of the licensee's plans to redevelop the premises and recommence operations.
 - b. When the licensee appeared before the Commission in January 2025, it believed that the work to be done to enable the premises to recommence trade could be completed by 24 May 2025. However, following that appearance, the licensee was informed that in order to comply with Heritage Branch requirements, more extensive and time-consuming works would need to be undertaken, such as the use of "core drilling" instead of the usual process of excavation for footings.

⁵ Due to an oversight by the Commission, the notice of the hearing published in the *NT News* erroneously notified the public that the hearing would be at "10:00 am Wednesday 6th May 2025". The hearing commenced at 10:00 am on Tuesday 6th May 2025. No member of the public arrived to attend the hearing at the notified location at 10:00 am on either Tuesday 6th May 2025 or Wednesday 7th May 2025.

- c. Immediately following the substitution decision, the licensee commenced paying rent on the premises, in accordance with the terms of its lease.
- d. The licensee has engaged an arborist, from whom a report is expected by 9 May 2025.
- e. The proposed redevelopment of the site is to proceed in three stages, the first of which has been approved under the *Heritage Act 2011* by the Minister for Lands, Planning and Environment. The licensee proposes to commence trading at the premises when stage one is completed.

ASSESSMENT OF THE APPLICATION

24. The Commission accepts the above evidence, and is satisfied that the licensee has used and is continuing to use its best endeavours to undertake the works required to become ready to recommence trade at the premises.
25. The Commission accepts that the arrangement between the licensee and DCL has been substantially agreed, and that the licensee and DCL have the combined resources, expertise, experience and commitment to establish and operate the premises.
26. The Commission has given weight to the Director's strongly expressed support for the application, and accepts the Director's recommendation that the application be allowed.
27. The Commission has given serious consideration to the Director's recommendation, which is supported by the licensee, that the Commission delegate to the Director the power to issue any further extensions of time. However, having considered the circumstances of the very lengthy delays in re-establishing the operation of the licence since the fire on 24 June 2018,⁶ the Commission declines to accept this recommendation. The Commission has requested the Director to promptly inform the Commission of any event coming to the attention of the Director that may result in an application for a further extension of time by the licensee.
28. Similarly, the Commission does not accept the licensee's proposal to dispense with the requirement imposed by the Commission in its decision of 24 May 2024 that the licensee provide a monthly progress report to the Director on the 24th day of each month. The Commission has however determined to vary that requirement, in the terms set out at paragraph 3 above.

⁶ Those circumstances are set out in *Complaint against Darwin RSL Incorporated* [2024] NTLiqComm 19

Objects of the Act

29. Section 3(4) of the Act provides that in exercising its powers and performing its functions the Commission must have regard to the primary and secondary purposes of the Act.

30. The Commission considers that allowing the application and making the associated orders is consistent with the purposes of the Act.



Russell Goldflam
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
12 May 2025

On behalf of Commissioners Goldflam, Abbott-McCormack and R Shanahan