

NORTHERN TERRITORY LICENSING COMMISSION

Decision on Whether Objections Will Proceed To Hearing

PREMISES:	The Lazy Lizard Caravan Park
LICENSEE:	Katt (NT) Pty Ltd
OBJECTOR:	Mr Chris Mason on behalf of Karinga Pty Ltd (Pine Creek Hotel)
LEGISLATION:	Sections 47F to 47I of the <i>Liquor Act</i> Section 24AA of the <i>Interpretation Act</i>
DECISION OF:	Brenda Monaghan
DATE OF DECISION:	1 March 2010

Summary of Decision:

Hold a Hearing in respect of the objection received from Karinga Pty Ltd trading as Pine Creek Hotel.

Background

- 1) Katt (NT) Pty Ltd, Licensee of the Lazy Lizard Caravan Park made application on 9 November 2009 to vary the liquor licence and extend the licensed area at the premises.
- 2) The application was advertised twice in the Katherine Times on Wednesday 25 November 2009 and Wednesday 2 December 2009 in accordance with s27(1) of the *Liquor Act*. A sign in the approved form was also displayed publicly outside the premises for 30 days.

The advertisement contained the following information:

- *An extension of the licensed area and new point of sale namely "The Blue tongue Café" for on premises and takeaway alcohol sales.*
- *The creation of an internet café and outdoor courtyard area namely "The Bluetongue Café" selling artwork, souvenirs and tourist information, coffee and quality food and alcohol beverage service.*
- *Proposed hours of operation of liquor service in the internet café area from 10am to 10pm., seven (7) days a week.*
- *Application to vary gaming condition in licence to permit venue to apply for Keno and TAB facilities.*

- *No change to licensed hours and conditions for existing part of premises.*
- 3) Pursuant to Section 47F(4)(a)(b)&(d) of the *Liquor Act*, an objection must be in writing, signed by the objector and lodged with the Director within thirty (30) days after the publication of the last notice of advertisement - namely by Friday 1 January 2010. One (1) objection was received in compliance with these requirements. It was from Mr Chris Mason, Director on behalf of Karinga Pty Ltd (Pine Creek Hotel). The written letter of objection is duly signed by Mr Mason and dated 31 December 2009. It was received by the Director on 31 December 2009 and is within time.
 - 4) Letters were also sent to Police, Health and the local Shire Council. Police and the Council responded with no objections. No response was received from Health.
 - 5) Section 47F (3) of the Act lists the categories of persons who have standing to object to an application such as this. It provides -
 - (3) *Only the following persons, organisations or groups may make an objection under subsection (1):*
 - (a) *a person residing or working in the neighbourhood where the premises the subject of the application are or will be located;*
 - (b) *a person holding an estate in fee simple in land, or a lease over land, in the neighbourhood where the premises the subject of the application are or will be located;*
 - (c) *a member or employee of the Police Force acting in that capacity;*
 - (d) *a member or employee of the Fire and Rescue Service within the meaning of the Fire and Emergency Act acting in that capacity;*
 - (e) *an Agency or public authority that performs functions relating to public amenities, including health, education and public safety;*
 - (f) *a community-based organisation or group (for example, a local action group or a charity).*
 - 6) The applicant in its response to the objection queries whether a corporate entity is entitled to be an objector on the grounds that it is not a "person" for the purposes of Section 47F(3)(a) and (b). Section 24AA(1) of the *Interpretations Act* deals with this issue as follows:

This means that a company such as Karinga Pty Ltd can be an objector if the business they run is in the relevant neighbourhood or owns or leases land there. The relevant neighbourhood of the Lazy Lizard clearly includes the surrounding Pine Creek Community, including the Pine Creek Hotel. Following consideration of the objection lodged, I consider that Karinga Pty Ltd trading as the Pine Creek Hotel has standing pursuant to Section 47F(3)(a) and (b) of the Act.
 - 7) The content and substance of the objections is limited by Section 47F(2) which states:

(2) The objection may only be made on the ground that the grant of the licence, variation of conditions, substitution of other premises or material alteration 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) health, education, public safety or social conditions in the community.

8) Further, pursuant to Section 47F(4)(c), 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.*”

9) I have considered the content of the letter of objection from Chris Mason, Director and the response received from Anthony Fraser Director on behalf of the applicant. The objection covers a wide range of issues including the history of the Lazy Lizard liquor licence, the concerns about sales of fuel ad liquor from the same outlet, the Kybrook Agreement, health issues and the proximity of the premises to the school. A response has been provided to the Commission by the applicant challenging many of the objections made. Those are matters for the Commission to consider at the hearing itself. The contents of the objection fall within the parameters of Section 47F(2)(a) and (b) of the Act and the facts relied upon are provided.

Determination

7) The objection from Karinga Pty Ltd trading as Pine Creek Hotel meets the requirements of the Act and is therefore valid and requires a hearing.

Brenda Monaghan
LEGAL MEMBER

1 March 2010