

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Cavenagh Street Motel 15-17 Cavenagh Street Darwin City
Applicant:	T&C Investments Pty Ltd and Maley Pty Ltd
Nominee:	N/A (Application by developers)
Objectors:	Nil
Decision Of:	Mr Richard O'Sullivan (Chairman) Ms Brenda Monaghan (Legal Member) Mr John Brears

Background

1. Pursuant to section 26(2) of the Liquor Act (the Act), Mr Peter Maley, sole Director of Maley Pty Ltd, has applied on behalf of the developers for a "Conditional" Private Hotel liquor licence for a proposed 21 storey development at 15 -17 Cavenagh Street, Darwin City.
2. The developers are T & C Investments Pty Ltd and Maley Pty Ltd (the applicant). The benefit of the Commission granting an approval at this early stage is that the developers gain some comfort and confidence that the development they envisage will not be hindered by a late refusal of a liquor licence. It is often loosely described as an "in principle" licence because the detail of licence conditions can often only be considered when construction is complete and a nominee and management team in place.
3. The application was advertised in the Northern Territory News in the correct format on Wednesday, 4 November 2009 and Friday, 6 November 2009. The applicant also displayed the green sign supplied by the Department for the required period. The content of the advertisement contained the following information:
 - The building will consist of 21 levels containing a Restaurant with bar facilities, office space, four level car parking, motel rooms, function rooms with breakout areas and pool facilities.
 - The concept of the licensed premises is to provide Motel style Accommodation with Restaurant and Bar facilities, Mini Bar and Room Service. The applicant also wants to licence three (3) Function Rooms with breakout areas and to provide for consumption of liquor in the Pool Area.
 - Proposed trading details for the sale of liquor are as follows:

Liquor may be sold for consumption on the premises between the hours of:

Supply of liquor in the Restaurant ancillary to consuming a meal during the following hours:

Sunday to Thursday 11:00 hours to 23:00 hours
Friday to Saturday 11:00 hours to 01:00 hours (the following day)
Christmas Day and Good Friday 11:00 hours to 23:00 hours
 - Supply of liquor to lodgers and bona fide guests in the presence of lodgers by way of Mini Bar and Room Service.

- Liquor may be consumed by lodgers and bona fide guests in the presence of lodgers in the Pool Area.
 - Liquor may be consumed by bona fide attendees at the three function rooms and function breakout area identified on the sixth floor of the premises from 10:00 hours to 02:00 hours (the following day).
4. There were no objections received to this application during the objection period and therefore a hearing is not required and this application can be dealt with “on the papers”. If granted, the Commission will however need to deal with the detail of licence conditions and the probity of any nominee before the licence becomes operational.
 5. The Commission has also received detailed plans and concept drawings prepared for the Development Permit submission and has obtained evidence of the appropriate approval from the Development Consent Authority for the development. The Commission is aware that the applicant is developing the premises with the intent of engaging an operator to operate the licensed premises upon completion.
 6. The Northern Territory Police were asked to comment on the application. Police have no comment on the application other than a request that where a licence may be issued to an operator, the concept and conditions as outlined in the application are strongly adhered to.
 7. The Development Consent Authority advised the development has a restaurant use approved for the ground floor with liquor only to be sold with a meal. The Mini Bar and Room Service attributes of the application are consistent with the approved ‘Motel’ use for the site. The Development Consent Authority has no objection to the application.
 8. Northern Territory Health and the Darwin City Council were asked to comment on the application. No comments have been received at the time of writing this decision.

When assessing whether or not this application should be granted, the Commission notes the following:

- The applicant has provided sufficient detail about the relevant criteria referred to in section 6(2) of the Act and submits that the information provided demonstrates that the grant of the licence will be in the public interest.
- The premises will be located at 15-17 Cavenagh Street, Darwin City. The immediate neighbourhood consists of other retail shops and commercial businesses in the City Centre. The Metro Apartments are located immediately next door with The Cavenagh Hotel located across the road. A Motel would be considered a suitable business mix for this locality.
- Development Permit number DP09/0759 issued 9 October 2009 approves the use of the land for the purpose of a motel, offices, restaurant and shops in a 21 storey building including car parking at level 2 to 5, in accordance with a schedule of conditions and the approved plans. The Permit remains in force for a period of two years from the date of issue.
- The concept of the licensed premises is to provide Restaurant and Bar facilities, Mini Bar and Room Service, to licence three (3) Function Rooms with breakout areas and to provide for consumption of liquor in the Pool Area. The provision of liquor in the restaurant and bar area is to be ancillary to or in conjunction with a meal. The Commission notes that a licence of this nature generally causes no concern in the regulation of licensed premises.
- The Commission takes no issue with the financial stability of the licensee. Financial and managerial capacity, general reputation and character are all matters of importance with respect to the eventual operator of the licensed premises and the

relevant enquiries will be undertaken at the conclusion of the development and prior to the premises commencing operation.

- The Commission takes no issue with the proposed trading hours but reserves its rights to place specific conditions on the supply and consumption of liquor on licensed premises including in the pool area once the premises are constructed but before operation commences

Decision

1. Pursuant to Section 31(3) of the *Liquor Act*, a decision is made to grant an 'on premises' licence to the applicant company to enable it to develop a private hotel with Restaurant and Bar facilities, Mini Bar and Room Service. The applicant is also granted a licence to cover three (3) Function Rooms with breakout areas. The concept and hours of trade will be those advertised but the detail of the conditions to be imposed relating to the licensed premises (including the pool area) is a matter that will need to be considered further by the Commission once the development is complete but before it commences operation.
2. Pursuant to s31(3) of the *Liquor Act*, the grant of the licence is subject to the condition that the sale of liquor on the premises is not permitted until the approval in writing to do so is obtained from the Commission. This approval will not be forthcoming until the refurbishment of the premises is complete, a final inspection has occurred and all necessary approvals have been obtained.
3. The grant of liquor licence is subject to and conditional upon the relevant probity checks being undertaken on any prospective nominee or licensee operator of the licensed premises at the conclusion of the development but prior to the premises commencing operation.
4. The Applicant must also provide certified copies from the Development Consent Authority of the approved floor plans of the proposed licensed areas.

Richard O'Sullivan
Chairman

19 February 2010