

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION TO MAKE A MATERIAL ALTERATION

REFERENCE: LC2018/125

LICENCE NUMBER: 80815940

LICENSEE: Delaware North Retail Services Pty Ltd

PREMISES: Café Terra Rossa & Virgin Lounge
Alice Springs Airport
ALICE SPRINGS NT 0870

APPLICANT: Arif Budiman, 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

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. Delaware North Retail Services Pty Ltd ("the licensee") currently holds an On Licence Liquor Licence ("the licence") authorising the sale of liquor for consumption on or at the licensed premises by patrons in two designated areas at the Alice Springs Airport, the Café Terra Rossa and the Virgin Lounge.

2. On 25 May 2018, Arif Budiman, 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 one of the areas designated in the licence, namely the area known as the Virgin Lounge. The licensee has informed the Commission that it has terminated its lease over the Virgin Lounge, which will be managed by another enterprise, Spotless Facility Services Pty Ltd, which, the Commission has been notified by Licensing NT, has lodged an application for a liquor licence for the Virgin Lounge. That application has not yet been referred to the Commission.
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 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 Service (NTPFES)
9. With respect to this application:

- a. The Alice Springs Town Council resolved not to object to the application
 - b. The DOH made no adverse comment
 - c. NTPFES stated that it had no objections to the application
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. Mr Budiman 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. 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).
14. 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.
15. 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:

16. 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.
17. 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.

18. 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