

NORTHERN TERRITORY LICENSING COMMISSION

REASONS FOR DECISION

APPLICANT:	NT PRISON OFFICERS' (SOCIAL CLUB, ALICE SPRINGS) ASSOCIATION INC
PROCEEDING:	Section 47I of the <i>Liquor Act 1978</i> , Decision on whether objections proceed to hearing.
DATE OF THESE REASONS:	6 October 2003
OBJECTORS:	Ms Pat McQuillen Ms Rose Young Ms Carolie Boyd Mr Peter Hoey Ms Sonia Kennon Mr Peter Kennon Mr David Chewings Mr Phillip Colby

The applicant seeks to sell liquor at its proposed new clubrooms. The applicant is the holder of liquor licence number 81404677 which authorises the sale of liquor at Lot 101182 Stuart Terrace, Alice Springs. These premises are being demolished; the licence is suspended pursuant to Section 66(1)(c) of the *Liquor Act 1978*. The applicant has been offered land at Lot 8072 Larapinta Drive, Alice Springs. The land offered for a new premises is not arguably within close proximity to the location of the applicant's existing licence and thus does not meet the requirements of Section 46A, hence the applicant seeks a new licence.

The application was advertised in the legal notices section of the "Centralian Advocate" on Tuesday 29 July and Friday 1 August 2003.

The application attracted eight objections; all lodged prior to the closing date. The objection lodged by Mr Colby was lodged by electronic mail and thus not signed by hand. A signed copy of Mr Colby's objection was lodged with the Deputy Director on 15 September.

The material placed before me by the Deputy Director of Licensing clearly indicates that all objectors other than Ms Boyd satisfy the requirements of Section 47F(3)(a) in that they are persons residing or working in the neighbourhood. Ms Boyd, as the holder of property in the neighbourhood, satisfies the requirements of Section 47F(3)(b).

The map provided and marked by the Deputy Director indicates that all objectors with the exception of Mr Chewings; reside, work or own property in the immediate neighbourhood of the proposed premises. Arguably, Mr Chewings who resides at 26 Forrest Crescent is a resident of the neighbourhood as his residence is less than one kilometre from the proposed premises. In any event, Mr Chewings' occupation as

a taxi driver suffices, in my view, to satisfy the requirements of Section 47F(3)(a); “a person working in the neighbourhood where the premises the subject of the application are or will be located”.

Ms McQuillen, in her letter of objection, refers to the proposed premises as being within a well-established residential and recreational area which is a retreat from the increasingly noisy Larapinta Drive. She asserts the presence of a liquor licence “would soon change the whole ambience of this area”. Ms McQuillen’s objection is in my view pertinent to amenity and thus satisfies the requirements of Section 47F(2); on the ground that the licence if granted, “may or will adversely affect the amenity of the neighbourhood where the premises the subject of the application are or will be located”.

Ms Young objects to the application because the proposed site is in a residential area where she is able to “walk in safety and enjoy the open spaces and the fresh air”. She also refers to people walking dogs and children riding bikes. Although Ms Young does not plainly say so, I infer from her objection that she sees the area as being adversely affected if a licence is granted and therefore regard her objection as satisfying the requirements of Section 47F(2).

Ms Boyd asserts that prior to the purchase of her property she sought an area “where there was a reasonable distance between take-away outlets and my property”. She states that the granting of any further licences, particularly take-away licences, will be detrimental to the community and that the grant of a licence in the area of a school and a scout hall will “be the very worst kind of example to the children of Alice Springs”. Although it may be inferred that Ms Boyd’s objection is in part, an objection to liquor per se, I nonetheless find that the requirements of Section 47F(2) are satisfied as concerns that the amenity of the neighbourhood may be adversely affected can be clearly inferred from her correspondence.

Mr Hoey’s objection centres on the proposed hours of trade which he regards as too generous; he does not object to the establishment of a licensed club in the proposed location. I find that Mr Hoey’s objection does not comply with the requirements of Section 47F(2) as no claim is made or implied regarding the amenity of the neighbourhood. I do however recommend that in the event the Commission is minded to approve the grant of a licence, Mr Hoey’s correspondence is considered when licence conditions are determined.

Ms Sonia Kennon’s objection refers to the general quiet of the area and its nature as “wholesome neighbourhood environment for children”. It can be clearly inferred from her correspondence that Ms Kennon is concerned that the amenity of her neighbourhood will or may be adversely affected if the licence is granted and thus I find the requirements of Section 47F(2) are satisfied.

Mr Peter Kennon objects that the “new licensed premises would drastically alter the character of the neighbourhood” which he regards as being a “quiet residential neighbourhood with a strong emphasis on families and community spirit”. Mr Kennon is also concerned that the proposed club would result in increased traffic that coupled with the noise generated from the premises “would be totally objectionable”. I find that Mr Kennon’s objection conforms to the requirements of Section 47F(2).

Mr Chewings' objection is limited to concerns regarding the "appropriateness of the location" and I am left to infer that he regards the amenity of the neighbourhood as likely to be adversely affected. While I find that the requirements of Section 47F(2) are satisfied, I make this finding with a degree of caution.

Mr Colby asserts that the club should be in a non-residential area where "it would not impact on the lives of so many people" and as such his objection arguably complies with the requirements of Section 47F(2). Mr Colby's letter also comments on the proposed hours of trade, it is recommended that the Commission considers his concerns along with Mr Hoey's as referred to earlier in these reasons.

The material provided by the Deputy Director includes a letter signed by the applicant's President on 17 September 2003. The President's letter does not challenge or address the status of the objectors and is limited to submissions that might be more appropriately made at a hearing in relation to the objections.

I am satisfied that none of the objections lodged is of a frivolous, irrelevant or malicious nature. Further, I am satisfied that all comply with the requirements of Section 47F(3)(a) or (b) as appropriate and that with the exception of the objection lodged by Mr Hoey, all others satisfy the requirements of Section 47F(2).

Pursuant to Section 47I(c)(ii) I determine that the Commission must conduct a hearing in relation to the objections.

These reasons for decision are to be forwarded to the applicant and to all persons who lodged an objection, and should be included in the hearing brief. The map provided by the Deputy Director should be included in the material to be considered by the Commission at the hearing.

Peter R. Allen

Member selected by the Chairman pursuant to s.47I (2).