

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

Premises:	ANTIQUITY GREEK RESTAURANT
Applicant:	Ginis Enterprise Pty Ltd
Nominee:	Ms Popi Ginis
Licence Number:	80518574
Proceeding:	Application for a Variation of Liquor Licence Pursuant to Section 32A of the <i>Liquor Act</i>
Heard Before: (On Papers)	Mr Richard O'Sullivan (Chairman) Ms Cindy Bravos Mr John Brears
Appearances:	Inspector Shane McCorkell assisting the Commission
Date of Hearing:	26 February 2014

BACKGROUND

- 1) Ginis Enterprise Pty Ltd, Licensee of Antiquity Greek Restaurant ("Antiquity"), has applied to the Northern Territory Licensing Commission ("the Commission") for a variation to its licence conditions, and has requested the removal of the conditions:
 - Requiring the consumption of liquor to be ancillary to a meal;
 - That cocktails are to be served ancillary to food; and that
 - There shall be no high tables or bar stools in the alfresco areas.
- 2) The application seeks to add to the Antiquity licence the following conditions:
 - Consumption of liquor without a meal will not be advertised or promoted;
 - The premises shall close no later than one and one half hours after the kitchen closes;
 - Snack foods will be available at all times;
 - The word "bar" shall not be used in any advertising or signage.
- 3) Following the advertising of the licence variations sought by Antiquity, one objection was received from Commander Anne-Marie Murphy of Northern Territory Police. In an Objection Decision the Chairman determined that the objection was valid under the Act and required a Hearing. The objection by Police to the licence variation sought was that "*there is a real chance for negative impact on the community and increased requirement for policing services*".

- 4) The Police submission outlined that the Darwin Waterfront Precinct was originally conceived and promoted as a family friendly multi use Precinct and the Police concern was that there appears to be a shift from Restaurant licences to On Licences or tavern style venues. The Police objection expressed concern with this trend which would cause negative social impacts through an increase in alcohol availability and resultant harms in increased anti-social behaviour.
- 5) The Objection Decision of 13 February 2014 stated:

While the Commission is required to conduct a Hearing where a valid objection has been lodged, if the objector does not wish to attend and make oral submissions, the Commission is able to rely solely on the written objection it has before it. In this instance the Commission may determine to conduct the Hearing on papers only.
- 6) Commander Murphy advised the Commission that she was satisfied that her written objection could be taken into consideration to enable the Commission to conduct a Hearing on the papers.

HEARING

- 7) The Hearing on the papers was held on 26 February 2014. Commissioners discussed the application and noted that in essence there were two major issues for it to consider, those being the variation of the Restaurant Licence to that of an On Licence and the variation to enable patrons in the cocktail area to consume drinks without the necessity to be served food by wait staff.
- 8) A minor matter also to consider is the request that the condition "*There shall be no high tables or bar stools in the al fresco areas*" be removed from the licence.
- 9) The variations applied for also include insertions into the licence of the following:
 - Consumption of liquor without a meal will not be advertised or promoted;
 - Premises shall close no later than one and one half hours after kitchen closes;
 - Snack food to be available at all times; and
 - The word bar shall not be used in any advertising.

The Commission considered that these are relevantly standard conditions for premises where liquor without a meal is able to be provided.

- 10) The Commission noted that the following existing Special Conditions would remain if the variations sought were approved:

Concept

The premises shall at all times have the predominant appearance of and shall trade principally as a restaurant.

Alfresco Areas

All patrons within the alfresco areas must be seated in order to promote the restaurant concept.

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) The continuation of these conditions provided the Commission with some comfort that the theme, concept and operation of the restaurant would not alter to a significant extent and bear out fears expressed in the Police objection which referred to tavern style operations. The Commission also noted that no change to the Antiquity trading hours was sought and trading hours would continue to be from 11:30am to 11:30pm, seven days a week.
- 12) The Commission therefore approved the request that the requirement to have a meal with the consumption of liquor be removed.
- 13) The Commission in May 2013 issued a Policy and Practice Note which sought to achieve in Restaurants an atmosphere which promotes the consumption of food and presents alcohol consumption as an ancillary activity, without prescribing furniture, fixtures or fittings. Given the issuing of this Policy and Practice Note the application to remove the condition that prohibits high tables and stools is approved by the Commission.
- 14) The request to remove the existing condition *"All cocktails will be served ancillary to food by wait staff"* gave rise to some concern to Commissioners. Currently the Cocktail Lounge condition includes *"Patrons may stand in the cocktail lounge area"* and adds *"All cocktails will be served ancillary to food by wait staff"*. The removal of the second sentence of this Cocktail Lounge condition could, in the Commission's view, give rise to tavern style drinking by patrons.
- 15) The Commission then requested that Licensing Inspector Shane McCorkell make contact with the Nominee, Ms Popi Ginis, to ascertain her intention over the use of what has been termed a cocktail lounge area, which on the licensed area map is described as a servery.
- 16) Following Inspector McCorkell's conversation with Ms Ginis, the Commission was advised that the intention for patron standing in the Cocktail Lounge area was that it apply to pre booked functions only. Therefore the Commission has determined to approve the removal of the Cocktail Lounge condition which states *"All cocktails will be served ancillary to food by wait staff"*, and for the condition to now contain *"For pre booked functions, patrons may stand in the Cocktail Lounge area for the duration of the function with food at all time to be available"*.
- 17) If the Licensee intends to host a large gathering with a pre booked function which requires a larger area than the cocktail lounge / servery area, the Licensee will need to apply for a Temporary Variation and receive the required approval prior to that function proceeding. The stipulation that standing is allowed for pre booked functions only will help ensure that the restaurant does not morph into a venue offering bar or tavern style drinking. The inclusion of the requirement *"with food at*

all times to be available" gives added comfort in this regard. This condition does however provide the venue with some operational and business flexibility to on occasions host functions in the defined area.

- 18) The additions sought (and outlined in paragraph 9 above) to the Antiquity licence are all consistent with the promotion and operation of a Restaurant venue and are approved.

DECISION

- 19) The following conditions are removed from the Antiquity licence.

- *"Liquor shall only be sold for consumption ancillary to a meal";*
- *"There shall be no high tables or bar stools in the alfresco areas"; and*
- *"All cocktails will be served ancillary to food by wait staff".*

- 20) The following conditions are to be added to the licence.

- *"Consumption of liquor without a meal will not be advertised or promoted";*
- *"The premises shall close no later than one and one half hours after the kitchen closes";*
- *"Snack foods will be available at all times"; and*
- *"The word "bar" shall not be used in any advertising or signage".*

The condition relating to the Cocktail Lounge area is to include:

- *"For pre booked functions, patrons may stand in the Cocktail Lounge area for the duration of the function with food at all time to be available."*



Richard O'Sullivan
CHAIRMAN

16 April 2014