

# Northern Territory Licensing Commission

## Reason for Decision

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| <b>Premises:</b>          | <b>Il Lido Italian Restaurant</b>   |
| <b>Applicant:</b>         | Sea Dragon (NT) Pty Ltd trading as Il Lido Italian Restaurant                         |
| <b>Dual Nominee:</b>      | Mr Darren Lynch and Mr Jimmy Shu  |
| <b>Licence Number:</b>    | 80818245  |
| <b>Proceeding:</b>        | Application for Temporary Variation of Liquor Licence                                 |
| <b>Commission Member:</b> | Mr Richard O'Sullivan (Chairman)<br>Mr Philip Timney (Legal Member)<br>Mrs Jane Large |

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### Background

- 1) Mr Darren Lynch, a dual Nominee of the Il Lido Italian Restaurant ("the Restaurant") made application for temporary variations to waiver licence conditions for functions on Saturday 16 February 2013 and Monday 25 February 2013. Both applications sought a temporary variation to waiver the following licence conditions:
  - a) All patrons within the alfresco areas must be seated in order to promote the restaurant concept. There shall be no high tables or bar stools in the alfresco areas; and
  - b) All liquor service to internal and external dining areas (excluding the bar) must be by wait staff and all patrons must be seated.
- 2) Additionally for the function on 16 February 2013 the applicant sought to extend the licensed area to include public areas not within the licensed premises.
- 3) A three member panel of the Commission received and considered the applications on 15 February 2013. This decision was as follows:

*"Commission determined to not approve the applications for a temporary variation to Il Lido Italian Restaurant's licence conditions for 16 February 2013 and 25 February 2013.*

*Written reasons for this decision will follow in the near future."*

### Reasons for Decision

- 4) The event on 16 February 2013 for which the waiver of licence conditions and the extension of licensed area were sought, was described as a "cocktail event / wedding reception". A total of 150 people were estimated to be involved with the event. The hours sought were from 4.00pm to midnight.
- 5) The other event on 25 February 2013 was the Donate Life launch with an estimated of 50 patrons attending. The waiver of the conditions for patrons to be seated and served by wait staff was for the period from 3.30pm to 2.00am (the following day).

- 6) The application for these variations drew objections from the Department of Health and the Darwin Waterfront Corporation (“DWC”). The Department of Health objection was that Il Lido was a restaurant “with specific conditions relating to seating and service of alcohol in the al fresco area”.
- 7) The Corporation objected to the proposed variations on the basis that:
- *The licence (#80818245) is for a restaurant and as such has a special condition requiring that all patrons within the alfresco areas must be seated. The application for a stand up function contravenes this requirement.*
  - *There is a further special condition requiring that all liquor service must be by wait staff and all patrons must be seated. The application for a stand up function also contravenes this requirement.*
  - *The proposed use of high tables and chairs is characteristic of a tavern and not a restaurant.*
  - *Granting of the requested variation will set a precedent for other licensed premises at the Darwin Waterfront.*
  - *The activity contemplated reflects uses typical of a tavern and not that of a restaurant on the ground floor of a primarily residential building.*
- 8) Additional points of objection were raised by DWC in relation to the proposed function on 16 February 2013 which sought approval to extend the licensed area.
- *The ..... areas are not roofed and consequently there is high potential for nuisance noise impacting on adjacent residents. Granting a temporary licence over this area would be contrary to the best interests of the residents who are entitled to quiet enjoyment of their dwellings on a weekend.*
  - *Although the application is for an eight hour period with 200 guests in the alfresco no additional security is proposed to prevent transfer of alcohol and glass into the public domain and ensure appropriate behaviour by patrons.*
  - *The proposal refers to minimal disruption of residential neighbours however there should be no disruption.*
- 9) In considering the application and objections the Commission reviewed the website of the restaurant and under the heading of “Functions”, it appears Il Lido is focusing heavily on the hosting of functions as part of its business model. The website describes various areas and capacity as follows:
- Tapas Lounge seated 70 plus, standing 150.
  - Tapas Bar seated 25, standing 70.
  - Al Fresco Dining seated 200.
  - Inside Restaurant seated 130 plus, standing 100 plus.
  - Restaurant Terrace seated 50 plus, standing 80 plus.
- 10) From the above it would appear that Il Lido is holding itself out as a major function centre with the capacity to host events for 400 plus persons who would be standing

within the licensed area. This conveys a message that is in complete disregard of the Il Lido licence which states:

***Patrons for Bar Area***

*This licence allows for 50 patrons to stand in the internal bar area. Service of liquor in this area need not be by wait staff. A tapas and/or similar menu must be available for food consumption within this space. High tables and bar stools are allowed in this area.*

***Alfresco Areas***

*All patrons within the alfresco areas must be seated in order to promote the restaurant concept. There shall be no high tables or bar stools in the alfresco areas.*

***Liquor Service***

*All liquor service to internal and external dining areas (excluding the bar) must be by wait staff and all patrons must be seated.*

- 11) While the licence allows 50 persons to stand in the Tapas Bar, this is based around the theming of tapas dining whilst standing rather than purely standing for the consumption of alcohol. In denying the applications the Commission is aware that Il Lido has made numerous requests for variations to have people standing in the licensed area to cater for functions and events. While many of these applications have been approved, the Commission is concerned that the ongoing practice of hosting functions with people standing will have the tendency to undo the focus of the premises as a fine dining restaurant.
- 12) The variations sought represent an ongoing practice of operating outside the core licence conditions. The Commission is also concerned with the duration of some of these cocktail functions or receptions. The event proposed for Monday 25 February 2013 sought a commencement time of 3.30pm until the close of trading at 2.00am (the following day). Noting that the close of trading allows for thirty minutes for patrons to consume drinks, this therefore involves a cocktail function for the Donate Life launch of eleven hours duration with patrons standing and being served drinks and finger food. This operation is that of a tavern, not of a restaurant.
- 13) For the reasons outlined by the Darwin Waterfront Corporation and those stated by the Commission above, the applications for the waiver of licence conditions for the events of 16 February 2013 and 25 February 2013 are not approved.

Richard O'Sullivan  
Chairman

21 February 2013