

NORTHERN TERRITORY LICENSING COMMISSION

NOTIFICATION OF INTERIM DECISION

PREMISES: Melaleuka on Mitchell

APPLICANT: Value Inn Pty Ltd

OBJECTORS: YHA Northern Territory Inc
Justin Coleman
Shenannigans Irish Pub Pty Ltd
Gary Coleman
Terry Dowling
DNPW Pty Ltd
Ducks Nuts Pty Ltd

PROCEEDING: Hearing of objections and the application for a liquor licence.

RELEVANT LEGISLATION: Sections 26, 27, 31, 32, 47F, 47H, 47I and 47J of the *Liquor Act*.

HEARD BEFORE: John Withnall (Presiding Member)
Jill Huck
Craig Spencer

DATE OF HEARING: 30 November and 1 December 2004

APPEARANCES: Lex Sylvester and Des Crowe for the applicant
David De Silva for Gary Coleman, Justin Coleman, Terry Dowling, DNPW Pty Ltd, Shenannigans Irish Pub Pty Ltd and Ducks Nuts Pty Ltd
Michael Grove for YHA Northern Territory Inc

Background:

In April 2004 Michael William Scott placed advertisements in the *NT News* on behalf of Value Inn Pty Ltd notifying the public of an application for a liquor licence for the premises known as Melaleuka on Mitchell. The advertisements indicated that liquor would be sold for consumption in two separate areas: a Street Frontage Alfresco area; and a Leisure Deck area. Sales of liquor on the Leisure Deck were to be limited to in-house guests and their bona-fide visitors.

Five letters of objection (involving eight objectors) were received in relation to the application. The Commission member selected under section 47I of the *Liquor Act* (the Act) to consider the substance of the objections decided that six objections met the requirements of the Act and referred them to the Commission for hearing. The member's decision to dismiss the objection from Shenannigans Irish Pub Pty Ltd was reviewed under 47J and set aside. This meant that a total of 7 objectors were parties to the hearing.

The hearing held on 30 November and 1 December 2004 served two overlapping functions, namely:

- the hearing of the objections; and
- the consideration of the application for a liquor licence.

In the course of the hearing the objectors decided to conditionally withdraw their objections; those withdrawals being dependent on the Commission imposing licence conditions on the premises substantially in accord with conditions agreed by the parties. In addition, YHA sought leave to make further submissions in respect of the noise condition.

Based on the extensive material presented at the hearing, the Commission decided in principle to grant the application, with the details of the two different licensed areas yet to be settled. A liquor licence (Liquor Licence Number 80817455) in respect of the Leisure Deck area was issued on 23 December 2004 in acknowledgement of the desirability of having a licence in place for the Leisure Deck over the Christmas/New Year period, as well as the relatively non controversial and low key nature of this part of the licence application. The licence conditions, as issued, clearly stated that the licence was of an interim nature only:

This licence is issued on condition that it is a temporary licence only, and that in its extent and detail it may not necessarily reflect the eventual determination of the complete application for a liquor licence for Melaleuka on Mitchell. The licence in its current form is not to give rise to any reasonable expectation of its continuance in this form, or at all, upon the final determination of the application.

The finalization of the licence conditions for both the Leisure Deck and the, yet to be built, Street Frontage Alfresco area were deferred pending more detailed consideration by the Commission, including any further input by the parties around specific conditions that might become necessary. Unfortunately progress on this matter was delayed by the unexpected serious illness of one of the Commission members.

The purpose of this current document is to provide formal advice to the applicant that the Commission has decided to grant a liquor licence to the premises in respect of both the Leisure Deck area and the Street Frontage Alfresco area.

This formal advice is required to enable the applicant to proceed with construction of the Street Frontage Alfresco area. The final form of the licence conditions which will apply to each of the licensed areas will be issued in due course, along with a formal statement of reasons for the Commission's decision. It is not anticipated that the final licence conditions will require any change in the design or construction of the Street Frontage Alfresco area as outlined to the Commission. However, the applicant would be well advised to modify the plans to include some form of barrier (for example gates) for closing off the licensed area to the public after licensed hours.

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Jill Huck
Commission Member
28 March 2005.