



Director-General of Licensing

Decision Notice

Matter:	Application for Grant of Store Liquor Licence
Proposed Premises:	Rosebery IGA Unit 4, Lot 11020, Forrest Parade Rosebery, NT
Applicant:	OMG Retail Pty Ltd
Proposed Nominee:	Mr Michael Harvey
Objectors:	Refer to paragraph 16 below
Legislation:	Section 26 and Part IV of the <i>Liquor Act</i>
Decision of:	Director-General of Licensing
Date of Decision:	16 October 2015

Background

1. Pursuant to section 26 of the *Liquor Act* ("the Act"), Mr Michael Harvey and Ms Helen Harvey, Directors of OMG Retail Pty Ltd (ACN: 163 410 017) ("the Applicant") applied for the grant of a Store Liquor Licence for premises to be known as Rosebery IGA, located at Unit 4, Lot 11020, Forrest Parade, Rosebery NT.

Current Situation

2. The proposed business is a medium sized grocery supermarket trading under the "IGA" banner. The supermarket will involve a takeaway liquor outlet trading under the "Celebrations" banner. Both trading identities are subsidiary brands of "Metcash Ltd".
3. The intention is to provide a broad range of independently branded grocery products to the community. The product range will focus on the provision of a fresh range of fruit and vegetables, extensive grocery lines plus a gourmet selection of small goods.
4. Currently there are no licensed premises conducting business in the Rosebery neighbourhood.
5. Should the licence be granted, the liquor component will provide a selection of beers, wines and spirits along with a range of selected cheeses and other small goods and snack food that will be available for purchase within the liquor area.
6. The proposed trading hours for the sale of liquor are those normally applicable to a Store Liquor Licence, namely Monday to Friday - 10:00 am to 10:00 pm, Saturday and Public Holidays - 09:00 am to 10:00 pm with no trading Sunday, Good Friday or Christmas Day. The Applicant has offered to implement a self-imposed restriction on the sale of two litre port products as this product has previously been identified as a product of social harm.

The Applicant

7. The proposed Licensee is OMG Retail Pty Ltd, first registered on 22 April 2013. Mr Michael and Mrs Helen Harvey are the directors of OMG Retail Pty Ltd and the proposed Nominee is Mr Michael Harvey.
8. The Applicant has provided documentation indicating that it has sufficient financial resources to operate the proposed business. In addition, the Applicant has further provided satisfactory evidence attesting to the managerial capacity, general reputation and character of the company and its directors who have extensive experience in managing and operating businesses in the retail/hospitality industry within the Northern Territory. Mr and Mrs Harvey have previously managed/owned licensed premises in the NT including Larapinta IGA Supermarket in Alice Springs, the Kulgera Roadhouse and the TI Tree Roadhouse. Mrs Harvey has previously held the position of Assistant Manager of the Bonrook Lodge which also holds a liquor licence.
9. The National Police Certificates for Mr and Mrs Harvey indicate no disclosable court outcomes. The materials submitted in support of the application demonstrate that both Mr and Mrs Harvey are fit and proper persons for the purposes of holding a liquor licence and managing the business conducted under a liquor licence.

Advertising

10. The application was advertised in the Northern Territory News on Friday, 23 January 2015 and Wednesday, 28 January 2015. The objection period expired on Friday, 27 February 2015.

Objections

11. A total of 28 objections were received within the objection period.
12. Mr Colin Hall lodged an objection but did not provide a return address. He was subsequently contacted to determine whether he meets the requirements of a valid objector under section 47F(3) of the Act but has not responded. His objection is therefore deemed to be invalid.
13. The objection of Mr Chad Wilson provided only a single line objection stating he did not support the application. His objection does not satisfy the requirements of section 47F(2) of the Act in respect of the prescribed grounds for an objection and is therefore deemed to be invalid.
14. Mr Brian Murphy, Mr Piyarach Hassarungsri, Mr Chris and Ms Teresa Lai submitted objections, which in summary addressed concerns regarding an increase in traffic through the area, anti-social behaviour and the location of the proposed premises in relation to schools and sporting amenities.
15. On receiving the Applicant's response to their objections Mr Piyarach Hassarungsri and Mr & Ms Lai withdrew their objections. Mr Murphy met with the Applicant to discuss the application and then withdrew his objection. A further objection was withdrawn following notification to the dual objectors that, in the normal course for such matters, the Applicant would receive notification of the names of all valid objectors.
16. The objections lodged by the following persons have been assessed as meeting the criteria for valid objections prescribed in sections 47F(2) (grounds for objection), 47F(3) (eligibility to make an objection), and 47F(4) (within the objection timeframe), as indicated in the table below.

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No	Objector	Complies with s47(2)	Complies with s47(3)	Complies with s47(4)	Valid
1	Claire Usher	Yes	Yes	Yes	Yes
2	Adam & Candice Thacker	Yes	Yes	Yes	Yes
3	Tom Bennett	Yes	Yes	Yes	Yes
4	Shaneen Tilmouth & Luke Bayetto	Yes	Yes	Yes	Yes
5	[REDACTED]	Yes	Yes	Yes	Yes
6	Ken Middlebrook	Yes	Yes	Yes	Yes
7	Sally Edwards	Yes	Yes	Yes	Yes
8	Christopher & Carolle McPharlin	Yes	Yes	Yes	Yes
9	Trevor Edwards	Yes	Yes	Yes	Yes
10	Natalie Honan	Yes	Yes	Yes	Yes
11	Graham & Kate Watson	Yes	Yes	Yes	Yes
12	Peter Overall	Yes	Yes	Yes	Yes
13	Lisa Payne	Yes	Yes	Yes	Yes
14	Malcolm Ryan & Jacqueline Roberts	Yes	Yes	Yes	Yes
15	Dean & Fleur Wedding	Yes	Yes	Yes	Yes
16	Leah McHardy	Yes	Yes	Yes	Yes
17	Greg Davis	Yes	Yes	Yes	Yes
18	Robyn Smith	Yes	Yes	Yes	Yes
19	Shankar Sharma	Yes	Yes	Yes	Yes
20	Toni Cutler	Yes	Yes	Yes	Yes
21	Rosebery Primary School	Yes	Yes	Yes	Yes
22	City of Palmerston	Yes	Yes	Yes	Yes

17. Each of the valid objections has been considered and assessed individually. However, it is noted that many of the objections raised similar issues of concern. The substance of the objections may be summarised as follows:

- The proposed location of the premises, being within 100 metres of Rosebery Primary and Middle schools and a Day Care Centre, is inappropriate for a takeaway liquor outlet;
- that a licensed premises in this location will lead to an increase in anti-social behaviour;
- that the Sunset Dreams Apartments, where many of the objectors reside, will become a location for unlawful consumption of alcohol and anti-social behaviour;

- that the suburb of Rosebery is a residential suburb with many facilities catering to families and children, and is home to predominantly owner occupiers who are raising families, with a lesser number of privately owned rental properties; and
 - that a takeaway liquor licence in Rosebery will impact on the profile of the suburb and would in turn negatively impact on the value of their properties.
18. Objectors also submit that the closest licensed premise to Rosebery is Moulden Supermarket, located in the neighboring suburb of Moulden, which is approximately 1.6 km away. The majority of these objectors also mention that there are a number of other liquor licensed premises in the Palmerston area where takeaway liquor can be purchased and that there is no need for a further licensed take away liquor outlet.
19. In her objection, Ms Toni Cutler provided an expansive submission which apart from addressing social amenity concerns, references both local and national studies and statistics relating to the availability of alcohol and the resulting anti-social and illegal activities. Ms Cutler also submits that the application does not meet the former Licensing Commission's guidelines regarding applications for a new takeaway liquor licences and, additionally, that the application does not meet the requirements of the objects of the Act.

Applicant's Response to the Objections

20. The Applicant responded to each objection individually. Not surprisingly given the consistency of the issues raised by the individual objectors, the responses from the Applicant were also similar in content and substance and may be summarised as follows:

The Applicant identifies the significant investment involved in the proposed business venture and that the sale of alcohol, along with the usual grocery lines, is necessary to ensure the financial viability of the business. The Applicant also submits that careful consideration has been given to the location of the proposed premises in terms of community demographic, population densities and other existing retail sites in the area.

21. The Applicant's response states that supermarket will be located at the rear of the development site and will not directly front Forrest Parade or Haydon Street, and that the proposed licensed liquor area will be located within the confines of the supermarket. Outside of liquor trading hours, the licensed area would be screened off and secured. Mr Harvey also notes that Rosebery is where his family lives and where they are intending to set up their business and, as a consequence, they are not intending or interested in doing anything with the proposed business that will be to the detriment of their own local community.
22. In response to concerns about the proximity of the proposed premises to local schools, the Applicant has stated that they will be installing a state of the art security monitoring system storewide, aimed at deterring young shoplifters, but also providing enhanced security to the liquor area. Mr Harvey states further that he and his wife reside in close proximity to the development and their observations are that the majority of school attendees actually use school bus services or are dropped off by car in the school drop off zones. He points out that none of these zones are directly adjacent to the development site.
23. The Applicant acknowledges that there is significant foot traffic at the rear of the development but is confident that the liquor licence would not have a negative impact upon pedestrian traffic. The Applicant also submits that having takeaway liquor licensed premises in close proximity to schools and child care facilities is fairly typical, particularly in the suburbs of Darwin and Palmerston.

24. The Applicant responded to concerns by objectors that antisocial behaviour and itinerant loitering will result from the licence by stating that those concerns are unfounded because itinerants already have established locations where they obtain liquor outside of the Rosebery area. The Applicant also submits that because liquor store trading hours are the same for all venues, itinerants are unlikely to travel out of their way to a venue that will not encourage their patronage.
25. In addition, the Applicant states current legislation regarding anti-social behaviour and public drinking is adequately dealt with by section 101T(1)(b) of the Act, which prohibits public consumption of liquor within 2 kilometres of licensed premises, and by Council By Laws. Mr Harvey states that these provisions authorise Police to enforce the prohibition on drinking in Regulated Places, as would be the case were Rosebery IGA to be granted a liquor licence.
26. The Applicant states that overall, the addition of a supermarket and take away liquor outlet will be beneficial to the community and compliment other services located in or to be located in the development area including medical and dental clinics, a pharmacy, restaurants and a service station.
27. The Applicant further advises that Metcash Pty Ltd, via the IGA brand, also participates heavily within the local communities across Australia in particular via the "IGA Community Chest Program" and this program has raised and injected some \$60 million to help local communities. Rosebery IGA intends to continue that community support with community interaction including schools, sporting clubs and other community groups, through sponsorships, loyalty/rewards programs and donations.
28. The Applicant's response concludes by stating they are exercising their right to develop lawful business opportunities and that the application is within the scope of the relevant legislation and that the sale of liquor will be conducted in a responsible and controlled manner to the benefit of the community.

Assessment of Objections

29. An assessment of the majority of the objections clearly indicates that a major concern of objectors is a potential degradation of the amenity of the neighbourhood and a negative impact on public safety and social conditions in the Rosebery community.
30. The objections based on concerns that the grant of a liquor licence for the Rosebery IGA would result in itinerants loitering in the area, along with an increase in anti-social or criminal behavior, is merely speculation at this time as there is no liquor licence in the immediate neighbourhood. However, the concerns raised must be considered as this type of anti-social behaviour is often an unintended consequence with store licensed premises, regardless of the best intentions of the licensee. In saying that, to prove that any particular licensed takeaway premises is responsible for all anti-social or criminal behaviour in that area is an assumption, as it is difficult to prove without investigation that any person's anti-social or criminal behaviour, at any given place can be attributed to the nearest licensed premises.
31. Of major concern to many of the objectors is the location of the proposed premises in relation to both the Rosebery Primary and Middle schools and the Early Learning Centre. Many of the objectors simply state that such an outcome is simply inappropriate without details of how this particular store is expected to negatively impact of the schools or the students.
32. The submissions of objectors asserting that the granting of the licence will negatively impact on local property values is purely speculative and, even were property prices to fall, that outcome could not be attributed solely to the location of licensed takeaway premises in the neighbourhood.

33. Similarly, the objections concerning antisocial behaviour and itinerants loitering within the area, including the Sunset Dreams Apartment car park, are again speculation. As noted in the Applicant's response to the objections, the people of concern to the objectors are itinerants who do not reside in the immediate area and have other options when it comes to purchasing takeaway liquor. Given that there are standard opening and closing times for all store licenced premises (in the Darwin and Palmerston areas) it is very unlikely itinerants will travel out of their way to alternative outlets, and particularly where the environment at Rosebery will not be conducive to that they are perhaps used to.
34. The community demographic is indicative of a well-established family based community with negligible unemployment and therefore does not appear to suffer from the impact of highly transient populations and its associated anti-social behaviour.
35. The Applicant's Business Plan for Rosebery IGA and Liquor Licence Application combined with their Public Impact Statement and knowledge of the *Stronger Futures in the Northern Territory Act 2012*, identifies their objectives and desire to not only comply with all levels of Government but to contribute to the responsible development of liquor and associated industries in the Northern Territory.
36. The following objections were lodged by community organisations and entities and have been assessed as meeting the requirements of sections 47F(2) and 47F(3) of the Act.

Rosebery Primary School

37. Ms Meredith Sullivan, the School Council Chair, lodged an objection on behalf of the Rosebery School Council. That objection may be summarised as follows.

The School Council has concerns regarding the location of the proposed premises in relation to Rosebery Primary/Middle Schools and day care centre, in that children will be placed in danger of "drink drivers" who wish to access the premises. The School Council also has concerns that the surrounding bush land will see drinking camps set up with itinerants using the premises as a place to purchase their liquor as this is often the occurrence when displaced persons are seeking to be close to alcohol.

38. On behalf of the School Council, Ms Sullivan refers to the large number of existing liquor outlets within 5 kilometres of the proposed location that residents of Rosebery could access without the need for another licensed outlet in the suburb itself.

Assessment of Rosebery Primary School Objection

39. As with the majority of objectors identified above, the School Council's primary concern is the location of proposed premises in relation to the primary school and the negative impact the premises may have on school students who attend the schools on a daily basis.
40. The suggestion that the main intersection in front of the school will become dangerous as the premises will attract "drink drivers" can be given little weight as there is no evidence to demonstrate that drink drivers would be particularly attracted to the proposed premises as distinct from any of the other licensed premises in the Palmerston area.
41. Concerns that the surrounding bush land close to the proposed premises may become a camping area and a place for anti-social behavior is a relevant consideration. However, there are laws in place that prohibit the public consumption of liquor within two kilometres of licensed premises and the enforcement of those laws would ameliorate the concerns raised in Ms Sullivan's objection.

City of Palmerston

42. An objection on behalf of City of Palmerston was lodged by the Director of Technical Services, Mr Mark Spangler. A summary of the objection is as follows.
43. Council objects to the trading hours as put forward by the Applicant and its preference is for limited trading hours as follows:
- Monday to Friday to 10:00hrs to 21:00hrs
 - Saturday 10:00hrs to 22:00hrs
 - No trading Sunday and all Public Holidays, including Good Friday and Christmas Day.
44. Standard store take away trading hours, as applied for by the Applicant are as follows:
- Monday to Friday 10:00hrs to 22:00hrs
 - Saturday and Public Holidays 09:00hrs to 22:00hrs
 - No trading Sunday, Good Friday and Christmas Day.
45. Following some confusion by Council regarding standard trading hours for store take away liquor licences, Council advised that it would support the application if the following changes were made to the trading hours:
- Close at 21:00hrs Monday to Friday
 - Open at 10:00hrs instead of 09:00hrs on Saturdays
 - No trading on any public holiday including Good Friday and Christmas Day.

Assessment of the City of Palmerston Objection

46. Council's objection provides little if any detail as to what benefits it would expect to achieve by the reductions of trading hours suggested in the revised objection. To restrict the trading hours in comparison to those for most other take away licences issued in the NT would place the Applicant and its business at a significant commercial disadvantage in comparison to most of its competitors.
47. Without explanation as to what specific benefits the restricted hours would produce, I can attach little weight to this objection. In my opinion there is no compelling reason to place the Applicant at a business disadvantage in comparison to other licensed premises in Palmerston and elsewhere.

Comments from Additional Stakeholders

48. As is the normal course for applications of this nature, comments were sought from various agencies who are concerned with the development and management of new licensed premises.

NT Police

49. NT Police advised they do not wish to lodge an objection to the application but note the previous Licensing Commission guidelines issued in relation to new takeaway liquor licences and note the Director-General will consider the objects and the criteria set out in section 28 of the Act concerning the assessment of such applications.

Department of Health (Alcohol and Other Drugs)

50. The Department of Health has provided several reference links to both national and Northern Territory specific data which highlights points relating to domestic violence in high outlet density regions, pricing of liquor, NT consumption rates and Indigenous health issues.
51. The letter provided by Health was not formulated as an objection to the application and states that the Department of Health it is not able to support the application for the reasons identified in its submission.

Assessment of Department of Health letter

52. The Department of Health's letter is based on information/statistics gathered through analysis of the effects of alcohol both physically and fiscally. No evidence has been provided that isolates the effects the proposed licensee's application would have at a local level or, in particular, how the proposed Rosebery IGA store will adversely impact on the community.
53. The relevance of the research within the links provided by the Department of Health is noted. However, the Director-General is tasked in this instance of making a determination in respect of this particular application for a liquor licence for the proposed Rosebery IGA. Without a clear demonstration of a clear link between the harms identified in the various reports to the specific application for a store take away licence in the suburb of Rosebery, I can attach little weight to the Department of Health submission.

Member for Blain Mr Nathan Barrett MLA

54. The Member for Blain, Mr Nathan Barrett MLA, provided a letter to register his concern and that of his constituents to the application for a liquor licence.
55. As for many of the objectors, Mr Barrett raises concerns regarding the locality of proposed premises in relation to Rosebery Primary/Middle schools and the perceived increase in foot traffic that will eventuate. He also submits that the grant of the licence will attract itinerants and anti-social behaviour to the community and make the parks in the area unusable for families.
56. Mr Barrett also suggests that the new Woolworths store, currently under development at the corner of Lambrick Avenue and Chung Wah Terrace will most likely apply for a takeaway liquor licence.

Assessment of Member for Blain Mr Nathan Barrett MLA correspondence

57. Mr Barrett's correspondence is not lodged as an objection but as a "letter of concern". His letter highlights the same concerns that many of the other objectors have raised but does not go into detail to explain why the proposed location of the premises near the Rosebery Primary/Middle Schools is of concern, and why an increase in foot traffic would negatively impact on the social amenity of the neighbourhood.
58. Regarding the Woolworths premises currently under construction, no application has been lodged to the Director-General seeking a takeaway licence for the store under construction. Whilst Woolworths may make an application for a liquor licence sometime in the future, this is not a consideration that the Director-General is able to take into account in dealing with the application the subject of this decision.

Northern Territory Fire and Rescue Service (NTFRS)

59. NTFRS are unable to provide comment on any issues within its area of operations until the completion of construction of the premises.

Summary Assessment of Application and Objections

60. The Applicant has provided a detailed application which meets the requirements prescribed in the Act. The Applicant submits that the application falls within the parameters of the takeaway licence guidelines issued by the former Licensing Commission in December 2014.
61. It must be noted that this application attracted a large number of formal objections, primarily from residents and property owners in the Rosebery suburb and local stakeholders such as the Rosebery Primary School. Comments were also submitted by City of Palmerston and the local member Mr Barrett, together with comments from other key Government stakeholders as identified above. However, the number of objections, 22 in total after withdrawals, must also be measured against the population of the area. The most recent Australia Bureau of Statistics reports indicate that some 5,800 people reside in the Rosebery - Bellamack area. If at least half of the residents are adults the total number of objections represents less than 1% of the adult population of the Rosebery – Bellamack suburbs. Whilst it would be naïve to suggest that all adult residents who did not lodge formal objections are in full support of this application, it would be equally as naïve to suggest that at least some of the residents who did not object would welcome the development of a small supermarket and liquor outlet in Rosebery and the convenience of not having to travel out for the suburb to purchase groceries and take away alcohol.
62. Within the valid objections submitted the main points of concern relate to the following:
- The proximity of the proposed premises to Rosebery Primary/Middle schools and Early Learning Centre;
 - Potential increase in foot traffic and the congregation of itinerants engaging in anti-social behaviour; and
 - The lack of need for the proposed premises due to the existence of established takeaway licensed premises in close proximity to Rosebery and the .
63. Apart from Ms Cutler's objection, no other objectors have stated what their actual concern is regarding the location of the proposed premises in relation to the Rosebery Primary, Middle schools and Day Care Centre apart from the proximity itself.
64. The application is for a take away liquor licence where patrons would purchase alcohol for consumption elsewhere, generally in their own residences. It is difficult to see how school children would be exposed to any significant level to the negative aspects of alcohol consumption in circumstances where clients would simply make their purchases and leave the immediate vicinity of the store.
65. An increase in foot/vehicle traffic in the Rosebery and surrounding suburbs is inevitable given the well documented rapid growth in population in the Palmerston area. This increase will naturally occur, regardless of whether or not a liquor licence is granted within the suburb of Rosebery. The complex in which the proposed store will be located will comprise several businesses catering to a number of community needs, including a service station. It would, in my opinion, be the expectation of a percentage of the residents of Rosebery that a convenience store and take away liquor outlet would be included in such a development, as is the case with most suburban shopping centres in developed suburbs in Palmerston and Darwin.

66. The same concerns regarding an increase in foot/vehicle traffic could have been drawn regarding the building of the schools in the area as this has caused an increase in foot/vehicle traffic that has had an impact on residents of the neighbourhood. It is my opinion that the vast majority of visitors to the shopping centre will be the local residents from the neighbourhood themselves as opposed to people from other areas of Palmerston and beyond. No doubt the medical and dental clinics in the development will also result in additional patronage of the area as clients use those newly developed services rather than travel to nearby shopping centres.
67. Concerns regarding itinerants and persons engaging in anti-social behaviour is a community problem that occurs throughout the Northern Territory and there is no evidence to suggest this can be attributed to one particular licensed take away outlet. As noted above, there are laws and regulations that govern and prohibit public drinking within 2 kilometres of licensed premises and the enforcement of those laws is designed to prevent the types of anti-social behaviour the objectors speculate will occur. Whilst such speculation is not fanciful given the reality of the prevalence of alcohol related issues in the Northern Territory that cannot be the basis for refusing to issue liquor licenses in appropriate circumstances.
68. The issues surrounding public drunkenness and anti-social behaviour are fully recognised and acknowledged. However, concerns in that area are widespread throughout the Northern Territory. If the potential for anti-social behaviour to occur near licensed premises was to be considered an absolute bar to any new licences being issued then the Director-General would be unable to comply with at least one of the prescribed objects of the Act, namely to facilitate a diversity of licensed premises and associated services for the benefit of the community.
69. Palmerston has a total of 11 licensed premises where "takeaway" liquor can be purchased, four of which are clubs that sell takeaway alcohol to members only. The population of greater Palmerston was recorded by the Australian Bureau of Statistics to be 27,618 people at the date of the 2011 census. The estimated population in 2015 is approximately 35,000. The seven licensed take away premises are dispersed over an area of approximately 52.9 square kilometres. On those figures the submission that the Palmerston area is saturated with take away liquor outlets cannot be maintained.
70. The genuine nature of the submissions of the objectors is acknowledged, as are the concerns expressed regarding the potential for anti-social behaviour. However, in the circumstances set out above I am not persuaded to refuse the grant of a liquor licence to the proposed Rosebery IGA on the basis of objections that are speculative as to the potential for adverse outcomes.

CONSIDERATION OF THE TAKEAWAY GUIDELINE CRITERIA:

71. In December 2014 the former Northern Territory Licensing Commission lifted the moratorium on takeaway liquor licences that had been in place since 2006, with new applications being considered subject to the following guidelines:
- A takeaway liquor licence in a new residential development; or
 - A takeaway liquor licence to be located in an area that has had recent, substantial population increase: or
 - A takeaway liquor licence for a producer of liquor products that enables the licensee to sell as takeaway only the liquor products at the location; or
 - A takeaway liquor licence for a location where there is a very clearly established public need.

72. Other matters such as public interest and Liquor Act requirements must also be taken into consideration along with the following:
- The density of takeaway liquor venues in the vicinity of the proposed application;
 - The proposed business model; and
 - The propensity for alcohol-related anti-social behaviour and harm in the vicinity of the proposed application.
73. The Palmerston suburb of Rosebery was first established six years ago and as such cannot strictly be categorised as a new residential development. However, the population of Rosebery has increased significantly from approximately 1,529 residents in 2006 to 5,800 residents as indicated in Regional Population Growth Report for 2012 – 2013. That Report also lists Rosebery - Bellamack as having the largest and fastest growth rate in the Northern Territory of 15%.
74. On those statistics alone there is no doubt that the suburb of Rosebery falls within the guideline criteria of being located in an area that has had recent, substantial population increase. In fact, it was for applications of the type and location of the Rosebery IGA application that the moratorium on the issue of take away liquor licences was relaxed and the above guidelines promulgated.
75. Palmerston currently has 11 licensed outlets authorised to sell takeaway liquor across an area of approximately 53 square kilometres and a reported total population of 34,944 people in 2014. Palmerston is regularly reported as one of Australia's fastest growing municipalities.
76. I have determined that the application under consideration for the Rosebery IGA falls squarely within the Takeaway Guideline set out above.

Summary

77. The application for a store take away liquor licence lodged by Mr Harvey for the purpose of the proposed Rosebery IGA store satisfies the requirements set out in the Act for the grant of liquor licence of that type.
78. Testimonies and evidence submitted in support of the application indicate that the proposed nominee, Mr Harvey, is a fit and proper person to hold a liquor licence. The directors of the Applicant company, Mr Michael Harvey and Mrs Helen Harvey are persons who are fit and proper to hold a liquor licence.
79. I am satisfied that this application satisfies at least one of the criteria set out in the guidelines promulgated by the former Licensing Commission for the grant of a takeaway liquor licence, namely, that the licence is to be located in an area that has experienced substantial and recent population increase.
80. From the materials submitted it is evident that significant population increase in the Rosebery over recent years, coupled with new developments in both residential and commercial development in the vicinity indicates that the proposed venue is in a location which would provide services to these increasing numbers of residents and other visitors to the suburb.

81. The proposed business model outlined in the application is for an upmarket store that stocks quality produce and many higher end liquor products that will be manned by well -trained staff with relevant RSA qualifications. This business model, and store liquor licences in general, represents a very low risk from a regulatory perspective in terms of adverse impact on the surrounding neighbourhood. Whilst there is always the potential for there to be alcohol related anti-social behaviour around a licensed takeaway outlet the risk in this instance is at the very lower end of the scale due to the demographics of Rosebery combined with the proposed business model and the prior good record of the proposed licensee and nominee.
82. The various objections, including the genuine motives of the objectors to the application are acknowledged and considered above in some detail. In summary, and on the basis of the reasoning set out including the speculative nature of the grounds of the objections, I find that none of the objections are of sufficient weight to persuade me to refuse to grant the licence.

Decision

83. In accordance with section 29(1)(a) of the Act and on the basis of the information provided in respect of the application, and for the reasons set out above, I approve the issue of a Store Liquor Licence to OMG Retail Pty Ltd for the purpose of conducting a takeaway liquor business, in conjunction with the operation of a supermarket, for premises to be constructed at Unit 4, Lot 11020, Forrest Parade Rosebery in the Northern Territory.
84. The licence will be issued immediately following the publication of this decision and, in accordance with section 31(1) of the Act, is subject to a condition that the Licensee will not commence trade in the sale of liquor under the licence until such time as the proposed premises are constructed and a certificate of occupancy under the Building Act has been issued to the licensee, authorising it to conduct the business of a store and take away liquor outlet at the premises.
85. The licence will become operative, subject to the normal conditions associated with a store liquor licence, once the Applicant has presented evidence to the Director-General that the premises have been satisfactorily constructed and the appropriate statutory approvals, including the issue of a certificate of occupancy, have been obtained by the licensee.
86. The normal conditions attached to the licence include the conditions shown in Annexure A to this decision, being the draft liquor licence.

Review of Decision

87. Section 120ZA of the Act provides that a decision of the Director-General, as specified in the Schedule to the Act, is a reviewable decision. An application for a liquor licence pursuant to section 29 of the Act is specified in the Schedule and is a reviewable decision. Section 120ZC of the Act provides that a person affected by this decision may seek a review before the Northern Territory Civil and Administrative Tribunal. Any application for review of this decision must be lodged within 28 days of the date of this decision. For the purpose of this decision, and in accordance with section 120ZB(c) of the Act, the affected persons are the Applicant and the persons who lodged valid objections, as identified in the table above.



Cindy Bravos
Director-General of Licensing

Date: 16 October 2015