

Northern Territory Licensing Commission

Reasons for Decision

Premises: Tuscan Italian Restaurant and Suzie Wong Chinese Seafood Restaurant

Applicant: Sea Dragon (NT) Pty Ltd

Nominee: Jimmy Shu and Darren Lynch

Proceedings: Hearing into Application for the Grant of a New Liquor Licence

Members: Mr Richard O'Sullivan (Chairman)
Ms Brenda Monaghan (Legal Member)
Mr John Brears

Background

- 1) Sea Dragon Pty Ltd has applied for an 'on licence' liquor licence for their Italian and Chinese restaurants and function room which are currently under development at the new Darwin Wharf Precinct. The application was advertised in the NT News in May 2009. No objections were received but Police submitted a written response. Despite the lack of objectors, the Licensing Commission took the opportunity to conduct a site inspection, seek further information from the Waterfront Development Corporation and to talk with the developers in person about the licence concept and other relevant issues. The Commission is now satisfied that a licence should be granted but subject to certain conditions.

Consideration of the Issues

- 2) The developers, Mr Jimmy Shu and Mr Darren Lynch, have submitted a detailed application outlining their intention to create two (2) "destination restaurants" alongside each other on the ground floor of Wharf One Building, Darwin City Waterfront Precinct. Part of the first level of Wharf One building contains space for a function room with seating capacity of approximately one hundred and fifty (150) persons and further seating capacity in the alfresco dining area on the balcony for up to fifty (50) persons. The upper floors in the part of the Building they occupy will contain over fifty (50) apartments.
- 3) The ground level restaurants will jointly cater for approximately two hundred and fifty five (255) people inside and three hundred and seventy (370) outside in an al fresco dining areas overlooking the harbour. The applicants' plan is for the two restaurants to share a central internal bar for alcohol service by wait staff to internal restaurant patrons and those in the al fresco dining areas.
- 4) The applicants have emphasised in their application and in oral submissions to the Commission that they want some flexibility to allow people to have a drink without a meal as they will have lighter options such as tapas plates available. They also want the ability for some patrons to remain standing without breaching their licence conditions. They accept the police submission that any allowance for persons to stand should be contained to a small area in front of the bar.. They anticipate that patrons waiting for a table will relax in the more comfortable lounge chairs provided in this central area or stand and talk to their friends. The applicants ask that Commission allow the patrons in this area to approach the bar to obtain a drink as they are concerned that requiring all drinks to be served by wait staff in this area will be impractical.

- 5) The Commission is mindful of the fact that care must be taken when granting liquor licences in this developing precinct to ensure that community amenity and public safety is maintained. For this reason, further investigations including a site inspection were undertaken despite the fact that there were no objectors to the advertised proposal. Written advice received from Pat Coleman Chief Executive Officer - Darwin Waterfront Corporation (DWC) confirms that:
- a) The public bridge and access lifts from the bridge linking the waterfront public domain to the CBD are open / operating twenty-four (24) hours per day.
 - b) All public car parks including the multilevel car park are intended to operate between 7:00am and 10:00pm for ingress and twenty-four (24) hours for egress. The exact times may vary slightly when the Precinct wide parking management plan is fully implemented over a number of months but the principle to close parking late at night will remain consistent.
 - c) Currently the level of security provided by the DWC is a single roving guard during the night. This is unlikely to increase and it is up to individual Licensees to manage their own premises.
- 6) It is notable that the Commission generally grants a liquor licence to restaurants until 2.00am and encounters very few problems as a result. The same could be said for the unpublicised allowance in many restaurant licences that liquor without a meal can be provided. This condition allows a patron to join a table of diners and have a drink without being required to have a meal and has not been an issue to date.
- 7) This licence application seeks slightly more than most restaurant licence applications in that the applicants want a central reception space where patrons can stand and drink or sit in lounge chairs provided. The Commission is satisfied that the applicants are sincere in their intentions to create two "destination restaurants" and that any ability granted to them to allow a small number of persons to stand in a central defined area will simply assist them in catering for their clients needs within a restaurant setting.

Decision

- 8) The Commission has determined to issue a Restaurant Licence to the venue with conditions allowing a limited number of persons to stand in an identified central area. The licence is subject to the timeframes for completion and conditions set out below including the following:
- a) A restaurant licence with trading hours between 11.30 and 02:00 (the following day), seven (7) days per week.
 - b) There will be a 'concept' clause clarifying that the licence allows for two (2) quality restaurants sharing the same central bar and reception area. The premises shall at all times have the appearance of and shall trade predominantly as restaurants.
 - c) All liquor service to internal and external dining areas must be by wait staff and all patrons must be seated.
 - d) The 'Consumption of Liquor without a Meal' condition found in most restaurant licences is included so long as there is no publication of this facility.
 - e) The central area where people can stand shall be a defined space to be shown on the Plan and located between the two alfresco dining areas and also in the internal area directly in front of the bar. No more than sixty (60) persons can stand in this area and have a drink while waiting for a table or to socialise with others. Patrons in this area may be served by waitstaff or may approach the bar themselves for a drink.
 - f) The word "Bar" shall not be used in any advertising or signage.

- g) Bar Stools shall not be provided within the alcohol service area.
 - h) Light meals and snacks will be available from the alcohol service counter.
 - i) Consumption of liquor without a meal will not be advertised or promoted.
 - j) Entertainment will be in the form of pre-recorded music with associated video and light family friendly live performers in the form of duets, string quartets, Oriental and classical artists. There will be no 'nightclub' style entertainment provided at the venue.
 - k) The Licensee shall not permit or suffer the emanation of noise from the premises of such nature or at such levels as to cause unreasonable disturbance to the ordinary comfort of lawful occupiers of the neighbourhood.
 - l) Premises shall close no later than one and one half hours after the kitchen closes.
 - m) The premises may remain open from 06:00 hours to 11:30 hours for the purpose of allowing customers on the premises to consume breakfast. No alcohol is to be sold, supplied or consumed during this time.
- 9) The Commission notes that the applicant has sought a liquor licence for the function room and balcony on the first floor but that there may be some delay before this part of the project is commenced. Whilst the Commission has no real concerns about this aspect of the application, it would prefer to defer decision-making until a clearer plan and concept can be provided by the applicant. This part of the application is adjourned for three (3) months for review or until such time as the applicant has developed a clearer outline of what is proposed.
- 10) The granting of the liquor licence for the restaurants and function room are also subject to the following:
- a) The fitout of Tenancy F2 being completed within seven (7) months from the date of approval;
 - b) The fitout of Tenancy F3 being completed within eight (8) months from the date of approval;
 - c) Certificate of Occupancy;
 - d) Certificate of Registration of Business Names;
 - e) Certificate of Registration as a Food Business;
 - f) Confirmation of Corporate entity undertaking operation;
 - g) Confirmation of Agreement between the Waterfront Corporation, Toga and the applicant as to the location and use of the southern public access easement.

Richard O'Sullivan
Chairman

30 July 2009