

**Liquor Commission of Western Australia**  
**(Liquor Control Act 1988)**

**Complainant:** Commissioner of Police  
(represented by Ms Leanne Atkins of WA Police)

**Respondent:** That's Entertainment (WA) Pty Ltd T/A The Clink  
Nightclub  
(represented by Mr Ian Curlewis of Lavan Legal)

**Commission:** Mr Jim Freemantle (Chairperson)

**Matter:** Complaint for disciplinary action pursuant to section  
95 of the *Liquor Control Act 1988*

**Date of Preliminary Hearing:** 14 December 2010

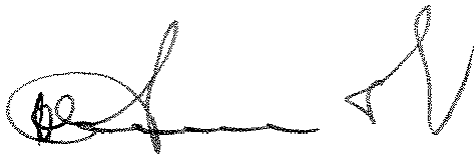
**Date of Determination:** 15 December 2010

**Determination:** The listing of the hearing of the complaint under  
section 95 of the Act against That's Entertainment  
(WA) Pty Ltd will be deferred pending the outcome of  
the proceedings in the Magistrate's Court.

**Reasons for Determination:**

- 1 On 19 October 2010 the Commissioner of Police lodged a complaint pursuant to section 95 of the *Liquor Control Act 1988* ("the Act") against That's Entertainment (WA) Pty Ltd, the licensee of premises known as the Clink Night Club and located at 14-16 South Terrace, Fremantle.
- 2 Mr Ian Curlewis, on behalf of That's Entertainment (WA) Pty Ltd, has sought to defer the hearing of the complaint pending the outcome of a Freedom of Information request lodged with the Police Department and a hearing in the Magistrate's Court where That's Entertainment (WA) Pty Ltd has been charged with offences which form the basis of the complaint lodged by the Commissioner of Police under section 95 of the Act.
- 3 A preliminary hearing to determine Mr Curlewis' request was conducted on 14 December 2010.

- 4 Mr Curlewis and Ms Atkins provided submissions on the listing of the complaint before the Commission for hearing and determination.
- 5 Having considered those submissions, I am of the view that the Freedom of Information request has no bearing on the hearing of the complaint. However, because the Commissioner of Police has commenced simultaneous proceedings against That's Entertainment (WA) Pty Ltd in the Magistrate's Court and before the Commission on essentially the same material it is preferable that the matter before the Magistrate's Court is determined before the Commission hears and determines the complaint under section 95 of the Act.
- 6 Although I accept Ms Atkins' argument that there is nothing in the Act which precludes the course of action taken by the Commissioner of Police and the differences in the jurisdiction of the Magistrate's Court and the Commission, I am nonetheless persuaded that it would be unnecessarily prejudicial to the licensee to have both matters being conducted simultaneously.
- 7 I believe that it is preferable that the Commissioner of Police chooses one course of action rather than commencing simultaneous action in two jurisdictions essentially relying upon the same set of material facts.

A handwritten signature in black ink, appearing to read 'Jim Freemantle', with a horizontal line underneath it.

**JIM FREEMANTLE**  
**CHAIRPERSON**