

(13) Papers.
2.5.2015.



THE GOVERNMENT OF NORFOLK ISLAND

14.5.2015 delivered
by hand (Sharyn Guintal)
to office of HH (Barb Guintal)
at midday. RJ

TELEPHONE 6723 22003
FACSIMILES 6723 23378
6723 22624
EMAIL ministers@assembly.gov.nf

OLD MILITARY BARRACKS
KINGSTON NORFOLK ISLAND
2899 SOUTH PACIFIC

14 May 2015

Dr. Mal Washer
Chairman
AusCann Group Holdings Pty Ltd
1 Alvan Street
Subiaco WA 6008
AUSTRALIA

Dear Dr Washer

**Re: Dangerous Drugs Act 1927 ("the Act")
AusCann Group Holdings Pty Ltd ("the company")
Application - Section 7A Licence**

Application

I refer to application lodged by the company on 2 April 2015 for a licence under s.7A of the Act. As specified in the prescribed application form a licence is sought to allow –

- import other cannabis into Norfolk Island
- export cannabis from Norfolk Island
- Plant, Cultivate, Tend, Harvest, Sell and Possess other Cannabis.

"Other cannabis" as used in the prescribed application form refers to cannabis that does not fall within the definition "Low THC Cannabis" contained in regulation 2 of the *Dangerous Drugs Regulations 1998*.

Documents provided in support of application

In support of its application the company provided –

- A letter dated 27 February 2015 (and its annexed copies of correspondence to and from the Drug Control Section of the Office of Chemical Safety of the Department of Health regarding the *Customs (Prohibited Imports) Regulations 1956* (Cth) and *Customs (Prohibited Exports) Regulations 1958* (Cth) both of which are made under the *Customs Act 1901* (Cth));
- The company's Submission consisting of a lever arch file with a 43 page written submission and 12 annexures composed of approximately 150-200 pages. I note in passing that these documents were provided to the Administrator of Norfolk Island in December 2014. I am not aware of, and the company has not referred me to any queries

or concerns raised by the Administrator of Norfolk Island in relation to those documents or the company's application.

A considerable amount of time and resources have obviously been invested by the company in its Project. The matters addressed in the company's letter dated 27 February 2015 and the Submission include—

- Australian import and export issues under the abovementioned the *Customs (Prohibited Imports) Regulations 1956* (Cth) and *Customs (Prohibited Exports) Regulations 1958* (Cth) both of which are made under the *Customs Act 1901* (Cth). I would note however that the *Customs Act 2001* (Cth) does not presently extend to Norfolk Island. I note that the company has been in contact with the Drug Control Section of the Office of Chemical Safety in the Commonwealth Department of Health. Compliance with Commonwealth requirements is a matter that the company will obviously need to attend to separately to licensing under the Act.
- Agency issues under the 1961 Single Convention on Narcotic Drugs particularly Article 23(2)(e). I note the company's submission that the Administration is capable of being taken to comply with the Agency requirement under the Single Convention. This however ultimately is matter to be decided by the Commonwealth of Australia.
- Social aspects: including extensive community consultation in Norfolk Island. I have witnessed firsthand broad based support for the proposed venture both in public meetings and in the Legislative Assembly.
- Economic aspects: including fiscal revenue under the terms of a proposed licence and employment opportunities with the community. In my conclusion an appropriately regulated and operated medicinal cannabis agricultural industry would be of significant economic benefit to the Norfolk Island community.
- Environmental aspects: such as flora and fauna impacts, waste disposal, water supply and the establishment of an environmental management system. I note that the previous introduction of a fledging industrial hemp industry in Norfolk Island in 1998 did not raise environmental concerns. I note also that the company will be referring the proposal for formal assessment under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).
- Relevant Laws: including –
 - the *Narcotics Drugs Act 1967* (Cth) : I note the terms of s.4(2) of that Act regarding the meaning of “manufacturing a drug” and the express exceptions regarding cannabis and the company's statement that the company's activities will not require a manufacturing licence under this Act.
 - Canada's *Marijuana for Medical Purposes Regulations SOR 1996* (“MMPR”) made under the *Canadian Controlled Drugs and Substances Act*: Canadian requirements are relevant because of the proposed exportation of product there. In light of the well-established Canadian regime providing access to medicinal cannabis in a manner consistent with the Single Convention it is appropriate to place some reliance on their requirements for Norfolk Island purposes.

- Proposed personnel: I note the personnel resumes and National Police Certificates contained within the submission documents.
- Proposed Licenced Area and plans: The company proposes to conduct its operations from portion 75c Captain Quintal Drive. This land does not appear to be currently owned by the company and is zoned Rural for planning purposes.
- Development approval: The company is aware of its obligation to obtain all appropriate approvals under the *Planning Act 2002* and NI Plan. Such decisions are reviewable by both ART and AAT. The development approval process will require, in addition to relevant development standards, detailed consideration of impacts on environment and amenity such as power and water requirements, sanitation and security.

I further note that the company is developing and revising a suite of Standard Operating Procedures for the purpose, in particular, of satisfying Canadian authorities as to the quality of the company's cannabis product to be exported to that country for sale and distribution under the MMPR.

Consideration

In my view the company's application based on cultivation and export of medicinal cannabis is lawful and within the scope of the Act. Section 7A was introduced into the Act by the *Dangerous Drugs Amendment Act 1997*. The amending Act was referred for the pleasure of the Governor-General in December 1997, subsequently assented to in February 1998 and commenced in April 1998. The *Dangerous Drugs Regulations 1998* was commenced in July 1998. The amending Act and the Regulations clearly contemplated that s.7A was not in its terms intended to be limited to Low THC Cannabis or the hemp industry.

While it would be preferable that a medicinal cannabis industry in Norfolk Island be the subject of an established regulatory framework I consider that it is not inappropriate that a license under s.7A be used to establish such a regulatory framework.

It would also be preferable for any application for a licence under s.7A to be supported by a fully documented proposal capable of immediate inspection and consideration. However, it is understandable that any prudent applicant would want some assurance of regulatory approval before committing significant capital expenditure to their project and may not have all operational details formulated. In such circumstances I consider it would be appropriate to adopt a conditional and "staged development" approach to a licence such that –

- A licence and its underlying terms and conditions are variable at the discretion of the Minister;
- Each importation and exportation of cannabis require specific authorisation under the licence;
- The adequacy of a licensee's systems, security, record keeping and related regulatory compliance be assessed and subject to continuous assessment as part of any import or export authorisation; and
- The risk of failing to meet licence requirements be at the risk of the licensee.

In my view provided all appropriate concerns regarding security are met there are compelling public interest benefits in the establishment of a medicinal cannabis export industry in Norfolk Island.

Decision

I have decided therefore to grant the company's application for a licence under section 7A of the Act.

There are a number of issues that I would stress –

- The licence is significantly conditional. It will not be possible to import cannabis and commence cultivation of cannabis until all appropriate licence conditions are met.
- It is also possible that in light of further developments and consideration that the licence conditions will be changed.
- The issue of the licence does not remove the necessity for the company to seek all applicable regulatory approvals both within Norfolk Island and in respect of import, export and transshipment outside Norfolk Island. These are matters beyond my purview as Minister under the Act.
- I will be forwarding a copy of this letter and the license to the Administrator of Norfolk Island.

The company's licence is enclosed with my best wishes for the success of the company's export proposal.

Yours faithfully



Robin E. Adams

Minister for Cultural Heritage and Community Services