

# Northern Territory Licensing Commission

## Reasons for Decision on whether Objection will proceed to Hearing

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<b>Applicant:</b>	Value Inn Pty Ltd
<b>Nominee:</b>	Tanya Joy Gamble
<b>Premises:</b>	Melaleuca on Mitchell
<b>Objectors:</b>	1-AFS Reality and Business Brokers Pty Ltd-Wisdom Bar & Café and Ashton Lodge 2-JVC Investments Pty Ltd (conditional withdrawal) 3-John Van Commenee (conditional withdrawal)
<b>Legislation:</b>	Sections 4F to 47I of the <i>Liquor Act</i> .
<b>Member:</b>	Brenda Monaghan

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### Background

1. An application for a variation to the Melaleuca on Mitchell “on licence” liquor licence has been made by Value Inn Pty Ltd to extend the trading hours for the Alfresco Dining Area (The Tap on Mitchell) from midnight to 2am seven days a week. The application was advertised on 6, 8 and 11 December 2006. The applicants have separately submitted an application for a tavern liquor licence for the Melaleuca on Mitchell Crocodile Tourist Theme Park and Basement Nightclub. It is anticipated that both these applications will be heard together and, if successful, the ultimate composition and/or consolidation of licences remains a matter for the Commission.
2. Under the *Liquor Act* (the Act), objectors have thirty (30) days from the date of the last advertisement in which to lodge their objections with the Director. The thirty (30) day objection period ended on Wednesday 10 January 2007.
3. Five (5) 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 AFS Reality and Business Brokers Pty Ltd
    - i. 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. Mr McCourt verbally confirmed to Licensing Inspector Tribe on 8 January 2007 that the letter of objection dated 5 January 2007 covered the proposal to vary licence conditions as well as the separately advertised nightclub and crocodile theme park proposal. As Wisdom Bar and Café and Ashton Lodge are businesses situated in the same neighbourhood as the proposed licensed premises, AFS Realty Pty Ltd is entitled to object.
    - ii. The issues raised by the objector include concerns about increased antisocial behaviour, riotous conduct and noise, queries about the suitability of the current security and management arrangements and the experience of the nominee to manage a late night trading venue.
    - iii. 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.

- b. Objection 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

- i. These four (4) objectors jointly lodged their objections to the granting to the applicant of a liquor licence variation through 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:

*The character of the applicant's application will not materially change between the date of this letter and the final determination of the applications.*

*The applicant does not seek any changes to the current licence concept for the 'Tap Bar'.*

*The applicant does not seek any change to the noise conditions in the licence, whether relating to the 'Tap Bar' or the premises generally.*

*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.*

*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.*

*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.*

- ii. 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 Commenee. 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 premises and are entitled to object. John Van Commenee, 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.
- iii. The number of concerns raised by these objectors include the question of whether the area is currently being run as an alfresco dining area or a bar and the sufficiency of current management and security arrangements. Concerns are also raised about safety issues relating to the security of patrons and passers by and a likely increase in criminal and antisocial behaviour especially at closing time. 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.

## **Summary**

AFS Reality Business Brokers, trading as Wisdom Café and Ashton Lodge is a valid objector and requires a hearing. JVC Investments Pty Ltd and John Van Commenee are valid objectors but it is noted that their joint objection is withdrawn on the terms and conditions contained in their agreement with the applicants dated 9 February 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