



Our ref: JIP:1151393
Your ref: PR54385-02

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22 August 2017

Mr Mat Humfrey, Chief Executive Officer
Mr Andrew Jackson, Manager Development Services
Town of Cottesloe
109 Broome Street
COTTESLOE WA 6011
BY Email: council@cottesloe.wa.gov.au

cc:
Client

Dear Mr Humfrey and Mr Jackson

North Cottesloe Surf Life Saving Club Inc – applications for section 39 and 40 certificates

I refer to my letter to the Town of Cottesloe dated 26 July 2017 enclosing applications for certificates pursuant to sections 39 and 40 of the Liquor Control Act 1988 (WA) (**Liquor Act**) in relation to the North Cottesloe Surf Life Saving Club Inc (**Club**) premises.

I also refer to item 10.1.2 of the Agenda for the Town of Cottesloe Agenda Forum, dated 11 August 2017 (**Agenda**) in respect of this matter and the related communications between representatives of the Club and your office last week.

I confirm that Lavan acts for the Club in this matter.

Key relevant background

- 1 In 2013 the Club applied for a club licence under the Liquor Act, to authorise the sale and supply of liquor for consumption both on and off the Club premises, to members and their guests. Prior to that application being determined by the licensing authority, it was withdrawn by the Club.

A full service Western Australian firm:

Asian Investment
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Intellectual Property

Liquor Licensing
Litigation & Dispute Resolution
Media & Defamation
Native Title

Planning & Environment
Private Wealth
Property & Leasing
Wills & Estates

Our values:

Commitment
Integrity

2 Lavan has now been instructed to act for the Club in applying for a club restricted licence, to authorise the sale and supply of liquor for consumption on the Club premises only, to members and their guests. That application is close to being ready to lodge at the licensing authority.

3 Pursuant the Liquor Act:

39. Certificate of local government as to whether premises comply with laws

(1) An application made to the licensing authority for the grant or removal of a licence, or for a change in the use or condition of any premises shall be accompanied by a certificate from the local government for the district in which the premises to which the application relates are situated, or are to be situated, unless the licensing authority otherwise determines.

(2) A certificate referred to in subsection (1) shall state —

(a) whether or not the premises comply with all relevant requirements of —

(i) the Health (Miscellaneous Provisions) Act 1911; and

(ia) the Food Act 2008; and

(ii) any written law applying to the sewerage or drainage of those premises; and

(iii) the Local Government Act 1995; and

(iv) the Building Act 2011; and

(b) where the premises do not so comply, the manner in which the premises could be made to comply or that the premises could not reasonably be made to comply.

40. Certificate of planning authority as to whether use of premises complies with planning laws

(1) An application made to the licensing authority for the grant or removal of a licence, or for a change in the use or condition of any premises must be supported by a certificate from the authority responsible for planning matters in the district in which the premises to which the application relates are situated, or are to be situated, unless the licensing authority otherwise determines.

(2) A certificate referred to in subsection (1) shall state that the proposed use of the premises —

(a) will comply with the requirements of the written laws relating to planning specified; or

(b) would comply with the requirements specified if consent were to be given by a specified authority, if it is known whether that authority will give the consent, and what specified conditions or specifications should be, or are likely to be, imposed; or

(c) will not comply with the requirements specified for the reasons specified.

4 Your office confirmed in the Agenda at page 16 that:

4.1 “The Surf Club has a range of approvals in place and subject to checks appears to be in order for issue of these certificates.”

4.2 “A Club Restricted liquor licence is the appropriate category for local sports clubs generally and appears suitable for the Surf Club. The premises also appear fit for a liquor licence in terms of environmental health and planning compliance.”

5 Notwithstanding, the Officer Recommendation in the Agenda is to refuse to issue the certificates and to date your office has maintained its position in this regard.

Key issues

- 6 The certificates pursuant to ss39 and 40 of the Liquor Act are required to confirm – to the licensing authority – that the proposed licensed premises comply with health, building, zoning and land use requirements.
- 7 The Agenda identifies at page 16 that the reason for the refusal is based on “Council’s **previous** objection and **assuming** a degree of ongoing community concern” (emphasis added).
- 8 Section 39 and 40 certificates do not relate to issues pertaining to so-called “concerns” from residents, or any one else, let alone concerns that are merely assumed and seemingly historic. Nor do section 39 or 40 certificates have any relevance to any issues arising in relation to a valid ground of objection under the Liquor Act.
- 9 The issuance of the certificates is a straightforward administrative exercise whereby certificates confirm compliance of the physical premises with planning and health matters relating to the manner in which the premises of this nature are regulated. In the circumstances of this case, where it has been confirmed that the Club “has a range of approvals in place and subject to checks appears to be in order for issue of these certificates” and that “the premises also appear fit for a liquor licence in terms of environmental health and planning compliance”, then the council is compelled to issue the certificates, unconditionally.
- 10 There is no valid reason for refusing the requested certificates and the council would not be exercising its power properly if it did so given the council’s role in administering the Local Government Act 1995. Under that Act the council has a duty to perform certain functions including ensuring under section 3.21 that lawful use of land is not obstructed. That section also provides that any reasonable request, such as that of the Club, to avoid such obstruction is met.
- 11 The section 39 and 40 certificates, if issued, would not grant approval for the proposed licence. Nor would they represent support from the council for the licence application.
- 12 I note that under the Liquor Act the licensing authority has the power to refuse an application for a licence even where section 39 and 40 certificates have been submitted and equally, to grant a licence where no certificates have been provided.
- 13 The licensing authority must determine whether or not to grant a licence pursuant to the public interest test set out in the Liquor Act.
- 14 In the event that the council or any other party has an issue with the proposed liquor licence application then that party has an opportunity to be heard under the Liquor Act through the proper and usual process in accordance with the Liquor Act.
- 15 Local government regulatory matters are quite separate from the determination of liquor licence applications and relate specifically to the use and operation of land in a health and planning context. The licensing authority is the specialist, expert body, properly empowered under the Liquor Act to deal with matters relevant to the public interest in terms of liquor licensing. Such matters are not within the scope of the local council’s mandate.
- 16 I note that my client is not required to address the Town of Cottesloe Policy - Liquor (Licensed Premises) Policy (review date 17 March 2016), as stated in my letter dated 26 July 2017. Page 2 of that policy very clearly identifies the types of liquor

licences and permits to which the policy applies. Several types of licences and permits provided for in the Liquor Act, including club restricted licences, have been excluded.

- 17 In the light of the paragraphs above, the section 39 and 40 certificates in respect of the Club should be issued unconditionally without further delay.
- 18 In the event that does not happen, my client reserves its rights to take whatever action it deems necessary, which may include seeking from the council the recovery of the costs it incurs.
- 19 The Club and its premises are well known to the council. No physical changes to the premises are proposed in respect of the licence application. Given these facts and the council's obligation to issue the certificates, there was no valid reason for the matter of the certificates to be included in the Agenda and to potentially complicate the liquor licensing process. The licence application will be advertised in accordance with the requirements of the licensing authority. The council and others will then have an appropriate opportunity to participate in the proper manner.

I look forward to receiving the unconditional section 39 and 40 certificates as a matter of urgency, thank you.

Please do not hesitate to contact me with any questions.

Yours sincerely

Jessica Patterson
Partner

Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.



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26 July 2017

Planning Services
Town of Cottesloe
PO Box 606
COTTESLOE WA 6011
By Email: council@cottesloe.wa.gov.au

Applications for section 39 and section 40 certificates – North Cottesloe Surf Life Saving Club

Lavan acts for the North Cottesloe Surf Life Saving Club Inc, applicant for a club restricted licence in respect of premises situated at 151 Marine Parade, Cottesloe.

- 1 The licence application is required to be accompanied by a certificate from the relevant planning and health authority pursuant to section 39 and section 40 of the *Liquor Control Act 1988 (WA)*.
- 2 My client, therefore, seeks an unconditional section 39 and section 40 certificate from the Town of Cottesloe. In support of the application I **enclose** the following:
 - 2.1 Partly completed section 39 certificate, to be completed and signed by your office.
 - 2.2 Partly completed section 40 certificate, to be completed and signed by your office.
 - 2.3 A cheque for \$116.50 being payment of \$66.50 for the section 39 certificate application fee and payment of \$50.00 for the section 40 certificate application fee.
 - 2.4 Floor plan showing the proposed licensed area.
- 3 Liquor is proposed to be sold and supplied for consumption on the premises only.

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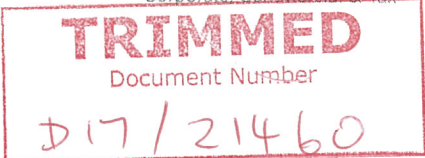
Asian Investment	Employment & Safety
Banking & Finance	Family Law
Construction & Infrastructure	Insolvency & Reconstruction
Corporate, Commercial & Tax	Intellectual Property

Liquor Licensing
Litigation & Dispute Resolution
Media & Defamation
Native Title

Planning & Environment
Private Wealth
Property & Leasing
Wills & Estates

Our values:

Commitment
Integrity

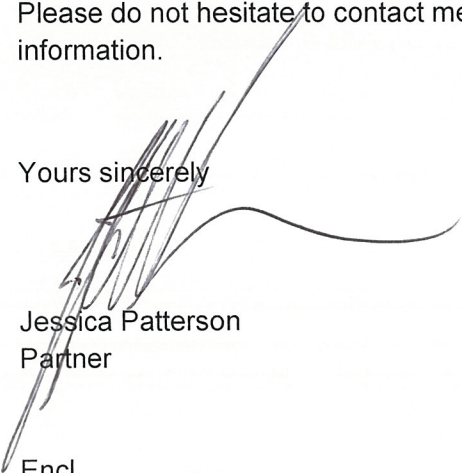


4 Regard has been had to the Town's Liquor (Licensed Premises) Policy, however, section 4 on page 2 of that policy states that it does not apply to club restricted licences.

I look forward to receiving the unconditional section 39 and 40 certificates at your earliest convenience. Thank you.

Please do not hesitate to contact me if you have any questions or require any further information.

Yours sincerely



Jessica Patterson
Partner

Encl

Please notify us if this communication has been sent to you by mistake. If it has been, any privilege between solicitor and client is not waived or lost and you are not entitled to use it in any way.

CERTIFICATE OF LOCAL GOVERNMENT

LIQUOR CONTROL ACT 1988

Section 39

THIS SECTION TO BE COMPLETED BY THE LOCAL GOVERNMENT

I, (full name) _____

being the (title) _____

for the (name of Local Government) TOWN OF COTTESLOE

with respect to an application by NORTH COTTESLOE SURF LIFE SAVING CLUB INC

(Name of applicant)

hereby certify that the premises known as NORTH COTTESLOE SURF LIFE SAVING CLUB

and situated at 151 MARINE PARADE, COTTESLOE, WA

Postcode 6011

comply with all relevant requirements under the Health Act 1911, under the Food Act 2008, under any written law relating to the sewerage or drainage of those premises under the Local Government Act 1995 and the Building Act 2011;

OR

do not comply with the requirements set out above and could not reasonably be made to comply;

OR

Do not comply with the requirements set out above but could be made to conform if the following requirements were carried out:-

Dated the _____ day of JULY 2017

Signature of Authorised Officer

THIS SECTION TO BE COMPLETED BY THE APPLICANT BEFORE SUBMISSION TO THE LOCAL GOVERNMENT

Type of Licence

- | | | | |
|---|--|---------------------------------------|---|
| <input type="checkbox"/> Casino | <input type="checkbox"/> Hotel (Restricted) | <input type="checkbox"/> Liquor Store | <input type="checkbox"/> Special Facility |
| <input type="checkbox"/> Club | <input type="checkbox"/> Hotel (Tavern) | <input type="checkbox"/> Nightclub | <input type="checkbox"/> Wholesaler's |
| <input checked="" type="checkbox"/> Club Restricted | <input type="checkbox"/> Hotel (Tavern Restricted) | <input type="checkbox"/> Producer's | |
| <input type="checkbox"/> Hotel | <input type="checkbox"/> Hotel (Small Bar) | <input type="checkbox"/> Restaurant | |

Nature of application and an outline of proposed use of the premises THE APPLICANT PROPOSES TO SELL
AND SUPPLY LIQUOR FOR CONSUMPTION ON THE PREMISES ONLY, TO ADULT MEMBER PATRONS AND THEIR
GUESTS AND TO PEOPLE ATTENDING A FUNCTION HELD AT THE CLUB PREMISES.

In the case of a **Special Facility Licence** application:

a) What category is sought? *Pursuant to Regulation 9A of the Liquor Control Regulations 1989)*

- | | | |
|--|---|---|
| <input type="checkbox"/> Works Canteen | <input type="checkbox"/> Theatre/Cinema | <input type="checkbox"/> Reception/Function Centre |
| <input type="checkbox"/> Transport | <input type="checkbox"/> Tourism | <input type="checkbox"/> Education & Training Institution |
| <input type="checkbox"/> Education & Training Course | <input type="checkbox"/> Sports Arena | <input type="checkbox"/> Foodhall |
| <input type="checkbox"/> Catering | <input type="checkbox"/> Bed & Breakfast Facility | <input type="checkbox"/> Room Service Restaurant |
| <input type="checkbox"/> Amusement Venue | <input type="checkbox"/> Auction | |

b) What trading hours are sought?

Monday:	_____	am/pm	to	_____	am/pm
Tuesday:	_____	am/pm	to	_____	am/pm
Wednesday:	_____	am/pm	to	_____	am/pm
Thursday:	_____	am/pm	to	_____	am/pm
Friday:	_____	am/pm	to	_____	am/pm

c) Is approval sought to sell and supply liquor on:

Christmas Day: YES NO ; Good Friday: YES NO ; ANZAC Day: YES NO

d) Is approval sought to sell liquor for consumption off the licensed premises: YES NO

e) Please detail the trading conditions sought and provide an outline on how it is proposed the premises will operate (attach a separate submission if necessary):

**LIQUOR CONTROL ACT 1988
CERTIFICATE OF LOCAL PLANNING AUTHORITY – SECTION 40**

Reverse side to be completed by applicant BEFORE SUBMISSION TO THE LOCAL AUTHORITY

THIS SECTION TO BE COMPLETED BY THE LOCAL AUTHORITY

I, (full name) _____

being the _____

(Title)

for the _____

TOWN OF COTTESLOE

(Name of Local Planning Authority)

with respect to an application by _____

NORTH COTTESLOE SURF LIFE SAVING CLUB INC

(Name of applicant)

hereby certify that the premises known as _____

NORTH COTTESLOE SURF LIFE SAVING CLUB

and situated at _____

151 MARINE PARADE, COTTESLOE, WA

Post Code _____

6011

will comply with all relevant planning laws, namely;

OR

would comply with the relevant planning laws if consent were to be given by the following authority;

(i) It is not known whether the authority will give their consent; or

(ii) It is not known that the authority will give that consent subject to the following probable condition/restrictions;

OR

will not comply with the relevant planning laws for the following reasons:-

Dated the _____ day of _____

JULY

2017

Signature of Authorised Officer

THIS SECTION MUST BE COMPLETED BY THE APPLICANT BEFORE SUBMISSION TO THE LOCAL AUTHORITY

APPLICATION DETAILS

Category and type of Licence: CLUB RESTRICTED LICENCE

Nature of application and an outline of proposed use of the premises: THE APPLICANT PROPOSES TO SELL AND SUPPLY LIQUOR FOR CONSUMPTION ON THE PREMISES ONLY, TO ADULT MEMBER PATRONS AND THEIR GUESTS AND TO PEOPLE ATTENDING A FUNCTION HELD AT THE CLUB PREMISES.

In the case of a *SPECIAL FACILITY LICENCE* application:-

(a) For what purpose is the licence sought? (Refer to Regulation 9A of the *Liquor Control Regulations 1989*)

(b) What trading hours are sought?

Monday:	_____	am/pm	to	_____	am/pm
Tuesday:	_____	am/pm	to	_____	am/pm
Wednesday:	_____	am/pm	to	_____	am/pm
Thursday:	_____	am/pm	to	_____	am/pm
Friday:	_____	am/pm	to	_____	am/pm

(c) Is approval sought to sell and supply liquor on:

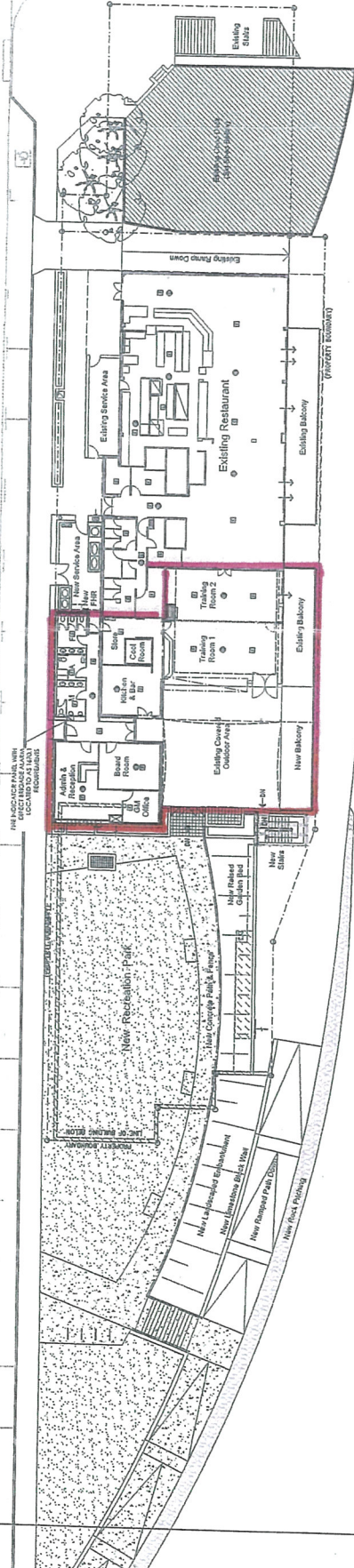
Christmas Day: YES NO Good Friday: YES NO ANZAC Day: YES NO

(d) Is approval sought to sell liquor for consumption off the licensed premises: YES NO

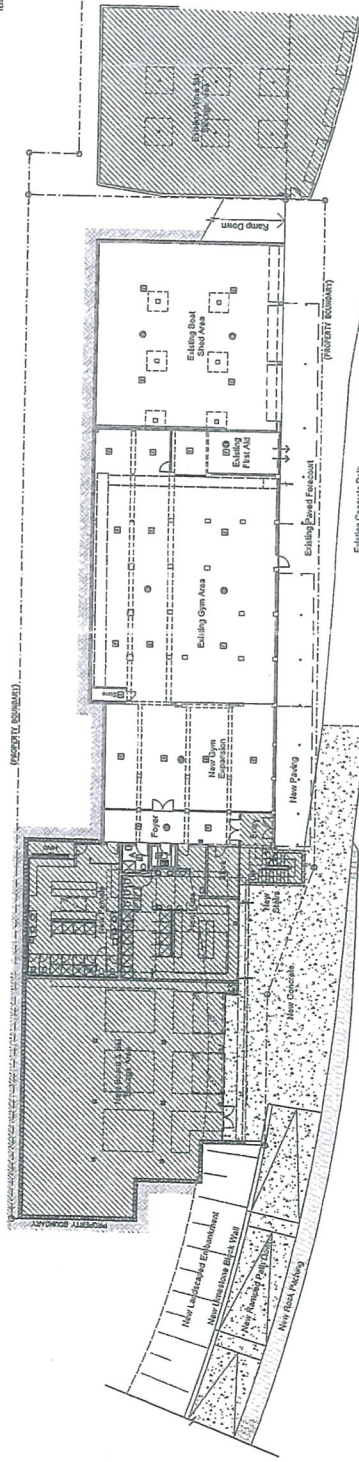
(e) Please detail the trading conditions sought and provide an outline on how it is proposed the premises will operate (attach a separate submission if necessary):

Eric Street

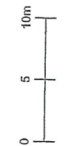
Marine Parade



Ground Floor Level



Lower Ground Floor Level



NOTES:

THE REQUIREMENTS OF THE DETECTION SYSTEMS SHOWN ON THE DRAWING ARE AS SHOWN ON THE DRAWING. THE CONTRACTOR SHALL CHECK THE LIFE AS REQUIRED TO INSURE THAT THE REQUIREMENTS OF THE COMPARTMENTATION AND OCCUPANT SAFETY ARE MAINTAINED. THE DETECTION SYSTEMS SHALL BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF THE COMPARTMENTATION AND OCCUPANT SAFETY. THE CONTRACTOR SHALL PROVIDE ALL COSTS FOR THE PROVISION OF THE DETECTION SYSTEMS. THE CONTRACTOR SHALL PROVIDE ALL COSTS FOR THE PROVISION OF THE DETECTION SYSTEMS. THE CONTRACTOR SHALL PROVIDE ALL COSTS FOR THE PROVISION OF THE DETECTION SYSTEMS.

C.A. & M.J. LOMMERS PTY LTD
 Fire Safety Services Consulting Engineers & Architects
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 Phone: (03) 9412 1111
 Fax: (03) 9412 1112
 Email: info@caandmj.com.au
 Website: www.caandmj.com.au

PROJECT NO.	2010.0810	DATE	12/01/10
PROJECT NAME	NORTH COTTESLOE SURF LIFE SAVINGS CLUB	CLIENT	SAVINGS CLUB
PROJECT LOCATION	MARINE PARADE, COTTESLOE	PROJECT NO.	2010.0810
PROJECT PHASE	FLOOR PLANS	DATE	12/01/10
PROJECT TYPE	FIRE DETECTION LAYOUT	CLIENT	SAVINGS CLUB

This is an unapproved document for design purposes only. It is not to be used for construction. All information published on this drawing is for information only. It is not to be used for construction. C.A. & M.J. Lommers Pty Ltd is not responsible for the accuracy of the information on this drawing. The company is not responsible for the accuracy of the information on this drawing. The company is not responsible for the accuracy of the information on this drawing.

1.1.1 NORTH COTTESLOE SURF LIFE SAVING CLUB - PROPOSED CLUB LIQUOR LICENCE

File Ref: PR54385-02
Attachments: Aerial Photo North Cottesloe Surf Life Saving Club Application for Liquor Licence
Responsible Officer: Carl Askew
Chief Executive Officer
Author: Andrew Jackson
Manager Development Services
Proposed Meeting Date: 15 July 2013
Author Disclosure of Interest: Nil

SUMMARY

North Cottesloe Surf Life Saving Club (NCSLSC) is applying to the Department of Racing, Gaming and Liquor (DRGL) for a Club Licence to govern the service of alcohol at the premises.

As part of the application process to the DRGL, the Club has requested support from the Town, as well as associated Sections 39 and 40 Certificates signifying health and planning compliance. A covering letter and Public Interest Assessment statement from the application are attached for more information.

This report to Council presents the Club's request, which is recommended.

BACKGROUND

Somewhat surprisingly, NCSLSC has operated for many years without a (liquor) Club Licence, instead applying to the DRGL to license occasional events, which have been granted. NCSLSC wishes to provide bar service in a social setting to members/guests which is readily available after training or patrol session, surf carnivals and for club-related events such as fund-raising, awards, etc. NCSLSC will not be making the premises available for any (non-member) private functions to occur there; ie it will not be a public function centre for commercial gain.

Cottesloe has several sports clubs, including the Cottesloe Surf Life Saving Club (CSLSC), tennis, golf and rugby clubs, all of which have held liquor licences for many years. Specifically:

- CSLSC, tennis and rugby clubs – Club Restricted Licences.
- Golf club – Special Facility Licence (ie unique to premises), which in addition to club liquor licencing allows the sale of packaged liquor for consumption on the golf course.

All of these are understood to operate successfully with few if any complaints, and the clubs have been responsible in applying to the DRGL for permission for any variations or special events from time to time.

STRATEGIC IMPLICATIONS

Consistent with Council's approach to control of liquor practices.

POLICY IMPLICATIONS

Correlates with Council's Liquor (Licenced Premises) Policy.

STATUTORY ENVIRONMENT

Liquor Control Act and Regulations 1988.

FINANCIAL IMPLICATIONS

Nil.

SUSTAINABILITY IMPLICATIONS

Nil.

CONSULTATION

Community consultation by the Town additional to the DRGL is not required.

TYPES OF CLUB LICENCE

A Club Licence allows liquor to be supplied to a member, or guest in the company of a member, for consumption on and off the premises. This is the more common type of Club Licence, with the sale of liquor for consumption off the premises allowing events such as wine tasting/promotions. Note that *consumption off the premises* means taking the packaged liquor home – it does not permit drinking it in a public place, which is prohibited.

Clubs may be of many types, not just sports clubs, hence pursuant to the Liquor Control Act the standard (maximum) trading hours for a Club Licence are:

Day	When		General Conditions
	Open	Close	
Monday to Friday	6.00am	midnight	
Monday to Friday	6.00am	12.30am Saturday	(ancillary to a meal only)
Saturday	6.00am	1.00am Sunday	
Sunday	10.00am	10.00pm	
New Year's Eve (Monday - Saturday)	6.00am	2.00am	

New Year's Eve (Sunday)	Until 12.30am New Years Eve morning; then, 10.00am	2.00am New Years Day	
Good Friday	No permitted trading hours after 12.30am Good Friday morning		
Christmas Day	Until 12.30am Christmas morning; then, 12 noon	10.00pm	(ancillary to a meal only) (ancillary)

In practice individual clubs will seek hours suitable to their purpose. The NCSLSC proposes as set out below. It anticipates the main hours of bar use being Friday to Sunday, with the option of some low-key use during the week.

Monday - Friday	noon - midnight
Saturday	11am - midnight
Sunday	11am - 10pm
Christmas Day, New Year's Eve, Good Friday & Anzac Day	Nil

A Club Restricted Licence differs from a Club Licence only in that it doesn't permit the sale of packaged liquor and the licensee only has access to the premises during certain hours of the day; eg a dance club that rents a hall once a fortnight. Trading hours are determined in each case by the Director of Liquor Licensing.

For clubs with their own permanent premises, full-time club activities and a larger membership, a Club Licence would seem appropriate. In this respect NCSLSC has identified a Club Licence as suitable given that its main wine supplier offers discounts to members to purchase to take away, but has advised that the sale of liquor for consumption off the premises could be excluded if considered necessary.

The range of hours allowed under the Act for clubs to serve liquor is extensive and excessive for a sport/community club, and service beyond midnight would be unacceptable except for festive dates. The hours proposed by the Club are considered acceptable, especially 10pm closing on Sundays.

ASSESSMENT

The liquor licensing process involves NCSLSC making a comprehensive application to the DRGL, including all details (licensee integrity checks, training and management plans, and so on) and a public interest test, as well as a 28-day public advertising period, all focused on ensuring effective liquor controls.

As mentioned this includes obtaining from the Town a S39 Certificate for health compliance (adequacy of toilets, kitchen facilities, etc) and a S40 Certificate for planning compliance (use permitted, buildings approved, etc).

Council's Liquor (Licenced Premises) Policy echoes the DRGL assessment framework, with an emphasis on amenity, safety, operational implications and where relevant parking requirements. The policy is a reference when dealing with liquor licence applications. Its relevant objectives are to:

- *Provide for facilities and services which are compatible with the aspirations of the Cottesloe residential and business community.*
- *Provide a framework to assist Council with the assessment of liquor licence applications, including when issuing Section 39 and 40 certificates under the Liquor Control Act 1988.*
- *Make liquor licence applicants aware of Council's considerations when dealing with liquor licence applications.*
- *Foster an appropriate type and number of licensed premises that will enhance the activity and atmosphere of commercial localities and contribute to an integrated and positive sense of community;*
- *Protect the character and amenity of adjacent residential localities.*
- *Support the objectives of the Community Safety and Crime Prevention Committee.*

Sports clubs liquor licences are lower-key than liquor licences for drinking and eating businesses or other establishments open to the public for various forms of leisure and entertainment. As the liquor licence is secondary to the purpose of a club, and as a club is bound by its constitution, membership rules and liquor service accords (as guided by the Liquor Control Act) this class of liquor licence is normally not contentious.

The submitted Public Interest Assessment statement attests to this, with salient aspects being:

- As a sport/community service club that is the primary activity, with the availability of liquor a secondary consideration.
- Although the Club has a large membership, many are not of drinking age and most engage predominantly in Club activities other than simply social drinking.
- The number of members or guests attending an occasion involving liquor will be limited by the floor-space capacity and conducted entirely within the Club's premises.
- The Club has very little on-site parking apart from management and loading spaces, relying on public domain parking for members or visitors. The advent of a liquor Club Licence will not alter this situation.
- Several liquor-licenced establishments exist in the immediate vicinity, including restaurants and the Ocean Beach Hotel, which have significantly more potential to impact on amenity and wellbeing than the Surf Club.

In this instance the Town's assessment is that the proposed Club Licence (unrestricted) satisfies Council's policy parameters and would be unlikely to be detrimental to the public interest or the amenity of the locality.

CONCLUSION

Cottesloe's sports clubs are significant community organisations offering recreational pursuits and social interaction. The two surf clubs also provide a vital life saving service and have attracted large memberships. Most clubs of diverse types enjoy a liquor licence, as do all the other sports clubs in the district. A Club Licence is considered acceptable for the NCSLSC and is not seen to need to be restricted.

VOTING

Simple Majority

COMMITTEE COMMENT

Cr Hart expressed concern that a sport club with many young members and a health focus was seeking a liquor licence, also noting the wide hours proposed and the proximity of two licenced restaurants and a hotel. Cr Rowell commented that from experience the Club held a few licenced events over time, which had not been a problem, and in that respect Cr Jeanes commented that quiz nights were a good example of such activities. Cr Walsh referred to the table showing the regulated liquor licence hours for clubs and queried in relation to the Club whether for Monday to Friday service of liquor a meal would need to be provided. Cr Strzina queried the floorspace capacity involved.

The Manager Development Services explained that the licenced area was to be confined to the main rooms, balcony and courtyard at the Marine Parade upper level of the Club's premises within its lease area. He also advised that the general liquor control condition of serving liquor ancillary to a meal at certain times was not necessarily relevant to a sport club and that the kitchen facilities were not normally staffed, stocked and operating to serve meals on a constant basis as at a hotel, small bar or licenced café/restaurant. He would seek clarification from the Club regarding these aspects.

OFFICER RECOMMENDATION

Moved Cr Rowell, seconded Cr Jeanes

THAT Council:

1. Advise North Cottesloe Surf Life Saving Club that it supports the proposed liquor Club Licence, as an unrestricted version, subject to the hours applied for, being:
 - Monday to Friday – noon to midnight.
 - Saturday – 11am to midnight.
 - Sunday – 11am to 10pm.
 - Christmas Day, New Year's Eve, Good Friday and Anzac Day – nil.

Council does not support the maximum, wide hours of liquor service for clubs that may be permitted under the Liquor Control Act, for the needs of the Surf Club.

2. Authorise the Town's staff to issue the associated Liquor Control Act Sections 39 and 40 Certificates to the Club in support of the liquor licence application, subject to checks and inspections as required.

AMENDMENT

Moved Cr Walsh, seconded Cr Hart

That the item be deferred to full Council on Monday 21 July 2013 to enable the Town to clarify the floor area to be licenced and whether the service of meals was intended or would be required.

Lost 2/3

COUNCIL COMMENT

Crs Hart and Pyvis expressed concern with the recommended hours and potential numbers attending the proposed events and the possibility of affecting the amenity of residents. Cr Boland sought clarification over the sale of packages liquor by the Club. The Manager Development Services explained that the Club had advised it would delete take-away liquor from its licence application and Section 40 Certificate request.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION

Moved Cr Walsh, seconded Cr Rowell

THAT Council:

1. Advise North Cottesloe Surf Life Saving Club that it supports the proposed liquor Club Licence, as an unrestricted version, subject to the hours applied for, being:
 - Monday to Friday – noon to midnight.
 - Saturday – 11am to midnight.
 - Sunday – 11am to 10pm.
 - Christmas Day, New Year's Eve, Good Friday and Anzac Day – nil.

Council does not support the maximum, wide hours of liquor service for clubs that may be permitted under the Liquor Control Act, for the needs of the Surf Club.

2. Authorise the Town's staff to issue the associated Liquor Control Act Sections 39 and 40 Certificates to the Club in support of the liquor licence application, subject to checks and inspections as required.

Carried 7/2

For: Mayor Morgan, Crs Downes, Boland, Jeanes, Rowell, Strzina and Walsh
Against: Crs Pyvis and Hart



Town of Cottesloe

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Our Ref: 151 Marine Parade

24 June 2014

Director Liquor Licensing
Department of Racing, Gaming and Liquor
PO Box 6119
EAST PERTH WA 6892

Dear Sir

NORTH COTTESLOE SURF LIFE SAVING CLUB – PROPOSED CLUB LIQUOR LICENCE – OBJECTION

I refer to the current application by the Surf Club for the grant of a Club Liquor Licence and on behalf of Council herewith lodge the Town's objection to the proposal. The required form and supporting information are enclosed, together with the following advice.

Council initially considered the proposal on a preliminary basis prior to the Surf Club commencing the formal DRGL process. At that time Council advised the Surf Club that it may be supportive of a future application subject to restricted hours, and that Council does not support the maximum, wide hours of liquor service for clubs that may be permitted under the Liquor Control Act, for the needs of the Surf Club.

The recent public advertising of the application by the Surf Club has generated objections from the local community, which have been directed to the Town and expressed in several ways:

1. Objections voiced at the Development Services Committee and Council meetings this month.
2. Official noise complaints lodged with the Town.
3. Phone queries and discussions with officers about the matter.
4. Written submissions of objection urging Council's objection to the proposal.

Relevant copies are attached as supporting evidence to the Town's objection herein.

Some 17 residents/ratepayers from properties opposite or nearby the premises attended the Council meeting on 23 June 2014, some 11 of whom spoke strongly in objection to the application.

Arising from its deliberations leading up to and during the meeting, Council resolved to object to the application. This overall objection has regard to the relevant criteria under the legislation and is made given the local environment of licenced premises with its history of public interest, harm and amenity impacts associated with alcohol as experienced by the Town and community over decades. The Department and Director are no doubt well aware of this context and the circumstances in considerable detail.

Yours sincerely

Andrew Jackson

Andrew Jackson
Manager Development Services

LIQUOR (LICENSED PREMISES) POLICY

(1) BACKGROUND

The Town of Cottesloe is a very attractive location to relax and dine in. As a result population pressures are likely to increase the demand for licensed premises.

The potential nature and range of liquor outlets has increased with amendments made in 2007 to the *Liquor Control Act 1988* relating to restaurants serving alcohol without a meal and 'small bar' licences.

These changes may have significant impacts on Cottesloe's local amenity.

Whilst the Town is open to a number of interrelated strategies to maintain and enhance the lifestyle of residents and visitors alike, the Town recognises that the nature and number of licensed liquor outlets requires effective management in order to minimise adverse impacts on nearby residential areas and the environment.

The Town therefore has a responsibility to;

- ensure that licensed venues are operated in such a way so as to minimise the inconvenience or nuisance to residents, businesses and the general public, and
- ensure that a diversity of entertainment is encouraged in particular localities through a mix of appropriate uses including licensed premises.

(2) AIM

To properly manage the impacts of licensed premises on the Cottesloe residential and business community, and the environment.

(3) OBJECTIVES

- provide for facilities and services which are compatible with the aspirations of the Cottesloe residential and business community;
- provide a framework to assist Council with the assessment of liquor licence applications, including when issuing Section 39 and 40 certificates under the Liquor Control Act 1988;
- make liquor licence applicants aware of Council's considerations when dealing with liquor licence applications;
- assist Council in their consideration of applications for planning approval of development which may involve a liquor licence;
- foster an appropriate type and number of licensed premises that will enhance the activity and atmosphere of commercial localities and contribute to an integrated and positive sense of community;

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- protect the character and amenity of adjacent residential localities;
- support the objectives of the Community Safety and Crime Prevention Committee.

(4) POLICY APPLICATION

Council will have regard to this policy when:

- (a) Assessing applications made to Council for:
- Section 39 and 40 certificates made under the *Liquor Control Act 1988*.
 - Planning approval made under the Town Planning Scheme for development which may involve a liquor licence.
 - Eating house licence applications made under Council's *Eating Houses* local law that may involve a liquor licence.
 - Alfresco dining applications made under Council's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* that may involve a liquor licence.
- (b) Considering a request to intervene or raise objections to any licensed premises operating under the requirements of the *Liquor Control Act 1988*.

Note: The types of Liquor Licences and Extended Trading Permits issued by the Director of Liquor Licensing that Council shall be concerned with and to which this policy shall apply include:

Type of Licences:

Restaurant
Nightclub

Hotel
Hotel restricted
Tavern
Small bar
Club
Occasional
Special Facility

Extended Trading Permits:

Extended hours
Liquor without a meal
(restaurant)
Alfresco
Dining area
Permits for one-off events

(5) POLICY

(a) Liquor Licence and Development Applications

Council will have regard to the following matters when considering liquor licence and development applications. If the proposal is supported relevant conditions may be imposed accordingly.

- (i) **Number of premises within a locality and their distribution**
A concentration of licensed premises has the potential to prejudice the amenity of a locality. It is intended to achieve a mix in the types

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of premises to contribute to a vibrant atmosphere of the commercial localities whilst minimising the potential for anti-social behaviour in public spaces and impacts on any neighbouring residential properties.

(ii) **Hours of operation**

This is particularly relevant to hotel, tavern, nightclub and small bar licences, extended trading permits for on-going hours and liquor without a meal (restaurants or alfresco).

Late operating hours may contribute to irresponsible consumption of alcohol and lead to anti-social behaviour, particularly upon leaving licensed premises which in turn impacts on the amenity of others, including other patrons, residents and business operators and their customers.

When considering a proposal for premises which would be licensed or an extended trading permit, Council is unlikely to recommend support for those licensed premises which cause disturbance and inconvenience to residents or businesses located in the vicinity of licensed premises.

Council will consider opening and closing hours during the week and weekends having regard to the proximity of the licensed premises to residences and businesses and subject to consideration of the details and merits of each proposal.

(iii) **Number of patrons**

This is particularly relevant to hotel, tavern and nightclub licences, where, when combined with the long hours of operation, can cause the amenity of a locality to be detrimentally affected.

(iv) **Floor area**

The establishment of large venues will not be supported in proximity to residential properties. Such proposals must also demonstrate that the size of the facility will not detrimentally affect the amenity of the locality in general by virtue of its parking facilities, entertainment, number of patrons, and so on.

(v) **Noise**

To address certain types of noise impacts from licensed premises Council may require that an applicant submit an acoustic engineering report indicating sound attenuation measures to be undertaken.

(vi) **Entertainment**

Entertainment in licensed premises should contribute positively to and not detract from the amenity of the locality. Restaurants are expected to be operated and advertised as restaurants only.

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Licenseses are expected to use their best endeavours (including the closing of doors and windows) to ensure that any entertainment provided on the licensed premises does not produce excessive noise likely to disturb, annoy or inconvenience nearby residents, other business proprietors and other users of the locality.

(vii) **Public safety**

Where considered warranted, Council may request that additional crowd controllers, security personnel or security patrol services be provided for premises trading past midnight and/or have entertainment to patrol the external grounds and where appropriate the neighbouring streets or public spaces / recreational areas of the licensed premises and monitor the behaviour of persons arriving at and departing from the licensed premises.

(viii) **Location**

The location of premises generally and the location of outdoor areas and parking facilities will not be favoured in proximity to residential properties.

(ix) **Parking**

The number of parking bays required by the town planning scheme is required to be provided, however, Council may consider cash in-lieu of car parking bays in accordance with the provisions of the scheme and any policy.

The impact of vehicles parking either in car parking areas or surrounding streets will also be considered particularly in locations adjacent to residential properties. A spill-over into the surrounding area may occur if the capacity of premises is much greater than its car parking provision, resulting in considerable disturbance and inconvenience to residents, especially when patrons are departing from the area late at night or in the early hours of the morning.

Therefore, the hours of operation for premises may be based on the availability of parking and the likely impact on the surrounding residential area.

(b) Managing Complaints / Advocacy

Should complaints be received or Council otherwise become aware of issues, Council will undertake an assessment of the situation and determine if intervention is required. Intervention may include:

- Conducting discussions with the licensee;
- Referring the matter to the Western Accord; or
- Lodging an intervention or objection with the Director of Liquor Licensing.

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(c) Management Plans

These are required under the Director of Liquor Licensing's *Harm Minimisation Policy*. Where considered warranted, Council may require the management plan to be submitted to Council for approval, particularly as part of a proposal for a hotel, tavern or nightclub or an extended trading permit. In addition to the Director's requirements, Council may require the plan to address issues such as:

- hours of operation,
- security on the site,
- lighting in and around the site,
- security of patrons on leaving the venue,
- sale of packaged alcohol,
- specific methods of patron control (including training and surveillance),
- a traffic and travel mode management plan, including assistance in departure from the venue (i.e. availability of a direct telephone link to a taxi service or courtesy bus)
- noise; and
- compliance and commitment to an Accord.

(d) Western Accord

The Town of Cottesloe is a member of the Western Accord, which comprises local licensed premises operators, the Western Australian Police Service, the Towns of Cambridge, Claremont, Cottesloe, Mosman Park, and Vincent, the Shire of Peppermint Grove, the Cities of Nedlands and Subiaco, the Department of Health, Western Australia, Liquor Licensing Division representatives, other relevant agencies and the community. It provides a code of conduct for licensed premises within the Western Accord and is a beneficial forum for the consideration of liquor license issues.

Such liquor accords are approved by the Director of Liquor Licensing and entered into by two or more local licensees in a local community, Council, licensing authority representative, and other stakeholders such as the police.

Accords are intended to develop a safe and well-managed local environment as part of an overall strategy aimed at fostering a responsible drinking culture, ensuring safety in the local community and promoting effective communication and problem solving between licensees and key stakeholders.

RESOLUTION NO: 11.1.4
ADOPTION: 17 March 2008
REVIEW: 17 March 2016