

Northern Territory Licensing Commission

Reasons for Decision

Premises:	The Lane Café Restaurant-58 Todd Mall, Alice Springs
Applicant:	Iparpa Nominees Pty Ltd
Nominee:	Vincent Lange
Licence Number:	805172222
Proceeding:	Variation of Licence Conditions and Extension of Licensed Area
Objectors:	Michael and Shirley Hollow and; Northern Territory Police
Heard Before:	Mr Richard O'Sullivan (Chairman) Mrs Jane Large Ms Helen Kilgariff
Date of Hearing:	11 December 2007
Date of Decision:	13 December 2007
Appearances:	Mr Vincent Lange for the Licensee Mr Michael Hollow, Objector Senior Inspector Tony O'Donohoe fo the Director of Licensing

Background

- 1) The Lane Café Restaurant in Alice Springs made an application for a licence variation and an extension of premises located at 58 Todd Mall, Alice Springs ("the Application").

The application seeks to vary the upstairs function room into a Restaurant / Function Room by expanding into an enclosed area adjacent to their upstairs current licensed area and include a new kitchen, bar, tables and chairs in an air conditioned area. One wall adjoining their current open area would consist of folding doors to allow an indoor / outdoor situation when the doors are fully opened.

- 2) The Application was advertised in the Centralian Advocate on 3 and 7 August 2007 pursuant to Section 32A(3) and (4) of the *Liquor Act* ("the Act").
- 3) On 31 August 2007 an objection to the application was received from Mr and Mrs M Hollow. This objection is within the requirements of the Act.
- 4) Notification was received from the Northern Territory Police on 15 August 2007 advising the Commission that they had no objections to the variation, however, they did make further comments in regards to noise and type of music to be played in the upstairs area.
- 5) On 9 November 2007 the Commission assessed Mr and Mrs Hollow's objection as a valid objection. Due to the additional comments included in the Police letter, this was, also, to be treated as a valid objection.

Hearing

- 6) In the Commission's view the assessed objection by the Northern Territory Police should be considered more of a comment and advice rather than a formal objection. The Commission has taken cognisance of these comments in reaching its decision.
- 7) Mr Lange gave evidence on the scope of the variation to the premises which will take some eighteen (18) months to reach final conclusion. He addressed the objection by Mr Hollow by stating that there was only one (1) occasion that he was aware that there had been excessive noise emanating from his premises.
- 8) He also stated that the new layout of the premises upstairs would mean that musicians would be moved inside the building which would further alleviate the noise problems.
- 9) Mr Hollow had previously not made any formal complaint to Licensing and Regulations about the noise emanating from the Lane Café and stated at the hearing that he had no objections to the development of the premises. He did state that, due to the close location of his residence to the premises, whenever there was music played in the function room upstairs it was so loud that it was difficult to hear the television in his home. He felt that if the bands were located indoors it would be better and would reduce the volume of the noise.
- 10) A site viewing by the Commission of the premises showed that the area to be annexed was enclosed. There would be a kitchen, toilets, a bar and a restaurant where patrons would be seated for dining. It was also the intention of the Licensee that the musicians would be located in this enclosed area. However, Mr Lange did intimate to the Commission that he would like the option to continue providing music in the outdoor function area at certain times.

Consideration of the Issues

- 11) The expansion of the Lane Café will allow both an additional dining capacity for Alice Springs and a higher quality of meals being served in the upstairs area. The main concern of the Commission in relation to this application is the issue of noise from the extended premises causing disturbance to nearby residents.
- 12) It is important that all Licensees are fully aware of their responsibilities in regards to ensuring that noise emanating from licensed premises does not cause disturbance to the lifestyle of nearby residents. Mr Lange impressed the Commission with his realistic approach to noise abatement, for example, in the incident identified by Mr Hollow, Mr Lange, on hearing about the complaint, personally travelled from home to the premises and immediately closed down the function. The Commission, also, noted that since the opening of the upstairs Outside Function Room Mr Lange has put into place certain noise abatement measures such as positioning of the amplifiers and sound barriers to alleviate the noise problems for the nearby Aurora Motel. The Motel has not made any objection to this application to extend the premises.
- 13) Mr Lange expressed a willingness to undertake continual consultation, prior to the opening of the new section, with Licensing and Regulation as to means of negating noise and any special noise condition to be included in the licence. This is particularly relevant to the type of music being played in the alfresco section of the Restaurant/Function Room.
- 14) Eighteen (18) months initially appeared to the Commission to be a protracted period for the redesign and construction of an annexe to established premises. However, it is considered reasonable given the problems of obtaining experienced construction contractors in Alice Springs.

Decision

- 15) The Commission approves the application by the Lane Café to expand into an enclosed area adjacent to their upstairs current licensed area and include a new kitchen, bar, tables and chairs in an air conditioned area. One wall adjoining their current open area would consist of folding doors to allow an indoor / outdoor situation when the doors are fully opened. The new expanded upstairs area to be licensed as a Restaurant/Function Room.
- 16) It is expected that the premises will be open prior to 30 June 2009. If this is not achieved then a further variation to extend the time should be sought.
- 17) The Commission endorses the ongoing consultation between the Nominee and Licensing and Regulation in regards to noise abatement and any special noise conditions that may need to be included in the licence prior to the opening of the new Restaurant/Function Room.

Richard O'Sullivan
Chairman

13 December 2007