

**Liquor Commission of Western Australia**  
***(Liquor Control Act 1988)***

- Applicants:** Mr Mitesh Desai & Mrs Shailee Desai
- Respondent:** Kapinkoff Corporation Pty Ltd  
*(represented by Mr Mario Sequeira, Hospitality Total Services (Pty) Ltd )*
- Intervener:** Commissioner of Police
- Commission:** Ms Belinda Lonsdale ( Acting Chairperson )  
Mr Evan Shackleton ( Member )  
Dr Eric Isaachsen ( Member )
- Matter:** Application pursuant to section 25 of the *Liquor Control Act 1988* for a review of the decision of the delegate of the Director of Liquor Licensing to refuse an application to grant a conditional tavern restricted licence.
- Premises:** Duke Bar and Bistro, 2 Innesvale Way  
Carramar
- Date of Determination:** 14 July 2014
- Determination:** The application for review is dismissed and the decision of the delegate of the Director of Liquor Licensing is affirmed.

## **Authorities referred to in the determination**

- *Kapinkoff Nominees Pty Ltd v Director of Liquor Licensing* [2010] WASC 345)
- *Palace Securities v Director of Liquor Licensing* (1992) 7 WAR 241, 250

## **Introduction**

1. This is an application under section 25 of the *Liquor Control Act 1988* (“the Act”) by Mr Mitesh Desai and Mrs Shailee Desai to review a decision of the delegate of the Director of Liquor Licensing (“the Director”) given on 15 November 2013, the decision being to grant a conditional tavern restricted licence to Kapinkoff Corporation Pty Ltd (“Kapinkoff”) under section 41 and 62 of the Act (decision number A223498) in respect of premises to be known as the Duke Bar and Bistro situated at 2 Innesvale Way Carramar.
2. Mr and Mrs Desai live at 1 Innesvale Way in Carramar which is across the road from the proposed premises.
3. The Desais’ application for review was filed on 21 January 2014 and was therefore filed outside the one month period in which the application for review was required to be filed (section 25 (2) of the Act).
4. On 22 January 2013, following receipt of a written explanation by the applicant for the reasons for the delay, the Chairman of the Liquor Commission exercised his discretion to grant the applicant an extension of time within which to file the application for review.
5. The Commission has considered:
  - The decision of the Director and the materials filed with that application.
  - Written submissions by Kapinkoff and Mr and Mrs Desai filed before the Director and in proceedings before this Commission.
6. Except where it is necessary to explain the Commission’s reasoning the Commission does not propose to set out extensively either the submissions advanced by the parties or the Director’s reasons.

## **Previous Proceedings Involving the Parties**

7. This is not the first time Kapinkoff has made an application for a liquor licence at the site in question.
8. On 6 June 2008 Kapinkoff applied for a conditional grant of a tavern licence for premises proposed to be named the “Carramar Family Pub”.

9. Following notices of objection filed by residents in the vicinity of those premises (including Mr and Mrs Desai) the Director refused the application.
10. Kapinkoff sought a review of the Director's decision. On 20 August 2009, the Commission refused the application and on 28 August 2009 published its reasons (decision LC 18/2009).
11. In its decision, the Commission held that, on the evidence available to it at the time, and balancing the competing public interest considerations, it was not in the public interest to approve the application. The Commission held that it had been strongly influenced by the fact that, at the time the residents had bought their properties, the planning processes of the Wanneroo City Council did not specifically provide for a tavern development (such planning approval not being granted until 2007).
12. Kapinkoff appealed the decision of the Commission and, in a judgement delivered on 26 November 2010, Hall J refused the application to overturn the decision of the Commission (*Kapinkoff Nominees Pty Ltd v Director of Liquor Licensing* [2010] WASC 345).

#### **The Present Application by Kapinkoff**

13. Kapinkoff's present application for the conditional grant of a tavern restricted licence was filed on 13 December 2012, more than 3 years after the previous application was refused, as required by section 38 (5) of the Act.
14. The present application is therefore a completely fresh application and must be considered on the basis of the material filed with it and not the material before the Commission on the prior occasion.
15. It goes without saying that the Commission as presently constituted is not bound by decisions of the Commission in relation to a previous application in respect of that site.
16. It is nevertheless relevant to consider the history of Kapinkoff's previous application insofar as it may be relevant to the concerns of Mr and Mrs Desai who had objected to the last application and who maintain their objection to the present application on similar grounds.

17. The licence presently sought by Kapinkoff is for a tavern restricted licence. It is proposed to feature a bistro area, alfresco dining spaces, a function room and a sports lounge with food to be served during reasonable dining hours.
18. Kapinkoff submits that the venue will be of a high quality, catering to the needs of the population of Carramar which has experienced significant growth.
19. The Director received notices of objection by a number of residents including Mr and Mrs Desai.
20. The Commissioner of Police filed a notice of intervention under section 69 of the Act.
21. The Director received and considered various written material by the applicants and the objectors. The Commission has read and considered that material also.
22. The resident's objections were based on section 74 (2) considerations namely that if a licence were to be granted:
  - undue offence, annoyance, disturbance or inconvenience would be caused; and
  - the amenity, quiet or good order of the locality would be in some other manner lessened.
23. The Commissioner of Police intervened on the basis that "if the application was granted and/or conditions were not imposed, public disorder or disturbance would be likely to result, or as to any other matter relevant to the public interest."
24. The concerns expressed by the Commissioner of Police were largely the same as those expressed on the occasion of Kapinkoff's previous application.

### **The Decision of the Director**

25. In a decision dated 15 November 2013, the Director determined that it was in the public interest to grant a licence. [decision No A223498]. At page 9 of his reasons he stated:

*“in reaching a determination for this application it is necessary to balance the competing interests of the applicant, the potential patrons of the venue and the nearby residents. The applicant clearly has a right to develop the site and has received council approval to do so. They have also received support from the general public for the services proposed. Alternatively, the rights of the local residents need to be considered including the right to live in an environment that they expect would be available to them in a residential location.*

*I consider that the applicant has garnered sufficient evidence for the support of the application by virtue of the 193 community survey questionnaires. I consider that this subjective evidence indicates support for the premises obtaining a restricted liquor licence and is a sufficient indicator of a consumer requirement for liquor and related services as depicted in section 5 (1)( c ) of the Act.*

*I accept that Carramar is a developing area and strong consumer climate exists within the public for the range of facilities proposed”.*

## **Grounds for Review**

26. The submissions made on behalf of the parties appear in detail in the Director’s reasons for decision and we do not propose to repeat those submissions here but propose to focus on the main points of contention on this application for review.
27. Mr and Mrs Desai in written and oral submissions to the Commission outlined their objections relevant to the factors set out in section 74(1) of the Act.
28. Their submissions in essence are:
  - There is the potential for increased noise levels and related incidents occurring in the vicinity of residences with very young children (within 25 meters of the proposed site).
  - There are other premises in the vicinity as well as other premises being planned in close proximity which provide liquor services.
  - The proposed tavern would be associated with a risk of an increase in alcohol-related crime.
  - There is the potential detrimental effect of increased traffic congestion and increased annoyance to residents.

- There had been a previous refusal by the Commission for a licence at that site.
29. In his reasons for decision, the Director referred to the decision of the Commission (decision number LC 18/2009) to refuse Kapinkoff's previous application for a tavern at the site.
30. The Director pointed out that the objector's concerns in the present application were essentially the same as those expressed in the previous application. Those concerns he found could be distilled into the following areas:
- An increase in noise and traffic congestion
  - Parking problems
  - A loss of amenity by patrons passing through their suburbs
  - A risk that there would be an application for a drive-through liquor store
  - The fact that the needs of other patrons were catered for by existing facilities located in close proximity
  - That the tavern was in "close proximity" to schools

#### **Kapinkoff's Submissions in Support of the Application and Submissions in Response**

31. Kapinkoff's submissions in support of its present application are set out in the reasons given by the Director at pages 2 and 3 and are:
- *"The proposed Duke Bar and Bistro will feature premium facilities including a bistro area, alfresco spaces, a function room and a sports lounge. The alfresco areas will feature well landscaped spaces with native trees and shaded sections. Food will be available throughout the venue during reasonable dining hours.*
  - *The proposed Duke Bar and Bistro will have a modern British theme incorporating contemporary design and a high level of comfort, space and convenience for local residents and those who resort to the area from outside the locality for work or leisure.*
  - *The venue will cater for the growing population of Carramar which has risen significantly in the past 10 years increasing to over 6000 residents.*

- *The applicant has prepared a harm minimisation plan that will be implemented during all hours of operation and will prevent any undue harm or ill-health.*
- *The proposed licensed venue will allow the applicant to meet the expectations of the residents and those resorting to the proposed tavern as supported by the 193 community surveys.*
- *Subject to approval the applicant will have the opportunity to provide patrons with a safe, well managed environment in which to enjoy modern gastro pub style cuisine and an extensive selection of non-alcoholic and alcoholic beverages. A duo or trio of acoustic music performances will entertain the patrons.*
- *In applying for a tavern restricted licence the applicant would only be permitted to sell liquor provided it is served on the premises and no takeaway packaged liquor will be allowed. The applicant submits there will be no detrimental effect on the locality as a result of this application for a tavern restricted licence being granted.*
- *The external design of the premises will take into consideration the surrounding amenity and residential abodes situated within proximity by considering features such as sympathetically designed parking, dense landscaping and a feature wall to ensure no disruption to neighbouring businesses and residents.*
- *The applicant's vision for the Duke Bar and Bistro is to create an accessible venue for the community including breakfast, lunches and dinners as well as attracting the locals for engagements with friends, family and other community members. Food provided will have a focus on quality Australian and traditional British favourites and value for money meals, together with a bistro/tapas menu for the sports lounge.*
- *Given the anticipated clientele being predominantly locals the applicant intends to provide appropriate facilities to cater for functions and/or events. The applicant has specifically designed the bistro and function room to facilitate private reservations e.g. birthdays, engagements, weddings, anniversaries, and*



*celebrations in addition to community meetings with the provisions of WIFI and projector facilities.*

- *The applicant has proposed a number of licence conditions designed to eliminate any harm or ill-health related to alcohol consumption that may be related to a tavern restricted licence at the proposed Duke Bar and Bistro. These conditions cover responsible service and promotion, the provision of CCTV, drinks standards and dress standards.”*

32. At the hearing of the application for review, Kapinkoff sought to make the following points of distinction with its previous application in written and oral submissions:

- The current application is for a tavern restricted licence which means that the applicant will not be permitted to sell packaged liquor and so no drive through facility is proposed. The removal of the drive through facility would mean a reduction in the potential for increased traffic.
- The present application is for a more food-orientated business with the majority of premises being set aside for that purpose.
- The premises have been redesigned so that the bistro and function areas, which are expected to be quieter, have been located closer to the residents, with the sports and alfresco bars being located away from the residential areas.
- The proposed premises has been redesigned so that it is now further away than previously proposed; all walls facing residents on Innesvale Way would not contain windows or patron areas (with the exception of one small entry door off the function room).
- The design now stipulates that all external patron areas will face Cheriton Drive towards the shopping centre and to the South towards Joondalup Drive and away from residents.
- It is now proposed that all external alfresco areas be fenced.
- Kapinkoff has engaged the services of an acoustic engineer and an Environmental Noise Management Plan is proposed.

- Kapinkoff proposes only one entry/exit to Innesvale Way (previously there were two) and that it would be closed each night at 10pm.
  - It is proposed that delivery vehicles would enter the premises from Cheriton Drive and would not need to enter Innesvale Way; vehicles would be directed to turn their motors off during deliveries.
  - A professional traffic engineer firm has evaluated the matter and has concluded that the traffic concerns of residents have been addressed by the removal of the drive-through facility.
  - The applicant has supplied a further 11 parking bays bringing the total number of parking bays to 78.
33. The Director noted that, for these reasons it was apparent that Kapinkoff had addressed a number of factors that were of concern to the Commission on the initial application.
34. It is also the opinion of the Commission that, for the same reasons the proposed changes to the original plans for the proposed tavern have gone a considerable way to alleviating the concerns expressed by the objectors in the previous application and some of the public interest considerations.

### **Director's Reasons**

35. The Director considered that Kapinkoff's application for planning approval had been widely advertised and that the City of Wanneroo did not consider that the objections to the tavern had been made out. He said "*I consider that the applicant has adequately achieved their right to the planning approval of the premises and that following completion of this planning process the previous concerns over the planning of the site and prospective land uses is no longer of relevance*".
36. The fact that planning approval has been granted is a pre-requisite for the granting of a licence but it is not determinative of the question of whether or not a licence should be granted.
37. As Hall J said in *Kapinkoff Nominees Pty Ltd v Director of Liquor Licensing* [2010] WASCA 345 at [57 ] – [60]:

*“The licensing authority, be it the Director or the Commission, has an absolute discretion to grant or refuse an application under the Act on any ground, or for any reason, that the licensing authority considers in the public interest, even if the appellant meets all the requirements of the Act: s 33(1) and (2). An applicant who makes an application for a conditional grant of a tavern licence of the type in question must satisfy the licensing authority that granting the application is in the public interest: s 38(2). The reference to public interest in s 33(1) of the Act indicates that both s 5 and s 38 of the Act are relevant when making a decision: Palace Securities v Director of Liquor Licensing (1992) 7 WAR 241, 250 (Malcolm CJ).*

*The Act also provides that a licence shall not be granted by the licensing authority unless it is satisfied that any planning approvals required have been obtained: s 37(1)(f) and s 32(2) and s 40. It is clear from this that planning approval is a prerequisite but is not sufficient in itself.*

*...[it is ] then necessary for the Commission to go on to consider whether granting the application was in the public interest. In this regard the considerations in s 38(4) .... may well have been considered by the planning authority but that does not obviate the need for the licensing authority to consider those matters itself. A decision made by the licensing authority on a matter within its discretion including matters relating to amenity by simply applying a planning decision made by the planning authorities, rather than determining the merits of the application of the Act, would be invalid: Palace Securities (244) (Malcolm CJ).”*

38. It was therefore necessary for the Director (and it is necessary for this Commission) once it is satisfied that planning approval has been granted to then go on to consider whether it is in the public interest to grant the application. The views of the planning authority therefore need to be put to one side and the Commission needs to consider all matters relevant to the public interest test.
39. As the Director has correctly identified in his reasons, the major issue for the residents is the potential loss of amenity in the locality through the impact of patrons departing the premises.

## **The Relevant Principles – The Public Interest Test**

40. In order to satisfy the Commission that a conditional grant of a tavern restricted licence is appropriate, the Commission must be satisfied that it is in the public interest.
41. The public interest is to be determined by reference to both section 5 and section 38 of the Liquor Control Act. (see *Palace Securities v Director of Liquor Licensing* (1992) 7 WAR 241 per Malcolm CJ at 250.

Section 5 provides that the primary objects of the Act are —

- (a) to regulate the sale, supply and consumption of liquor; and
- (b) to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor; and
- (c) 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.

Section 38 (4) provides that the Commission may have regard to the following factors in determining the public interest:

- (a) the harm or ill-health that might be caused to people, or any group of people, due to the use of liquor; and
- (b) the impact on the amenity of the locality in which the licensed premises, or proposed licensed premises are, or are to be, situated; and
- (c) whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises; and
- (d) any other prescribed matter.

## **Analysis**

42. There is of course no guarantee that there will be no incident of harm or ill-health as a consequence of the present application being granted. However, the possibility (or

even likelihood) of an increase in alcohol-related harm can never be determinative of the public interest. Indeed, if it were, then no application would ever be granted.

43. It is a question of the level of harm or ill-health that is relevant here. It is the view of this Commission that the type of premises now proposed is such that the risk of harm or ill-health is sufficiently reduced. Our reasons are as follows:

- Kapinkoff has drafted an extensive harm minimisation plan and code of conduct to be followed by its staff in dealing with patrons. It has installed CCTV and has proposed extra security on busy nights. The clientele is not the 18 – 25 age group which typically are more at risk of liquor-related harm and ill-health. Importantly, the proposed premises have a strong food-focus.
- In statistics presented to the Director by the Commissioner of Police, it is apparent that only 6% of offences were alcohol-related which suggests that alcohol-related harm is not a significant issue in that locality. The Commission does not consider that the risk of alcohol-related harm for the present application is of major concern.
- The impact on the amenity of the locality because of the *possibility* of alcohol-related harm is in reality speculative and there is no evidence in the circumstances of this application to support the assertion that the possibility of alcohol-related harm is a matter of undue concern.

44. The real issue, in our view, is the question of the potential impact on residents from an increase in traffic.

45. The concern expressed by Mr and Mrs Desai about an increase in traffic is not supported by any evidence. Whilst the Commission does not doubt that Mr and Mrs Desai perceive traffic to be a problem, one cannot discount other causes for such an increase in traffic. For example, the evidence suggests that the population of Carramar has increased significantly in the past 10 years (from 2,497 in 2001, to 4,920 in 2006 and then to 6,605 in 2011).

46. In the view of the Director and the Commission, the concern about an increase in traffic by the Desais overstates the true position. A report commissioned by Kapinkoff

by ML Traffic Engineers in April 2012 concluded that the traffic flows were consistent with levels expected of any commercial development with a Town Centre.

47. The concerns expressed by the Desais concerning the question of whether offence, annoyance disturbance or inconvenience might be caused are concerns that are genuinely held but in the opinion of the Commission are also largely speculative.
48. To the extent that one can speculate about the possibility of such problems occurring, the Commission is of the view that the applicants have taken significant steps to reduce the potential of such problems to an acceptable level by targeting an older market, having a strong food focus and having an appropriate harm minimisation policy.
49. The fact that Kapinkoff has proposed additional car bays and has proposed restrictions on the use of the entry and exit off Innesvale Way provides comfort to the Commission that concerns over the potential impact of an increase in traffic will be mitigated.

### **Decision and Reasons**

50. In weighing the competing interests under sections 5(1) and (2) of the Act together with the public interest considerations under section 38(4) of the Act, the Commission agrees with the Director, for the reasons he has stated, that the applicants have established that a conditional grant of a tavern restricted licence should be granted.
51. On the last occasion that the Commission considered Kapinkoff's application, a major factor influencing the Commission's decision to refuse the application was the fact that the objectors had not been aware at the time that they purchased their property that the planning regulations permitted the development of the tavern on the site. However, this fact was not and could not have been determinative of the public interest. (See Hall J in *Kapinkoff Nominees*, supra at [63]).
52. It is important to note that Carramar is a developing area with a rapidly increasing population and although there are premises with special facilities and restaurant licences, there are no tavern-type facilities in the area. It is clearly in the public interest for members of that community to have access to food and beverage facilities

(provided they are on conditions that are sufficient to minimise any corresponding detriment).

53. The Commission believes that the proposed plans together with the proposed conditions adequately address those issues.

### **Conditions of Conditional Grant**

54. This application is therefore conditionally granted subject to the following:-

- a Certificate under section 39 of the Act being lodged before the operation of the licence;
- compliance with the *Local Government Act 1960*, *Health Act 1911* and any written law relating to the sewerage and drainage of these premises;
- all work being completed within twelve (12) months in accordance with plans and specifications dated 18 December 2012;
- the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements dated 1 May 2013 being satisfactorily completed and the Director of Liquor Licensing being notified in writing on completion of that work within 21 days before the day the licensee wishes to commence trading under the licence.
- a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed.
- the applicant seeking confirmation of the grant on or before **14 November 2014** pursuant to section 62(4)(c) of the Act.

### **WHEN THE LICENCE COMMENCES OPERATION IT WILL BE SUBJECT TO THE FOLLOWING CONDITIONS:-**

#### **TRADING HOURS**

The permitted trading hours in accordance with section 98 of the Act will be as follows:-

- Monday to Saturday – 6 a.m. to 12 midnight;
- Sunday – 10 a.m. to 10 p.m.;
- New Year's Eve (where it falls on a Sunday ) – 10 p.m. to 12 midnight;

- New Year's Day – up to 2 a.m. from immediately after 12 midnight on New Year's Eve;
- Good Friday or Christmas Day – 12 noon to 10 p.m., where the liquor is sold ancillary to a meal supplied by the licensee; and
- ANZAC Day – from 12 noon until 12 midnight.

## **TRADING CONDITIONS**

The applicant will be permitted to sell and supply liquor in accordance with the provisions of section 41 of the Act as it relates to tavern restricted licenses.

1. The sale or supply of liquor for consumption off the licensed premises is prohibited.
2. The premises must maintain a modern British theme.
3. Food must be available at all times the premises is open to the general public until 30 minutes before close.
4. During normal lunchtime and evening dining hours, table service must be provided to patrons seated in the dining areas. This condition does not preclude patrons from ordering drinks at the bar.
5. Seating and associated dining arrangements must be provided at all times in the dining areas except for when there is a pre-booked function.
6. The licensee has lodged a copy of the Noise Management Plan developed for these premises to address the recommendations of the Environmental Noise Report dated 20 March 2013 by Gabriel's Environmental Design. This document must be retained on the licensed premises and produced to an authorised officer upon request.
7. All windows and doors within the function area are to be maintained in a closed position whilst any music (including live music) is operational.
8. All external bi-fold doors of the tavern shall be closed by 10pm.
9. No more than four (4) small speakers in total shall be located within the bistro and sports bar area and alfresco areas. Speakers are not permitted within the function room alfresco area.
10. All music played within the sports bar, bistro and their adjacent alfresco areas is to be restricted to a low background level which permits normal conversation to occur.



11. All amplified music for functions within the function room must be below the following limits:

Daytime – Monday to Saturday (7am to 7pm)	93 dB(A)
Daytime – Sundays (9am to 7pm)	88 dB(A)
Evenings – all days (7pm to 10pm)	88 dB(A)
Night – all days (10pm onwards)	83 dB(A)

The programmed sound monitoring device installed within the function room must be turned on and monitored whenever a function providing amplified music is occurring within the function room to ensure the above noise levels are not exceeded.

12. The car park entry/exit gates to Innesvale Way are to be closed and not available to patrons by 10pm each night.

### **DRINK STANDARDS**

- a) Low alcohol liquor (3.5% alcohol content or less) and non alcoholic drinks must be available at all times of trade;
- b) The licensee is prohibited from selling and supplying beverages in such a way that would encourage rapid consumption of liquor for example, but not limited to, drinks known as 'laybacks', 'shots', 'shooters', 'test tubes', 'jelly shots', 'blasters', or 'bombs', or any other emotive title;
- c) Promotions, advertising or incentives which encourage cheap or discounted liquor or which encourages excessive liquor consumption are prohibited;
- d) Liquor sold, supplied and consumed at this premises must only be supplied in unsealed containers;
- e) No liquor is to be supplied mixed with energy drinks. For the purpose 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.

### **DRESS STANDARDS - OUTLAW MOTORCYCLE GANGS**

Jackets or any other clothing or accessory, or any clearly visible body markings 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 these premises at any time:

- Club Deroes
- Coffin Cheaters
- Comancheros
- Finks
- Hell's Angels
- God's Garbage
- Gypsy Jokers
- Mongols
- Outlaws
- Rebels
- Rock Machine

A notice is to be displayed at the entrance to the licensed area reflecting this condition.

#### **ENTERTAINMENT CONDITION**

1. A person resorting to, or on the premises, including the licensee or manager, or an employee or agent of the licensee or manager, shall not –
  - (a) be immodestly or indecently dressed on the licensed premises, and/or
  - (b) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
2. The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from –
  - (a) exhibiting or showing, or causing, suffering or permitting to be exhibited or shown, on the licensed premises any classified “R 18+”, “X 18+” or “RC” classified publication, film or computer game or extract therefrom;
  - (b) causing, suffering or permitting any person employed, engaged or otherwise contracted to undertake any activity or perform any entertainment on the

licensed premises to be immodestly or indecently dressed on the licensed premises, or

(c) causing, suffering or permitting any person to take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.

3. In this condition "licensed premises" includes any premises, place or area:-

(a) which is appurtenant to the licensed premises, or

(b) in respect of which an extended trading permit granted to the licensee is for the time being in force, but does not include any part of the premises which is reserved for the private use of the licensee, manager or employees of the licensee and to which the public does not have access.

### **SECURITY REQUIREMENTS**

1. Crowd controllers, (licensed under the *Securities and Related Activities (Control) Act 1996*), are to be employed at a ratio of two (2) crowd controllers for the first 100 patrons, and one crowd controller for each additional 100 patrons or part thereof, from 8.00 p.m. (or the time of opening the premises if after 8.00 p.m.) each Friday and Saturday night.

2. Security personnel/Crowd Controllers (licensed under the *Securities and Related Activities (Control) Act 1996*), are to be present to monitor the licensed premises and the behaviour of patrons arriving and departing the premises from 8.00 p.m. (or the time of opening the premises if after 8.00 p.m.), until thirty (30) minutes after trading ceases. While these personnel have no authority over the patrons when they are away from the licensed premises, their presence may assist in the orderly dissipation of patrons once they leave the premises.

3. 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 or with requirements otherwise approved by this authority. In accordance with the Policy, it is expected that this system will provide and record continuous images of the entrances to the premises from 8.00 p.m. (or the time of opening the premises if after 8.00 p.m.), until 1 hour after trading ceases;

4. Images recorded via the video surveillance system must be retained for twenty eight (28) days, and must be made available for viewing or removal by the Police or other persons authorised by the Director

## **Chapter 2 REGISTERS**

The licensee must maintain on the licensed premises the following registers:

1. a register of prescribed incidents that take place at the licensed premises (Section 116A of the Act and Regulation 18EB refer); and
2. a register that records training compliance for all staff (Section 103A of the Act and Regulation 14AG refer).

These registers must be maintained in a form approved by the Director of Liquor Licensing. The licensee, or an employee or agent of the licensee of the business conducted under the licence shall, at the request of an authorised officer, produce the registers for inspection by that authorised officer.

## **COMPLIANCE WITH HARM MINIMISATION POLICY**

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

## **LICENCE FEES**

Pursuant to section 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.

## **TRADING MAY NOT COMMENCE WITHOUT THE PRIOR WRITTEN APPROVAL OF THE DEPARTMENT OF RACING, GAMING AND LIQUOR.**

*In addition to the specified trading conditions of the licence, the licensee is also reminded of the obligations of a licensee under the Act including the following:-*

- *Supervision & Management*

The licensee must ensure that the conduct of the business at the licensed premises is personally supervised and managed by an Approved Unrestricted Manager or by the licensee if the licensee is a natural person at any time when business is conducted.

- *Mandatory Training - Responsible Service of Alcohol*

Within four (4) weeks of commencing employment at the licensed premises the licensee is required to have any person who will be engaged in the sale, supply and service of liquor on the licensed premises, and all senior staff, successfully complete a course of training in the responsible service of alcohol.

- *Free Drinking Water*

Pursuant to section 115A of the Act, at all times that liquor is sold and supplied for consumption on the licensed premises, the licensee shall make available to patrons, potable drinking water free of charge. As a minimum, this condition is to be met by way of water dispensers located at or near all bar service areas. The water must be refreshed regularly, with clean glasses or disposable cups being available for use.



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**BELINDA LONSDALE**  
**ACTING CHAIRPERSON**