

# Northern Territory Licensing Commission

## Statement of Reasons for Decision to refer Objections to Hearing

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<b>Applicant:</b>	Darwin Cricket Club Inc
<b>Premises:</b>	Kahlin Oval Amenities Block
<b>Objectors:</b>	David and Jodie McLeod JD Jefleui Wayne and Wendy Bateman Jane De Gault James Taylor and Robyn Vincent Nick Halkitis Tass Halkitis Lorraine Maglis Penny Fowler and Renato Ciammaruconi Joyce Chin Lindo Masolin Elena Moretti JD Washington
<b>Matters under Consideration:</b>	Whether the letters written by the individuals listed above as objectors are "Objections" under Section 47F of the <i>Liquor Act</i> Whether any of the objections should be dismissed; and Whether there should be a hearing in relation to any of the objections
<b>Relevant Legislation:</b>	Sections 47F, 47G and 47I of the <i>Liquor Act</i>
<b>Date of Decision:</b>	16 November 2003

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### Background:

1. On 17 September 2003 and 19 September 2003 Mr Gregory Francis Bicknall (on behalf of the Darwin Cricket Club) placed advertisements in the *NT News* notifying the public of the application for a Continuing Special Licence to sell liquor from the premises known as Kahlin Amenities Block on Saturdays (12.00 to 21.00) and Sundays (12.00 to 20.00) to players and spectators. These days and hours of trading were specified as only for occasions when there were "home games". The advertisement specified that objections to the application were to be lodged with the Director of Licensing within 30 days of the date of the second advertisement.
2. 13 letters of objections, four letters of support and a letter from the Darwin City Council were received by the Director in relation to the application. This statement of reasons relates only to the letters of objections.
3. It is worth noting at this point that: all of the letters of objections were from residents of Larrakeyah living adjacent to, or near, the Kahlin Oval; all were addressed to the Director of Licensing; all were received by him within the 30 days specified in the advertisement; and all raised concerns about the possible impact of a liquor licence on the neighbourhood.
4. The letters of objection were sent to the applicant for a response. Greg Bicknall, responded, on behalf of the Darwin Cricket Club Inc, with a comprehensive letter setting out the history of the application and addressing the substance of the objections. He provided

comments on both the “common threads” running through the objections and on the contents of each individual objection letter.

5. On 12 November 2003 the matter was allocated to a Commission Member to consider the letters of objections and the response in accordance with sections 47F, 47G and 47I of the *Liquor Act*.

## Legislation:

6. Section 47F of the *Liquor Act* (the Act) states that a person, group or organisation may make an objection to an application for the grant of a liquor licence in particular circumstances. This section reads in part:
  - (1) *Subject to this section, a person, organisation or group may make an objection to an application for the grant of a licence.*
  - (2) *An objection under subsection (1) may only be made on the ground that the grant of the licence may or will adversely affect the amenity of the neighbourhood where the premises the subject of the application are or will be located.*
  - (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 of the Police Force;*
    - (d) *a member of the Fire and Rescue Service within the meaning of the Fire and Emergency Act;*
    - (e) *an Agency or a public authority that performs functions relating to public amenities;*
    - (f) *a community-based organisation or group (for example, a local action group or a charity)*
7. Subsections 47F(2) and 47F(3) therefore place limitations on both the grounds for objections and the types of people, groups or organisations that can object.
8. Subsection 47F(4) requires that an objection must be in writing, must be signed by or on behalf of the person, group or organisation, must set out the facts to be relied on to “*constitute the ground on which the objection is made*” and must be lodged with the Director within 30 days of the last advertisement for the application.
9. After providing the applicant with an opportunity to provide a written response to any objections, the Director must forward the objection(s) and response to the Chairperson of the Commission. Pursuant to section 47I the Chairperson must then select a member of the Commission to consider the substance of the objection(s). The Member may also inquire into any circumstance relating to the objection as he or she considers appropriate. The Member must then make a decision (in respect of each objection) to either dismiss the objection or to forward the objection, the response and the Member’s findings to the Commission for hearing.
10. An objection is to be dismissed where the Commission Member is satisfied that it is of a frivolous, irrelevant or malicious nature or that it does not describe circumstances that may or will adversely affect the amenity of the neighbourhood (see subsection 47I(3)(c)(i)).

11. Where the Member dismisses an objection he or she must direct the Director to inform the person, organisation or group who made the objection that the objection has been dismissed and to provide the Member's reasons for dismissing the objection (subsections 471(4), (5) & (6)).
12. Where the objection is not dismissed, the Member must determine that the Commission must conduct a hearing in relation to the objection and forward the objection, the applicant's reply to the objection and the Member's findings in relation to the objection to the Commission (subsection 471(3)(c)(ii)).

### **Findings and application of the law:**

13. The concept of neighbourhood is critical to determining the standing of objections lodged pursuant to section 47F of the *Liquor Act*. In this case I have determined that part of Larrakeyah constituting the residential areas surrounding the Kahlin Oval and the streets leading to and from the Oval, are all within the neighbourhood of the Kahlin Oval Amenities Block. As all of the objectors reside within these areas, they all satisfy the requirements of subsection 47F(3)(a).
14. All the objection letters were addressed to the Director of Licensing, were personally signed by the objectors and were lodged with the Director within 30 days of the last advertisement placed by Mr Bicknell. They all, therefore, meet the requirements of subsection 47F(4).
15. All of the letters raise concerns about the effect of the grant of a liquor licence on the amenity of the neighbourhood and therefore meet the requirements of subsection 47F(2).
16. On the information before me, I am satisfied that the objections address the issue of amenity of the neighbourhood and are not of a frivolous, irrelevant or of a malicious nature. This means that they cannot be dismissed under subsection 471(3)(c)(i) of the Act and the Commission must conduct a hearing in relation to the objections (subsections 471(3)(c)(ii) and 471(7)).

### **Decision:**

17. As the Member of the Commission appointed to consider the objections to the Darwin Cricket Club's application for a continuing special liquor licence, I have decided that the letters from David and Jodie McLeod; JD Jefleui; Wayne and Wendy Bateman; Jane De Gault; James Taylor and Robyn Vincent; Nick Halkitis; Tass Halkitis; Lorraine Maglis; Penny Fowler and Renato Ciammaruconi; Joyce Chin; Lindo Masolin; Elena Moretti and JD Washington are all objections under section 47F of the *Liquor Act*. I have also decided that there are no grounds for dismissing these objections, and that the Commission must conduct a hearing in relation to the objections.
18. It should be noted that my decisions regarding these objections are confined to threshold issues and cannot be taken as judgments about the merits of any particular objection or the appropriate outcome of the licence application. These issues will be addressed by the Commission in its decision after it has heard all the evidence at a hearing.

Miss Jill Huck

Member selected by the Chairman pursuant to subsection 471(2) of the *Liquor Act*