

Northern Territory Licensing Commission

Decision on whether Objections will proceed to Hearing

Premises:	BP The Gap Service Station 73 Gap Road Alice Springs NT 0870
Licensee:	Australian Fuel Distributors Pty Ltd
Objectors:	Rodney Edwards, Pastor Allen Steel on behalf of Christian Family Centre, Jonathan Pilbrow on behalf of Peoples Alcohol Action Coalition (PAAC) Michael Harries on behalf of Western Desert Nganampa Walytja Palyanjaku Tjutaku Aboriginal Corporation (WDNWPT) Associate Professor Sabina Knight, Remote Area Nurse, Alice Springs and Julie Weber on behalf of Lutheran Community Care
Legislation:	Sections 4F to 47I of the <i>Liquor Act</i>
Decision Of:	Ms Brenda Monaghan
Date of Decision:	22 February 2010

Summary of Decision

Hold a Hearing in respect of the objections received from:

- Rodney Edwards, resident,
- Pastor Allen Steel on behalf of Christian Family Centre,
- Jonathan Pilbrow on behalf of Peoples Alcohol Action Coalition (PAAC),
- Michael Harries on behalf of Western Desert Nganampa Walytja Palyanjaku Tjutaku Aboriginal Corporation (WDNWPT),
- Associate Professor Sabina Knight, Remote Area Nurse, Alice Springs and
- Julie Weber on behalf of Lutheran Community Care

Background

- 1) Australian Fuel Distributors Pty Ltd, Licensee of BP The Gap Station made application on 30 September 2009) for a variation to the licensed area of BP The Gap Station, 73 Gap Road, Alice Springs.
- 2) The application was advertised twice in the Centralian Advocate on Tuesday 20 October 2009 and Friday 23 October 2009. Copies were also forwarded to Development Assessment Services, Northern Territory Fire and Rescue Services, Director of Alcohol and Other Drugs, Northern Territory Police and the Alice Springs Town Council for their comments. The advertisement was as follows:

I John Youde, on behalf of Australian Fuel Distributors Pty Ltd, HEREBY GIVE NOTICE that I have applied to the Northern Territory Licensing Commission to vary the licensed area

at our existing premises known as, *BP The Gap Service Station 73 Gap Rd Alice Springs, Liquor Licence No 80902634.*

Proposed Alteration Details are as follows:

- *Construct a new building behind the existing service station at 73 Gap Rd Alice Springs*
- *The new design will be modern and more user friendly*
- *After completion the liquor licensed area will be transferred from the current building which will be demolished*
- *Liquor licence conditions will remain the same*
- *Sale of liquor will remain ancillary to main purpose of the premises as a service station general store*
- *Plans can be sighted at this office*

3) Pursuant to Section 47F(4)(a)(b)&(d) of the *Liquor Act*, an objection must be in writing, signed by the objector and lodged with the Director within thirty (30) days after the publication of the last notice of advertisement- namely by Monday 23 November 2009. Six (6) objections were received in compliance with these requirements as follows:

- **Rodney Edwards** – The written letter of objection is duly signed and dated 28 October 2009. It was received on 2 November 2009 and is within time.
- **Pastor Allen Steel on behalf of Christian Family Centre**– The written letter of objection is duly signed and dated 19 November 2009. It was received on 20 November 2009 and is within time.
- **Jonathan Pilbrow on behalf of Peoples Alcohol Action Coalition (PAAC)** - The written letter of objection is duly signed and dated 20 November 2009. It was received on 23 November 2009 and is within time.
- **Michael Harries on behalf of Western Desert Nganampa Walytja Palyanjaku Tjutaku Aboriginal Corporation (WDNWPT)** - The written but unsigned letter of objection dated 19 November 2009 was received by post on 23 November 2009 and is within time. A signed copy was later sought and provided. Pursuant to s127 of the Act, the Commission has used its powers to extend time for the lodgement of a signed objection in this matter. A signed copy has now been received and accepted.
- **Associate Professor Sabina Knight, Remote Area Nurse, Alice Springs**– A signed written objection dated 19 November 2009 was received by post on 23 November 2009 within time.
- **Julie Weber on behalf of Lutheran Community Care** – A signed written objection dated 23 November 2009 was received by post on 24 November 2010. Section 47F(5) of the *Liquor Act* states:

(5) If an objection is lodged by post, the objection is taken to be duly lodged with the Director if it is delivered to an office of Australia Post for transmission to the office of the Director within the period referred to in subsection (4)(d).

For this reason, the objection is considered to be within time.

4) Section 47F (3) of the Act lists the categories of persons who have standing to object to an application such as this. It provides -

- (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).*

Following consideration of the objections lodged, I make the following decision on standing in accordance with s47F (3):

- **Rodney Edwards** – resides in Kempe St very close to Gap Road and the service Station in question. He lives in the neighbourhood.
- **Pastor Allen Steel on behalf of Christian Family Centre**—a Christian Church based in Alice Springs. The applicant, in his response has not challenged the status of this group as an objector. The Church has standing under s47F (3) (f) of the Act.
- **Jonathan Pilbrow on behalf of Peoples Alcohol Action Coalition (PAAC)** – this organisation have status as an objector under s47F (3) (f) of the Act.
- **Michael Harries on behalf of Western Desert Nganampa Walytja Palyanjaku Tjutaku Aboriginal Corporation (WDNWPT)** - this organisation have status as an objector under s47F(3)(f) of the Act.
- **Associate Professor Sabina Knight, Remote Area Nurse, Alice Springs** –Enquiries made of Ms Knight confirms that she works in the neighbourhood as a health worker. Ms Knight has standing under s47F (3) (a) of the Act.
- **Julie Weber on behalf of Lutheran Community Care**—the written objection confirms that this organisation has an office at 55A Gap Road, works in the area and that it complies with s47F(3)(a)&(f) of the Act. It has standing as an objector.

5) The content and substance of the objections is limited by s47F (2) which states:

- (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.*

Further, pursuant to s47F (4) (c), an objection must “*set out the facts relied on by the person, organisation or group to constitute the ground on which the objection is made.*”

I have considered the content of the letters of objection and the response received from the applicant's solicitor Mr Crowe. I find as follows:

- **Rodney Edwards**-The objection outlines Mr Edward's concerns as a resident on issues of public safety under s47F (2) (b). He sets out clearly the facts relied upon.
- **Pastor Allen Steel on behalf of Christian Family Centre (CFC)** - The objection outlines CFC's concerns about the impact of alcohol abuse on the Alice Springs Community. Their concerns fall within s47F (2) (b) and the facts relied on are provided.
- **Jonathan Pilbrow on behalf of Peoples Alcohol Action Coalition (PAAC)** –The objection outlines in detail PAAC's concerns about the application including the fact that it relates to liquor sold from a petrol station, the potential for an increase in sales and consumption and the detriment that would flow from that and the reality of the high level of alcohol abuse in Alice Springs. Their concerns fall within s47F (2) (b) and the facts relied on are provided.
- **Michael Harries on behalf of Western Desert Nganampa Walytja Palyanjaku Tjutaku Aboriginal Corporation (WDNWPT)** - The objection outlines WDNWPT's concerns about the impact of alcohol abuse on the health and wellbeing of Alice Springs residents and the concerns about the detrimental impact of an increase in liquor sales from the premises. Their concerns fall within s47F (2) (b) and the facts relied on are provided.
- **Associate Professor Sabina Knight**- The objection outlines Ms Knight's concerns about the application including the fact that it relates to liquor sold from a petrol station, the value of the current management practices at the premises, the benefit of seeing this liquor outlet closed completely and the lack of any need for more or improved liquor outlets in Alice Springs. Her concerns fall within s47F (2) (b) and the facts relied on are provided.
- **Julie Weber on behalf of Lutheran Community Care**_ - The objection outlines the organisation's concerns about the impact of alcohol abuse on the health and wellbeing of Alice Springs residents and particularly Abbots Town Camp residents, concerns about the detrimental impact of an increase in liquor sales from the premises- particularly from a petrol station. Their concerns fall within s47F (2) (b) and the facts relied on are provided.

Determination

- 7) All of the objectors have made objections that meet the requirements of the Act and are therefore valid and require hearing.

Brenda Monaghan
Legal Member

22 February 2010