



ANNUAL REPORT ON THE ACTIVITIES OF THE LIQUOR COMMISSION



For the Year Ended 30 June 2007

HON LJILJANNA RAVLICH MLC
MINISTER FOR RACING AND GAMING

In accordance with section 9K of the *Liquor Control Act 1988*, I am pleased present, for your information and presentation to Parliament, the inaugural Annual Report on the activities of the Liquor Commission for the financial year ended 30 June 2007.

The Annual Report has been prepared in accordance with the provisions of section 9K(2) of the *Liquor Control Act 1988*.



J Freemantle
Chairman

12 September 2007

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Overview of the Liquor Commission

In May of 2007, the State Government Introduced reforms to the State's liquor licensing legislation. One of the major changes to the *Liquor Control Act 1988* has been replacing the Liquor Licensing Court with a Liquor Commission.

A key aspect of the change is the way in which proceedings will be heard by the Commission, as parties seeking a review of a decision of the Director of Liquor Licensing will no longer be able to consider the running of their application before the Director as a "trial run" or "free hit" in order to gain a favourable outcome at the hands of a higher authority.

This is as a result of changes to section 25 of the Act, which prevent parties from refining or amending their application or objection in order to address those areas that proved unsuccessful in proceedings before the Director. In this respect 25(2c) now provides that when "...conducting a review of a decision made by the Director, the Commission may have regard only to the material that was before the Director when making the decision."

Members of the Liquor Commission met on 30 March 2007, 26 April 2007 and 29 June 2007 to —

- develop a voluntary 'Code of Conduct' to promote good practice;
- approve the drafting of the *Liquor Commission Rules 2007*, to:
 - regulate the practice and procedure of the Commission and matters that are related; and
 - establish costs and charges payable in relation to the Commission's proceedings; and
- approve the development of a corporate identity for the Liquor Commission, consisting of a logo, stationery suite and a website; and
- consider preliminary matters and determine the constitution of the Commission for the listing and hearing of two section 95 complaints referred for the Commission's determination.

On 24 May 2007, two complaints by the Director of Liquor Licensing, pursuant to the provisions of section 95 of the *Liquor Control Act 1988* were referred for determination by the Liquor Commission, under the transitional provisions in Schedule 1A 5 (4) of the Act. Although originally filed with the Liquor Licensing Court, the hearing and determination of these matters had not commenced prior to 7 May 2007 and are therefore to be dealt with in accordance with the relevant provisions of the *Liquor Control Act 1988* as amended on 7 May 2007.

It is the role of the Liquor Commission to:

- determine liquor licensing matters referred to it by the Director of Liquor Licensing;
- determine any question of law arising from an application referred to it by the Director;
- conduct reviews of certain decisions made by the Director;
- determine complaints and disciplinary matters in accordance with section 95 of the *Liquor Control Act 1988*; and
- award costs associated with matters before the Commission.

Section 9B of the *Liquor Control Act 1988* provides that —

- a person may be appointed as a member of the Liquor Commission, if in the opinion of the Minister, the person has knowledge or experience relevant to the functions of the Commission; and
- the Minister is to ensure that at least one member of the Liquor Commission is a legal practitioner.

The term of appointment to the Liquor Commission is to be no longer than 5 years. However, members are eligible for reappointment.

The following persons were appointed as inaugural members of the Liquor Commission for a five year term commencing on 7 May 2007:

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|----------------------|-------------|
| • Mr Jim Freemantle | Chairperson |
| • Ms Helen Cogan | Member |
| • Ms Deidre Willmott | Member |
| • Ms Diana Warnock | Member |
| • Mr Edward Watling | Member |

Mr Freemantle was the chairperson of the committee appointed by the Government in 2004 to review the Liquor Licensing Act. He is a former deputy chairman of Good Samaritan Industries Board and is deputy chairman of Racing and Wagering WA, chairman of the Racing and Wagering Western Australia Integrity Assurance Committee and a member of the Swan River Trust. Mr Freemantle is also a former vice president of the Western Australian Chamber of Commerce and Industry, and formally held the position of Chief Executive of the Home Building Society.

Ms Cogan is a legal practitioner recently retired from the State Solicitor's Office where she held the position of Senior Assistant State Solicitor. Ms Cogan is also a member of the Gaming and Wagering Commission of Western Australia. She was employed with the State Solicitor's Office over the period 1993 - 2005. Prior to her employment with the State Solicitor's Office, Ms Cogan worked for various private and public legal organisations within Australia and overseas.

Ms Willmott is a legal practitioner and is the Executive Director, Policy, for the Chamber of Commerce and Industry of Western Australia. She has over ten years experience in high level public service positions including appointments as the Assistant Director General, Legal, Ministry of the Premier and Cabinet and General Counsel, Ministry of the Premier and Cabinet. Ms Willmott also held the position of General Manager, Executive Services, Commonwealth Games Organising Committee from 2003 to 2006.

Ms Warnock was a member of the Legislative Assembly from 1993, retiring in 2001. She was a prominent newspaper and radio journalist for many years and was a spokesperson for women issues and minority groups. Ms Warnock has served on several boards and committees including the Australian Bicentennial Authority; National Australia Day Committee; and the National Library Board. She is currently on the board of the West Australian Ballet; WA Academy of Performing Arts; Cityvision; the Alliance Francaise of Perth; Curtin University Art Gallery; WA Constitutional Centre; Urban Design Centre; and the Hole in the Wall Theatre.

Mr Watling is a founding partner and Executive Director of the firm Tourism Coordinates, a Perth based company specialising in tourism strategic planning and development. Mr Watling has over 35 years experience in the tourism industry, combining both government and private sector service. In 1984, he was appointed the inaugural General Manager of the Western Australian Tourism Commission (WATC), resigning that office in 1986. Following that, Mr Watling took up a position within the Public Service Commission, where he undertook a range of agency reviews for the Government's Functional Review Committee. Mr Watling has served on several boards and committees including the Indian Ocean Tourism Association; Tourism Council Australia; and the Perth Convention Bureau.

Report on Operations

Section 9K(2) of the *Liquor Control Act 1988* provides that the annual report of the Liquor Commission is to include details of —

- (a) the number, nature and outcome of matters that have come before the Commission;
- (b) the number and nature of matters that are outstanding;
- (c) any trends or special problems that may have emerged;
- (d) forecasts of the workload of the Commission in the year after the year to which the report relates; and
- (e) any proposals for improving the operation of the Commission.

Number, Nature and Outcome of Matters before the Commission

As at 30 June 2007, the following matters had been referred for determination by the Liquor Commission:

- **Complaint by the Director of Liquor Licensing against Red Cee Pty Ltd and White Dee Pty Ltd**

On 24 May 2007 a complaint by the Director of Liquor Licensing against Red Cee Pty Ltd and White Dee Pty Ltd, the licensee of premises known as Club Red Sea and situated at 85 Rokeby Road, Subiaco, pursuant to section 95 of the *Liquor Control Act 1988* was referred for determination by the Liquor Commission under the transitional provisions in Schedule 1A 5 (4) of the Act.

The complaint alleges that proper cause for disciplinary action exists on the following grounds:

1. the respondents have been convicted of an offence under the *Health Act 1911* in relation to the licensed premises: section 95(4)(f)(iii) of the Act;
2. the safety, health or welfare of persons who resort to the licensed premises were endangered by an act or neglect of the respondents: section 95(4)(k) of the Act; and
3. the respondents have been given infringement notices under section 167 of the Act and the modified penalties have been paid in accordance with that section: section 95(4)(fa) of the Act.

This matter was not heard or determined prior to 30 June 2007.

- **Complaint by the Director of Liquor Licensing against Viewtown Pty Ltd**

On 24 May 2007 a complaint by the Director of Liquor Licensing against Viewtown Pty Ltd, the licensee of premises known as the Northside Tavern and situated in Merredin, pursuant to section 95 of the *Liquor Control Act 1988* was referred for determination by the Liquor Commission under the transitional provisions in Schedule 1A 5 (4) of the Act.

The complaint alleges that proper cause for disciplinary action exists on the ground that the licensee has been given infringement notices under section 167 of the *Liquor Control Act 1988* and the modified penalties have been paid: section 95(4)(fa) of the Act.

This matter was not heard or determined prior to 30 June 2007.

Number and Nature of Matters That Are Outstanding

As at 30 June 2007, the following matters were outstanding:

1. Complaint by the Director of Liquor Licensing against Red Cee Pty Ltd and White Dee Pty Ltd; and
2. Complaint by the Director of Liquor Licensing against Viewtown Pty Ltd.

Any Trends of Special Problems that may have Emerged

At this stage in the Commission's operation, members have not identified any special problems in the carrying out their statutory duties.

Forecasts of the Workload for the Commission in the 2007-08 Financial Year

At this stage in the Commission's operation it is not possible to forecast what the Commission's workload will be 2007-08

Any Proposal for Improving the Operation of the Commission

There have been no proposals developed or submitted to the Commission in relation to improving the operation of the Commission.