

Delegate of the Director-General

Decision Notice

MATTER:	Variation of conditions on application by licensee and material alteration of licensed premises.
LICENSEE:	Richards Investments (NT) Pty Ltd
PREMISES:	The Dustbowl, 29 Gap Road, Alice Springs NT
LEGISLATION:	Section 32A and 119 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 NT 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. Mr Richards received advice from Licensing NT personnel that alcohol could still be sold by the lessee in the restaurant 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 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 by a material alteration for The Dustbowl and the lessee applying for a liquor licence for the restaurant.

CURRENT SITUATION

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.
7. Before that application may be considered the excision of the area must be approved and the liquor licence for The Dustbowl needs to be varied to remove the restaurant condition. Not only must the area be excised but the licence held by Richards Investments Pty Ltd must be amended to reflect the new business model operating under the existing "On Licence".
8. The material alteration was advertised in a manner satisfactory to the Director-General.
9. The excised area will operate as a separate business which will adhere to the same license conditions currently attached to the area.

ASSESSMENT OF MATTER

10. A subsequent application has been submitted. The application to remove the restaurant by material alteration from The Dustbowl licence will enable the current tenants of the restaurant to apply for a liquor licence for the premises.
11. There is no evidence to suggest that the material alteration or change to licence conditions is adverse to the public interest and presents minimal risk given the nature and type of business operation. In the present circumstances I am satisfied that the application ought to be granted.

CONSIDERATION CRITERIA

12. All other matters specified in the Act, regarding sections 32A and 119 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

13. In accordance with sections 32A(7) and 119(8(a)) of the Act, I have determined to vary the conditions of the licence and approve the material alteration for The Dustbowl by removing the conditions and licensed area of the Red Tomato Restaurant.

REVIEW OF DECISION

14. 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.
15. By Instrument dated 22 June 2016, the Director-General delegated the power to approve variation of conditions in accordance with section 32A(7)(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.
16. 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.
17. 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.
18. The affected persons in relation to the present application are Richards Investments (NT) Pty Ltd.



Julie Rannard

Acting/Deputy Director-General (Operations)

Date: April 2017