

# NORTHERN TERRITORY LICENSING COMMISSION

## REASONS FOR DECISION

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<b>PREMISES:</b>	<b>Alfresco Café Cinema Complex</b>
<b>LICENSEE:</b>	Alfresco Café & Pasta Pty Ltd
<b>LICENSE NUMBER:</b>	80504834
<b>PROCEEDINGS:</b>	Application to substitute premises from existing location in accordance with Section 46A of the <i>Liquor Act</i>
<b>HEARD BEFORE:</b>	Mr Richard O'Sullivan Ms Brenda Monaghan Ms Helen Kilgariff
<b>ATTENDANCES:</b>	Mr Glen Wallace

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- 1) Mr Glen Wallace as nominee for Alfresco Café and Pasta Pty Ltd (Alfresco) has applied to substitute the licence from the existing premises at the Cinema Complex, Todd Mall to 41 Todd Mall (formerly the Qantas building), Alice Springs.
- 2) Section 27 of the *Liquor Act* requires the application to be advertised so that the public have the opportunity to comment on the proposal. Section 27 states:

***Notice of application***

*(1) An applicant for a licence shall, within 28 days of lodging an application pursuant to section 26, cause to be published in a newspaper or newspapers nominated by the Commission notice of the fact that the applicant has applied for the grant of a licence.*

*(2) The notice of the application shall –*

- (a) Include a description in sufficient detail to identify the location of the premises in respect of which the application is made;*
- (b) include a description of the nature of any business associated with the licence applied for that it is proposed to conduct on the premises referred to in paragraph (a);*
- (c) Contain such other particulars as may be determined by the Commission; and*
- (d) Be not less than a size determined by the Commission.*

- 3) The application was advertised in the following terms:

*Proposed details for the substitution of premises for the sale of liquor are as follows;*

*To relocate Liquor Licence 80504834 (Al Fresco from existing premises at the Cinema Complex, Todd Mall and transfer to 41 Todd Mall, Alice Springs.*

*Existing liquor licence conditions to transfer to the proposed premises at 41 Todd Mall. Such conditions include;*

*Trading hours between 11.30 and 02.00 (following day);*

*The premises shall at all times have the appearance of and trading predominately as a restaurant;*

*Patrons to be seated at tables or at the bar provided that meals shall be available for consumption at all parts of the bar where liquor is served;*

*Liquor may only be served for the consumption in the alfresco dining area ancillary to a meal and in accordance with the alfresco dining regulations and permit approvals of the Alice Springs Town Council;*

*The licensee must be able to demonstrate sufficient supervision of the alfresco dining area at all times.*

- 4) No Objections were lodged in response to the advertisement so the Commission met with the nominee Mr Wallace and viewed the premises on 1 March 2007. The new premises are effectively divided into four areas as follows:

-a restaurant area with seating for 60 patrons;

-a café/lounge with seating for 40 patrons;

-a bar area with bar stools for 4 patrons; and

-an alfresco dining area with seating for 40 patrons.

- 5) Mr Wallace advised that meals will only be available in the restaurant and the alfresco dining area. It is proposed that the café/lounge area will have approximately one side table to every 4 chairs and is "*designated as an area for patrons to use for coffee, cakes before and after a meal, as well as passing coffee trade.*" The application also states that the area "*will also serve as an area that patrons waiting for a table can sit and wait, whilst enjoying a drink. This would also apply after patrons have finished a meal, but may want to stay longer in a less formal setting, but still enjoy a bottle of wine etc.*" A large screen for television and video coverage is erected on the wall of this area of the premises so one assumes music videos, sport etc may be shown at various times.
- 6) In the Alfresco Café at the Cinema Complex, minors are restricted from entering the defined bar area. Mr Wallace asked that in the licence for the new premises, permission be given for any patron including a minor to approach the bar to place

an order or to pay the bill. He also asked for provision to enable minors to enjoy a meal at the premises unaccompanied by adults.

### Decision

- 7) The Commission approves the substitution application sought but on conditions outlined below. The Commission notes that the applicant in oral submissions to it appeared to be seeking approval for a more liquor-based operation at the new substituted premises. The concern for the Commission in an application such as this is to ensure that the public has been given a fair opportunity to comment on any changed concept or style of operation. This requirement is particularly important in a town like Alice Springs where there are considerable community concerns about alcohol consumption and related issues. For this reason, we have in our decision been careful to limit the applicant to the type of licence substitution advertised.
- 8) If Mr Wallace wants a further expansion of his licence, then a further application must be made and advertised. Further, the Commission has some concerns that the layout and furnishing of the café/ lounge area, whilst suiting the “coffee and cake” trade, has the potential to become an area where the principal activity is consumption of liquor. The Commission notes the proposed use of this area as stated by the applicant (see paragraph 5 above) and emphasises that any attempt to use this area principally as a place for drinking liquor will not be tolerated unless the applicant seeks a variation and advertises the same.
- 9) The licence substitution is granted on the following terms with accompanying comment where required:
  - a) The venue must remain in appearance and trade as predominantly a restaurant. The café/lounge area is *designated as an area for patrons to use for the consumption of coffee, cakes or liquor before or after a meal as well as servicing the passing coffee trade. Patrons who are not intending to purchase a meal may be served liquor in this area on the proviso that the café/lounge area does not become an area used predominantly for the service of liquor to such patrons (ie those not intending to purchase a meal).*
  - b) The Commission imposes general noise and entertainment conditions to ensure that the premises continue to look and trade predominantly as a restaurant and to ensure that neighbourhood amenity is protected in the following terms:

*The Licensee shall not permit or suffer the emanation of noise from the licensed premises of such nature or at such levels as to cause unreasonable disturbance to the ordinary comfort of lawful occupiers of any premises.*

*At all times, with the exception of privately pre-booked functions, any entertainment is to remain secondary to the primary function of the premises as a restaurant.*

- c) The existing special condition defining a meal shall be retained and expanded in the following terms;

*A meal for the purpose of the licence is defined as a food item ordered by an individual patron from a published menu that is then prepared specifically for that patron and served as an individual meal. A meal shall not consist of pre-packaged foods such as salted chips, peanuts or beer nuts or other finger food, served by wait staff either unopened or poured into a container or into a dish.*

- d) Noting that the bar is a “working”<sup>1</sup> bar rather than a place where patrons are likely to sit and drink, the previous restriction on minors is removed allowing unaccompanied minors to enter this area at any time prior to 10pm to order food and nonalcoholic drinks and to pay their bill. They must not be allowed to linger in this area however.
- e) The Commission is sensitive to the fact that unaccompanied minors might well be drawn to the café/lounge area-particularly when the screen is in use. Whilst this may not be a problem during the daytime, the Commission does not consider that minors (accompanied or unaccompanied) should be entitled to enter and remain in this area after 10pm. A s106(1)(a) Declaration shall be prepared in those terms.
- f) The Commission does not consider that unaccompanied minors should be entitled to enter or remain anywhere on the rest of the premises after 10pm and a s106(1)(b) Declaration shall be prepared for the relevant areas.

**The following conditions will be removed;**

*Bar as an Entity*

For the purpose of the licence only, the bar area will be seen as a separate entity, delineated within the existing licensed area to the continuing satisfaction of the Director of Licensing and the Northern Territory Police.

Patrons to be seated at tables or at the bar provided that meals shall be available for consumption at all parts of the bar where liquor is served;

*Cinema Patrons:*

One and a half hours after the kitchen closes, liquor may be sold only to patrons who are in possession of a cinema ticket valid for that day. The ticket to be produced before the sale of any liquor.

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<sup>1</sup> Apart from four (4) stools at one end of the bar area, there is little room for patrons to linger and the Commission notes that the till and coffeemaking equipment are on the counter itself.

**The following conditions (and any other conditions in the current licence not specifically mentioned) will remain;**

*Alfresco Dining Area*

This area will be clearly delineated to the satisfaction of the Director of Licensing and the Northern Territory Police at all times.

*Supervision*

The Licensee must be able to demonstrate sufficient supervision of the dining area at all times.

*Liquor To Be Sold With Meal*

Liquor may only be sold for consumption within the alfresco dining area ancillary to a meal and in accordance with the alfresco dining regulations and permit approvals of the Alice Springs Town Council.

*Patrons*

Patrons in the Alfresco dining area to be seated at a table or at the bar provided that meals shall be available for consumption at all parts of the bar where liquor is served.

*Consumption Of Liquor*

Consumption of liquor without a meal will not be advertised or promoted.

*Advertising and Signage*

The word "Bar" shall not be used in any advertising or signage.

*Bar Stools*

Bar Stools shall not be provided with the exception of the Bar area.

*Table Service*

Liquor to be served only by way of wait staff to patrons who are seated at a table or in the café/lounge area.

Any proposal to licence the upstairs area is withdrawn at this stage and the liquor licence only pertains to the areas referred to in this decision.

Richard O'Sullivan  
CHAIRMAN

March 2007