

# Northern Territory Licensing Commission

## Decision on whether Objections will proceed to Hearing

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<b>Applicant:</b>	Globies Pty Ltd
<b>Nominee:</b>	Mr Steven Dugan
<b>Premises:</b>	Globetrotters Lodge & Bar 97 Mitchell Street Darwin NT 0800
<b>Objectors:</b>	Mr David Swift, Resident, 29/101 Mitchell Street, Darwin Mr Rodney Stroud, Resident, 28/101 Mitchell Street, Darwin Mr Nado Dean, Resident, 15/101 Mitchell Street, Darwin Ms Faye Hartley, Resident, 19/101 Mitchell Street, Darwin Ms Theda Wouts, Resident, 29/101 Mitchell Street, Darwin Ms Eileen Cavanagh, Resident, 45/1 Buffalo Court, Darwin Darwin City Council
<b>Relevant Legislation:</b>	Sections 47F, G & I of the <i>Liquor Act</i>

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### Summary of Decision

The Darwin City Council, Mr David Swift, Mr Rodney Stroud, Mr Nado Dean, Ms Faye Hartley, and Ms Theda Wouts are valid objectors and require a hearing. The objection of Ms Eileen Cavanagh is dismissed on the grounds that she does not reside within the neighbourhood and the Director is asked to advise her of this decision.

### Background

- 1) An application has been made by Mr Gary Coleman on behalf of Globies Pty Ltd (the applicant) for a material alteration to the existing Liquor Licence Number 80316050 for Globetrotters Lodge, located at 97 Mitchell Street, Darwin.
- 2) The application for material alteration involves a two (2) stage extension of the licensed premises to incorporate an alfresco dining area to the front and side of the existing facility. The application for the material alteration was advertised on 1 and 6 May 2009 in the following terms:

*Globies Pty Ltd, Hereby Give Notice that it has applied to the Northern Territory Licensing Commission for a material alteration to the existing Liquor Licence No. 80316050 for the premises known as Globetrotters Lodge, located at 97 Mitchell Street, Darwin.*

*The application for material alteration involves a two stage extension of the licensed premises to incorporate an alfresco dining area to the front and side of the existing facility in accordance with the plan lodged with the Director of Licensing.*

*Proposed Alterations are as follows:*

*Stage 1:*

*Incorporate an alfresco dining area to the side of the existing facility.*

*Trading hours shall be 17:00 to 23:00 hours, seven (7) days a week.*

*The area shall have the appearance of a dining area and meals and/or snack foods shall be readily available.*

*There shall be seating provided in the alfresco area for at least 80 percent (80%) of the maximum patron capacity allowed by the NT Fire and Rescue Service.*

*The area shall be clearly delineated to identify the licensed area.*

Stage 2:

*Incorporate a footpath alfresco dining area to the front of the existing facility. This alteration will be deferred to a later date.*

*Trading hours shall be 10:00 to 23:00 hours, seven (7) days a week.*

*The area shall have the appearance of a dining area and meals and/or snack foods shall be readily available.*

*The Licensee shall comply with the requirements of the Darwin City Council regarding alfresco dining.*

*Patrons in the area are to be seated.*

*The area shall be clearly and physically delineated from the public footpath.*

*Persons under the age of 18 may enter and remain on the licensed premises from 10:00 hours to 23:00 hours only if they are in the company of their parent, guardian or spouse (who has attained the age of 18 years).*

## **Objections received from Residents**

- 3) Objectors are given thirty (30) days under the *Liquor Act* (the Act) to forward their objections to the Director of Licensing. The end of the objections period was Friday 5 June 2009 and the following responses were received from residents on or before that date as follows:
  - i) David Swift, who resides at 29/101 Mitchell St Darwin;
  - ii) Mr Rodney Stroud, who resides at 28/101 Mitchell St Darwin;
  - iii) Mr Nado Dean, who resides at 15/101 Mitchell St Darwin;
  - iv) Ms Faye Hartley, who resides at 19/101 Mitchell St Darwin;
  - v) Ms Theda Wouts, who resides at 29/101 Mitchell St Darwin; and
  - vi) Ms Eileen Cavanagh who resides at 45/1 Buffalo Court. Darwin.
- 4) Part IV of the *Liquor Act* (the Act) deals with the objection process including the valid grounds for objection, the persons or organisations that have standing to object, the form and content of the objection itself and the manner of delivery. Part IV also ensures that the applicant is given an opportunity to view and respond to any objections and gives guidance on the factors to be taken into account when deciding whether an objection should proceed to hearing.
- 5) Only certain categories of people have standing to object (Section 47F (3) of the Act). The first category relevant to me in this decision is “(a) a person residing or working in the neighbourhood where the premises the subject of the application are or will be located.”
- 6) There is no definition of *neighbourhood* in the Act. The omission is deliberate in that the relevant community or area which may be classed as the *neighbourhood* will vary depending upon the location of the purposed licensed premises and the type of licence

being sought. In his second reading speech, the Minister confirmed that the relevant *neighbourhood* would be a question of fact to be determined by the Licensing Commission in each particular case.

- 7) Globetrotters is situated on Mitchell St with the Top End Hotel, Darwin Entertainment Centre, Discovery and the Noodle House as its nearest licensed neighbours. The residents of 101 Mitchell St are clearly within the neighbourhood of the licensed premises. They are geographically close and any licence variations could potentially affect them in a material way.
- 8) There is only one objector who resides elsewhere, namely at Buffalo Court on the far side of Daly St. I do not consider that this location is within the neighbourhood of the licensed premises in question as it is geographically too far removed to be impacted upon by the material variation sought to extend 'on premises' drinking areas. For this reason, I find that the objection by Ms Eileen Cavanagh is rejected on the grounds that it is not within the neighbourhood.
- 9) The letters of objection received from Mr David Swift, Mr Rodney Stroud, Mr Nado Dean, Ms Faye Hartley and Ms Theda Wouts all comply with the formal requirements of Section 47F of the Act. They are in writing, signed by the objector and each set out facts that constitute the grounds for objection. It is noted that Mr Stroud simply relies on the facts contained in Mr Swift's letter of objection but this is sufficient to be considered an objector. It is noted that the applicant has been provided with copies of all objections and has provided a formal response which has been taken into account in making this decision on standing of objectors.

### **Darwin City Council Objection:**

- 10) There is one (1) other objection to be considered. In its response which was received within time, Darwin City Council objected to the second phase only of the proposed material alterations on the basis that no approval had been sought from the Council to use Council land for alfresco dining. The City Council have standing to object under Section 47(3)(e) of the Act. The objection is signed by Mr Peter Lindwall, Strategic Town Planner and contains details of the Council's resolution on the issue. The letter fulfils the requirements of the Act and Darwin City Council is considered to be a valid objector.
- 11) Other responses were received from a number of government agencies but are not intended to be objections. They are from the Development Consent Authority, Northern Territory Police and the Department of Health and Families. These responses raise issues and comments for the consideration of the Commission at the final hearing and will be included in the Hearing Brief.

### **Decision**

- 12) As the member of the Commission appointed to consider the objections to this application for a material alteration, I consider that the following objectors are valid and require a hearing:
  - i) Darwin City Council;
  - ii) David Swift;
  - iii) Mr Rodney Stroud;
  - iv) Mr Nado Dean;
  - v) Ms Faye Hartley; and
  - vi) Ms Theda Wouts.

13) The following person is not a valid objector for the reasons set out above and I direct the Director to inform her of my decision.

- i) Ms Eileen Cavanagh.

Brenda Monaghan  
Legal Member

3 September 2009