

Delegate of the Director-General

Decision Notice

MATTER:	Application for the grant of a liquor licence.
PROPOSED PREMISES:	Jo Hai Restaurant
APPLICANT:	Alice Choice Catering Pty Ltd
PROPOSED NOMINEE:	Mr Praduman Kumar
OBJECTORS:	NT Police
LEGISLATION:	Section 26 of the <i>Liquor Act</i>
DECISION OF:	Delegate of the Director-General of Licensing
DATE OF DECISION:	April 2017

BACKGROUND

1. In July 2004 the Licensing Commission issued a liquor licence to Cheap Charlie 1 Pty Ltd for the premises known as 'The Dustbowl' bowling alley in Alice Springs. In February 2010 Cheap Charlie 1 Pty Ltd leased The Dustbowl to Richards Investments Pty Ltd and the liquor licence was subsequently transferred to Richards Investments Pty Ltd.
2. The liquor licence incorporates the bowling alley and a restaurant within the premises identified on the liquor licence as The Red Tomato. Mr Peter Richards the director and nominee for Richards Investments Pty Ltd has an agreement with Mr Greg Boaz the Director of Cheap Charlie 1 Pty Ltd to be able to sublease the restaurant premises.
3. In April 2012 Mr Richards informed Licensing NT that the Red Tomato Restaurant was sublet to a party who has since left the premises, and received advice from Licensing NT personnel that alcohol could still be sold by the lease in the restaurant by the third party lease under the licence held by Richards Investments Pty Ltd.
4. On 28 January 2016 Mr Richards entered into a subsequent sublease agreement with Alice Choice Catering for the restaurant area. Like previous lessees Alice Choice Catering Pty Ltd has been operating at the premises under the licence held by Richards Investments Pty Ltd. Such operations are contrary to the Lease and Management Agreements contained on all liquor licences.

5. This situation is now being addressed by the Licensee seeking to excise the restaurant area from the liquor licence for The Dustbowl and the lessee applying for a liquor licence for the restaurant.
6. Pursuant to section 26 of the *Liquor Act* (the Act), the current tenants of the restaurant, Praduman Kumar and Digvijay Kumar Singh as Alice Choice Catering Pty Ltd (the Applicant) applied to the Director-General on 3 November 2016 for the grant of a "Restaurant" liquor licence.

CURRENT SITUATION

7. The Applicant seeks a liquor licence that authorises the sale of liquor ancillary to a meal, seven days a week between the hours of 11:30 and 24:00.
8. In accordance with section 6(2) of the Act, the Applicant has addressed the public interest criteria relevant to the application and submits that the grant of the licence will be in the public interest.
9. The Applicant submitted an affidavit in accordance with section 26A of the Act, attesting that there are no other persons able to influence the conduct of the business under the liquor licence if the application is successful.
10. The application was advertised in the *Centralian Advocate* on 11 November 2016 and 15 November 2016. The objection period expired on 15 December 2016.
11. One (1) objection was submitted from the Northern Territory Police. The application was not supported by Police on the grounds liquor would be available to be purchased without a meal.
12. The Applicant subsequently clarified that they only wished to serve liquor ancillary to a meal.

ASSESSMENT OF MATTER

13. I have reviewed all the available material submitted in relation to the application and note there were no objections or submissions received by members of the general public or Alice Springs Town Council who were notified of the application.
14. The NT Police fall within the recognised category of persons, organisation or groups that may make an objection as prescribed in section 47F(3)(c).
15. The submission was made in the manner prescribed by section 47F.
16. NT Police objected to the application on the grounds liquor would be available for purchase without a meal.
17. The Applicant clarified this was not correct and they only wished to serve liquor ancillary to a meal. Accordingly the objection has been addressed and satisfied.
18. The Applicant clarified they only wish to serve liquor to patrons dining in his restaurant. Liquor is only to be sold ancillary to a meal and therefore the objection of Police is nullified through this concession.

19. There is no evidence to suggest that the grant of the liquor licence in this case is adverse to the public interest and in my view, granting this licence presents minimal risk given the nature and type of the intended business operation.
20. The premises are suitable for the category of liquor licence requested and there is no apparent reason to refuse the application. In the present circumstances I am satisfied that the application ought to be granted.

CONSIDERATION CRITERIA

21. All other matters specified in the Act, particularly sections 6(2), 26, 26A and 28 have been considered and I am satisfied that there are no issues arising from the proposal which ought to prevent the approval of this application.

DECISION

In accordance with section 29(1)(a) of the Act, I have determined to grant a 'Restaurant Licence' to the applicant as particularised in the application. The licence will be issued immediately following the publication of this decision.

REVIEW OF DECISION

22. Section 8 of the *Licensing (Director-General) Act* prescribes a delegate decision is a decision, under any Act, of the Director-General that is made by a delegate of the Director-General.
23. By Instrument dated 22 June 2016, the Director-General delegated the power to issue licences in accordance with section 29(1)(a) of the Liquor Act to the person from time to time holding, acting in or performing the duties of the positions specified in Schedule 2 of that instrument. This decision is made by a person referred to in that schedule.
24. Section 11 of the *Licensing (Director-General) Act* provides that an affected person for a delegate decision may apply to the Director-General for a review of the decision. Such application must be made within 28 days after written notice of the delegate decision is given to the affected person, or within any additional time that the Director-General allows.
25. Section 9 of the *Licensing (Director-General) Act* prescribes that an affected person for the purpose of section 11 is the applicant and a person who made a submission, complaint or objection (however described) during the process that resulted in the decision being made.
26. The affected persons in relation to the present application are Alice Choice Catering (in Partnership), the Northern Territory Police, Northern Territory Fire and Emergency Services, Department of Health and the Alice Springs Town Council.



Julie Rannard
Acting/ Deputy Director-General (Operations)
Date: April 2017