

Northern Territory Licensing Commission

Decision on whether Objections will proceed to Hearing

Premises:	Gemtree Caravan Park
Applicant:	Gunnister Pty Ltd
Nominees	Cameron Chalmers
Licence Number:	N/A
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:	30 April 2012

Background

- 1) An application for a new liquor licence was initially submitted on 10 May 2011. However, the application was not completed until January 2012 by Mr Cameron Chalmers, Owner/Manager of the premises known as Gemtree Caravan Park located on the Plenty Highway, via Alice Springs.
- 2) The Application was advertised in the Centralian Advocate on Friday 27 January 2012 and Tuesday 31 January 2012 pursuant to Section 27(1) of the *Liquor Act* ("the Act").
- 3) The advertisement was as follows:

I, Cameron Chalmers, Director of Gunnister Pty Ltd and Woolanger Pty Ltd, trading as The Gemtree Caravan Park, hereby give notice that I have applied to the Northern Territory Licensing Commission for an On Premises Liquor Licence to sell liquor from the premises known as The Gemtree Caravan Park located at Plenty Highway, via Alice Springs.

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 Caravan Park and Private Functions*
- *Liquor may be sold for consumption on the premises to Bona Fide Lodgers.*
- *Hours of trade to bona fide lodgers shall be between the hours of 1200 hours and 21.30 hours (Sunday to Friday) and 12.00 to 23.59 hours Saturday.*
- *The sale of liquor shall be limited to no more than six (6) 375 ml cans of beer or six (6) cans of mixed drinks (5% alcohol) or up to 6 glasses of wine or one (1) bottle of wine per bona fide lodger per day.*
- *No liquor will be supplied for takeaway from the premises.*

The applicant has also applied for a full range of alcohol to be sold or supplied at pre booked functions:

- *Alcohol may be sold or supplied to attendees at pre booked organised functions between the hours of 17.00 and 02.00 hours the following day.*

- *All functions will be in the nature of a fully catered event with food available.*

This is the first notice of application. The notice will be published again on 31st January 2012.

The objection period is deemed to commence from 31st January 2012 (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 Deputy Director of Licensing (Sth) on telephone 8951 5128. Objections to this application should be lodged in writing with the Deputy Director of Licensing, Licensing, Regulation and Alcohol Strategy PO Box 8470 , Alice Springs, within thirty (30) days of the commence date of the objection period.

Dated this 19th of January 2012

- 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 2 March 2012.
- 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;*
 - (b) an application for a variation of the conditions of a licence, as notified under Section 32A;*
- (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*
 - (e) *acting in that capacity*
 - (f) *an Agency or public authority that performs functions relating to public amenities, including health, education and public safety*
 - (g) *a community-based organisation or group (for example, a local action group or a charity)*
- 6) Details of the application were forwarded to Development Assessment Services, NT Fire & Rescue Services, Director of Alcohol and Other Drugs, (NT Department of Health), NT Police and the CEO Central Desert Shire for comment. Four responses were received from those agencies prior to the expiry of the objection period. No other objections were lodged. Under Section 471 of the Act the Commission must determine whether those “comments” constitute an objection as defined by the Act.

Consideration of the comments received

Northern Territory Police:

- 7) In a letter dated 23 February 2012 Commander Kate Vanderlaan advised that Police support the application so far as it relates to the sale of alcohol to bona fide guests and to guests attending private functions held at the caravan park. However concerns were raised regarding hours of trade and transport to and from the venue. Police would prefer that the hours of trade are limited to 6.00 pm until 1.00 am the following day rather than from 5.00 pm until 2.00 am the following day, with the aim of reducing possible anti-social behaviour and alcohol related incidents. Police also requested that procedures be put in place to ensure that, apart from pre booked private functions, alcohol is only sold to bona fide guests of the caravan park.
- 8) Police also proposed that a condition be placed on the licence requiring the provision of transport for non-guests of the caravan park attending private functions so as to minimise the prospect of patrons driving from the venue whilst intoxicated.
- 9) Mr Chalmers, on behalf of the applicant, responded to the concerns raised by Northern Territory Police by letter dated 26 February 2012. He advised that the applicant was willing to comply with the request for reduced trading hours suggested by Police, namely from 6.00 pm to 1.00 am the following day for private functions. He advised further that “the Licensing Commission” (sic) has stipulated that detailed records of bona fide guests were to be kept if the licence was granted, including records of the amount of alcohol sold to each guest”. (Note: that stipulation may have come from the Licensing, Regulation and Alcohol Strategy agency however the Licensing Commission has not considered the application at all at this stage).
- 10) Mr Chalmers noted that he did not see a need to provide transport for patrons attending private functions as functions are pre-booked and include free camping accommodation at the venue. He also noted that security guards are always employed at private functions.
- 11) Police provided a response to the concessions made in Mr Chalmers’ letter via email dated 20 March 2012. Superintendent John Emery advised that the OIC of the Harts Range Police Station had no further comments and that he had spoken to the proprietors of the

Gemtree Caravan Park who had agreed to the amendments outlined in Commander Vanderlaan's letter of 26 February 2012.

- 12) As a consequence the Police comments have been addressed by the applicant and do not need to be referred to a Hearing.

Department of Families, Housing, Community Services and Indigenous Affairs (FAHCSIA):

- 13) By letter dated 29 February Mr Dave Chalmers, Northern Territory State Manager of FAHCSIA, expressed concerns in respect of the licence application. He noted that the application poses a risk to the health and safety of Aboriginal communities by introducing a new liquor supply outlet to the region. Mr Chalmers urged a careful consideration of any grant of a new liquor licence that may impact on local indigenous communities, especially for venues in remote areas.
- 14) Mr Chalmers, for the applicant, responded to the concerns raised by Mr Chalmers (of FAHCSIA) by letter dated 1 March 2012. He advised that, should the licence be granted, sales would be restricted to bona fide guests of the venue and not passing travellers or persons residing on remote communities. He submitted that, as a result, the grant of the licence would have no impact on harm related alcohol issues in respect of the general public or local indigenous communities.
- 15) Mr Chalmers also confirmed that, were the licence to be granted, the Licensee will maintain records of bona fide guests and the quantity of alcohol purchased by individuals. He submitted that such strict regulation of the supply of alcohol will provide a safeguard to prevent the sale of excessive quantities of alcohol and the possibility of intoxication. He confirmed that the application does not include proposals for the sale of take away alcohol.
- 16) By email dated 2 April 2012 Mr Chalmers (of FACSIA) responded to the letter submitted by Mr Chalmers for the applicant. He noted that contents of that letter, including that sales were of alcohol were to be to bona fide guests and patrons of pre-booked functions. Mr Chalmers sought confirmation that specific compliance activity be dedicated to monitor the operation of the licence, particularly in the first twelve months of operation.
- 17) As a consequence of the subsequent email from Mr Chalmers, the comments from FACSIA should not be treated as a formal objection and need not be referred to a hearing. The Commission assumes that the compliance monitoring issues raised by Mr Chalmers will be addressed by the Director of Licensing in an appropriate manner aimed at ensuring compliance by the Licensee with the licence conditions imposed if the licence were to be granted. That assumption is confirmed in an email from the Director of Licensing to Mr Chalmers (of FACSIA) confirming that, should the Commission determine to grant the licence, the licensee will receive a higher degree of compliance monitoring in view of the risk profile of the premises, including being a new Licensee.

Alcohol and Other Drugs Program:

- 18) Ms Michelle Ganzer, Senior Policy Officer, AODP provided comment on the application in an email dated 2 March 2012. She noted that as long as appropriate safeguards are in place for the Licence and the surrounding communities are not at risk/exposed to any potential alcohol related harms, AODP can see no identifiable concern with the proposal.
- 19) The prospect of the grant of the licence impacting on the health and wellbeing of residents of Aboriginal communities has been addressed by the applicant. Given the restricted nature of the licence applied for and the restrictions that will be placed on sales to guests of the caravan park the potential for any adverse impact on those residents is ameliorated to a significant extent.
- 20) The comments from AODP are noted and will no doubt be reflected in the licence conditions should the Commission grant the licence. As a result the AODP comments do not constitute an objection as prescribed by the Act and do not require a hearing.

NT Fire & Rescue Service (NTF&RS):

- 21) Mr John Oliver, Station Officer with NTF&RS advised that the agency had no objection to the application.

Consideration of the Issues

- 22) The comments provided by the agencies identified above have been addressed by the applicant and by the Director of Licensing. As none of those comments received constitute a formal objection as defined by section 47F of the Act they do not require a hearing. It is anticipated that the comments, together with the concessions made by the applicant in response to those comments, will be reflected in the licence conditions attached to the licence, if granted by the Commission.

Decision

- 23) On the basis that no objections have been received in respect of the application there is no requirement for the Commission to conduct a hearing prior to determining whether the licence should be granted.
- 24) It is recommended that the application for a liquor licence for the on-premise sale of alcohol for the Gemtree Caravan Park be referred to the Commission for consideration.

Philip Timney
Legal Member

30 April 2012