

Northern Territory Licensing Commission

Reasons for Decision

Premises:	Fiddler's Green Wharf One Darwin City Waterfront Kitchener Drive Darwin NT 0800
Licensee/Applicant:	Finsio Pty Ltd
Licence Number:	80818238
Proceedings:	Application for Variation of Licence Conditions
Members:	Mr Richard O'Sullivan (Chairman) Ms Cindy Bravos Mrs Jane Large

Background

- 1) Fiddler's Green (Finsio Pty Ltd) made application in correspondence dated 28 May 2012 for a variation of licence condition as follows:

Extending trading hours to commence alcohol trading from 10.00am, seven days a week excluding Good Friday and Christmas Day. Current trading hours are 11.30am to 11.30pm, seven days a week excluding Good Friday and Christmas Day.

All other licence conditions will remain unchanged.

- 2) Following advertising of the application an objection was lodged by the Department of Health and in a decision of 21 August 2012, the Commission Legal Member determined "pursuant to Section 471(3)(c)(ii) of the *Liquor Act*, that the Commission must conduct a Hearing in relation to the objection".
- 3) The Commission then set the application to vary the trading hours of Fiddler's Green Liquor Licence to an Objection Hearing to be held on Tuesday 18 September 2012.
- 4) Subsequently in correspondence from the Acting Director of Alcohol and Other Drugs Program, Department of Health, the objection was withdrawn as follows:

"I refer to the objection lodged by the Department of Health on 21 June 2012, in relation to the application to vary the trading hours of Fiddler's Green Liquor Licence.

In light of the response provided by the applicant, as well as the lack of objections raised by residents and/or businesses in the area, the Department of Health (DoH) will withdraw its objection to the application.

To this end, however, DoH maintains that there is strong evidence base that increased liquor trading hours and accessibility to alcohol is proven to increase the levels of alcohol related harm. That said, on this occasion it is noted that the licensee provides a family orientated environment that must trade primarily as a restaurant as part of responsible business and liquor trading practices."

Consideration of the issues

- 5) Following the withdrawal of the Health complaint the Commission determined to review the application on the material presented without requiring a formal Hearing.
- 6) In essence Fiddler's Green has sought to commence sale of alcohol from 10.00am through to 11.00pm. The applicant has advised that they have a charge back arrangement with the Medina and Vibe hotels at the Waterfront where hotel guests have the cost of breakfast, other means and drinks charged back to their hotel. The applicant reports a demand from some holidayers and residents for the provision of alcohol prior to 11.30am and seeks to cater for this demand, rather than have them travel into the CBD where alcohol can be purchased at 10.00am.
- 7) Presiding Commissioners noted that there were no objections from the residents living in the area and also that the Northern Territory Police had not objected.
- 8) The Darwin Waterfront Corporation had made submission that they would not object to the extended trading hours applied for if it were to be operative for a trial period and subject to formal review.
- 9) Rather than grant a temporary variation to the licence to be operative for an extended period of around six months, the Commission intends to rely upon the powers vested in the *Liquor Act* that govern the conduct of licensed premises. All Licensees are subject to a complaint process and in regard to the current application the Commission advises that should there be a complaint made out against Fiddler's Green or an adverse report lodged with the Commission by appropriate authorities, the Commission would review, amongst other licence matters, the extended trading hours which are the subject of this current application.
- 10) The Commission, in making a decision on this application, is cognisant that a number of restaurants with On Licence conditions do operate with trading commencing at 10.00am and that these venues, based on the proper controls and conduct of management, do not cause problems or generate complaints. Since commencement of trading in August 2010 Fiddler's Green has not been the subject of any complaint lodged with the Commission.

Decision

- 11) Noting the comments in paragraphs 9 and 10 above, the Commission grants the application to extend trading hours to allow commencement of trading from 10.00am seven days a week, excluding Good Friday and Christmas Day.

Richard O'Sullivan
Chairman

21 September 2012