

Northern Territory Licensing Commission

Decision on Whether Objections will Proceed to Hearing

Premises:	Lassaters Hotel Casino
Applicant:	Ford Dynasty Pty Ltd
Nominee:	Christopher William Sartori
Licence Number:	80103004
Objectors:	Mr Danny Giles
Legislation:	Section 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:	4 July 2011

Background

- 1) By Application submitted on 8 March 2011, Mr Craig Jervis, on behalf of Ford Dynasty Pty Ltd, sought an amendment to the liquor licence conditions for the purpose of extending the trading hours for the Decking and Beer Garden area of the premises of the Lasseters Hotel Casino ("the Premises"). The application sought an extension of trading hours on Friday and Saturday nights to 4.00 am from the existing 3.00 am closure.
- 2) The Application was advertised in the Centralian Advocate on Friday 25 March 2011 and Tuesday 29 March 2011 pursuant to Section 32A(3)(a) of the Act.
- 3) The advertisement was as follows:

Liquor Act

1st Notice of Application to Change Trading Hours to Licensed Premises

Lasseters Hotel Casino

I, Craig William Jervis on behalf of Ford Dynasty Pty Ltd, trading as Lasseters Hotel Casino, – Hereby Give Notice that I have applied to the Northern Territory Licensing Commission for approval to increase trading hours to the licensed area of licensed premises "Lasseters Hotel Casino" located on Barrett Drive, Alice Springs, Liquor Licence (Number 80103004).

The applicant seeks to amend current trading hours for the Decking and Beer Garden.

Current Trading Hours:

10:00 am to 03:00 am the following day Monday to Sunday

Proposed Trading Hours:

10:00 am to 03:00 am the following day Sunday to Thursday

10:00 am to 04:00 am the following day Friday and Saturday

If this application is approved it will permit patrons to remain in the Decking and Beer Garden area of Lasseters Hotel Casino whilst the Juicy Rump is trading up to 04:00 am.

This is the first notice of application. The notice will be published in the Centralian Advocate on Friday 25 March 2011.

The objection period is deemed to commence from 29 March 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:

- 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 on telephone 89515128. 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 commencement date of the objection period.

Application will be advertised on a Tuesday and the following Friday.

Dated 16 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 Thursday 28 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 -

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 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).*
- 6) One objection has been lodged in response to the application and the applicant has provided a response to that 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.

Objection from Mr Danny Giles:

- 7) Section 47F(1)(b) provides that a person may lodge an objection to an application for variation of licence conditions. Mr Giles is a resident of 22 Sunset Court, Alice Springs, which is located opposite the Premises on the other side of the Todd River. Whilst Mr Giles residence is not in close proximity to the Premises, there are no other buildings or structures between the Premises and Mr Giles residence. As a result Mr Giles is a person residing in the neighbourhood where the premises the subject of the application are located and is therefore entitled, pursuant to by section 47F(3)(a), to lodge an objection in respect of the application. Mr Giles objection was received on 7 April 2011 and was therefore received within the objection period.
- 8) Mr Giles objection relates to the potential for the extended trading hours to impact on his residence through noise disturbance from patrons of the Premises. Mr Giles states that noise emanating from patrons of the Deck and Beer Garden Area of the Premises currently impacts on his enjoyment of his residence, particularly in the early hours of the morning. Mr Giles notes that, despite the distance between his residence and the Premises, noise travels freely from the Premises due to there being no intervening noise barrier. He also states that in the past patron noise and music from the Premises has forced him to close his windows to reduce the noise disturbance. Mr Giles also notes that an extension of trading hours has the potential to exacerbate the alcohol related issues facing Alice Springs generally.

Applicant's Response to Objections:

- 9) By letter dated 9 May 2011, Mr Jarvis responded to the objection and submitted that Mr Giles had misunderstood the variation that was being sought. He added that the variation was being sought to make the Deck Beer Garden area available to patrons to drink and smoke outside the venue whilst the inside bar is still operational. Mr Jarvis advised that no bands will perform and no music will be played in the Deck and Beer Garden Area during the additional hour of trading being sought with the result no additional noise is anticipated and the objection is unfounded.

Consideration of the Issues

- 10) The applicant has outlined the reasons for seeking the variations which are consistent with the aim of providing an outdoor area where patrons are able to smoke and during the final hour of trading on Friday and Saturday evenings. The Commission assumes the application arises as a result of the recent amendments to the *Tobacco Control Act* which restrict the areas in which patrons may smoke on licensed premises.
- 11) Mr Giles is concerned that the variation sought by the applicant to the hours of operation of the outside Deck and Beer Garden Area may result in increased noise and disturbance at his residence. The response from the Licensee is to the effect there will be no additional noise as no music will be played outside the venue during the additional trading hours sought. The Commission has no reason to doubt the veracity of that statement however Mr Giles objection also relates to noise emanating from patrons using the outside area during the proposed extended trading hours.
- 12) Mr Giles' objection relate to the amenity of the area and is consistent with grounds for objection contained in Section 47F of the Act. Mr Giles is a bona fide objector whose objection was lodged within the prescribed period.

Decision

- 13) The Commission has determined that the objection lodged by Mr Danny Giles is valid and requires a Hearing pursuant to Section 47I(7) of the Act.

Philip Timney
Legal Member

4 July 2011