

# Northern Territory Licensing Commission

## Reasons for Decision

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<b>Premises:</b>	Melaleuca on Mitchell
<b>Applicant:</b>	Value Inn Pty Ltd
<b>Proceeding:</b>	Hearing of Objections and Application for New Liquor Licenses, Variation of Current Trading Hours and Material Alterations
<b>Heard Before:</b>	Mr Richard O'Sullivan Mrs Jane Large Ms Veronica McClintic
<b>Date of Hearing:</b>	14 May 2007
<b>Date of Decision:</b>	
<b>Appearances:</b>	Mr Lex Sylvester and Mr Des Crowe for the Applicant Mr Phil Timney, Counsel assisting the Commission Mr Doug Gamble Mr Michael Scott Ms Fan (Lucy) Zhao Mr Nick Panas

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## Background

- 1) Value Inn Pty Ltd has separately applied for:
  - a) Variation to the current liquor licence conditions of Melaleuca on Mitchell (referred to as the Tap Alfresco Dining Area or the Tap) and for material alterations to the Tap ; and
  - b) A liquor licence for the Crocodile Tourist Theme Park (Tavern Bar) and a liquor licence for the Basement Nightclub.
- 2) The proposal is for an integrated development combining the existing Tap with the new Crocodile Tourist Theme Park, which is proposed to incorporate a tavern licence on the first floor and a licensed nightclub in the basement. Operations of the proposed complex are to be in line with the concept of a five (5) star backpacker facility combined with a significant tourist attraction for the domestic and international markets. The completed complex will incorporate the Value Inn at 50 Mitchell Street, Melaleuca on Mitchell facilities at 52 Mitchell Street which include backpacker accommodation, first level Leisure Deck, retail shops; the street frontage Tap Alfresco Dining Area together with Crocodile Tourist Theme Park first floor licensed area and the Basement Nightclub, located between 52 and 58 Mitchell Street.
- 3) In view of the integrated nature of the proposal the Commission determined to combine the hearing and consider:
  - a) Variation to the Tap licensing hours and conditions;
  - b) Material alterations to the Tap ;
  - c) New liquor licence for the Crocodile Tourist Theme Park (first floor);
  - d) New liquor licence for the Basement Nightclub.

- 4) Advertisements placed by Ms Tanya Gamble on behalf of Value Inn Pty Ltd had appropriately appeared in relation to the proposals for amendments to the Tap licence, appearing on 6, 8 and 11 December 2006. Advertisements also by Ms Tanya Gamble on behalf of Value Inn Pty Ltd appeared on 8 and 11 December for the new liquor licences for the tavern within the Crocodile Tourist Theme Park and the Basement Nightclub.

## Objections

- 5) Objections to the application for variation of licence conditions and material alterations to the Tap were lodged by:
  - a) AFS Realty and Business Brokers Pty Ltd (Wisdom Bar and Café and Ashton Lodge);
  - b) JVC Investments Pty Ltd;
  - c) John Van Commenee
- 6) Prior to hearing by JVC Investments and John Van Commenee conditionally withdrew their objections on the basis of:
  - a) The character of the applicant's application will not materially change between the date of this letter and the final determination of the applications.
  - b) The applicant does not seek any changes to the current licence concept for the 'Tap'.
  - c) The applicant does not seek any change to the noise conditions in the licence, whether relating to the 'Tap' or the premises generally.
  - d) 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.
  - e) The applicant has agreed that subject to any statutory restrictions, upon any conditions being included in either the licence for the 'Tap' 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 Chill's backpackers.
  - f) The applicant agrees to a condition being imposed in the licence for the 'Tap' 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' 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' meet the industry standard where the number of patrons in the 'Tap' exceeds 100.
- 7) Objections in relation to the licence applications for the Crocodile Tourist Theme Park tavern licence and Basement Nightclub licence were lodged by:
  - a) Ms Fan (Lucy) Zhao – proprietor of the House of Pearls;
  - b) AFS Realty and Business Brokers Pty Ltd – Wisdom Bar & Café and Ashton Lodge;
  - c) JVC Investments Pty Ltd;
  - d) John Van Commenee;
  - e) Mr Nick Panas – proprietor of The World of Opal.
- 8) Objections by JVC Investments Pty Ltd and John Van Commenee were conditionally withdrawn on the same conditions as outlined in Paragraph 6 above.

- 9) The Licensing Commission's Legal Member in evaluating the validity of the objections in a decision of 3 April 2007, determined that the objectors who had conditionally withdrawn their objection were deemed entitled to a hearing on these issues should there be an indication prior to the hearing that the terms of the withdrawal of their objection were not honoured. There were no substantiative changes to the application advised either prior to or during the hearing period, other than a reduction of the hours applied for at the Crocodile Tourist Theme Park tavern. (Advertisement notified of proposed trading hours Sunday to Saturday of between the hours of 10.00am to 2.00am (the following day). This was reduced to 10.00am to 10.00pm Sunday to Saturday.)
- 10) The Legal Member further determined that the objections received from Ms Fan Zhao, AFS Realty and Business Brokers Pty Ltd and Mr Nick Panas were valid objections and the objectors were entitled to a hearing on the issues raised in their letters of objection.
- 11) Ms Zhao and Mr Panas appeared at the hearing in person. There was no appearance on behalf of AFS Realty and Business Brokers Pty Ltd. Counsel assisting advised the Commissioners they could be satisfied that AFS had been notified of the hearing dates and afforded an opportunity to attend and speak to their objection but had declined to do so. The Commissioners noted they could take account of the AFS written objection.
- 12) In recognition of the integrated nature of the development and the degree of commonality of objectors (three (3) objected to both the variation of existing licence conditions and the new licences applied for) and the nature of objections, it was determined to combine the objections hearings for all of the applications by Value Inn Pty Ltd before the Commission.

## **The Application**

- 13) The Commission was advised that the new development work to be undertaken was the third stage of a Masterplan, driven by identified gaps in tourism infrastructure required to attract and maintain tourists to Darwin. Total cost of the overall development was estimated at \$29 million.
- 14) Counsel for the applicant submitted that Value Inn Pty Ltd Director, Mr Douglas Gamble, had an extensive and successful history of business development in Darwin including the Victoria Hotel, Mirambeena Tourist Complex, Marrakai Apartments and the facilities already successfully operating at the Melaleuca on Mitchell complex.
- 15) The Hearing Commissioners were presented at the outset with considerably detailed written material in support of the application, including a folder (Exhibit 1) containing:
  - Statement of Douglas Gamble (Director, Value Inn Pty Ltd);
  - Approval of the development and related correspondence from the Development Consent Authority;
  - Comment on the Basement Nightclub and Control of Noise Emissions from Mr R H Rumble, Consulting Acoustical and Vibration Engineers;
  - Draft Basement Crowd Control Policy;
  - Letters of support for the licence applications;
  - Statement of Michael William James Scott (General Manager, Value Inn Pty Ltd);
  - Security and Staffing Plan (for the complex, including the Value Inn, extending from 50 – 58 Mitchell Street);
  - Employee Handbook;
  - Employee Policies and Procedures;

- Statements obtained by Reidel Services Pty Ltd in respect of the licence application;
- Report by Sharyn Innes Consultancies Pty Ltd.

Commissioners considered the tabling of this written support material at the commencement of the hearing valuable in expediting hearing proceedings and the ultimate Commissioners' decision process.

- 16) Following opening submissions of behalf of the applicant, the Commissioners, counsel and the objectors in attendance undertook a view of the site for the proposed development, as well as the Tap, conducted by Mr Gamble and Mr Scott on behalf of the Applicant.
- 17) Evidence was presented that the backpacker market is increasingly well educated, sophisticated and discerning and therefore there is a need to provide tailored and improved amenities to capture this growing market. The overall Melaleuca on Mitchell complex (including Value Inn) extending from 50 – 58 Mitchell Street is designed to meet current and emerging market needs and consequently it is the applicant's intention to provide quality product and service.
- 18) In relation to noise, anti social behaviour and crowd control within licensed premises, the applicant advised that through associated entities it maintained and/or had a financial interest in 1200 beds adjoining or opposite the developments under licence application or variation. Counsel for the applicant reasoned that it was therefore in the applicant's interest to ensure noise abatement measures and patron behaviour measures were successfully implemented. Existing licences at the Melaleuca on Mitchell Leisure Deck Bar and the Tap were well managed and evidenced the applicant's ability and record of responsible licence operation.
- 19) The application relating to the Tap is for an increase in trading hours (which currently are from 10.00am to 11.59pm seven (7) days a week) from 10.00am to 02.00am (the following day), seven (7) days a week. Good Friday and Christmas Day are and will remain excluded for trading. An extension of trading to 02.00am would bring the Tap in line with other similarly licensed premises in the area. Additionally Commissioners noted that the original decision in relation to the existing licence handed down on 14 August 2005 stated, inter alia, *"The Commission now formally endorses these hours, noting, in doing so that they are way below the industry standard (which is for 02.00am closing in alfresco areas). Once the premises are established, the Licensee may wish to seek a variation to the trading hours"*.
- 20) Related application is made for approval for material alterations to the Tap licensed premises and for variation of licence conditions. The alterations are consequential to the development of the Crocodile Tourist Theme Park and involve a reduction to the street frontage area, the development of a wall common to the adjoining retail shops and access ramps and lift to the basement. This will alter the external appearance of the Tap and slightly reduce the licensed area.
- 21) An application for a liquor licence for the first floor Crocodile Tourist Theme Park tavern was initially for trading hours from 10.00am to 02.00am (the following day) seven (7) days a week. During hearing the applicant advised that this application was initially made to cater for functions which may require a licence until 02.00am in the morning. Upon questioning by the Commission, it became clear that that functions requiring such an extended licence would be rare and could be catered for by exception (ie be subject to special, one off, licence variation applications). Mr Gamble informed the Commission that the normal business of the licence would be in conjunction with the food court provision of meals and snacks to visitors to the crocodile and reptile exhibits which would normally close at around 8.00pm each evening. Mr Gamble agreed that the convening of meetings and functions, which may be held in conjunction with tours of the exhibits, would in the majority of cases be catered for by having licensed trading hours until 10.00pm.

- 22) The Hearing Commissioners were advised the licensed area would be approximately 350m<sup>2</sup> in area and generally cater for around 160 patrons. (200 patrons referred to in advertisement of the licence application placed on 6 and 8 December 2006.) Capacity and area determinations are complicated by the overall layout, which includes an adjoining theatre and viewing platform. Use of those areas in association with functions could considerably extend patron capacity. The applicant advised that patrons, when utilising the viewing platform, would be catered for by waiter service only. Entry and exit will be through the Crocodile Tourist Theme Park.
- 23) Application for the Basement Nightclub is for a licence to sell alcohol seven (7) days a week from 10.00am until 04.00am (the following day). The concept is for a backpacker nightclub catering for guests staying in the complex as well as the general public. The licensed area applied for is approximately 230 m<sup>2</sup> and with patron capacity of 300 persons.
- 24) Considerable evidence was provided at hearing and in written submissions as to noise control measures so as not to impinge on the ambience and wellbeing of patrons and house guests of surrounding areas. The applicant through Mr Gamble reminded Commissioners of the applicant's ownership or financial interest in approximately 1200 visitor beds near and around the nightclub. Other measures adopted to lessen noise emissions include:
- Extra thick concrete roof over the nightclub (250 mm), in excess of structural requirements;
  - Two sets of doors in stairwells, creating double airlocks or sound locks at entry / exit doors;
  - Stairs with "dog leg" to lessen noise travel;
  - Engagement of an acoustic expert to advise on noise abatement, control and management.

In addition, counsel for the applicant referred the Commissioners to the reports prepared by Mr R H Rumble, Consulting Acoustical and Vibration Engineers.

## Consideration of Objections

- 25) Ms Fan (Lucy) Zhao spoke to her objection lodged with the Director of Licensing on 20 December 2006. While aspects of her objection were specific to body corporate and related premises management (for the overall Melaleuca on Mitchell complex), there were valid issues considered by the Commission. Ms Zhao submitted that to call a nightclub a "Basement Licensed Backpacker Music and Dance Area" was misleading. The Commissioners consider that such terminology is intended to evoke a more genteel image of the facility but noted that the nature of application advertisement and much of the application and supporting material merely referred to the proposal as a "Basement Nightclub". Of legitimate concern to Ms Zhao and objector Mr Nick Panas is that the proposed nightclub is located at the basement under the retail premises they operate (which Mr Panas claims he was advised would be used for underground parking). Mr Des Crowe, on behalf of the applicant, has credibly maintained that a basement nightclub was included in Masterplans for the site in applications approved by the Development Consent Authority prior to Mr Panas purchasing his retail site.
- 26) Issues raised by objectors of anti-social behaviour and turning the area into a strip of liquor outlets warrant some mention. In itself the application will not turn the area into a licensed / nightclub strip. These premises already operate but additional licensed premises will further define the area as a licensed restaurant, bar and nightclub precinct. The evidence supplied of Police and security incident reports relates and is attributed to alcohol consumption in the area and most likely the wider Central Business District (CBD). In a response to the application Police have advised they have no "specific objections" and

further *“Police do not believe that it will significantly increase the number of drinkers in and around the CBD ...”*. Further Police comment was tabled at hearing (Exhibit 4) referencing law and order issues and the high number of incidents recorded in the Mitchell Street and again no specific objection to the application was made. Department of Health and Community Services comments: *“concerns are noted on the proposed trading hours which will provide the venue with eighteen (18) hours of continued trade .... A large proportion of alcohol-related harms occur in or near venues with extended trading hours or in areas where there are numerous outlets. Providing excessive trading hours may also contribute to an increase in anti-social behaviour in and around the premises.”*

- 27) Satisfactory management, responsible service of alcohol and crowd control measures are therefore considered critical by the Commissioners in considering the objections lodged and the overall social impact of the applications. Throughout the hearing and contained within the written submissions lodged, the applicant has demonstrated to the Commissioners' satisfaction an ability and preparedness to properly address these issues.
- 28) The specific objections to the tavern licence application at the Crocodile Tourist Theme Park by AFS Realty and Business Brokers Pty Ltd is based on lack of supporting material by the applicant as to why the licence is required. This issue was adequately responded to by Mr Sylvester, on behalf of the applicant, who advised that the Crocodile Tourist Theme Park will operate as an exhibit attraction, with the food court, souvenir outlet and licensed area auxiliary to that purpose. Concern over noise impact on clients at Wisdom Bar & Café and Ashton Lodge residents have been addressed, noting that the applicant similarly has licensed areas and backpacker accommodation in the vicinity of the new licensed areas applied for, which would similarly suffer with any unregulated noise and disturbance.
- 29) Other matters raised by Ms Zhao and Mr Panas of adequacy and frequency of garbage collection, responsiveness to body corporate member complaint and past record of perceived non responsiveness to retail shop issues are not really issues within the ambit of the Commissioners to consider.

## Further Matters for Consideration

- 30) In addition to consideration of the objections, the Commission is required under Section 3 of the *Liquor Act* to consider:
- (1) *“The primary object of this Act is to regulate the sale, provision, promotion and consumption of liquor –*
- (a) *so as to minimise the harm associated with the consumption of liquor; and*
- (b) *in a way that takes into account the public interest in the sale, provision, promotion and consumption of liquor.*
- (2) *The further objects of this Act are –*
- (a) *to protect and enhance community amenity, social harmony and wellbeing through the responsible sale, provision, promotion and consumption of liquor;*
- (b) *to regulate the sale of liquor in a way that contributes to the responsible development of the liquor and associated industries in the Territory; and*
- (c) *to facilitate a diversity of licensed premises and associated services for the benefit of the community.”*
- 31) Commissioners have reached the view that the proposed development, inclusive of the Crocodile Tourist Theme Park, can be considered likely to contribute to the amenity of the area. It also considered likely to integrate with other developments undertaken by Value Inn Pty Ltd in the area.

- 32) To support the public interest criteria the applicant tabled (Exhibit 8), a Survey in Relation to Melaleuca on Mitchell Liquor Licence Application prepared by Data Analysis Australia Pty Ltd. In general, this survey was to gauge Darwin residents' views on the Basement Nightclub which was self servingly referred to as a "boutique backpacker nightclub" and other proposed developments. In general terms the survey demonstrated acceptance of a new nightclub and support for the Theme Park and licensed food court. The report by Sharyn Innes Consultancies Pty Ltd (Exhibit 1) also presented that the proposed facilities were consistent with meeting the existing and emerging demands and needs of domestic and international tourists to Darwin.
- 33) In relation to the Basement Nightclub patron capacity, the Commission noted it would be restricted to three hundred (300) persons. Control and management of such a venue was therefore, in the Commission's view, much more likely to ensure orderly behaviour and orderly exit, than a larger, greater patron capacity venue. It therefore accepted that law and order and avoidance of anti-social behaviour is likely more readily achieved with a smaller scale amenity.
- 34) Following careful consideration the Commissioners reached the view that the application was consistent with the objects outlined in Section 3 of the *Liquor Act*, with some community benefit and considerable application and benefit to the tourism industry.
- 35) Under Section 28 of the *Liquor Act* the Commission must consider the suitability of the premises for purpose applied for, the financial capability of the applicant, fit and proper issues and management capability. The extensive development experience of Mr Douglas Gamble and proven management capability, including that of Mr Michael Scott were outlined at hearing and in material presented. The company structure of the Value Inn Pty Ltd and related entities was provided during hearing and Australian Securities and Investment Commission (ASIC) Company Extracts tabled (Exhibit 11) confirmed the structure and principals involved.
- 36) Financial capability and project viability information (Exhibit 12) was provided through a summary schedule of project development costs (\$29 million) and projected income and expenditure forecasts. Mr Douglas Gamble referred to borrowings of \$15 million and Commissioners have received corroborating information from the lending authority and confirmation of ability to service the loan.
- 37) The development has Development Consent Authority approval and the layout of the licensed premises has been designed by practitioners experienced in similar facilities. The Commission determined that there were considered no grounds to deem the premises unsuitable for the purpose applied for.

## The Decision

- 38) Following careful consideration of all matters before Hearing Commissioners, it has been determined to grant the licence applications and approve the licence variations and material alterations sought. In summary, the Commission has decided to grant a "tavern" style licence to the Basement Nightclub. The Tap will remain an al fresco dining area (and should not be advertised or promoted as a Bar). Both the Tap and the Crocodile Tourist Theme Park licensed area on the first floor will be granted "on licence" conditions as outlined below.
- 39) It appears to the Commission sensible for there to be two (2) licences only for this development with the Nightclub having a separate "Tavern" licence and the existing "on licence" provisions for Melaleuca on Mitchell (currently including Value Inn and the Tap) to be extended to cover the licensed part of the Crocodile Tourist Theme Park on the First Floor.
- 40) A Special Condition must be added to the "on licence" that the nominee of the licence must approve all movies shown on the entertainment leisure deck. The two (2) double stacked

speakers on the Leisure deck must be replaced by four (4) single speakers as per the plan provided to the Commission at the hearing.

**41) Variation to Licence Conditions and Material Alterations to the Tap Alfresco Dining Area (the Tap)**

Commissioners agree:

- a) To approve the material alterations sought and to leave it to the Director of Licensing to decide whether any temporary variations are required to licence conditions to ensure patron safety and comfort during any construction phase.
- b) To vary the Licence Concept as applied for to include “providing a quality tourist attraction with the Crocodile Tourist Theme Park with products and services consistent with the reasonable expectations of that market”.
- c) To vary the trading hours to provide seven (7) days a week trading from 10.00am to 02.00am (the following day);
- d) Noting the applicant’s willingness to adopt measures to assist and promote the safe dispersal of patrons from the Nightclub and to curb antisocial behaviour within the Mitchell St Entertainment Precinct, bottled water, non alcoholic beverages and food such as or similar to pies, hot chips, toasted sandwiches and pizzas shall be available for purchase and consumption on the premises after licensed hours until at least 05.30am on such nights and at such other times as required by the Director of Licensing. This matter shall be included in the licence conditions together with a condition allowing patrons and the public to enter and remain in the licensed area of the Tap after licensed hours in the manner approved by the Director of Licensing.
- e) The Licensee must submit, and have approved by the Director, a Camera Surveillance Plan within thirty (30) days of the date of the decision. The Plan must include a requirement for camera surveillance from the front of the applicant’s premises to the front of the Chilli’s Backpackers. The premises must be fully compliant with that Plan and the NT Licensing Commission Camera Surveillance Requirements and Guidelines within ninety (90) days of the decision.
- f) The provision of security for the licensed premises to the satisfaction of the Director of Licensing but including a condition that a minimum of two (2) crowd controllers to be employed at the ‘Tap ’ at all times between the hours of 12:00 midnight and closing. The applicant must also ensure that it meets the industry standards where the number of patrons in the ‘Tap ’ exceeds one hundred (100) during this time. The applicant may seek a direction from the Director of Licensing if clarification is required regarding the number of extra crowd controllers required in the ‘Tap ’ to meet the industry standards.
- g) The licence shall contain the condition that the Tap al fresco dining area must not be advertised or promoted as a Bar.

**42) Grant of Liquor Licence for the Crocodile Tourist Theme Park (First Floor).**

Commissioners agree:

- a) To approve the material alterations sought provided that the commencement of trade is subject to and conditional upon the Licensee obtaining all relevant approvals from the Development Consent Authority and other bodies to the satisfaction of the Director of Licensing.
- b) The licence to have “on licence” conditions, including no provision for gaming machines or takeaway liquor sales.
- c) Trading hours for the sale of liquor in the Crocodile Tourist Theme Park on the First Floor to be from 10.00am to 10.00pm seven (7) days a week;



- d) Approval for the licensed area known as the Crocodile Tourist Theme Park on the First Floor to be used as a food court for the serving of meals and snacks to visitors to the crocodile and reptile exhibits both within and outside licensed hours. Light meals and snacks to be available at all times during licensed hours.

**43) Grant of Liquor Licence to Basement Backpacker and Nightclub.**

Noting the applicant's willingness to adopt measures to assist and promote the safe dispersal of patrons from the Nightclub and to curb antisocial behaviour within the Mitchell Street Entertainment Precinct, the liquor licence granted for the nightclub shall include the following terms:

- a) The grant of a liquor licence with trading hours from 10.00am to 04.00am (the following day) seven (7) days a week (excluding Christmas Day and Good Friday);
- b) Adequate management arrangements must be made to the satisfaction of the Director of Licensing including the following:
  - i. The Licensee must submit, and have approved by the Director, a Camera Surveillance Plan and the premises must be fully compliant with that plan and the NT Licensing Commission Camera Surveillance Requirements and Guidelines prior to commencing trading. The Plan must include a requirement for camera surveillance from the front of the applicant's premises to the front of the Chill's Backpackers.
  - ii. a "lock out " of patrons to be enforced after 03.00am in the manner approved by the Director of Licensing.
  - iii. the requirement that patrons be entitled to remain on licensed premises within the Nightclub after licensed hours with the service of soft drinks and complementary tap water until at least 05.30am or to such later time as is directed by the Director of Licensing.
- c) Special licence conditions for late night trading venues to be included addressing the following:
  - i. The provision of security to the satisfaction of the Director of Licensing;
  - ii. No complimentary drinks after midnight;
  - iii. Complimentary tap water provided;
  - iv. A cover charge applied after midnight on Friday and Saturday nights;
  - v. Snack foods to be provided at all times.
- d) The Licensee or its Nominee or other designated representative shall actively participate in any forum convened by the NT Police or the NT Licensing Commission for the betterment of the Mitchell Street precinct.
- e) The Licensee shall not permit or suffer the emanation of noise from the licensed premises of such nature or at such levels as to cause unreasonable disturbance to the ordinary comfort of lawful occupiers of any premises. Notwithstanding compliance by the Licensee with this requirement, the Licensee shall effect such further or other sound attenuation as the Commission in its discretion may notify the Licensee in writing at any time as having become a reasonable requirement in the considered view of the Commission in circumstances then prevailing provided always that the Licensee shall be entitled to request a hearing in relation to any such requirement of the Commission.
- f) The granting of this licence is subject to and conditional upon the Licensee obtaining all relevant approvals from the Development Consent Authority and other bodies to the satisfaction of the Director of Licensing.

#### 44) **Re Limits on Approval of Liquor Licence for Nightclub and Crocodile Tourist Theme Park**

The approvals for a Liquor Licence for the Nightclub and the Crocodile Tourist Theme Park are subject to the condition that the sale of liquor from these areas will not be permitted until the approval in writing to do so has been obtained from the Director of Licensing. Such approval will be given upon the Director's satisfaction that the premises have been completed in accordance with the applicant's presentation to the Commission and that the applicant is ready to trade in a manner consistent with the concept that has been presented to the Commission.

The applicant now has what is often referred to as a licence in principle for these areas. In terms of its duration, it is not open ended, and it is a further condition of its grant that it may be cancelled by the Commission if upon the expiration of a period of eighteen (18) calendar months from this date, the applicant shall have failed to obtain from the Commission either the approval to commence trading or an extension of time within which to seek such approval. The allowance of any such extension of time shall be a matter entirely within the Commission's absolute discretion.

The Licensee should liaise with the Director of Licensing in the event that any of the foregoing matters should give rise to any queries at any time.

Richard O'Sullivan  
Chairman

16 July 2007