

A/ Deputy Director-General of Licensing

Decision Notice

Matter:	Grant Of A Liquor Licence
Proposed Premises:	Oka Malaysian Chinese Cuisine
Applicant:	Territory Harmony Pty Ltd
Proposed Licensee:	Territory Harmony Pty Ltd
Objectors:	Nil
Legislation:	<i>Liquor Act</i> Section 26
Decision of:	A/Deputy Director-General (Operations)
Date of Decision:	4 October 2016

Background

1. Pursuant to section 26 of the *Liquor Act* (the Act), Territory Harmony Pty Ltd applied to the Director-General of Licensing for the grant of a "Restaurant" licence, for the premises known as "Oka Malaysian Chinese Cuisine", located at Shop T1, 1, Mannikan Court, Bakewell, NT.

Current Situation

2. The applicant provided a submission regarding the relevant criteria referred to in section 6(2) of the Act identifying the operations of the proposed business. The applicant submitted the information provided demonstrates the grant of the licence will be in the public interest.
3. The proposed Licensee has provided an affidavit pursuant to section 26A of the Act, identifying the directors of the company, being Mr William Ching Wah Young, Mr Jose Jap, Mr Jau Ren Yeh are the only persons to have influence over the liquor licence. They are also the only directors and shareholders of the proposed licensed entity.
4. The business proposed to be conducted will be in the nature of a Restaurant/Tapas Bar. The sale of liquor is proposed to be sold from 10:00 hrs until 23:59 hrs seven days a week.
5. It is also noted the applicant intends to sell food between 12:00 hours (Midday) to 14:30 hours and 17:00 hours to 22:00 hours and that alcohol may only be sold without a meal in the alfresco area.
6. The applicant will be the proposed Licensee for the premises.

7. The trading name "Oka Malaysian Chinese Cuisine" is a registered business name held by the applicant.
8. Mr Young and Mr Jap will be dual nominees; they have supplied the Director-General with Responsible Service of Alcohol certificates, photo identification, referees reports attesting to their good character and work ethics and undertaken the necessary criminal history checks. No matters arise from the probity examination of the applicant that would prevent them being granted a liquor licence.
9. The application was advertised in the Northern Territory News in the correct format on Wednesday, 13 July 2016 and Friday, 15 July 2016. The Green Sign was displayed at the proposed premises for the required period.
10. Whilst not an objection as defined in the Act there was a submission provided by the following in relation to this application
 - Ms Amanda Lush, Project Officer – Strategic Policy Division Office of the Commissioner and CEO, NT Police.
11. Police submitted it is more appropriate that the sale of liquor be ancillary to a meal in all areas of the premises, expressing concern the applicant may have been seeking to open a bar rather than a restaurant.
12. The Northern Territory Fire and Rescue Service confirmed the premises are compliant.

Assessment of matter

13. I have reviewed all the available material submitted in relation to the application and also note that there have been no public objections to the granting of this licence.
14. I have considered the NT Police recommendations in relation to drinks being sold ancillary to a meal in all areas of the premises and their concerns the premises may trade more as a bar than a restaurant. Also their submission regarding the premises being situated in a residential area.
15. The applicant has provided no materials to support their request for liquor to be sold without the provision of a meal in any area of the premises. There have been no materials provided to suggest there is a public interest or need not currently being met, accordingly this must be considered in the context of the category of licence being sought.
16. The applicant has sought a Restaurant liquor licence and currently holds a similar licence in premises at Parap. For completeness that licence is held by a separate entity however for all material purposes the two are interrelated under the Oka Group.
17. That licence requires liquor to be sold ancillary to a meal and commences trade from 11:30 hours each day, not 10:00 hours as sought in this application.
18. A similar Restaurant application has also just been approved in the same Centre for Gusman Y Gomez, their hours are from 11:00 hours and liquor must be sold ancillary to a meal.

19. Whilst each application must be considered on its own merit, in the absence of compelling evidence of a need to allow for a distinguishing feature or point of difference, like applications should be determined in a like manner.
20. Accordingly I must concur with the submissions of Police and suggest the sale of liquor ancillary to a meal in all areas of the premises is the most appropriate situation in these circumstances. Further, there is nothing to suggest there is a need for the sale of liquor, particularly without an accompanying meal from 10:00 hours in the morning.
21. I am of the mind the granting of this licence presents minimal risks given the nature of the operation proposed at the premises. I am not however persuaded that the sale of liquor from 10:00 hours is appropriate, or in the public interest. I am also not persuaded that the sale of liquor without a meal is in the public interest.
22. In the absence of any materials to support a distinguishing between the Restaurant licences mentioned above, I must determine this application in a similar manner.

Consideration Criteria

23. The comments lodged by Police have been noted and mirror my own as examined earlier in this notice.
24. All relevant criteria have been considered in this application as outlined in the previous section of this notice, including Sections 6(2), 26, 26A and 28 of the Act. No issues arise from these considerations that would prevent the approval of this application.

Summary

25. The applicant has made a full and thorough application demonstrating the grant of a liquor licence will be in the public interest.
26. The premises are suitable for the category of liquor licence requested and has passed relevant fire and safety compliance examination. There appears no valid reason to refuse the substantive application, that being for a Restaurant liquor licence.
27. There is however insufficient evidence to support a request for liquor sales from 10:00 hours or the sale of liquor without a meal.

Decision

28. The decision is to grant a liquor licence, upon the following conditions.
 - Trading hours are to be from 11:00 hours to 23:59 hours each day.
 - The premises shall at all times have the appearance of a family friendly dining restaurant.
 - The sale of liquor is to be ancillary to a meal and by the provision of table service only.

Review of Decision

29. 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. The Director-General delegated the determination of applications made under Section 29 of the *Liquor Act* by instrument to the person from time to time holding, acting in or performing the duties of the position in the Department of Business specified in Schedule 2 of that instrument. This decision was made by a person referred to in that schedule. Section 10 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. This application for review 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. Section 9 of the *Licensing (Director-General) Act* prescribes an affected person for a delegate decision to be the applicant for the special licence and a person who made a submission, complaint or objection (however described) during the process that resulted in the decision being made.

30. Accordingly, the affected persons in relation to this decision are, NT Harmony Pty Ltd and Ms Amanda Lush of NT Police.



Julie Rannard
A/Deputy Director-General (Operations)
4 October 2016