

Director of Liquor Licensing

Decision Notice

MATTER:	Application for material alteration to licensed premises
LICENSEE:	Crab Claw Island Pty Ltd
PREMISES:	Crab Claw Island Resort 84 Pruen Road BYNOE
LEGISLATION:	<i>Liquor Act 2019</i> – Part 4 Division 2
DECISION OF:	Delegate of the Director of Liquor Licensing
DATE OF DECISION:	22 September 2025

DECISION

1. For the reasons outlined below in accordance with section 97 of the *Liquor Act 2019* (the Act), and with reference to the delegations provided to me by the Northern Territory Liquor Commission (the Commission) dated 5 July 2025, as a delegate of the Director of Liquor Licensing (the Director), I approve the application by Crab Claw Island Pty Ltd for the material alteration to the premises known as Crab Claw Island Resort to increase the licensed premises to include the additional decks and alfresco dining area as particularised in Schedule 1 of this decision notice.

REASONS

BACKGROUND

2. On 14 August 2025, an application was lodged by the licensee Crab Claw Island Pty Ltd for the premises Crab Claw Island Resort situated at 84 Pruen Road, Bynoe for which licence 80303919 relates.
3. The application was for material alterations to the premises pursuant to section 95(1)(a) of the Act to increase the overall licensed premises to include two additional deck areas and an alfresco dining area.
4. The application arose from an audit undertaken of the licence by inspectors on 24 June 2025 in which it was identified the decks had been constructed in 2016 and 2021 and the alfresco area had long been being utilised, all without previous written approval.
5. It necessarily follows; this application is seeking retrospective approval for the works so that the approved licensed premises reflects the actual premises being utilised.
6. The works have been undertaken and importantly certified.

APPLICATION

7. The application included the materials prescribed by the Act including a public interest and community impact assessment summary.
8. The overall expansion of the premises arguably falls within several branches of the definition of a material alteration as prescribed by section 95 of the Act, specifically constituting a significant increase in the area of the premises used for the sale, supply, service or consumption of liquor, also to a lesser extent, a significant change to the external appearance of the premises.
9. There is no changes to the nature of the business, nor the conditions of the licence.

PUBLICATION & CONSULTATION

10. A delegate of the Director exercised their discretion pursuant to section 96(4) of the Act not to require the applicant to publish notice of the application. The reasons for this exercise is the arguable tacit consent that has been given to the licensee for the use of these areas to date, without any known adverse issues and the licensee otherwise conducting the business without incident.
11. Notification of the application was provided to those prescribed in section 96(6A) of the Act, with no adverse comments having been received from any party.

ASSESSMENT OF THE APPLICATION

12. There is no dispute the works are clearly a material alteration and the process that must be followed by a licensee before they undertake such works is clearly prescribed in section 96 of the Act.
13. Of relevance to this matter, section 98 of the Act provides an offence provision "...if a material alteration is made to the licensed premises without the prior written approval of the Commission".
14. This offence provision is, by effect of subsection 98(3) of the Act an offence of strict liability.
15. The works to increase the deck areas were undertaken in 2016 and 2021 and it unclear when the alfresco area commenced use, although it is accepted this was some time ago.
16. On face value, the unauthorised material alterations may therefore be accepted as having breached the provisions of section 98 of the Act, allowing for possible disciplinary action to be taken against this licensee noting the distinction between disciplinary action and any offence provisions.
17. The apparent breach notwithstanding, of particular note to the manner in which this matter has progressed is the discovery of the issue arose during an audit in June 2025 however, audits in November 2019, June 2020, December 2021 and September 2022 did not identify the issue.
18. Further, a general compliance visit was undertaken at the premises in September 2023, again no issue was identified.

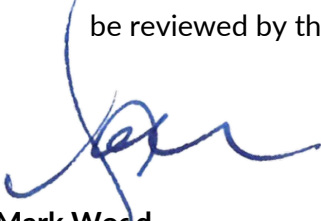
19. At no time in these previous visits were the unauthorised material alterations identified and therefore it is arguable tacit consent has been given through the department's inaction.
20. Once it was identified, the licensee took immediate actions to lodge the necessary application and materials and they should be commended for their approach to this matter once it was identified.
21. It necessarily follows, to take any disciplinary action against the licensee would be an abuse of process and inappropriate in these circumstances.
22. The licensee has been utilising the additional areas for many years, with no apparent harm arising from them.
23. Other than this issue, there are no known compliance issues for this licensee and they may be accepted as conducting the business of the licensee well and without incident for many years. The works have not contributed to alcohol-related harm.
24. The conduct of the licence further supports the position, the failure of the licensee to seek the necessary approvals prior to the works was inadvertent and not intended to deceive or otherwise intentionally avoid the usual processes.
25. There has been no opposition to this application and no adverse comments, nor any compliance issues with this licensee.
26. The licensee had obtained the appropriate certifications of the works in 2016 and 2021.
27. The application was referred to the Commission on 19 September 2025, with the Chairperson refusing to accept the referral, with reference to the delegations of 5 July 2025, considering it appropriate the matter be determined by the Director of their delegate in the circumstances.

Public interest and community impact requirements

28. In accordance with section 97 of the Act, I have considered the public interest and community impact requirements and am comfortably satisfied that the alteration is in the public interest, and that it will continue to be unlikely to have any adverse impact on the community.
29. The intention of the licensee is to obtain approval for works already undertaken to expand their licensed premises without any change to the overall nature of the operation.
30. There are no materials to suggest the approval of this application will be contrary to the public interest nor have any adverse impact to the community. As written earlier, these works have been undertaken some time ago and there is no apparent harm known to have arisen from them prior to the audit in June 2025, or subsequently.
31. Section 3(4) of the Act requires a person exercising a power under this Act to have regard to both the primary and secondary purposes of the Act, with a secondary purpose being the regulation of the industry in a way that stimulates the tourism and hospitality industries.
32. As required by that section this decision has been made in a manner consistent with those purposes.

REVIEW OF DECISION

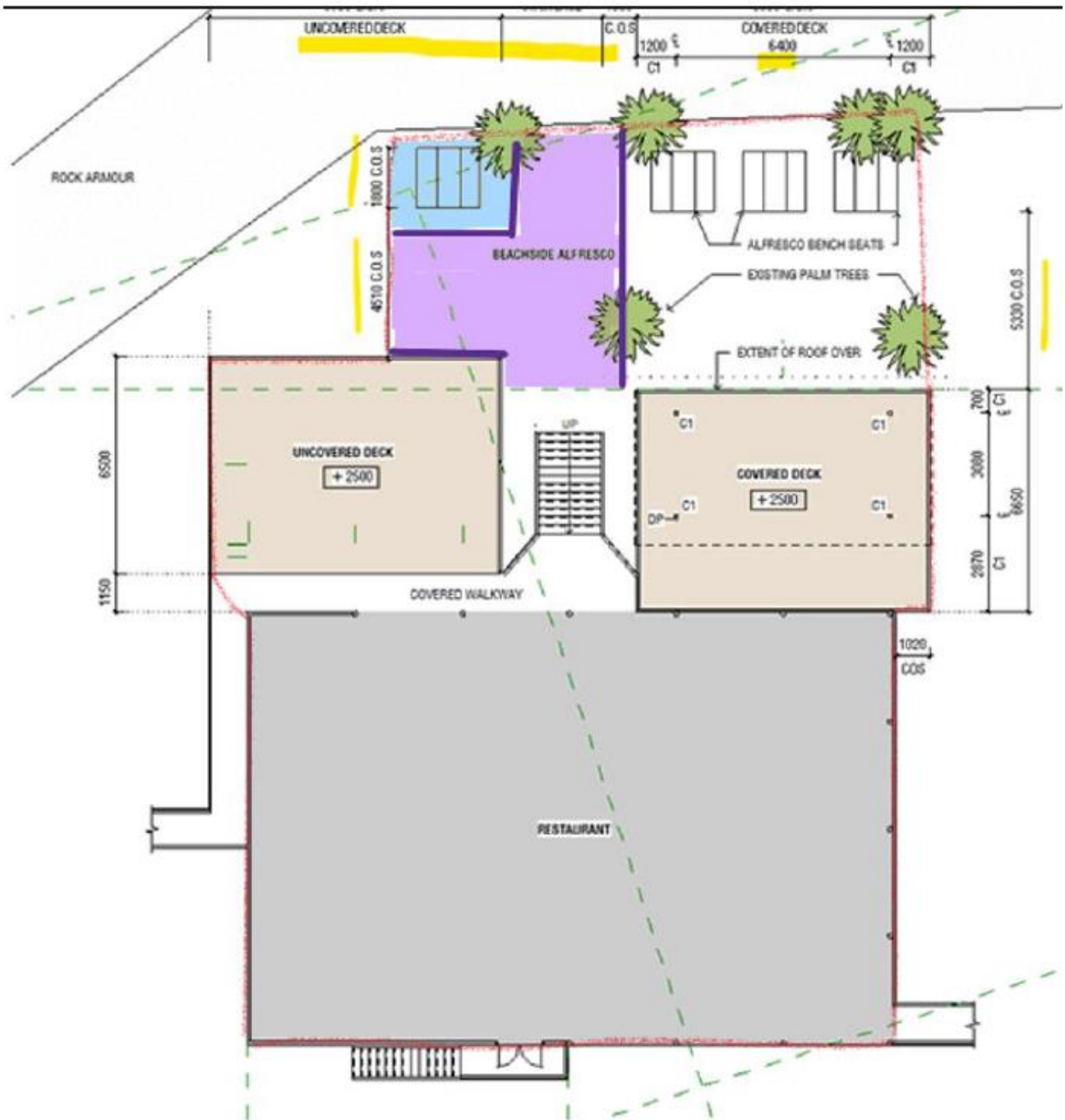
33. Section 27 of the Act provides for those persons prescribed to apply to the Director for a review of a decision made by their delegate.
34. An application for a review of a decision must be lodged with the Director within 28 days after written notice of the decision of the Director is given to the person, in the form approved by the Director stating the grounds on which it is made and the facts relied on to establish the grounds.
35. This decision is one that falls within the provisions of section 27 of the Act and may therefore be reviewed by the Director.



Mark Wood
Delegate of the Director of Liquor Licensing

22 September 2025

SCHEDULE 1 - APPROVED SITE PLAN



Outdoor eating area(s) – Uncovered Deck

Outdoor smoking area(s) – Highlighted in Blue