

# Northern Territory Licensing Commission

## Supplementary Reasons for Decision

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<b>Premises:</b>	Tuscan Italian Restaurant
<b>Applicant:</b>	Sea Dragon (NT) Pty Ltd
<b>Nominee:</b>	Jimmy Shu and Darren Lynch
<b>Proceedings:</b>	Supplementary Decision Regarding Application for the Grant of a New Liquor Licence
<b>Members:</b>	Mr Richard O'Sullivan (Chairman) Ms Brenda Monaghan (Legal Member) Mr John Brears

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### Background

- 1) Following the Commission decision on 30 July 2009 to grant a conditional liquor licence to Sea Dragon Pty Ltd to enable them to develop two (2) restaurants side by side with a shared entry and bar, certain changes have been made to the proposed development.
- 2) The Commission is now asked to consider the proposed changes and to amend its decision accordingly. The changes are:
  - i) The plan to develop two (2) restaurants has changed and there is now no intention to proceed with development of a Chinese restaurant. The original approved plan was for a central reception/bar area to allow service to both restaurants. The principal purpose for this area was to facilitate patrons arriving for a meal by enabling them to sit or stand in a defined area and have a drink before being ushered to their table. The Commission accepted this proposal and advised that no more than sixty (60) patrons were to be allowed to stand in the central Alfresco Area in front of the Bar.
  - ii) The size of the development has decreased as a result of the loss of the Chinese restaurant. The amended plan shows the Italian Tuscan Restaurant in the same position at the end of Wharf One with an adjoining Bar area next door. The developers still want to retain the same ability to cater for up to sixty (60) persons standing in the Alfresco area in front of the Bar.
  - iii) The development of a First Floor Function room is not proceeding.
- 3) The Commission's main concern regarding the proposed changes is that the Reception/Bar area was described to us at Hearing as a sensible way to service the needs of patrons of two busy restaurants as they waited for their table or socialised with friends. A tapas/pizza menu was to be available to customers in this Bar area. The applicants' advertised proposal was as follows:

*The business proposed to be conducted on the premises will predominantly be in the nature of two Restaurants where the primary activity at the premises is the sale and consumption of food including a function room and alfresco dining area where patrons may consume alcohol while waiting to be seated at a table and without the requirement of having a meal. Persons may stand in an identified area of the alfresco dining area.*

The proposal advertised in this way met with no objections from the public.

- 4) Also, the applicants advised at Hearing that the ability for persons to stand in the central Alfresco area would allow them to cater for larger groups. The revised plan places a greater emphasis on drinking as the Bar area is now only catering for one restaurant and not two.
- 5) Whilst the Commission is aware that the applicants applied for an “on licence” and not a restaurant, the concept that was advertised and described at Hearing was very much a restaurant development. The prominence and potential stand alone nature of the Bar area in the more recent plan is a significant change in the concept. It is far more visible and less contained within the development than it was when it was nestled between two restaurants.
- 6) In light of the new plan, the Commission has reconsidered the decision to allow patrons to stand in the Alfresco area. Instead, patrons can stand and drink in the internal bar area while they await their table or while they relax with friends. In making its revised decision, the Commission has also taken account of the family friendly environment that the Waterfront Development Corporation is attempting to promote particularly in and around the wave pool, beach and public areas. Patrons seated at tables (not high tables and bar stools) is more in tune with a family friendly focus than standing and the Commission anticipates imposing similar provisions in the alfresco areas of other licensed establishments in the area.
- 7) The revised decision, which supersedes the conditional approval of 30 July 2009 is as follows:

The Commission has determined to issue a conditional Licence to the applicant in the following terms:

- a) A restaurant licence is granted with ancillary bar for trading hours between 11.30 and 02:00 (the following day), seven (7) days per week.
- b) There will be a ‘concept’ clause clarifying that the licence allows for one (1) quality restaurant and ancillary bar. The premises shall at all times have the predominant appearance of and shall trade principally as a restaurant.
- c) The licence will include a condition allowing fifty (50) patrons to stand in the internal bar area (marked A). 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.
- d) All patrons in the Alfresco areas must be seated. In order to promote the restaurant concept, there shall be no high tables and bar stools in the alfresco areas.
- e) All liquor service to internal and external dining areas (excluding the Bar) must be by wait staff and all patrons must be seated.
- f) The ‘Consumption of Liquor without a Meal’ condition found in most restaurant licences is included so long as there is no publication of this facility.
- g) The word “Bar” shall not be used in any advertising or signage.
- h) Entertainment will be in the form of pre-recorded music with associated video and light family friendly live performers in the form of duets, string quartets and classical artists. There will be no ‘nightclub’ style entertainment provided at the venue.
- i) The Licensee shall not permit or suffer the emanation of noise from the premises of such nature or at such levels as to cause unreasonable disturbance to the ordinary comfort of lawful occupiers of the neighbourhood.
- j) Premises shall close no later than one and one half hours after the kitchen closes.

- k) The premises may remain open from 06:00 hours to 11:30 hours for the purpose of allowing customers on the premises to consume breakfast. No alcohol is to be sold, supplied or consumed during this time.
- 8) The Commission notes that the applicant no longer intends to seek a liquor licence for the function room and balcony on the first floor.
- 9) The granting of the liquor licence for the restaurant are also subject to the following:
  - a) The fitout of the Tenancy being completed within eight (8) months from the date of approval;
  - b) Certificate of Occupancy;
  - c) Certificate of Registration of Business Names;
  - d) Certificate of Registration as a Food Business;
  - e) Confirmation of Corporate entity undertaking operation;
  - f) Confirmation of Agreement between the Waterfront Corporation, Toga and the applicant as to the location and use of the southern public access easement.

Richard O'Sullivan  
Chairman

30 November 2009