

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

**APPLICANT:** AUSTRALIAN THEATRICAL PROMOTERS PTY LTD

**PREMISES:** THE SEWING ROOM

**PREMISES ADDRESS:** 317 MURRAY STREET, PERTH

**APPLICATION ID:** A000195908

**NATURE OF APPLICATION:** CONDITIONAL GRANT OF A NIGHTCLUB LICENCE

**DATE OF DETERMINATION:** 09 NOVEMBER 2016

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### **Introduction**

- 1 This is an application by Australian Theatrical Promoters Pty Ltd (the applicant) for the conditional grant of a nightclub licence for premises to be known as The Sewing Room and located at 317 Murray Street, Perth. The application is made pursuant to ss 42 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. Objections to the grant of the application were lodged by Vastafeliz Pty Ltd (licensee of the Spaniard Tapas Bar) and Hub Land Dato Pty Ltd (licensee of the Holiday Inn Perth City Centre). The Executive Director, Public Health (EDPH) and the Commissioner of Police (the Commissioner) both lodged notices of intervention, pursuant to s 69 of the Act.
- 3 The application will be determined on the basis of the written material lodged by the parties as permitted under ss 13 and 16 of the Act. The evidence and submissions of the parties are briefly summarised as follows.

### **The applicant's proposal**

- 4 The applicant seeks to establish a venue which has a focus on live music, in a vacant basement space in what was once the sewing room for the Pierucci Fashion House. It was submitted that in recent years a number of venues that provide opportunities for local bands and artists to perform have ceased operating, and the applicant seeks to fill that void. The proposed venue will provide a performance space for a diverse range of live music performances, from well known entertainers and bands to up and coming local musicians. Traditional music styles such as pop, rock, jazz, blues, country and folk will be featured while non-traditional types of music, such as culturally diverse, spoken word, a cappella and electronica will also be encouraged.
- 5 The applicant submitted a Public Interest Assessment (PIA) to support its application. The PIA addressed the matters set out in s 5 and s 38(4) of the Act and included a consumer survey, various letters of support and an Environmental Noise Assessment report conducted by Lloyd George Acoustics.

- 6 The PIA provided information on the proposed style of operation of the premises, the locality surrounding the premises, antecedents of the applicant's directors and harm minimisation strategies to be adopted should the application be granted and conditions to be imposed on the licence.
- 7 According to the applicant, the locality has experienced significant population growth and considerable commercial and infrastructure development over the past five to ten years. In order to maintain the proper development of the liquor, tourism and hospitality industries in the locality, the applicant believes the grant of the application will contribute to the growth of these industries. The applicant further submitted that the operation of the proposed venue will complement the cultural activities of venues such as the Perth Cultural Centre, WA State Theatre, the Art Gallery of WA and other similar venues in the city area.

### **The objectors**

#### *Vastafeliz Pty Ltd (licensee of the Spaniard Tapas Bar)*

- 8 Whilst supportive of the venue if it was to cater for music of the jazz variety, the objector was concerned that the operation of the venue may negatively impact on local residents and businesses if the appropriate noise cancelling systems are not in place. In this regard, the objector submitted that:
- there are already problems with the collection and placement of bins in the laneway and the applicant's premises has no outside space for bins to be collected except on Murray Street. The smell caused by leaving bins out for long periods, together with the visual and pedestrian traffic flow is a potential problem;
  - the proposed premises has only one entrance and exit which is planned for the small north/south alleyway and patrons queuing in this area would block the alleyway and reduce access to other businesses. Patrons queuing to enter the premises may also potentially intimidate the small bar crowd, who prefer the intimate dining and cocktail environment as opposed to the potential 300+ young people attending a band performance; and
  - patrons of the venue who linger in the laneway smoking may negatively impact on patrons of other businesses.

- 9 The objector would be supportive of the application if there were strict conditions on the style of entertainment at the premises, a bin management plan and the entrance to the venue is moved out of the laneway and onto Murray Street.

#### *Hub Land Dato Pty Ltd (licensee of the Holiday Inn Perth City Centre)*

- 10 It was submitted by the objector that the applicant's premises and the Holiday Inn are situated very close to each other in Wolf Lane, which is a cross-shaped public laneway between Murray Street, King Street and Hay Street in the CBD. The Holiday Inn

comprises two contiguous buildings and the northern section of the Holiday Inn adjoins Wolf Lane and faces into Wolf Lane and the applicant's site. According to the objector, there is an already an existing noise problem experienced by lodgers of the Holiday Inn emanating from licensed premises operating in Wolf Lane.

11 According to the objector, the nature of the business proposed by the applicant will generate noise and disturbance in the form of:

- music inside the venue;
- the crowd inside the venue;
- people queuing and loitering outside the premises and otherwise coming and going; and
- deliveries and rubbish disposal associated with the business into Wolf Lane.

12 It was submitted that whilst the applicant has referred to the issue of noise and disturbance generally in its PIA, nothing of substance has been put by the applicant as to what actual measures, if any, will in fact be formally implemented to ensure guests of the Holiday Inn and others are not adversely affected by the operation of The Sewing Room.

13 The objector submitted that if the application is approved then in order to minimise any potential impact on the amenity of the area, the following conditions should be imposed on the licence:

- all of the recommendations referred to at pages 5 and 8 of the Environmental Noise Assessment dated 4 September 2015 prepared by Lloyd George Acoustics be adopted, installed, implemented and maintained at the premises by the licensee;
- the licensee must ensure that queues of people in Wolf Lane waiting to enter the premises are formed only in the direction of Murray Street, away from the southern end of Wolf Lane;
- the layout, design and configuration of the premises is not to change. This includes the stage and performance area remaining situated at the northern end of the premises. Any proposed change must be advertised and notice given to the licensee of the Holiday Inn;
- the licensee must communicate at least monthly with the Holiday Inn general manager regarding the management of noise associated with the premises;
- both the licensee and a representative from the Holiday Inn must meet, unless agreed otherwise, with the Director of Liquor Licensing or one of his/her delegates at least every three months to review the noise situation and address any problems; and

- all entrance and exit points at the premises be closed with air-lock doors between 6 p.m. and closing.

### **The interveners**

#### *The Executive Director, Public Health*

14 The EDPH intervened in the application to make representations regarding the potential for this application to cause harm or ill-health to people, or any group of people, due to the use of liquor and the minimisation of that harm. The specific grounds for the intervention were based on the following:

- some characteristics of the venue, which make it a higher risk for harm, including the location, late night trading and the higher-risk licence type being applied for;
- there are many licensed premises operating in the vicinity of The Sewing Room, a number of which trade after 12 midnight. Granting the application will introduce an additional 320 patrons to the area who have been consuming alcohol during late night trading times;
- research has demonstrated that late night trading can facilitate increased consumption and alcohol-related harm, not inside a venue, but once patrons leave;
- Western Australian Police data show there are existing levels of alcohol-related harm occurring in the locality of the proposed venue, during the proposed trading hours; and
- to minimise the potential for the proposed venue to contribute to existing alcohol-related harm in Perth, if the application is granted, harm minimisation conditions be placed on the licence.

15 The EDPH therefore recommended various conditions relating to the provision of low alcohol and non-alcoholic drinks, restricting advertising or promotions which encourage excessive consumption of alcohol and a prohibition on mixing energy drinks with alcohol.

#### *The Commissioner of Police*

16 The Commissioner intervened because of the potential negative impact the operation of the premises may have on the amenity of the surrounding locality.

17 The Commissioner noted that there are currently 72 licensed premises within a 500 metre radius of the applicant's premises, which includes 5 nightclubs. While acknowledging that alcohol-related offences within the locality have decreased in 2015 when compared to 2014, there is still high rates of offending and alcohol is still a major contributing factor in many of the reported incidents of domestic and non-domestic

related assaults. The Commissioner provided data on the level of offending in the locality.

- 18 It was submitted by the Commissioner that violent and anti-social behaviour; both alcohol and non-alcohol related, within the locality are of significant concern and a considerable drain on police resources. This high level of harm throughout the locality is fundamentally attributed to existing licensed premises in the area and any additional licensed premises will add to the existing harm.
- 19 Consequently, the Commissioner submitted that if the application is granted, stringent conditions need to be considered in order to reduce the risk of further alcohol-related harm in the area. In supporting the applicant's initiatives to minimise any negative impact the premises may have on the surrounding locality, the Commissioner suggested that these initiatives be imposed as conditions of the licence, to ensure the applicant adheres to its proposed manner of trade as outlined in the PIA.

### **Legislative and legal framework**

- 20 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).
- 21 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).
- 22 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).
- 23 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).
- 24 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).

25 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.

26 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.

27 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.

28 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.

29 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).

30 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).

31 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).

- 32 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).
- 33 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).
- 34 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.*

### **Reasons for determination**

- 35 According to the applicant, The Sewing Room will help fill the live music void left by the closure, in recent years, of a number of live music venues in the CBD and Northbridge.

Without new premises being made available, the applicant submits that up and coming local bands and musicians will have fewer opportunities to play in front of live audiences. The applicant's proposed premises will be a medium sized late night live music venue that appeals to a range of clientele who are not catered to by the existing late night premises in the Perth CBD.

36 In my view, the evidence adduced by the applicant is capable of supporting a finding that the grant of the application will cater to the requirements of consumers for liquor and related services, as contemplated under object 5(1)(c) of the Act and will facilitate the use and development of licensed facilities for the performance of live original music, in accordance with object 5(2)(a). However, these findings of themselves are not determinative of the matter and in assessing the public interest, it is necessary to evaluate these features with the factors relating to the other statutory objectives and, where necessary, weigh and balance any competing interests.

37 The evidence of the interveners establishes that:

- although there has been a decline in alcohol-related offending, the locality surrounding the proposed nightclub still experiences high rates of alcohol-related crime and violence;
- some characteristics of the proposed venue, such as trading hours, location and higher-risk licence type increase the potential for harm to result from the grant of the application; and
- the introduction of a further 320 patrons, who most likely will have consumed alcohol, into an area where there are already many licensed premises trading after 12 midnight increases the risks of alcohol-related harm occurring.

38 The objectors have raised issues around the negative impact of the proposed premises on the amenity of the area. Guests staying at the Holiday Inn currently experience problems with noise and disturbance emanating from Wolf Lane.

39 In consideration of the matters raised by the objectors and interveners, I am of the view that those matters can, to a large extent, be mitigated through the imposition of various conditions on the licence. With this in mind, I find that the positive benefits from the grant of the application outweigh any potential negative impacts. In this case, I give particular weight to the benefits that will be realised through the promotion of the live original music industry in the State.

40 In his letter of support for the grant of the application, the CEO of West Australian Music, the peak industry body representing contemporary music in WA, stated:

*"The WA live music scene relies heavily on small to medium sized venues to do the majority of the heavy lifting and to provide a platform for the Perth music industry: regarded by many as Australia's most vibrant music scene."*

*Having the Sewing Room come on line as a live venue in Perth's CBD is important for the local industry and its wider supporter base. It will provide an economic shot-in-the-arm for local bands in terms of live performance opportunities and the flow on effect for their national profiles; as well as delivering an important social impact for local music lovers in that it will be another venue for them to attend live gigs."*

- 41 Therefore, in weighing and balancing the competing interests in this case, I am satisfied that the grant of the application is in the public interest, as required under s 38(2) of the Act. However, the conditions imposed on the licence will play an important role in minimising the risks associated with the operation of the venue in an area which experiences high rates of alcohol-related harm; mitigate the potential impact on the amenity of the locality; and ensure the premises trades in the manner proposed by the applicant as submitted in its PIA.
- 42 The licensee of the Holiday Inn recommended that the conditions on page 5 of the Acoustic Report submitted by the applicant, which relate to structural aspects of the premises in order to provide suitable acoustic attenuation, become conditions of the licence. I note however, that these requirements have been incorporated into the Schedule of Requirements issued by this office and must therefore be complied with prior to the premises commencing trade.
- 43 The Commissioner recommended that entry to the premises be restricted after 3 a.m. in order to reduce problems in and around the venue in the early hours of the morning, which is relevant given the existing high rates of alcohol-related harm in the locality and the relationship between late night trading and increased rates of harm. The applicant did not support such a condition, submitting that music is a late night industry and some bands won't commence a performance prior to 12 midnight. Also, international artists will come to the venue after their concerts at the Arena, which may not finish until late at night. Notwithstanding the applicant's submissions, I am of the view that restricting entry to the premises after 3 a.m. will not detract from the applicant's claim that 'music is a late night industry', but will assist in reducing problems in and around the venue and importantly, reduce activity in Wolf Lane in the early hours of the morning, thereby minimising the potential negative impact on the amenity of the area and in particular, the potential negative impact on guests staying at the Holiday Inn.
- 44 Consequently, I am satisfied the applicant has complied with all of the statutory requirements and conditions precedent to the application being granted, and a nightclub 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 premise;

- (c) all work being completed within 12 months in accordance with the plans and specifications dated 22 February 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 maximum occupancy certificate from the City of Perth, which will be used to assign maximum patron numbers.
- (f) a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed; and
- (g) the applicant seeking confirmation of the grant on or before **8 November 2017** pursuant to s 62(4)(c) of the Act.

### **Conditions to be imposed on the issue of the licence**

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

#### TRADING HOURS

The permitted trading hours are those prescribed in s 98A of the Act for a nightclub licence.

#### TRADING CONDITIONS

- The licensee is authorised to sell and supply liquor in accordance with the provisions of s 42 of the Act.
- CCTV: The licensee is to have and maintain a CCTV system in accordance with the "*Safety and Security at Licensed Premises*" policy of the Director of Liquor Licensing. Specifically, the video surveillance system must –
  - 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 reasonable request by police or other persons authorised by the Director.
- MAXIMUM CAPACITY: To be set following the issuing of a Public Building Certificate by the City of Perth.
- RESPONSIBLE DRINK PRACTICES: The licensee is prohibited from selling or supplying liquor in the following circumstances:

- 
- “shots” or “shooters” defined as unadulterated spirits or liqueur served in a container with a volume of 60ml or less;
  - “laybacks” defined as the supply of liquor by an employee of the licensee directly into the mouth of a person;
  - “test tubes” defined as liquor served in a test tube;
  - “jelly shots” defined as liquor infused with jelly; or
  - any drink containing liquor that is marketed under a title that would likely to encourage rapid consumption, including but not limited to the titles “shots”, “shooter”, “blaster”, or “bomb”.
- DRINK PROMOTIONS: The offer, promotion or advertising of free or cheap alcohol, or any promotion or practice which encourages irresponsible drinking is prohibited.
  - NON-ALCOHOLIC AND LOW ALCOHOL DRINKS: Drink options that contain low alcohol liquor content as well as a range of non-alcoholic drink options must be available at all times.
  - ENERGY DRINKS: No liquor is to be supplied mixed with energy drinks (for the purposes of this condition ‘energy drinks’ has the same meaning as formulated caffeinated beverage within the Australian New Zealand Food standards code with a composition of 145mg/l of caffeine or greater).
  - ENTRY TO PREMISES: Persons (other than an “authorised person”) are prohibited from entering or re-entering the licensed premises after 3 a.m.
  - CROWD CONTROLLERS: Crowd controllers (licensed under the *Securities and Related Activities (Control) Act 1996*) are to be employed at a ratio of two crowd controllers for the first 100 patrons, and one crowd controller for each additional 100 patrons or part thereof, from 8 p.m. (or the time of opening the premises if after 8 p.m.) until one hour after closing.

Crowd controllers are responsible for monitoring the licensed premises and the behaviour of patrons arriving and departing the premises.

- IDENTIFICATION SYSTEM: At the entry to the premises, the licensee shall install and operate an identification system satisfactory to the Commissioner of Police or his delegate. The identification system must be in operation from the time of opening the premises until the close of business and must be used by a responsible person to:
  - (a) check the personal details (including by reference to whether those personal details are recorded on a list of persons subject to Barring Notices or Prohibition Order as defined in the Act); and

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- (b) record for a period of not less than 28 days the personal details (by means of them being retained by the identification system in a format that is able to be provided to a member of the police force) of every person (other than an authorised person) entering the premises.
- AMENITY CONDITIONS:
    - As much as practicable, doors to the premises are to be kept closed;
    - When playing in-house music, preference should be given to using more low-powered speakers to fill the room, rather than installing high powered speakers in just a few locations. A compressor limiter is to be incorporated into the amplifier circuit so that the volume of the sound system can be automatically controlled to a fixed level. Volume controls should be located in a locked cabinet or room, so that only an authorised person can adjust them;
    - Glass is not to be emptied into bins at night;
    - A sign is to be placed in a prominent position by the front door reminding patrons to respect the neighbours and be quiet when they leave;
    - The occupants of the nearest noise sensitive premises are to be advised of the venue's opening hours and provided with appropriate management contact details, including the names and telephone numbers of responsible staff;
    - The licensee is to ensure that somebody is always available to receive complaints and maintain a complaints log. The complaints log is to document the date and time of any complaint, contact details of the complainant, the reason for the complaint and any actions taken. The complaint log is to be made available for inspection upon demand by an authorised officer;
    - The licensee is to develop and maintain a "Bin Management Plan" as agreed by the City of Perth;
    - Any queue for the premises is to be in a northerly direction towards Murray Street, away from the southern end of Wolf Lane;
    - The licensee is to meet with a representative of the Holiday Inn at least quarterly to review any impact the operation of the premises may have on guests of the Holiday Inn.
  - ENTERTAINMENT: The provision of recorded music presented personally by a person employed or engaged by the licensee is not to exceed 10 per cent of the live music performances at the venue.
  - OUTLAW MOTOR CYCLE GANGS: The licensee is prohibited from causing, suffering or permitting any person to enter and remain on the licensed premises

wearing a jacket or any other clothing or accessory, or any clearly visible body marking, bearing the patch or insignia of any Outlaw Motor Cycle Gangs not limited to, but including, the following:

- (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;
- (xi) Mongols;
- (xii) Sphinx; and
- (xiii) Lone Wolf.

A notice is to be displayed at all entrance 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 "Category 1 – Restricted" or "Category 2 – Restricted" publication, 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.

- APPROVAL UNDER S 104

The licensee may share in the proceeds from any door charge with performers or promoters.

- GENERAL

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

45 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.

46 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

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

**LICENSEE:** AUSTRALIAN THEATRICAL PROMOTERS PTY LTD  
**PREMISES:** THE SEWING ROOM  
**PREMISES ADDRESS:** 317 MURRAY STREET, PERTH  
**LICENCE NUMBER:** 607208345516  
**APPLICATION ID:** A000195908  
**DATE OF DETERMINATION:** 28 November 2016

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- 1 On 9 November 2016, I conditionally granted a nightclub licence to Australian Theatrical Promoters Pty Ltd. That licence was subject to a number of trading conditions, including the following:

“The provision of recorded music presented personally by a person employed or engaged by the licensee is not to exceed 10 per cent of the live music performances at the venue.”

- 2 The licensee has lodged a submission in which it seeks to vary the 10 per cent restriction in the above condition by either deleting the condition entirely or in the alternative, vary the requirement to a minimum of 50 per cent. I have considered this submission and I am satisfied that if the condition is varied to 50 per cent, the conduct of the business under the licence will still be consistent with the licensee’s submissions in its Public Interest Assessment and the proposed manner of trade which underpinned the granting of the original application.

- 3 Accordingly, the above condition is amended to read:

“The provision of recorded music presented personally by a person employed or engaged by the licensee is not to exceed 50 per cent of the live music performances at the venue.”



Peter Minchin

DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING