

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

**APPLICATION ID:** A000197556  
**APPLICANT:** BEELIAR TWO PTY LTD  
**PREMISES:** THE VALE BAR & BRASSERIE  
**PREMISES ADDRESS:** 9003L YANGEBUP ROAD, BEELIAR  
**NATURE OF APPLICATION:** CONDITIONAL GRANT OF A TAVERN LICENCE  
**DATE OF DETERMINATION:** 22 SEPTEMBER 2016

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1. On 21 March 2016, an application was made by Beeliar Two Pty Ltd (“the Applicant”) for the conditional grant of a tavern licence for premises to be known as *The Vale Bar & Brasserie* and situated at 9003L Yangebup Road, Beeliar.
2. The application is made pursuant to ss 41 and 62 of the *Liquor Control Act 1988* (“the Act”) and was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing (“the Director”), which resulted in notices of intervention being lodged by the Commissioner of Police (“Commissioner”) and Executive Director Public Health (“EDPH”), pursuant to s 69 of the Act.
3. Pursuant to s 73(2) of the Act, notices of objection were lodged by:
  - (a) Linda Louise White;
  - (b) Lorenzo Zagari and Leonie Zagari; and
  - (c) Carla Sussa and Michael Sussa.
4. A submission was also lodged by the City of Cockburn<sup>1</sup>. While neither objecting or intervening in relation to the application, the City of Cockburn explained that as a result of the tavern development being located within a mixed use zone and adjacent to a residential area, the City has requested a detailed acoustic report be submitted prior to building approval and that ongoing implementation of this acoustic report will need to be to the satisfaction of the City. It was also submitted that the City, through its Planning Department, had required the development of a Tavern Management Plan, with the establishment of a Community Reference Group.
5. To give effect to the provisions of s 16(11) of the Act, a document exchange was initiated between the parties in order to ensure that each party was given a reasonable opportunity to present its case. As part of this process, further submissions were lodged by the Applicant, the EDPH and Mr and Mrs Zagari.

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<sup>1</sup> As the submissions of the City of Cockburn did not constitute a notice of objection or intervention, the City was not joined as a party to proceedings.

6. Pursuant to ss 13 and 16 of the Act, the application will be determined on the written submissions of the parties and with regard to the substantial merits of the case, which I have briefly summarised below.

### **The substantial merits of the application**

7. The Applicant seeks to establish a tavern in the suburb of Beeliar in “Perth’s rapidly expanding south west corridor, which has experienced strong growth in recent years.” Beeliar is located in the City of Cockburn, which according to the Applicant is one of the fastest growing local government areas in the greater Perth region. In relation to this, the Applicant cited population forecasts for the City of Cockburn<sup>2</sup>, to show that “The City of Cockburn population forecast for 2016 is 110,314 and is forecast to grow to 174,615 by 2036.”
8. The Applicant also submitted that the City of Cockburn has experienced a recent period of sustained growth and that the proposed premises will be able to provide an additional amenity for those currently residing in or resorting to the locality, as well as those forecast to move into the locality in the near future.
9. In relation to the establishment of the tavern, the Applicant submitted that:
- “The City of Cockburn have long anticipated a Tavern going into the proposed location, with the State Government Joint Development Assessment Panel (JDAP) conditionally approving the proposed development in July 2012.”
10. To support this contention, the Applicant referenced the City of Cockburn’s website on the Beeliar Village Development, in which the Council confirmed that the approved development comprises:
- (a) a ‘full-line’ supermarket;
  - (b) retail (shop) tenancies including a liquor store;
  - (c) a restaurant/café;
  - (d) petrol station;
  - (e) fast food outlet; and
  - (f) tavern.
11. According to the Applicant, all of the components of the approved development have been realised in the *Beeliar Village*, which is a growing neighbourhood centre, with the exception of the tavern. The Applicant further submitted that the establishment of the tavern is required to offer the amenity needed for existing and future residents, as well as those who resort to the locality for work or leisure.

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<sup>2</sup> Sourced from [www.forcast.id.com.au/cockburn](http://www.forcast.id.com.au/cockburn).

12. In relation to this, the PIA explained that:
- (a) the primary consideration of the Applicant is to provide a well-managed, safe and welcoming licensed food and beverage venue, to persons resorting to *The Vale Bar & Brasserie*, without causing undue alcohol-related harm or ill-health or otherwise negatively impacting on the locality; and
  - (b) the focus of the premises will be on quality, modern Australian food, using local produce complemented by a range of boutique craft beers, a range of select wines, premium spirits, handmade cocktails, barista-made coffee and leaf teas.
13. To minimise impact on the locality, the Applicant's PIA noted the following initiatives:
- (a) incorporating substantial CCTV coverage of the proposed premises and undertaking to employ Crowd Controllers during peak periods, in accordance with the Director's *Safety and Security at Licensed Premises* policy;
  - (b) limiting deliveries to between the hours of 7 a.m. and 7 p.m.;
  - (c) restricting keg movement and rubbish cleaning to between the hours of 7 a.m. and 10 p.m.; and
  - (d) maintaining a log book of complaints about noise or disturbance in the area.
14. The Applicant also undertook a preliminary acoustic assessment of the beer garden/courtyard areas to accompany the development application to Council, which proceeded on the basis that noise level emissions associated with activities within the proposed tavern would be sufficiently attenuated by the façade of the development. The report also noted that if the location is considered to be a commercial premise, noise associated with low key music and patron noise in the alfresco area had been calculated to comply with the *Environmental Protection (Noise) Regulations 1997*. Conversely, if the location is considered to be a noise sensitive premises, low key music levels would only comply during the day period, i.e. between 7 a.m. and 7 p.m. Moreover, it is my understanding that this matter will be clarified in the further acoustic report required by the City of Cockburn for the issue of the Building Permit.
15. According to the PIA:
- “The applicant has designed The Vale Bar & Brasserie to be an immersive experience; with a commercial kitchen with experienced chefs using the freshest WA produce, and offering quality craft beer and other beverages to discerning patrons... A convenient drive-through facility operating under the Thirsty Camel banner will also be offered...”
16. The Applicant also submitted that:
- (a) its successful operation of *The Quarie Bar & Brasserie* is also relevant to the determination in these proceedings and to the level of public support has been

- garnered for the application, predominantly from local residents who would like the same kind of amenity in Beeliar;
- (b) in addition to providing family friendly entertainment, the proposed premises will also feature a 'Crafty Kids' night once a week, where certified children's entertainers will be hired to engage with children in craft activities, so that parents can enjoy a 'kid free' dinner; and
  - (c) the grant of the application will cater to the requirements of consumers, as evidenced by its Consumer Survey of 373 people, where 90.62% of respondents indicated support for the establishment of the tavern.
17. Further, given its commitment to providing a safe and controlled environment, the Applicant also indicated that it was amenable to the following trading conditions being imposed on the licence, should the licensing authority consider it to be in the public interest:
- (a) that low alcohol liquor and non-alcoholic drinks will be available at all times;
  - (b) that there will be no promotion, advertising or other incentive that encourages cheap or discounted liquor or the excessive consumption of liquor;
  - (c) that the sale of 'laybacks', 'jelly-shots', 'test tubes' would be prohibited under the licence;
  - (d) that no liquor will be supplied that is mixed with energy drinks or mixed by any person;
  - (e) that the licence be conditioned to restrict access to the premises by persons wearing clothing bearing patches or insignia of any Outlaw Motorcycle Gangs; and
  - (f) that food will be available at the premises.
18. As shown on the plan reproduced at page 12 of the PIA, the Applicant also submitted that there will be seating provided throughout the proposed premises, which will permit staff to better monitor patrons and also create a safer environment for patrons.
19. The Applicant's PIA also included information to address those matters prescribed in s 38(4) of the Act and to establish that the grant of the application will further the Act's objects, as set out in s 5.

### **The substantive merits of the interventions and objections**

20. While not opposing the grant of the licence, the notice of intervention lodged by the Commissioner noted that tavern licences are considered to be more complex applications in the Director's *Public Interest Assessment* policy and therefore sought to preserve the amenity of the locality and to minimise potential harms, by recommending a number of trading conditions for imposition on the licence, should it be granted.

21. Similarly, the representations of the EDPH related to the minimisation of harm or ill-health to people, or any group of people, due to the use of liquor. Some of these concerns related to child-focused activities proposed to take place within the premises, which may impact on children and young people in terms of future drinking attitudes, as well as concerns regarding a potential of lack of parental supervision. The EDPH also made representations about the premises being large in size and its corresponding large patron capacity. Accordingly, the EDPH also recommended the imposition of conditions on the licence, as part of a harm minimisation approach.
22. The objectors, who are all residents of the locality, relied upon the following grounds of objection, as provided for in s 74(1) of the Act:
- (a) that the grant of the application would not be in the public interest (s 74(1)(a)); or
  - (b) 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)); and
  - (c) that if the application were granted:
    - (i) undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons in or travelling to or from an existing or proposed place of public worship (s 74(1)(g)(i)), .
    - (ii) the amenity, quiet or good order of the locality in which the premises or proposed premises are, or are to be, situated would in some other manner be lessened (s 74(1)(g)(ii)); and
  - (d) that the grant of the application would otherwise be contrary to the Act (s74(1)(j)).
23. The objection by Ms White proceeded on the basis that the proposed premises will be too close to residents; there are more than enough outlets in the area and because alcohol is too readily available in the community. Ms White also expressed concern:
- (a) that liquor outlets are being placed too close to schools and daycare centres;
  - (b) about increased traffic to local streets and children having to pass by the premises or being exposed to the advertising of cheap alcohol while waiting for buses at nearby bus stops;
  - (c) that the proposed premises is too close and too large for the shopping precinct.
24. Mr and Mrs Zagari were concerned about:
- (a) the large size of the proposed premises being built in close proximity to their home, noting that earlier correspondence from the City of Cockburn, dated 23 October 2015, had indicated that the development would be “a relatively small scale family neighbourhood establishment with focus of food as the primary generator of trade”;

- (b) that the proposed trading hours will negatively impact on the safety and ambiance they currently experience as residents of Minori Gardens;
  - (c) the inclusion of a drive through bottle shop, which they strongly opposed;
  - (d) an increase in vehicular and pedestrian traffic, which will require additional adult supervision of children;
  - (e) the proposed alfresco area resulting in unknown behaviours, which are potentially inappropriate for families and children living close by or traversing by the proposed premises; and
  - (f) mitigation factors being unable to address certain activities, such as noise associated with patrons coming and going from the premises; vehicles coming and going through the car park and neighbouring streets and the moving of equipment in and out of the premises.
25. To support their concerns, Mr and Mrs Zagari also lodged a copy of a petition they coordinated in opposition to the Development Application for the tavern before the City of Cockburn, as well as six *pro forma* letters opposing the grant of the licence which were signed by residents of Minori Gardens, Yangebup Road, Etna Link and Storey Place.
26. While stressing their opposition to the grant of the licence, Mr and Mrs Zagari nonetheless sought some amendments to the application, in the event that the licence is granted.
27. Mr and Mrs Sussa's concerns related to:
- (a) the proposed premises' driveway exiting onto a residential street opposite homes, particularly in view of:
    - (i) the proposed numbers of cars coming onto the site; and
    - (ii) concerns about cars speeding on Yangebup Road towards Durnin Avenue, where there are often near miss traffic accidents, which will be worsened by the presence of a drive way into the pub and bottle shop;
  - (b) noise from the operation of the tavern, particularly the alfresco areas/beer garden, which will negatively impact on residents living in close proximity;
  - (c) the closeness of the proposed premises to a day care centre and the South Coogee Primary School (less than 200m);
  - (d) worries about crime and anti-social behaviour in the locality having already increased since the Beeliar Shopping Centre and the McDonalds restaurant opened, which will be made worse by adding alcohol by the opening of a new pub and liquor store, directly opposite the shopping centre; and

- (e) generalised concerns about levels of alcohol related harm being experienced in Australia, particularly with regard to binge drinking, alcohol-related domestic violence and Foetal Alcohol Syndrome Disorder becoming more of a problem in Australia.

### Determination

28. In *Woolworths Ltd v Director of Liquor Licensing* [2013] WASCA 227, Buss JA observed that:

“By s 5(2), in carrying out its functions under the Act, the ‘licensing authority’...shall have regard to the primary objects of the Act and to certain secondary objects.”

29. Buss JA also set out the statutory framework for a determination of an application as follows:

- (a) by s 38(2) of the Act, the Applicant must satisfy the licensing authority that the granting of the application is “in the public interest”;
- (b) the expression “in the public interest” when used in a statute, imports a discretionary judgement, 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);
- (c) the factual matters the licensing authority is bound to take into account in such a determination are:
  - (i) those relevant to the primary and secondary objects of the Act as prescribed in s 5 of the Act; and
  - (ii) those prescribed in s 38(4) of the Act;
- (d) that s 5 is mandatory, whereas s 38(4) is permissive;
- (e) on the proper construction of the Act (in particular ss 5, 16, 30A, 33 and 38), the licensing authority is obliged to take into account the public interest in:
  - (i) catering for the requirements of consumers for liquor and related services with regard to the proper development of the liquor industry; and
  - (ii) facilitating the use and development of licensed facilities so as to reflect the diversity of the requirements of consumers in the State.

30. Each party to these proceedings bears a separate and distinct onus under the Act:

- (a) by virtue of s 38(2) of the Act, the Applicant must satisfy the licensing authority that the grant of the application is in the public interest. There is no presumption in favour of the grant of the application; rather the opposite applies where the Applicant must adduce sufficient evidence to discharge this burden. In this regard, the Applicant submitted a PIA to support its application, which provided details on the motivation for the application, proposed manner of trade and style of operation, demographics of the locality, the benefits to the public if the application is granted, as well as addressing the matters prescribed in s 38(4) of the Act; and
- (b) pursuant to s 73(10) of the Act, the burden of establishing the validity of an objection lies on the objector.
31. After consideration of the information lodged by the objectors, I have formed the view that their objections are based upon three major contentions. First, there are sufficient liquor outlets in Beeliar and its surrounding suburbs to meet the requirements of consumers for liquor and therefore a further packaged liquor facility is not required. Secondly, the grant of the application is likely to worsen the existing level of alcohol-related harm and ill-health in both the locality and the wider community. Thirdly, the grant of the licence will negatively impact on the amenity of the locality, because the proposed premises is too big for the locality, features alfresco areas and will increase vehicular and pedestrian traffic.
32. The Applicant rejected the claim of the objectors that the premises is located less than 200m of the South Coogee Primary School, stating that the premises was located more than 200m from the primary school and separated from the school by a main road, being Beeliar Drive and another commercial block that houses several fast-food outlets, including a 24-hour McDonalds, a shopping centre and car park, and a block of units.
33. Further, in response to the other matters raised by the objectors, the Applicant submitted that:
- (a) the proposed premises is located within the City of Cockburn and has been zoned 'Urban' under the Metropolitan regional Scheme (MRS) and developed under the City's Town Planning Scheme No 3;
- (b) the City of Cockburn adopted a Local Structure Plan in December 2004, which was endorsed by the West Australian Planning Commission in March 2005 in which the town centre is identified as a mixed use zone, strategically positioned as the centre point to three residential suburbs in Beeliar, Yangebup and Munster; and
- (c) an increase in traffic to the area was both anticipated and planned for in keeping with its intended use, and would therefore not be contrary to the public interest.

34. Based upon the evidence submitted by the objectors, I cannot conclude that the grant of the application will pose an unacceptable risk to the local community or will result in an increase in the existing level of harm and ill-health in Beeliar above what is commonly accepted in the community. In this regard, I note that:
  - (a) neither the Commissioner or EDPH referred to harm data, which is indicative of a locality where alcohol-related harm is not problematic; and
  - (b) the harm minimisation object of the Act is not about preventing harm or ill-health absolutely.
35. Similarly, despite generalised assumptions of the objectors that a tavern of the size proposed must negatively impact on the amenity of the locality, the objectors have not adduced any evidence for me to conclude that this is the case.
36. I therefore find that each of the objectors have failed to discharge their onuses, pursuant to s 73(10) of the Act.
37. In arriving at this determination, I have also noted the location of the proposed premises in a mixed use zone as part of the Beeliar Village Development, together with its surrounding network of roads and have formed the view that it is unlikely that there will be an unacceptable increase of traffic into the streets where the objectors reside as a consequence of the grant of the application.
38. Furthermore, it must also be borne in mind that the premises is located in an area of significant commercial activity where an associated increase in traffic was both anticipated and planned for, including in connection with the establishment of a tavern.
39. I also consider it germane to note the conditions offered up by the Applicant to mitigate any concerns about the amenity of the locality, as well as the comments of the City of Cockburn, that it:
  - (a) has required a detailed acoustic report be submitted prior to building approval and that ongoing implementation of this acoustic report will need to be to the satisfaction of the City; and
  - (b) has required, through its Planning Department, the development of a Tavern Management Plan, together with the establishment of a Community Reference Group, comprising interested residents and local businesses, to help provide input into the establishment and on-going maintenance of the premises.
40. Furthermore, in relation to the further acoustic report required by the City of Cockburn for the issue of the Building Permit, the Applicant has been advised and has acknowledged that additional trading conditions may be imposed on the licence, based on the findings of this report.
41. In relation to the representations made in the notices of intervention, it should be noted that as interveners, the EDPH and Commissioner carry no burden of proof (see

Greaves J, *Re Gull Liquor* (1999) 20 SR (WA) 321), but rather provide submissions in order to assist the licensing authority in making an informed decision.

42. However, I note that the Applicant has generally accepted most of the conditions recommended by the Commissioner. In regards to juveniles on licensed premises, I have also noted the representations of the EDPH that children and young people are an at-risk group for alcohol-related harm and are vulnerable to the influence of the environments they are exposed to. As such, I accept that this is an important consideration in these proceedings, particularly given the Applicants intention to offer child-focused activities within licensed premises.
43. In this regard, it should be noted that the Act's general approach to juveniles, as contained in s 121(4) of the Act, is to prohibit them from entering or remaining on licensed premises. However, exceptions to this general approach are made, including the circumstances prescribed in s 121(5)(a) of the Act, where juveniles are permitted on licensed premises when they are accompanied by, and under the supervision, of a responsible adult<sup>3</sup>.
44. Therefore, the challenge for the Applicant will be to ensure compliance with the legal requirements of the Act, i.e. to make certain that all juveniles on the licensed premises are properly controlled and supervised by a responsible adult at all times (which means that the responsible adult is present on the same part of the licensed premises as the juvenile and physically supervising the juvenile's activity). In this regard, it is important for the Applicant to appreciate that any juvenile's parents who are relaxing or socialising in another part of the licensed premises, would not be considered to be in *loco parentis*, if their child is taking part in the "Crafty Kids" activities elsewhere on the licensed premises.
45. Accordingly, after having regard to all of the evidence before me, I find that:
  - (a) there is insufficient evidence to conclude that the grant of the licence would lead to harm or ill-health, to people or any group of people, to such a level that would be considered unacceptable to the community and therefore the granting of the application would be consistent with the primary object of the Act as set out in s 5(1)(b);
  - (b) the granting of the application will cater for the requirements of consumers, including both existing and future residents of the locality, for liquor and related services, consistent with the primary object of the Act as set out in s 5(1)(c);
  - (c) given the location of the proposed tavern as part of the Beeliam Village Development, the grant of the licence will add to the amenity of the locality, which is relevant pursuant to s 38(4)(b) of the Act; and

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<sup>3</sup> In this regard, section 125(2)(b) provides that a person shall be taken to be a responsible adult "if that person was an adult who is a parent, step-parent, spouse, de factor partner or legal guardian of the juvenile, or some other person in *loco parentis* to the juvenile"

- (d) the granting of the application is not likely to result in offence, annoyance, disturbance or inconvenience over and above that which results expressly from the establishment and operation of the Centre, which is also a relevant consideration pursuant to s 38(4)(c) of the Act.
46. As a result of those findings, I am satisfied that the Applicant has discharged its onus under s 38(2) of the Act and that the grant of the application is in the public interest.
47. I am also 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.
48. Accordingly, the licence is conditionally granted, subject to the following conditions:
- (a) a copy of the further acoustic report required by the City of Cockburn for the issue of the Building Permit being lodged before the operation of the licence;
  - (b) a Certificate under s 39 of the Act being lodged before the operation of the licence;
  - (c) compliance with the *Local Government Act 1960*, *Health Act 1911* and any written law relating to the sewerage and drainage of these premises;
  - (d) all work being completed within 12 months in accordance with the plans and specifications dated 18 March 2016;
  - (e) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements dated 5 April 2016 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;
  - (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 21 September 2017, pursuant to s 62(4)(c) of the Act.
49. The following conditions will be imposed on the issue of the licence:
- (a) Trading Hours:
    - (i) The permitted trading hours are those prescribed in s 98(1) of the Act for a hotel licence.
  - (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 tavern licence.

- (ii) The maximum number of persons permitted to be on the licensed premises is limited to 600 persons at any one time.
- (iii) Food must be available during trading hours.
- (iv) The licensee is to provide a reasonable range of non-alcoholic and low-alcohol liquor products to be available during all trading hours.
- (v) The licensee shall not promote, advertise or employ incentives which encourage the excessive consumption of liquor by virtue of their 'emotive' titles such as (but not exclusive to) 'laybacks', 'shooters', 'slammers', 'test tubes' and 'blasters'.
- (vi) 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.
- (vii) Noise emanating from the licensed premises must not exceed that permitted under the *Environmental Protection (Noise) Abatement Regulation 1997*.
- (viii) Any music played at the premises is to be at a background level that allows normal conversation to occur.
- (ix) On any Friday or Saturday night, the Licensee must engage crowd controllers, licensed under the *Securities and Related Activities (Control) Act 1996*, 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.)
- (x) Crowd controllers (licensed under the *Securities and Related Activities (Control) Act 1996*) are required to be present to monitor the licensed premises and the behaviour of patrons arriving and departing the premises from 8 p.m. (or the time of opening the premises if after 8 p.m.), until one hour after trading ceases.
- (xi) A video surveillance system must be in place and operational. The system must comply with the minimum requirements identified in the *Minimum Standards - Closed Circuit Television (CCTV) Security System Policy*.
- (xii) The Licensee is to limit deliveries of stock to the premises to between the hours of 7 a.m. and 7 p.m. only.
- (xiii) The Licensee is to restrict keg movement and the cleaning of external rubbish to between the hours of 7 a.m. and 10 p.m.

- (xiv) The Licensee must maintain a log book of complaints about noise or disturbance in the area and the action taken to resolve the complaint(s).
- (xv) The Licensee must provide seating in the following quantities during all trading hours, except in the case of a pre-arranged private function or special event:
- (1) Alfresco 1: 90 seats;
  - (2) Alfresco 2: 25 seats;
  - (3) Bar 1: 180 seats;
  - (4) Bar 2: 85 seats;
  - (5) Patrons in the restaurant area must be seated at all times.
- (c) Dress standard (Outlaw Motor Cycle Gangs):
- (i) The following dress standard applies during the permitted trading hours:
    - (1) 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:
      - a) Coffin Cheaters;
      - b) Club Deroes;
      - c) Gods Garbage;
      - d) Gypsy Jokers;
      - e) Outlaws;
      - f) Finks;
      - g) Rebels;
      - h) Comancheroes;
      - i) Hell's Angels;
      - j) Rock Machine;
      - k) Mongols and
      - l) Lone Wolf.
    - (2) A notice is to be displayed at all entrance to the licensed area/event reflecting this condition.

- (d) Entertainment Condition:
- (i) 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:
    - (1) be immodestly or indecently dressed on the licensed premises; and/or
    - (2) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
  - (ii) The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from:
    - (1) exhibiting or showing, or causing, suffering or permitting to be exhibited or shown, on the licensed premises any “R 18+”, “X 18+” or “RC” classified film or computer game or “Category 1 – Restricted” or “Category 2 – Restricted” publication, or extract therefrom; or
    - (2) 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
    - (3) 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.
  - (iii) In this condition “licensed premises” includes any premises, place or area:
    - (1) which is appurtenant to the licensed premises; or
    - (2) 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.
- (e) Compliance with Harm Minimisation Policy:
- (i) 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.

50. I also take this opportunity to remind the Applicant that additional trading conditions may be imposed on the licence prior to its issue, to limit or prohibit the playing of music or other activities at the licensed premises or on specified parts of the licensed premises, depending on the recommendations of the further acoustic report required by the City of Cockburn for the issue of the Building Permit.
51. Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
52. The Applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.
53. 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.
54. 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