

DECISION OF DIRECTOR OF LIQUOR LICENSING

APPLICANT: RIVERBRIDGE HOSPITALITY PTY LTD
PREMISES: RIVERBRIDGE BAR
PREMISES ADDRESS: ROGER MACKAY DRIVE, BURSWOOD
APPLICATION ID: A000204234
NATURE OF APPLICATION: CONDITIONAL GRANT OF A TAVERN LICENCE
DATE OF DETERMINATION: 12 SEPTEMBER 2016

Introduction

- 1 This is an application by Riverbridge Hospitality Pty Ltd (the applicant) for the conditional grant of a tavern licence for premises to be known as the Riverbridge Bar and located at Roger Mackay Drive, Burswood. The application is made pursuant to ss 41 and 62 of the *Liquor Control Act 1988* (the Act).
- 2 There were no objections to the grant of the application; however, pursuant to s 69 of the Act, notices of intervention were lodged by the Executive Director Public Health (EDPH) and the Commissioner of Police (Commissioner). The purpose of the interventions was to make representations regarding the harm and ill-health concerns based on the high-risk characteristics associated with the operation of tavern licences. The interveners recommended that, if the application is granted, conditions to mitigate those risks be imposed in the licence.
- 3 Pursuant to ss 13 and 16 of the Act, the application will be determined on the written material lodged by the parties.

Reasons for determination

- 4 The proposed tavern is to be located adjacent to the Swan River pedestrian bridge and Perth Stadium. Both the venue and the Stadium will be located within a proposed sports entertainment Precinct which will be established around the Stadium on the Burswood Peninsula. The proposed tavern will include the following facilities:
 - microbrewery;
 - indoor bar and dining areas;
 - outdoor bar and dining areas;
 - function and event areas; and
 - cafe facilities.

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- 5 It was submitted by the applicant that due to the venue's location within the Precinct adjacent to the Stadium, it will become a destination venue with patrons falling into one of the following categories:
- patrons who utilise the services provided by the venue in conjunction with their attendance at the Stadium on event days;
 - patrons who utilise the hospitality services provided by the venue in conjunction with their use of the Precinct; and
 - patrons who are attracted to the venue due to its location and range of services provided.
- 6 The applicant lodged a detailed Public Interest Assessment (PIA) to support its application. The PIA provided information on the applicant's proposed manner of trade, background and expertise of the company directors, safety and security initiatives to be implemented, the applicant's harm minimisation strategies and addressed the matters set out in s 38(4) of the Act.
- 7 In view of the evidence and submissions that it lodged, the applicant submitted that it is in the public interest for the application to be granted as:
- the granting of the application will provide diversity of the services in the locality and be an attraction within the Precinct drawing visitors to the area, supporting the activation of the Precinct, the Peninsula and the City of Perth;
 - the application is in line with the visions of Tourism WA, generating activity in the Precinct and adding to the attractions and services available to those visiting Perth;
 - the granting of the application will enhance the amenity of the Precinct and the City of Perth in general;
 - the grant will not result in any anti-social behaviour, noise or disturbance through the operation of the venue with the applicant strictly enforcing its Management Plan for the venue; and
 - there will be no adverse impact upon the amenity of the locality with the granting of the Application. Conversely, the granting of the application directly supports the objectives of the State Government and planning authorities with respect to the activation of the Precinct and Peninsula.
- 8 Pursuant to s 38(2) of the Act, an applicant for the grant of a tavern licence must satisfy the licensing authority that the grant of the application is in the public interest. There is a positive onus on an applicant to discharge this burden.
- 9 In determining whether the grant of an application is 'in the public interest' I am required to exercise a discretionary value judgment confined only by the scope and

purpose of the Act (refer *Water Conservation and Irrigation Commission (NSW) v Browning* (1947) 74 CLR 492; *O'Sullivan v Farrer* (1989) 168 CLR 210; *Palace Securities Pty Ltd v Director of Liquor Licensing* [1992] 7WAR 241; and *Re Minister for Resources: ex parte Cazaly Iron Pty Ltd* (2007) WASCA 175).

10 The factual matters which I am bound to take into account, in determining whether the grant of the application is 'in the public interest', are the primary objects of the Act set out in s 5(1) and the secondary objects of the Act set out in s 5(2).

11 Relevantly, the primary objects include:

...to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, tourism industry and other hospitality industries in the State.

12 I have considered the applicant's evidence and submissions and I find that the grant of the application would be consistent with the above primary object of the Act. In weighing and balancing the competing interests in this application, I am satisfied that the positive benefits to the community from the grant of the application outweigh any potential risks. I therefore find that the applicant has discharged its onus under s 38(2) of the Act and the grant of the application is in the public interest.

13 In consultation with the police, the applicant has suggested a number of conditions for inclusion on the licence in order to ensure the premises operate in a manner consistent with good order and propriety. I believe these conditions will satisfactorily address the concerns raised by the EDPH and the Commissioner in their respective interventions.

14 Consequently, I am satisfied the applicant has complied with all of the statutory requirements and conditions precedent to the application being granted, and a tavern licence is conditionally granted to the applicant subject to the following:

- (a) a Certificate under s 39 of the Act being lodged before the operation of the licence;
- (b) compliance with the *Local Government Act 1960*, *Health Act 1911* and any written law relating to the sewerage and drainage of these premises;
- (c) all work being completed within 12 months in accordance with the plans and specifications dated 18 July 2016
- (d) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements being satisfactorily completed and the Director of Liquor Licensing being notified in writing at least 21 days prior to applicant wishing to trade under the licence;
- (e) a maximum occupancy certificate from the Town of Victoria Park, which will be used to assign maximum patron numbers for each respective area of the premises.

- (f) a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed; and
- (g) the applicant seeking confirmation of the grant on or before 11 September 2017 pursuant to s 62(4)(c) of the Act.

Conditions to be imposed on the issue of the licence

On confirmation of the conditional grant, the following conditions will be imposed on the licence:

TRADING HOURS

The permitted trading hours are those prescribed in s 98(1) of the Act for a hotel licence.

TRADING CONDITIONS

- 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 licence.
- **PACKAGED LIQUOR:** Packaged liquor for consumption off the premises may only be sold to a liquor merchant or other person authorised by law to sell liquor.
- **DINING:** Hot food must be available for patrons at all times during trading hours.
- **CCTV:** The licensee is to have and maintain a CCTV system in accordance with the policies of the Director of Liquor Licensing. Specifically, the video surveillance system must –
 - comply with the “Minimum standards – Closed Circuit Television (CCTV) security System” policy as amended;
 - record continuous images on any day that the venue trades from the commencement of trade until 1 hour after trading ceases; and
 - retain recorded images for a period of twenty eight (28) days available for viewing or removal upon reasonable request by police or other persons authorised by the Director.
- **MAXIMUM CAPACITY:** The maximum number of patrons permitted on the licensed premises at any one time shall not exceed 2,500 or such lesser number imposed by the local government authority.
- **MINIMUM SEATING:** Seating is to be provided for a minimum of 650 patrons at all times.
- **RESPONSIBLE DRINK PRACTICES:** The licensee is prohibited from selling or supplying liquor in the following circumstances:

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- “shots” or “shooters” defined as unadulterated spirits or liqueur served in a container with a volume of 60ml or less;
 - “laybacks” defined as the supply of liquor by an employee of the licensee directly into the mouth of a person;
 - “test tubes” defined as liquor served in a test tube;
 - “jelly shots” defined as liquor infused with jelly; or
 - any drink containing liquor that is marketed under a title that would likely to encourage rapid consumption, including but not limited to the titles “shots”, “shooter”, “blaster”, or “bomb”.
- NON-ALCOHOLIC AND LOW ALCOHOL DRINKS: Drink options that contain low alcohol liquor content as well as a range of non-alcoholic drink options must be available at all times.
 - SECURITY: For the purposes of this condition –
 - i. “Security Officer” means a Crowd Control Officer or an Approved Manager.
 - ii. “Crowd Control Officer” means a crowd control officer licensed under the security and Related Activities Act (Control) Act 1996.
 - iii. “Approved Manager” means an approved manager employed by the licensee who is –
 - 1 exempt under the security and Related Activities (Control) Regulations 1996;
 - 2 easily identifiable by way of increased visibility attire; and
 - 3 exclusively performing duties involving the monitoring of patron behaviour and the responsible service of liquor.
 - iv. “Event” means an event held at the Perth Stadium which is expected to be attended by more than 20,000 persons;
 - v. “Event Day” means a day on which an Event is held at the Perth Stadium;
 - vi. “Non-Event Day” means a day upon which no event is held at the Perth Stadium.
 - (a) Security Officers must be present and on duty on the licensed premises at a ratio of no less than one Security Officer per 150 patrons on days that the licensed premises are open for trade during the following times –
 - i. Event Days: From one (1) hour before the advertised commencement time of the Event until one(1) hour after the conclusion of the event; and

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- ii. Non-Event days which fall on a Friday or Saturday: From 8 p.m. (or the time of opening the premises if after 8 p.m.) until 30 minutes after closing of the premises.
- (b) No less than fifty per cent (50%) of Security Officers are to be comprised by crowd control Officers at all times that this condition applies.
- (c) The licensee shall maintain a current roster of Security officers and will make such roster available for inspection upon reasonable request of an authorised officer.
- APPROVED MANAGERS: On Non-Event days which fall on a Sunday the licensee will ensure that at least two Security Officers (as defined above) are present and on duty on the licensed premises from 5 p.m. (or the time of opening the premises if after 5 p.m.) until 30 minutes after closing of the premises.
 - OUTLAW MOTOR CYCLE GANGS: The licensee is prohibited from causing, suffering or permitting any person to enter and remain on the licensed premises wearing a jacket or any other clothing or accessory, or any clearly visible body marking, bearing the patch or insignia of any Outlaw Motor Cycle Gangs not limited to, but including, the following:
 - (i) Coffin Cheaters;
 - (ii) Club Deroes;
 - (iii) Gods Garbage;
 - (iv) Gypsy Jokers;
 - (iii) Outlaws;
 - (iv) Finks;
 - (v) Rebels;
 - (vi) Comancheroes;
 - (ix) Hell's Angels;
 - (x) Rock Machine;
 - (xi) Mongols;
 - (xii) Sphinx; and
 - (xiii) Lone Wolf.

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

- ENTERTAINMENT CONDITION

(a) 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:

(i) be immodestly or indecently dressed on the licensed premises, and/or

(ii) take part in, undertake or perform any activity or entertainment on the licensed premises in a lewd or indecent manner.

(b) The licensee or manager, or an employee or agent of the licensee or manager, is prohibited from:

(i) exhibiting or showing, or causing, suffering or permitting to be exhibited or shown, on the licensed premises any classified "R 18+", "X 18+" or "RC" classified publication, film or computer game or "Category 1 – Restricted" or "Category 2 – Restricted" publication, extract therefrom; or

(ii) 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

(iii) 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.

(c) In this condition "licensed premises" includes any premises, place or area:

(i) which is appurtenant to the licensed premises; or

(ii) 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.

- COMPLIANCE WITH HARM MINIMISATION POLICY

The licensee is to have a 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.

- APPROVAL UNDER S 104

The application for Approval of Arrangement or Agreement dated 1 August 2016 is approved.

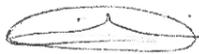
- GENERAL

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

(2) The applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.

15 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.

16 This matter has been determined by me under delegation pursuant to s 15 of the Act.



Peter Minchin
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING