

NORTHERN TERRITORY LIQUOR COMMISSION

Decision Notice

MATTERS:	APPLICATION FOR APPROVAL OF MATERIAL ALTERATION TO LICENSED PREMISES
REFERENCE:	LC2020/053
LICENCE NUMBER:	80305034
LICENSEE:	Chateau Wood Pty Ltd
PREMISES:	Knotts Crossing Resort 10 Cameron Street KATHERINE NT 0850
APPLICANT:	Chateau Wood Pty Ltd
NOMINEE:	Ms Joanna Rebecca Pace
OBJECTOR/S:	Nil
LEGISLATION:	Section 96 of the <i>Liquor Act 2019</i>
HEARD BEFORE:	Mr Richard Coates (Chairperson) Dr Phillip Carson (Health Member) Ms Sandra Cannon (Community Member)
DATE OF HEARING:	24 November 2020
DATE OF DECISION:	24 November 2020

Decision

1. For the reasons set out below and in accordance with section 97 of the *Liquor Act 2019* (the Act), the Northern Territory Liquor Commission (the Commission) has determined to approve the application by Chateau Wood Pty Ltd (the Applicant) to make a material alteration to the premises known as Knotts Crossing Resort located at 10 Cameron Street, Katherine, in the terms sought by the Applicant being to extend the liquor licensed area to include the pool area adjacent to the Savannah Bar and Restaurant, as depicted in Attachment C to Exhibit 1 in these proceedings.

2. The trading hours for the pool area are from 11:30 to 18:00 seven days a week and liquor must only be sold and supplied by wait staff. No glass containers are to be used in the pool area.

Reasons

Background

3. This application was lodged on 23 October 2020.
4. The Applicant is the holder of liquor licence 80305034 and a material alteration is being sought to extend the licensed area to include the “pool area” which is adjacent to the outdoor dining area attached to the premises’ Savannah Bar and Restaurant.
5. The sole justification for the application in the Public Interest and Community Impact Assessment was to “enhance the guests’ stay as well as the local community should they wish to use this service”.

Publication and Consultation

6. The application was not published as the Principal Licensing Officer, acting in accordance with delegations, determined there was insufficient public interest to warrant public advertising.
7. Whilst only the CEO of the local council is required to be advised of the application in accordance with section 96(6) of the Act, the following stakeholders were notified of the application:
 - The Chief Executive Officer of the Department of Health;
 - The Commissioner of Police;
 - The Chief Executive Officer of the Katherine Town Council.
8. The Department of Health replied via email dated 4 November 2020 stating that it had no adverse comment.
9. The Northern Territory Police replied via email dated 4 November 2020 stating it had no objection.
10. The Katherine Town Council did not respond.

Referral to Commission

11. The Director of Liquor Licensing (the Director) referred this application to the Commission on 11 November 2020. On 18 November 2020, the Commission wrote to the Applicant advising that the application would be heard at a public hearing on 24 November 2020.
12. This application was clearly deficient in terms of addressing the issues the Commission is required to consider under section 49 of the Act and the Director

would have been justified in rejecting it or requiring further information prior to referring it to the Commission.

13. On 23 November 2020, the Chairperson wrote to the Senior Licensing Officer and requested that further information be urgently obtained from the Applicant clarifying whether it was proposed that liquor would be consumed by patrons in the water and what if any safety precautions would be adopted to minimise the risk of injury or drowning.
14. The Licensing Officer helpfully obtained further material from the Applicant including photographs of the pool area, clarification that liquor would be served to patrons within the pool, there would be no glass containers used and staff would have first aid certification. The Applicant also indicated that it was not proposing to provide liquor in the pool area after 18:00 and most importantly that all liquor would be served by wait staff.

The Hearing

15. Pursuant to section 23 of the Act, the Commission is not bound by the rules of evidence and may inform itself in any manner it considers appropriate. Section 21(2) provides that a hearing must be conducted in public unless the Commission is of the opinion it is not appropriate.
16. The application proceeded as a public hearing on 23 November 2020. Ms Joanna Pace appeared for the Applicant by teleconference and Mr Jeff Verinder appeared for the Director. The Commission thanks them for their attendance and assistance.
17. The Hearing Brief was tendered and admitted into evidence as Exhibit 1 and the recently obtained photographs and email from Ms Pace of 23 November 2020 were tendered as Exhibit 2.

Assessment of the Application

18. During the course of the hearing the Commission was told by Ms Pace that patrons often asked if they could consume liquor within the pool because it was so hot in Katherine during the day. Whilst not intending to advertise or promote such a service, the Applicant believed that the option of having a drink in the pool would enhance their guests' stay at the resort. She was confident that by insisting that all service of liquor in the pool area was by wait staff actually attending on the patrons in that area that the Applicant would be able to ensure that responsible service of alcohol protocols were followed.
19. Mr Verinder on behalf of the Director advised the Commission that there were at least 2 venues in Darwin where the swimming pools were included within the licensed footprint and that the Director had no policy objections to the Commission granting the application on the conditions proposed.
20. Although the hours sought for liquor to be consumed within the pool area is from 11:30, the Applicant indicated that apart from special events that the facility would usually only commence from 15:00. Having regard to the limited hours and that liquor will only be supplied by bar staff actually attending the pool area, the

Commission is satisfied that the risks associated with the consumption of liquor in and around water can be sufficiently mitigated.

21. During the hearing the Commission raised concerns with the Applicant over the proposed siting of the “smokers area” as depicted in Attachment C to Exhibit 1, the new licensed footprint. It will now be situated in the middle of the licensed area rather than to the side as it was previously. The Applicant agreed to seek advice from the appropriate authority as to whether it would need to reposition the smoker’s area.
22. In considering the application, the Commission has had regard to the purposes of the Act (section 3), the application of the public interest and community impact test (section 49), the Community Impact Assessment Guidelines issued by the Attorney-General and Minister for Justice on 2 March 2018 pursuant to section 50, and the onus on an applicant to satisfy the Commission that the approval of the application is in the public interest and will not have a significant adverse impact on the community (section 51).
23. Accordingly, for the reasons outlined in this Decision Notice the Commission has determined to approve this application for a material alteration to the Applicant’s premises in the terms outlined at the commencement of this Decision Notice. The Applicant was advised that the application had been approved at the conclusion of the hearing.

Notice of Rights

24. Section 31 of the Act provides that any decision of the Commission for which a decision notice is required is reviewable by NTCAT and the following persons (*relevantly*) may apply to NTCAT for a review:
 - in all cases – the Director;
 - in the case of a decision regarding an application – the Applicant.
25. In accordance with the substance of section 31 of the Act any application for review of this decision must be lodged within 28 days of the date of this decision.
26. Section 97(4) of the Act requires the Commission to give a decision notice, after making a decision under subsection (2), to the Applicant.



RICHARD COATES
Presiding Member
Chairperson
1 December 2020

On behalf of Commissioners Coates, Carson and Cannon