

DECISION OF DIRECTOR OF LIQUOR LICENSING

APPLICANT: FIORITA PTY LTD

PREMISES: FIORITA DELI

PREMISES ADDRESS: SHOPS 1 & 2 BUILDING 2 THE QUARTER 20 SHARPE AVENUE KARRATHA

APPLICATION ID: A000214359

NATURE OF APPLICATION: CONDITIONAL GRANT OF A TAVERN LICENCE

DATE OF DETERMINATION: 3 APRIL 2017

Introduction

- 1 This is an application by Fiorita Pty Ltd (the applicant) for the conditional grant of a tavern licence for premises to be known as Fiorita Deli and located at Shops 1 and 2, The Quarter, 20 Sharpe Avenue, Karratha. The application is made pursuant to ss 41 and 62 of the *Liquor Control Act 1988* (the Act).
- 2 The application was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing. There were two objections to the grant of the application: the first from Captain Niall Gibson on behalf of The Salvation Army Karratha and the second from St Paul's School Karratha. The Chief Health Officer (CHO) and the Commissioner of Police (the Commissioner) lodged notices of intervention.
- 3 As permitted under ss 13 and 16 of the Act, the application will be determined on the written material lodged by the parties. The evidence and submissions of the parties are briefly summarised as follows.

The case for the applicant

- 4 The proposed tavern will be located within a new development, known as The Quarter, in the Karratha City Centre. According to the applicant, the proposed tavern will be a small venue, catering to no more than 50 patrons at any one time, which will provide a unique and contemporary food and beverage offering for local residents and interstate and international visitors.
- 5 The applicant submitted that it has identified a gap in the Karratha food and beverage market and is seeking to open a gourmet cafe and delicatessen in The Quarter development to sell a range of gourmet deli and grocery items, alongside a selection of homemade meals and alcoholic and non-alcoholic beverages. The applicant proposes to offer:
 - a selection of premium wine, beer and ciders to dine-in or takeaway;

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- a selection of craft beer and cider;
 - a selection of gourmet hot and cold meals such as salads, pasta, casseroles, paella and risotto;
 - shared plates to dine in including charcuterie boards, antipasto, cheese boards, and tapas plates;
 - a selection of fresh and frozen 'ready to eat' meals to take home;
 - a range of gourmet deli items such as salamis from Italy, jamon iberco from Spain, olives from Greece and cheese from France;
 - hot and cold breakfast items;
 - barista made coffee; and
 - freshly made rolls, wraps and burgers.
- 6 Staff will be trained to identify flavour profiles and products and make recommendations based on patrons' preferred flavour profile, whether it is for a particular wine, type and make of cheese, Spanish jamon or chorizo. It was submitted that the focus will be on encouraging consumers to pair the food and beverage that will be available at the premises to consume on premises or takeaway.
- 7 The applicant submitted a Public Interest Assessment (PIA) to support its application. The PIA provided information of the applicant's proposed style and manner of operation, the demographic profile of the locality and addressed the matters set out in s 5 and s 38(4) of the Act. The applicant also submitted the results of consumer surveys together with various letters of support for the grant of the application.
- 8 In acknowledging the potential risks associated with the sale and supply of alcohol in Karratha, the applicant identified a number of strategies to minimise those risks including the following self imposed restrictions:
- trading would cease at 9 p.m. each day;
 - cask wine, spirits and RTD's would not be sold;
 - there would be restricted volume sales on takeaway liquor:
 - bottled wine - maximum of 6 per person (although I note that in the material provided to the public seeking support for the application, it is indicated that wine will be restricted to 3 bottles per person);
 - minimum cost of wine will not be less than \$10;
 - bottled/canned beer - maximum of 6 per person;
 - bottle/canned cider - maximum of 6 per person.
 - CCTV coverage throughout the premises;
 - there will be no areas to stand and congregate while consuming alcohol, with patrons being seated;

- liquor products will be segregated from other deli items;
 - food is to be available for consumption on the premises until half an hour before closing;
- 9 The applicant was also mindful, and accepting, of the existing restrictions, imposed under s 64 of the Act, on licensees in the town, which restricts the sale of packaged liquor on Monday to Saturdays from 11 a.m. to 8 p.m. and on Sundays from 12 noon to 6 p.m. and liquor cannot be sold for consumption on the premises before 11 a.m. unless ancillary to a meal. There are also restrictions on certain products and container size.
- 10 In summary, it was submitted by the applicant that the grant of the application will support the development of the tourism, liquor and hospitality industries within the locality and the proposed manner of trade will positively contribute towards the locality becoming a more vibrant and welcoming city in northern Western Australia.

The objections

Captain Niall Gibson on behalf of The Salvation Army

- 11 The Salvation Army objected on the following grounds permitted under s 74 of the Act:
- The grant of the application would not be in the public interest; and
 - 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.
- 12 It was submitted that minimising alcohol-related harm in the community should be a primary consideration. In this regard, it was submitted that:
- alcohol-related harm in Karratha is higher than the State average;
 - alcohol-related harm is at an unacceptable level for Karratha;
 - alcohol consumption is at higher levels than metropolitan areas; and
 - the Pilbara liveability is significantly affected by high rates of alcohol-related harm.
- 13 According to Captain Gibson, the grant of the application will, over time, contribute to the current alcohol-related violence and harm that exists in the community and it is therefore not in the public interests for the premises to operate under a tavern licence. There are already an excessive number of liquor outlets in Karratha which has contributed to the increased demand in the community for takeaway liquor. It was submitted that the cumulative impact of alcohol availability in the area is linked to assaults and violence, particularly domestic violence.
- 14 Captain Gibson also submitted that young people, with or without their parents may visit the proposed premises because of the gourmet items available for purchase. This

means that juveniles may be exposed to the sale and promotion of alcohol in a place that they would not normally see it sold, thereby normalising alcohol as part of the shopping experience.

- 15 Captain Gibson provided details of the work currently undertaken by The Salvation Army in the local community which includes Doorways (Emergency Relief), the Women's Refuge and the Crossroads Youth Accommodation Service. It was submitted that the work undertaken by The Salvation Army in Karratha is directly impacted by the abuse of alcohol in the community.

St Paul's School Karratha

- 16 It was submitted on behalf of the school that the applicant already has a licensed venue not far from the proposed premises and given the impact of alcohol on the community, the grant of the application would not be in the public interest and is likely to cause undue harm or ill-health to people due to the use of liquor.

The interveners

The Commissioner of Police

- 17 The Commissioner intervened in the application to provide information and evidence to assist the licensing authority in making an informed decision. In this regard, the Commissioner provided evidence on:
- the existing outlet density in Karratha, including premises that can sell packaged liquor; and
 - alcohol-related offending in the locality of Karratha and the wider Karratha police sub-district.
- 18 In respect of rates of domestic assaults in the locality of Karratha, the data from the Commissioner indicates that alcohol was a contributing factor in 12 assaults in 2013; 4 assaults in 2014; 6 assaults in 2015 and 4 assaults in 2016 (from January to July).
- 19 For the wider Karratha sub-district, alcohol was a contributing factor in 119 domestic assaults in 2013; 107 in 2014; 49 in 2015 and 94 in 2016 (from January to July).
- 20 For non-domestic assaults in the locality, alcohol was a contributing factor in 36 assaults in 2013; 21 assaults in 2014; 13 assaults in 2015 and 12 assaults in 2016 (January to July). For the wider sub-district of Karratha, alcohol was a contributing factor in 195 assaults in 2013; 158 assaults in 2014; 97 in 2015 and 123 in 2016 (January to July).
- 21 It was submitted by the Commissioner that alcohol is a contributing factor in both domestic and non-domestic assaults within the Karratha town and sub-district with a current increasing trend for the first half of 2016 and it is likely that the grant of the application will further contribute to alcohol-related offending in the area.

- 22 The Commissioner noted that in 2012 the Director of Liquor Licensing imposed restrictions on the sale of packaged liquor in the West Pilbara due to issues of excessive alcohol consumption.
- 23 The Commissioner submitted that some information in the applicant's PIA may not be accurate, particularly in light of the downturn in the mining industry and the resultant impact on population data for the town. The Commissioner was also concerned that unaccompanied juveniles may be attracted to the premises given the non-alcohol related products that the applicant proposes to sell.

The Chief Health Officer

- 24 The CHO intervened to make representations regarding the risk of alcohol-related harm and ill-health specific to the application, and how that risk could be minimised through the imposition of appropriate conditions.
- 25 The intervention by the CHO was premised on the following submissions:
- the association of the sale of packaged liquor with general supermarket goods can reinforce alcohol as a non-harmful product, and establish its cultural place as part of everyday life, shaping attitudes and behaviours towards alcohol;
 - the association of alcohol products and everyday grocery items can lead to increased consumption and harm;
 - the applicant is applying for a tavern licence, which research has demonstrated can be a higher-risk licence type for alcohol-related harm;
 - there are current levels of alcohol-related harm in the locality of Karratha, where the premises is proposed to be located, some of which is higher than the State rate;
 - Karratha residents that attend treatment services predominantly report alcohol as a drug of concern;
 - there are at-risk groups for alcohol-related harm in the locality;
 - the combination of risk factors that this application presents means there is potential for the granting of the application to cause harm or ill-health; and
 - if the licence is granted, the imposition of conditions on the licence would be an important harm minimisation approach.
- 26 The CHO provided data on the existing level of alcohol-related harm in the area, which included the following:
- between 1 January 2013 and 31 December 2015, there were 121 non-domestic assault offences recorded in the suburb of Karratha, of which 43% were recorded as alcohol-related;

- for the same period in the sub-district of Karratha, there were 367 non-domestic assaults offences recorded, of which 48% were alcohol-related;
- alcohol-related non-domestic assaults per 1,000 persons is higher in the sub-district of Karratha compared to the State rate;
- between 1 January 2013 and 6 May 2016 there were 131 drink-driving charges recorded where the suburb of last drink was named as Karratha;
- the total hospitalisation rate for 'all alcohol-related conditions' for Karratha residents were similar to the corresponding State rate, however the hospitalisation rate for alcohol-related assaults was significantly higher than the State rate; and
- the number of treatment episodes (by agencies that provide prevention and treatment programs) in Karratha and surrounding suburbs where alcohol was identified as the primary drug of concern, declined from 37% in 2013 to 33% in 2015.

27 It was submitted by the CHO that the application presents harm and ill-health concerns, particularly in view of the existing levels of alcohol-related harm in the locality. Consequently, the CHO recommended a range of conditions that could be imposed on the licence to minimise the risks associated with the operation of the premises.

Legislative and legal framework

- 28 An applicant must satisfy the licensing authority that the grant of the application is in the public interest: s 38(2). There is a positive onus on an applicant to discharge this obligation (refer *Liquorland (Australia) Pty Ltd v Executive Director of Health* [2013] WASC 51; *Seoul Mart City Pty Ltd v Commissioner of Police* (LC27/2014).
- 29 It is therefore incumbent upon an applicant to adduce sufficient information to make it possible for the licensing authority to satisfy itself that the application is in the public interest. An applicant cannot do so by expressing assertions or opinions about the public interest; any assertion or opinion must be supported by appropriate evidence (refer *Australian Leisure and Hospitality Group Pty Ltd v Commissioner of Police* (LC/2015); *Seoul Mart City Pty Ltd v Commissioner of Police* (LC 27/2014); *Busswater Pty Ltd v Director of Liquor Licensing* (LC 17/2010).
- 30 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).

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- 31 The burden of establishing the validity of any objection lies on the objector: s 73(10), however an intervener carries no onus to establish their assertions of fact or opinion (refer *Re Gull Liquor* (1999) 20 SR (WA) 321).
- 32 The factual matters that I am bound to take into account when determining whether the grant of an application is 'in the public interest' are those relevant to the primary and secondary objects of the Act as set out in s 5 (refer *Woolworths v Director of Liquor Licensing* [2013] WASCA 227).
- 33 The primary objects of the Act are:
- to regulate the sale, supply and consumption of liquor;
 - to minimise harm caused to people, or any group of people, due to the use of liquor; and
 - 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.
- 34 The secondary objects of the Act are:
- 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;
 - to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act.
- 35 The licensing authority is also entitled (but not bound) to take into account the factual matters set out in s 38(4) of the Act as part of the public interest considerations.
- 36 Section 16 provides that the licensing authority is to act according to equity, good conscience and the substantial merits of the case. The licensing authority should also act without undue formality and is not bound by the rules of evidence.
- 37 In considering the public interest, tension may arise between the primary object of minimising harm or ill-health caused to people, or any group of people, due to the use of liquor, and other objects contained in s 5 of the Act. When such conflict arises, the licensing authority must undertake a weighing and balancing exercise. The decision will depend on the particular circumstances of the case (refer *Executive Director of Public Health v Lily Creek International Pty Ltd* [2000] WASCA 258).
- 38 It is significant that the primary object in s 5(1)(b) is to 'minimise' harm or ill-health, not to prevent harm or ill-health absolutely. The word 'minimise' is consistent with the need

to weigh and balance all relevant considerations (refer *Lily Creek* supra). It is a matter for the licensing authority to decide what weight to give to the competing interest interests and other relevant considerations (refer *Hermal Pty Ltd v Director of Liquor Licensing* [2001] WASCA 356).

- 39 The harm contemplated by the Act is not confined to consumers of alcohol and extends to harm caused to the health and well-being of individuals, families and communities, as well as social, cultural and economic harm. This includes harm which may occur through an increase in anti-social or injurious behaviour due to the use of liquor and is not limited to physical harm (refer *Re Gull Liquor, Gingers' Roadhouse Upper Swan* (1999) 20 SR (WA) 321; *Director of Liquor Licensing v Kordister Pty Ltd* [2011] VSC 207).
- 40 Whether harm or ill-health will, in fact, be caused to people, or any group of people, due to the use of liquor is essentially a matter of prediction. However, it is unnecessary to establish on the balance of probabilities that harm or ill-health will be caused to people, or any group of people, before the consideration can be taken into account (refer *Lily Creek* supra). The potential for harm or ill-health is to be taken into account by the licensing authority irrespective of whether the prospect is a possibility or a probability. It is a powerful public interest consideration (refer *Lily Creek* supra).
- 41 The question is whether, having regard to all the circumstances and the legislative intention, the grant of the application is justified. In answering this question, the licensing authority has a wide discretion. It is a matter for it to decide what weight to give to the competing interests and other relevant considerations (refer *Hermal* supra).
- 42 Finally, s 33(1) provides that licensing authority has an absolute discretion to grant or refuse an application on any ground, or for any reason, that the licensing authority considers in the public interest. Further, s 33(2)(a) provides that an application may be refused, even if the applicant meets all the requirements of the Act. In *Woolworths Ltd v Director of Liquor Licensing* [2012] WASC 384, EM Heenan J described the 'absolute discretion' provided for under s 33(1) in the following terms:

The 'absolute discretion' to grant or refuse an application of (sic) any ground or for any reason that the Commission considers in the public interest, s 33(1), is an example of a very full and ample discretion which is only confined by the scope and purpose of the Act which in turn is to be determined by the express objects of the Act and the legislation read as a whole: Hermal Pty Ltd v Director of Liquor Licensing [2001] WASCA356 [6] - [7] (Wallwork J) and Palace Securities v Liquor Licensing(1992) 7 WAR 241, 249 - 250 (Malcolm CJ) and 263 (Wallwork J). Section 5(2) in requiring the licensing authority to have regard to the primary and secondary objects of the Act, which have already been mentioned, obliges the licensing authority to pay regard to those objects on any application but does not otherwise confine the scope or meaning of the public interest or make those objects the exclusive considerations nor the sole

determinants of the public interest: Re Michael; Ex parte Epic Energy (WA) Nominees Pty Ltd [2002] WASCA 231; (2002) 25 WAR 511, [52] - [55]; O'Sullivan v Farrer [1989] HCA 61; (1989) 168 CLR 210, 216 and Jericho Nominees Pty Ltd v Dileum Pty Ltd (1992) 6 WAR 380, 400.

Determination

- 43 The applicant seeks to operate a tavern in a new development in the Karratha City Centre known as The Quarter. The proposed premises are relatively small by industry standards, catering to no more than 50 patrons, and will have a strong focus on the provision of food and non-alcoholic items. The applicant's vision is to create a unique and contemporary food and beverage venue that provides a quality food and beverage offering for local residents and interstate and international visitors to dine-in or take home.
- 44 A tavern licence will allow the applicant to sell and supply liquor for consumption on the premises or as packaged liquor for consumption off the premises. The applicant proposes to offer a food and liquor matching service. It was submitted that the packaged liquor offering will be of a boutique range with strict limits on the quantity that can be purchased at any one time. Certain high risk products such as cask wine, spirits and RTD's would not be sold.
- 45 The evidence indicates that Karratha presently experiences some elevated rates of alcohol-related harm and the consumption of alcohol on a per capita basis in the Pilbara region is above the State rate. Minimising alcohol-related harm is one of the primary objects of the Act. Equally however, another primary object of the Act is to cater to the requirements of consumers having regard to the proper development of the liquor industry. A secondary object of the Act is to facilitate the use and development of licensed facilities reflecting the diversity of the requirements of consumers. The need to minimise harm or ill-health is not about preventing harm or ill-health absolutely (refer *Lily Creek*).
- 46 Where conflict arises in promoting the objects of the Act, the licensing authority must undertake a weighing and balancing exercise. The outcome will depend on the particular circumstances of the case (refer *Lily Creek*).
- 47 In assessing the likely degree of harm or ill-health to result from the granting of this application, the following aspects of the application are relevant:
- the modest nature and scale of the business to be conducted under the licence (i.e. no more than 50 patrons are permitted on the licensed premises at any one time);
 - the restricted conditions that the applicant seeks to have imposed on the licence, including reduced trading hours and strict limits on packaged liquor sales;
 - some high risk products will not be sold as packaged liquor; and

- the emphasis on food rather than just alcohol.
- 48 In my view, the applicant's proposed business model would be unlikely to attract at-risk persons from within the locality or elsewhere. Additionally, the proposed conditions of the licence will further ameliorate the risks of the premises operating under a tavern licence in this location. There would be tight restrictions on packaged liquor sales. Consequently, I find that there is a low risk of an increase in alcohol-related harm that would result from the granting of the application.
- 49 In weighing and balancing the competing interests, I am of the view that the positive aspects of the application outweigh the potential risks. I also note that the grant of the application will add to the diversity of licensed facilities in the locality and be unique to the location.
- 50 Having considered the totality of the evidence presented, I find that the grant of the application would be consistent with objects 5(1)(c) and 5(2)(a) of the Act. I am of the view that the potential risks posed by the grant of the application can be adequately ameliorated by the nature and scale of the business and appropriate conditions.
- 51 I therefore find that the applicant has discharged its onus under s 38(2) of the Act and the grant of the application is in the public interest. I find that the objectors have failed to make out their grounds of objection as required under s 73(10).
- 52 In respect of the trading conditions of the licence, packaged wine will be limited to 3 bottles per person, as stated by the applicant in its advice to the public in the consumer petition, which post dates the applicant's original submissions. Also, in view of the applicant's business model, the applicant will be required to display a sign at the main entrance of the premises, in a conspicuous position, stating that juveniles, unless accompanied by a parent or guardian, are prohibited from entering the premises.
- 53 A tavern licence is conditionally granted to the applicant subject to the following:
- (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 premises;
 - (c) all work being completed within 12 months in accordance with the plans and specifications dated 21 September 2016 and 14 December 2016;
 - (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 **2 April 2018** pursuant to s 62(4)(c) of the Act.

54 On confirmation of the conditional grant, the following conditions will be imposed on the licence:

Trading hours

The permitted trading hours are:

Monday to Saturday: 7.00 a.m. to 9 p.m.

Sunday: 10 a.m. to 9 p.m.

On Good Friday from 12 noon to 9 p.m. but only for liquor sold ancillary to a meal, as defined in s 3 of the Act.

No trading is permitted before 12 noon on ANZAC Day.

Trading conditions

- 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 tavern licence.
- The sale of packaged liquor for consumption off the premises is subject to the following restrictions:
 - packaged liquor may only be sold between 11 a.m. and 8 p.m. on Monday to Saturday and from 12 noon to 6 p.m. on Sunday;
 - on 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;
 - the sale of cask wine, spirits and RTD's is prohibited;
 - the sale of wine is limited to a maximum of three (3) bottles per person per transaction;
 - the minimum cost of wine will not be less than \$10 per bottle;
 - the sale of bottled/canned beer and cider is limited to a maximum of six (6) per person per transaction;
 - the sale of beer in glass bottles of 750ml or more is prohibited;
 - the sale of liquor in individual containers of more than two litres with an alcohol content of 6% or more is prohibited;
 - the sale of fortified wines in containers greater than one litre is prohibited.

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- The sale and supply of liquor for consumption on the premises is prohibited before 11 a.m., except where it is sold or supplied ancillary to a meal, as defined in s 3 of the Act.
 - Food must be available at all times during trading hours except until half an hour before close.
 - The liquor display area must be clearly delineated from the food/grocery display areas.
 - Any music played at the premises must be at a level that permits normal conversation to occur.
 - The licensee must display a sign at the any entrance to the premises, in a conspicuous position, stating that juveniles, unless accompanied by a parent or guardian, are prohibited from entering the premises.
 - The licensee is to have and maintain a CCTV system in accordance with the policies of the Director of Liquor Licensing. Specifically, the video surveillance system must –
 - comply with the “Minimum Standards – Closed Circuit Television (CCTV) Security System” policy as amended;
 - record continuous images on any day that the venue trades from the commencement of trade until 1 hour after trading ceases; and
 - retain recorded images for a period of twenty eight (28) days available for viewing or removal upon request by police or other persons authorised by the Director.
 - The maximum number of patrons permitted on the licensed premises, inclusive of the area covered under the extended area ETP, shall not exceed 50 at any one time.
 - That part of the premises referred to as ‘Cafe Area’ and Cafe Alfresco Area” on plans dated 14 December 2016 are to be set up with tables and chairs at all times, except when hosting a pre-booked function.
 - 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’.
 - Drink options that contain low alcohol liquor content as well as a range of non-alcoholic drink options must be available at all times.
 - 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).

Dress standards – Outlaw Motorcycle Gangs

The following dress standard applies during the permitted trading hours:

Jackets or any other clothing or accessory, or any clearly visible body marking, bearing patches or insignia of any Outlaw Motor Cycle Gangs not limited to, but including, the following listed Outlaw Motor Cycle Gangs, are not permitted to be worn or to be visible on the licensed premises:

- (i) Coffin Cheaters;
- (ii) Club Deroes;
- (iii) Gods Garbage;
- (iv) Gypsy Jokers;
- (iv) Outlaws;
- (v) Finks;
- (vi) Rebels;
- (vii) Comancheroes;
- (ix) Hell's Angels;
- (x) Rock Machine; and
- (xi) Mongols.

A notice is to be displayed at all entrances to the licensed area/event reflecting this condition.

Entertainment Condition

- (a) 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:
 - (i) be immodestly or indecently dressed on the licensed premises, and/or
 - (ii) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (b) The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from:

- (i) 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
 - (ii) 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
 - (iii) 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.
- (c) In this condition “licensed premises” includes any premises, place or area:
- (i) which is appurtenant to the licensed premises; or
 - (ii) 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.

Compliance with harm minimisation policy

The licensee is to have a 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

- (i) Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
- (ii) The applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.

55 The applicant also lodged an application for an extended trading permit pursuant to s 60(4)(h) at the Act for the alfresco area of the premises. This application is approved subject to the following:

- The permit area is the area outlined in yellow on plans dated 14 December 2016; and
- The permit area is to be set up with tables and chairs at all times except for pre-booked functions.

- 56 Pursuant to s 116(3) of the Act, a person shall not carry on a business under a licence unless the use of that name is approved. At this stage, I have reservations about approving the trading name of the premises containing the word "Deli", given the premises will operate under a tavern licence. I will therefore approve the name "Fiorita" and the applicant is at liberty to submit an alternate name or lodged further submissions on this issue.
- 57 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.
- 58 This matter has been determined by me under delegation pursuant to s 15 of the Act.



Peter Minchin
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING