

NORTHERN TERRITORY LICENSING COMMISSION

DECISION

PREMISES:	DUCK'S NUTS
LICENSEE:	Lorlina Pty Ltd
NOMINEES:	Christo Phillipou Raelene Phillipou
LICENCE NUMBER:	80303731
PROCEEDING:	Application to vary to conditions of the licence from restaurant to tavern
HEARD BEFORE:	Mr Peter Allen Mr John Withnall Mrs Annette Millikins
DATE OF HEARING:	21, 25 & 26 November 2002
DATE OF DECISION:	29 November 2002
APPEARANCES:	Mr John Reeves QC for the applicants Ms Sue Porter for Spartacus Pty Ltd and Shenannigans Irish Pub Pty Ltd Mr Lex Sylvester for Fugitives Drift Pty Ltd Ms Vanessa Farmer for Vicdisc Pty Ltd

The Commission is persuaded to approve the application, having regard, inter alia, to the following matters:

- The applicant's long and excellent record of local liquor licence management;
- The location of the premises within the recognised Mitchell Street entertainment precinct;

- The proposal being for an upmarket diversified venue rather than just a “bare” tavern operation, likely to be productive of a licensed environment not duplicated elsewhere in Mitchell Street;
- The non-inclusion of late trading; that is, the applicant has not sought to trade to 04:00AM;
- The readiness of the redevelopment to commence immediately and to be ready to trade within six months;
- The conservative nature of the volunteered entertainment condition;
- The apparent feasibility of the structured business plan, including costings and the sourcing of finance;
- The positive support of the experienced operator of the immediately adjoining cinema complex;
- No increase being proposed to the existing licence “footprint” other than an area of footpath in pursuance of Darwin City Council’s Alfresco Dining Policy;
- The terms in which the police notified their lack of objection;
- The only objections being lodged by other Mitchell Street liquor traders, none of which ultimately elected to actively participate in the hearing;
- The written submission on behalf of the objector Fugitive’s Drift Pty Ltd;
- The Commission’s discretion as to the adequacy of the evidence as to needs and wishes in all the circumstances.

The new licence is approved in principle, subject to conditions that:

- The sale of liquor on and from the premises is not permitted until the further approval in writing to do so shall have been given by the Commission upon its satisfaction that the premises have been completed and readied for trade in general accordance with the concept and detail of the presentation to the Commission at the hearing.
- The premises must be ready to trade within a period of six months from the date of this decision, failing which the approval in principle hereby granted will automatically lapse, without anything further, unless an extension in writing shall have been obtained by the licensee. Any such extension shall be entirely at the Commission’s discretion.

- The licensee shall comply with all other statutory regulation as may apply to any aspect of the preparation of the premises for operation of the approved liquor licence.

The new licence will contain all conditions normally pertaining to the type of licence, together with such special conditions as were outlined by the Chairman during the hearing, and as may be deemed appropriate, particularly noting that patrons are to be seated when consuming liquor on the footpath extension area, and that the volunteered entertainment/noise condition will be slightly amended to read as follows:

Entertainment may be provided and shall be limited to music or shows which are consistent with the theme of the premises such as jazz, rhythm and blues, unplugged and easy listening music but shall not include nightclub or disco style music or entertainment including any techno music, acid music, heavy metal or death metal music. There shall be no designated dance floor on the premises. Noise levels must be such as to not cause unreasonable disturbance to the businesses or ordinary comfort of lawful occupiers of neighbouring premises or to any other persons in the vicinity.

Hours of trade shall be from 10.00 to 02.00 seven days a week, Good Friday and Christmas day excepted.

Peter R. Allen
CHAIRMAN