

IN THE LIQUOR LICENSING DIVISION OF WESTERN AUSTRALIA

IN THE MATTER OF AN APPLICATION BY BONNIE BREW PTY LTD FOR AN EXTENDED TRADING PERMIT (ONGOING HOURS) FOR PREMISES AT 639 BEAUFORT STREET, MOUNT LAWLEY, WA KNOWN AS 'THE ELFORD'

PUBLIC INTEREST ASSESSMENT SUBMISSIONS

Date of Document: 8 June 2021
Filed on behalf of: The Applicant

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SECTION A: DETAILS OF APPLICATION

INTRODUCTION

1. In these submissions, reference to:
 - (a) **Act** means the Liquor Control Act 1988;
 - (b) **Applicant** means Bonnie Brew Pty Ltd;
 - (c) **Application** means the application by the Applicant for the Permit in respect to the Premises;
 - (d) **ETP (Hours)** means extended trading permit (ongoing hours) pursuant to s.60(4)(g) of the Act;
 - (e) **Licence** means tavern licence number 6020006965 issued to the Applicant and attached to the Premises;
 - (f) **Locality** means the locality relevant to the Application as defined in these submissions;
 - (g) **Premises** means the land and buildings at 639 Beaufort St, Mount Lawley, WA which are subject to the Licence;
 - (h) **RSA** means responsible service of alcohol; and
 - (i) **Venue** means the business operated by the Applicant at the Premises under the Licence trading under the name 'The Elford'.

BACKGROUND

2. The business trading under the Licence has been in continuous operation for many decades.
3. On 20 March 1995 ETP (Ongoing Hours) number 0200680515 was granted in respect to the Licence which extend the closing time of the Venue to 2.00am on Friday and Saturday evenings. That permit was in continuous operation for a period of 24 years, from 1995 until its expiry in on 18 February 2019.
4. The Licence was transferred to the Applicant on 30 October 2020.
5. The Applicant is currently undertaking renovations of the Premises which are closed and expected to re-open upon completion of renovation works later in 2021.
6. The Application now applies for an ETP (Hours) for the venue for a period of 10 years to extend the permitted trading hours of the Venue during the following periods:
 - (i) Wednesday and Thursday evenings from midnight to 1.00am; and

- (ii) Friday and Saturday evenings from midnight to 2.00am.

The Applicant

7. The persons behind the Applicant company have an extensive history in the successful and responsible operation of licensed venues in Western Australia. They are among Western Australia's leading hospitality operators and bring a high degree of creativity, passion and professionalism to the proposal which is the subject of this Application.
8. Tim McLernon is the director of the Applicant company with the predominant management role in relation to the Application. His previous hospitality experience includes the successful ownership and management of some of Perth's leading licensed venues. He has managed venues including Indiana Tea House, Emporio Tavern and Subiaco Hotel and he has established and currently part owns and operates the following iconic Western Australian licensed venues:
- (a) The Stables Bar, Perth
 - (b) The Reveley Bar, Elizabeth Quay; and
 - (c) The Camfield Bar, Burswood.
9. The quality and success of the numerous venues owned and operated by these persons and the professional and responsible manner in which those venues are managed provide a clear indication of the standard and style that will be brought to the proposed Venue should the Application be granted.

The Venue

10. The Premises consist of a two-storey building with a combination of indoor areas with a capacity of approximately 550 persons.
11. The Alfresco Area (the subject of Extended trading permit (Area) number 0215502820) provides a comfortable outdoor licensed space adjacent to the Venue containing seats at tables.
12. The renovated Premises will be fitted out to a high standard creating a space that is both stylish and comfortable.
13. The Venue will operate as a casual, stylish hospitality facility offering a wide range of liquor and related services, combining the best elements of a traditional tavern environment with the contemporary features and services expected by modern consumers.
14. The renovated Venue will comprise the following areas:

- (a) Downstairs Alfresco: A relaxed outdoor space facing Grosvenor Road designed for the casual enjoyment of dining and beverage services in a casual and relaxed environment.
- (b) Downstairs Main Bar: Featuring a full range of bar and dining services, plenty of seating at tables for patrons, live entertainment from local artists and a lively and friendly ambiance.
- (c) Upstairs Main Bar and balcony: This area will be activated with special ticketed events such as comedy shows, wine dinners and live music gigs during regular and extended trading hours. During regular trade it will act as an overflow space from the ground floor, offer patrons the same standard of beverage and dining services with a range of lounge seating.

15. Risk management:

- (a) As an experienced operator, the Applicant is well aware of its responsibility to effectively manage and mitigate all risks that may potentially be associated with the supply of liquor.
- (b) Accordingly, this proposal has been developed with the specific aim of ensuring that the Venue operates as a positive addition to the lifestyle, leisure and tourism attractions of the Locality and with a broad range of effective mitigation measures in place at all times.

16. Local amenity:

- (a) The Venue will make a significant contribution to the ongoing evolution of the Locality and surrounding suburbs.
- (b) The Applicant's intention for the Venue is to developing deep roots in the local community, creating a strong sense of identity, providing a welcoming social meeting place for locals and offering employment opportunities for all persons, particularly young adults.
- (c) The Applicant is committed to operating the Venue in a manner that positively contributes to the lifestyle, leisure and tourism attractions in the Locality while minimising the risk of any negative impacts in the community.
- (d) Accordingly, the Applicant has developed its proposal with the aim of ensuring that the Venue operates at all times:
 - (i) as a safe and comfortable environment for patrons of all ages, including females and families;
 - (ii) without causing an increase in alcohol related harm and ill-health in the community;

- (iii) without causing undue disturbance to persons living and working in the Locality; and
- (iv) as a positive contribution to the amenity of the Locality.

17. The various features of the Venue as described in these submissions will combine to create a hospitality venue that is distinctive and unique in context of the Locality.

INTENDED MANNER OF OPERATION

18. The Applicant has carefully planned all aspects of its proposal, including the following key areas:

- (a) Dress code;
- (b) Juveniles;
- (c) Dining
- (d) Beverages
- (e) Functions
- (f) Management, supervision & training
- (g) RSA policies & procedures
- (h) Safety and security
- (i) Entertainment;
- (j) Neighbourhood & amenity issues
- (k) Seating

19. These features have been designed to provide a range and quality of products and services that will satisfy the requirements of the relevant section of the public, deter persons in recognised 'at risk' categories and mitigate against risk of negative impacts of the operation of the Venue on the local community.

Dress code

20. The Applicant is aware that adherence to a carefully devised dress code can be an effective way to manage licensed premises and patron profile.

21. The dress code for the Venue will be "smart casual". This will be interpreted strictly by management to ensure that the Venue is attended by the desired demographic and to minimise persons in a 'high risk' category from seeking to attend the Venue.

Juveniles

22. The Venue has been specifically developed to appeal and cater to a broad cross-section of the community including family groups with children.
23. It is expected that demand from family groups will be greatest during lunch and dinner meal service periods, particularly on weekends and Public Holidays.
24. Unaccompanied juveniles will not be permitted in the venue other than in circumstances permitted by the Act.

Dining

25. Dining services will be a significant focus of the business operating under the Licence:
 - (a) Plans of the Premises filed in support of the Application depict a sizable commercial kitchen which will be fully equipped and suitable to meet the significant anticipated demand for dining services.
 - (b) Lunch and evening meals will be available on all days of trade.
 - (c) Patrons will be able to enjoy food in all parts of the Premises.
26. The Applicant proposes to provide patrons of the Venue with food that is accessible, value driven and high quality. These features are seen as a key aspect of the hospitality 'offer' at the Venue. Dining menus developed for the Venue will be regularly refreshed and updated, featuring dishes based on fresh, seasonal produce sourced locally wherever possible.
27. Consistent with the focus on dining services, the Applicant will ensure that a substantial number of seats will be provided in the relevant parts of the Premises for the comfort of diners (see below).

Beverages

28. The Applicant intends to maintain beverage services with an emphasis on quality products, excellent service and stylish presentation.
 - (a) Liquor products of a consistently high quality will be offered.
 - (b) The Applicant will ensure that a range of mid strength, low strength and non-alcoholic products are available to patrons at all times.
 - (c) Drink products that would tend to encourage excessive or rapid consumption of alcohol will not be offered or promoted at the Venue.

29. The Venue's wine list will comprise a wide range of varieties and regions covering Western Australian, Australian and international wines. Wines will be in the mid to upper premium range, covering a range and priced accordingly.
30. A range of premium and craft beers covering a wide range of varieties will be offered including products from quality Western Australian and international brewers.
31. High quality spirit products will base the Venue's cocktail list, offering a selection of classic and bespoke cocktails.

Functions

32. The Venue will provide an attractive and unique function venue for a wide range of function customers.
33. Function customers are expected to comprise a mix of private and corporate groups including persons attending:
 - (a) Corporate events and conferences; and
 - (b) Private functions (birthdays, anniversaries, weddings etc).
34. As part of internal risk mitigation policies, the Applicant will generally not accept bookings for functions associated with irresponsible alcohol consumption.

Packaged liquor services

35. Packaged liquor services will not comprise a significant part of the business operating under the Licence. There will be no dedicated bottleshop or takeaway liquor retail area. A limited range of "takeaway" liquor will be available for purchase over the bar prior to midnight.

Management, supervision & training

36. Staff and approved managers will be subject to induction and ongoing in-house training to ensure the highest standards of service and a comprehensive knowledge of all legal requirements under the Act. Special emphasis will be placed upon responsible service principles (see below).
37. The Applicant's previous track record in the hospitality industry provides a high degree of confidence in this regard and demonstrates a commitment to the provision of high-quality liquor and related services, combined with professional standard of management control and an emphasis on the responsible service of alcohol.
38. **Attached and marked A1** is a copy of the Venue Management Plan.

RSA policies & procedures

39. The Applicant is strongly committed to adhering to RSA principles and proposes to implement and maintain a comprehensive range harm minimisation measures.
40. The Applicant has filed a copy of the House Management Policy, Code of Conduct and Management Plan for the Venue in support of the Application.
41. The Applicant does not intend to promote drinks that would tend to encourage the rapid or excessive consumption of alcohol.
42. The Applicant is strongly committed to staff training with a focus on adherence to RSA principles:
 - (a) Induction training will include a strong emphasis on encouraging responsible consumption, pro-actively discouraging excessive or rapid consumption and effectively identifying signs of drunkenness and implementing effective measures to deal with patrons exhibiting such signs. This will apply to all 'front of house' staff including bar, wait and glass collection staff.
 - (b) Bar and wait staff will be trained to actively and routinely encourage patrons to combine alcohol consumption with food and to have 'breaks' between consumption of alcoholic drinks by consuming water and/or non-alcoholic beverages;
 - (c) Regular refresher training will be conducted for all approved managers and general staff with a strong emphasis on RSA issues; and
 - (d) All front of house staff including glass collection staff will be required to hold a valid Responsible Service of Alcohol Certificate.
43. Specific RSA policies and procedures to be implemented at the Venue will include the following:
 - (a) Bar, wait and glass collection staff to conduct ongoing assessment of the state of sobriety of patrons at all times and to report any signs of drunkenness immediately to the senior manager on duty.
 - (b) Managers to ensure that an 'intox sweep' of the Venue is conducted regularly to identify any patrons exhibiting possible signs of drunkenness and to implement appropriate action in accordance with documented RSA practice for the Venue.
 - (c) A wide range of non-alcoholic and mid-strength drinks to be available and advertised at the Venue during all trading hours;

Safety & security

44. The Venue can be considered to be in relatively a low risk category in terms of safety and security given the following features:

- (a) Catering to patrons falling within a low risk category;
- (b) High quality of design and fit out;
- (c) Relaxed ambiance;
- (d) Significant focus on and promotion of dining services;
- (e) Significant focus on dining services at all times;
- (f) Strict RSA policies and procedures;
- (g) Substantial seating provided for patrons;
- (h) Patron dress code;
- (i) Comprehensive RSA policies and procedures;
- (j) Experienced and responsible licensee with a track record of responsible and professional management in the liquor industry;
- (k) Commitment to high standard of staff training, quality management and extensive management controls, policies and procedures in place;
- (l) Comprehensive restrictive trading conditions in place at all times (see below);
and
- (m) Comprehensive CCTV coverage.

45. Nonetheless as a precautionary and deterrent measure the Applicant intends to provide a suitable security services during peak trading periods and proposes that the Permit should be issued subject to a condition in the following terms:

SECURITY:

(a) For the purpose of this condition "Security Officer" means:

- (i) a crowd control officer licensed under the Security and Related Activities (Control) Act 1996; or*
- (ii) an approved manager employed by the licensee approved under section 102B of the Liquor Control Act 1998 and who is exempt under the Security and Related Activities (Control) Act 1996 (and does not include temporary managers appointed under section 100(3) of the Act or persons disqualified from holding a crowd controllers licence)*

- (b) *On any Friday and Saturday evening that the licensed premises are open for trade, Security Officers must be on duty:*
- (i) *from 8.00pm until thirty (30) minutes after trading ceases;*
 - (ii) *at a ratio of two Security Officers for the first 100 patrons and one Security officer for each additional 100 patrons thereafter or part thereof;*
- (c) *Approved managers are not to exceed 50% of the required number of Security Officers;*
- (d) *The primary duties of an approved manager while rostered as a Security Officer are the functions prescribed by s.35(1) of the Securities and Related Activities (Control) Act 1996 and on patron behaviour and responsible service of alcohol practices. They are not to undertake other general duties of an approved manager (i.e. serving behind the bar, administrative duties etc)*
- (e) *At all times whilst on duty Security Officers must be clearly identifiable by the word 'SECURITY' on their attire;*
- (f) *The licensee is to maintain a management roster which identifies which approved managers have been assigned to work as a Security Officer under this condition and to make that roster available for inspection upon the reasonable request of an Authorised Officer as defined in section 3 of the Liquor Control Act 1988.*

Entertainment

46. The Venue will comprise a multi-faceted, up-market, hospitality facility offering numerous sub-areas for patrons to explore and a range of liquor and related services available.
47. The renovated Venue will offer patrons a variety of live entertainment include visual art exhibitions, late wine dinners, comedy shows and 'cork & canvas' wine/art events, jazz nights and other live entertainment events.
48. The Venue will specifically support and encourage local acts to perform in the venue to help enrich the local art and music scene. Events will also be held in collaboration with Fringe World and Perth Art Festival.
49. The proposed extended trading hours will be particularly important to the entertainment services proposed to be provided as patrons seek the ability to enjoy such entertainment during the extended hours sought.

50. During regular trading hours entertainment at the Venue will take the form of background, ambient music provided by the Venue's in-house entertainment system to assist in creating an enjoyable and relaxed ambiance in the Venue. On occasion 'low key' live acts or DJ's may be engaged to perform. The Venue will not include a dance floor, nightclub style lighting or powerful speakers.
51. No entertainment acts will perform in the alfresco area. The volume of amplified music inside the Premises will be maintained at a level that complies with all relevant noise legislation.

Neighbourhood & amenity issues

52. The persons behind the Applicant company have owned and operated licensed venues of many types and sizes throughout the greater Perth metropolitan region over several decades including:
- (a) The Subiaco Hotel – Subiaco, WA
 - (b) The Indiana Tea House – Cottesloe, WA
 - (c) The Camfield – Burswood, WA
 - (d) The Leopold Hotel – East Fremantle, WA
 - (e) The Davilak Hotel, South Fremantle, WA
 - (f) The Sandy Cove Tavern – Yunderup, WA
 - (g) Peninsula Tavern – Maylands, WA
 - (h) The Peel Alehouse – Halls Head, WA
 - (i) The Brighton Tavern – Mandurah, WA
 - (j) Cobblers Tavern – Falcon, WA
 - (k) The Peninsula – Mandurah, WA
 - (l) The Chase Bar & Bistro – Baldivis, WA
 - (m) The Tambrey – Karratha, WA
 - (n) The Woodvale Tavern – Woodvale, WA
 - (o) The Glenferrie Hotel – Hawthorn, Vic
 - (p) The Elephant & Wheelbarrow – St Kilda, Vic

53. All of the venues referred to above have been operated for many years by one or more of the persons involved in the Application and all are located in close proximity to residential premises.
54. All of these venues are managed in a manner that ensures that they operate in harmony with their surrounding neighbours. In all cases, these venues operate without attracting complaints from persons living or working in the vicinity.
55. The Applicant is very aware of its responsibility to operate the Venue in harmony with its neighbours i.e. without causing disturbance or otherwise impacting adversely on the persons that live and work in the vicinity.
56. Accordingly, the Applicant will bring the same operating ethos to the present Venue, namely, to create a licensed hospitality venue that contributes positively to the Locality by providing an attractive facility for 'locals' which operates without causing any negative impacts for our neighbours.
57. In all the circumstances the Venue falls within a low-risk category in terms of amenity and potential disturbance. The following relevant features can be noted:
- (a) Premises situated in a mixed-use, inner city precinct on a busy street and in proximity to a number of licensed and unlicensed hospitality venues associated with a significant level of ambient noise, particularly at night and on weekends.
 - (b) Up market Premises fitted out to a high standard and catering to persons covering a broad range of ages and types including persons of mature years and family groups with children;
 - (c) Unlikely to attract any significant 'at risk' sections of the public in terms of irresponsible consumption of alcohol and/or anti-social behaviour; and
 - (d) Experienced hospitality participants with a record of responsible and lawful operation of licensed venues in WA;
 - (e) Comprehensive range of management controls and risk mitigation measures in force all times with a strong emphasis on RSA principles.
58. In combination these features provide a high level of confidence that the Venue will operate without negative impacts in the local community either in terms of reducing amenity or causing undue noise or disturbance to persons.

59. Nonetheless, the Applicant intends to operate the Venue under a comprehensive range of written policy and procedures to mitigate against the risk of disturbance to its neighbours. **Attached and marked A2** is a copy of the Venue Noise Management Plan.
60. In fact, the introduction of the Venue into the Locality would be consistent with the objectives of the relevant local government authority and would provide numerous positive amenity impacts in the Locality by improving the:
- (a) quality and variety of leisure and hospitality facilities and services available in the Locality; and
 - (b) liveability of the Locality and the quality of life of persons living in, working in and visiting the Locality.
61. The Applicant has demonstrated a strong commitment to ensuring that the Venue operates as a positive addition to the local community and without causing negative impacts to persons working or residing in the vicinity.
62. This comprehensive range of management controls and risk mitigation policies and procedures to be implemented and maintained by the Applicant provide a high level of confidence that the Venue will operate without negative impacts in the local community in terms of amenity or disturbance.

Seating

63. The Applicant intends to provide substantial seating for patrons throughout the Venue during all regular trading periods to assist in maintaining a relaxed and comfortable ambiance and to facilitate a 'dining culture' in the Venue.

CONSUMER REQUIREMENTS

64. The Applicant has developed its proposal with the aim of attracting and catering for the needs of patrons:
- (a) comprising a mix of persons living and/or working in the Locality and visitors to the Locality including regional, interstate and international tourists.
 - (b) covering a broad range of ages including family groups with accompanied juveniles during the day and early evenings. Young adults will not be specifically catered for and will not be expected to comprise a significant proportion of patronage.
 - (c) including intrastate, interstate and international tourists.

65. Anecdotal evidence and the Applicant's informal market testing indicated that a significant number of people would be satisfied by the extending trading hours contemplated by this Application.

Online survey

66. To gauge public support for its proposal, the Applicant undertook an online survey which the Applicant published on the website www.surveymonkey.com between 3 and 18 May 2021. Respondents were provided with access to the Premises plans and a "Summary of Proposal", a copy of which is **attached and marked A3**. A total of 350 persons completed the survey.
67. The following survey results can be noted:
- (a) 99% of Respondents enjoyed socialising at licensed venues such as taverns and hotels.
 - (b) 91% liked the option of being able to socialise at after midnight
 - (c) 96% would like the option of socialising at the Venue during the extended trading hours sought
 - (d) 98% indicated that the grant of the Application would improve the variety of late night venues in the area.
 - (e) Support was strongest for the extended trading hours on Friday and Saturday evenings (94% and 95% respectively). Support on Wednesday and Thursday evenings was less but still significant (35% and 59% respectively).
68. A copy of completed surveys and a summary of the results are attached and marked A5a and A5b.

Witness statements

69. The Applicant also sought the views of persons living and working in and near the Locality regarding the proposal, copies of which are **attached in a bundle and marked A6a to A6j**.
70. To enable these persons to make an informed opinion, the Applicant provided each with a copy of the Premises plans and a "Summary of Proposal" (Attachment A2).
71. The consumer requirement evidence filed indicates a strong demand by members of the public for the liquor and related services proposed by the Applicant.

Restrictive Trading Conditions

72. The Applicant is committed to operating the Venue in the manner and subject to the various restrictive trading conditions described in these submissions.

73. To demonstrate its bona fides in this regard, the Applicant seeks that these restrictive trading conditions are formalised as conditions attached to the liquor licence in the terms set out in the document titled “Proposed Restrictive Licence Conditions” a copy of which is **attached and marked A7**.

SECTION B: LOCALITY

Locality

74. **Attached and marked B1** are the Applicant’s locality submissions.

Local Government Authority

75. For the purpose of section 69(7), Act, the local government authority (**LGA**) able to lodge a notice of intervention in these proceedings is the City of Vincent.

TOURISM

76. Tourists are expected to comprise a proportion of patrons of the Venue.

Tourism in Western Australia

77. Tourism is one of Western Australia’s most significant industries and is a key part of the State’s economy. The industry generates 109,000 jobs and contributes \$10 billion in visitor spending.
78. Western Australia attracts visitors from a wide variety of interstate and international markets. These visitors travel to Western Australia for a variety of reasons including
- i) Leisure Tourism: including holiday makers and visiting family and friends
 - ii) Business Events: including convention and exhibition delegates
 - iii) Event Tourism: including spectators and participants
 - iv) International Education: including secondary and tertiary students.
79. Perth is regarded as Australia's most globally connected city with particularly strong ties to its Asian neighbours which places the city ideally for investment.
80. In addition, Perth is undergoing the biggest transformation in 100 years with recently completed Elizabeth Quay, Perth City Link and Perth Stadium plus significant infrastructure projects in development including a number of new hotel developments which are expected to enter the market over the next five years and a \$1 billion redevelopment of the Perth Airport.

81. In the year ending (YE) September 2017, 20 million intrastate daytrips were taken within the State and 10.6 million overnight (domestic and international) visitors came to or travelled within WA. Together, these visitors spent \$10.1 billion in the State. Of this \$10.1 billion, \$4.5 billion (44%) was spent in Regional WA.
82. Compared to the previous year, the total number of overnight visitors to / within WA saw a slight decline of (-) 1.6% or 173,200 less visitors (down from 10.75 million to 10.58 million visitors). While there was growth in the number of international visitors to WA (+2.8%), and the number of interstate visitors remained stable (-0.1%), the number of overnight trips taken by Western Australians within their State dropped by (-) 2.3%. The number of daytrips taken by Western Australians remained stable year on year (+0.1%).
83. The peak tourism body in Western Australia is 'Tourism Western Australia' (**TWA**).
84. Copies of the following documents sourced from TWA are **attached and marked**:
- (a) **"C1"** - TWA Tourism Industry Scorecard YE June 2017
 - (b) **"C2"** - TWA Fast Facts Year Ending June 2015
 - (c) **"C3"** - TWA Visitation to WA Fast Facts Overview Year Ending June 2017
 - (d) **"C4"** - TWA International Visitation Fast Facts Year Ending June 2017;
 - (e) **"C5"** - TWA Domestic Visitation Fast Facts Year Ending June 2017 Final
 - (f) **"C6"** - TWA Tourism Research Australia Tourism Satellite Account 2015-16 Fact Sheet;
 - (g) **"C7"** - TWA International Markets Summary Year Ending June 2017;
 - (h) **"C8"** TWA - Experience Perth Overnight Visitor Fact Sheet 2014 2015 2016
85. Tourism makes a significant contribution to the State's economic well-being:
- (a) Tourism is a key economic driver, generating 109,000 jobs and injecting \$11.9 billion into the Western Australian economy by Gross State Product. (Source: Tourism Satellite Accounts 2015-16)
 - (b) the WA tourism industry directly accounts for 1.4% of the State economy and indirectly a further 1.5%, making a total of 2.9%.
 - (c) The WA tourism industry is a key source of employment in the State, directly employing 72,000 people and accounting for a further 37,000 jobs indirectly, making a total of 109,000 people in WA employed in the tourism industry. (Source: Tourism Satellite Accounts 2015-16) The WA tourism industry directly accounts for 5.3% of persons employed in the State, and indirectly a

further 2.7%; contributing 8.1% of the State's employment in total. (Source: Tourism Satellite Accounts 2015-16)

- (d) The cafes/restaurants/takeaway, accommodation and bars/clubs/venue sector is the top contributor to the WA tourism industry at 36% (\$1.5 billion) of GVA.

Tourism policy and planning

- 86. Tourism WA has a planning advisory and referral role with a focus on strategic or high-profile tourism proposals.
- 87. TWA has prepared a number of planning documents to aid the assessment of tourism-related proposals and guide strategic planning for tourism.
- 88. Copies of the following Tourism WA documents are **attached and marked**:
 - (a) "C9" - TWA State Government Strategy for Tourism in WA 2020 - Detailed
 - (b) "C10" - TWA - Corporate Plan 2016-2017
 - (c) "C11" – TWA - Tourism Planning Guidelines June 2014
- 89. The State Government Strategy for Tourism in Western Australia 2020 outlines seven focus areas to help increase the value of tourism in WA to \$12 billion by 2020 in partnership with industry, government and private sector.

TWA Entertainment Precincts report

- 90. **Attached and marked C12** is the Tourism WA "Perth Entertainment Precincts report 2017. The report examined the nine major entertainment precincts in the Perth metropolitan area. For the "Beaufort Street" precinct, the report indicated inter alia:
 - (a) One third of respondents had visited the precinct within the last 6 months
 - (b) Proximity to the area played a big part in visitation. Those living closest (inner/western suburbs) were most likely to have visited recently (60%).
 - (c) Few believed the precinct as vibrant/lively or having a good range of venues/activities which was likely contributing to their low visitation.
 - (d) 53% visited with a partner and 45% visited with friends.

ORIGINAL LIVE MUSIC

The public interest & cultural activities

- 91. Arts and culture are important to Western Australia in terms of quality of life, cultural identity, economic growth and cultural tourism.

92. Contemporary original music, particularly its live performance, plays a significant role in arts and culture in WA.
93. The report titled “Arts Nation: An Overview of the Australian Arts, 2015 Edition” commissioned by the Australia Council for the Arts can be accessed online at <https://www.australiacouncil.gov.au/research/>. That report states as follows:
- (a) A growing number of Australians believe that the arts make for a richer and more meaningful life; they influence how we express ourselves, our creative thinking and new ideas.
 - (b) Analysis using the internationally recognised wellbeing valuation approach is one way of calculating the value of intangibles. It suggests that people who engage with the arts have higher life satisfaction.
 - (c) The arts are deeply embedded in the cultural sector, and cultural activity makes a substantial contribution to the Australian economy. Cultural activity contributes \$50 billion to Australia’s GDP, comparable to the GDP share in the USA, including over \$4.2 billion from the arts. Expenditure on culture by Australian governments in 2012–13 was \$7 billion including over \$1.3 billion on the arts.
 - (d) Important to note is that the main source of income to the arts is consumer spending, for example, ticket sales for performing arts events generated \$1.5 billion in 2013.
 - (e) Exploring the way international tourists spend their time in Australia has highlighted the growth in arts tourism. There has been 19% growth over the past four years, with 2.4 million international visitors to Australia in 2013–14 engaging in arts tourism. More than one in four international tourists visit galleries or museums, similar to the levels in the UK and USA.
94. The “Australian Bureau of Statistics; Arts and Culture in Australia: A Statistical Overview, 2014 ” can be accessed online at <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4172.0main+features222014>
95. Numerous studies suggest that music plays a vital role in shaping Australian culture and our identity. Participation in the arts can have many positive outcomes, including cognitive, social and emotional benefits. Participation in music can also benefit not only the individual, but the community as a whole (Australia Council 2007-09)”.
96. The “2013 Ticket Attendance & Revenue Survey” prepared by “Performance Australia” can be accessed online at <https://reports.liveperformance.com.au/ticket-survey-2013>. That report states as follows:
- (a) There were significant gains made in 2013, in what was overall a strong year for the Live Performance Industry. Approximately 17.93 million tickets were

issued to live entertainment events in Australia in 2013. This represents an increase of 10.2% on 2012 where 16.27 million tickets were issued to events.

- (b) Ticket sales in 2013 generated total revenue of \$1.479 billion, up 22.7% on 2012, when ticket sales totaled \$1.205 billion. This increase in revenue is a result of an increase in both the total number of paid tickets and the average ticket price.
- (c) These gains were largely driven by significantly higher revenue and patronage in the Contemporary Music and Circus and Physical Theatre categories.

Contemporary live music in WA

- 16. The live performance of contemporary music has played a significant part of Western Australian life for many decades.
- 17. WA has “punched above its weight” for many decades with an extraordinary number of national and international success stories in contemporary music.
- 18. The Wikipedia page for “Music of Perth” can be accessed online at https://en.wikipedia.org/wiki/Music_of_Perth.
- 19. This success has been founded on a healthy live music scene that has fostered a broad base of talent with performance opportunities at all levels.
- 20. An essential part of the live music scene has been the existence of live venues located across the suburbs of Perth offering a range of performance opportunities for acts and audiences of all sizes.
- 22. Contemporary live music venues in the greater Perth metropolitan area are predominantly located either in Perth/Northbridge or in Fremantle.

Licensed services & live music

- 24. It is a notorious fact that patrons attending live music performances have a requirement for ancillary liquor and related services at the live music venue.
- 25. The State Parliament recognised both the importance of original live music and the significance of licensed services to live music venues through the amendment to the objects of the Act in s.5(2)(a) which provides as follows :

“In carrying out its functions under this Act, the licensing authority shall have regard to the primary objects of this Act and also to the following secondary objects — to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State”

(underlining added)

33. The objects set out in s.5 apply to every provision of the Act and thus guide every decision of the licensing authority. By the addition of the concept of “live original music” to the secondary objects of the Act, Parliament has highlighted the importance of this form of activity in terms of liquor licensing in Western Australia.
34. Accordingly, advancement of this object by the grant of a particular application will bring considerable weight in favour of the grant. It will be a significant factor in terms of the “positive” public interest in the weighing exercise between the different objects of the Act.
35. Similar provisions regarding original live music can be found in the objects of analogous liquor licensing legislation in New South Wales and South Australia.
36. Almost every live music venue in Perth operates under some form of liquor licence.
37. Most of the larger, purpose built live performance venues in WA such as theatres and stadiums operate under a Special Facility (Theatre) licence that limits the sale and supply of liquor to persons attending a live performance.
97. Traditionally small to mid-tier live performance venues feature acts that attract smaller audiences, command lower door fees and attract patrons seeking a comprehensive leisure experience. Accordingly these venues require liquor licences with a degree of flexibility allowing for a broader range of liquor and related services to be offered to a broader class of persons in a broader range of circumstances. Many live music venues of this size operate under small bar, tavern or hotel licences. For these small to medium sized venues, although live performance is an important part of their identity, the ability to offer a broad range of liquor and related services not only to ticket holders to live performances but also to members of the general public is central both to their relevance to the public and their financial viability.
98. The demand for live music performances by contemporary consumers relates to both pre and post-midnight time slots. In many cases, consumers seek the ability to continue to enjoy live music after midnight.

SECTION D: HARM & ILL HEALTH

Alcohol consumption trends in Australia

99. Alcohol consumption in Australia has been on a steady decline for more than 40 years with consumption per capita in 2017-2018 continuing its decade on decade decline as *‘moderate consumption becomes the norm in Australia’*.

(Source: Wine Australia (22 October 2019) ‘Trends in other alcoholic beverages’ accessed at <https://www.wineaustralia.com/news/market-bulletin/issue-179>; Australian Bureau of Statistics(09/09/2019) ‘4307.0.55.001 ‘Apparent Consumption

of Alcohol, Australia, 2017-18' accessed at [https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4307.0.55.001Main%20Features62017-18?opendocument&tabname=Summary&prodno=4307.0.55.001&issue=2017-18&num=&view=\)](https://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4307.0.55.001Main%20Features62017-18?opendocument&tabname=Summary&prodno=4307.0.55.001&issue=2017-18&num=&view=)

100. Australians are drinking less alcohol per capita: (Source: Business Monitor International (2017) 'Australia Food & Drink Report Q1 2018 at p16.

101. **Attached and marked D1** is a media release by the ABS titled "Alcohol consumption lowest in half a century" which states:

Apparent consumption of alcohol per person has dropped to levels not seen since the 1960s, according to data released by the Australia Bureau of Statistics (ABS) today.

In 2016-17, the total alcohol consumed in Australia was equivalent to 186 million litres of pure alcohol, or 9.4 litres for every person in Australia aged 15 years and over," said Louise Gates, ABS Director of Health Statistics. "This is the lowest annual figure since 1961-62 and it continues the recent downward trend which started around 2008-09.

102. **Attached and marked D2** is a media release by the ABS titled "Alcohol-induced deaths decreasing over time" which states:

Australia has lower rates of deaths directly attributed to alcohol when compared with the late 1990s, with rates recorded at 5.1 deaths per 100,000 Australians in 2017 compared with 6.6 deaths 20 years ago.

103. It is believed that increasing consumer preference for premium liquor products is leading to a "less but better" consumption attitudes in Australia and that increased focus on health and wellness has resulted in health-conscious consumers opting for low and no-alcohol options as consumers shift towards "mindful drinking".

(Source: Play Market Research ('the biggest alcohol trends for 2020' accessed at <https://www.playmr.com.au/blog/the-biggest-alcohol-trends-for-2020>)

104. Studies have shown that less than 15% of people in Australia consume liquor in a risky and harmful manner, notwithstanding reports about risky drinking levels in Australia: Source: Dr Anne Fox, (January 2015) '*Understanding behaviour in the Australian and New Zealand night-time economies*', p 11.

105. The Australian Institute of Health and Welfare has released the following data which highlights the decline in unsafe alcohol consumption in Australia:

- (a) *The majority of Australians aged 14 years and over consume alcohol, however the proportion of people drinking in excess of lifetime risk guidelines has been declining and continues to decline.*
- (b) *Between 1967–68 to 2017–18, the proportion of apparent consumption of different alcoholic beverages have changed substantially with decreases in the consumption of beer (from 73.5% to 39.0%) and increases in the consumption of wine (from 14.4% to 38.6%).*
- (c) *Data from multiple sources indicate that there has been a decline in the proportion of Australians exceeding the National Health and Medical Research Council (HMRC) guidelines for lifetime risk by consuming more than two standard drinks per day, on average.*
- (d) *The National Drug Strategy Household Survey (NDSHS) 2016 found that the proportion of people aged 14 and older exceeding lifetime risk guidelines declined significantly from 19.1% in 2013 (21% in 2001) to 18.0% in 2016.*
- (e) *The National Health Survey (NHS) reported that in 2017–18, 16.0% of adults aged 18 and over exceeded the lifetime risk guideline, a decrease from 17.3% in 2014-15 and 19.4% in 2011–12 (Table S2.26).*
- (f) *2016 NDSHS findings showed that people aged 14 or older living in Remote and Very Remote areas of Australia are about 1.5 times more likely than people living in Major cities to exceed lifetime risk guidelines (26% compared with 15%) and the single occasion risk guidelines (at least monthly) (37% compared with 24%) (Figure ALCOHOL4; Tables S2.12 and S2.13).*
- (g) *2017–18 NHS results showed that adults (aged 18 or older) in Outer regional and remote areas were 1.7 times as likely to exceed lifetime risk guidelines as those in Major cities (24.4% and 14.7% respectively) (Table S2.26; age-standardised proportions).*

(Source: Australian Institute of health and Welfare ‘Alcohol, tobacco & other drugs in Australia’ (Last updated January 2020) accessed at <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contentxs/drug-types/alcohol>)

106. The National Alcohol Strategy 2019-2028 provides as follows:

“Australia’s overall consumption of alcohol (on a per capita basis) has been in decline for the past 40 years, and the percentage of people reporting abstinence from alcohol has either increased or remained stable between 2009 and 2016. Significant improvements have also been observed in abstinence over the same period among younger Australians. This is in spite of the fact that some research indicates that alcohol has become more readily available and affordable in Australia over the last decade.”

(Source: Department of Health 'National Alcohol strategy 2019-2028' at p19)

107. These data support the grant of the Application in terms of the broader context of alcohol consumption trends nationally.

Alcohol Consumption Trends in Western Australia

108. Annual consumption levels of alcohol by Western Australians have declined steady over the last few decades, conforming with nationwide trends.

109. The WA National Drug Strategy Household Survey between 2001 and 2016 indicated that:

- (a) the percentage of lifetime risk drinkers has declined by 3.3%; and
- (b) the percentage of single occasion risk drinkers has declined by 4.4%.

(Source: AIHW National Drug Strategy Household Survey (NDSHS) Accessed at <https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/interactive-data/alcohol>)

110. The NDSH found that in WA there has been a significant decrease in the number of people drinking weekly (-6%); and a significant increase in those abstaining from alcohol (4.9%).

111. **Attached and marked D3** is Department of Health report titled "Health and Wellbeing of Adults in Western Australia 2016" which describes the findings from data collected in 2016 from 5,865 Western Australians adults aged 16 years and over. Some key findings from the report relating to the consumption of alcohol include the following:

- (a) Respondents were asked about their alcohol drinking habits, including how many days a week they usually drink and how many drinks they usually have. The alcohol information was categorised into risk levels based on the 2009 guidelines.
- (b) The prevalence of the population drinking at levels considered high risk for long term (over a lifetime of drinking) was assessed:
 - (i) 72.6% of Western Australian were found to have a low risk or less than low risk of long term alcohol related harm.
 - (ii) 27.4% were found to be at "high risk", defined as drinking more than two standard drinks on any one day.
- (c) The prevalence of the population drinking at levels considered high risk for short term harm was also assessed:

- (i) 89.4% of the population was found to have a low risk or less than low risk status.
- (ii) 10.6% were found to be at “high risk”, defined as consuming more than four standard drinks on any one day.
- (iii) The prevalence of all persons drinking at levels associated with short-term harm was significantly lower in 2016 compared with 2002 -11 prevalence, with a similar pattern observed for males and females. (p.53)

112. **Attached and marked D4** is the Drug and Alcohol office report titled “Drug and Alcohol Interagency Strategic Framework for Western Australia 2011-2015”.

113. **Attached and marked D5** is the Drug and Alcohol Office report titled “Impact of Alcohol on the Population of Western Australia”

Venue Risk Profile

114. **Attached and marked D6** is the Applicant’s Venue Risk Profile which assesses the risk factors of the Permit Area in terms of alcohol related harm and ill-health.

115. It can be seen that the Venue does not feature any factors associated with a risk of patron aggression and violence, excessive or unsafe alcohol consumption or alcohol related harm and ill-health.

116. Accordingly, the Venue can be considered to fall into a low risk category for alcohol related harm and ill-health.

Patron Risk Profile

117. **Attached and marked D7** is the Applicant’s Patron Risk Profile which assesses the risk factors of the likely patron profile of the Permit Area in terms of alcohol related harm and ill-health.

118. In all the circumstances, persons attracted to the Venue are unlikely to include those in any recognised “at risk” groups.

Crime issues in the Locality

119. **Attached and marked D8** is the WA Planning Commission document titled “Designing Out Crime Planning Guidelines”. The location and design of the Premises is consistent with the principles outlined in those guidelines in that the Premises will be:

- (a) located in an area designated for mixed use and therefore compatible with neighbouring uses;
- (b) well monitored by staff and surveillance equipment;

- (c) designed to have specific entry/exit locations;
 - (d) located in a well-defined private space;
 - (i) able to assist in the monitoring of the streetscape via passive surveillance undertaken by patrons and staff in and around the Premises.
120. **Attached and marked D9** is a copy of relevant crime statistics from the Western Australian Police Force website.
121. **Attached and marked D10** is a copy of the City of Vincent Alcohol Management Policy.

SECTION E: LEGAL SUBMISSIONS

122. **Attached and marked "E1"** is a copy of the Applicant's summary of legal principles relevant to the Application.

Section 5: Objects of the Act

123. The Application falls squarely within all of the primary objects and several of the secondary objects of the Act.
124. Grant of the Application would be consistent with the requirement for the licensing authority to "*ensure the proper regulation of the sale, supply and consumption of liquor*" under s.5(1)(a) because:
- (a) the licensing authority can be confident that the business operating under the Licence during extended trading hours will be operated in a professional and responsible manner;
 - (b) the fit-out of the Premises is of a high quality and the Premises and facilities are maintained to a high standard; and
 - (c) the liquor and related services provided at the Venue are of a high standard and extension of those services during the extended trading hours sought would constitute a unique hospitality services in the Locality.
125. Grant of the Application would be consistent with the object to "*minimise harm or ill-health caused to people, or any group of people, due to the use of liquor*" under s.5(1)(b) of the Act because:
- (a) The current patron profile of the Venue is low risk in terms of alcohol related harm or ill-health and it is likely that patronage during the extended trading hours sought will be the same;

- (b) The Applicant is committed to responsible service of alcohol through strict adherence to RSA procedures and policies throughout all trading hours;
 - (c) The Applicant is committed to a strong focus on dining services throughout all trading hours;
 - (d) The Applicant is committed to providing a substantial range of seating throughout the Venue throughout all trading hours;
 - (e) The Applicant is committed to rigorous regime of staff training to maintain a high standard of professionalism in all staff at all times;
 - (f) The Venue does not sell or supply alcohol for consumption off the licensed premises; and
 - (g) The manner of operation of the Venue is low impact and does not involve activities or patrons associated with high health risks.
126. Grant of the Application would cater for the requirements of consumers for liquor and related services with regard to the proper development of liquor industry and other related hospitality industries under s.5(1)(c) by providing:
- (a) high quality premises during suitable hours;
 - (b) a diversified range and high quality of services including dining, beverage and function services during suitable hours;
 - (c) A convenient and accessible location for locals and tourists;
 - (d) A licensed venue that is distinctive and unique in the Locality; and
 - (e) A safe and well-controlled environment.
127. Grant of the Application would allow the Venue to cater for the requirements of consumers for liquor and related services with regard to the proper development of the tourism industry under s.5(1)(c) because:
- (a) the Venue is located in a recognised hospitality precinct;
 - (b) grant of the Application would assist in attracting greater numbers of tourists to the Locality;
 - (c) the liquor and related services proposed to be provided at the Venue, both during regular and extended trading hours, would cater for the leisure and hospitality requirements of intrastate, interstate and international tourists visiting the Locality during suitable hours;

- (d) Grant of the Application would be consistent with the tourism objectives of the local government authority and Tourism WA; and
 - (e) grant of the Application would assist in the continued promotion and development of the tourism industry in the Locality and in Western Australia and contribute to the development of the State's hospitality industry.
128. Grant of the Application would to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State under s.5(2)(a) of the Act for the following reasons:
- (a) Consumers, both 'locals' and visitors to the Locality, have a requirement for the proposed Venue during the extended hours sought and would utilise the range of liquor and related services proposed to be provided by the Applicant during the extended trading hours sought.
 - (b) The relevant services during the extended trading hours sought include:
 - (i) quality dining services;
 - (ii) quality beverage services;
 - (iii) quality function facilities;
 - (iv) a valuable leisure facility for both locals and tourists in the Locality; and
 - (v) a unique ambiance with a safe, relaxed and friendly environment;
 - (vi) a range of local live music and comedy; and
 - (vii) liquor and related services during the hours required by the public.

Section 38(4)(a) - Harm or Ill health

129. The following matters are relevant to the assessment of potential harm and ill health at a specific level:
- (a) The Applicant is an experienced and responsible long-term participant in the hospitality industry with a strong track record in relation to the Venue;
 - (b) The Premises will be fitted out to a high standard;
 - (c) The Venue attracts patrons in a low risk category;
 - (d) The business operating under the Licence will involve a significant focus on dining services;

- (e) A relaxed ambiance will be maintained and substantial seating will be provided throughout the Venue during the extended trading hours sought;
 - (f) The Applicant is committed to the responsible service of alcohol during all trading hours; and
 - (g) The Applicant is committed to operating the Venue subject to a comprehensive range of management controls and restrictive trading conditions during all trading hours sought.
130. In the present case, the evidence supports a conclusion that, assessed against the existing level of harm, no significant level of additional harm will be likely to be caused by the grant of the Application.

Section 38(4)(b) - Impact on amenity

131. Grant of the Application will be unlikely to have a negative impact on local amenity given the quality of the premises, the target patron profile and the Applicant's rigorous management controls in terms of amplified music, RSA and patron supervision and management.
132. Grant of the Application will positively contribute to the amenity of the Locality by:
- (a) contributing to the activation of the streetscape during the extended trading hours sought;
 - (b) adding to the vibrancy attractiveness and convenience of the Locality;
 - (c) meeting the stated goals of the local government authority in the Locality;
 - (d) supporting the further development of the Locality as a key hospitality and leisure precinct for the local population;
 - (e) helping to improve the identity of the Locality and supporting the continued development of hospitality and tourism services in the Locality;
 - (f) providing additional leisure services for residents, workers and visitors who wish to enjoy liquor and dining services to be offered at the Premises during the proposed trading hours sought; and
 - (g) providing quality hospitality services to tourists and increasing the attractiveness of the Locality as a tourist destination during the proposed trading hours.

Section 38(4)(c) - Offence, annoyance, disturbance and inconvenience

133. Grant of the Application is unlikely to cause offence, annoyance, disturbance and inconvenience to persons in the Locality due to the:

- (a) mixed use Locality with high level of existing ambient noise levels;
- (b) manner of operation proposed;
- (c) significant focus on dining services;
- (d) commitment to policies and procedures ensuring adherence to the RSA alcohol at all times;
- (e) relaxed and comfortable ambiance;
- (f) “low risk” patron profile;
- (g) Applicant’s extensive track record in the responsible management of WA licensed venues; and
- (h) Applicant’s strong commitment to comprehensive management controls and restrictive trading conditions.

Sections 33 and 38: Public interest

134. Grant of the Application would be in the public interest because it would:

- (a) cater for the reasonable requirements of a significant section of the public residing and/or working in or near the Locality;
- (b) contribute positively to tourism by providing an attractive licensed hospitality facility to persons visiting the Locality during the trading hours sought by those persons and thereby assist in the development of the Western Australian tourism industry;
- (c) not have the characteristics and attractions that are commonly associated with antisocial or criminal behaviour and would be unlikely to cause harm or ill-health to any persons or group of persons;
- (d) be unlikely to cause noise, disturbance, offence or inconvenience to any persons; and
- (e) contribute positively to the amenity of the Locality.

135. In the present case, the evidence submitted by the Applicant establishes significant positive impacts from the grant of the Application:

136. In the present case, grant of the Application would not be likely to cause any significant negative outcomes. In any event, the positive aspects of the Application outweigh the risk of alcohol related harm which could potentially be caused by grant of the Application

137. For these reasons grant of the Application would be consistent with Act and in the public interest under sections 33 and 38(2) of the Act.

CONCLUSION

138. It is submitted that in all the circumstances the Application should be granted.



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