

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE AND REASONS

CITATION: *SPINNING BACK KICKS PTY LTD APPLICATION FOR PUBLIC BAR & ADULT ENTERTAINMENT AUTHORITIES [2025] NTLiqComm 16*

REFERENCE: LC 2025-011

LICENSEE: Spinning Back Kicks Pty Ltd

PROPOSED PREMISES: Birth of Venus Darwin, trading as The Last Supper
Shop 1, 2, 3, 4 and 5 and portion of Shop 7
Air Raid Arcade
35 Cavenagh Street
DARWIN CITY NT 0800

LEGISLATION: Part 3 Division 4 of the *Liquor Act 2019*.

HEARD BEFORE: Ms Jodi Truman (Deputy Chairperson)

Professor Phillip Carson (Health Member)

Ms Katrina Fong Lim (Community Member)

DATE OF DECISION: 2 May 2025

Decision

1. Pursuant to section 21 of the *Liquor Act 2019 (NT)* (**the Act**), having formed the opinion that a public hearing is not appropriate in the circumstances of this application, the Northern Territory Liquor Commission (**the Commission**) has determined to conduct the hearing of this application by way of written submissions only.
2. In accordance with section 48 of the Act, the Commission has determined to vary licence no FLL1374 held by Spinning Back Kicks Pty Ltd (**the Licensee**) to include a public bar authority and an adult entertainment explicit authority.
3. The conditions of the licence will be those authority conditions prescribed by Part 4 Division 1, Division 2, Division 14 and Division 17 of the *Liquor Regulations 2019* (**the Regulations**).
4. The Commission fixes the following additional conditions:
 - a. The sale, supply and consumption of liquor under the public bar authority and adult entertainment R-rated authority shall be limited as follows:

- i. The consumption of liquor pursuant to these authorities shall only take place in the area marked in green on the licensed area site plan attached at Annexure A to this decision notice and only during the hours when an art class involving a nude model are being conducted in that marked area by persons who have purchased tickets to attend the aforementioned art classes.
 - ii. Once a patron exits the area where the aforementioned art class is taking place, they shall not be permitted re-entry.
 - iii. The aforementioned art classes shall not be for the purpose of sexualised entertainment or gratification.
 - iv. At all other times, that area will operate under the small bar authority applicable to “Birth of Venus Darwin” and its relevant additional conditions set out below.
 - b. The remainder of the premises shall continue to operate under the small bar authority with the following additional conditions:
 - i. The trading hours for “Birth of Venus Darwin” are:
 1. Sunday 10:00 and 24:00
 2. Monday 10:00 and 24:00
 3. Tuesday 10:00 and 24:00
 4. Wednesday 10:00 and 24:00
 5. Thursday 10:00 and 24:00
 6. Friday 10:00 and 24:00
 7. Saturday 10:00 and 24:00
 - ii. The trading hours for “Arcade Area” are:
 1. Sunday 12:00 and 24:00
 2. Monday 17:00 and 24:00
 3. Tuesday 17:00 and 24:00
 4. Wednesday 17:00 and 24:00
 5. Thursday 17:00 and 24:00
 6. Friday 17:00 and 24:00
 7. Saturday 12:00 and 24:00
 - iii. Liquor may only be consumed in the Arcade Area by patrons whilst seated at the chairs within the Arcade Area indicated as the area bounded in yellow on the licensed area site plan attached at Annexure A to this decision notice.
 - iv. Live musical performances are not to be amplified.
5. The licence will be issued immediately following the publication of this decision notice.

Reasons

Background

6. The applicant holds liquor licence FLL 1374 with a “Small Bar Authority” for premises known as “Birth of Venus Darwin” which trades as “The Last Supper”. The nominee is Ms Monica Bugno (**Ms Bugno**) who has been the nominee for the licence since it was issued on 16 October 2023. Since that time there have been no issues of non-compliance under the Act or any compliance issues arising from the premises under their management.
7. The Last Supper serves gourmet pizza and a range of Italianesque bar-foods. It is a well-known and popular premises.

The Application

8. On 15 April 2025, an application was lodged Ms. Monica Bugno on behalf of the licensee seeking an adult entertainment R-rated authority be added for the premises.
9. The licensee was requested to fill out only sections 3 and 5 of the application as both the nominee and licensee are existing and appropriate probity checks have been undertaken within the last two years. Further the authorities sought are for an existing liquor licence.
10. It was noted that the substance of the application is to allow for the premises to hold art classes involving nude models. The premises currently offer a range of social, creative and community-engagement activities including:
 - a. Cooking classes.
 - b. Art and craft classes.
 - c. Comedy nights.
 - d. Cheese, gin and wine tasting.
 - e. Folk music and singing nights.
 - f. Board games and silent reading
11. The referral to the Commission stated¹:

“The proposal for the art classes is to be ticketed events only, held in one of the break-out rooms, which is sealed (curtained) from the main bar area and not visible to the public or passers-by. The classes are not, in any way, for the purpose of sexualized entertainment or gratification.

¹ See Exhibit 1, namely Hearing Brief, page 4 of 23

Models used for art classes will have access to a separate private space (a "green room") for dressing and undressing. The room will be in lock-down during the session, and anyone who leaves will not be permitted to re-enter. This is to ensure the model feels safe and comfortable, with no unexpected interruptions.

No photography is permitted during the art classes. It is not anticipated that there will be more than 12 nude-model art classes held at the Last Supper per calendar year.”

12. Given the limited nature and purpose of the application, the Director determined that a Public Interest and Community Impact Assessment Summary was not required on this occasion. The Director also waived the requirement for public notice “due to the low risk of the proposal and infrequency of proposed art classes”².
13. Although not formally applied for in the original application lodged, the referral to the Commission made clear that a public bar authority was also being sought. The basis for this is the Act and Regulations make clear that an adult entertainment authority of any kind may only be issued “in conjunction with a public bar authority”³.
14. As noted in the referral letter on behalf of the Director⁴:

“The Act requires that any event involving full nudity on a licensed premises must have an adult entertainment R-rated authority and a public bar authority. The application is sought to that end.”

And⁵:

“This application is a result of the nudity that is to be conducted at the venue, which falls within the definitions of adult entertainment authority definitions in section 47 of the Act. The existing licence does not allow for the type of entertainment intended and may only be done under a public bar authority.”

Consultation

15. As earlier the Director waived the requirement for public notice of the application.
16. In accordance with section 56 of the Act, notification was given to Department of Health, NT Police and the Darwin City Council. No objections were received.

The licensee’s record of compliance

² Ibid, p.4 and Exhibit 2 (waiver email from Director)

³ See section 47(1)(t) and Regulation 25(2)

⁴ Exhibit 1, paragraph 10

⁵ Ibid, paragraph 16

17. As previously noted, there are no issues of compliance relating to the licensee or the nominee with respect to this licence.

The referral

18. On 16 April 2025, pursuant to section 59 of the Act, the Director referred the application to the Commission to be determined by way of a public hearing. Request was made that the Commission consider determining the application on the papers, ie by way of written submissions only.

19. The Director provided the following documents to the Commission with the referral (**the brief**):

- a. Copy of liquor licence.
- b. Application for an adult entertainment R-rated authority.
- c. Correspondence with the applicant.
- d. Correspondence with stakeholders.

The hearing

20. Following receipt of the referral a panel was assembled with the Commission members considering the material and determining that the application, due to its nature and limited circumstances, was one that it was not appropriate to conduct in public as it was not controversial and a public hearing was not worthwhile. Accordingly, pursuant to section 21 of the Act, the Commission accepted the Director's submission and determined to conduct the hearing by way of written submissions only and on the basis of the referral provided.

ASSESSMENT OF THE APPLICATION

21. In accordance with s 59 of the Act, the Commission has considered:

- a. the applicant's affidavit required by s 54.
- b. the suitability of the premises to be licensed, having regard to any law of the Territory regulating the sale, supply, service or consumption of liquor or the location, construction or facilities of those premises.
- c. the financial stability and business reputation of the body corporate.
- d. the general reputation and character of the secretary and executive officers of the body corporate.
- e. whether the applicant and the nominees designated by an applicant, are fit and proper persons to hold a licence.
- f. whether each associate of the applicant is a fit and proper person to be an associate of a licensee.

22. In accordance with s 49 of the Act, the Commission has also considered whether issuing the licence is in the public interest, and whether the licence will have a significant adverse impact on the community.

The applicant, the applicant's associates and the question of "fit and proper"

23. Ordinarily the Commission would consider the matters under s 53 of the Act in relation to the applicant and then turn to the associates under s 54, however the referral from the Director made clear that:

- a. the licensee (i.e. the applicant), and the nominees (i.e. the associates of the applicant) are "known to the Director",
- b. are an existing licensee and nominee,
- c. there are no issues of non-compliance,
- d. the nominee has undergone probity in the last two (2) years and is "considered a fit and proper person to hold a liquor licence".

24. As such, the Commission has considered all these matters together and is satisfied that no further probity is required to be undertaken and that the applicant and associates are fit and proper.

Whether issuing the licence is in the public interest

25. To determine whether the issue of the license is in the public interest, the Commission is required to consider how the issue of the licence would advance the following objectives set out in s 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.
26. In this regard, it is clear on the materials provided to the Commission that this application has been brought for the limited purpose of enabling art classes to take place that involve nude models. This is commonly referred to as “life drawing” or “figure drawing” classes. It is not for the purpose of sexualized entertainment or gratification. It is not uncommon for licensed venues to offer these kinds of classes, and they are popular amongst all ages and all genders. It is clearly focused on art.
27. The nominee has taken care to ensure that the art classes are ticketed events only and held in an area of the premises that is clearly marked, via two (2) rooms that are noted to be “completely sealed off internally and are furnished with wall curtains” and will not be visible to the public or passers-by. Further, the models used for art classes will have access to a separate private space (a “green room”) for dressing and undressing. The room will be in “lock-down” during the session, meaning also that anyone who leaves will not be permitted to re-enter. This is also “to ensure the model feels safe and comfortable, with no unexpected interruptions”.
28. In addition, there is to be no photography permitted during the art classes and it is not anticipated there will be more than 12 such classes held at the premises per calendar year.
29. As earlier noted, the only basis upon which the licensee is making this application is because the Act requires that any event involving full nudity on a licensed premises must have an adult entertainment R-rated authority and these authorities can only operate in conjunction with a public bar authority. The applicant does not seek to operate as a public bar and is willing to have conditions put in place to prevent that occurring but allow them to provide the art classes.
30. Having considered each of these matters, the Commission is satisfied that the proposal for the authorities sought is the most appropriate for the purpose of conducting the art classes under the business model of the premises. In order to ensure that these premises remain licensed (as they are at present) with a restaurant bar authority, but with the additional ability to conduct these art classes, the Commission has included conditions upon the operating of the adult entertainment R-rated authority and the public bar authority that the Commission considers will appropriately limit their operation to solely those art classes.
31. The Commission is satisfied that there is a clear indication on behalf of the applicant to maintain its focus as a restaurant bar providing a venue that offers a range of social, creative and community engagement activities that are different to the usual “main pub-scene”.

32. Having considered each of the above objectives, the Commission is satisfied that there will be minimal harm caused to the community and that it is in the public interest to issue the authorities sought provided that the licence conditions are adhered to.

Whether the issue of the licence will have a significant adverse impact on the community

33. To determine whether it is satisfied that the issue of the licence will not have a significant adverse impact on the community, the Commission must consider the matters set out at s 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.

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

35. The applicant bears the onus of satisfying the Commission of the relevant matters. Even if there are no objections, the applicant must still satisfy this Commission of those matters.

36. Given the limited nature and purpose of this application, the Commission is satisfied that the issue of the authorities will not have a significant adverse impact on the community

37. Having considered all of these matters, the Commission is satisfied, in accordance with s 49 of the Act, that:

- a. the applicant is a fit and proper person; and
- b. issuing the additional authorities is in the public interest; and
- c. the additional authorities will not have a significant adverse impact on the community.

The objects of the Act

38. Section 3(4) of the Act provides that in performing its function to decide whether to issue the licence, the Commission must have regard to the primary and secondary purposes of the Act.
39. The Commission considers that the issue of the additional authorities with the conditions imposed is consistent with the purposes of the Act
40. For these reasons, the Commission has determined that the application should be granted, and that the additional authorities be issued on the conditions as set out at the commencement of this Decision Notice.

NOTICE OF RIGHTS

41. 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* provides that an application for review of a reviewable decision must be lodged within 28 days of the date of the decision.
42. 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 applicant.



JODI TRUMAN

DEPUTY CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
2 May 2025

On behalf of Commissioners Truman, Professor Carson and Ms Fong Lim

ANNEXURE 1

