

NORTHERN TERRITORY LICENSING COMMISSION

Reason for Decision on Whether Objection Will Proceed to Hearing

Applicant:	Spirit of the Night Sky Pty Ltd
Nominee:	Simon Webb
Premises:	MILKY WAY CAFÉ
Objectors:	Mr Peter Bannister, Ms Jane Bannister, Mr Erwin Chlander, Ms Kieran Finnane, G & GA Liddle, P Brooke-Anderson, B Hancock, J Crofton, Mr R Cramer on behalf of the Alice Springs Rural Area Association Inc (ASRAA)
Date of Decision:	4 December 2006
Legislation:	Sections 4F to 47I of the <i>Liquor Act</i> and Section 28 of the <i>Interpretation Act</i>
Member:	Brenda Monaghan

Background

1. Simon Webb as proposed Nominee and Spirit of the Night Pty Ltd as proposed Licensee have made an application for an on-licence to allow the premises known as the Milky Way Café at 90 Petrick Road (Lot 4951) Alice Springs to sell liquor to its customers. Mr George Webb “on behalf of Wana Ungkunyitja Pty Ltd” advertised the application in the legal notices in the Centralian Advocate Newspaper on Tuesday October 10 2006 and Friday October 13 2006. My understanding is that this company is a parent/related company to Spirit of the Night Sky Pty Ltd and it will have a financial interest in the business of the liquor licence. The exact relationship between the two and the sufficiency of the advertising is something for the Commission to consider at the commencement of the hearing or at a preliminary hearing. The advertisement advises that the proposed trading hours for the sale of liquor are between 12:00 noon and midnight, seven (7) days a week in order to allow liquor to be sold for consumption but only ancillary to a meal.
2. Under Section 47(F)(4)(d) of the *Liquor Act* (the Act), an objection must be lodged with the Director within thirty (30) days of publication of the last advertisement. Thirty (30) days from the 13 October 2006 expires on Sunday 12 November 2006. By application of Section 28 of the *Interpretation Act*, the

last day for receipt of valid objections by the Director is Monday 13 November 2006.

3. Nine (9) written objections were received by the Director. They were from Mr Peter Bannister, Ms Jane Bannister, Mr Erwin Chlanda, Ms Kieran Finnane, G & GA Liddle, P Brooke-Anderson, B Hancock, J Crofton and Mr R Cramer on behalf of the Alice Springs Rural Area Association Inc (ASRAA). The written objections were either received by email with a typed "signature" affixed or they were received by ordinary mail with a hand written signature affixed.
4. Despite the fact that Section 47F(4)(b) of the *Act* anticipates a hand written signature by or on behalf of the person, organisation or group making the objection, the practice of the Commission in recent times has been to accept a typed signature on an email as sufficient compliance with the *Act*. In this particular matter, the Deputy Director of Licensing (South) took the added step of seeking a personally signed copy of each emailed objection for the file. In each circumstance, the objections received by post or email were received in time.
5. Section 47(F)(3) of the *Act* sets out the classes of persons entitled to object. Eight (8) of the nine (9) objectors fall squarely within the category of s47(F)(3)(a) which includes as a valid objector "*a person residing or working in the neighbourhood where the premises the subject of the application are or will be located.*" The remaining objector, ASRAA, has standing under s47(F)(3)(f) as "*a community-based organisation or group (for example, a local action group or a charity).*"
6. Pursuant to s47(F)(4)(c) of the *Act*, an objection must "*set out the facts relied on by the person, organisation or group to constitute the ground on which the objection is made.*" Further, the available grounds of objection are listed in Section 47F(2) of the *Act* which states:

The objection may only be made on the grounds that the grant of the licence may or will adversely affect –

- (a) *the amenity of the neighbourhood where the premises the subject of the application are or will be located; or*
 - (b) *the health, education, public safety or social conditions in the community.*
7. In this matter, each of the nine (9) objections sufficiently outlines the facts relied on by the objector to have it accepted as a valid objection. Further, all raise relevant neighbourhood amenity issues such as noise, traffic and a concern about the potential for antisocial behaviour in the neighbourhood if the licence is granted. Some raise wider issues relating to alcohol problems generally in Alice Springs. All comply sufficiently with ss47(F)(2) and 47(F)(4)(c).
 8. One letter of objection from Mr Chlanda deserves special mention. Mr Chlanda raises as a concern the financial dealings of the applicant company and its relationship with other companies and businesses. Mr Chlanda queries whether the applicant is a fit and proper person to hold a licence.

9. It is ultimately a matter for the Commission at hearing to decide what matters an objector can legitimately raise. It is normal practice, however, for the Commission to investigate and consider issues of financial capacity and probity separately from the matters raised by objectors. Financial capacity and probity issues do not easily fall within the parameters of s47(F)(2).

DECISION

10. None of the nine (9) objections received are of a frivolous, irrelevant or malicious nature although the Commission will need to clarify for Mr Chlanda the matters that he can legitimately raise at the hearing. Each of the objections describes circumstances that may or will adversely affect the amenity of the neighbourhood or public safety or social conditions of the community and each objector listed below is entitled to be included as a party at the hearing.

- a. Mr Peter Bannister
- b. Ms Jane Bannister
- c. Mr Erwin Chlanda
- d. Ms Kieran Finnane
- e. G & GA Liddle
- f. P Brooke-Anderson
- g. B Hancock
- h. J Crofton and
- i. Mr R Cramer on behalf of the Alice Springs Rural Area Association Inc (ASRAA).

Brenda Monaghan
ACTING CHAIRPERSON

4 December 2006