

# NORTHERN TERRITORY LICENSING COMMISSION

## REASONS FOR DECISION

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**PREMISES:** VIRGINIA FAMILY TAVERN

**LICENCE NUMBER:** 80317472

**LICENSEE:** Mr Ian Sloan

**HEARING:** Variation of Licence Conditions

**HEARD BEFORE:** Mr Richard O'Sullivan  
Ms Brenda Monaghan  
Mr John Brears

**DATE OF DECISION:** 8 February 2007

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1. An application has been made by the Nominee, Mr Ian Sloan of Virginia Tavern (the Tavern) for a variation of licence conditions to extend trading hours from 10.30pm to midnight seven days a week. The only objectors, Mr and Mrs Page of Darwin Boomerang Motel and Caravan Park (the Caravan Park), withdrew their objection just prior to the hearing. Comment will be made on the withdrawal later in this decision.
2. The hearing proceeded on Monday 5 February 2007. Mr Ian Sloan and his wife and business partner Leah Sloan were in attendance. Mr and Mrs Sloan are the lessees of the Tavern under a long-term lease. They personally manage all aspects of the business on a day to day basis.
3. In support of the application for a variation, the Commission was presented with a comprehensive written submission which addressed all relevant considerations including the following:
  - a) Details of the licensing and management experience of Mr Sloan and glowing references from past employees and associates regarding his management skills and personal character;
  - b) Details of steps that Mr and Mrs Sloan have taken to improve the amenity of their neighbourhood, to ensure the safety and comfort of their patrons and to attempt to minimise the impact of noise emanation from the Tavern that might disturb the Caravan Park residents and guests;

- c) Advice that there have been no complaints either to the Police or the Licensing Commission since the licence was issued in 2004 and details of the Nominee's response to an informal complaint made by the Caravan Park regarding a car revving its engine;
  - d) Confirmation (supported by Racing Gaming and Licensing records) that there have been no complaints received by the department, the Licensing Commission or the Police regarding the extended trading hours to midnight granted to the Tavern over the Christmas/New Year period;
  - e) Letters and signatures of support from local residents regarding the current management of the Tavern and showing local support for the proposed change in licence conditions;
  - f) Details of the trading hours currently enjoyed by other similar licensed premises in the area to support a submission that a variation to allow midnight trading would be fair and reasonable; and
  - g) Details (including menus and other documentation) of the family orientated nature of the Tavern with an emphasis on good food at good prices and an impressive selection of wine beer and beverages.
4. The Commission attended at the licensed premises on 5 February 2007 for a site inspection. The Tavern is positioned directly in front of the Caravan Park. The access to the Caravan Park is along the Eastern side of the Tavern and both motel units and caravan sites are located in very close proximity to the boundaries of the Tavern building. A guest car park (used by the Caravan Park, Tavern and adjacent Store) is located on common property between the Tavern and Virginia Road with a second overflow car park located on the far side of the road. The Tavern itself is well presented and well maintained with an emphasis on comfortable surroundings, a comprehensive range of wine, beer and other beverages and a quality menu at affordable prices.
5. The Commission is very aware of the close proximity of the Caravan Park to the Tavern. This means that care must be taken to ensure that the conduct of the business of the Tavern does not impinge on the amenity of the neighbourhood – and in particular the reasonable comfort of residents and visitors to the Caravan Park.
6. The written withdrawal of the sole objection by the owners of the Caravan Park appeared to be conditional on or based on some understanding that the Nominee may only seek three (3) days late night trading. When questioned about this, Mr and Mrs Sloan stated that no such agreement was reached between them and they emphasised that they maintain their application for midnight closing every night of the week. Irrespective of the withdrawal of the objector, we are very aware of the potential noise problems that could occur should the Tavern management and staff choose to ignore this issue. We have reached our decision on the basis that with good management, the neighbourhood amenity will be protected. If management changes at any stage in the future and noise becomes an issue, then the Commission should reconsider these issues.

7. In reaching our decision to all allow the Tavern to trade until midnight seven (7) nights a week, we have taken into account all submissions including the following:
- a) The Licensees in their written documentation and oral presentation to the Commission have shown themselves to be very professional business operators with a sensitivity towards and an interest in community amenity issues such as lighting and noise;
  - b) The bookings/meal register showed that up to 140 evening meals are prepared in the height of the tourist season with a consistent food trade being maintained throughout the year most nights of the week;
  - c) The Commission was persuaded that a licence to 10.30pm was often inconvenient to the Tavern patrons including Caravan Park guests and residence;
  - d) The emphasis on quality beverages and food and the provision of a playground supports the Licensee's submission that they are not running an establishment that promotes unruly behaviour. They wish to maintain their image of a family tavern to service the needs of the local community as well as the visitors;
  - e) The external sound system has only one speaker on the Eastern side facing the motel units owned by the Caravan Park. The Nominee demonstrated to the Commission the type and volume of music they regularly play and the Commission was satisfied that a responsible Licensee would be able to manage the noise to ensure no undue disturbance to occupants of the Caravan Park;
  - f) The Licensee spoke of occasions when a television has been positioned on the Eastern balcony of the Tavern for football finals and similar sporting events. The Commission was satisfied that this activity is capable of being properly managed so as not to unreasonably disturb the Caravan Park guests. Mr and Mrs Sloan are sensitive to this issue and have the skills to manage it. Should such events become a problem however, we will review this aspect of our decision; and
  - g) Mr and Mrs Sloan advised that Tavern guests park in the car park in front of the tavern or across the road. The Commission is satisfied that with good management, the manner in which the patrons leave the premises should cause no undue disturbance to Caravan Park residents and guests.
8. Finally, we have placed great emphasis on our appraisal of Mr and Mrs Sloan as interested, responsible Licensees who are able to manage an extended licence in difficult circumstances where neighbours are so near. Because of this proximity issue however, we intend to allow the variation sought for an interim period of approximately six (6) months. After that time, we ask the Director of Licensing to provide the Commission with a report on the licence variation. If after receiving this report (and making any further enquiries that they consider appropriate), the

Commission is satisfied that the extended hours should continue, then they will become permanent licence conditions.

9. We also note there is no noise condition in the existing licence. It is now varied to add the following condition:

*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.*

Richard O'Sullivan  
CHAIRMAN

8 February 2007