

NORTHERN TERRITORY LICENSING COMMISSION

Reason for Decision on Whether Objection Will Proceed to Hearing

Applicant:	Value Inn Pty Ltd
Nominee:	Tanya Joy Gamble
Premises:	Melaleuca on Mitchell - Crocodile Tourist Theme Park and Basement Nightclub
Objectors:	1-Ms Fan (Lucy) Zhao – House of Pearls 2-AFS Reality and Business Brokers Pty Ltd-Wisdom Bar & Café and Ashton Lodge 3-JVC Investments Pty Ltd (conditional withdrawal) 4-John Van Commenee (conditional withdrawal) 5-Mr Nick Panas-The World of Opal
Date of Decision:	April 2007
Legislation:	Sections 4F to 47I of the <i>Liquor Act</i> and Section 28 of the <i>Interpretation Act</i>
Member:	Brenda Monaghan

Background

1. An application for a tavern style liquor licence has been made by Value Inn Pty Ltd to allow a Crocodile Tourist Theme Park and Basement Nightclub to be developed on part of the site where the Melaleuca on Mitchell complex currently stands. The application was advertised on 6 and 8 December 2006 in the following terms:

I, Tanya Joy Gamble, on behalf of Value Inn Pty Ltd, Hereby give notice that I have applied to the Northern Territory Licensing Commission for a Tavern Liquor Licence to sell liquor from the premises known as Melaleuca on Mitchell Crocodile Tourist Theme Park and Basement Nightclub located at 52-58 Mitchell Street, Darwin.

Proposed trading details for the sale of liquor are as follows:

- *The business proposed to be conducted on the premises will be in the nature of a tavern.*

- *Liquor may be sold for consumption on the licensed area of the Crocodile Tourist Theme Park between the hours of:*

Sunday to Saturday 10:00 hours to 02:00 hours the next day.

- *Liquor may be sold for consumption at the Basement Nightclub area of the premises between the hours of:*

Sunday to Saturday 10:00 hours to 04:00 hours the next day.

- *Melaleuca on Mitchell Crocodile Tourist Theme Park and Basement Nightclub is intended to be operated as part of a tourist precinct incorporating the Value Inn, the existing backpacker hostel and 'The Tap' alfresco dining area. The backpacker hostel and 'The Tap' are already licensed under an 'On Licence' type liquor licence.*
 - *The concept of the licensed area of the Crocodile Tourist Park will be that of food and beverage area to cater for visitors to the park. The area will also be used for functions and conferences. The area will cater to a maximum of 200 patrons.*
 - *Safety will be a high priority at the Crocodile Tourist Theme Park and the consumption of alcohol within the park will be limited to the designated licensed area on the first floor. Safety barriers to protect both visitors and the animals will be installed to approved standards.*
 - *The concept of the Basement Nightclub area of the premises will be that of licensed backpacker music and dance space. The areas will be open to the general public as well as in-house guests at the hostel and will cater to a maximum of 300 patrons.*
2. Under the *Liquor Act* (the Act), objectors have thirty (30) days from the date of the last advertisement in which to lodge their objection with the Director. The thirty (30) day objection period ended on Sunday 7 January 2007. Following application of the *Interpretations Act*, the last day for a valid objection to be received was Monday 8 January 2007.
 3. Seven (7) objections were received by the Director of Licensing within the objection period. The following comments are made with regard to each objection:
 - a. **Objection received from Ms Fan (Lucy) Zhao**
 - a) Ms Lucy Zhao leases one of the shops on the Melaleuca on Mitchell site and runs a business called House of Pearls. The letter of objection is on letterhead and is signed by Ms Zhao. As leases land and works in the neighbourhood, Ms Zhao is a valid objector.
 - b) Ms Zhao submits that the application for two additional liquor licences for the Melaleuca on Mitchell site is "an attempt to seriously mislead the Licensing Commission and the general public". I am aware that the form of the advertisement was approved by the Commission prior to being published and it is

doubtful that the Commission would consider they or the general public had been misled over this issue.

- c) Ms Zhao's concerns include the need to protect the diversity of outlets so as to ensure that Mitchell Street does not turn into a 'Bar District'. She questions the need for a further nightclub and raises concerns regarding public safety issues. Ms Zhao also expresses the view that cleanliness and hygiene are already serious problems on Mitchell Street. It is to be noted that the Object in the Act relating to "needs and wishes" was removed some years ago and the Commission is only able to consider matters as they pertain to the current Objects in Sections 3 and 6 of the Act.
- d) Ms Zhao also expresses concerns about body corporate expenses. This issue is not a valid concern for this forum and disputes on that issue must be resolved elsewhere. Ms Zhao's comments regarding public safety issues such as congested common areas are however valid considerations for the Commission to take into account.
- e) The applicant was given the opportunity to comment on the objection. Whilst they comment in detail on a number of issues, they do not challenge Ms Zhao's right to object. In summary, subject to the provisos referred to above, Ms Zhao is a valid objector and is entitled to a hearing on issues raised in her letter of objection.

b. Objection received from AFS Reality and Business Brokers Pty Ltd

- a) This company owns and operates the neighbouring businesses Wisdom Bar and Café and Ashton Lodge. The objection is made in a valid form on company letterhead and signed by Todd McCourt as Managing Director. As Wisdom Bar and Café and Ashton Lodge are businesses situated in the same neighbourhood as the proposed licensed premises, AFS Realty is entitled to object.
- b) The issues raised by the objector include concerns about increased antisocial behaviour and noise from the proposed nightclub premises particularly at 4.00am when the premises close. Concerns are also raised about the current levels of security and management on the Melaleuca on Mitchell site and the objector queries the applicant's ability to properly manage a late night trading venue.
- c) The objector queries a need for a crocodile tourist theme park to be granted a liquor licence and also queries the need for a "Tavern" style" licence for the crocodile park.
- d) The applicant was given the opportunity to comment on the objection. Whilst they comment in detail on a number of issues, they do not challenge the company's right to object. The issues raised by the objector are valid issues and a hearing is required.

c. Objections lodged on behalf of Gina Gamble Investments Pty Ltd, Gina Gamble personally, JVC Investments Pty Ltd and John Van Commenee, a Director of Gina Gamble Investments Pty Ltd

a) These four (4) objectors jointly lodged their objections to the granting to the applicant of a liquor licence for a nightclub through their Solicitors Morgan Buckley Lawyers by letter dated 8 January 2007. The objections of Gina Gamble and Gina Gamble Investments Pty Ltd were withdrawn on 12 February 2007. On 9 February 2007 a letter was also received from Morgan Buckley on behalf of JVC Investments and John Van Commenee advising that the objector had withdrawn their objections following an agreement by the applicant to a number of matters as follows:

1. *The character of the applicant's application will not materially change between the date of this letter and the final determination of the applications.*
2. *The applicant does not seek any changes to the current licence concept for the 'Tap Bar'.*
3. *The applicant does not seek any change to the noise conditions in the licence, whether relating to the 'Tap Bar' or the premises generally.*
4. *The applicant has agreed that the nominee of the license must approve all movies shown at the entertainment leisure deck. The two double stacked speakers on the Leisure deck will be replaced by 4 single speakers as per the attached plan.*
5. *The applicant has agreed that subject to any statutory restrictions, upon any conditions being included in either the licence for the 'Tap Bar' or for the nightclub, requiring it to provide camera surveillance, the applicant will include in the camera surveillance plan camera surveillance from the front of the applicants premises to the front of the Chilli's backpackers.*
6. *The applicant agrees to a condition being imposed in the licence for the 'Tap Bar' that whilst it is trading it will employ crowd controllers, in accordance with the industry standard for crowd controllers at the premises from 12:00 midnight until closing. The applicant will ensure that a minimum of two (2) crowd controllers is employed in the 'Tap Bar' at all times (between the hours of 12:00 midnight and closing). However, the applicant may seek a direction from the Director that crowd controllers required in the 'Tap Bar' meet the industry standard where the number of patrons in the 'Tap Bar' exceeds 100.*

b) As I am unaware at this stage whether or not the conditions of the withdrawal will be adhered to, I intend to consider the

eligibility of the objectors JVC Investments Pty Ltd and John Van Commennee. JVC Investments Pty Ltd is the lessee of both Chilli's Backpackers of 69a Mitchell St and Youth Shack Backpackers of 69 Mitchell St. Both are clearly close neighbours of the applicant's proposed premises and entitled to object. John Van Commennee, a Director of both Gina Gamble Investments Pty Ltd and JVC Investments Pty Ltd works from 7B 69 Mitchell St and is entitled to lodge an objection in his own right.

- c) The number of concerns raised by the remaining objectors include safety issues relating to the security of patrons and passers by and a likely increase in criminal and antisocial behaviour when patrons are leaving the nightclub. A number of concerns are raised regarding noise and litter. The objectors are entitled to a hearing on these issues should there be an indication prior to the hearing that the terms of their conditional withdrawal will not be honoured at the hearing.

d. Objection lodged by Mr Nick Panas

- a) Mr Nick Panas is the proprietor of the premises and business known as "The World of Opal" located at Unit 3/52 Mitchell St being one of the shops on the Melaleuca on Mitchell site. The letter of objection is on letterhead and is signed by him. As he owns land and works in the neighbourhood, Mr Panas is a valid objector.
- b) Mr Panas expresses concern about the granting of a further liquor licence in the area particularly to a nightclub which will be located in the basement beneath his shop- where he understood an underground carpark was to be located. He expresses concerns about current antisocial behaviour and noise in the area and its impact on his business.
- c) The applicant was given the opportunity to comment on the objection. Whilst they comment in detail on a number of issues, they do not challenge Mr Panas' right to object. Mr Panas is a valid objector and is entitled to a hearing on issues raised in his letter of objection.

Summary

Lucy Zhao, trading as the House of Pearls, Nick Panas of The World of Opal and AFS Reality Business Brokers, trading as Wisdom Café and Ashton Lodge are valid objectors and require a hearing. JVC Investments Pty Ltd and John Van Commenee are valid objectors but it is noted that their joint objections is withdrawn on the terms and conditions contained in their agreement with the applicants dated January 2007. The objectors are entitled to a hearing on these issues should there be an indication prior to the hearing that the terms of their conditional withdrawal will not be honoured.

Brenda Monaghan
LEGAL MEMBER

3 April 2007