

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

- PREMISES:** **Silver Screen Café**
20 First Street
KATHERINE NT 0850
- APPLICANT:** Duane Lauchlan Barclay
- PROPOSED NOMINEE:** Duane Lauchlan Barclay
- PROCEEDINGS:** Hearing into Application for the grant of a New Liquor Licence and to Consider Objections Pursuant to Section 47F(2) of the *Liquor Act*:
- (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.
- MEMBERS:** Mr Richard O'Sullivan (Chairman)
Mr David Brooker
Mrs Jane Large
- OBJECTORS:** Ms Peta Romeyn, Program Coordinator, Katherine Isolated Children's Service Inc
- APPEARANCES:** Mr Duane Barclay for the Applicant
Ms Peta Romeyn for the Objector
Mr Mark Wood for the Director of Licensing
- DATE OF HEARING:** 11 August 2011
-

BACKGROUND

- 1) The premises was previously operated as The Cinema Café and had a Restaurant Liquor Licence which was suspended in July 2006 and following non use of the liquor licence it was cancelled in March 2011 following a Hearing.

- 2) Mr Duane Barclay has made application for the grant of a Liquor Licence for the premises, renamed the Silver Screen Café which is positioned within the Katherine Cinema complex. Mr Barclay has operated the premises for around twelve months and during this time had attempted to come to agreement with the former Licensee over the transfer of the Liquor Licence. Parties were unable to come to agreement and hence Mr Barclay's current application.
- 3) Mr Barclay had initially sought trading hours from 12:00 hours until 24:00 hours Monday to Saturday and 17:00 to 23:00 hours on Sunday. Following advertising, one objection was received from Ms Peta Romeyn, Program Coordinator, Katherine Isolated Children's Service ("KICS"), which has an office within the Cinema building.
- 4) The nature of the objection was that the licence applied for would have a detrimental affect on the family friendly atmosphere of the Cinema complex. The objection also referred to a further licensed outlet having negative impact on the neighbourhood amenity. Additionally, the objection also raised the potential for break-ins of the premises if alcohol was stored in the restaurant.
- 5) Following the objection Mr Barclay responded by reducing the proposed trading hours to 17:00 hours to 23:00 hours seven days a week (previously advertised as 12:00 hours to 24:00 hours Monday to Saturday and 17:00 hours to 23:00 hours Sunday).

HEARING

- 6) Mr Wood outlined the facts of the matter before the Commission, including that the premises previously held a liquor licence and that the current tenant, Mr Barclay, had unsuccessfully tried to facilitate a transfer of this licence. The licence was subsequently cancelled, necessitating Mr Barclay's application for a new licence, which has triggered an objection from KICS.
- 7) Mr Barclay detailed the general concept of the restaurant, which he stated would not trade seven days per week, with trading days largely based on demand. He envisaged the restaurant having theme nights and functions and that the provision of this amenity would give the town another dining out option.
- 8) He outlined that the Café would operate unlicensed from 08:00 hours to 16:00 hours with the restaurant commencing at 17:00 hours and ceasing liquor sales at 23:00 hours.
- 9) Ms Romeyn detailed the KICS objection and stated that it was based on the longer licence hours initially applied for. She mentioned that some members of the KICS committee still had concerns over a liquor licence, albeit with reduced trading hours within the Cinema complex, and her view there still remained a potential for break-ins if liquor was stored on the premises.

- 10) Mr Barclay responded by outlining that there was no entrance from the KICS office to the Café and that they had separate doorways fronting onto First Street. He advised the Commission that there had been a recent break-in into the building, which is the only break-in he is aware of and the perpetrators did not attempt to gain entry into the Café area. He outlined that he was intending to install a security system and camera surveillance. Extra security grilles / window reinforcing would also be installed to prevent the potential for break-ins.
- 11) At this point Mr Bill Daw, Vice President of KICS, advised that on the basis of camera surveillance, security systems and the reduced hours of intended operation, *"I don't think the Board would have a problem today"*.
- 12) Ms Romeyn agreed and stated that they had brought the matter and attended before the Commission to outline the full facts of the matter from their perspective and based on the information available to them at the time.
- 13) The Commission was advised that Mr Barclay would be securing longer term tenure of the operation and that he had outlaid not insignificant money in the first six months of his ownership of the restaurant to bring it up to a viable operation.

CONSIDERATION OF THE ISSUES

- 14) The Commission noted that the original objection of KICS was based on more extended hours of operation than now proposed, and included concerns over the safety and security of the premises which have now largely been addressed by Mr Barclay.
- 15) During the Hearing the Commission was advised that on the basis of the concessions made by Mr Barclay, and had such conditions of operation been known at the outset, it was unlikely that KICS would have initially objected.
- 16) It appeared to the Commission that parties had largely resolved any differences. The Commission was also advised that, at least in the foreseeable future, it was unlikely that the licensed restaurant would be operating seven days a week. Rather it was more likely to be viable if only open on around an average of two night a week, and reliant on, or based on, theme nights and function bookings.
- 17) Mr Barclay has had considerable experience in the hospitality industry and as a Nominee for licensed premises and his operational and management experience would likely be effective in minimising any potential for conflict with KICS or harm in the community. Rather, in the Commission's view, the granting of a Restaurant Licence could add to the diversity, entertainment and dining options available to Katherine residents.

DECISION

18) The Commission grants the liquor licence to the Silver Screen Café on the basis of the trading from 17:00 until 23:00 hours, seven days a week, noting that the Licensee is likely to trade fewer days of the week, with ultimate trading days dependant on demand from the community.

Richard O'Sullivan
CHAIRMAN

16 August 2011