

**Liquor Commission of Western Australia**  
**(Liquor Control Act 1988)**

**Applicant:** Chief Health Officer  
*(Represented by Ms Aleksandra Miller of the State Solicitor's Office)*

**Respondent:** United Cinemas Australia Pty Ltd  
*(Represented by Mr Peter Mustaca of United ACL)*

**Commission:** Mr Nicholas van Hattem (Presiding Member)  
Dr Kim Hames (Member)  
Ms Elanor Rowe (Member)

**Matter:** Application pursuant to section 25 of the *Liquor Control Act 1988* (the "Act") for review of the decision of the Director of Liquor Licensing to grant a Special Facility (Cinema) licence for premises known as United Cinemas Rockingham, with a juvenile exemption pursuant to section 120(1)(e) of the Act and subject to twelve trading conditions. The Applicant asks the Commission to impose three further trading conditions on that licence.

**Premises:** United Cinemas Rockingham  
14 Leghorn Street  
Rockingham, Western Australia, 6168

**Date of lodgement of Application:** 4 June 2021

**Date of Hearing:** On the papers

**Date of determination:** 31 March 2023

**Determination:**

The Application is allowed. The Decision of the Delegate of the Director of Liquor Licensing is varied and the Application to grant a Special Facility (Cinema) licence in respect of the Premises is approved subject to the twelve trading conditions listed in paragraph 12 (below) and to the following additional trading conditions:

13. Liquor may only be served at the Premises from a discrete and clearly delineated fixed area of the Premises that is separate from the 'Candy Bar' (i.e., separate from the area at the Premises used for the sale of confectionary, food, non-alcoholic drinks, and other products to patrons including children); and
14. The Licensee must display signage at the Premises advising that:
  - (a) the supply of liquor to juveniles is an offence; and
  - (b) night vision technology will be employed in the cinema to monitor patrons,and the signage must be large, clear, easy to read, prominently displayed, and clearly visible to all patrons of the Premises.

The phrase "*separate from the 'Candy Bar'*" in trading condition 13 above means that liquor sales operations and 'Candy Bar' sales operations can both be accommodated from a single counter structure at the Premises provided that the counter structure is:

- (a) sufficiently long to ensure; or
  - (b) configured in a way that will ensure,
- there is a clear separation between the liquor sales operations and other sales operations and a clear separation between patrons for liquor sales and patrons for other sales.

**Authorities referred to in Determination**

- *Carnegies Realty Pty Ltd v Director of Liquor Licensing* [2015] WASC 208
- *Chief Health Officer v Hoyts Multi-Plex Cinemas Pty Ltd* (LC 29/2022)
- *Hancock v Executive Director of Public Health* [2008] WASC 224

## BACKGROUND

1. This matter concerns an Application by the Chief Health Officer (the “**CHO**”) for review of a decision relating to an original Application by United Cinemas Australia Pty Ltd (the “**UCA**”) lodged on 22 December 2020, for the grant of a Special Facility (Cinema) licence (“**SFL**”) pursuant to sections 46 and 68 of the *Liquor Control Act 1998* (WA) (“**Act**”) for the whole of the premises, known as United Cinemas Rockingham, situated at 14 Leghorn Street, Rockingham (“**Premises**”) for the prescribed purpose of allowing the sale of liquor to persons attending a film (the “**UCA Application**”).
2. The CHO did not object to the grant of the Application but rather intervened to make submissions, particularly as to the prospect of harm to children and young people attending a screening of a film at the cinemas. The CHO recommended the imposition of further trading conditions on the licence if granted. In particular, the CHO recommended that unaccompanied juveniles should not be permitted to enter or remain in any cinema on the proposed licensed Premises when liquor is served and consumed.
3. UCA described the purpose of the UCA Application as follows:

*“The Application is required as the Applicant wants to offer adult patrons of the Cinema the opportunity to purchase and enjoy a glass of wine, a beer or other alcoholic beverage when they go to the Cinema. This service and amenity is provided at the Applicant’s cinemas in other states and is a service and facility offered at other cinemas in Western Australia.”<sup>1</sup>*
4. UCA’s submissions included its intended manner of trade, its commitment to the responsible service of liquor, and its measures to ensure that liquor would not be sold, supplied, or consumed by juveniles permitted to enter the proposed Premises for the purpose of viewing a film or a film related function and submissions addressing the legislative requirements and proposed trading conditions.
5. The Premises, a purpose-built cinema complex, include:
  - (a) 6 internal theatre rooms;
  - (b) a candy bar (serving food and beverages); and
  - (c) an outdoor cinema with a pop up “food/servery van”.
6. Together with the Application for the grant for a SFL, UCA also sought approval, in accordance with section 120(1)(e) of the Act, to permit unaccompanied juveniles to enter and remain on the proposed licensed Premises for the purpose of viewing the screening of a film or for the purpose of attending a cinema related function, which includes the screening of a film.
7. In support of its Application, UCA lodged a section 40 certificate indicating that the proposed Premises complied with the City of Rockingham’s planning requirements. On 28 April 2021, UCA lodged an amended section 40 certificate (planning) from the City of Rockingham which permitted the consumption of liquor in the foyer.

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<sup>1</sup> Original Decision of Director of Liquor Licensing A241895290 (**Original Decision**), [6].

8. The specific grounds of the CHO's intervention are as follows:
- (a) alcohol will have a prominent profile at United Cinemas given the entire premises is intended to be licensed;
  - (b) UCA seeks for unaccompanied juveniles to be permitted at the venue. There are harm and ill-health implications with this proposal given the Applicant's intention to allow adults to drink alcohol within all cinemas, including during movies where the predominant target groups are likely to be children and young people ("G" and "PG" rated films);
  - (c) exposing children and young people to the sale, supply, and consumption of alcohol in the context of leisure activities, such as movie screenings, reinforces alcohol as an ordinary, non-harmful product for young people;
  - (d) research suggests that viewing alcohol as an ordinary product can lead to drinking at an earlier age, resulting in harm and ill-health to young people;
  - (e) there are harm and ill-health concerns regarding the Applicant's proposal to sell alcohol until 1:00 a.m.;
  - (f) there is a link between late-night trading and alcohol-related harm, in particular, the risk of drink-driving; and
  - (g) if the licence is granted, conditions that reduce alcohol-related risk factors for children and young people attending the complex and limiting the profile and availability of alcohol for consumption at the premises would be an important harm minimisation approach.
9. The submissions of the CHO included an analysis of the UCA Application and its intended manner of trade. The CHO submitted that, as UCA seeks to licence the entire premises and allow unaccompanied juveniles in the cinemas where alcohol will be a feature, there are harm and ill-health concerns for children and young people attending a screening of a film at the cinemas, including:
- (a) the potential for secondary supply of alcohol to juveniles;
  - (b) child safety concerns relating to the children's exposure to adults under the influence of alcohol;
  - (c) normalisation impact of children being exposed to alcohol in leisure settings; and
  - (d) juveniles may be exposed to adults consuming alcohol from the moment they enter the Premises given alcohol will be highly visible throughout the Premises.
10. For the purpose of minimising harm and ill-health, the CHO submitted that unaccompanied juveniles should not be permitted to enter or remain in any cinema when liquor is served and consumed. The CHO also suggested that other harm minimisation conditions, some of which are consistent with UCA's intended manner of trade be imposed on the licence to minimise the potential for alcohol-related harm. The CHO proposed the following conditions:

- (a) Liquor is not to be served in a cinema where a “G” or “PG” rated film is being screened (unless it is part of an 18+, adults-only screening), or when there is a function or special event that is specifically designed for, or targeted at, children and/or young people.
  - (b) The consumption of liquor in the shared area (i.e., foyer) is prohibited.
  - (c) The sale and consumption of liquor is limited to a discrete and clearly delineated area of the venue separate from the candy bar.
  - (d) The sale and supply of alcohol shall be limited to two alcoholic beverages per person, per movie.
  - (e) Food shall be available to purchase during all trading hours.
  - (f) Drink options that include low alcohol liquor as well as non-alcoholic drinks shall be available for purchase during all trading hours.
  - (g) The licensee shall not promote or sell drinks which offer liquor by virtue of their emotive titles such as, but not limited to, layoffs, shooters, slammers, test tubes, blasters and Jager Bomb.
11. In addressing the specific concerns of the CHO, UCA submitted that the primary business and function of the cinema is, and will remain a cinema, and if the Application was granted, it would not be a “*sham bar*.”<sup>2</sup>
12. On 5 May 2021, the Delegate of the Director of Liquor Licensing granted the Application for a SFL subject to twelve trading conditions (the “**Decision**”), being consistent with those imposed by the Delegate in similar applications to assist to minimise the potential for any alcohol-related harm that may result from the grant of the licence and to provide consistent trading practices across the State and for like premises. The trading conditions are as follows:<sup>3</sup>
- 1 Pursuant to section 46(3) of the Act and regulation 9A(4) of the *Liquor Control Regulations 1989* (“**Regulations**”), this licence is granted for the prescribed purpose of “Cinema”.
  - 2 During the permitted trading, the licensee is only authorised to sell and supply liquor for consumption on the licensed premises to persons who are attending the screening of a film and who possess a ticket that is valid for the film screening at the United Cinemas Rockingham on that day, for two hours before the commencement of that film; during the screening of the film itself and for one hour after the conclusion of the film.
  - 3 The sale and supply of packaged liquor for consumption off the licensed premises is prohibited.
  - 4 The consumption of liquor is only permitted within the cinema theatres, the outdoor cinema and the foyer.

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<sup>2</sup> Original Decision at [21].

<sup>3</sup> Original Decision at [64].

- 5 The sale of liquor is only permitted at the candy bar (as this the area for food preparation for the serving of food and beverages); and a pop-up service counter within the outdoor cinema.
- 6 Drink options that contain low alcohol liquor content as well as a range of non-alcoholic drink options must be available during all trading hours.
- 7 The licensee shall not promote drinks which offer liquor by virtue of their 'emotive' titles such as, but not limited to 'laybacks', 'shooters', 'test tubes', 'jelly shots', 'blasters', or 'bombs'.
- 8 The number of persons that may be accommodated on the licensed premises, at any one time, must not exceed the numbers of persons/patrons as contained in the premises accommodation certificate as determined by the City of Rockingham. In respect of the "Outdoor Cinema" the number of persons that may be accommodated in this part of the licensed premises, at any one time, must not exceed 800 persons or such lesser number as assessed by the City of Rockingham.
- 9 Pursuant to section 120(1)(e) of the Act, unaccompanied juveniles are permitted to enter and remain on the licensed premises only where the juvenile is present on the licensed premises for the purpose of attending the screening of a film and who possess a ticket or voucher that is valid for the film screening at the United Cinemas Rockingham on that day.
- 10 During the screening of a film, if juveniles are present within a cinema, an employee of the licensee trained in the responsible service of liquor (RSA officers) must check the cinema every 15 minutes. RSA officers must utilise night vision goggles/binoculars for the purpose of such inspections to ensure compliance with the Act.
- 11 Each cinema must be equipped with a closed-circuit television video ("**CCTV**") with night vision capability.
- 12 A CCTV surveillance system able to identify individuals and showing times and dates must be in place and operational. The CCTV system must comply with the requirements as identified in the Director's Policy 'Safety and Security at Licensed Premises'. It is expected that the system will provide and record continuous images of the entrances and exits to the premises during the normal trading hours and until one (1) hour after trading ceases. Images recorded via the CCTV system must be retained for, at least, twenty-eight (28) days (or such other period as the Director of Liquor Licensing specifies) and must be made available for viewing or removal by the Police or other persons authorised by the Director.

The recorded vision when viewed or removed must include:

- i. Time/date stamp.
- ii. Camera location.
- iii. Camera identifier.
- iv. Watermarking or method of verifying the original image for authenticity ensuring tamper prevention.

The details of any incident must be recorded in the Incident Register for the licensed premises.

13. The Delegate found that the purpose was sufficiently clear for him to conclude that UCA's intended manner of trade was in accordance with the purpose prescribed in regulation 9A(4) of the Regulations. He was also satisfied that the grant of the Application was consistent with the objects contained in section 5(1)(c) of the Act, to cater for the requirements of consumers for liquor and related services, and section 5(2) of the Act to facilitate the use and development of licensed premises reflecting the diversity of the requirements of consumers. Under section 33 of the Act, the Application was granted for the prescribed purpose of "Cinema":
14. The CHO now seeks a review of the Decision on the following bases:
  - (a) The Delegate erred by misapplying the "*Juveniles present on licensed premises for reasons other than work/training policy*" ("**Policy**") to grant approval under section 120(1)(e) of the Act for unaccompanied juveniles to enter and remain on the licensed premises, subject to condition 9, which requires the juvenile to be present on the premises for the purpose of viewing the screening of a film and to possess a valid ticket for the film screening. In particular:
    - (i) the Delegate's reasons for granting the approval because the CHO did not make any submissions as to why the Policy should not apply is inconsistent with the terms of the Policy which places the burden of proof on UCA;
    - (ii) in any event, the Delegate paid insufficient regard to the submissions made by the CHO regarding the harmful impact of the exposure and normalisation of alcohol on juveniles attending leisure settings;
    - (iii) the protective mechanisms imposed to minimise harm arising from that risk are ineffective because it would not be reasonably possible or practicable for an employee of the licensee to identify unaccompanied juveniles in a dark cinema with large numbers of people present or to identify if any such unaccompanied juvenile is in possession of or consuming alcohol, or otherwise at risk from an adult who has been consuming alcohol; and
    - (iv) the Delegate relied on a similar condition imposed in previous decisions as confirmation of the Policy, without having regard to the merits of this particular case.
  - (b) The Delegate erred in finding that the information presented by the CHO did not assist him to make findings in the manner set out in *Carnegies Realty v Director Liquor Licensing* [2015] WASC 208 ("**Carnegies**"), in circumstances where the evidence and material relied upon by the CHO were capable of addressing the likely degree of harm to result from granting the licence, and UCA provided no evidence of its own. In particular, the Delegate dismissed the concerns raised by the CHO regarding the harmful effect of allowing alcohol to be a visible and prominent feature of the premises, by creating a favourable association for juveniles between alcohol and leisure activities, and reinforcing the perception that alcohol is an ordinary product.
  - (c) The Delegate's decision to grant the licence without imposing conditions prohibiting the consumption of liquor in the shared area (i.e., the foyer) and restricting the sale, supply, and consumption of liquor to a discrete and clearly delineated area of the premises separate from the candy bar was irrational or unreasonable. In particular, the Delegate



relied on the terms and conditions of the planning approval granted by the City of Rockingham in refusing to impose the CHO's proposed conditions, in circumstances where the planning approval did not preclude the imposition of those proposed conditions.

15. In terms of potential orders, the CHO submitted that it would be open for the Commission to quash the decision and grant the licence on Additional Trading Conditions directed towards:
  - (a) preventing the sale, supply, and consumption of liquor on the Premises when unaccompanied juveniles are present, including when there is a screening of a "G" or "PG" rated film, or a function or special event that is targeted at juveniles (Additional Condition 1);
  - (b) preventing the consumption of liquor in the shared area of the Premises, namely the foyer (Additional Condition 2); and
  - (c) restricting the sale and supply of liquor to a discrete and clearly delineated area of the Premises, separate from the candy bar (Additional Condition 3).<sup>4</sup>

## **DETERMINATION**

16. The Commission has undertaken a full review of the evidence and submissions, and the Commission now makes a determination on the basis of all the same materials that were before the Delegate when the Decision was made.<sup>5</sup>
17. The Commission has been provided with a large amount of material from the parties to assist in the determination. The fact that a particular piece of evidence has not been specifically referred to in these reasons should not be construed as a failure by the Commission to consider that evidence or submission. The Commission assures the parties that all materials provided by the parties have been carefully considered in making the following determination.
18. The Commission emphasises that it is required to have regard only to the material that was before the Delegate when making the decision.<sup>6</sup>
19. The Commission draws no inference from the fact that the Commissioner of Police has not intervened nor that the Director of Liquor Licensing has not been represented.

### Scope of the Dispute

20. The matters in dispute in this Application are:
  - (a) the application of the *Carnegies* test in assessing whether or not to impose additional conditions;
  - (b) a dispute as to what conditions should attach to the licence to allow the juvenile exemption; and
  - (c) whether or not to impose the three Additional Trading Conditions that are sought by the CHO are outlined in paragraph 15.

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<sup>4</sup> Applicant's Primary Outline of Submissions dated 15 October 2021 at [97].

<sup>5</sup> *Hancock v Executive Director of Public Health* [2008] WASC 224.

<sup>6</sup> Section 25(2)(c) of the Act.

### Carnegies application to the current case

21. In the original decision, the Delegate applied the test in *Carnegies* without any modification for the circumstances.<sup>7</sup>
22. At paragraph [54], the Delegate held that the CHO had not presented the information in a way that assisted him to make findings in the manner set out in *Carnegies*.
23. UCA submits the Delegate had due regard to *Carnegies* and applied the test correctly.
24. The CHO submits the *Carnegies* approach is not appropriate in the current matter as the circumstances of this Application are outside the scope of the test. *Carnegies* is distinguishable from the present case as:
  - (a) *Carnegies* concerned an application for an extended trading permit; and
  - (b) sections 38(1), 38(2) and 64(4)(g) of the Act and regulation 9F of Regulations collectively required the Applicant to satisfy the licensing authority that the Application was in the public interest; however
  - (c) the present case does not concern an application for an extended trading permit and is not subject to the same provisions of the Act and Regulations; and
  - (d) the Commission's task is not simply to ask whether the four steps set out in *Carnegies* were applied or not, but to undertake an evaluative assessment of the issue of harm in the context of this Application.
25. This Commission agrees with the CHO's submissions regarding the application of *Carnegies*. The Delegate was required to undertake an evaluative assessment of the issue of harm in the context of this Application.

### Section 120(1)(e) Juvenile Policy

26. The CHO submitted the appropriate application of the Juvenile Policy required the Delegate to impose appropriate conditions on the licence to minimise the risk of harm to juveniles as a result of exposure to adults using alcohol at the Premises.<sup>8</sup>
27. The CHO submitted the risks of harm to juveniles in a licensed cinema setting are not limited to the risks of secondary supply of alcohol or risks of physical harm from adults consuming alcohol but extend to risks of harm caused by alcohol consumption being highly visible and normalised.
28. UCA submits that the Director had due regard to the Policy and that it was appropriately applied in the determination.<sup>9</sup>
29. The Commission has previously considered the risk of harm to unaccompanied juveniles in *Chief Health Officer v Hoyts Multi-Plex Cinemas Pty Ltd* (2022) LC 29/2022 ("**Hoyts**").

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<sup>7</sup> Original Decision at [53].

<sup>8</sup> Applicant's Primary Outline of Submissions dated 15 October 2021 at [68].

<sup>9</sup> Respondent's Submissions at [6].

### Risk of secondary supply to juveniles

30. The Commission considered the risk of adults supplying alcohol to unaccompanied juveniles by way of 'secondary supply'.<sup>10</sup> The Commission accepted that there was some risk of secondary supply based on the darkness in the theatre room, the ease with which adults can supply liquor to juveniles in those circumstances, and issues relating to unlawful behaviour by adults.
31. In *Hoyts* the Commission considered submissions from the parties regarding secondary supply of alcohol to juveniles. At paragraph [69] the Commission held that:
- (a) the CHO in that case had provided no evidence of any actual secondary supply in a cinema; and
  - (b) there was "at least some small risk of secondary supply," with reference to notorious facts rather than evidence.
32. In considering these matters, this Commission finds that the existing conditions do satisfactorily address the low-level risk of secondary supply, particularly if the cinema's use of night vision technology is communicated to patrons by way of clear signage (as discussed further below).

### Objects of the Act

33. The Commission must consider the objects specified in section 5 of the Act and other relevant requirements of the Act before making a determination. The Commission previously explained these competing objects in *Hoyts*, highlighting the inconsistencies between:
- (a) the primary object at section 5(1)(b)<sup>11</sup> (in the context of this case, favours licence conditions that will protect juveniles from liquor-related harm by limiting the sale and consumption of liquor to certain parts of the Premises where juveniles will not be allowed) and the primary object at section 5(1)(c)<sup>12</sup> (which, in the context of this case, favours less restriction on the sale and consumption of liquor at the Premises so as to better cater to the "requirements of consumers for liquor and related services"); and
  - (b) the inconsistency between the secondary object at section 5(2)(a)<sup>13</sup> (which, in the context of this case, favours less restriction on the sale and consumption of liquor at the Premises so as to better meet the "requirements of consumers" of liquor) and the secondary object at section 5(2)(f)<sup>14</sup> (which, in the context of this case, favours licence conditions that will "encourage responsible practices towards the promotion, sale, supply, service and consumption of liquor that are consistent with the interests of the community" in preventing juveniles from consuming liquor at the Premises and in limiting the exposure of juveniles to the sale and consumption of liquor by others at the Premises).<sup>15</sup>

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<sup>10</sup> *Hoyts* at [69].

<sup>11</sup> "to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor"

<sup>12</sup> "to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State"

<sup>13</sup> "to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State"

<sup>14</sup> "to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor that are consistent with the interests of the community"

<sup>15</sup> *Hoyts* at [77]-[79].

34. The Commission gives precedence to the primary objectives in any occurrence of an inconsistency.
35. In this case, and while recognising the weight which must also be given to the other competing objects of the Act, the Commission finds that particular regard must be given to the primary object at section 5(1)(b), to the secondary objects at section 5(2)(d) and 5(2)(f), and to the need to minimise harm to juveniles who attend the Premises to view the screening of a film.

#### Proposed Additional Condition 1 – Prohibition of Unaccompanied Juveniles

36. Applying the current policy, it is necessary for the cinema owner to articulate the reasons why there should be an exemption and what strategies are in place to reduce the risk of harm.
37. The Commission finds that risks of harm are:
  - (a) secondary supply;
  - (b) exposure to violence from alcohol-affected patrons; and
  - (c) normalisation of alcohol consumption.
38. The Commission holds that the existing conditions including the use of night vision technology and RSA officers inspecting the cinema adequately address risks (a) and (b) above. The Commission holds that the present conditions do not adequately address the third risk, however with the imposition of Additional Condition 3 (addressed below), this risk can be adequately addressed.
39. Accordingly, the Commission declines to impose Proposed Additional Condition 1.

#### Proposed Additional Condition 2 – Foyer

40. The CHO submitted that the planning approval granted by the City of Rockingham was not relevant to the Commission's consideration of proposed Additional Condition 2. That is correct. It is necessary to perform an evaluative risk assessment and the approval or otherwise from the local government is not relevant to that risk assessment.
41. The Commission finds that there is some risk of harm associated with people drinking in the foyer, most relevantly the normalisation risk articulated by the CHO. The Commission holds that the imposition of Proposed Additional Condition 3 adequately addresses this risk. Accordingly, the Commission declines to impose Additional Condition 2.

#### Proposed Additional Condition 3 – Delineation of Alcohol Service Area

42. The Commission finds that the delineation of the alcohol service area from the 'Candy Bar' is a reasonable condition. The condition is satisfactory for multiple reasons as it is:
  - (a) not onerous to implement;
  - (b) a clear step towards reducing harm to juveniles due to normalisation of drinking behaviours; and
  - (c) not particularly inconvenient to consumers as the Candy Bar area is still in approximately the same location.

### Additional Condition - Signage

43. In *Hoyts*, the Commission imposed an additional condition requiring the licensee to display signage at the Premises advising:
- (a) the supply of liquor to juveniles is an offence; and
  - (b) night vision technology will be employed in the cinema to monitor patrons.<sup>16</sup>
44. This Commission holds that the signage is an appropriate condition to impose in this case because it will help to reduce risks to juveniles.
45. In particular, with signage, the use of night vision technology can serve as a deterrent for patrons to engage in behaviour that could expose other patrons to risks of harm.

### Section 64 of the Act

46. The Commission recognises that the trading conditions described in paragraph 47(b) below (as interpreted in accordance with paragraph 47(c) below) differ from the Additional Trading Conditions sought by the CHO. However, the Commission:
- (a) notes that in accordance with section 64(1) of the Act, the Commission has discretion to impose any additional conditions on the licence which the Commission considers to be appropriate, having regard to the tenor of the licence and the circumstances in relation to which the Commission intends that licence should operate;
  - (b) also notes that it may exercise that discretion on its own motion in accordance with section 64(2) of the Act;
  - (c) relies on that discretion to the extent the trading conditions described in paragraph 47(b) below (as interpreted in accordance with paragraph 47(c) below) differ from the Additional Trading Conditions; and
  - (d) had determined that all of the trading conditions described in paragraph 47(b) below (as interpreted in accordance with paragraph 47(c) below) are in the public interest.

### Conclusion

47. The Commission holds as follows:
- (a) The CHO's Application under section 25 is allowed.
  - (b) The Decision of the Delegate is varied and the Application to grant a SFL in respect of the Premises is approved subject to the twelve (12) trading conditions listed in paragraph [12] (above) and to the following additional conditions:
    - 13. Liquor may only be served at the Premises from a discrete and clearly delineated fixed area of the Premises that is separate from the 'Candy Bar' (i.e., separate from the area at the Premises used for the sale of confectionary, food, non-alcoholic drinks, and other products to patrons including children); and

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<sup>16</sup> *Hoyts* at [80].

14. The Licensee must display signage at the Premises advising that:

a. the supply of liquor to juveniles is an offence; and

b. night vision technology will be employed in the cinema to monitor patrons,

and the signage must be large, clear, easy to read, prominently displayed, and clearly visible to all patrons of the Premises; and

(c) The phrase “separate from the ‘Candy Bar’ in trading condition 13 above means that liquor sales operations and ‘Candy Bar’ sales operations can both be accommodated from a single counter structure at the Premises provided that the counter structure is:

i. sufficiently long to ensure; or

ii. configured in a way that will ensure,

there is a clear separation between the liquor sales operations and other sales operations and a clear separation between patrons for liquor sales and patrons for other sales.



**NICHOLAS VAN HATTEM**  
**PRESIDING MEMBER**



**DR KIM HAMES**  
**MEMBER**



**ELANOR ROWE**  
**MEMBER**