

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

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**MATTER:** APPLICATION TO MAKE A MATERIAL ALTERATION

**REFERENCE:** LC2018/129

**LICENCE NUMBER:** 80516781

**LICENSEE:** LP Creations Pty Ltd

**PREMISES:** Star of Alice Function Centre  
Lot 337 Palm Circuit  
ALICE SPRINGS NT 0870

**APPLICANT:** Lisa Perry, nominee

**LEGISLATION:** Section 119(2), Part IV and V of the *Liquor Act*.

**HEARD BEFORE:** Mr Russell Goldflam (Acting Deputy Chairperson)  
Ms Pauline Reynolds (Health Member)  
Mr Blair McFarland (Community Member)

**DATE OF HEARING:** 22 October 2018

**DATE OF DECISION:** 26 October 2018

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**Decision**

1. For the reasons set out below and in accordance with section 119(8) of the *Liquor Act*, the Commission has determined to approve the material alteration to the licensee's licensed premises as sought by the Applicant.

**Reasons**

**Background**

1. LP Creations Pty Ltd ("the licensee") currently holds a Restaurant Liquor Licence ("the licence") authorising the sale of liquor for consumption on or at the licensed premises by patrons of the Star of Alice Function Centre, which is located in a semi-rural precinct about 5 kilometres from the Alice Springs CBD.

2. On 3 September 2018, Lisa Perry, the licensee's nominee, made application pursuant to section 119(2) of the Act for approval to make a material alteration to the licenced premises.
3. The term "material alteration" is defined under section 4 of the Act as follows:  
material alteration means an alteration to licensed premises which:
  - a. increases or decreases the area used for the sale of liquor or the sale and consumption of liquor; or
  - b. involves structural alteration; or
  - c. alters access to or egress from the premises; or
  - d. alters the external appearance or facilities.
4. The substance of the application is to decrease the area of the licence footprint, by excising an area of approximately 480 square metres comprising a store room, an adjoining indoor public area and an adjoining enclosed outdoor area situated on the south-east side of the licensed premises. The licensee has sublet this area to the Alice Springs Brewing Co Pty Ltd (ASBC), which has applied for an On Premise liquor licence over the same area ("the proposed ASBC premises"). Previously, the applicant has sub-let the proposed ASBC premises for other commercial activities not involving the sale or consumption of liquor.
5. Pursuant to s 6A of the Act, a s 119 applicant is required to satisfy the Commission that the approval of the application meets the public interest and community impact test set out in s 6(2), and to that end the applicant prepared and submitted a brief statement addressing the relevant elements of the test.

## **Consultations**

6. Pursuant to section 119(3) of the Act, the Director-General's Delegate did not require the applicant to publish notice of the application.
7. As required by s 119(5) of the Act, the Director-General notified the Chief Executive Officer of Alice Springs Town Council of the application.
8. In addition, and although not required by the Act, the Director-General, in accordance with her standard practice in matters involving proposed amendments to liquor licences, notified the following agencies of the application:
  - Chief Executive Officer of the Department of Health (DOH)
  - Northern Territory Police, Fire and Emergency Services (NTPFES)
  - Northern Territory Fire and Rescue Services (NTFRS)

9. With respect to this application:
  - a. The Alice Springs Town Council did not respond, but the Commission notes that the Council had no objection to the associated ASBC application.
  - b. The DOH made no adverse comment.
  - c. NTPFES stated that they had no objections to the application.
  - d. NTFRS had no issue with the application, subject to a final inspection and certification of the proposed ASBC premises.
10. No objections were received to the application.

### **Public Hearing**

11. Pursuant to section 50 of the Act, the Director-General of Licensing (“the Director-General”) must refer applications under section 119 of the Act to the Commission. Therefore, this application must be heard and determined by this Commission.
12. Ms Perry appeared at the hearing on behalf of the Applicant and Mr Timney appeared on behalf of Licensing NT. The Commission is grateful for their assistance.

### **Assessment of the Application**

13. The Commission has considered this application in conjunction with the associated application by ASBC for a licence to sell liquor at or on the proposed ASBC premises. The Commission has determined to grant the ASBC application, on conditions. Had the Commission determined to refuse the ASBC application, it would have been inclined not to grant the application the subject of this Decision Notice.
14. In considering the application, the Commission has had regard to the objects of the Act (s 3), the application of the public interest and community impact test (s 6), the community impact assessment guidelines issued by the Attorney-General and Minister for Justice on 2 March 2018 pursuant to s 6A, and the onus on the applicant to satisfy the Commission that the approval of the application meets the public interest and community impact test (s 6B).
15. Based on the evidence presented to this Commission, the Commission finds on balance that there is no evidence to suggest any potential harm or health impact may be caused to people, or any group of people within the local community area, due to the availability and accessibility of liquor as a consequence of the material alteration sought.
16. The Commission is satisfied that the approval of the amended application for material alteration meets the public interest and community impact tests and the Commission has for the reasons outlined decided to approve the material alteration to the licensee’s licensed premises as sought.

**Notice of Rights:**

17. Section 120ZA of the Act provides that a reviewable decision is a Commission decision that is specified in the Schedule to the Act. A decision to approve a material alteration pursuant to section 119(8) of the Act is specified in the Schedule and is a reviewable decision.
18. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision.
19. For the purpose of this decision, and in accordance with section 120ZB(1)(b) and (c) of the Act, the affected person is the Applicant.



Russell Goldflam  
ACTING DEPUTY CHAIRPERSON  
NORTHERN TERRITORY LIQUOR COMMISSION  
26 October 2018

On behalf of Commissioners Goldflam, Reynolds and McFarland