

THE HOSPITALITY MESSENGER

Your Western Australian liquor licensing, hospitality, event and related industries news and information presented by Lavan

July 2017 18th edition

LAVAN

Cyber attacks are on the rise. Are you ready if it happens to your business?

Would your business cope without access to internet or computer systems? For most organisations, most likely yours included, it is critical infrastructure.

Businesses from big to small were hit again at the end of June by another ransomware cyber attack that wreaked havoc on both employees and customers.

Computer systems and digital files were locked by the virus that was spread by the perpetrators, who demanded payment of bitcoin currency for access to be returned.

Is your business ready to withstand future cyber attacks? Click [here](#) to read Lavan's recent article for tips.



We have people with expertise in these issues, including Nick Stagg, Partner in Lavan's Litigation & Dispute Resolution Team (pictured). Nick can be contacted directly on 9288 6971 / nick.stagg@lavan.com.au, or the Liquor, Hospitality and Events team would be happy to introduce you to Nick.

ALERT: Licensing authority policy change



On 26 June 2017 the licensing authority amended its important and well known policy regarding responsible promotion of liquor to include references to social media. The policy provides that it is **unacceptable** for licensees to do the following:

Offer, provide or distribute promotional cards, vouchers or incentives away from the licensed premises or conduct any other form of advertising, including by social media, that provides free or discounted drinks.

Click [here](#) to access the full, revised policy.

On 5 July 2017 the full bench of the Fair Work Commission determined that modern awards should enable casual employees to elect to convert to full-time or part-time employment, subject to certain rules and restrictions. Click [here](#) for more information.



ETPs need to be renewed. Be sure to set yourself a reminder of the expiry date and...

...apply for renewal well before that date. Remember, there is no certainty of renewal.

RGL now DLGSC

The licensing authority is now part of the new Department of Local Government, Sport and Cultural Industries

Liquor Commission critical of Director of Liquor Licensing

In a recent decision of the Commission, it stated that it "has noticed a trend in decisions made at first instance to be based on irrelevant considerations and appellate decisions determined under previous legislation and has drawn attention to these errors, so that future applications will be determined properly according to the Act as it currently stands". Read the full decision [here](#).



Liquor Commission decision confirms need for supporting evidence

In a recent decision of the Liquor Commission, in relation to an application to vary the conditions of a licence, it was determined that the applicant's case was not supported by sufficient or probative evidence and as a result the Commission refused to find in favour of the applicant.

It is not enough for an applicant to make submissions and claim certain things about their business or their customers without proof.

The case, which related to Squires Fortune in Scarborough, also confirmed the long established principle that private and commercial interests of parties in relation to liquor licensing are irrelevant. The public interest is paramount.

The full decision can be accessed [here](#).

The Quadrant, 1 William Street,
GPO Box F338, Perth, Western Australia 6841
Tel +61 8 9288 6000 Fax +61 8 9288 6001
www.lavan.com.au

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Summary of decisions of the Director of Liquor Licensing published in June 2017

Nature of application	Name of premises	Outcome	Notable points
Application for new liquor store licence	Liquorland Trinity	Successful	There were no objections or interventions, but the Director noted that fact did not lead to any automatic approval or "presumption in favour of the grant".
Application for new liquor store licence	BWS Banksia Grove	Successful	An existing level of alcohol-related harm was found to exist, above State averages, but it was found that the new licence would be "unlikely to increase that rate of harm above what might be commonly accepted in the community".
Application for new tavern restricted licence	Lemas	Successful	There were two interventions and two objections – one by a party claiming to be the lawful occupant of the proposed tavern premises. Several paragraphs of the decision deal with the issue of juveniles, as raised by the Health Department, particularly in regard to the proposed rooftop cinema. The Director determined in favour of the applicant and noted – as is relevant to all licensees – that "an older sibling or friend accompanying a juvenile... would not be considered to be compliant with the requirements of the Act".
Application for new tavern licence (upgrade from a restaurant licence)	Monk Craft Brewery Kitchen	Successful	Several special conditions were imposed on the approval, including that only liquor produced by the licensee may be sold for take-away, "substantial food" must be available at all times, the licensee is prohibited from moving tables and chairs except in certain circumstances and liquor cannot be sold in jugs.
Application for small bar licence	Yonder Bar	Successful	There were no objections or interventions. Trading hours were approved from 5pm and the maximum number of patrons permitted at any time is only 25.
Application for new tavern restricted licence	Marketta	Successful	The large premises was approved for 900 patrons. There was some issue in the determination as to noise and criticism from the Director that the applicant rejected conditions proposed by Police which were conditions consistent with the applicant's PIA.
Application for new small bar licence (currently operating as BYO restaurant)	Piggy Food Co	Successful	Two local residents objected. The Director determined that the objectors did not make out their case and the evidence did not establish that noise from the venue would have such an impact as to be adverse to the amenity. A condition was imposed requiring tables and seating for dining.
Application for new tavern restricted licence	Oyster Bar Elizabeth Quay	Successful	The Director reiterated the important principle that "the onus falls upon the applicant to satisfy the licensing authority that the grant of the application is in the public interest" and went on to find as follows: "I have considered the applicants' evidence and submissions, particularly in view of the nature and scale of the Elizabeth Quay project and the benefits to the State to be realised from this development. I am of the view that the grant of the application would be consistent with objects 5(1)(c) and 5(2)(a) of the Act. I find that the positive benefits of the application outweigh any potential risks, which can be mitigated through the imposition of appropriate conditions as recommended by the CHO or by standard conditions normally imposed by this authority."

OUR TEAM



**Jessica
Patterson**
Partner

P: (08) 9288 6946
E: jessica.patterson@lavan.com.au

Your business is an important contributor to the Western Australian community and to WA's growing liquor, hospitality, events, tourism and related industries.

Are you getting the most out of your business? Are you fulfilling all of your ideas and enjoying business success?

If you have an idea for a new business, we would love to help you develop it.

We encourage you to obtain modern business solutions from us and receive the benefits of a life long working relationship to help maximise your business potential. Any expenditure with us is an investment in your business and its future.

We enjoy visiting our clients' places of business and will be happy to visit yours.



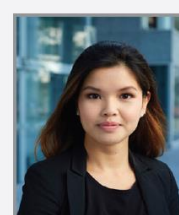
**Dan
Mossenson**
Emeritus Partner

P: (08) 9288 6769
E: dan.mossenson@lavan.com.au



**Alec
Weston**
Associate

P: (08) 9288 6873
E: alec.weston@lavan.com.au



**Grace
Tang**
Law Clerk

P: (08) 9288 6954
E: grace.tang@lavan.com.au