

# Northern Territory Licensing Commission

## Decision on whether Objection will proceed to Hearing

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<b>Applicant:</b>	Alice Springs Cinema Four Pty Ltd
<b>Premises:</b>	Alice Springs Cinema Complex, Todd Mall, Alice Springs
<b>Name:</b>	Alice Springs Cinema
<b>Objection:</b>	Department of Health
<b>Legislation:</b>	Section 47F to 47I of the Liquor Act and Section 28 of the Interpretation Act.
<b>Decision of:</b>	Mr Richard O'Sullivan (Chairman)
<b>Date of Decision:</b>	13 October 2014

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### Background

- 1) Directors of Alice Springs Cinema Four Pty Ltd have applied for a Liquor Licence pursuant to Section 26 of the Liquor Act ("the Act") for the premises trading as Alice Springs Cinema ("the Cinema") situated at Todd Mall, Alice Springs.
- 2) The application has been advertised in the Centralian Advocate on 22 and 25 July 2014 as follows:

### ***"Liquor Act***

#### ***1st Notice of Application for a Licence to Sell Liquor***

#### ***Alice Springs Cinema***

*Alice Springs Cinema Four Pty Ltd, hereby gives notice that it has applied to the Northern Territory Licensing Commission for a "on licence" liquor licence for the premises known as the "Alice Springs Cinema", located at shop 1 Cinema Complex, 11 Todd Mall, Alice Springs, NT 0870.*

***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 an On Licence.*
- *Liquor will only be sold to patrons 60 minutes prior and 30 minutes post the screening time printed on valid ticket.*
- *Liquor may be sold from 12:00 (noon) hours until 00:00 (midnight) hours, seven days a week.*
- *Liquor sold will be; beer, cider, wine by the glass; RTD in serve containers; spirits and cocktails; wine by the bottle for Gold Glass and Special Events patrons.*

*This is the first notice of application. The notice will be published again on Friday, 25 July 2014.*

*The objection period is deemed to commence from Friday, 25 July 2014.*

*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 8951 5195. Objections to this application should be lodged in writing with the Director of Gambling and Licensing, GPO Box 8470, Alice Springs NT 0871, within thirty (30) days of the commencement date of the objection period.*

***Dated this 22nd Day of July 2014.***

- 3) While the application seeks trading hours from 12 noon to 12 midnight, the applicant's Business Plan refers to weekday trading for the last two evening film sessions, which generally commence from 6:00pm. For weekend trading the Business Plan identifies alcohol sales as being limited to the afternoon and evening film sessions.
- 4) Alcohol sales are to be restricted to persons with a valid ticket to the Cinema on the day.
- 5) There have been three submissions lodged following the advertisement of the application. A response from the Alice Springs Town Council advised of no objection to the application. NT Police in their submission have expressed a number of concerns and proposed specified licence conditions to address a number of these concerns. NT Health has lodged an objection.
- 6) Section 47F of the Act prescribes the circumstances where an objection may be made, specifies the grounds for objection and identifies persons or organisations eligible to object to a particular application as follows:

***"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;*
  - (b) an application for a variation of the conditions of a licence, as notified under section 32A;*
  - (c) an application for the substitution of other premises for the premises specified in a licence, as notified under section 46A;*
  - (d) an application for approval to make a material alteration to licensed premises, as notified under section 119.*

- (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 subsection (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) Under Section 47I of the Act the Northern Territory Licencing Commission ("the Commission") must determine whether objections received are to proceed to Hearing.

### **Consideration of the Issues**

- 8) NT Police comments have not been submitted as an objection although they do highlight concerns and make proposals which the Commission may consider in determining the licence application and relevant licence conditions.
- 9) The Department of Health objection lodged by the Director, Alcohol and Other Drug Services, Ms Deidre Logie, on 18 August 2014, meets the time requirements pursuant to Section 47F(4)(d) of the Act. That section requires that an objection be lodged within 30 days after the publication of the last notice, which in this matter would be by 24 August 2014.

- 10) Section 47F(3) provides the categories of person, organisation or group who may lodge objection to a licence application. Eligibility includes Section 47F(3)(e):

*“an agency or public authority that performs functions relating to public amenity, including health, education and public safety.”*

The Department of Health meets this category requirement.

- 11) An objection may only be made on the grounds that the grant of a licence will adversely impact on neighbourhood amenity or the health, education, public safety or social conditions of the community pursuant to Section 47F(2)(a) or (b) as outlined in paragraph 6 above. In summary the Department of Health objection raises issues of patron intoxication, amenity of the area and public safety. It therefore meets the required grounds for objection.
- 12) Under provisions of the Act (Section 47G) the applicant is to be afforded the opportunity to make response to the details of the objection. The applicant's response points out that the Cinema has successfully conducted a number of events where a temporary licence had been issued. It seeks to build on its safety and non-incident record. The applicant refutes that it will allow patrons to become intoxicated and cause nuisance and endanger public safety. It points out that there will be only a small window of time prior, during and immediately after the cinema film session to purchase alcohol. The applicant also advises that no alcohol will be served when “G” rated files are shown.

## **Decision**

- 13) Following assessment of the objection lodged by the Department of Health it is determined that the objection meets the necessary grounds and criteria to qualify as a valid objection. The objection pursuant to Section 47I(7) of the Act, requires the Commission to conduct a Hearing.

Richard O'Sullivan  
Chairman

October 2014