

Liquor Commission of Western Australia

(Liquor Control Act 1988)

Applicant: Francis 65 Pty Ltd
(represented by Ms F Chan, Ms S Lay and Ms W Chan)

Other Party: Commissioner of Police (Intervenor)
(represented by Mr J T Bishop)

Commission: Mr Alex Zilkens
Mr Paul Shanahan
Mr Nicholas van Hattem

Matter: Application pursuant to section 25 of the *Liquor Control Act 1988* for a review of a decision by the delegate of the Director of Liquor Licensing to impose conditions on the Applicant's restaurant licence pursuant to section 64 of the *Liquor Control Act 1988*.

Premises: **Galaxy Lounge Restaurant**

Premises Address: 65 Francis Street, Perth WA 6000

Date of Hearing: 17 February 2021

Date of Determination: 5 May 2021

Determination The application is allowed, the decision of the delegate is quashed and a licence is granted on revised terms.

Background

- 1 The Applicant operates the Galaxy Lounge Restaurant.
- 2 By letter dated 17 July 2020, the Commissioner of Police requested a variation to the conditions of the Applicant's restaurant licence (**Variation Request**).
- 3 The Variation Request sought conditions to be imposed on the licence as follows:
 - a Expansion of the coverage, operation and retention of CCTV;
 - b Restrictions on the service and sale of liquor;
 - c Requirements for crowd controllers;
 - d express prohibition on the consumption of liquor by staff, employees and agents; and
 - e regulation of the time of service and consumption of liquor.
- 4 On 27 October 2020, a delegate of the Director of Liquor Licensing (**Delegate**) determined to impose the following conditions on the licence:
 - (a) Effective on and from 17 November 2020, a CCTV system is to be installed at the premises and must comply with the relevant policies of the Director of Liquor Licensing. Further, it is expected that:
 - (i) this system will provide and record continuous images of the entrances and exits to the premises, dining rooms, kitchen, public access areas (excluding toilets) and the front regulated area of the premises, from the time of opening the premises until one hour after trading ceases and be able to identify individuals, showing times and dates;
 - (ii) provide full coverage and monitoring of all dining, karaoke rooms and other general rooms of the premises to which the public have access, excluding toilets; and
 - (iii) images recorded via the video surveillance system must be retained for 28 days and must be made available for viewing or removal by the police or other persons authorised by the Director. (**CCTV Condition**)
 - (b) Effective from 30 October 2020, the licensee is to engage three crowd controllers (licensed under the Securities and Related Activities (Control) Act 1996) from the commencement of trade until close of business. At least one crowd controller is to remain at the entry of the premises for the purposes of screening patrons before entry. (**Crowd Controller Condition**)

- (c) Entry and exit to the premises by patrons is only permitted to be via the front door of the premises and the fire escape is not to be used as an access or egress point except in the event of an emergency. **(Exit Condition)**
 - (d) Staff, employees and agents of the licensee are not permitted to consume liquor at the premises. "Agents" includes "party hostesses". **(Non-Consumption Condition)**
 - (e) Liquor may only be served and consumed 30 minutes prior to the commencement of a meal until 30 minutes after the completion of a meal. There must be one meal per person who is consuming liquor. **(Ancillary Meal Condition)**
 - (f) The licensee is prohibited from selling and supplying liquor for consumption on the premises:
 - (i) in any vessel with a measurement capacity exceeding 600ml, except bottles of wine, and no spirit-based beverages are to be supplied in vessels with a measurement capacity exceeding 375ml;
 - (ii) in measurements of spirits that exceed 45ml in any vessel. For the purposes of this condition, the term "spirit" means potable spirit which at 20° Celsius contains more than 20.06% ethanol by volume; and
 - (iv) in such a way that would encourage the rapid consumption of liquor (for example, but not limited to, unadulterated spirits or liqueur in a shot glass or by virtue of their 'emotive' title such as 'laybacks', 'shooters', 'slammers', 'test tubes' and 'blasters'). **(Portioned Service Condition)**
 - (g) BYO liquor is prohibited (this would also include the storage of liquor for patrons by the Licensee for future use.) **(BYO Condition)**
- 5 By its application dated 8 November 2020, the Applicant sought a review of the Crowd Controller Condition, the Non-Consumption Condition and the Ancillary Meal Condition.
- 6 Further to the hearing on 17 February 2021, the Commission has resolved to grant the application and amend the Crowd Controller Condition and the Ancillary Meal Condition as per the following orders.
- 7 Save for the changes to the Crowd Controller Condition and the Ancillary Meal Condition (set out below), all other conditions imposed by the Delegate on 27 October 2020, being the CCTV condition, Exit Condition, Non-Consumption Condition and BYO Condition, are affirmed.
- 8 The Commission will subsequently publish written reasons for its decision.

Final Determination

- 9 The application is allowed in part.
- 10 References in this determination to “Conditions” are references to the section 64 conditions imposed by the Delegate, in his decision of 27 October 2020.
- 11 In relation to Crowd Controller Condition (condition (b)), the condition is deleted and replaced with the following condition:

From Mondays to Wednesdays, the Licensee is not required to engage crowd controllers licensed under the *Security and Related Activities (Control) Act 1996 (Crowd Controllers)*.

On Thursdays, Fridays, Saturdays, Sundays and evenings before a Public Holiday, the Licensee must engage and have present at the premises, until the close of business, the minimum number of Crowd Controllers as per the following:

- (i) where there are between 0 and 100 patrons in the Premises: 1 Crowd Controller;
- (ii) where there are between 101 and 150 patrons in the Premises: 2 Crowd Controllers; and
- (iii) where there are between 151 and 200 patrons in the Premises: 3 Crowd Controllers; and
- (iv) where there are more than 201 patrons in the Premises: 4 Crowd Controllers.

- 12 In relation to the “Ancillary Meal Condition” (condition (e)), the condition is deleted and replaced with the following conditions:

- (e)(i) The business conducted at the Premises must consist primarily and predominantly of the regular supply to customers of meals to be eaten at the Premises.
- (e)(ii) Subject to (e)(i), liquor must not be consumed by a person on the licensed premises except ancillary to a meal supplied by the licensee to that person.

(e)(iii) Further to (e)(i), the Licensee may only supply liquor to a person from the period between the person ordering the meal, and the earlier of:

90 minutes after the person received the meal; or
120 minutes after the person ordered the meal.



**Mr Alex Zilkens
Commissioner**



**Mr Paul Shanahan
Commissioner**



**Mr Nicholas van Hattem
Commissioner**