

## DECISION OF DIRECTOR OF LIQUOR LICENSING

**NATURE OF MATTER:** APPLICATION FOR CONDITIONAL GRANT OF A TAVERN RESTRICTED LICENCE

**APPLICATION ID:** A000226502

**PARTIES:** BARGECO PTY LTD (THE APPLICANT)  
COMMISSIONER OF POLICE (THE FIRST INTERVENER)  
CHIEF HEALTH OFFICER (THE SECOND INTERVENER)

**PREMISES:** BARGE CO  
TO BE SITUATED AT MOORINGS ON THE SWAN RIVER,  
NEAR ELIZABETH QUAY AND OFF COOGEE BEACH,  
COCKBURN SOUND AND PORT BEACH, NORTH  
FREMANTLE

**DECISION OF:** B. SNELL  
DEPUTY DIRECTOR LIQUOR CONTROL AND ARBITRATION

**DATE OF DECISION:** 30 OCTOBER 2017

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1. On 8 February 2017, an application was made by Bargeco Pty Ltd (the Applicant) to the Director of Liquor Licensing (the Director) for the conditional grant of a tavern restricted licence for premises to be known as *Barge Co* and to be situated at moorings on the Swan River, near Elizabeth Quay and off Coogee Beach, Cockburn Sound and Port Beach, North Fremantle.
2. Pursuant to the provisions of section 17(1)(d) of the Act, Hospitality Total Services (Aus) Pty Ltd has been approved to represent the Applicant in these proceedings.
3. The application was made pursuant to ss 41 and 62 of the *Liquor Control Act 1988* (the Act) and advertised in accordance with instructions issued by the Director and while no objections were lodged, notices of intervention were submitted by the Commissioner of Police (the First Intervener) and the Chief Health Officer (the Second Intervener).
4. On 9 August 2017, the parties were advised, pursuant to ss 13 and 16 of the Act, that:
  - (a) a document exchange would take place so that each party would be given a reasonable opportunity to present its case; and
  - (b) the application would be determined based on their written submissions.
5. As this is an administrative decision and not a judicial one, rather than referring in detail to the entirety of the evidence before me, I will set out what I consider to be the relevant material facts. I will also outline the process of my reasoning from consideration of those material facts to conclusion. Where there has been a conflict in submissions that has been significant to the outcome, I will set out the differing positions advanced by the parties and provide reasons why I have preferred one position over another.

## The submissions of the Applicant

6. The notice of application was supported by a Public Interest Assessment (PIA) and other submissions, by which the Applicant sought to further its contention that the grant of the application would be in the public interest. In this regard, it was explained that the Applicant's primary consideration is to provide a well-managed and safe on-water licensed premises, to highlight the beauty of the Perth CBD skyline, the Swan River and Indian Ocean, while providing an entertainment, food and beverage service for residents, visitors and tourists.
7. The Applicant also explained that the premises name, *Barge Co*, reflects that a barge platform will form the base of an on-water venue, which will be unpowered and become the largest still water based venue in Western Australia. As such, the proposed licensed premises will:
  - (a) consist of a purpose built two-story barge, measuring 50 metres by 14 metres by seven metres, which will have both undercover and open spaces; and
  - (b) feature palm trees and a 'lap' style swimming pool for up to 20 patrons at any one time.
8. The Applicant also submitted that the concept for the premises developed after noticing the lack of on-water premises in the Perth region and therefore proposed that:
  - (a) *Barge Co* will offer a distinctive experience for consumers by delivering a 'floating oasis' with 'matchless views' to create a unique, safe, on-water venue that is open to everyone, offering food and beverage services, as well as a range of entertainment in one of three, unique on-water locations;
  - (b) the vessel will not undertake any movement with patrons aboard;
  - (c) patrons will use tender boats to access *Barge Co*, which will be piloted and always supervised by marine professionals; and
  - (d) the premises will have a maximum patron capacity of 600 patrons.
9. It was also submitted that the proposed premises will be used for restaurant and bar services, weddings, engagement parties and corporate events, Western Australian food and beverage promotional events, performing arts events and concerts.
10. The Applicant also submitted that it had undertaken a thorough community consultation, lodging 236 Consumer Surveys and seven letters of support as evidence of this assertion.
11. As part of its PIA, the Applicant also provided information on the surrounding locality, demographics of the locality, outlet density, tourism and generally addressed those matters prescribed in ss 5 and 38(4) of the Act.
12. With these factors in mind, the Applicant submitted that it has developed a robust, comprehensive and venue-specific Harm Minimisation Plan to minimise and mitigate any potential alcohol-related harms and negative environmental impacts of *Barge Co*.

13. The Applicant also submitted that:
- (a) rigorous marine safety standards have been considered, reviewed and assessed as part of the design and building process and noted that prior to Barge Co being able to operate commercially, the Applicant must pass a series of robust maritime requirements before being issued with a 'Unique Vessel Identifier';
  - (b) a rigorous Safety Management System has been designed for the proposed premises to:
    - (i) ensure that all staff at Barge Co understand the requirements of working at an on-water licensed venue; and
    - (ii) reflect all of requirements for the on-water venue to operate safely and in the public interest, with the Safety Management System being compliant with the National Standard for Commercial Vessels and the International Maritime Organisation.
14. As a further harm minimisation initiative, the Applicant indicated that it will:
- (a) incorporate a CCTV surveillance system in accordance with the Director's *Safety and Security at Licensed Premises* policy; and
  - (b) employ Licensed Crowd Controllers; and
  - (c) employ a team of qualified life guards on board at all times, as well as a jet ski to facilitate the rescue of passengers that may fall or jump overboard.
15. Finally, the Applicant also proposed several responsible service of alcohol trading conditions, including:
- (a) that low-strength liquor and non-alcoholic drinks will always be available;
  - (b) no promotions will be undertaken which advertise or provide incentives that:
    - (i) encourage cheap or discounted liquor; or
    - (ii) encourage the excessive consumption of liquor;
  - (c) that the sale of 'lay-backs', 'jelly-shots' and 'test tubes' will be prohibited; and
  - (d) that all liquor sold, supplied and consumed at the premises must be supplied in unsealed containers.
16. In conclusion, it was submitted that the Applicant has designed *Barge Co* to be venue that takes full advantage of the Perth CBD Skyline, the Swan River and Indian Ocean views, which will provide patrons with a unique, safe water-based alternative to the land-based events, bars, restaurants, entertainment and attractions in Perth.

### **The representations of the Interveners**

17. The First Intervener made representations on:
- (a) the question of whether, if the application is granted, public disorder or disturbance would likely result (s 69(6)(c)(ii) of the Act); and

- (b) any other matter relevant to the public interest (s 69(6)(c)(iv) of the Act).
18. The particulars raised in the intervention related to concerns around the service of food and alcoholic drinks; Responsible Service of Alcohol (RSA); dress standards; security and the provision of lifeguards. Additional concerns were expressed regarding the mixing of alcohol consumption at a premises that is surrounded by deep water and also having a swimming pool.
19. The First Intervener's concerns related to the type of licence sought and submitted that hotel licences (and its various sub-types, as laid out in s 41 of the Act) pose a far greater risk of harm and are categorised as more complex applications by the Director's *Public Interest Assessment* policy. Further, while acknowledging that the Applicant has researched and consulted on a proposed range of harm minimisation strategies, the First Intervener recommended additional trading conditions to ensure the Applicant's intended manner of trade remains consistent with the explanation in its PIA.
20. The First Intervener also recommended that consideration should be given to requiring that a lifeguard is always on duty when the pool is in use, which will ensure that:
- (a) the maximum number of patrons using the pool is not exceeded;
  - (b) anti-social behaviour can be quickly dealt with;
  - (c) patrons who may have previously consumed alcohol can be closely monitored for signs of distress; and
  - (d) patrons in this high-risk area are provided with immediate assistance, if required.
21. The Second Intervener made representations regarding the potential for the application to cause harm or ill-health to people, or any group of people, due to the use of liquor, and the minimisation of that harm. Accordingly, the intervention was premised on the following observations:
- (a) the Applicant has sought the grant of a tavern restricted licence for an on-water vessel, and research has identified taverns to be a higher-risk licence type for harm;
  - (b) the venue has a large patron capacity (approximately 600 people) which is a high risk-feature for harm;
  - (c) a required amount of seating at the venue would be an important strategy to reduce alcohol-related harm if the licence is granted, particularly given the larger size of the venue and the aquatic nature; and
  - (a) research demonstrates that alcohol use in water environments increases the risk for alcohol and water-related harms to occur,
22. While acknowledging the Applicant's intended harm minimisation strategies, the Second Intervener noted the high-risk characteristics of the proposed premises and submitted that:
- (a) harm and ill-health concerns remain regarding the number, proximity and access of patrons to submergible bodies of water; that being the river, ocean, or on-board swimming pool;

- (b) alcohol has been found to increase the risk of drowning and aquatic injury and the effects of alcohol are magnified when in, on, or around the water;
  - (c) the proximity of the premises to water will increase the risk for alcohol and water-related harms to occur; and
  - (d) even low levels of alcohol can impair judgement and cognitive functioning and increase risk-taking behaviour, which presents a real risk of harm to individuals.
23. The Second Intervener also submitted that the imposition of formal conditions on the licence would be an important harm minimisation approach to reduce some aspects of the risk associated with this application.
24. Accordingly, the Interveners recommended the imposition of the following conditions on the licence (should it be granted):
- (a) a condition requiring the Applicant to provide notice to Water Police and the Liquor Enforcement Unit at least 48 hours prior to the premises being relocated to one of the three moorings;
  - (b) a specified maximum accommodation number;
  - (c) a condition requiring that up to 50 per cent of the proposed patron floor place (excluding kitchen, back of house areas and public toilets) shall always be set up with tables and chairs when the premises is open, which cannot be rearranged to create dance floors or the like;
  - (d) a requirement for regular head counts to be taken to ensure that all persons are accounted for, with a system for recording and maintaining such details being accessible by authorised persons/authorised officers, including a member of the Police Force;
  - (e) a requirement for the perimeter of the vessel and adjacent pontoon to always have a fixed, permanent, physical barrier;
  - (f) a requirement for lifeguards to be employed when the premises is open to the public;
  - (g) a prohibition on patrons being permitted to swim off the barge or adjacent pontoon in the river or ocean at any time;
  - (h) a requirement for food, such as meals, being available when patrons are on-board the vessel;
  - (i) a requirement for the premises is to have a specified amount of seating;
  - (j) that low-strength and non-alcoholic drinks must be available at all times;
  - (k) that no liquor is to be sold or supplied by virtue of 'emotive' titles, such as 'laybacks', 'shots', 'shooters', 'test tubes', 'jelly shots', 'blasters' or 'bombs';
  - (l) a prohibition on the service of liquor in containers with a measurement capacity exceeding 750ml, which would enable patrons to be viewed by staff on a regular basis and better allow staff to gauge levels of intoxication amongst patrons for the safe operation of the premises;

- (m) a requirement for RSA training for all staff, including staff members who will not be directly involved in the sale or service of alcohol, so that all staff (including security personnel, lifeguards, people selling tickets for boarding the ferries and staff operating the ferry boats) will be trained to mitigate the additional risks posed by the proposed by patrons affected by alcohol and the premises being surrounded by water.
- (n) a prohibition on private vessels being permitted to moor against *Bargo Co* or the adjacent landing platform; and
- (o) a prohibition on glassware being permitted in the swimming pool.

### **Responsive and other submissions of the parties**

25. In submissions dated 24 August 2017, the Applicant acknowledged and responded to both interventions and submitted the following additional letters of support to demonstrate that the conditional granting of the application would be in the public interest:
  - (a) a letter from Mr Albert Jacob, former Environment Minister WA;
  - (b) a letter from the Australian Hotels Association; and
  - (c) a letter from the Tourism Council of WA.
26. The Second Intervener's responsive submissions, also dated 24 August 2017, provided additional information in support of the grounds of intervention, which were primarily concerned with existing levels of alcohol-related harm occurring in Perth, Northbridge and Fremantle, based on data obtained from Western Australian Police.
27. On 7 September 2017, the Applicant lodged closing submissions in response to the intervention by the Second Intervener, in which all of the conditions proposed were accepted by the Applicant.
28. Similarly, in the Applicant's separate submissions in response to the Intervention by the First Intervener, most of the recommended conditions proposed were also agreed to, excepting the proposed conditions relating to:
  - (a) head counts, which the Applicant submitted would constitute a duplication of the proposed use of the RFID's (Radio Frequency Identification Device) at Barge Co for all patrons as outlined in the PIA; where "Each passenger will then be given a RFID wrist band before boarding Barge Co vessel. This system will be used to maintain a full 'real time' manifest of patrons aboard both the (proposed) premises and the transfer vessel..."; and
  - (b) 'meals' being available at all times, with the Applicant submitting that the provision of a 'meal' would be unworkable, given the diverse range of activities to be hosted at Barge Co, with the Applicant instead proposing that 'food' would be available at all times.
29. The First Intervener's closing submissions, dated 14 September 2017, conceded that the Applicant's proposed use of the RFID system would accurately record both patron numbers and movements in 'real-time' and therefore agreed to the imposition of a condition related to the RFID system, on the basis that the Licensee enacts a physical

head count if the system is not operational for any reason. In relation to the second contested condition, the First Intervener maintained the submissions made in the intervention, particularly noting the Applicant's submissions in its PIA that it will provide a comprehensive food and beverage service during all functions and events.

### Determination

30. In my view, there are several clear public interest matters associated with the granting of this application. First, the proposed premises will offer a distinctive on-water hospitality feature, acknowledged by the Chief Executive Officer of the Tourism Council Western Australia as a unique proposal that "will provide a new tourism attraction for the Perth CBD."
31. Further, Mr Jacob, who submitted that he was briefed on the proposal in his former role as Minister for the Environment, stated that the "opportunity to showcase our city from the Swan River on a barge such as that proposed by Barge Co, will provide an innovative experience which I believe will be welcomed by Western Australians, as well as inbound tourists."
32. When considering the public interest for the purposes of the Act, I must take into account matters that are relevant to the primary and secondary objects of the Act as prescribed in s 5 of the Act. In this regard, the primary objects of the Act are to:
- (a) regulate the sale, supply and consumption of liquor (s 5(1)(a) of the Act); and
  - (b) minimise harm caused to people, or any group of people, due to the use of liquor (s 5 (1)(b) of the Act); and
  - (c) 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 (s 5(1)(c) of the Act).
33. The secondary objects of the Act are to:
- (a) 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 (s 5(2)(a) of the Act);
  - (b) provide adequate controls over, and over the persons, directly or indirectly involved in the sale, disposal and consumption of liquor (s 5(2)(d) of the Act); and
  - (c) to provide a flexible system, with little formality or technicality as may be practicable, for the administration of the Act (s 5(2)(e) of the Act).
34. While the provisions of the Act place an evidentiary onus on the Applicant to establish that the grant of the licence is in the public interest<sup>1</sup> and advances the objects of the Act, Interveners carry no onus to establish their assertions of fact or opinion.<sup>2</sup>

<sup>1</sup> *Liquor Control Act 1988* (WA): s 38(2).

<sup>2</sup> *Re Gull Liquor, Gingers' Roadhouse Upper Swan* (1999) 20 SR (WA) 321, 323 (Greaves J).

35. In my view, the grant of the application will advance the primary object of the Act relating to catering to the requirements of consumers for liquor and related services and also the secondary object that relates to facilitating the use and development of licensed premises, reflecting the diversity of the requirements of consumers in the State.
36. Notwithstanding this, the impact of the proposed premises on the amenity of the locality in which the proposed premises is to be situated is also a relevant matter when determining whether the grant of the application is in the public interest. Further, the minimisation of harm or ill-health to people, or any group of people, due to the use of liquor, is a primary object of the Act.
37. Therefore, for all the reasons outlined by the parties, I accept the high-risk characteristics of the proposed premises in terms of harm and ill-health, particularly concerns regarding the number of patrons, proximity and access to submergible bodies of water, being the river, ocean, or on-board swimming pool.
38. However, I consider that the Applicant has been very proactive in its proposed trading conditions and in accepting most of the conditions recommended by the Interveners.
39. Accordingly, it is my view that, subject to:
- (a) the trading conditions volunteered by the Applicant; and
  - (b) relevant trading conditions consistent with those outlined in the interventions,
- the proposed premises will operate in a manner that advances object 5(1)(b) of the Act and will be in the public interest
40. Section 37(1)(f)(i) of the Act also provides that the standard of the proposed premises is also a matter of consideration, specifying that an application for the grant of a licence shall not be granted unless the licensing authority is satisfied that the premises to which the application relates is of a sufficient standard and suitable for the proper conduct of the business to be carried on there.
41. On 21 April 2017, following an assessment of the plans and specifications lodged in support of the application, an Inspector of Licensed Premises forwarded a Schedule of Requirements to the Applicant outlining a number of specified requirements that were considered necessary for the proposed premises to be of a sufficient standard and suitable for the proper conduct of the business to be carried on there. The Schedule specified that the following noise conditions may apply to the licence (if granted):
- (a) For bar and restaurant days using in-house PA, any music or entertainment is to be low level live music or low amplification pre-recorded music, allowing normal levels of conversation to be heard.
  - (b) For all other proposed event types other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 85dB at all times.
  - (c) At 10 p.m. the music would only be played inside the seated area with windows and doors closed.

- (d) For event types which require higher noise levels such as concert events and PA other than the in-house PA, the management would need to apply for approval *Environmental Protection (Noise) Regulations 1997* (the Noise Regulations)<sup>3</sup>.
42. The Inspector's recommendation was based on the Applicant's own *Noise Management Plan*, which was prepared by Lloyd George Acoustics Pty Ltd and lodged in support of the application. The Noise Management Plan found that when the proposed on-board PA system would be in use, compliance with the assigned levels under the Noise Regulations would be achievable at sound levels of up to 85 dB(A) up until 10 p.m. After this time, compliance may be achieved if the music level is reduced, the wind is blowing from the south or if the external speakers are turned off and the music is played inside of the seated area with the windows and doors shut.
43. The Noise Management Plan further held that when holding events where bands play at 100 dB(A) the proposed premises will not achieve compliance and a special approval under regulation 18 of the Noise Regulations would therefore be sought.
44. Under the heading "Management of Noise Emissions", the Noise Management Plan recommended management measures to ensure that the noise from the event space is effectively managed, including that:
- (a) the on-board PA system installed on the barge will be designed to limit the spill outside of the barge as far as practicable;
  - (b) sub-base speakers will be built into plant boxes to reduce noise spill and will be individually controlled;
  - (c) the noise levels within the venue will be controlled by the use of sound limiters;
  - (d) for the Swan River location, music volume will be limited to 85 dB(A) up to 10 p.m. After this time the music volume will be reduced to a level of 80 dB(A);
  - (e) for the Port Beach location, external music will be limited to 85 dB(A) up to 10 p.m. After this time, the external on-board speakers will be limited to 80 dB(A), unless favourable wind conditions are occurring; and
  - (f) for the Coogee location, external music will be limited to 85 dB(A) at all times unless favourable wind conditions are occurring.
45. In response to the Schedule of Requirements, the Applicant submitted that:
- (a) the proposed noise conditions seemed extreme;
  - (b) requiring external speakers to be turned off while at Perth after 10 p.m., would effectively remove the Applicant's ability to employ other means of control, such as turning the music down to a lower level and will make the venue unviable as an outdoor open-air venue; and

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<sup>3</sup> These provisions of the *Environmental Protection (Noise) Regulations 1997* deal with approvals to allow the emission of noise to exceed or vary from the standard, in connection with approved sporting, cultural and entertainment events.

- (c) the proposed condition would mean that even if a theatre or orchestra was performing on deck the speakers could not be used after 10 p.m., regardless of whether the noise levels coming from the P.A system was exceeding compliance levels or not.
46. As an alternative, the Applicant proposed that after 10 p.m. for all proposed event types (including bar and restaurant days), other than Concert events (which would be subject to separate approvals pursuant to the Noise Regulations), noise levels within the venue using the in-house PA would to be controlled by the use of sound limiters set to a level of 80dB, along with the closing of relevant land-facing windows and doors.
47. The Applicant's justification for this proposal is found in the model drawings included within the Noise Management Plan, which show a blue line for compliance with the Noise Regulations, with the model drawings illustrating that the blue compliance line for Perth Water does not contain any residence, building or business at all, regardless of wind direction and therefore if the music is played at 80db(A), the Applicant will comply with the regulations after 10 p.m.
48. The Applicant further requested that an additional condition be included on the licence permitting the conditions relating to noise to be reviewed once live testing has occurred, which would provide the Applicant with the opportunity to record real world conditions, P.A output levels and wind scenarios to demonstrate compliance with the Noise regulations.
49. As this is an application for the conditional grant of a tavern restricted licence, pursuant to the provisions of s 62A of the Act without a certificate of local planning authority, I am conscious of the fact that the proposal has not yet been approved as complying with the written requirements relating to planning in the three specified localities for the positioning of the barge.
50. Similarly, I am also conscious that the conditional grant of this application precedes all requisite approvals by other government agencies or authorities, who deal with matters outside of the jurisdiction of the licensing authority, under differing Acts and regulations. Accordingly, this determination should not be perceived as pre-empting any of those approvals or determinations.
51. Therefore, while I am prepared to exercise my discretion in favour of the Applicant's alternative submissions regarding its proposed compliance with the Noise Regulations, which I consider to be consistent with the conclusions drawn in the Noise Management Plan, the Applicant is advised that any noise conditions imposed on the licence as a result of this determination, will be varied, should the relevant condition of any planning or equivalent approval, be more restrictive than those proposed by the Applicant in these proceedings.
52. In terms of its proposed real-world testing of the noise conditions, I consider that it is open to the Applicant to lodge further submissions on its proposed compliance with the Noise Regulations for consideration by the licensing authority prior to the confirmation of the conditional grant, without a corresponding condition having to be imposed on the licence to authorise this process.

53. Finally, the Applicant should be prepared to establish that its proposal complies with all relevant laws and approvals.
54. Therefore, after consideration of all the information provided by the parties, I am satisfied that the Applicant has complied with all the necessary statutory criteria requirements and conditions precedent to the application being conditionally granted and that the conditional grant of the application is in the public interest.
55. Accordingly, the licence is conditionally granted, subject to the following conditions:
- (a) submission of an unconditional s 39 Certificate or equivalent upon completion of the construction and fit out from the appropriate local government authority;
  - (b) submission of a copy of the development approval from the Department of Parks and Wildlife permitting the use of the vessel for the purposes of a liquor licence;
  - (c) submission of a copy of the Certificate of Operation from the Department of Transport (Australian Maritime Safety Authority) permitting the use of the vessel within the areas of Port Beach and Port Coogee for the purposes of a liquor licence;
  - (d) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements, unless varied by this determination, being satisfactorily completed and the Director being notified, in writing, at least 21 days prior to Applicant wishing to trade under the licence;
  - (e) imposition of the number of persons specified in the Certificate of Survey or the Certificate of Operation (which ever applies) as a maximum accommodation number on the licence;
  - (f) submission of a copy of the Certificate of Survey from the Department of Transport (Australian Maritime Safety Authority) on completion of construction and fit out, for both the barge and pontoon;
  - (g) submission of a copy of the berthing permit for the Swan river location from the appropriate authority allowing points of transfer (ferry services) of passengers to and from the Barge;
  - (h) submission of a copy of the berthing permit from the appropriate authority for the Port Beach and Coogee Beach locations allowing points of transfer (ferry services) of passengers to and from the Barge;
  - (i) submission of a copy of the relevant approvals for the swimming pool from the Department of Health under the provisions of the *Health (Aquatic Facilities) Regulations 2007*;
  - (j) submission of a copy of the Mooring permit for the proposed location of the Barge within the Swan River from the Department of Transport;
  - (k) written confirmation that sub-bass speakers have been built into plant boxes to reduce noise spill, as specified in the Noise Management Plan prepared by Lloyd George Acoustics;

- (l) all work being completed within 12 months in accordance with the plans and specifications dated 8 February 2017;
  - (m) a final inspection by an Inspector of Licensed Premises, prior to the issue of the licence to ensure compliance of the completed fit out and plans submitted meet the requirements of the Director; and
  - (n) the Applicant seeking confirmation of the grant on or before 30 October 2018, pursuant to s 62(4)(c) of the Act.
56. On confirmation of the conditional grant, the following trading conditions will be imposed on the issue of the licence:
- (a) Trading hours:
    - (i) The permitted trading hours are those prescribed in s 98(1) of the Act for a hotel licence.
  - (b) Trading conditions:
    - (i) The licensee is authorised to sell and supply liquor in accordance with the provisions of s 41 of the Act as it relates to a tavern restricted licence.
    - (ii) During the permitted trading hours specified above, the licensee is authorised to sell and supply liquor for consumption on the licensed premises.
    - (iii) The sale of packaged liquor for consumption off the licensed premises is prohibited.
    - (iv) Food must be available during trading hours.
    - (v) Fifty per cent of the proposed patron floor place (excluding kitchen, back of house areas and public toilets) shall be set up with tables and chairs at all times that the premises is open.
    - (vi) The licensee shall not promote, advertise or employ incentives which encourage the excessive consumption of liquor by virtue of their 'emotive' titles such as (but not exclusive to) 'laybacks', 'shooters', 'slammers', 'test tubes' and 'blasters'.
    - (vii) The licensee is to provide a reasonable range of non-alcoholic and low-alcohol liquor products during all trading hours.
    - (viii) Liquor may not be served in containers with a measurement capacity exceeding 750ml.
    - (ix) The Licensee must operate an RFID (Radio Frequency Identification Device) system and must record patron numbers aboard the licensed premises and transfer vessels. If the RFID system is not operational at any time (e.g. due to technical issues), then the Licensee must ensure that a head count is conducted after all guests/patrons embark the vessel/s and after disembarking the vessel/s to ensure all persons are accounted for, consistent with the Director's *Charter Boats* policy.

- (x) Crowd Controllers licensed under the *Security and Related Activities (Control) Act 1996*, must be on duty from 8 p.m. on Friday and Saturday only, until 30 minutes after close of trade. A ratio of two crowd controllers for the first 100 patrons and one crowd controller for each additional 100 patrons or part thereof must be on duty.
  - (xi) A video surveillance system must be in place and operational. The system must comply with the minimum requirements identified and be maintained in accordance with the Director's *Safety and Security at Licensed Premises* policy.
  - (xii) The perimeter of the vessel and adjacent pontoon are required to have a fixed, permanent, physical barrier at all times.
  - (xiii) Lifeguards are required to be employed at all times the premises is open to the public at a ratio of two lifeguards for the first 200 patrons; three lifeguards for 201 to 400 patrons and five lifeguards for 401 to 600 patrons.
  - (xiv) A lifeguard is required to be on duty at all times the pool is in use.
  - (xv) Glassware is not permitted in the swimming pool.
  - (xvi) Patrons are not permitted to swim off the barge or adjacent pontoon in the river or ocean at any time.
  - (xvii) Private vessels are not permitted to moor against Bargo Co or the adjacent landing platform.
  - (xviii) All of the Licensee's staff are to be trained in the Responsible Service of Alcohol, regardless of whether or not they are involved in the sale or serving of alcohol, including security personnel, lifeguards, people selling tickets for boarding the ferries and staff operating the ferry boats.
  - (xix) The Licensee is to provide notice to Water Police and the Liquor Enforcement Unit at least 48 hours prior to the premises being relocated to one of the three moorings.
- (c) Noise Conditions:
- (i) Swan River location:
    - (1) For all proposed event types (including bar and restaurant days) other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 85dB up to 10 p.m.
    - (2) After 10 p.m. for all proposed event types (including bar and restaurant days) other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 80dB, along with the closing of the south facing windows and doors.
    - (3) For event types which require higher noise levels such as Concert events using a PA other than the in-house PA, the Licensee should seek

specific approval pursuant to regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.

- (ii) Port Beach location:
  - (1) Whilst located at Port beach the barge is to be set a minimum of 500 metres (as per the acoustics report) off the beach.
  - (2) For all proposed event types (including bar and restaurant days) other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 85dB up to 10 p.m.
  - (3) After 10 p.m. for all proposed event types (including bar and restaurant days) other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 80dB, along with the closing of the south facing windows and doors.
  - (4) For event types which require higher noise levels such as Concert events and PA other than the in-house PA, the Licensee should seek specific approval pursuant to regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.
- (iii) Coogee Beach location:
  - (1) Whilst located at the location of Coogee beach the barge is to be set a minimum of 500 metres (as per the acoustics report) off the beach.
  - (2) For all proposed event types (including bar and restaurant days) other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 85dB up to 10 p.m.
  - (3) After 10 p.m. for all proposed event types (including bar and restaurant days) other than Concert events, noise levels within the venue using the in-house PA are to be controlled by the use of sound limiters set to a level of 80dB(A).
  - (4) For event types which require higher noise levels such as Concert events and PA other than the in-house PA, the Licensee should seek specific approval pursuant to regulation 18 of the *Environmental Protection (Noise) Regulations 1997*.
- (d) Dress Standards - Outlaw Motorcycle Gangs:
  - (i) The following dress standard applies during the permitted trading hours:
    - (1) Jackets or any other clothing or accessory, or any clearly visible body marking, bearing patches or insignia of any Outlaw Motor Cycle Gangs not limited to, but including, the following listed Outlaw Motor Cycle Gangs, are not permitted to be worn or to be visible on the licensed premises:

- Coffin Cheaters;
  - Club Deroes;
  - Gods Garbage;
  - Gypsy Jokers;
  - Outlaws;
  - Finks;
  - Rebels;
  - Comancheroes;
  - Hell's Angels;
  - Rock Machine;
  - Mongols;
  - Lone Wolf;
  - Bandidos; and
  - Brothers 4 Life.
- (ii) A notice is to be displayed at all entrances to the licensed area/event reflecting this condition.
- (e) Entertainment Condition:
- (i) A person resorting to, or on the premises, including the licensee or manager, or an employee or agent of the licensee or manager, shall not:
- (1) be immodestly or indecently dressed on the licensed premises; and/or
  - (2) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (ii) The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from:
- (1) exhibiting or showing, or causing, suffering or permitting to be exhibited or shown, on the licensed premises any "R 18+", "X 18+" or "RC" classified film or computer game or "Category 1 – Restricted" or "Category 2 – Restricted" publication, or extract therefrom; or
  - (2) causing, suffering or permitting any person employed, engaged or otherwise contracted to undertake any activity or perform any entertainment on the licensed premises to be immodestly or indecently dressed on the licensed premises; or
  - (3) causing, suffering or permitting any person to take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.
- (iii) In this condition "licensed premises" includes any premises, place or area:
- (1) which is appurtenant to the licensed premises; or
  - (2) in respect of which an extended trading permit granted to the licensee is for the time being in force,

but does not include any part of the premises which is reserved for the private use of the licensee, manager or employees of the licensee and to which the public does not have access.

(f) Compliance with Harm Minimisation Policy:

- (iv) 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.

57. Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
58. The Applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.
59. Parties to this matter dissatisfied with the outcome may seek a review of the Decision under s 25 of the Act. The application for review must be lodged with the Liquor Commission within one month after the date upon which the parties receive notice of this Decision.
60. This matter has been determined by me under delegation pursuant to s 15 of the Act.



DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING