

Northern Territory Licensing Commission

Decision on Whether Objections will proceed to Hearing

Premises:	Silver Screen Café 20 First Street Katherine NT 0850
Applicant:	Duane Lachlan Barclay
Proposed Nominee:	Duane Lachlan Barclay
Objectors:	Ms Peta Romeyn, Program Coordinator, Katherine Isolated Children's Service Inc
Legislation:	Sections 4F to 47I of the <i>Liquor Act</i> and Section 28 of the <i>Interpretation Act</i>
Decision of:	Philip Timney (Legal Member)
Date of Decision:	9 June 2011

Background

- 1) On 3 March 2011 Mr Duane Lauchlan Barclay applied to the Commission pursuant to Section 26 of the *Liquor Act* for grant of a Restaurant Liquor Licence for the premises to be known as Silver Screen Café, located at 20 First Street, Katherine.
- 2) The Application was advertised in the Katherine Times on Wednesday 9 March 2011 and Wednesday 16 March 2011 pursuant to Sections 119(3) and 32A(3)(a) of the Act.
- 3) The advertisement was as follows:

Liquor Act

1st Notice of Application for Licence

To Sell Liquor

Silver Screen Cafe

Duane Lauchlan Barclay, Hereby Give Notice that it has applied to the Northern Territory Licensing Commission for a "Restaurant" Liquor Licence to sell liquor from the premises to be known as "Silver Screen Café" located at 20 First Street Katherine.

Proposed Trading Details for the sale of liquor are as follows:

- *The business proposed to be conducted on the premises will be in the nature of a Restaurant providing meals to the general public.*
- *Liquor may be sold for consumption on the premises from 12:00 hours until 24:00 hours Monday to Saturday and 17:00 hours to 23:00 hours Sunday.*
- *Liquor may only be sold for consumption on or at the premises ancillary to a meal.*
- *A meal shall be available between 08:00 hours and 16:00 hours and 17:30 hours and 21:00 hours.*
- *Boutique beer, mid and low strength beer, selection of wine and spirits.*

This is the first notice of application. The notice will be published again on Wednesday, 16 March 2011.

The objection period is deemed to commence from Wednesday, 16 March 2011, the 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 grant of the licence 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.*

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.

For further information regarding this application contact the Director of Licensing on telephone 8973 8811. Objections to this application should be lodged in writing with the Director of Licensing, PO Box 2138, Katherine, within thirty (30) days of the commencement date of the objection period.

Dated this Wednesday, 2 March 2011.

- 4) 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 15 April 2011.
- 5) 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:

- a) *an application for the grant of a licence, as notified under Section 27;*

(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) *... ..*
- c) *a member or employee of the Police Force acting in that capacity;*
- d) *... ..*
- e) *a community-based organisation or group (for example, a local action group or a charity).*

- 6) One objection has been lodged in response to the application and the applicant has provided a response to the objection pursuant to Section 47G of the Act. Under Section 47I of the Act the Commission must determine whether objections received are to proceed to Hearing.
- 7) Police were invited to comment on the application. Whilst not lodging a formal objection, Ms Jackie Divall, of the Drug Alcohol Policy and Licensing Section of NT Police, commented that it may be appropriate to include some security arrangements in the application as the location has, in the past, been a soft target for unlawful entries targeting alcohol due to its location.
- 8) Katherine Town Council raised no objection to the application and no response was received from the Department of Health and Community services to advice in respect of the application.

Objection from Ms Peta Romeyn, Program Coordinator, Katherine Isolated Children's Service Inc:

- 9) Ms Romeyn lodged an objection, dated 13 April 2011, on behalf of the Board of Management of the Katherine Isolated children's Service Inc ("KICS"). KICS offices are in the same building as the Silver Screen Café. The objection was lodged within the objection period.
- 10) The letter of objection states that KICS has concerns that the grant of a liquor licence, for the hours stated in the application, will have a detrimental effect on the family friendly atmosphere of the cinema complex. In addition, the grant of another liquor licence in Katherine will adversely affect the amenity of the neighbourhood and have a detrimental impact on children attending the movies alone and witnessing anti-social behaviour of people affected by alcohol.
- 11) Ms Romeyn's objection letter also refers to the clients will not feel as comfortable in visiting the KICS offices if licensed premises are located next door. She also raises concerns at the potential for break-ins by people wishing to steal alcohol. Ms Romeyn notes that the Board would have no objection to the grant of a BYO licence for the premises.

Applicant's Response to Objection:

- 12) Mr Barclay responded to the objection by letter forward via email on 28 April 2011. In respect of the operating hours for the proposed liquor licence, Mr Barclay advised that the hours requested had been reduced to 5 pm to 11 pm and confirmed that he did not wish the Café to be licensed during the day
- 13) Mr Barclay agreed that children attend the movies unaccompanied by their parents and this itself is the cause of anti-social behaviour on the part of some children. Mr Barclay states that KICS personnel are rarely in the building but rather out bush and they are never in their offices in the evening
- 14) Mr Barclay states that the cinema complex premises have not been broken into since he has taken over the business and that the previous break-ins occurred when the premises were unlicensed. No alcohol will be displayed during the day and alcohol will be stored in a secure location at night. Mr Barclay added that they will only trade under the liquor licence for 4 to 5 nights per week and will provide an opportunity for patrons to enjoy a meal with a bottle of wine or a beer in a clean and relaxed atmosphere.

Consideration of the Issues:

- 15) KICS is a community based not for profit organisation providing a mobile playgroup and parent information services for remote and isolated families in the greater Katherine community. The KICS offices are located in the same building as the Silver Screen Café.

As a result KICS satisfies the requirements of sections 47F(2)(a) and (f) and is entitled to lodge an objection.

- 16) The objection lodged by Ms Romeyn relates to the amenity of the neighbourhood in which the licensed premises are proposed to be located and the health, public safety or social conditions in the community.

Decision:

- 17) The Commission has determined that the objection lodged by Ms Romeyn on behalf of the Board of Management of KICS is a valid objection within the terms of the Act and, pursuant to Section 47I(7) of the Act, requires a Hearing.
- 18) The parties to the Hearing will be advised of this outcome and notified of the Hearing date and their rights under Hearing process as well as being provided with a copy of a Hearing Brief prepared by Licensing, Regulation and Alcohol Strategy.

Philip Timney
Legal Member

8 June 2011