

## **DECISION OF DIRECTOR OF LIQUOR LICENSING**

**APPLICANT:** MACKEREL ISLANDS PTY LTD

**PREMISES:** ASHBURTON RESORT MOTEL

**PREMISES ADDRESS:** CORNER OF SECOND AVENUE AND THIRD STREET,  
ONSLow

**APPLICATION ID:** A000057046

**NATURE OF APPLICATION:** **APPLICATION FOR CONDITIONAL GRANT OF A HOTEL  
RESTRICTED LICENCE**

**DATE OF DETERMINATION:** 14 MAY 2015

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### **Introduction**

1. This is an application by Mackerel Islands Pty Ltd (“the Applicant”) for the conditional grant of a hotel restricted licence for premises to be known as *Ashburton Resort Motel* and situated at the corner of Second Avenue and Third Street, Onslow (“the premises”).
2. The application is made pursuant to ss 41 and 62 of the *Liquor Control Act 1988* (“the Act”) and was advertised in accordance with instructions issued by the Director of Liquor Licensing, which resulted in the lodgement of notices of objection, pursuant to ss 73 and 74 of the Act, from Donald Terrence Skipworth (which was subsequently withdrawn), Annabel Stewart, Sue Dean, Wendy Carson, Onslow General Pty Ltd and Emanuel Dillon. Pursuant to s 69 of the Act, notices of intervention were also lodged by the Executive Director Public Health (“EDPH”) and Commissioner of Police (“Commissioner”).
3. Pursuant to ss 13 and 16 of the Act, the application will be determined on the papers. The submissions and evidence of the parties is briefly summarised as follows.

### **Submissions of the Applicant**

4. The Applicant submitted a Public Interest Assessment (“PIA”), which explained that the licence is sought to provide for the needs of persons staying at the premises’ 86 accommodation units, as well as the local community, transient workforce, visitors and tourists to Onslow.
5. According to the Applicant’s PIA and other submissions, the premises provides a “premium level of accommodation and services to the Onslow community and incorporates a high quality apartment style fit out and design for its rooms and facilities.” The Applicant also submitted that the application has been driven by “increased demand for accommodation and services in the town after the arrival of

major resource projects including BHP's Macedon Project and Chevron's Wheatstone Project... and the town's rapidly growing permanent community."

6. In relation to the premium nature of the accommodation facilities, the Applicant submitted that it provides individual apartment style units with their own private kitchen, laundry and balcony and that the Resort also offers the largest pool in Onslow.
7. The Applicant's proposed manner of trade revolves around providing patrons with the ability to enjoy the relaxing ocean view, a meal and a drink from the bar, or at their table; and for guests, the ability to purchase a takeaway beverage for consumption in their room. It is also intended to cater for groups, conferences, weddings and town functions and events. In relation to meals and alcoholic beverages to be offered at the premises, the Applicant submitted evidence in the form of preliminary "Breakfast", "Dinner", "All Day" and "Kid's" menus and a drinks list.
8. In consideration of strategies to minimise alcohol-related harm or ill-health, the Applicant acknowledged the high prevalence of at-risk groups within the locality and proposed a number of strategies to address these issues. Particular reference was made to the fact that the Applicant is seeking the grant of a hotel restricted licence, which will not authorise the sale of packaged liquor to persons who are not lodgers; to its harm minimisation documents and the fact that a CCTV system will be installed at the premises, which in accordance with the Director's policy on *Security at Licensed Premises*, will be maintained in a good state of repair. The Applicant also asserted that the open design of the premises will inhibit anti-social behaviour and that a focus on food will encourage eating while on the premises.
9. The Applicant submitted that as a local operator of hospitality services for many years, it understands and accepts that Onslow and its surrounding areas suffer from higher rates of alcohol-related harm and ill-health and confirmed that it has reviewed the *West Pilbara: Report on Alcohol-related Harm, Ill-health and Disorder Report* ("the West Pilbara Report").
10. The Applicant further submitted that its intended manner of trade will mitigate against the venue contributing to alcohol-related harm and ill-health for a variety of reasons, including:
  - (a) the Resort being of a high quality and unlike any other accommodation facility in Onslow, which, together with the associated price structure, will help to ensure that liquor is sold, supplied and consumed in a responsible manner and in a well controlled environment;
  - (b) the main recommendations of the West Pilbara Report relate to the sale of packaged liquor to the public, which the Ashburton Resort Motel will be unable to do, given that it is seeking the grant of a hotel restricted licence;

- (c) the accommodation facilities at the Ashburton Resort Motel are utilised by management teams working on the Wheatstone Project, who according to the Applicant, are not as risky as other mine workers;
  - (d) liquor will be an ancillary service to the premises' primary function of the provision of accommodation facilities, with the Applicant also proposing to offer a "substantial meal service as well as a function capability" so that liquor will not be the sole focus of the premises;
  - (e) as an accommodation provider, the Applicant submits that its main priority will be "to ensure that guests have a comfortable and enjoyable stay, which will not be achievable if there are rowdy patrons and boisterous behaviour within the Resort"; and
  - (f) there will be a live-in manager at the premises who will be charged with the duty of ensuring that liquor is supplied and consumed in a responsible manner and that the guests behave appropriately at all times.
11. In terms of impact on the amenity of the locality, the Applicant noted that the premises is located in the town centre and surrounded by a mixture of commercial and residential properties and the premises will have a safe, comfortable and friendly environment.
12. It was also submitted that an acoustic barrier has been erected along the boundary of the property between the Ashburton Resort Hotel and the pensioner residents next door; along with an additional acoustic barrier fence by the southern side of the restaurant and bar area to further reduce any noise that may emanate from those areas.
13. The Applicant also submitted that the grant of the licence will have a positive impact on tourism in Onslow, which requires new services and facilities, particularly given the limited options in town and that "the development will provide a long standing investment to Onslow's tourism industry."
14. In conclusion, the Applicant submitted that it's application has addressed both the positive and negative impacts that the grant of the licence will have on the community and that the application is supported by relevant, reliable and logically probative evidence, including evidence from the public that is independent and objective. The Applicant further submitted that the grant of the application will cater to tourism in Onslow and add to the diversity of the locality.

### **Submissions of the Objectors**

15. Ms Steward objects to the application on the grounds that the grant of the application would cause undue harm or ill-health to people or any group of people, due to the use of liquor (s 74(1)(b) refers) with particular reference to the West Pilbara Report, noting that "nothing has changed since the report was issued."

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16. The notice of objection by Ms Dean submitted that the grant of the licence would cause undue annoyance, disturbance or inconvenience to persons who reside or work in the vicinity (s 74(1)(g)(i) refers). This would specifically apply for residents of pensioner units located next door to the motel, where it is already too noisy, making a “hotel... unbearable” and would otherwise lessen the amenity of the locality (s74(1)(g)(ii) refers), because four liquor outlets already exist close by.
  17. Ms Carson objected to the application on the grounds that the grant of the application would not be in the public interest (s 74(1)(a) refers) because:
    - (a) Onslow already has four licensed premises all operating within 600 metres of each other in the town centre, including a liquor store, restaurant, the Beadon Bay Hotel and the Onslow Sports Club; and
    - (b) tourism has declined significantly since Onslow became a mining community, given that previously available tourist accommodation is booked out for the mining workforce and Onslow now suffers from “the impact of busloads of FIFO men coming into town on Sunday RDO for...alcohol fuelled sessions.”
  18. Ms Carson also submitted that the grant of the application would:
    - (a) cause undue annoyance, disturbance or inconvenience to persons who reside or work in the vicinity; and
    - (b) the grant of a licence would in some way lessen the amenity, quiet and good order of the locality, given the location of the Carinya Units and Senior Citizen Units located next door to the proposed premises. Pensioners are already impacted by vehicular noise, including reverse beepers, associated with FIFO workers entering and exiting the motel units and that a hotel “would be intolerable...”
  19. Ms Carson submitted that the grant of a hotel restricted licence would not be in the public interest because the proposed premises is “effectively a single men’s quarters” In light of the long held concerns of the Onslow Chamber of Commerce and Industry regarding alcohol and disorderly behaviour in Onslow by FIFO workers and the “mining town mentality”, Ms Carson also submitted that the grant of the application would negatively affect Onslow and its residents.
  20. Concern was also expressed by Ms Carson as to what may happen in the future, should the Applicant decide it wants a hotel licence without restrictions.
  21. Onslow General Pty Ltd (“Onslow General”), the licensee of the Onslow Supermarket, objected to the grant of the application on every ground permitted under s 74(1) of the Act. In this regard, submissions were made that the grant of the application would not be in the public interest given that there appears to be some confusion amongst the Applicant’s witness evidence regarding what type of licence is being sought and

because a restaurant licence would be more in keeping with the Onslow Expansion Plan regarding “shops, cafes and restaurants along Second Avenue.”

22. Onslow General also submitted that the grant of the application would cause undue harm or ill-health because “insufficient thought has gone into the planning of the proposed licensed premises; and the Applicant has shown that it is not up to the task of managing a large bar and function centre in what is a very sensitive locality, with a high level of existing harm and ill-health.” It was further submitted that shift work is a material issue in Onslow and the Applicant has failed to consider the impact of its late night trading hours on those who work shifts in the locality and who are perhaps its neighbours. Similarly, Onslow General also submitted that the Applicant’s PIA does not appear to take account of the safety and comfort of immediate residential neighbours, or of the in-house accommodation guests.
23. Onslow General submitted that the amenity of the locality will be lessened because the function centre has the potential to hold hen’s nights, 18<sup>th</sup> and 21<sup>st</sup> birthday parties and weddings, etc, which have the potential to create substantial noise via live bands, DJs and just from the mass of people enjoying themselves.
24. It was also submitted by Onslow General that the grant of the application would be contrary to the Act because, in general, the application is poorly thought out, with a large open plan bar and function facility having substantial potential to disturb the amenity of the locality and that generally “The applicant has demonstrated a poor degree of knowledge of its responsibilities under the Liquor Control Act.”
25. The objection by Emanuel Dillon (who at the relevant time was the purchaser of the Beadon Bay Hotel), submitted that the grant of the application would not be in the public interest because of the premises’ location, the Applicant’s prospective clients and the Applicant’s ability to provide something more than what is currently on offer in Onslow. Mr Dillon also submitted that the grant of the licence may also affect the financial well-being of existing licensed premises.

### **Representations of the Interveners**

26. The EDPH made representations relating to the application and the associated risk of alcohol-related harm in Onslow and the minimisation of that harm or ill-health, with a particular focus on:
  - (a) the at-risk groups for alcohol related harm (including mining workers and tourists) who reside in and/or frequent the locality;
  - (b) the high levels of alcohol consumption and risky drinking being common amongst mining, construction workers and tourists and that research shows levels of consumption are linked to levels of harm;
  - (c) Onslow experiencing alcohol-related harm and being subject to current liquor restrictions as a result; and

- (d) the importance of harm minimisation initiatives, such as the imposition of conditions on the licence that are consistent with the Applicant's proposed manner of trade.
27. The EDPH noted that the proposed licensed area is to include the reception, bar area, restaurant and function area, and after making contact with the Applicant on 30 July 2014 and 22 August 2014, submitted that:
- (a) while the premises ground floor will consist of a restaurant area with a capacity for 150 persons and will predominantly be set up with tables and chairs for dining, there will be some high tables around the bar where patrons will be able to stand;
  - (b) the upstairs area will include a function area for 22 patrons and a pre-function area for 17 patrons;
  - (c) there will be 86 hotel rooms that will be licensed;
  - (d) the Applicant intends to provide breakfast, lunch and dinner options, with smaller snack items made available behind the bar between meal service;
  - (e) the venue will be predominantly set up with tables and chairs for dining, except during pre-booked functions and events;
  - (f) given the main purpose of the venue is the provision of accommodation, the Applicant intends for music to be kept at a background level; and
  - (g) the Applicant does not intend to sell shots or alcohol mixed with drinks.
28. Therefore, in accordance with the abovementioned features of the Applicant's intended manner of trade, the EDPH recommended six trading conditions for imposition on the licence as a harm minimisation approach to reducing the risk to the recognised at-risk groups at the proposed premises in a locality with existing levels of alcohol-related harm.
29. The representations of the Commissioner of Police ("the Commissioner") relate to reducing the risk of public disorder or disturbance associated with the grant of the licence and other matters relevant to the public interest, with particular reference to:
- (a) the Applicant's PIA and intended manner of trade;
  - (b) proposed packaged liquor sales to lodgers;
  - (c) the likely impact the grant of the application will have on the amenity of the area;
  - (d) existing alcohol related harm and ill-health in the locality; and
  - (e) existing outlet density in the locality.

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30. In this regard, the Commissioner submitted that the concept of the premises as a venue in which patrons can relax, obtain a meal and/or have a quiet drink while enjoying the views, may be inconsistent with the expectations of a major part of the Onslow community, i.e. FIFO workers, who are considered to be risky drinkers.
  31. The Commissioner also made representations that the lifestyle of FIFO workers tends toward a “binge-drinking” culture, where workers excessively consume liquor on rostered days off. As a result, it was submitted that it may not be in the public interest to grant a licence where this type of culture may take place, unless relevant conditions are imposed on the licence to minimise the risk, such as a specified requirement for a minimum number of seating for patrons.
  32. In relation to trading hours, the Commissioner submitted that contact with the Applicant on 15 August 2014 indicated that it does not intend to sell liquor before 11 a.m., which lead to the Commissioner submitting that the licence should be conditioned to generally restrict trading to between 12 noon and 10 p.m.
  33. In relation to the sale of packaged liquor to lodgers, the Commissioner submitted that such sales should be consistent with the existing relevant liquor restrictions in Onslow.
  34. The Commissioner also noted that licensed premises have the ability to positively and negatively impact on the locality through the products that are offered therein, including the manner of trade, with a common negative impact being excessive noise, especially when live amplified music is played. Therefore, given the close proximity of the proposed premises to residences, the Commissioner submitted that consideration should be given to conditioning the licence, if granted, to generally prohibit the playing of amplified music.
  35. The Commissioner also submitted, to further assist with harm minimisation, that crowd controllers should be required during peak trading times, i.e. Friday and Saturday nights as a minimum.
  36. Evidence of existing alcohol-related harm was submitted by the Commissioner, including 160 reported crimes between the dates of June 2012 and May 2013, which the Commissioner further submitted are indicative of the reported crime in the locality.
  37. In conclusion, the Commissioner submitted concerns over the “well-known” correlation between liquor consumption and alcohol-related harm and anti-social behaviour, especially in areas dominated by defined “at-risk” groups and therefore recommended conditions for imposition on the licence, should it be granted, in order to minimise such harm.

## Determination

38. An applicant for the grant or removal of a hotel restricted licence must, pursuant to section 38(2) of the Act, satisfy the licensing authority that granting the application is in the public interest. The Act as a whole, establishes a regime for the control and regulation of the sale, supply and consumption of liquor. The Act does not proceed on the basis that there is a presumption in favour of a grant of a licence, rather the reverse, that an applicant must demonstrate that it is in the public interest that the application should succeed (refer *Woolworths Ltd -v- Director of Liquor Licensing* [2012] WASC 384).
39. In determining whether the grant of an application is “in the public interest” I am required to exercise a discretionary value judgment confined only by the scope and purpose of the Act (refer *Water Conservation and Irrigation Commission (NSW) v Browning* (1947) 74 CLR 492; *O’Sullivan v Farrer* (1989) 168 CLR 210; *Palace Securities Pty Ltd v Director of Liquor Licensing* [1992] 7WAR 241; and *Re Minister for Resources: ex parte Cazaly Iron Pty Ltd* (2007) WASCA 175).
40. In addition to the matters specifically referred to in s 38(4) of the Act, the licensing authority should, when determining whether the grant of an application is in the public interest, also consider both the positive and negative social, economic and health impacts that the grant of the application will have on the community (refer s 19 of the *Interpretation Act 1994* and Parliamentary Debates, WA Parliament, Vol 409, p 6342). Also, advancing the objects of the Act as set out in section 5 is relevant to the public interest considerations (refer *Palace Securities* supra).
41. While s 38(2) is clear in its imposition of an affirmative or positive obligation on an applicant to demonstrate to the licensing authority that granting of the application is in the public interest, s 73(10) of the Act provides a corresponding obligation on objectors regarding the burden of establishing the validity of their objection.
42. The Applicant seeks the grant of a hotel restricted licence, which will have a strong focus on the provision of accommodation, with liquor offered as an ancillary service, along with food and a space for functions. The Applicant also clearly acknowledges that “at-risk” groups are located in Onslow and its surrounding areas and submits that it “is acutely aware of the need to ensure that its proposed licensed premises does not unduly contribute to the alcohol related harm and ill-health currently being experienced in the locality.” Consequently, the Applicant has readily accepted the majority of the conditions proposed in the interventions by the EDPH and Commissioner of Police.
43. In respect to the relevant conditions recommended by the interveners, the Applicant has only raised issue with two conditions recommended by the Commissioner, namely the restriction on trading hours and the requirement for licensed security staff.



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44. In relation to the Applicant's proposed trading hours, the Applicant submits that as a provider of high quality accommodation and "in line with contemporary requirements" guests expect that a liquor service will be provided:
- (a) on Monday to Saturday, until midnight; and
  - (b) on Monday to Sunday, from 11 a.m., on the basis that when attending licensed premises for lunch, but prior to midday, they would ordinarily expect to be able purchase liquor.
45. I also note that the trading hours sought by the Applicant are consistent with those approved under the liquor restrictions imposed by the Director in Onslow.
46. With respect to the recommendation of the Commissioner that licensed security personnel should be required to be engaged, the Applicant submitted that the Ashburton Resort Motel does not fall within any requirement prescribed in the Director's *Safety and Security at Licensed Premises* policy that would invoke the requirement to engage crowd controllers. In regard to security, it was further submitted:
- (a) that the Applicant has volunteered to install a CCTV system that is compliant with the Director's policy; and
  - (b) as a result of the high quality and up-market nature of the venue, it is likely to attract a more discerning clientele, who are less likely to drink to excess.
47. While security at licensed premises is an important issue for liquor merchants, the requirement to employ crowd controllers is generally imposed on licences in accordance with the Director's *Safety and Security at Licensed Premises* policy, which usually only applies to licensed premises that trade beyond 1 a.m. (such as nightclub licences, some special facility licences and where a relevant extended trading permit has been granted). In this respect, I note that no such extended trading permit is proposed as part of the current application.
48. It is important to note that as interveners, the Commissioner and the EDPH carry no burden of proof (see Greaves J, *Gull Petroleum (WA) Pty Ltd* (1998) LLC No. 13/98), but rather provide submissions and evidence in order to assist the licensing authority in making an informed decision.
49. In relation to the objection by Ms Carson regarding the long held concerns of the Onslow Chamber of Commerce and Industry regarding alcohol and disorderly behaviour in Onslow by FIFO workers negatively affecting Onslow, I note that the application is supported by a letter from the Chairman of the Onslow Chamber of Commerce and Industry, who "welcomes this application and proposed development by Mackerel Islands Pty Ltd along with the prospect of increased choice of places to eat and drink in Onslow."

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50. I further advise that should the Applicant determine at any time in the future that it would like to operate under a hotel licence without restrictions, then it would be necessary for it to seek the grant of a hotel licence, given that s 63 of the Act precludes the licensing authority from varying a hotel restricted licence in such a manner.
51. In my view, the grant of the application will promote one of the primary objects of the Act, namely object 5(1)(c) which relates to catering to the requirements of consumers for liquor and related services and also the Act's secondary object at s 5(2)(a), which relates to facilitating the use and development of licensed facilities reflecting the diversity of consumers in the State. Of course, I must weigh and balance these objects with the harm minimisation object of the Act in accordance with the principles set out in *Executive Director of Health v Lily Creek International Pty Ltd & Ors [2000] WASCA 258*. In doing so I am satisfied that the matrix of services to be provided at the proposed premises and the subsequent benefits to the community outweigh the potential for harm, particularly since the applicant accepts all of the harm minimisation conditions proposed in the intervention lodged by the EDPH.
52. On balance, I have given greater weight to the evidence of the Applicant over that of Onslow General and Mr Dillon, both of whom have vested interests in the application being refused. In this respect, it is the interest of the public that is of paramount importance and which overrides the interests of existing licensees in the locality. Similarly, based on the evidence presented, particularly that regarding the erection of an acoustic barrier along the boundary of the property between the Ashburton Resort Hotel and the residents next door, I also consider that Ms Stewart, Ms Dean and Ms Carson have failed to establish their grounds of objection as required by s 73(10) of the Act.
53. I am therefore satisfied that the applicant has complied with all the necessary statutory criteria requirements and conditions precedent to the application being granted and that the grant of the application is in the public interest.
54. Accordingly, the licence is conditionally granted, subject to the following conditions:
- (a) a certificate under s 39 of the Act being lodged before the operation of the licence;
  - (b) compliance with the *Local Government Act 1960*, *Health Act 1911* and any written law relating to the sewerage and drainage of these premise;
  - (c) all work being completed within 12 months (i.e. on or before 14 May 2016) in accordance with the plans and specifications dated 1 July 2014.
  - (d) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements being satisfactorily completed and the Director of Liquor Licensing being notified in writing at least 21 days prior to applicant wishing to trade under the licence;

- (e) a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed; and
- (f) the applicant seeking confirmation of the grant on or before 14 May 2016 pursuant to s 62(4)(c) of the Act.

55. The following conditions will be imposed on the issue of the licence:

(a) Trading Hours:

- (i) The approved permitted trading hours are:
  - (1) on Monday to Saturday, from 11 a.m. until 12 midnight;
  - (2) on a Sunday, from 11 a.m. until 10 p.m.;
  - (3) on a Sunday that is New Year's Eve, from 10 p.m. to 12 midnight;
  - (4) on New Year's Day, from immediately after 12 midnight on New Year's Eve until 2 a.m.;
  - (5) on Good Friday or Christmas Day, from 12 noon to 10 p.m., but only for liquor sold ancillary to a meal supplied by the licensee;
  - (6) on ANZAC Day, from 12 noon to 12 midnight.
- (ii) The permitted hours for the sale of liquor to a lodger are unrestricted.

(b) Trading Conditions:

- (i) The licensee is authorised to sell and supply liquor in accordance with the provisions of s 41 of the Act as it relates to a hotel restricted licence.
- (ii) The sale and supply of packaged liquor for consumption off the licensed premises to persons other than lodgers, is prohibited.
- (iii) During the permitted trading hours specified above, the licensee is authorised to sell and supply liquor for consumption on the licensed premises.
- (iv) Packaged liquor may only be sold and supplied:
  - (1) Monday to Saturday, from 11 a.m. until 8 p.m.;
  - (2) Sunday, from 12 noon to 6 p.m.;
  - (3) ANZAC Day, from 12 noon to 8 p.m., where ANZAC Day falls on a Monday to Saturday; and from 12 noon to 6 p.m. where ANZAC Day falls on a Sunday.
- (v) Packaged liquor may not be sold in the following quantities:
  - (1) in glass bottles of more 750ml or more of beer (king browns);
  - (2) in individual containers of more than two litres of liquor with an alcoholic content of more than six percent (for example, wine casks of two or more litres); and

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- (3) fortified wine containers greater than one litre.
- (vi) Food must be available during trading hours.
- (vii) The ground floor bar/restaurant area will have seating for 70 patrons at all times, except for pre-arranged functions and events.
- (viii) The licensee shall not promote or sell drinks which offer liquor by virtue of their 'emotive' titles, such as, but not limited to, 'laybacks', 'shooters', 'slammers', 'test tubes' and 'blasters'.
- (ix) Low alcohol beer, as well as non-alcoholic drinks, must be available.
- (x) Jugs of beer are prohibited.
- (xi) No liquor is to be supplied mixed with energy drinks. For the purposes of this condition "energy drink" has the same meaning as formulated caffeinated beverage within the *Australia New Zealand Food Standards Code* with a composition of 145mg/l of caffeine or greater.
- (xii) Any music played at the premises must be at a level that permits conversation to occur, except for prearranged functions or events.
- (xiii) A CCTV system is to be installed and maintained in compliance with the Director's *Safety and Security at Licensed Premises* policy.
- (xiv) Dress Standards:
- (1) The following dress standard applies during the permitted trading hours:
- (a) neat casual attire is to be worn;
- (b) footwear is to be worn at all times; and
- (c) jackets or any other clothing or accessory, or any visible body markings bearing patches or insignia of any Outlaw Motor Cycle Gangs at all times.
- (2) A notice is to be displayed at all entrances to the licensed area/event reflecting this condition.
- (xv) Entertainment Condition:
- (1) A person resorting to, or on the premises, including the licensee or manager, or an employee or agent of the licensee or manager, shall not:
- (a) be immodestly or indecently dressed on the licensed premises, and/or
- (b) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (2) The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from:

- (a) exhibiting or showing, or causing, suffering or permitting to be exhibited or shown, on the licensed premises any classified "R 18+", "X 18+" or "RC" classified publication, film or computer game or extract therefrom; or
  - (b) causing, suffering or permitting any person employed, engaged or otherwise contracted to undertake any activity or perform any entertainment on the licensed premises to be immodestly or indecently dressed on the licensed premises; or
  - (c) causing, suffering or permitting any person to take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (3) In this condition "licensed premises" includes any premises, place or area:
- (a) which is appurtenant to the licensed premises; or
  - (b) in respect of which an extended trading permit granted to the licensee is for the time being in force,

but does not include any part of the premises which is reserved for the private use of the licensee, manager or employees of the licensee and to which the public does not have access.

(xvi) Compliance with Harm Minimisation Policy

The licensee has lodged a copy of the House Management Policy, Code of Conduct and Management Plan developed for these premises in accordance with the Harm Minimisation Policy. These documents must be retained on the licensed premises and produced to any Authorised Officer if required.

**General**

- 56. Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
- 57. The Applicant is reminded that trading may not commence without the prior written approval of the licensing authority.
- 58. Parties to this matter dissatisfied with the outcome may seek a review of the Decision under s 25 of the Act. The application for review must be lodged with the Liquor Commission within one month after the date upon which the parties receive notice of this Decision.
- 59. This matter has been determined by me under delegation pursuant to s 15 of the Act.

  
Brett Snell  
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING