

Northern Territory Licensing Commission

Reasons for Decision on whether Objection will proceed to Hearing

Applicant:	Melaleuca on Mitchell
Nominee:	Tanya Joy Gamble
Premises:	Melaleuca on Mitchell-Crocodile Tourist Theme Park and Basement Nightclub
Objectors:	Ms Fan Zhao-House of Pearls AFS Reality and Business Brokers Propriety Limited Gina Gamble Investments Propriety Limited Gina Gamble JVC Investments Propriety Limited John Van Commence, Director, Gina Gamble Investments Propriety Limited
Date of Decision:	March 2007
Legislation:	Section 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 Propriety Limited to allow a crocodile tourist theme park and basement nightclub to be developed on the site where Melaleuca on Mitchell 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*, objectors have thirty (30) days from the date of the last advertisement of which to lodge their objection with the Director. The thirty (30) day objection period was up 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.

Objection received from Ms Fan Zhao

Ms Fan Zhao leases one of the shops on Melaleuca on Mitchell site and runs a business called House of Pearls. As she works in the neighbourhood, Ms Zhao is a valid objector. Ms Zhao submits that the application for two (2) additional liquor licences for the Melaleuca on Mitchell site is "an attempt to seriously mislead the Licensing Commission and the general public". Note that the form of the advertisement was discussed with the Director of Licensing prior to being published and it is doubtful that the Commission would consider they had been anyway misled in this issue. The letter of objection is on letterhead and is signed by Ms Zhao.

As Ms Zhao works in the neighbourhood where the applicant's premises will be located, she is entitled to lodge an objection her concerns include the need to protect the diversity of outlets ensuring Mitchell Street does not turn into a 'Bar District'. She questions the need for a further nightclub and raises concerns regarding safety issues and voices concerns regarding public safety issues if a further nightclub venue is allowed. Ms Zhao also expresses a concern that cleanliness and hygiene are already serious problems on Mitchell Street.

She then proceeds to express concerns about Body Corporate expenses. This issue is not a valid concern for an objector to a liquor licence and disputes on that issue must be resolved in another forum. One proviso to this comment is that if the manner in which the neighbouring premises are being used is already causing or is likely to cause public safety or health issues, then these particular issues are of relevance to the Licensing Commission when considering this application. Thus Ms Zhao's comments regarding congested areas and access ways are valid considerations for the Commission to take into account.

In summary, subject to the provisos referred to above, Ms Zhao is a valid objector and is entitled to a hearing.

Objection received from AFS Reality and Business Brokers Propriety Limited

The objection lodged by AFS Reality and Business Brokers Propriety Limited, a company operating the business Wisdom Bar and Café and Ashton Lodge have made their objection 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 they are entitled to object. The issues raised by the objector include concerns about increased antisocial behaviour and noise from the nightclub premises particularly at 4.00am when the premises close. Concerns are 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. 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" license for the crocodile park.

The issues raised by the objector are valid issues and requires a hearing.

Objections lodged on behalf of Gina Gamble Investments Propriety Limited, Gina Gamble personally, JVC Investments Propriety Limited and John Van Commenee, a Director of Gina Gamble Investments Propriety Limited

These four (4) objectors lodged their objections through their Solicitors Morgan Buckley Lawyers. All four (4) persons are valid objectors in their own right. They jointly raise objections and a number of issues including concerns about noise, safety, security of patrons and passers by and particular concerns about an increase in criminal and anti social behaviour when patrons are leaving the nightclub. A number of concerns are raised regarding noise and rubbish.

The objectors are entitled to a hearing on these issues.

On 9 February 2007 a letter was 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:

- 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 Bar'.
 - c) The applicant does not seek any change to the noise conditions in the licence, whether relating to the 'Tap Bar' 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 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.
 - f) 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.
4. The applicant's Solicitor counter signed the letter to show his client's agreement to the above terms. As a result and on the basis on that agreement, the objection of JVC Investments and John Van Commenee are withdrawn.

5. On 12 February 2007, Gina Gamble on behalf of herself and on behalf of Gina Gamble Investments Propriety Limited withdrew her objection. This withdrawal is noted.

Summary

6. Lucy Zhao, trading as the House of Pearls and AFS Reality Business Brokers, trading as Wisdom Café and Ashton Lodge are valid objectors and require a hearing. JVC Investments Propriety Limited and John Van Commenee are valid objectors but it is noted their objections are withdrawn on the terms and conditions contained in their agreement with the applicants dated January 2007.

Brenda Monaghan
Legal Member

March 2007