

IN THE LIQUOR LICENSING DIVISION OF WESTERN AUSTRALIA  
IN THE MATTER OF AN APPLICATION BY KEY CREATURES PTY LTD  
FOR A TAVERN RESTRICTED LICENCE FOR PREMISES TO BE KNOWN AS  
'LITTLE CREATURES ELIZABETH QUAY'

---

**PUBLIC INTEREST ASSESSMENT SUBMISSIONS**

---



Date of Document: 28 October 2024  
Filed on behalf of: The Applicant  
Prepared by: Tim Monaghan, Monaghan Lawyers  
Level 2, 524 Hay St Perth WA 6000

---

*The contents of these submissions and the attachments to them are subject to copyright. They may not be reproduced or published without the prior written consent of Monaghan Lawyers by any person except in the case of bona fide use by the licensing authority and the parties to the application.*

## SECTION A: DETAILS OF APPLICATION

### TERMS USED

1. In these submissions, reference to:
  - a. **Act** means the Liquor Control Act 1988;
  - b. **Applicant** means Key Creatures Pty Ltd;
  - c. **Application** means the application by the Applicant for the Licence in respect to the Premises;
  - d. **LGA** means the City of Perth which is the local government authority which may intervene or make representations in these proceedings pursuant to section 69(7), Act;
  - e. **Licence** means tavern restricted licence pursuant to s.41(1)(c) of the Act;
  - f. **Locality** means the locality relevant to the Application as defined in these submissions;
  - g. **Premises** means the land and buildings which are the subject of the Licence located at Tenancy 1, Ground Floor, 9 The Esplanade, Perth, WA;
  - h. **Regulations** means the Liquor Control Regulations 1989;
  - i. **RSA** means the responsible service of alcohol; and
  - j. **Venue** means the business proposed to operate under the Licence and trade under the name 'Little Creatures Elizabeth Quay'.

### APPLICANT

2. The persons behind the Applicant company are among Western Australia's leading hospitality operators with an extensive history in the successful and responsible operation of licensed venues. They bring a high degree of creativity, passion and professionalism to the proposal which is the subject of this Application.
3. Tim McLernon is the director of the Applicant company with the predominant management role in relation to the Application. His previous hospitality experience includes the successful ownership and management of some of Perth's leading licensed venues. He has managed venues including Indiana Tea House, Emporio Tavern and Subiaco Hotel and, with his partners he has established, owns and operates the following iconic Western Australian licensed venues:

- a. Stables Bar, Perth;
  - b. Reveley Bar, Elizabeth Quay;
  - c. Camfield Bar, Burswood;
  - d. Good Company Bar, Karrinyup; and
  - e. The Elford Bar, Mount Lawley.
4. The quality and success of these venues and the professional and responsible manner in which they are managed provide a clear indication of the high standards that will be brought to the proposed Venue.

#### **APPLICATION**

5. The Applicant's intention is to create a high-quality tavern operating under the iconic "Little Creatures" name.
6. Floor plans filed in support of the Application indicate that the Premises' public areas comprise an internal Bar/Lounge and dining areas and external alfresco and pavilion areas looking over Geoffery Bolton Avenue towards the waters of the Quay.
7. The Applicant's intention is to fit out, equip and furnish the Premises to a high standard to create a unique, high quality contemporary hospitality venue that is both stylish and comfortable, combining the best elements of a traditional tavern environment with the contemporary features and services expected by consumers.
8. As experienced operators, the persons behind the Applicant company are well aware of their responsibility to effectively manage and mitigate potential risks associated with the supply of liquor to the public. Accordingly, this proposal has been developed with the specific aim of ensuring that the Venue operates as a positive addition to the lifestyle, leisure and tourism attractions of the Locality while minimising the risk of any negative impacts in the local or broader community.
9. To facilitate these intentions, the Applicant now applies for the conditional grant of the Licence.
10. The location of the Premises is highly suitable in light of the following features:
  - a. Located in the Perth CBD, close to high density retail office and residential premises.
  - b. Located in Elizabeth Quay, which is a significant part of the cultural, entertainment and hospitality precinct of Perth CBD and a popular leisure destination for persons living and working in and near the Locality and throughout the greater Perth metropolitan area;

- c. Located in a tourist precinct which attracts significant number of visitors every year; and
- d. Conveniently accessible to persons travelling to and from the Premises by:
  - (i) public transport (train, bus and ferry);
  - (ii) taxi and ride share services; and
  - (iii) private vehicle with ample public parking facilities in the vicinity.

#### **INTENDED MANNER OF OPERATION**

- 11. The Applicant has carefully planned all aspects of its proposal, including the following keys areas:
  - a. Capacity
  - b. Trading hours
  - c. Dress code;
  - d. Dining
  - e. Beverages
  - f. Functions
  - g. Management, supervision & training
  - h. RSA policies & procedures
  - i. Juveniles;
  - j. Safety and security
  - k. Entertainment; and
  - l. Neighbourhood & amenity issues
- 12. These features have been designed to provide a range and quality of products and services that will attract and satisfy consumers, deter persons in recognised 'at risk' categories and mitigate against risk of negative impacts of the operation of the Venue in the Locality.

#### **Capacity**

- 13. The LGA has not yet issued an accommodation certificate for the Premises however a maximum capacity of approximately 550 persons is expected.

### **Trading hours**

14. The Applicant seeks for the Venue to operate under the regular permitted trading hours prescribed by the Act for the Licence and extended trading hours allowing for a 1.00am closing on Wednesday to Saturday evenings (inclusive) pursuant to an Extended Trading Permit (Ongoing Hours) filed contemporaneously with this Application.

### **Dress code**

15. The Applicant is aware that adherence to a carefully devised dress code can be an effective way to manage licensed premises and the patron profile of such premises.
16. The dress code for the Venue will be “smart casual”. This will be interpreted strictly by management to ensure that the Venue is attended by the desired demographic and to minimise persons in a ‘high risk’ category from seeking to attend the Venue.

### **Dining**

17. Dining services will be a significant focus of the business operating under the Licence as demonstrated by the following:
  - a. Plans of the Premises filed in support of the Application depict a sizable commercial kitchen which will be fully equipped, suitable to meet the significant anticipated demand for dining services.
  - b. Lunch and evening meals will be available on all days of trade and food will be available to order until 60 minutes prior to closing; and
  - c. Substantial seating at tables will be provided allowing patrons to dine in all parts of the Premises in a variety of semi-formal and casual formats (see below).
18. Dining menus will feature the best of Western Australian fresh seafood, beef and other local produce, providing patrons of the Venue with food that is accessible, value driven and high quality. Menus will be regularly refreshed and updated, featuring dishes based on fresh, seasonal produce, sourced locally wherever possible.
19. As part of its commitment to RSA principles, the Applicant intends to make a reasonable range of food available to patrons from opening until 60 minutes prior to closing. To demonstrate its bona fides in this regard the Applicant would consent to a condition being attached to the licence in the terms referred to in the Applicant’s Proposed Restrictive Licence Conditions should the Director see fit to doing so (see below).
20. **Annexed and marked A1** is a copy of an indicative dining menu for the Venue.

## **Beverages**

21. **Annexed and marked A2** is a copy of an indicative beverage menu for the Venue, which indicates the following:
  - a. Wide range of quality beer and cider products on tap and bottled, with an emphasis of “Little Creatures” beers;
  - b. High quality still and sparkling table wines with an emphasis on quality Western Australian and Australian wine producers;
  - c. A range of high quality spirits;
  - d. Low and non- alcohol products, including “mocktails”, teas and coffee; and
  - e. All products priced responsibly with no low quality or discount products that may encourage excessive or irresponsible consumption.
22. The range, promotion and service of liquor products will be subject to strict RSA policies and procedures (see below).
23. The Applicant will ensure that a range of mid strength, low strength and non-alcoholic products are available at all times.

## **Functions**

24. The Venue will provide an attractive function venue for both private and corporate function customers.
25. The location of the Venue in the Perth CBD will make it ideal for small casual corporate social gatherings and large formal corporate functions and events.
26. As part of internal risk mitigation policies, the Applicant will generally not accept bookings for functions associated with irresponsible alcohol consumption such as 18<sup>th</sup> birthday celebrations and bucks’/hen’s parties.

## **Management, supervision & training**

27. Operation of the Venue will be benefitted by the ‘hands on’ involvement of principal director of the Applicant company, Tim McLernon, who has a strong reputation and proven track record in management of sizable tavern venues in Western Australia.
28. Staff and approved managers of the Venue will be subject to initial induction and ongoing in-house training to ensure the highest standards of service and a comprehensive knowledge of all legal requirements under the Act. Special emphasis will be placed upon responsible service principles (see below).

29. The Applicant's previous involvement in the WA hospitality industry provides a high degree of confidence that the Venue will be responsibly operated with a strong commitment to RSA at all times.
30. The Applicant has developed a wide range policies and procedures relating to all aspects of operational which all staff members will be expected to follow as documented in the Venue Management Plan, **a copy of which is attached and marked A3.**

#### **RSA policies & procedures**

31. The Applicant is strongly committed to adhering to RSA principles and proposes to implement and maintain a comprehensive range harm minimisation measures.
32. The Applicant has filed a copy of the House Management Policy, Code of Conduct and Management Plan for the Venue in support of the Application.
33. The Applicant does not intend to promote drinks that would tend to encourage the rapid or excessive consumption of alcohol.
34. The Applicant is strongly committed to staff training with a focus on adherence to RSA principles:
  - a. Induction training will include a strong emphasis on encouraging responsible consumption, pro-actively discouraging excessive or rapid consumption, effectively identifying signs of drunkenness and implementing effective measures to deal with patrons exhibiting such signs. This will apply to all 'front of house' staff including bar, wait and glass collection staff.
  - b. Bar and wait staff will be trained to actively and routinely encourage patrons to combine alcohol consumption with food and to have 'breaks' between consumption of alcoholic drinks by consuming water and/or non-alcoholic beverages;
  - c. Regular refresher training will be conducted for all approved managers and general staff with a strong emphasis on RSA issues; and
  - d. All front of house staff including glass collection staff will be required to hold a valid RSA certificate.
35. Specific RSA policies and procedures to be implemented at the Venue will include the following:
  - a. Bar, wait and glass collection staff to conduct ongoing assessment of the state of sobriety of patrons at all times and to report any signs of drunkenness immediately to the senior manager on duty.

- b. Managers to ensure that an 'intox sweep' of the Venue is conducted regularly to identify any patrons exhibiting possible signs of drunkenness and to implement appropriate action in accordance with documented RSA practice for the Venue; and
  - c. A wide range of non-alcoholic and mid-strength drinks to be available and advertised at the Venue during all trading hours.
36. To demonstrate its bona fides in this regard the Applicant would consent to risk mitigation conditions being attached to the Licence in the terms referred to below should the Director see fit to doing so.

### **Juveniles**

37. The Venue has been specifically developed to appeal and cater to a broad cross-section of the community including family groups with children.
38. It is expected that demand from family groups will be greatest during lunch and dinner meal service periods on weekends and Public Holidays.
39. Unaccompanied juveniles will not be permitted in the Venue other than under circumstances permitted by the Act.

### **Safety & security**

40. The Venue can be considered to be in relatively a low risk category in terms of safety and security given the following features:
- a. Catering to patrons falling within a low risk category;
  - b. High quality of design and fit out;
  - c. Relaxed ambiance with no intensive forms of entertainment and amplified music maintained at a conversational volume;
  - d. Significant focus on the provision and promotion of dining services;
  - e. Food available for patrons during all trading hours until 60 minutes prior to closing;
  - f. Substantial seating provided for patrons throughout the Premises;
  - g. Appropriate patron dress code;
  - h. Comprehensive RSA policies and procedures;
  - i. Experienced and responsible licensee with a track record of responsible and professional management in the liquor industry;



- j. Commitment to high standard of staff training, quality management and extensive management controls, policies and procedures in place;
  - k. Comprehensive management controls and restrictive trading conditions in place at all times (see below); and
  - l. Comprehensive CCTV coverage.
41. Nonetheless the Applicant recognises that in light of the proposed extended trading hours, it would be appropriate to maintain a security presence during peak trading periods. Accordingly, it is suggested that a minimum number of licensed crowd control officers are engaged from 8.00pm until 30 minutes after closing time on Friday and Saturday evenings in a ratio of two officers for the first 100 patrons and one officer for every additional 150 patrons. To demonstrate its bona fides in this regard the Applicant would consent to a security condition being attached to the Licence in the terms referred to below should the Director see fit to doing so.

### **Entertainment**

42. As described in these submissions, the Venue will comprise a multi-faceted, up-market, hospitality facility with a relaxed and casual atmosphere. Accordingly entertainment will be provided at the Venue in a format and style that is consistent with these intentions and that enhances the hospitality experience of patrons visiting the Venue.
43. The predominant form of entertainment provided at the Venue will be amplified music played via the in-house sound system of the Venue. On occasion, during key trading periods and special events and private functions, music may be performed by a DJ or live act.
44. During all regular trading periods, the volume of amplified music in the Venue of all forms will be maintained at a conversational volume.

### **Neighbourhood & amenity issues**

45. The Venue falls within a low risk category in terms of lessening amenity or undue disturbance in light of the following relevant features:
- a. Low intensity manner of operation with a strong emphasis on dining services;
  - b. Substantial seating provided;
  - c. Lacking intensive forms of entertainment;
  - d. Catering to persons covering a broad range of ages and types;

- e. Unlikely to attract any significant 'at risk' sections of the public in terms of irresponsible consumption of alcohol and/or anti-social behaviour; and
  - f. Experienced hospitality participants with a record of responsible and lawful operation of licensed venues in WA; and
  - g. Comprehensive range of management controls and risk mitigation measures in force all times with a strong emphasis on RSA principles.
46. **Attached and marked A4** is a copy of the Acoustic Assessment Report of acoustic engineers, ARUP Australian Services Pty Ltd which concludes that the intended operation of the Venue, including the operation of the external alfresco areas, will comply with the relevant assigned levels prescribed by the Environmental Protection (Noise) Regulations 1997.
47. The evidence filed by the Applicant strongly indicates that the Venue will operate without negative impacts in the local community either in terms of reducing amenity or causing undue noise or disturbance to persons.
48. In fact, the introduction of the Venue into the Locality would be consistent with the objectives of the relevant local government authority and would provide numerous positive amenity impacts in the Locality by improving the:
- a. quality and variety of leisure and hospitality facilities and services available in the Locality; and
  - b. liveability of the Locality and the quality of life of persons living in, working in and visiting the Locality.
49. Despite the low risk that the operation of the Venue would cause undue disturbance in the Locality, in developing the details of this proposal, the Applicant has been mindful of the need to minimise the risk of disturbance or any other negative impacts through thoughtful design of the Premises and the development of appropriate operating policies and procedures including:
- a. management of noise emitted from the Premises;
  - b. strict adherence to RSA;
  - c. ensuring the orderly patron egress;
  - d. collection, internal handling and removal of glass and general rubbish;
  - e. resident communication & liaison and complaint procedures; and
  - f. closing procedures.
50. **Attached and marked A5** is a copy of the Applicant's Venue Noise Management Plan.

51. The comprehensive range of management controls and risk mitigation policies and procedures described in these submissions provides a high level of confidence that the Venue will operate without negative impacts in the local community in terms of amenity or disturbance.

### **CONSUMER REQUIREMENTS**

52. The Applicant has developed its proposal with the aim of attracting and catering for the needs of patrons comprising a mix of persons covering a broad range of ages and backgrounds, comprising persons living and/or working in the Locality and visitors to the Locality including regional, interstate and international tourists.
53. To gauge the level of consumer demand for its proposal, the Applicant has obtained the written views of the proposed Venue from a sample of persons that live and/or work in and near the Locality, ensuring that each person providing a statement was over the age of 18 years and had no business or social connection with the persons behind the Application.
54. The author of each statement was provided with:
- a. a “Summary of Proposal” a copy of which is **attached and marked A6**;
  - b. a copy of the floor plans of the Premises filed in support of the Application; and
  - c. a copy of the indicative dining menu and indicative beverage menu for the Venue referred to in these submissions.
55. **Attached and marked A7 a-f** in a bundle are the statements from those persons.
56. The evidence referred to comprises the unbiased and informed opinions of a representative sample of consumers, indicating that provision of the liquor and related services proposed by the Applicant as described in these submissions would satisfy the requirements of consumers.
57. The Applicant intends to file further consumer requirement evidence in due course.

### **RESTRICTIVE TRADING CONDITIONS**

58. The Applicant is committed to operating the Venue in the manner and subject to the various restrictive trading conditions described in these submissions.
59. To demonstrate its bona fides in this regard, the Applicant seeks that these restrictive trading conditions are formalised as conditions attached to the liquor licence in the terms set out in the document titled “Applicant’s Proposed Restrictive Trading Conditions” a copy of which is **attached and marked A8**.

60. The licence conditions suggested by the Applicant are wide ranging and comprehensive and specifically address issues relevant to potential harm. Collectively they provide a regime of strict controls that will effectively mitigate against risk of harm.
61. Should the licensing authority consider the imposition of licence conditions that are different to those proposed, the Applicant seeks an opportunity to make further submissions.

## **SECTION B: LOCALITY**

62. **Attached and marked B1** is a copy of the Applicant's Locality submissions.

## **SECTION C: TOURISM**

63. Given its location, nature and the liquor and related services proposed to be offered, the Venue is likely to be attractive to intrastate, interstate and international tourists.

### **Tourism in Western Australia**

64. Tourism is one of Western Australia's most significant industries and is a key part of the State's economy. Perth is regarded as Australia's most globally connected city with particularly strong ties to its Asian neighbours which places the city ideally for investment.
65. The WA tourism industry directly employs 65,800 people and accounts for a further 29,000 indirectly, making a total of 94,800 people in WA employed in the tourism industry.
66. Tourism (direct and indirect) contributes 7.0% of WA's total employment.
67. The value of the WA tourism industry is \$9.5 billion by Gross Value Added (GVA), contributing 3.1% of WA's total GVA.
68. This is the equivalent of \$10.5 billion by Gross State Product (GSP), contributing 3.3% of WA's total GSP.
69. Almost half (45%) of WA's direct tourism GVA was contributed by intrastate overnight travel, while international visitors accounted for almost one quarter. Interstate visitors contributed 19%, while daytrip visitors contributed 13%.
70. The hospitality sector is the top contributor to the WA tourism industry at 36% (\$1.5 billion) of GVA.

71. Western Australia attracts visitors from a wide variety of interstate and international markets. These visitors travel to Western Australia for a variety of reasons including
- a. Leisure Tourism: including holiday makers and visiting family and friends
  - b. Business Events: including convention and exhibition delegates
  - c. Event Tourism: including spectators and participants
  - d. International Education: including secondary and tertiary students.
72. The peak tourism body in Western Australia is 'Tourism Western Australia' (**TWA**).
73. Copies of the following documents are **attached and marked**:
- a. **C1** – "TWA New Domestic Segmentation Model" dated August 2018;
  - b. **C2** – "TWA Visitation to WA Overview YE December 2020" dated March 2021;
  - c. **C3** – "TWA Regional Tourism Satellite Account 2018-19" dated September 2020;
  - d. **C4** – "TWA State Tourism Satellite Account 2019-20" dated March 2021;
  - e. **C5** – "TWA International Markets Summary Year Ending June 2017" dated September 2017
  - f. **C6** – "Tourism Research Australia Understanding Repeat Visitation to WA" dated March 2018;
  - g. **C7** – "TWA Intrastate Market Profile 2020-2021";
  - h. **C8** – "TWA Interstate Market Profile 2020-2021";
  - i. **C9** – "TWA Visitor Experience and Expectations Research (VEER) 2019-20" dated July 2020;
  - j. **C10** – "TWA Annual Report 2019-20"
74. Tourism makes a significant contribution to the State's economic well-being:

#### **TWA policy and planning**

75. As part of its planning advisory and referral role, TWA has prepared a number of planning documents to aid the assessment of tourism-related proposals and guide strategic planning for tourism in the State.
76. Copies of the following TWA documents are **attached and marked**:

- a. **C11** – “TWA State Government Strategy for Tourism in WA 2020”;
  - b. **C12** – “TWA Corporate Plan 2021-2022”
77. The State Government Strategy for Tourism in Western Australia 2020 outlines seven focus areas to help increase the value of tourism in WA to \$12 billion by 2020 in partnership with industry, government and private sector.

#### **TWA Entertainment Precincts report**

78. **Attached and marked C13** is “Tourism WA Entertainment Precincts Research – Final Paper 2022, dated 23 February 2023”. The strategic aim and objective of this research was “to provide contemporary data and insights into WA consumers’ wants, needs and perceptions of entertainment precincts in Perth” (at p5). The research indicated the following:
- a. Of the eleven entertainment precincts studied, Elizabeth Quay had the third highest net positive rating of 70%, up from 61% in 2017 (p11);
  - b. The two highest scoring reasons for Elizabeth Quay’s net positive rating were “good /lots of food options” and “is clean/well kept/nice looking” (p15)
  - c. Compared to other precincts, Fremantle, Burswood/Optus Stadium and Elizabeth Quay are all perceived to deliver enjoyment, safety, and public transport accessibility – outperforming most other precincts. This suggests that these attributes are important drivers of what makes a precinct highly rated – and are key to attracting and retaining visitors. It’s important to note that enjoyment and safety are closely linked to the types of venues in the precinct – and the types of other patrons they attract. (p21)
  - d. The most common activities for visitors to Elizabeth Quay were having a meal (40%) and going out for a drink (21%).

#### **Tourism in the Locality**

79. Perth is one of Western Australia’s major tourist attractions and is one of the major visitor destinations in Western Australia for both day and overnight visitors.
80. Tourism is a significant part of the local economy of Perth.
81. Copies of the following documents from Tourism Western Australia (**TWA**) are **attached and marked**:
- a. **C14**: “City of Perth – Tourism Value” indicating that in 2022/23 , the total tourism sales in the City of Perth was \$3514.5m, the total value added was \$2642.0 million.

- b. **C15:** “City of Perth - Tourism Visitor Summary” indicating that in 2022/23 there were 7,299,381 domestic visitor nights and 2,343,678 domestic day trips.
- c. **C16:** “COP Overnight Visitor Factsheet 2022” which shows that in 2021-22 there were 1,469,000 total visitors, 6,306,000 visitor nights and a total visitor spend of \$1,375 mill.

### **Elizabeth Quay & tourism**

- 82. Elizabeth Quay is a key part of Western Australian tourism infrastructure. It is one of the key tourist attractions in Perth CBD.
- 83. **Attached and marked C17** is Perth Now article titled, “Elizabeth Quay attracted more visits than Rome’s Colosseum” and dated 22 January 2017, which states:
  - a. In its first year Elizabeth Quay attracted 6.7 mill. visitors; and
  - b. Modelling by Deloitte Access Economics for the WA Government showed that the quay will have a significant direct economic impact of \$2,945 billion, including \$348 million in tourism spending.
- 84. City of Perth recognises the importance of Elizabeth Quay to tourism. In the City’s “Visit Perth” website promotes Elizabeth Quay to tourists as follows:

*Elizabeth Quay is an exciting new waterfront precinct on the banks of the Swan River.*

*The place to see and be seen in Perth. Here you’ll find the island playground, the BHP Billiton Water Park, public artwork, promenades, open spaces and a range of bars and restaurants.*

*Easily accessible by public transport, a short walk from the Elizabeth Quay Train and Bus Port, the Transperth Ferry terminal is located in the inlet and the free blue CAT bus stops near the Bell Tower.*

*A range of scenic river cruises sail tourists and locals from Barrack Street Jetty to the Swan Valley, Fremantle and Rottnest Island.*

*Other activities to be enjoyed in the area include Segways, Little Ferry Co, Gondola on the Swan or just take a leisurely stroll alongside the river or stop for a selfie on the bridge. There’s also 24 short term public boat moorings available.*

*Elizabeth Quay’s prime waterfront location makes this destination a unique events and entertainment space - operating all year round.*

(Source: [www.visitperth.com/see-and-do/public-spaces/venues/elizabeth-quay](http://www.visitperth.com/see-and-do/public-spaces/venues/elizabeth-quay))

85. Elizabeth Quay provides tourists with a multitude of free public activities and sights, including:
- a. Bell Tower;
  - b. River cruises;
  - c. Segway Tours;
  - d. Water bike hire;
  - e. Barrack Street jetty;
  - f. “Gondolas on the Swan” tours;
  - g. Elizabeth Quay carousel;
  - h. Street art, including “Spanda” (the white arches), the “First Contact” statue designed by local indigenous artists, the statue of Bessie Mabel Rischbieth and the Australian Sailor Monument;
  - i. BHP Billiton water park; and
  - j. The island playground.

#### **SECTION D: HARM & ILL HEALTH**

##### **Alcohol consumption trends in Australia**

86. **Attached and marked D1** is the “Australian Institute of Health and Welfare (2023), Apparent consumption of alcohol in Australia 2023” which indicates:
- a. Apparent consumption of alcohol refers to the total amount of alcohol either produced in Australia or imported into Australia, that will be sold to people living in Australia. The definition assumes that all alcohol that was produced or imported was consumed in the same financial year. Per capita consumption refers to the Australian population aged 15 and over
  - b. The figure shows how apparent consumption of different beverage types has changed between 1945 and 2020. Since 2014–15, wine has contributed more to total alcohol consumption than any other beverage type.
  - c. In 2019–20, 208.8 million litres of pure alcohol were made available in Australia, a 0.7% decrease from 210.3 million litres in 2018–19. Before 2019–



20, apparent consumption of pure alcohol had consistently increased since 2014–15 (186.9 million litres). The trends in the total amount of alcohol made available were not reflected in per capita consumption. After alcohol consumption peaked at around 13 litres of pure alcohol per capita in 1974–75, it declined to 10 litres in 1991–92. Despite a smaller peak of 11 litres in 2008–09, apparent consumption has remained relatively stable at around 10 litres per capita from 2010–11 through to 2019–20.

87. Alcohol consumption in Australia has been on a steady decline for more than 40 years with consumption per capita in 2017-2018 continuing its decade on decade decline as '*moderate consumption becomes the norm in Australia*'.<sup>1</sup>

88. Australians are drinking less alcohol per capita.<sup>2</sup>

89. **Attached and marked D2** is a media release by the ABS titled "Alcohol-induced deaths decreasing over time" which states:

*Australia has lower rates of deaths directly attributed to alcohol when compared with the late 1990s, with rates recorded at 5.1 deaths per 100,000 Australians in 2017 compared with 6.6 deaths 20 years ago.*

90. It is believed that increasing consumer preference for premium liquor products is leading to a "less but better" consumption attitudes in Australia and that increased focus on health and wellness has resulted in health-conscious consumers opting for low and no-alcohol options as consumers shift towards "mindful drinking".<sup>3</sup>

91. Studies have shown that less than 15% of people in Australia consume liquor in a risky and harmful manner, notwithstanding reports about risky drinking levels in Australia: Source: Dr Anne Fox, (January 2015) '*Understanding behaviour in the Australian and New Zealand night-time economies*', p 11.

---

<sup>1</sup> Source: Wine Australia (22 October 2019) 'Trends in other alcoholic beverages' accessed at <https://www.wineaustralia.com/news/market-bulletin/issue-179>; Australian Bureau of Statistics(09/09/2019) '4307.0.55.001 'Apparent Consumption of Alcohol, Australia, 2017-18' accessed at <https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4307.0.55.001Main%20Features62017-18?opendocument&tabname=Summary&prodno=4307.0.55.001&issue=2017-18&num=&view=>

<sup>2</sup> Source: *Business Monitor International (2017) 'Australia Food & Drink Report Q1 2018 at p16*

<sup>3</sup> Source: *Play Market Research (the biggest alcohol trends for 2020 accessed at <https://www.playmr.com.au/blog/the-biggest-alcohol-trends-for-2020>*

92. The Australian Institute of Health and Welfare has released the following data which highlights the decline in unsafe alcohol consumption in Australia: <sup>4</sup>

- a. *The majority of Australians aged 14 years and over consume alcohol, however the proportion of people drinking in excess of lifetime risk guidelines has been declining and continues to decline.*
- b. *Between 1967–68 to 2017–18, the proportion of apparent consumption of different alcoholic beverages have changed substantially with decreases in the consumption of beer (from 73.5% to 39.0%) and increases in the consumption of wine (from 14.4% to 38.6%).*
- c. *Data from multiple sources indicate that there has been a decline in the proportion of Australians exceeding the National Health and Medical Research Council (HMRC) guidelines for lifetime risk by consuming more than two standard drinks per day, on average.*
- d. *The National Drug Strategy Household Survey (NDSHS) 2016 found that the proportion of people aged 14 and older exceeding lifetime risk guidelines declined significantly from 19.1% in 2013 (21% in 2001) to 18.0% in 2016.*
- e. *The National Health Survey (NHS) reported that in 2017–18, 16.0% of adults aged 18 and over exceeded the lifetime risk guideline, a decrease from 17.3% in 2014-15 and 19.4% in 2011–12 (Table S2.26).*
- f. *2016 NDSHS findings showed that people aged 14 or older living in Remote and Very Remote areas of Australia are about 1.5 times more likely than people living in Major cities to exceed lifetime risk guidelines (26% compared with 15%) and the single occasion risk guidelines (at least monthly) (37% compared with 24%) (Figure ALCOHOL4; Tables S2.12 and S2.13).*
- g. *2017–18 NHS results showed that adults (aged 18 or older) in Outer regional and remote areas were 1.7 times as likely to exceed lifetime risk guidelines as those in Major cities (24.4% and 14.7% respectively) (Table S2.26; age-standardised proportions).*

93. The National Alcohol Strategy 2019-2028 provides as follows:

*“Australia’s overall consumption of alcohol (on a per capita basis) has been in decline for the past 40 years, and the percentage of people reporting abstinence from alcohol has either increased or remained stable between 2009 and 2016.*

---

<sup>4</sup> Source: Australian Institute of health and Welfare ‘Alcohol, tobacco & other drugs in Australia’ (Last updated January 2020) accessed at <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contentxs/drug-types/alcohol>

*Significant improvements have also been observed in abstinence over the same period among younger Australians. .... This is in spite of the fact that some research indicates that alcohol has become more readily available and affordable in Australia over the last decade.”<sup>5</sup>*

94. **Attached and marked D2b** is “Report by Cancer Council Victoria titled Australian secondary students use of alcohol and other substances, December 2023”, which states (p31):

*This study found that nearly two-thirds (65%) of Australian secondary school students had ever tried alcohol and more than one in five (22%) had consumed alcohol in the past month. Significantly higher drinking prevalence was observed among older than younger students across all recency periods (i.e. lifetime, past year, past month, past week and risky drinking). There was, however, evidence of declines in alcohol use in the older age group between 2017 and 2022/2023. In contrast, alcohol use among younger students appears to have plateaued since 2014.*

95. These data support the grant of the Application in terms of the broader context of alcohol consumption trends nationally.

#### ***Alcohol Consumption Trends in Western Australia***

96. Annual consumption levels of alcohol by Western Australians have declined steady over the last few decades, conforming with nationwide trends.
97. The WA National Drug Strategy Household Survey between 2001 and 2016 indicated that:
- a. the percentage of lifetime risk drinkers has declined by 3.3%; and
  - b. the percentage of single occasion risk drinkers has declined by 4.4%. <sup>6</sup>
98. The NDSH found that in WA there has been a significant decrease in the number of people drinking weekly (-6%); and a significant increase in those abstaining from alcohol (4.9%).
99. **Attached and marked D3** is Department of Health report titled “Health and Wellbeing of Adults in Western Australia 2016” which describes the findings from data collected

---

<sup>5</sup> Source: Department of Health ‘National Alcohol strategy 2019-2028’ at p19)

<sup>6</sup> Source: AIHW National Drug Strategy Household Survey (NDSHS) Accessed at <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/interactive-data/alcohol>)

in 2016 from 5,865 Western Australians adults aged 16 years and over. Some key findings from the report relating to the consumption of alcohol include the following:

- a. Respondents were asked about their alcohol drinking habits, including how many days a week they usually drink and how many drinks they usually have. The alcohol information was categorised into risk levels based on the 2009 guidelines.
  - b. The prevalence of the population drinking at levels considered high risk for long term (over a lifetime of drinking) was assessed:
    - (i) 72.6% of Western Australian were found to have a low risk or less than low risk of long term alcohol related harm.
    - (ii) 27.4% were found to be at “high risk”, defined as drinking more than two standard drinks on any one day.
  - c. The prevalence of the population drinking at levels considered high risk for short term harm was also assessed:
    - (i) 89.4% of the population was found to have a low risk or less than low risk status.
    - (ii) 10.6% were found to be at “high risk”, defined as consuming more than four standard drinks on any one day.
    - (iii) The prevalence of all persons drinking at levels associated with short-term harm was significantly lower in 2016 compared with 2002 -11 prevalence, with a similar pattern observed for males and females. (p.53)
100. **Attached and marked D4** is the Drug and Alcohol Office report titled “Drug and Alcohol Interagency Strategic Framework for Western Australia 2011-2015”.
101. **Attached and marked D5** is the Drug and Alcohol Office report titled “Impact of Alcohol on the Population of Western Australia”
102. **Attached and marked D6** is the Drug and Alcohol Office report titled “Impact of Alcohol on the Population of Western Australia – Regional Profile: South Metro Health Service

#### **Health benefits of local licensed venues**

198. The presence of a local licensed venue in a neighbourhood has been associated with improved wellbeing of the residents in and visitors to that area due to social engagement.

199. **Attached and marked D6a** is a copy of the Oxford University research paper titled, “Functional Benefits of (Modest) Alcohol Consumption” (2016) by R. I. M. Dunbar<sup>1</sup> & Jacques Launay<sup>1</sup> & Rafael Wlodarski<sup>1</sup> & Cole Robertson<sup>1</sup> & Eiluned Pearce<sup>1</sup> & James Carney<sup>1</sup> & Pádraig MacCarron<sup>1</sup>. The report assesses the interaction of a licenced venue and the community, and in particular its function as a social centre for a local community, and states. *“People who said they have a ‘local’ or those who patronise small community pubs have more close friends on whom they can depend for support, are more satisfied with their live and feel more embedded in their local communities than those who said they do not have a local pub”* The report further states, *“Directly and indirectly (by allowing us to meet face-to-face), modest alcohol consumption also enables us to build friendships and create a sense of community, and there is considerable evidence that social network size and quality has dramatic effects on health, wellbeing, happiness and even survival.”*

### **Venue Risk Profile**

103. **Attached and marked D7** is the Applicant’s Venue Risk Assessment which assesses the risk factors of the Permit Area in terms of alcohol related harm and ill-health. Also **attached and marked D7A-I** are copies of the research papers referred to in that assessment.
104. **Attached and marked D8** is a copy of chapter 37 of Heather, N, Peters, T and Stockwell, T. (2001) “International Handbook of Alcohol Dependence and Problems”, John Wiley & Sons.
105. It can be seen that the Venue does not feature any factors associated with a risk of patron aggression and violence, excessive or unsafe alcohol consumption or alcohol related harm and ill-health.
106. Accordingly, the Venue can be considered to fall into a low risk category for alcohol related harm and ill-health.

### **Patron Risk Profile**

107. **Attached and marked D9** is the Applicant’s Patron Risk Assessment which assesses the risk factors of the likely patron profile of the Permit Area in terms of alcohol related harm and ill-health.
108. In all the circumstances, persons attracted to the Venue are unlikely to include those in any recognised “at risk” groups.

### **Crime issues in the Locality**

109. **Attached and marked D10** is the WA Planning Commission document titled “Designing Out Crime Planning Guidelines”. The location and design of the Premises is consistent with the principles outlined in those guidelines in that the Premises will be:

- a. located in an area designated for mixed use and therefore compatible with neighbouring uses;
- b. well monitored by staff and surveillance equipment;
- c. designed to have specific entry/exit locations;
- d. located in a well-defined private space; and
- e. able to assist in the monitoring of the streetscape via passive surveillance undertaken by patrons and staff in and around the Premises.

#### **Harm & crime submissions – Perth**

110. **Attached and marked D11** is a copy of relevant crime statistics for the suburb of Perth obtained from the Western Australian Police Force website.
111. **Attached and marked D12** is the COP “Safe City Plan 21021-2025” which relevantly states:
- a. The City aspires for Perth to be known as a liveable, sustainable and prosperous city. With the goal of making the City of Perth a destination of choice to visit, work, study, shop and live SafeCity strategies have been in place at the City of Perth since 2006. This new SafeCity Plan is the result of a review and update of the SafeCity Strategy 2016 -2020 and aligns with other City strategies and plans, and our external statutory obligations.
  - b. The goal for the SafeCity Plan 2021-2025 is for residents, workers and visitors to identify Perth as a safe city
  - c. The SafeCity Plan sets the framework for the City of Perth’s services around community safety. Achievement of objectives will be assessed annually and actions will be implemented through the annual service planning cycle.
  - d. As the capital city, and one of the first points of contact interstate and overseas visitors have with Western Australia, there is a need to ensure that people to remember the city for all the right reasons, feel safe and comfortable to linger, return regularly and encourage others to do the same.
  - e. Social aspects of safer spaces were managed by increasing diversity of the night-time economy through a variety in business types, events and visitors.
  - f. The Perth Safe City Research Report 2017 indicated 83 per cent of respondents (up from 82 per cent in 2014) saw Perth as safe/very safe during the daytime. This compared to 38 per cent (up from 36 per cent in 2014) in the evening.

- g. Objectives included increasing activity in the city through a more diversified economy and community activation, achieved through supporting a diversity of business types to operate in each city neighbourhood and to encourage activation of city spaces by cultural organisations, businesses and the community in a manner that meets neighbourhood needs.

## SECTION E: LEGAL SUBMISSIONS

- 112. **Attached and marked E1** is a copy of the Applicant's summary of legal principles relevant to the Application.

### Application of legal principles to the present case

#### Section 5: Objects of the Act

- 113. The Application falls squarely within all of the primary objects and several of the secondary objects of the Act.
- 114. Grant of the Application would be consistent with the requirement for the licensing authority to "*ensure the proper regulation of the sale, supply and consumption of liquor*" under s.5(1)(a) because:
  - a. the licensing authority can be confident that the business operating under the Licence will be operated in a professional and responsible manner;
  - b. the fit-out of the Premises will be of a high quality and the Premises and facilities will be maintained to a high standard; and
  - c. the liquor and related services to be provided at the Venue will be of a high standard and will constitute a unique hospitality facility in the Locality.
- 115. Grant of the Application would be consistent with the object to "*minimise harm or ill-health caused to people, or any group of people, due to the use of liquor*" under s.5(1)(b) of the Act because:
  - a. The anticipated patron profile can be considered low risk in terms of alcohol related harm or ill-health;
  - b. The nature of the Premises and the intended manner of operation of the Venue do not have any high risk features in terms of alcohol related harm or ill-health;
  - c. The Venue will feature a significant focus on dining services with food available to patrons during all trading hours until 60 minutes prior to closing;

- d. Substantial seating will be provided throughout the Venue to facilitate and encourage services and assist in the maintenance of a relaxed ambiance;
  - e. Operation of the Venue will involve the regular and comprehensive training of staff training to maintain a high-standards at all times;
  - f. The Applicant is strongly committed to RSA procedures and policies; and
  - g. The Venue will not sell or supply alcohol for consumption off the licensed premises.
116. Grant of the Application would cater for the requirements of consumers for liquor and related services with regard to the proper development of liquor industry and other related hospitality industries under s.5(1)(c), Act and would facilitate the use and development of licensed facilities reflecting the diversity of the requirements of consumers in the State under s.5(2)(a), Act by providing:
- a. High quality premises;
  - b. A diversified range and high quality of liquor and related services including licensed dining, beverage, function services;
  - c. A convenient and accessible location for locals and tourists;
  - d. A licensed venue that is distinctive and unique in the Locality;
  - e. A safe and well-controlled environment; and
  - f. Additional variety and choice for consumers; and
  - g. Trading hours that meet the requirements and expectations of consumers.
117. The Venue would cater for the requirements of consumers for liquor and related services with regard to the proper development of the tourism industry under s.5(1)(c) because:
- a. the Premises are located in a recognised tourist precinct in proximity to a number of significant existing tourist attractions, facilities and events which currently attract significant numbers of tourists;
  - b. the Venue will be a tourist attraction in its own right given its iconic location combined with and the range and quality of hospitality services proposed to be provided at the Venue;
  - c. the liquor and related services proposed to be provided at the Venue would cater for and be attractive to the leisure and hospitality requirements of intrastate, interstate and international tourists visiting the Locality;



- d. grant of the Application would assist in attracting greater numbers of tourists to the Locality and increase the contribution of tourists to the economy of the Locality;
  - e. grant of the Application would be consistent with the tourism objectives of the local government authority; and
  - f. grant of the Application would assist in attracting greater numbers of tourists to the Locality and increase the contribution of tourists to the economy of the Locality; and
  - g. grant of the Application would assist in the continued promotion and development of the tourism industry in the Locality and in Western Australia and contribute to the development of the State's hospitality industry.
118. Grant of the Application would encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor that are consistent with the interests of the community under s.5(2)(f) of the Act for the reasons set out below.

Section 38(4)(a) - Harm or Ill health

119. The following matters are relevant to the assessment of potential harm and ill health at a specific level:
- a. The persons behind the Application are experienced and responsible long-term participants in the hospitality industry with a strong track record in the lawful and responsible operation of licensed venues in WA;
  - b. The Premises will be fitted out to a high standard;
  - c. The business operating under the Licence will involve a significant focus on dining services and food will be available to patrons during all trading hours until 60 minutes prior to closing;
  - d. A relaxed ambiance will be maintained at all times with substantial seating provided throughout the Venue;
  - e. The Applicant is strongly committed to RSA principles and practices; and
  - f. The Venue will operate subject to a comprehensive range of restrictive trading conditions; and
  - g. The Venue will not cater for nor be likely to attract any significant proportion of patrons that fall within a high-risk category in terms of alcohol related harm and ill-health.

120. In the present case, the evidence supports a conclusion that, assessed against the existing level of harm, no significant level of additional harm will be likely to be caused by the grant of the Application.

Section 38(4)(b) - Impact on amenity

121. Grant of the Application will positively contribute to the amenity of the Locality by:
- a. providing for a full range of hospitality, leisure, tourism and entertainment services including those that service the night-time economy of the Locality consistent with the objectives and character of the Locality and its immediate environs;
  - b. meeting the stated goals of the LGA;
  - c. contributing to the activation of the streetscape
  - d. adding to the vibrancy attractiveness and convenience of the Locality.
  - e. supporting the further development of the Locality as a key hospitality and leisure precinct for the local population;
  - f. helping to improve the identity of the Locality and supporting the continued development of hospitality and tourism services in the Locality;
  - g. providing additional leisure services for residents, workers and visitors who seeking to enjoy the liquor and related services offered at the Venue;
  - h. providing quality hospitality services to tourists and increasing the attractiveness of the Locality as a tourist destination; and
  - i. providing employment opportunities at the Venue.

Section 38(4)(c) - Offence, annoyance, disturbance and inconvenience

122. Grant of the Application is unlikely to cause offence, annoyance, disturbance and inconvenience to persons in the Locality due to the:
- a. mixed use inner city location;
  - b. low intensity manner of operation proposed;
  - c. safe and comfortable ambiance during all trading hours;
  - d. strong focus on dining services;
  - e. substantial seating provided for patrons;

- f. commitment to a comprehensive range of restrictive trading conditions and management controls.
- g. commitment to RSA principles and practices at all times;
- h. patrons unlikely to fall within any recognised 'high risk' categories.
- i. noise management policies and procedures maintained at all times to minimise the risk of undue disturbance in the community; and
- j. expert evidence contained in the report by qualified acoustic engineers filed by the Applicant which indicates that the operation of the Venue as proposed would not breach the relevant assigned levels prescribed by the Environmental Health (Noise) Regulations at any time of the day or night.

Sections 33 and 38: Public interest

123. Grant of the Application would be in the public interest because it would:

- a. cater for the reasonable requirements of a significant section of the public residing and/or working in or near the Locality;
- b. contribute positively to tourism by providing an attractive licensed hospitality facility for persons visiting the Locality and thereby assist in the development of the Western Australian tourism industry;
- c. not have the characteristics and attractions that are commonly associated with antisocial or criminal behaviour and would be unlikely to cause harm or ill-health to any persons or group of persons due to the use of liquor;
- d. be unlikely to lessen the amenity, quiet or good order of the Locality and, rather, would contribute positively to the amenity of the Locality;
- e. be unlikely to cause offence, annoyance, disturbance or inconvenience to people who reside or work in the vicinity of the Premises;
- f. contribute positively to tourism, community and cultural matters; and
- g. contribute positively to the local economy of the Locality by triggering a significant capital investment in the Premises and the creation of local employment opportunities.

124. In the present case, the evidence submitted by the Applicant establishes significant positive impacts from the grant of the Application. In broad terms the creation of the Venue will be associated with the following positive outcomes:

- a. Creating a multi-faceted leisure and hospitality venue offering a wide range of liquor and related services and catering to a broad cross-section of local residents and visitors to the Locality, including family groups;
  - b. Assisting in the activation and re-invigoration of the Locality by creating a venue with a strong connection to the local community;
  - c. Providing additional choice of hospitality and leisure facilities available to persons living and working in and near the Locality by the creation of a convivial space for 'locals' to socialise and enjoy quality dining, function and beverage services;
  - d. Improving tourism in the Locality by providing a significant addition to the range of facilities that cater to and attract intrastate, interstate and international tourists; create a unique tourist attraction and destination, providing services that attract and satisfy the leisure and hospitality requirements of intrastate, interstate and international tourists; and
  - e. Providing employment opportunities in the Locality.
125. The evidence submitted by the Applicant establishes that the grant of the Application would be in the public interest. In the present case, grant of the Application would not be likely to cause any significant negative outcomes. In any event, the positive aspects of the Application outweigh the risk of alcohol related harm which could potentially be caused by grant of the Application
126. For these reasons grant of the Application would be consistent with Act and in the public interest under sections 33 and 38(2) of the Act.

## **CONCLUSION**

127. It is submitted that in all the circumstances the Application should be granted.



---

Tim Monaghan  
Monaghan Lawyers  
Solicitors for the Applicant

