

Liquor Commission of Western Australia
(Liquor Control Act 1988)

Applicant: Mr Walter Lenz

Intervener: Director of Liquor Licensing
(represented by Ms Anna Johnson of State Solicitor's Office)

Commission: Mr Jim Freemantle (Chairperson)
Mr Seamus Rafferty (Deputy Chairperson)
Mr Eddie Watling (Member)

Date of Hearing: 27 June 2012

Date of Determination: 27 June 2012

Date of Reasons Published: 6 August 2012

Premises: Last Drop Beeliar, Lot 6, Hammond Road,
Cockburn Central

Matter: Application for review of decision of the Director
of Liquor Licensing pursuant to section 25 of the
Liquor Control Act 1988

Determination: Application is refused

- 1 By way of an application dated 21 March 2012, Mr Walter Lenz (“the applicant”) seeks review of a decision made by the Director of Liquor Licensing (“the Director”) refusing an application to vary a condition of the tavern restricted licence for the premises known as “Last Drop Beeliar”.

- 2 The history to the application is as follows, namely:
 - a) On 25 February 2011 the applicant lodged an application for a tavern licence for the premises known as “Last Drop Beeliar” situated at Lot 6, Hammond Road, Cockburn Central;

 - b) On 4 October 2011 the Director made a conditional grant of a tavern restricted licence including a condition, *inter alia*, that the sale of packaged liquor was prohibited;

 - c) On 26 March 2012 the applicant lodged an application with the Director to vary a condition of the licence to allow the sale of packaged liquor;

 - d) On 19 April 2012 the director refused that application on the basis that it would contravene sections 62(8) and 64(1) of the *Liquor Control Act 1988* (“the Act”).

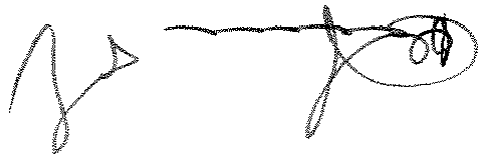
- 3 It is the decision of the Director of 19 April 2012 upon which review is sought.

- 4 In regard to section 64(1) of the Act, in considering the application to vary the conditions of a licence, the Liquor Commission (“the Commission”) must have regard to the tenor of the licence. The term tenor is not defined in the Act and is to be given its ordinary meaning. The tenor of the licence granted to Mr Lenz was a tavern restricted licence which included a condition prohibiting the sale of packaged liquor.

5 In essence, were this application to be granted, the commission would effectively be changing the very nature of the licence granted to Mr Lenz and would be ignoring the tenor of the licence originally granted to the applicant. That would contravene the requirement of section 64(1) of the Act.

6 Accordingly, the application for review of the decision of the Director is refused.

7 However, given the unusual circumstances which led to the withdrawal (in November 2011) of the application to review the original decision and the subsequent lodgment of the current application with the Commission, the applicant is granted leave to lodge an out of time application to seek a review of the decision made by the Director on 4 October 2011.



MR JIM FREEMANTLE
CHAIRPERSON