

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

- Applicant:** Langtrees Boutique Hotel Pty Ltd  
*(represented by Mr John Prior, instructed by Mr Peter Fraser of Dwyer Durack Lawyers)*
- Intervener:** Commissioner of Police  
*(represented by Mr David Leigh, of State Solicitor's Office)*
- Commission:** Mr Eddie Watling (Acting Chairperson)  
Mr Evan Shackleton (Member)  
Mr Michael Egan (Member)
- Matter:** Application pursuant to section 25 of the *Liquor Control Act 1988* ("the Act") for a review of the decision of the delegate of the Director of Liquor Licensing finding Ms Mary-Anne Kenworthy, sole director and shareholder of Langtrees Boutique Hotel Pty Ltd, not a fit and proper person to hold a licence.
- Premises:** Langtrees Boutique Hotel  
179-181 Hay Street, Kalgoorlie
- Date of Hearing:** 1 September 2014
- Date of Determination:** 4 November 2014
- Determination:** The application is dismissed and the decision of the delegate of the Director of Liquor Licensing is affirmed.

**Authorities referred in this determination:**

- *Hughes and Vale v New South Wales (No 2)* (1955) 93 CLR 127 at 156
- *Australian Broadcasting Tribunal v Bond* [1990] HCA 33; (1990) CLR 321 at 345

## **Background**

- 1 On 22 May 2012 Langtrees Boutique Hotel Pty Ltd (“the applicant”) lodged an application for the grant of a hotel restricted licence in respect of premises to be known as “Langtrees Boutique Hotel” and located at 179-181 Hay Street Kalgoorlie.
- 2 A notice of intervention was lodged by the Commissioner of Police (“the Police”).
- 3 On 19 July 2012, a notice of objection was lodged on behalf of twelve parties (“the objectors”) citing each of the grounds specified under section 74(1) of the *Liquor Control Act 1988* (“the Act”).
- 4 As many of the grounds of the intervention by the Police and the objections relate to the question of whether Ms Kenworthy is a fit and proper person to occupy a position of authority in a body corporate that wishes to hold a licence, the applicant requested that this matter be dealt with as a preliminary issue.
- 5 On 15 March 2013, the delegate of the Director of Liquor Licensing (“the Director”) determined that, based on the evidence before him, both Ms Kenworthy’s character and reputation and the character and reputation of her associates is sufficient to lead to the finding that she is not a fit and proper person to hold a position of authority in a body corporate that holds a liquor licence.
- 6 On 17 March 2013, the applicant lodged an application for review of the decision of the Director with the Liquor Commission (“the Commission) citing ten (10) grounds for the review - as detailed in paragraph 17 below.
- 7 On 24 May 2013, the objectors to the liquor licence application sought copies of the review submissions by the Police and following a further exchange of correspondence, the Commission, on 14 June 2013, advised the objectors that whilst they are a party to the proceeding in the substantive application for a hotel restricted licence they have no standing to be a party to the fit and proper review application.
- 8 On 22 June 2013, the objectors’ representative advised, that in response to instructions from its clients, an appeal had been lodged with the Supreme Court against the Commission’s decision on the objectors’ standing and requested that the hearing scheduled for 3 July 2013, be vacated pending the Supreme Court decision.
- 9 The Commission subsequently advised that the hearing would proceed as scheduled.
- 10 On 2 July 2013, the Supreme Court ordered that the review hearing be stayed until the Supreme Court issued its determination.

- 11 On 3 December 2013, the Supreme Court conducted a hearing into the standing of the objectors in this matter and on 29 May 2014, issued a determination to permit the objectors to attend the hearing of the Commission as observers only.
- 12 Following the Supreme Court determination, a Commission hearing date of 1 September 2014 was set to determine whether Ms Kenworthy is a fit and proper person to occupy a position of authority in a body corporate that wishes to hold a licence.
- 13 Submissions were received from both the applicant and the Police in the lead up to the hearing.
- 14 A hearing before the Commission was held on 1 September 2014.

## **Hearing**

### **Preliminary Matters**

- 15 The Acting Chairman advised that the Commission accepted the request dated 27 August 2014 from the applicant's counsel, which has been also agreed to by the Police, that the Commission have no regard to material associated with the objections that have been lodged by the objectors in respect of the substantive application.
- 16 It was further confirmed that the Commission will also have no regard to the correspondence dated 17 July 2014 from the applicant's counsel advising of an update to Ms Kenworthy's personal particulars form. This information is not admissible under section 25(2)(c) of the Act.

### **Submissions on behalf of the applicant**

- 17 The grounds for review are as follows:

*The delegate of the Director erred by:*

- 1) *finding that a person who participates in Western Australia's illicit sex industry "is not the type of person who should be involved in the sale or disposal of liquor in Western Australia";*
- 2) *finding that Ms Kenworthy could not be "trusted to exercise responsibility and honesty in respect of the conduct of business under a licence" in circumstances whereby Ms Kenworthy has openly, transparently and in accordance with the containment policy, operated brothels within Western Australia;*
- 3) *determining that one of the questions to be answered by him was whether or not Ms Kenworthy was "worthy of being involved in the sale or disposal of liquor in Western Australia";*

- 4) *finding that he could not give consideration to previous decisions and directives of the Director of Public Prosecutions and State Solicitor's Office that it was not in the public interest to prosecute Ms Kenworthy for keeping premises for prostitution;*
- 5) *finding that he could not have consideration to the existence of the containment policy;*
- 6) *finding that involvement in the sex industry within Western Australia was contrary to accepted social mores in the absence of any such evidence;*
- 7) *finding that because Ms Kenworthy had previously in print media described herself as Australia's most "infamous madam", this equated to Ms Kenworthy being 'notoriously bad', 'having a bad reputation', 'abominable' and '(in ancient law) deprived of all or some rights of a citizen on account of serious crime';*
- 8) *interpreting the reference to "prostitute" in section 115 of the Act as including a "madam" and therefore concluding that as a madam Ms Kenworthy may not be legally permitted on licensed premises;*
- 9) *interpreting "prostitute" in section 115 of the Act as referring to a person legally employed as a prostitute, as opposed to a prostitute plying their trade;*
- 10) *finding that one of the grounds upon which Ms Kenworthy was not a fit and proper person was the character and reputation of her associates, in circumstances where no evidence was led in relation to these unnamed associates, nor their character and reputation.*

18 It was submitted the applicant has no argument with the Police contention that:

- 1) Ms Kenworthy operated "The Agency", an escort business, in the 1980's;
- 2) Ms Kenworthy is a director of Langtrees Pty Ltd which operates Langtrees Burswood, a brothel; and
- 3) prior to cessation of trade in 2011, Ms Kenworthy was a director of Langtrees Pty Ltd which operated Langtrees 181 in Kalgoorlie, also a brothel.

19 It is noted that the only basis for the Police submission that Ms Kenworthy should not be found to be a fit and proper person to be involved in the liquor industry is her historic and existing involvement within the sex industry.

- 20 There is no factual dispute that Ms Kenworthy has operated as a madam, however, it is questionable as to how much weight should be given to her past history in that:
- 1) Ms Kenworthy has never been convicted of an offence relating to her involvement in the sex industry;
  - 2) 2. there is no allegation that Ms Kenworthy has ever been involved in a breach of the Act or alternatively:
    - i. she has ever committed an offence while under the influence of liquor;
    - ii. she has any liquor dependency; or
    - iii. during her involvement within the sex industry she has ever condoned or encouraged the misuse of liquor.
- 21 It was submitted that Ms Kenworthy's involvement within the sex industry cannot be separated from:
- the operation of the containment policy by the Western Australian Police Service with respect to brothels and escort agencies within Western Australia between the early 1900's and 1 August 2000; and
  - the prosecution policy of Police, State Solicitor's Office and Director of Public Prosecutions.
- 22 With regard to the containment policy, it was submitted that the detailed nature of the policy and the practices and procedures in place to enforce the policy, demonstrate that the Western Australian Police provided a number of undertakings to both employers and employees operating within the containment policy that they could do so without the fear of prosecution.
- 23 In the cases of The Agency, Langtrees Burswood and Langtrees 181, each business fell within the containment policy and Ms Kenworthy followed the rules of the policy as dictated by the Western Australian Police.
- 24 It is acknowledged that in or about 1988 and 1997 and again in 2002 and 2004, Ms Kenworthy was prosecuted by Police for prostitution related offences. These matters were discontinued as it was determined that prosecution was not "in the public interest" and Ms Kenworthy was acquitted.
- 25 Following the abandonment of the containment policy in 2000 the position of the Western Australian Police, Director of Public Prosecutions and State Solicitor's Office was that "prostitution was not an issue of significant concern to the community and, as such, did not justify the cost of prosecution in lieu of the likely penalty".
- 26 It was, therefore, submitted that the question that arises is: if an offence is of so little public interest that directives are being issued by the Director of

Public Prosecutions and State Solicitor's Office that the offence should not be prosecuted, what weight can be given to allegations of such an offence in the context of a fit and proper enquiry?

- 27 While certain aspects of the industry within which Ms Kenworthy has been involved are illegal, it is submitted that no adverse findings can be made against her involvement given that at all times she acted with the direct knowledge of the Western Australian Police, and with the permission of the Western Australian Police.
- 28 The Police have sought to rely on the provisions of section 115(4)(a) of the Act which relevantly provides, when read in conjunction with section 115(4a)(e), that an authorised person may refuse an associate of a prostitute entry to, or require an associate of a prostitute to leave, licensed premises.
- 29 When considering the operation of section 115(4a)(e) of the Act, it is relevant to consider that:
- it is not illegal to be a prostitute within Western Australia; and
  - section 115(4a)(e) provides an authorised person with the discretion to refuse a prostitute entry or, alternatively to refuse an associate of a prostitute entry – it does not impose an obligation to do so.
- 30 It is submitted that the reference to prostitute should be interpreted as a reference to a prostitute “plying his/her trade”. Such an interpretation would be consistent with the *Prostitution Act 2000* and the Criminal Code and it would therefore not be an offence if a prostitute was on licensed premises for the purpose of a social drink.
- 31 Similarly, when the discretion in section 115(4a)(e) of the Act is considered with respect to the associate of a prostitute, it is submitted that “associate” refers to an individual in the company of a prostitute who is plying his or her trade.
- 32 Accordingly, it is submitted that any suggestion that Ms Kenworthy could not be found to be a fit and proper person because she has, either in the present or in the past associated with prostitutes, is without merit.
- 33 It is submitted that the evidence before the Commission with respect to Ms Kenworthy's activities reveals that Ms Kenworthy has always been open and transparent with respect her business dealings and has always acted:
- with the knowledge of the Police;
  - in consultation with the Police; and
  - in accordance with directions issued by the Police.
- 34 While certain aspects of the industry within which Ms Kenworthy has been involved are illegal, it is submitted that no adverse findings can be made

against Ms Kenworthy's involvement given that at all times she acted with the direct knowledge and permission of the Police. Given her compliance with these rules, it is submitted that Ms Kenworthy has demonstrated that she will "abide by the rules". Accordingly, it is submitted that there is no basis for finding that, in the event she is approved as a person in a position of authority of a licensee company, she would not act in accordance with the obligations imposed by the Act.

- 35 No allegations have been raised that Ms Kenworthy has ever acted:
- in contravention of the Act or preceding legislation;
  - inappropriately in, or around, licensed premises;
  - in a way to encourage the irresponsible consumption or misuse of liquor.
- 36 Ms Kenworthy's application has been supported by 76 character references and details of her extensive dealings with the community evidencing the responsible role she has always undertaken with regard to meeting obligations associated with her business activities.

#### **Submissions on behalf of the Commissioner of Police**

- 37 It is submitted by the Police that what is not in doubt is that Ms Kenworthy:
- has for 30 years broken the law; and
  - has done so for monetary return.
- 38 The submissions by the Police can be summarised as being that Ms Kenworthy should not be regarded as fit and proper:
- simply because she complied with the containment policy of the Police; or
  - because of the 76 character references annexed to the applicant's submissions.
- 39 The Police argue that because Ms Kenworthy is willing to breach the *Criminal Code* she may also breach the Act. The applicant says that this is flawed logic, because it fails to recognise her compliance with the containment policy. The intervener argues that compliance with a policy cannot outweigh evidence of breaching a law of Parliament.
- 40 The Police submit that the applicant's submissions on this point completely fail to deal with the reality that Ms Kenworthy's unlawful conduct must have a bearing on any finding as to her fitness and propriety. They also fail to deal with the fact that the compliance policy was formally abolished 13 years ago. Even if the compliance policy is interpreted as *de facto* law, Ms Kenworthy's conduct has been completely unlawful for over a decade.

- 41 It was submitted that Ms Kenworthy's involvement in the sex industry renders her other than a fit and proper person for three primary reasons:
- 1) Ms Kenworthy's involvement in the sex industry is unlawful, which of itself renders her other than fit and proper.
  - 2) Ms Kenworthy's ongoing involvement in an unlawful activity is evidence of a character trait of being willing to operate outside the law, which renders her other than fit and proper.
  - 3) The Act reveals an intention by Parliament to separate the sex industry and licensed venues, with the necessary implication that a person involved in the sex industry cannot be a fit and proper person for the purpose of the Act.
- 42 Ms Kenworthy is a known operator of brothels in Western Australia and has been a proprietor of escort agencies since 1988. Ms Kenworthy provided evidence that she is a director/shareholder of:
- Langtrees Pty Ltd, which operates as a brothel in Burswood known as Langtrees;
  - Langtrees.com Pty Ltd, an online advertising site for the adult sex industry.
- 43 It is not an offence under the *Criminal Code* to be a prostitute, but that is not the extent of Ms Kenworthy's role. She is known, by her own admission and by reputation, to operate brothels. Given that section 190 of the *Criminal Code* provides that it is an offence for a person to "keep or manage, or act, or assist in the management of any premises for the purposes of prostitution" it is reasonable to conclude that Ms Kenworthy's involvement in the sex industry is unlawful.
- 44 Given the emphasis in the Act on regulation, in particular the control over those involved in the sale and disposal of liquor, it is appropriate for the Commission to reach the conclusion that a person who actively participates in an illicit industry is not someone fit and proper to be involved in the sale or disposal of liquor in Western Australia.
- 45 With regard to the argument that Ms Kenworthy was compliant with the containment policy, it is submitted that compliance with a policy intended to prevent corruption and harm cannot eclipse a failure to comply with the written law of the State when considering whether a person is fit and proper.
- 46 Given the supremacy of the laws of Parliament over the policies of the executive, and given that Ms Kenworthy continued to operate brothels after the abandonment of the containment policy, the Commission should find that Ms Kenworthy's compliance with the containment policy is not of sufficient weight to render her a fit and proper person.

- 47 It was submitted that section 115(4a) of the Act sets out the classes of person that may be refused entry to, requested to leave, or removed from, a licensed venue; or to whom an authorised person may refuse to sell liquor. Subsection 115(4a)(e) includes a person who “is or is known to be, or is an associate of a reputed thief, prostitute, supplier of unlawful drugs, or a person convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years.” In the context of the scheme of the Act such persons may be understood to be people that Parliament has specified are not desirable to have on licensed premises.
- 48 If the natural and plain interpretation of the term “prostitute” is taken, the Act clearly indicates an intention to separate the sex industry from licensed premises in Western Australia. Given that Ms Kenworthy is widely known to be the madam of a brothel, she can be considered an associate of prostitutes. In turn this may render her a person who may be removed from licensed venues. That is, she may be of a class of people that the Act has characterised as undesirable to be associated with licensed venues.
- 49 It is submitted the Commission should conclude that Ms Kenworthy is not a fit and proper person because she is a person bearing a characteristic that, under the Act, means she may be refused entry or removed from a licensed venue, or who may be refused liquor at a licensed venue.

### **Determination**

- 50 Under section 25(2c) of the Act, when considering a review of a decision made by the Director, the Commission may have regard only to the material that was before the Director when making the decision.

*On a review under section 25 of the Act, the Commission may –*

- I. affirm, vary or quash the decision subject to the review;*
- II. make a decision in relation to any application or matter that should, in the opinion of the Commission, have been made in the first instance;*
- III. give directions –*
  - i. as to any question of law, reviewed; or*
  - ii. to the Director, to which effect shall be given; and*
- IV. make any incidental or ancillary order.*

- 51 The term “fit and proper” is not defined in the Act. However, section 33(6) enumerates a number of factors that are relevant to the Commission’s deliberations and determination. The section states:

*Where the licensing authority is to determine whether an applicant is a fit and proper person to hold a licence or whether approval should be given to*

*a person seeking to occupy a position of authority in a body corporate that holds a licence, or to approve a natural person as a manager or trustee —*

- (a) the creditworthiness of that person;*
- (aa) the character and reputation of that person;*
- (b) the number and nature of any convictions of that person for offences in any jurisdiction;*
- (c) the conduct of that person in respect to other businesses or to matters to which this Act relates; and*
- (d) any report submitted, or intervention made, under section 69, shall be taken to be relevant and amongst the matters to which consideration should be given.*

52 In addition, the High Court has provided guidance on the meaning and application of the phrase “fit and proper”. In *Hughes and Vale v New South Wales (No 2) (1955) 93 CLR 127* at 156, the court indicated that using the expression “fit and proper” is to give “*the widest scope for judgment and, indeed, for rejection*”. In *Australian Broadcasting Tribunal v Bond [1990] HCA 33; (1990) CLR 321* at 345, the court commented that “fit and proper” is not a concept to be narrowly construed or confined.

53 Furthermore, in *Australian Broadcasting Tribunal v Bond* (supra), Toohey and Gaudron JJ also said:

*“The expression “fit and proper person”, standing alone, carries no precise meaning. It takes its meaning from its context, from the activities in which the person is or will be engaged and the ends to be served by those activities”.*

54 Accordingly, the context in which “fit and proper” is used is also clearly relevant, and in determining the fitness and propriety of a person occupying a position of authority in a prospective licensee company, the Commission must have regard to the purpose, scope and objects of the Act.

55 In this respect, the objects and overall regulatory framework of the Act, including any specific provisions which could be viewed as applicable to the prospective licensee or person in authority are a relevant consideration.

56 The objects of the Act of particular relevance in this context are to regulate the sale, supply and consumption of liquor (section 5(1)(a)) and to provide adequate controls over persons directly or indirectly involved in, the sale, disposal and consumption of liquor (section 5(2)(d)).

57 The appropriate regulation and control of the liquor industry is critical to the social and economic fabric of the community and the State more broadly. Synonymous with this outcome is the maintenance of public confidence in the industry and in persons working in, and associated with, the industry.

- 58 It is also evident from section 95 of the Act that the ability of a prospective licensee or person in a position of authority within the licensee company to comply with the provisions of the Act or a term or condition of the licence is not necessarily, by itself, the sole determinant of suitability (see section 95(4)(g) and (h)).
- 59 It is clear from section 115 of the Act that certain categories of persons are either not permitted on licensed premises either at all (section 115(1)) or may be refused entry, refused service or asked to leave licensed premises (section 115(4) and (4a)).
- 60 Section 3 of the Act provides that an authorised person, in relation to licensed or regulated premises, means — (a) the licensee or occupier of the premises; or (b) a manager of the premises; or (c) an employee or agent of the licensee or occupier or a manager; or (d) a member of the Police Force.
- 61 All of these provisions are consistent with maintaining an industry free from criminal or illegal activity and undesirable conduct, and with maintaining public confidence in the integrity of the industry.
- 62 At the hearing of this matter, the Commission was presented with two very contrasting propositions.
- 63 Counsel for the applicant submitted that:
- a) the Commission should disregard or attach little weight to the past and present occupation of Ms Kenworthy as a madam. To do otherwise, it was submitted, involves a moral judgment and does not take account of the actions of the Police in maintaining a containment policy, the determinations of the prosecutorial authority not to prosecute Ms Kenworthy and others working in the sex industry, and, indeed, the inaction of the Parliament of Western Australia not to change the law relating to prostitution in the knowledge of the existence of the containment policy.
  - b) Ms Kenworthy has demonstrated her preparedness to comply with the containment policy “administered” by the Police, and by extension has demonstrated her ability to comply with a regulatory framework such as the liquor licensing framework.
  - c) in addition, Ms Kenworthy has presented numerous character references (76 in total) to demonstrate her standing in the community, her honesty and business acumen, and her good character and reputation generally.
- 64 In contrast, counsel for the Police submitted that the Act precludes any person who works or operates as a madam from holding a liquor licence. The reasoning of the Police is:

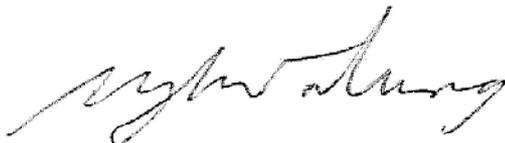
- a madam, such as Ms Kenworthy, is operating illegally or outside the law laid down by the Parliament (this is not disputed by the applicant);
- Parliament has determined that a prostitute is not permitted on licensed premises (section 115(1)(b)) and a prostitute and an associate of a prostitute may be refused entry, refused service or asked to leave licensed premises (section 115(4) and (4a)(e));
- Parliament has, thereby, clearly conveyed its intention that there should be a separation between the prostitution industry and liquor licensed premises;
- any madam, which includes Ms Kenworthy, is an associate of prostitutes within the meaning of subsection 115(4a)(e), and, as such, is a person to whom section 115(4) applies; and

if a madam is a person considered by the Act to be undesirable to be on licensed premises, it follows that Ms Kenworthy is a person who could not be regarded as suitable to occupy a position of authority in a liquor licensee company. Therefore, a member of the Police Force could remove Ms Kenworthy from the licensed premises at any time.

- 65 On this basis counsel for the Police submitted that the issue before the Commission is not one of determining the personal character or suitability of Ms Kenworthy, as it would be an error of law for the Commission to grant a liquor licence to Ms Kenworthy or any person who works or operates as a madam.
- 66 In its various submissions, the applicant contends that as prostitution, per se, is not illegal, the reference to prostitute in the Act is an anomaly and is discriminatory, and should be interpreted to mean a prostitute who is plying his or her trade (emphasis added) (which would amount to soliciting and be illegal), as opposed to an individual who works as a prostitute, but who is entering licensed premises for non-work related purposes.
- 67 By extension, the applicant then submits that when the discretion in section 115(4a)(e) is considered with respect to an associate of a prostitute, the term associate should be taken to refer to an individual in the company of a prostitute who is plying his or her trade.
- 68 In light of the wording of section 115(4a)(e) of the Act, the Commission is, however, of the view the meaning and intent, and the application of sections 115(1)(b), 115(4) and 115(4a)(e) is as outlined below.
- a) Section 115(1)(b) makes it an offence to permit any reputed thief, prostitute or supplier of unlawful drugs to remain on licensed premises. In order to comply with this provision, an authorised person or licensee must first identify the person and have the power to remove the person from the licensed premises.

- b) Section 115(4) is an empowering provision which provides such a power in respect of persons to whom section 115(4a) and, specifically in this case section 115(4a)(e), applies.
- c) Section 115(4a)(e) is even more explicit than section 115(1)(b) and applies to a person who is, or who is known to be, or is an associate of (emphasis added) a reputed thief, prostitute, supplier of unlawful drugs or person convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years.
- 69 The problem with the interpretation proposed by the applicant, as the Police point out in their submissions, is that the language of the Act appears clear and if the term “prostitute” was intended to mean “prostitute plying his or her trade”, the Act would say so.
- 70 Furthermore, the other categories of person described in section 115(1)(b) and section 115(4a)(e) of the Act are described generally, not as undesirable when only engaging in a particular activity. As an example, section 115(4a)(e) refers to a person “convicted of an offence involving unlawful drugs or violence that is punishable by a term of imprisonment exceeding 3 years.” Clearly, the Police submit, this refers to past conduct and not activity whilst on licensed premises.
- 71 In the Commission’s view, the language and intent of the Act is clear: a person who is a prostitute or who is known to be a prostitute or who is an associate of a prostitute may be refused entry, refused service or asked to leave licensed premises, and the exercise of any of the powers in section 115(4) of the Act by an authorised person is not conditional or dependent on a prostitute “plying his or her trade”.
- 72 As indicated above, the Police have argued that the Act clearly indicates an intention to separate the sex industry from licensed premises and that, by reason of her role as a madam, Ms Kenworthy is an associate of prostitutes.
- 73 The applicant, on the other hand, has argued that section 115(4a)(e) of the Act is intended to refer to an individual in company of a prostitute who is plying his or her trade, and to interpret the provision as proposed by the Police would result in any number of people known and associated with a prostitute, for example, professional people such as accountants and lawyers, being an associate of a prostitute, being classified as, “undesirable” for the purposes of the Act.
- 74 The Police submit that each case will depend on its particular circumstances, but there is a substantial difference between a professional person providing services to people, who may happen to include prostitutes, and a madam such as Ms Kenworthy, who derives an income from, and is inextricably bound up with, the prostitution industry.

- 75 It is the Commission's view that the reference to associates in section 115(4a)(e) of the Act is intended to include persons who are associated or connected in some way to the function or activity undertaken by the category of persons referred to in the section. In the case of a prostitute, that would mean a person who is assisting or facilitating the provision of sexual services by a prostitute (for example, a person promoting the prostitute's services), or a person involved with prostitutes or earning an income from prostitution.
- 76 Therefore, the reference to an associate of a prostitute in subsection 115(4a)(e) of the Act does apply to a madam.
- 77 While the exact nature of the relationship between Ms Kenworthy and the prostitutes who provide sexual services from her premises is not entirely clear (it appears Ms Kenworthy may hire rooms in her premises to prostitutes), it is quite apparent that Ms Kenworthy is inextricably linked to the prostitutes and derives an income from the services they provide to clients.
- 78 It is also clear from the evidence that Ms Kenworthy has a well-known reputation as a madam and, in the Commission's view, is thereby identifiable, certainly by a member of the Police Force and others in the liquor industry, and would commonly be known, as an associate of prostitutes.
- 79 Having regard to the provisions in section 115 of the Act and the overall objectives of the Act, the Commission finds that Ms Kenworthy is not a fit and proper person to hold a position of authority in a body corporate that holds a liquor licence.



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**EDDIE WATLING**  
**ACTING CHAIRPERSON**