

NORTHERN TERRITORY LIQUOR COMMISSION
DECISION NOTICE

MATTER: APPLICATION FOR SUBSTITUTION OF PREMISES

REFERENCE: 2020/010

LICENCE NUMBER: 80518200

LICENSEE: Green Chillies Darwin NT Pty Ltd

PREMISES: Green Chillies Darwin
1st Floor
7 Finniss Street
LARRAKEYAH NT 0820

APPLICANT: Green Chillies Darwin NT Pty Ltd

LEGISLATION: Section 75 of the *Liquor Act 2019*

HEARD BEFORE: Mr Richard Coates (Chairperson)
Ms Liz Stephenson (Health Member)
Ms Sandra Cannon (Community Member)

DATE OF HEARING: 18 February 2020

DATE OF DECISION: 5 March 2020

Decision

1. For the reasons set out below and in accordance with Section 75 of the *Liquor Act 2019* (“the Act”), the Commission has determined to amend the conditions of the Green Chillies Darwin NT Pty Ltd (“the Licensee”) by substituting the current premises at 1st Floor, 7 Finniss Street, Larrakeyah to new premises at ground floor, 13 Shepherd Street, Darwin. The new premises are located within a building known as the Argus Hotel.
2. All other conditions of the licence continue to apply.

Reasons

Background

3. On 27 November 2019, an application for a new liquor licence was lodged by Narosh Vadde of Green Chillies NT Pty Ltd in respect of premises within the Argus Hotel at 13 Shepherd Street Darwin. As the applicant was already the holder of a restaurant licence number 80518200 for premises known as Green Chillies Darwin

situated at 1st floor, 7 Finniss Street, Larrakeyah, Licensing Officers suggested that the applicant apply for a substitution of premises in accordance with Section 75 of the Act rather than a new licence.

4. The Director accepted the application as an application to vary the conditions of an existing licence under part 4, Division 5 of the Act.
5. In support of the application, the Licensee has provided the following documents.
 - Affidavit. The Affidavit signed and dated 26 November 2019 referencing Section 25 and 26A of the *Liquor Act 1978* and not in accordance with Section 54 of the *Liquor Act 2019*. Given that the previous Senior Licensing Officer accepted this with the application, this is now annexed as an attachment to the application.
 - Community Impact Assessment in accordance with Section 50 of the Act
 - Public Interest Criteria in accordance with Section 49 of the Act
 - Plans of proposed premises licensed liquor area footprint
 - Copy of new lease and floor plans. The applicant has commenced trade from 1 January 2020 (no liquor sales pending application)
 - ASIC Extract dated 27 November 2019
 - Accountants Letter dated 29 November 2019 - Financial Viability
 - Licensee Documentation - Drivers Licence and Resume

Publishing of application and consultation

6. On 29 January 2020 the requirement for advertising was considered by the Director. As the application was for substitution of a low risk restaurant licence for the purpose of operating a similar business also in the Darwin CBD, the advertising was waived under Section 111 of the Act on the grounds that there is no public interest in advertising the application.
7. As the application was not published, there were no objections from the public.
8. Notification and comments were sought from:
 - CEO of Department of Health
 - Commissioner Northern Territory Police
 - City of Darwin
 - NT Fire & Rescue Service
9. The Department of Health advised via email dated 29 January 2020 that they had no adverse comment to the application.
10. The Northern Territory Police advised via email dated 31 January 2020 that they had no objections to the application.

11. A response was not received from the City of Darwin at the time of referral of the application. Notification was sent to City of Darwin on 29 January 2020 with regard to the application of the substitution of premises.
12. NT Fire & Rescue Service replied via email dated 5 February 2020 indicating they support the application and provided MPN's of 60 for inside and 36 for outside on the delineated licensed area for the new premises following a site visit on 5 February 2020.
13. A check of the records held at Licensing NT reveal no negative compliance history at the current premises.

The Hearing

14. The application for substitution of premises was referred to the Commission by the Director on 17 February 2020.
15. On 18 February 2020 the Commission convened and determined pursuant to Section 21(2)(d) of the Act that conducting a public hearing would not be worthwhile and in accordance with Section 21(3) it was appropriate to conduct the hearing in private by way of written submission.

Assessment of the Application

16. Section 75 of the Act provides as follows:

75 Substitution of premises

- (1) If a licensee wishes to substitute other premises for the licensed premises, the licensee must apply for a new licence for those new premises.
 - (2) Despite subsection (1), instead of issuing a new licence the Commission may, on application by the licensee, amend a licence to substitute other premises for the licensed premises if satisfied that:
 - (a) no significant change in the operation of the business will occur as a result of the substitution; and
 - (b) the substitution satisfies the public interest and community impact requirements.
 - (3) An application to substitute premises is to be made in the same manner as an application to vary conditions of the licence under Part 4, Division 5.
17. The applicant has been operating a successful licensed restaurant within the Alatai Holiday Apartment complex in Larrakeyah and has seized the opportunity to move its restaurant business into the central business district of Darwin in more modern premises. On the evidence before the Commission it is satisfied that no significant change in the operation of the business will occur and that a substitution is therefore permissible in accordance with Section 75(2)(a) of the Act.
 18. The applicant lodged a Community Impact Assessment submission as required by Section 75(2)(b). After considering that submission and in particular noting the

Licensee's prior good compliance history, the fact that the licence only permits the consumption of liquor ancillary to a meal and the tourism benefits associated with the proposal, the Commission is satisfied that approving the substitution is in the public interest and will not have a significant adverse impact on the Community.

19. Accordingly the Commission has determined to amend the conditions of the Applicant's licence in the terms set out at the commencement of this Decision Notice.

Notice of Rights

20. Section 31 of the Act provides for any decision of the Commission for which a decision notice is required under the Act is reviewable by Northern Territory Civil and Administrative Tribunal.
21. Section 97(4) of the Act requires the Commission to give a decision notice, after making a decision under subsection (2) to the applicant and each person who lodged an objection to the application under Section 61.



RICHARD COATES
CHAIRPERSON
NORTHERN TERRITORY LIQUOR COMMISSION
5 March 2020
On behalf of Commissioners Coates, Stephenson and Cannon