

Liquor Commission of Western Australia
(Liquor Control Act 1988)

Applicant: Riloch Pty Ltd
(represented by Mr Dane Chandler, instructed by Mr Jeremy Chitty of Robertson Hayles Lawyers)

Intervenor: Chief Health Officer
(represented by Ms Rebecca Davey of State Solicitor's Office)

Objector in attendance: Commissioner of Police
(represented by Ms Gemma Mullins of State Solicitor's Office)

Objectors not in attendance: McCusker Centre for Action on Alcohol and Youth
Tarlka Matuwa Piarku Aboriginal Corporation

Commission: Mr Paul Shanahan (Presiding Member)
Ms Sarah Oliver
Ms Kirsty Stynes

Matter: Application for review of the decision of the delegate of the director of Liquor Licensing for the conditional grant of a liquor store licence for the premises known as Wiluna Traders pursuant to section 25 of the *Liquor Control Act 1988*

Premises: Wiluna Traders, 37 Wotton Street, Wiluna

Date of Hearing: 17 October 2019

Date of Determination: 13 March 2020

Determination: The application is refused and the decision of the Delegate of the Director of Liquor Licensing is affirmed.

Authorities referred to in determination:

- *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208
- *Woolworths Ltd v Director of Liquor Licensing* [2013] WASCA 227

Background

- 1 This is an application for review of the decision of the Delegate of the Director of Liquor Licensing refusing the conditional grant of a liquor store licence for the premises known as Wiluna Traders, pursuant to section 25 of the *Liquor Control Act 1988* (“the Act”).
- 2 On 17 October 2019, the Commission conducted a hearing to determine the application for review.
- 3 At the hearing the Applicant agreed that the history and experience of alcohol related harm in Wiluna was accurately summarised by the Director of Liquor Licensing (“the Director”) in the reasons for decision dated 14 June 2019. The Commission, having considered the material before it, accepts the following:
 - a. there has been a history of alcohol abuse within Wiluna which has brought associated health, welfare and crime concerns;¹
 - b. Wiluna has experienced voluntary and mandated restrictions in relation to the sale of alcohol;
 - c. in the 1970s, problems arose with drunkenness amongst Wiluna’s Aboriginal population, and there was an agreement with the hotel in Wiluna and the local Police which provided that:
 - i. the hotel would only serve beer;
 - ii. packaged liquor would only be sold between 2pm and 7pm; and
 - iii. packaged liquor sales would be limited to low strength beer during law business times or when funerals occurred;
 - d. the agreement was later amended to beer being only sold in cans due to issues surrounding glass bottles in fights;
 - e. the “Club Hotel” was the sole licensed premises in Wiluna until the licence was surrendered in August 2017; and
 - f. there has been no licensed premises in Wiluna since the Club Hotel surrendered its licence.
- 4 The Commission has been provided with a number of materials in relation to this application. The fact that a piece of evidence has not been referred to does not mean it has not been considered by the Commission. The Commission has considered all the evidence and material relied upon by the parties in reaching its ultimate conclusion.

Applicant’s submissions

- 5 Wiluna Traders is owned and operated by the Applicant and is currently operated as a grocery, fresh produce, general store, Caltex fuel stop and licensed Post Office operating seven days per week.²
- 6 The business is the primary supplier of goods and services to the township of Wiluna and the surrounding area.³

¹ Outline of Submissions in Support of Liquor Licence Application attached to an email dated 3 October 2019, 1.

² PIA, 4.

³ Ibid.

- 7 Since July 2017 there has been no packaged liquor available in the immediate vicinity of Wiluna. However, there is online purchasing facilitated by the Applicant's Australia Post outlet, whereby consumers can order online from such outlets as Dan Murphy's. Alternatively, consumers can travel to surrounding towns located more than 200km away.
- 8 In considering whether the application is in the public interest, the Applicant has provided Public Interest Assessment (PIA) Submissions dated 19 March 2018. In those submissions the Applicant has addressed the matters outlined in section 5 and section 38(4) of the Act.
- 9 In summary it was contended that the granting of the application is in the public interest for the following reasons:
- a. binge drinking and anti-social behaviour: the Applicant will be in a position to provide better liquor control, minimising the risk and disadvantage to residents by influencing the responsible sale and consumption of alcohol within Wiluna;⁴
 - b. convenience of purchasing: offer a one stop shopping experience for residents and visitors which the Applicant asserts is commonly acknowledged to be a matter in the public interest: *Woolworths Ltd v Director of Liquor Licensing* (2013) 45 WAR 446 at [78];
 - c. competitive pricing: the Applicant will compete with the attractive pricing schedule of Dan Murphy's and other online competitors;
 - d. a market will be met: the absence of any licensed venue open to the public for residents and visitors has resulted in a market for alcohol not being met;⁵ and
 - e. discourage "grog runs": consumers of alcohol will not have to travel hundreds of kilometres to buy alcohol which "*appear to be the root cause of the harm and potential for further harm experienced since there has been no licensed venue within the Shire.*"⁶
- 10 In support of the application the Applicant has identified the following consequences of there being no licensed venue in Wiluna:
- a. There is at least a reasonable perception that it has made problems worse by reason of residents and visitors only being able to access alcohol outside of Wiluna, with little if any relevant restrictions.
 - b. Some of the alcohol related problems have spread to the localities where residents must travel to acquire alcohol. The Applicant relies on an email from Mr Epis, the Chief Executive Officer from the Shire of Leonora in this regard⁷.
 - c. The absence of restrictions at stores outside Wiluna has meant that the types of liquor consumed by residents has changed, particularly to bottles of straight hard spirits which have not previously been available⁸.
 - d. "Grog runs" have encouraged and increased the occurrence of binge drinking.⁹

⁴ Supra 1, at [9].

⁵ Supra 1, at [8].

⁶ Ibid, at [31].

⁷ Email from Mr Epis to Mr Chitty dated 27 August 2018.

⁸ Supra 1, at [35]

⁹ Supra 1 at 36.

- 11 The application was accompanied with letters of support from the Chief Executive Officers of the Shire of Sandstone, Wiluna and Leonora.
- 12 On 3 October 2019, the Applicant emailed further submissions amending the proposed operation of the licence. The Applicant proposes to operate Monday to Friday between 3pm and 6pm and Saturday between 11am and 2pm. In addition, it is asserted that there will be “Limited” trading days on which full strength liquor would not be sold to residents and “Excluding” days on which there would be no liquor sold. The Applicant further proposes that Wiluna residents be limited to one carton of full-strength beer or pre-mixed spirits per day, and the containers not be glass. Further, wine and spirits would not be on display and can only be sold to non-residents.
- 13 The Applicant submitted that the adoption of the restricted conditions as suggested by the Intervenor and objectors, would result in the grant of a licence that can make the consequential risk of alcohol related harm acceptable.
- 14 The Applicant in its PIA referred to the WA Alcohol and Drug Interagency Strategy 2016 and highlighted the following statistics:
 - a. People living in remote areas are twice as likely as people in major cities to drink alcohol and have other drug-related problems and mental illness.
 - b. Drug and alcohol problems may significantly impact on extended family members, including grandparents.
 - c. Aboriginal people experience disproportionate amounts of harms and high access rates to treatment from alcohol and other drug use.
 - d. Health and life expectancy between Aboriginal and non-Aboriginal Australians is significantly impacted by drug related problems.
 - e. Wiluna has a high offender or incarceration number in relation to domestic violence and alcohol related offences.
- 15 The Applicant acknowledges that the Wiluna Shire has a predominately Aboriginal population and would identify itself as an “at-risk” area given the socio-economic fabric of the community.
- 16 The Applicant suggested in combating the potential negative impact on the Aboriginal and wider community that a liquor standing committee be formed to liaise with authorities and leaders from the community to identify problem drinkers causing harm, limit supply and close premises for the duration of cultural events.
- 17 To further address the characteristics of the community, the Applicant proposed the following:
 - a. adopt alcohol restriction days, which could include on Centrelink payment days;
 - b. restrict cheap alcohol products;
 - c. prohibit the sale of alcohol on credit;
 - d. prohibit the licensee from retaining a credit card;
 - e. prohibit unaccompanied juveniles from entering the licensed area; and
 - f. prohibit alcohol for collection before or after the permitted hours of sale.

Submissions on behalf of the Intervenor

- 18 The Intervenor made representations that the Applicant has failed to discharge its onus under section 38(2) that the grant is in the public interest.
- 19 The Intervenor submits the following:
- a. there is a high rate of pre-existing alcohol related harm and ill health in Wiluna;
 - b. there will likely be an increase if the application is granted; and
 - c. the likely harm outweighs any benefit of the application.
- 20 The Intervenor referred to the 2016 Census data and submitted there are approximately 720 residents in Wiluna of which 30% are Aboriginal and Torres Strait Islander. As a result, the township is considered an at-risk community given Aboriginal people are more likely to experience harms associated with the consumption of alcohol. The publication of Gray and Colleagues shows that:¹⁰
- a. between 2010 to 2014, Aboriginal males and females died from conditions solely caused by alcohol more frequently than non-Aboriginal males and females;
 - b. between 2011 to 2015 suicide among Aboriginal people was 2.1 times higher than non-Aboriginal people with 40% of male and 30% of female suicides attributable to alcohol use; and
 - c. the rate of hospitalisation was significantly higher, for assaulted related to family violence for the years 2012/13 being 37.8%, 2013/14 being 36.5% and 2014/15 being 46%.
- 21 The Intervenor refers to the SEIFA data, which reported that the Shire of Wiluna is the fourth most disadvantaged Local Government Area in Western Australia.¹¹ Further, it is one of the most disadvantaged suburbs falling within the bottom two percent¹² with unemployment almost double the State average.
- 22 The Intervenor submits that increased availability of alcohol may disproportionately impact vulnerable at-risk members of the community as drinking behaviours and socio-economic circumstances influence one another. This, according the Intervenor, is supported by the observations of the Ngangganawili Aboriginal Health Service (“NAHS”) employee who observed that the absence of employment or other activities in town means many community members have been observed to “drink all day”.¹³
- 23 The Intervenor also submitted the following information in relation to alcohol-attributable hospitalisation data – 2011 to 2015:¹⁴
- a. the rate of alcohol-attributable hospitalisations for all persons residing in the Wiluna LGA was significantly higher (1.38 times) than for the corresponding State rate;

¹⁰ Gray, D., Cartwright K., Sterne, A., Siggers, S., Wilkes, E & Wilson, M. (2017) Review of the harmful use of alcohol among Aboriginal and Torres Strait Islander People. Australia Indigenous HealthInfoNet. P. 2.

¹¹ Notice of Intervention, Supporting Representations dated 11 June 2018, 15 referring to the Australian Bureau of Statistics. (2018) Census Population and Housing: Socio-Economic Indexes for Areas (SEIFA), Australia, 2016 (2033.0.55.001).

¹² Ibid.

¹³ Notice of Intervention, Supporting Representations dated 11 June 2018, 15.

¹⁴ Ibid, at 31.

- b. among female residents, the rate was significantly higher (2.58 times) than the corresponding State rate; and
 - c. the rate of alcohol-attributable hospitalisation due to chronic conditions for Wiluna LGA male and female residents was similar to the State.
- 24 Representations were also made in relation to Foetal Alcohol Spectrum Disorder (“FASD”) on children within the locality. The Medical Director of NAHS observed that *“I think the issue of FASD is one of the most significant issues for the future of this community”*. There were no figures available for Wiluna, however higher rates of FASD are reported among Aboriginal and Torres Strait Islander Communities.
- 25 The availability, according to the Intervenor, of packaged liquor is associated with increased rates of a number of harms in the community including but not limited to domestic and family violence and child maltreatment. The risk of violence for every additional 10,000 litres of pure alcohol sold from a packaged liquor outlet, increased the risk of violence by 27%.¹⁵ The Intervenor submits that increased availability may therefore impact on the level and severity of domestic violence and family violence incidents in the community.¹⁶
- 26 The Applicant asserts that Wiluna is supported by a modern and high functioning hospital and health service. Clarification of the hospital facilities was sought by the Commission at the hearing of the matter and it was confirmed as outlined in the Intervenor’s written submissions that it is a not an in-patient facility and persons requiring treatment would be transferred via the Royal Flying Doctor Service to hospital facilities in Perth.
- 27 By reason of the above matters, the Intervenor submits that the grant of the licence is not in the public interest due to the risk of increased harm and ill-health in Wiluna.

The Objection by Commissioner of Police

- 28 The Commissioner of Police (the “Commissioner”) objects to the application on the grounds that:
- a. the application is not in the public interest; and
 - b. granting the licence would cause undue harm or ill-health to people, or any group of people due to the use of liquor.
- 29 The Commissioner submits that the Commission ought to affirm the Decision for the following reasons:
- a. the Applicant has not discharged the onus imposed by section 38(2) of the Act by providing an appropriate level of evidence the application is in the public interest;
 - b. the totality of the evidence establishes that there are high levels of harm and ill-health due to the use of liquor in Wiluna, such that an increase in the accessibility of packaged liquor is likely to exacerbate what are already unacceptable levels of harm; and
 - c. when balanced against other factors to determine if it is in the public interest to grant the application, the nature and degree of the harm and ill-health that is already caused by liquor weighs heavily in favour of affirming the Decision to the refuse the grant.

¹⁵ Ibid.

¹⁶ Ibid, 23.

- 30 According to the Commissioner, the Applicant has not discharged its onus that the application is in the public interest as there has been a failure to provide evidence to demonstrate a consumer requirement for a liquor store in Wiluna. Further, if there was a requirement, then the content and extent of that requirement is such that the Commission is unable to weigh and balance any such requirement against the high level of existing harm and the potential increase to decide whether the granting of the application is in the public interest.¹⁷
- 31 In relation to harm and ill-health the Commissioner asserts that, notwithstanding the absence of a licensed premises, liquor continues to have a negative impact throughout Wiluna and adopts the submissions made by the Chief Health Officer in this regard. The Commissioner provided a number of tables in relation to rates of alcohol related offending in Wiluna. The 2017 figures reveal the following:
- a. alcohol related offending per 1,000 persons is in excess of 14 times the metropolitan rate, and 3.5 times the regional rate;
 - b. the percentage of alcohol-related offending as a percentage of all offending is in excess of 11 times the metropolitan rate, and 3 times the regional rate;
 - c. alcohol related domestic assaults per 1,000 persons is in excess of 18 times the metropolitan rate, and 3 times the regional rate; and
 - d. the percentage of alcohol related domestic assaults as a percentage of all domestic assaults is in excess of 4 times the metropolitan rate, and 1.5 times the regional rate.
- 32 The Commissioner submits that the measures proposed by the Applicant to reduce or avoid such harms has either failed to provide the Commission with appropriate evidence or there is an inability to implement the measure such as in relation to street drinking or the Liquor Standing Committee.
- 33 In conclusion, the Commissioner submits Wiluna has complex issues of social, economic and alcohol related harm and the totality of the evidence establishes there are high levels of harm and an increase accessibility of alcohol is likely to exacerbate what are already unacceptable levels of harm. Further, the Commissioner submits that the Applicant's evidence is deficient and that the Applicant has failed to discharge its onus.

Other objectors

- 34 The Commission has summarised the representations and evidence of the Intervenor and the First Objector who appeared at the section 25 hearing. The case of the remaining two objectors was summarised in the decision of the Delegate at first instance, and the Commission relies upon that summary for the purpose of these reasons.¹⁸

Statutory Framework

- 35 The Commission in carrying out its functions shall have regard to the primary objects of the Act and also to the secondary objects.¹⁹
- 36 Pursuant to section 38(2) of the Act, the Applicant must satisfy the Licensing Authority that granting the application is in the public interest.

¹⁷ Outline of Primary Submissions of the Commissioner of Police, at [33-36].

¹⁸ Paragraphs [60-64] and [65-71].

¹⁹ Liquor Control Act 1988 (WA), s 5(2).

- 37 In considering whether the grant of an application is in the public interest, the Commission needs to consider the positive and negative aspects of the application and how the application will promote the objectives of the Act.²⁰
- 38 In *Woolworths Ltd v Director of Liquor Licensing*²¹, His Honour Buss JA set out the statutory framework for a determination of an application in which an applicant had to satisfy the Commission that the granting of an application was in the public interest in the following terms:
- a. by section 38(2) of the Act, an applicant has to satisfy the Commission that the granting of an application is in the public interest;
 - b. the expression 'in the public interest', when used in a statute, imports a discretionary value judgment;²²
 - c. the factual matters which the Commission is bound to take into account, in determining whether it is satisfied that the granting of the application is in the public interest are those relevant to the objects of the Act, as set out in section 5(2) of the Act;
 - d. the matters which the Commission may have regard to in determining whether it is satisfied that the granting of an application is in the public interest are those set out in section 38(4) of the Act, without limiting section 38(2);
 - e. section 5(2) is mandatory whereas section 38(4) is permissive; and
 - f. on the proper construction of the Act (in particular, sections 5(1), 5(2), 16(1), 16(7), 30A(1), 33 and 38(2)), and to the extent that the matters arose on the evidence before the Commission, the Commission is obliged to take into account the public interest in:
 - i. catering for the requirements of consumers for liquor and related services with regard to the proper development of the liquor industry in the State; and
 - ii. facilitating the use and development of licensed facilities so as to reflect the diversity of the requirements of consumers in the State.
- 39 In a case in which issues of harm and ill-health are the primary considerations relating to an application, that being one of the primary objects set out in section 5 of the Act, the approach that the Commission must adopt in its determination of an application is that outlined by His Honour Allanson J in *Carnegies Realty Pty Ltd v Director of Liquor Licensing*.²³ Based on that decision, the Commission is required to:
- a. make findings that specifically identify the existing level of harm and ill-health in the relevant area due to the use of liquor;
 - b. make findings about the likely degree of harm to result from the grant of the application;
 - c. assess the likely degree of harm to result from the grant of the application against the existing degree of harm; and
 - d. weigh the likely degree of harm, so assessed, together with any relevant factors to determine whether the Applicant had satisfied the Commission that it was in the public interest to grant the licence.

²⁰ [2013] WASCA 227.

²¹ *Ibid*, 2.

²² [2013] WASCA 227, at [48].

²³ *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208.

Determination

40 The Applicant acknowledges that there has been a history of abuse of alcohol in Wiluna, which has brought associated health, welfare and crime problems. Further, the Applicant acknowledges that residents may fairly be described as being at risk of alcohol related harm.²⁴

41 Where harm and ill-health is a relevant factor in the consideration of granting a licence, the Commission is to adopt the approach taken in *Carnegies Realty Pty Ltd v Director of Liquor Licensing*.²⁵

42 The Commission makes the following findings:

- a. There is an existing level of harm and ill-health in Wiluna due to the use of liquor. The finding is based on the totality of the evidence having had particular regard to the alcohol related hospitalisation and offending rates being higher than corresponding State rates.
- b. The likely degree of harm to result from the grant of the application is unacceptable.

Wiluna is ranked as one of the most disadvantaged suburbs, falling within the bottom two percent of the State. Wiluna suffers from high levels of unemployment and the Commission accepts there is a link between unemployment and its ability to exacerbate alcohol related problems. A NAHS employee in Wiluna observed that in the absence of employment many community members “*drink all day*”.

The Applicant runs the only grocery outlet in Wiluna. At present consumers can order liquor online from such stores as Dan Murphy’s and have the liquor delivered to the Applicant’s store. It is open to Commission on the evidence to draw the inference that if the application is granted, individuals may attend the supermarket to purchase groceries and decide to purchase alcohol instead of or in addition to groceries, which will result in less money being spent on food for the individual or their dependant family members. The Commission makes that inference.

The Commission accepts there is a link between the availability of packaged liquor and increased rates of harm in the community including but not limited to domestic and family violence. The Applicant intends to sell liquor at prices consistent with competitors such as Dan Murphy’s. The availability and access of low priced packaged liquor in Wiluna as proposed by the Applicant is likely to contribute to the existing rate of alcohol related harm in the community.

When consumers in Wiluna order liquor online from outlets such as Dan Murphy’s, then those consumers must purchase that liquor some days before that liquor will arrive. This means that online purchases of alcohol are more likely to be the result of careful consideration and planning, and the result of consumers weighing the deferred gratification of that liquor against other uses for that money (such as buying food). However, if the licence sought by the Applicant is granted, then those consumers will be able to purchase liquor from the Applicant without any planning or reflection. In other words, in those circumstances, those consumers could more easily make impulsive purchases of liquor.

²⁴ Applicant’s submissions dated 18 July 2019.

²⁵ [2015] WASC 208.

The community already experiences disproportionately higher rates of alcohol-related harm than corresponding metropolitan and regional rates. This finding is made notwithstanding the measures proposed by the Applicant in its attempts to reduce the risks. Having regard to the particulars of this application, alcohol will be consumed off-site outside the control of the Applicant.

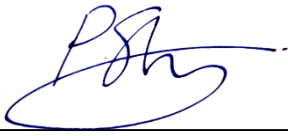
- c. In determining that there is an existing level of harm or ill-health in Wiluna due to the use of liquor, the Commission considers that the risk of increase to the existing levels of such harm is unacceptable.
 - d. A primary objective of the Act is to minimise harm or ill-health caused to people, or any group of people due to the use of liquor and in this case it outweighs the object of catering to the requires of consumers for liquor and related services. The risks associated with granting the application outweigh the positive aspects of the application.
- 43 As to the Applicant's submissions in paragraph 12 (above):
- a. the Applicant has given no explanation as to what is meant by "Limited trading days", or any indication as to the likely number of "Excluding days", or any explanation as to the process or criteria by which "Excluding days" would be selected; and
 - b. the Applicant also has not given any explanation as to the criteria by which the Applicant would differentiate between residents and non-residents, and by which the Western Australia Police Service might assess whether wine and spirits were being sold to residents (rather than non-residents) in breach of the proposed restrictions.
- 44 As to the Applicant's proposal for a "liquor standing committee" (see paragraph 16 above), the Applicant has given no explanation of the:
- a. membership of;
 - b. objects of;
 - c. powers of (including any power to restrict the Applicant's sale of liquor);
 - d. terms of the members of;
 - e. procedures for the election or selection of the members of;
 - f. frequency of meetings of; or
 - g. any other processes and procedures of,
- that committee.
- 45 The Applicant appears to contend that if the requested licence is granted, then those Wiluna residents who are currently going on "grog runs" (the "Grog-runners" - see paragraph 9e above) will stop that practice because they will be able to purchase alcohol from the Applicant's store more conveniently. However:
- a. If the licence sought by the Applicant is granted, and if the Commission restricts that licence in accordance with the restrictions that the Applicant has proposed (as measures to lower the risk of alcohol related harm - see paragraph 12 above), then the liquor that would be available for Wiluna residents to purchase from the Applicant will not include the bottles of straight hard spirits which the Applicant says are being purchased by the Grog-runners in other towns (see paragraph 10c above).

- b. There has been no evidence to show that granting the licence sought by the Applicant will stop grog-runs, or to show that the alcohol which Grog-runners could purchase from the Applicant in that event would directly substitute for the alcohol that the Grog-runners are currently purchasing from other towns.
 - c. There has been no evidence that Grog-runners did not undertake grog runs from Wiluna to other towns during the period between:
 - i. when restrictions were placed on the sale of alcohol in Wiluna in the 1970s; and
 - ii. when the Club Hotel surrendered its licence in 2017,(see paragraphs 3c, d and e above), being a period during which alcohol was sold in Wiluna subject to restrictions which roughly approximate the sort of restrictions that the Applicant has proposed.
- 46 Having regard to the totality of the evidence, the Commission is not satisfied that the Applicant has discharged the onus prescribed by section 38(2) that granting the licence is in the public interest.
- 47 The Applicant relies, among other grounds, on a primary object of the Act namely, catering for the requirements of consumers to advance that the application is in the public interest. It asserts that the Commission can draw the inference that the absence of a licensed venue and “grog runs” means consumer requirements are not being met.²⁶ In the Applicant’s PIA the Applicant identifies the target group for the application as tourists either completing or beginning the Canning Stock route or Gunbarrel Highway tourist route, in particular during the months of April to October.²⁷ There is no evidence before the Commission relating to a consumer requirement by tourists. Further, there is no evidence before the Commission relating to consumer requirements for the types and quantities of liquor proposed by the Applicant by locals or tourists.
- 48 There is evidence that the drinking habits of residents has changed as a result of the absence of restrictions outside Wiluna. However, there is no evidence before the Commission that consumers within Wiluna will amend their preferences in favour of the types and quantities of liquor proposed by the Applicant.
- 49 The Commission is of the view that any benefit proposed by the Applicant is outweighed by the likelihood of an increase in harm and ill-health due to the use of liquor if the application were granted.
- 50 Given the Commission is not satisfied that the Applicant has discharged its onus, the Commission has not considered whether the objectors have made out their objections. For completeness, if it was necessary, the Commission would have been satisfied on balance that granting the application was not in the public interest for the reasons related to harm and ill-health that have been referred above.

²⁶ Supra 1, [29].

²⁷ PIA, 3.

51 The decision of the delegate of the Director to refuse the application is affirmed pursuant to section 25(4)(a) of the Act.



PAUL SHANAHAM
PRESIDING MEMBER