

NORTHERN TERRITORY LIQUOR COMMISSION

Decision Notice

MATTER: APPLICATION TO MAKE A MATERIAL ALTERATION

REFERENCE: 2019/008

LICENCE NUMBER: FLL1029

PREMISES: Stokes Beach House (aka Snapper Rocks Bar & Kitchen)
Tenancy B2
7 Kitchener Drive
DARWIN WATERFRONT NT 0800

APPLICANT: BevCo SBB Pty Ltd

NOMINEE: Mr David Jared Robinson

OBJECTOR/S: Nil

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

HEARD BEFORE: Ms Jodi Truman (Deputy Chairperson)
Mr Kenton Winsley (Health Member)
Mrs Christine Hart (Community Member)

DATE OF HEARING: 7 March 2019

DATE OF DECISION: 8 March 2019

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.
2. In addition the licence shall be varied to include the following additional condition:

"Alfresco Dining Area a) High tables and bar stools are not permitted in the Alfresco Dining Area.

- b) The Licensee shall take all measures necessary to ensure that the public footpath contiguous to the Alfresco Dining Area is not obstructed at any time.
- c) Suitable balustrade or another physical barrier to the satisfaction of the Licensing Commission, or its delegate, is to be used in the Alfresco Dining Area to prevent the overflow of patrons from the licensed premises.”

Reasons

Background

3. BevCo SBB Pty Ltd (“the Applicant”) currently holds an “On Premises” liquor licence for the premises to be known as “Stokes Beach House (aka Snapper Rocks Bar Kitchen)”. The Commission notes the submissions made during the course of this hearing that in fact the premises will now be known as “Snapper Rocks Beach Bar & Kitchen” (“the premises”). There is no requirement for the licence to be changed in this regard, however the Commission notes the change so as to avoid any confusion in future.
4. The nominee under the liquor licence is Mr David Robinson (“Mr Robinson”). This licence was granted on 15 June 2018. The premises have not yet opened for trade as at the date of this decision.
5. On 23 August 2018 Mr Robinson made application on behalf of the applicant under section 119(2) of the *Liquor Act* (“the Act”) for approval to make a material alteration to the premises. 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”.
6. The substance of the application is to extend the existing liquor licensed area to incorporate approximately 80 square metres of grassland in front of the venue. Within the terms of its Deed of Licence, the area is referred to as the “Alfresco Dining Area”. The area is separated from the original tenancy by a path that is 3 metres wide. The grass will be removed and replaced with artificial turf, 7 large hardwood picnic tables and umbrellas. All conditions of the liquor licence are sought to apply to this new area if approved.

7. The applicant states that the extension of the licensed area is to “activate the area and hope to see families using the area, with the kids being able to run, play soccer and have fun while we hope to see the parent relaxing with a glass of wine and some wonderful food”.
8. There is no doubt that what is being proposed is a “material alteration” as defined. On 30 January 2019 pursuant to sections 119(6A) and 50(d) of the Act the Director General referred this application to the Commission to determine by way of a public hearing whether to approve the material alteration or to refuse to approve the same.

Brief history

9. As earlier noted, it was only on 15 June 2018 that the applicant obtained a licence for the premises which were not then even under construction. It is understood that the premises are now close to completion. As was noted in the Decision Notice issued at the time of granting the licence; the applicant is a new company and has no financial interest or history. There is therefore no compliance history with respect to the applicant. Mr Robinson however is well known to Licensing NT through his other venues.

Advertising and Objections

10. Details of the application were advertised in the Northern Territory News on Wednesday 10 October 2018 and Saturday 13 October 2018. The Commission was also informed by Licensing NT that they were satisfied that signage had been displayed at the premises for a period of 30 days. The objection period expired on 12 November 2018. No objections were received in the objection period.
11. It is noted that section 119(5) of the Act requires that if the application relates to premises within the area of a shire council or a regional council; the Director-General must inform the Chief Executive Officer (“CEO”) of the council that the application has been made. The premises are located at the Darwin Waterfront. As such there is no relevant council. The area is however controlled by the Darwin Waterfront Corporation (“DWC”) who provided approval for this application by way of a signed lease.
12. As is apparently the usual practice, the application was also forwarded to the Department of Health (“DOH”), the Commissioner of Northern Territory Police, Fire and Emergency Services (“NT Police”) and the NT Fire & Rescue service (“NTFRS”) for comment.
13. With respect to this application the following responses were received:
 - a. The DOH made no adverse comment.
 - b. The NT Police advised that they had “no objections”.
 - c. The NTFRS made no formal objection to the application.

Public Hearing

14. Pursuant to section 50 of the Act, the Director-General of Licensing (“the Director-General”) must refer *inter alia* applications under sections 119 of the Act to the Commission. Therefore this application must be heard and determined by this Commission.
15. Pursuant to section 53 of the Act, the Chairperson of the Commission must fix the time and place for hearing and give notice to the relevant parties not less than 7 days before the hearing date. The hearing was fixed for 10.00am on 7 March 2019 and notice was given to the applicant on 1 February 2019.
16. Pursuant to section 53 of the Act; the Commission is not bound by the rules of evidence and may inform itself in the manner it considers appropriate and conduct the hearing, or part of the hearing, by use of telephone or online facilities. A hearing must also be conducted in public unless the Commission considers that a public hearing is likely to cause undue hardship to a person. No such submission has been made to this Commission and there is no evidence to suggest any such hardship.
17. The public hearing commenced at 10.00am on 7 March 2019. Mr Robinson attended in person on behalf of the applicant. Mr Mark Wood as representative for the Director-General was also present to provide information and assistance to the Commission during the course of the hearing.

Assessment of the Application

18. As earlier noted, there were no objections to this application. This is despite the fact that the applicant undertook its obligations with respect to public advertisement and consultation in accordance with the ordinary notice provisions required under the Act.
19. Despite there being no objections made to the application lodged by the Applicant, the Act now clearly provides that the Director-General of Licensing must refer these types of applications to the Commission for decision. In addition, section 6B of the Act makes clear that it is the Applicant who bears the onus of satisfying the Commission that the approval of the application meets the public interest and community impact test.
20. As is clear from section 6(1) of the Act; when considering or determining an application under the Act in respect of a licence, this Commission **must** apply the public interest and community impact test as relevant to the application. Section 6(2) of the Act provides that:

“For subsection (1), the public interest and community impact test requires consideration of the following objectives:

- a. harm or ill-health caused to people, or a group of people, by the consumption of liquor is to be minimised;

- b. liquor is to be sold, or sold and consumed, on licensed premises in a responsible manner;
- c. public order and safety must not be jeopardised, particularly where circumstances or events are expected to attract large numbers of persons to licensed premises or an area adjacent to those premises;
- d. the safety, health and welfare of persons who use licensed premises must not be put at risk;
- e. noise emanations from licensed premises must not be excessive;
- f. business conducted at licensed premises must not cause undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the neighbourhood of the premises or who are making their way to or from, or using the services of, a place of public worship, hospital or school;
- g. a licensee must comply with provisions of this Act and any other law in force in the Territory which regulate in any manner the sale or consumption of liquor or the location, construction or facilities of licensed premises, including:
 - i. by-laws made under the Local Government Act; and
 - ii. provisions of or under the Planning Act;
- h. each person involved in the business conducted at licensed premises must receive suitable training relevant to the person's role in the conduct of the business;
- i. the use of credit in the sale of liquor must be controlled;
- j. practices which encourage irresponsible drinking must be prohibited;
- k. it may be necessary or desirable to limit any of the following:
 - i. the kinds of liquor that may be sold;
 - ii. the manner in which liquor may be sold;
 - iii. the containers, or number or types of containers, in which liquor may be sold;
 - iv. the days on which and the times at which liquor may be sold;
- l. it may be necessary or desirable to prohibit persons or limit the number of persons who may be on licensed premises, on any particular part of licensed premises or in an adjacent area subject to the control of the licensee;

- m. it may be necessary or desirable to prohibit or limit the entertainment, or the kind of entertainment, which may be provided on licensed premises or in an adjacent area under the control of the licensee;
- n. it may be necessary or desirable to prohibit or limit promotional activities in which drinks are offered free or at reduced prices;
- o. any sale of additional liquor due to the grant of a licence or the relaxation of restrictive conditions will not increase anti-social behaviour.”

21. In addition, pursuant to section 6(3), the Commission must:

- a. consider the potential impact on the community in the area that would be affected by the outcome of the decision to grant or refuse an application or the changing of conditions of a licence and, in doing so, must have regard to:
 - i. the harm that might be caused (whether to the community as a whole or a group within the community) due to the excessive or inappropriate consumption of liquor; and
 - ii. the cultural, recreational, employment or tourism impacts; and
 - iii. the social impact in, and the impact on the amenity of, the locality of the premises or proposed premises; and
 - iv. the density of existing liquor licences within the community area; and
 - v. the volume of alcohol sales within the community area, and any increase in volume within the community area arising from the licence the subject of the application; and
 - vi. any other prescribed matter; and
- b. apply the community impact assessment guidelines.”

22. On 6 March 2018, pursuant to section 6A of the Act, the Minister by Gazette notice published community impact assessment guidelines for determining whether or not an application being considered or determined under section 6(1) satisfies the public interest and community impact test. Relevantly those guidelines are stated to

“... set out those matters that will be considered by the Commission when assessing the community impact of the application against the criteria set out in section 6A(1) of the Liquor Act”.

23. Those matters are identified as follows:

Criteria	Matters to be considered
<p>The potential harm or health impact that may be caused to people, or any group of people within the local community area, due to the availability and accessibility of an additional liquor outlet.</p>	<p>Are there any 'at-risk' groups or sub-communities within the locality? This may include –</p> <ul style="list-style-type: none"> • children and young people; • Aboriginal people normally resident within the locality and those Aboriginal people that might be likely to travel to the locality from a dry community; • migrant groups from non-English speaking countries; • people in low socio-economic areas; and/or • communities that experience high tourist/visitor numbers. <hr/> <p>Are there any community building, facilities and areas within the locality? Such facilities would include:</p> <ul style="list-style-type: none"> • schools and educational institutions; • hospitals, drug and alcohol treatment centres; • accommodation or refuges for young or disadvantaged people; • child care centres; • recreational areas; • dry areas; and • any other area where young people may congregate or be attracted to.

	<p>What policies and procedures will the applicant implement to minimise any potential harm or health impacts to these 'at-risk' groups or sub-communities</p>
<p>Information about the location and area in which the premises is proposed to be so as to assess any social impact on the community. This includes information about the density of licensed premises within the community area.</p>	<p>This may include crimes statistics, social profile information and the location of existing licensed premises.</p> <p>This could also include traffic and pedestrian impact and any plans developed to address these potential issues.</p>
<p>Volume</p>	<p>This may include projected sales volumes and marketing analysis, liquor type and customer demographic (where applicable this should be provided for both on and off premises sales).</p> <p>The Commission will consider information available to it about the current alcohol consumption rates for the community area.</p>
<p>Any cultural, recreational, employment or tourism benefits for the local community area.</p>	<p>Will the proposed licensed premises provide economic benefits, cultural, recreational or tourism benefits or any additional employment opportunities and to what level?</p>
<p>Why the grant of a relevant application is in the public interest and how the additional liquor outlet will benefit the local and broader community.</p>	<ul style="list-style-type: none"> • What additional services will be provided other than simply an additional outlet for the sale of liquor – this may include accommodation or dining? • Will the proposed licensed premises provide additional choices of service or products that are no available in the area? • Will the proposed premises provide liquor in a manner known to be safe and to minimise adverse impacts?

	<ul style="list-style-type: none"> • Will it use existing premises improve or add to existing premises or is it a new premises?
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24. As can be seen from the above, there are a large number of matters that this Commission must consider and that the Applicant must address (and satisfy the Commission of) under the new public interest and community impact test and guidelines. The guidelines do make clear however that:

“... the Commission has the authority to consider a broad range of issues specific to each application and flexibility exists to assess each individual application on its merits”.

25. Although there are many matters for the Commission to consider, like any application, some of the matters are highly relevant to this application whilst others are not as significant. With respect to this application, the Commission considers it relevant to note that this is not an application for a new licence. This is an application to effectively increase the licensed footprint of the premises, thus increasing the area upon which liquor will be sold and consumed. As a result some of the matters which would be highly relevant to an application with respect to new premises (or what might otherwise be termed an “additional liquor outlet”) are not as significant with respect to an application such as this for a material alteration.

26. The Commission also notes that the area proposed as part of the material alteration was in fact referred to in the Decision Notice relating to the granting of the licence delivered on 15 June 2018; where the following reference was made:

50. *A significant issue did arise however during the course of the hearing as to precisely what was proposed in terms of the precise location of this venue. During the course of the hearing it became evident that there was a proposal for part of the grassed area outside of the tenancy to be included for this licence. The Commission notes that the applicant does not yet have a lease with the Darwin Waterfront Corporation but instead has an “in principle agreement”. The Commission also notes that the advertisement of this liquor licence application referred only to “Tenancy B2”. Whilst the Commission accepts that it could reasonably be assumed that interested persons would consider reference to the tenancy included the al-fresco area immediately outside the tenancy, i.e. on the already existing concrete area which is included in most other tenancies, the Commission does not consider that it would be assumed to include a portion of the grassed area which is now open to and in use by visitors at the Darwin Waterfront.*

51. *The Commission notes that under questioning Mr Robinson identified that his proposal was to include an area measuring 20m x 4m of what is presently grassed space open to all persons who attend at the Waterfront. This area was to have seating and picnic tables and was sought to be part of the licensed footprint with the same conditions as the remaining space.*

52. *Whilst the Commission understands Mr Robinson's desire to include such a space as part of this venue, particularly considering its theme and the matters raised, the Commission is concerned that the inclusion of this area (and consequential subsequent removal of that space to visitors) was not made clear in the proposal that was advertised. The Commission is well aware that such space at the Waterfront is considered very important to many users and therefore any proposal to reduce such open space needs to be, in the opinion of this Commission, something clearly identified as being part of what is being proposed.*
53. *It is for this reason that the Commission does not consider it appropriate to grant a licence that includes this space in circumstances where the Commission is not satisfied that this fact was made clear when the application was advertised and persons given an opportunity to consider whether they wished to lodge an objection. The Commission does not, therefore, propose to include this space within the liquor licence to be issued. Whilst the Commission recognises that this may mean that the applicant will have to make a further application to include such space should this be his desire, the Commission considers that it is important that the public be made fully aware of proposals and given an opportunity to lodge an objection before any decision is made by this Commission. It is regretful that this has occurred, however the Commission considers that as there has not been a clear advertisement of this proposed space, there is no alternative but to refuse to include that area at this time.*
27. It is clear from the above that the issue that was left outstanding before the Commission on the last occasion that this matter was dealt with was whether there had been "clear advertisement" of the "proposed space" including the area that is now the subject of this application for a material alteration.
28. It is therefore incumbent upon this Commission to ensure that there has been such "clear advertisement". In this regard the Commission notes that the advertisement in the NT News made clear that the proposed material alteration was to "extend the liquor licence area to incorporate approximately 80 square metres of grassland in front of the venue". The advertisement then set out what would be undertaken in that area as a result of any extension. The Commission considers the notice to be clear.
29. The Commission also notes that the Director-General has advised that it is satisfied that the terms of the "green notice" that was displayed at the premises complied with the notice that was advertised in the NT News. The Commission considers clear notice has been provided.
30. One issue that did arise however was whether the Deed of Licence ("the Deed") between the applicant and the Darwin Waterfront Corporation for the premises included the land in front of the premises. The Commission notes specific provision has been provided for this area and is satisfied this area is provided for within the terms of the Deed.

31. In relation to the question of the “public interest”; the applicant provided written submissions (relevantly) as follows:

- a. *“Harm or ill-health by consumption of alcohol will be minimised by being a family friendly, food orientated restaurant. We have spent a lot of money to ensure we have the right equipment to be able to produce the best cuisine possible. Regarding our beverages, we will be offering numerous non-alcoholic beverages including non-alcoholic cocktails & mocktails, fresh juices and house made sodas.*
- b. *We are a restaurant first and foremost. We will be offering table service where all front of house team members will have an RSA. All team members, regardless of having an RSA, will be taken through our own responsible service of alcohol unit as part of our induction process. We have been running this program at Hot Tamale for the last 3 years and have found it to be extremely useful.*
- c. *From our nine years of experience at the Waterfront precinct, the only real event that attracts a crowd of significant size that needs to be controlled in New Year’s Eve. It’s a great, family friendly celebration every year. The Waterfront Corporation and Toga both run additional security for the night.*
- d. *We are a restaurant that is looking to do some seriously good food. We are family friendly and want to attract families. We will not have a smoking area due to our focus on the cuisine.*

This area has been created for 2 reasons, firstly because this strip of land is critical to being able to communicate our casual beach vibe for the restaurant, but secondly, if is designed for our customers who are in a similar stage of life, having young kids who want to run around. This area is perfect for families, located close to the playground and with sweeping lawns straight in front.

Staff will be given significant levels of training. We have shown through our other businesses over a long period of time that we don’t put patrons or staff health and safety at risk. Snapper Rocks will be no different.

- e. *We are blessed for this area to be in an amazing location. We are a long way from any residential unit, and for the area that this application is for, the only additional noise is from people noise sitting in the area. We are not adding additional speakers or noise of any description.*
- f. *Being located at the Darwin Waterfront, we are in a designed entertainment precinct. There are no schools, hospitals or places of worship. We have a hotel located directly above us, but we have had a relationship with Adina Vibe for 9 years and have not had any significant issues. The area is intended to add to the vibrancy and culture of the Darwin Waterfront. We are already a key stakeholder in the area, the*

last thing we want is to have a negative impact, as has been shown with our two other venues. We aim to have a high percentage of the neighbourhood as patrons and to do this we need to have a strong relationship.

- g. We will be complying with all provisions of the Act and any other law in force in the Territory which regulate, in any manner, the sale or consumption of liquor or the location, construction or facilities of licensed premises*
- h. We proud winners of NT Training Awards 2018 Small Business at our other Waterfront restaurant. We were also awarded the 2017 AHANT Training Initiative Award. We are taking this award-winning training across to Snapper Rocks. This training effectively takes every team member back to level 1 and gives them all the skills and training to be able to do their role.*
- i. There will not be credit outside of pre-booked functions.*
- j. We are a venue that is focused on quality, not quantity. Beautiful wines and spirits served in quality glassware. We are focused on food, wine and premium spirits.*
- k. We have an extensive range of non-alcoholic & alcoholic beverages. We will be abiding with responsible service of alcohol and don't see any reason to limit the alcohol sold as it will be controlled. As stated earlier, our focus is on quality, not quantity, in everything we do.*

We are offering table service, but I am also happy for a customer to walk up to the bar to place an order. We intend that breakfast service, we will have many customers grabbing a takeaway coffee, where they will just go to the bar to order.

We are serving quality spirits, wine, beers and cocktails. We will be using appropriate glassware and will have lower alcohol alternatives. We are just asking to be licensed the same as we are inside the tenancy perimeter. No different.

- l. We will be limited by the number of seats that we have in the area. We have 7 x 2.4 meter-long tables. This would indicate round 56 seats in this additional area.*
- m. At this stage we are not planning on running entertainment in this area, but that is not to say we wouldn't consider it in the future. We are only talking about 77.1 sqm of space. Any entertainment we would do out there would be on Darwin Waterfront Corporation land, which we would need to apply to the Waterfront Corporation beforehand.*
- n. We are intending to open all day and will look to have promotional activity at different times of the day. We have run a happy hour at Hot Tamale successfully for 6 years, bundled with food, which attracts lots of families,*

which I would like to do a similar thing at Snapper Rocks. I like it and so do most people I know. For us it is important that we can generate additional activity during the quiet times to warrant keeping the kitchen open.

- o. The additional liquor due to grant of this material variation will not increase anti-social behaviour. We will have a well-trained and managed team, a focus on quality, wonderful food and family friendly. I would hope that liquor licensing would see us as the right kind of concept that adds to Darwin's vibrant dining scene. We are good operators and we hope that the commission will be able to see this through our application."*

32. In relation to the above, the Commission notes that a number of these responses were matters addressed before the Commission when the application for a licence was dealt with. As noted by the applicant in their submissions, this application is not to change the terms of the licence that was granted, but instead to alter the licensed area to provide for the space that was not clearly identified earlier. It is apparent that what is being proposed is an increase in the licensed footprint area, but that the same restrictions would apply in relation to the sale of liquor.

33. In relation to the issue of "Community Impact" assessment as required under section 6A(1) of the Act, the applicant (relevantly) provided the following written submissions:

"We believe that the potential harm and health impact caused by our application for a permanent variation to our liquor licence, FLL1029, Snapper Rocks Bar & Kitchen will be minimal. Snapper Rocks, which is current being fitted out, is an upmarket beach-chic shack, which we believe will have a positively impact to the local community. For a greater understanding of the venue, Snapper Rocks is a family friendly, accessible, casual beachfront dining venue. We have the benefit of being located at the Darwin Waterfront, where there are very few 'at-risk' groups or sub-communities, as discussed in The Precinct Tavern hearing. We do have children and young people attending the area for both events and the Wave Pool, but we are aimed at being a family friendly/focused venue. We are intending to be Darwin's premier family venue. Wonderful food and beverage, open breakfast, lunch and dinner, but designed to be a relaxed dining venue. We have a deed of licence with The Darwin Waterfront Corporation, which is approved in-principle, to lease 80 square meters of adjacent land which is currently a grass area, directly out the front of tenancy, separated by the concrete walkway. The area is being furnished with picnic tables, umbrellas and festoon lighting, where we will be encouraging families to enjoy. This will give the kids a chance to play at the Waterfront in a secure environment, while the parents are able to relax. We are also trying to activate a space which is the entrance to the Darwin Waterfront, located beside the lift from the city and the carpark entrance, it is intended we will give the Waterfront a more vibrant entry point. This will give the kids a chance to play at the Waterfront in a secure environment, while the parents are able to relax.

We are including CCTV in our fit out and have planned for CCTV coverage of the licenced area, which are 4-megapixel camera, giving us great digital recording clarity.

We do have significant numbers of tourists in the area and the venue is designed both around the tourist and locals alike. We are looking at premium offerings, in regard to food and beverage, both non-alcoholic and alcoholic. The forecast for the area over the coming 2-3 years sees a significant increase in tourist traffic with the \$150,000,000.00 investment from Landbridge in the shape of the 240 room Westin luxury hotel and also the current EOI for the International Water Theme Park, which in the government led EOI, states could attract 260,000 — 330,000 visitors in the first years, catering for 2000 people a day. Our wine list ranges a unique exclusive Australian wine list and the whole focus from the venue is showcasing Australia's wonderful flavours. We have been lucky enough to receive a grant from the NT Government in the Visitor Experience Enhancement Program 2018, to assist us in fit out of a unique local focused venue.

We don't see any significant numbers of aboriginal people that reside within the community and, from experience over the last 8 years, there is little likelihood of travelling to the Darwin Waterfront from a dry community, for the reason of alcohol consumption. I hope that we will actually be able to see groups of Aboriginals dining at the venue. We intend to bring local bush food and flavours to the table and we are actively looking to with communities to source these products.

The area, the Darwin Waterfront, is a premium destination and as such, we don't really see significant numbers of people from low socio-economic areas, or migrant groups from non-English speaking countries. Again, in saying this, it is hoped that for special occasions that people will feel comfortable coming to us and enjoying our hospitality.

The Darwin Waterfront is an interesting location. Although it is located in the Darwin CBD, or 400 meters away from the Smith St Mall, this distance is enough of a barrier to totally separate it from most of the anti-social issues we see playing out in Darwin. In the time since the launch of the Darwin Waterfront, in 2009, the only property crime I can remember is a broken window at Chow. There has been a burglary at Oyster Bar and a few petty crimes, but this is a distinctly different situation to the commercial crime and general crime statistics in Darwin.

The Darwin Waterfront Precinct has 340 residential apartments, many of which are leased as short-term rental for both corporate and tourist alike.

There is no specific crime statistics I can find for the Darwin Waterfront, but it is well known that the Darwin Waterfront is a very safe precinct. In the eight and a half years I have had businesses down there, we have not had any significant issue. Adding to this, the area has roving security guards on 24 hours a day and has a significant level of CCTV coverage.

One of the key benefits of that chance to our licenced area is the opportunity to activate the Darwin Waterfront. It is a small strip of land, but we are not looking at enclosing it. There will be no roof. You will be able to dine under the star in a beautiful location. Kids will be able to play on the grass adjoining grass area while families enjoy a meal.”

34. The applicant also made reference to other licences in the area and its previous good history operating other venues. Again, this was all accepted by the Commission when the licence was granted last year.
35. 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.
36. The Commission notes the information provided as to the number of licensed premises in the local community area. However the Commission considers it relevant that this application does not propose any increase to that number, but instead an increase to the area upon which liquor can be sold and consumed at one of those licensed premises.
37. The Commission has received no information to suggest there is likely to be an impact upon law and order, community safety or public amenity by virtue of this application. Whilst this Commission accepts that of course it is likely that there will be an increase in numbers attending at the premises should this application be granted, the Commission finds on balance that there is no evidence to suggest that there will be a social impact upon the community to such an extent that it would merit a finding against this application.
38. Whilst this Commission accepts that an anticipated increase in sale volumes of alcohol which would likely occur by virtue of an increase in the licensed footprint presents an increase in current alcohol consumption rates for the community area, the Commission finds that this increase is to an extent ameliorated by the accompanying increase in sales volumes for food, to which the applicant has stated it places a significant focus. The Commission also finds on balance that there is no evidence to suggest that any increase in volumes is to such an extent as to merit a finding against this application.
39. As earlier noted, there is no evidence to suggest that the applicant intends to do anything to change the manner in which it has been licensed to serve liquor to its customers. In addition to the written submissions made on behalf of the Applicant, Mr Robinson outlined his intentions with respect to the venue and the positive impact he considered would be made in the community. Mr Robinson outlined his intent to “positively promote the Territory” and “local product” and to provide a “unique Territory spin” giving “national visibility” to the Territory particularly within “food tourism” and to “raise us on the radar for food and wine”.

40. It is as a result of the matters outlined above that this Commission is, on balance, satisfied that the approval of the 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 and as outlined at the start of this Decision Notice.

Notice of Rights:

41. 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.

42. 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.

43. 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.



JODI TRUMAN
Presiding Member
Deputy Chairperson

8 March 2019