

Northern Territory Licensing Commission

Decision on whether Objections will proceed to Hearing

Premises:	Shenannigans Irish Pub 69 Mitchell Street Darwin NT 0800
Applicant:	Shenannigans Irish Pub Pty Ltd
Nominee:	Michael Rochford
License Number:	80315480
Objectors:	Commander Kate Vanderlaan on behalf of the Northern Territory Police Mr John Banks on behalf of the Darwin City Council
Legislation:	Sections 4F to 47I of the <i>Liquor Act</i> and Section 28 of the <i>Interpretation Act</i>
Decision of:	Philip Timney
Date of decision:	5 April 2011

Summary of Decision

- 1) That the Commission conduct a Hearing in respect of the objections received from Commander Kate Vanderlaan and Mr John Banks.

Background

- 2) On 17 January 2011, Shenannigans Irish Pub Pty Ltd applied pursuant to Sections 32A of the *Liquor Act* for a permanent extension to the internal trading hours of Shenannigans Irish Pub from 02:00 hours (the following day) to 03:00 hours (the following day) seven days per week.
- 3) The Application was advertised in the NT News on Friday 21 January 2011 and Wednesday 26 January 2011 pursuant to Sections 119(3) and 32A(3)(a) of the Act.
- 4) The advertisement was as follows:

Liquor Act and Gaming Machine Act

1st notice of application for a variation to Liquor Licence Condition and Gaming Machine Licence

Shenannigans Irish Pub

Shenannigans Irish Pub Pty Ltd, hereby give notice that it has applied to the Northern Territory Licensing Commission for a variation to the Gaming and Liquor Licence trading hours at the premises known as "Shenannigans Irish Pub" located at 69 Mitchell Street, Darwin City NT 0800.

Proposed variations are:

- *Extend Liquor and Gaming trading hours of the Shenannigans Irish Pub (not inclusive of Alfresco Areas) from 02:00 hrs (the following day) seven days a week, to 03:00 hours (the following day) seven days a week.*

The following conditions will be included in the liquor licence:

- *The Licensee shall take all measures necessary to ensure that noise from the premises does not cause undue disturbance or discomfort to residents of the neighbourhood.*
- *No complimentary drinks shall be supplied between midnight and closing times.*

The Licensee shall provide to the satisfaction of the Director:

- An appropriate number of Licensed Crowd Controllers; and*
- Adequate security within the premises and in the immediate area; and*
- Effective illicit drug control measures; and*
- Snack foods at all times; and*
- Complimentary "Tap" water.*

This is the first notice of application. The notice will be published again on Wednesday, 26 January 2011.

The objection period is deemed to commence from Wednesday, 26 January 2011 (date of publication of second notice).

Pursuant to Section 47F(2) of the Liquor Act an objection may only be made on the ground that the variation of the licence conditions may or will adversely affect

- the amenity of the neighbourhood where the premises the subject of the application are or will be located; or*
- health, education, public safety or social conditions in the community*

Only those persons, organisations or groups described in Section 47F(3) of the Liquor Act may make an objection. Section 47G of the Liquor Act requires the Director of Licensing to inform the applicant of the substance of any objection. This will include the identity and where relevant the address of the objector. Objections to this application should be lodged in writing with the Director of Licensing within thirty (30) days of the commencement date of the objection period (from the date of the second advertisement).

For further information regarding this application contact the Director of Licensing on telephone 8999 1800. Objections to this application should be lodged in writing with the Director of Licensing, Licensing, Regulation and Alcohol Strategy, GPO Box 1154, Darwin, within thirty (30) days of the commencement date of the objection period.

Dated this 21st day of January 2011

- 5) Pursuant to Section 47F(4)(d) an objection must be lodged within thirty (30) days after the publication of the last notice, namely on or before Friday 25 February 2011
- 6) Section 47F of the Act prescribes the circumstances in which an objection may be made, specifies the grounds for objection and identifies the persons entitled to object to a particular application. Relevant to this application Section 47F provides:\

47F Person may object to certain applications

- (1) *Subject to this Section, a person, organisation or group may make an objection to the following applications:*
- (b) *an application for a variation of the conditions of a licence, as notified under Section 32A;*
 - (c) *... ..'*
- (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*
- (3) *Only the following persons, organisations or groups may make an objection under sub-Section (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*

7) Section 47F(1)(b) provides that a person or organisation may object to an application for variation of licence conditions under Section 32A.

8) Turning to the specifics of the objections lodged:

Objection from Commander Kate Vanderlaan on behalf of the Northern Territory Police:

9) Section 47(3)(c) allows members of the Northern Territory Police to object to an Application. Commander Kate Vanderlaan is a member of the Police Force acting in that capacity within the meaning of Section 47(3)(c) and stationed at the Nightcliff Police Station. As such Commander Vanderlaan is a valid objector. The objection was lodged on 31 January 2011 and was therefore lodged within the prescribed time limit.

10) Commander Vanderlaan objects to the extension of the trading hours for the premises on the following grounds:

- It is the position of NT Police to oppose any extensions to existing liquor licences, particularly in the Mitchell Street precinct. The arguments put forward by the licensee have little merit;
- An increase in trading hours from 0200 to 0300 will see an increase in alcohol fuelled violence which Police cannot entertain;

- Were this application to be approved it will open the doors for other premises to seek extensions of trading hours;
- There are numerous existing premises in the area catering for the consumption of alcohol till early hours of the morning and there is no justification to increase that number.

Objection from Mr John Banks on behalf of Darwin City Council (“DCC”):

- 11) The DCC is a public Authority within the context of Section 47F(3)(e). Mr Banks is the General Manager, Community & Cultural Services, DCC and in that capacity is entitled to lodge an objection. The letter of objection was lodged on 9 February and was therefore lodged within the prescribed time limit.
- 12) Mr Banks, on behalf of DCC, objects to the application for extension of trading hours on the following grounds:
 - DCC’s previously stated view, set out in its submission to the Licensing Commission’s “Review of Cheap and Problem Products in Darwin, Palmerston and Rural Areas and, in particular the recommendation that all 4 am licences be revoked and replaced with 2 am licences.
 - The adverse impact an extension of hours on the amenity of the neighbourhood and the adverse impact of alcohol on the municipality.

Applicant’s Response to Objections

Objection from Commander Kate Vanderlaan:

- 13) Mr Justin Coleman responded to the Police objection by letter dated 28 February 2011. The response may be summarised as follows:
 - An extension of the trading hours by one hour will not add to alcohol fuelled violence or the Police workload as other premises remain open at that time.
 - Extending the trading hours will not increase the number of patrons on Mitchell Street but rather will ensure that they are more evenly distributed.
 - Shenannigan’s licence conditions and voluntary trading restrictions reflect those of 4 am licences and treat the premises as a late night trading venue without the financial benefit of the additional trade.
 - Only data relevant to the local area should be considered in considering this application. Data provided to the AHA demonstrates alcohol fuelled violence in the CBD has decreased.
 - Proposed restrictions on trade will further impact and the viability of the premises and the extension of trading hours will allow the premises to continue to trade commercially.
 - The objection is of a generic nature and does not address the specifics of this application or the experience and track record of the Licencee.

Objection from Mr John Banks:

- 14) Mr Justin Coleman responded to the objection by DCC via email dated 11 February 2011. Mr Coleman noted that the objection was generalised and based on a DCC policy that does not take account of individual merit or changing circumstances.

Determination

- 15) The objection on behalf of Police relates to the amenity of the neighbourhood in which the premises are located, namely the Mitchell Street precinct. The objection is relevant to the health and public safety in the community. This objection includes some of the grounds set in Section 47F(2) of the Act and is otherwise validly lodged and should be referred to a Hearing before the Commission.
- 16) As noted by the applicant, the objection lodged on behalf of the DCC is generic in nature and does not specifically relate to the application currently before the Commission. However, the objection does relate generally to the amenity of the neighbourhood and the health, education, public safety and social conditions in the community within which the premises are located, being the DCC municipality, as required by Section 47F(2). This objection should also be referred to a Hearing before the Commission.

Philip Timney
Legal Member

4 April 2011