

LIQUOR CONTROL REFORM ACT 1998
ENFORCEABLE UNDERTAKING
SECTION 133F

The commitments in this undertaking are offered to the Director of Liquor Licensing by:

BLERIOT NO 17 PTY LTD
ACN 007 261 261
C/- KEARNEY & CO
'SKIPPING GIRL PLACE' SUITE 8
651-653 VICTORIA STREET
ABBOTSFORD VIC 3067

1. Description of the licensee and other relevant particulars

- 1.1 BLERIOT NO 17 PTY LTD ACN 007 261 261 (**the Licensee**) is an Australian proprietary company, limited by shares, registered on 26 June 1989.
- 1.2 The directors and joint company secretaries of the Licensee are William Sims and David Cotter.
- 1.3 The Licensee holds a Packaged liquor licence (number 32022032) (**the Licence**) which authorises the Licensee to supply liquor in sealed containers, bottles or cans on the licensed premises for consumption off the licensed premises in accordance with the conditions set out in the Licence.
- 1.4 The Licensee carries on a supermarket business known as 'Sims Supermarket' (**the business**) from premises located at 511 Barkly Street, Footscray (**the premises**) from which it trades pursuant to the licence.
- 1.5 In this undertaking:

the Act means *Liquor Control Reform Act 1998*;

the Director means Director of Liquor Licensing;

Licensed premises has the same meaning as in the Act; and

RAV means Responsible Alcohol Victoria.

2. Description of the conduct engaged in by the Licensee

- 2.1 It is a requirement of the licence that liquor is only supplied on the licensed premises. The licensed premises is comprised of a part of the premises demarked with a red line in the plan or depiction of the premises which was last submitted to the Director under Division 4 of Part 2 of the Act, or certified by the Director pursuant to section 101A of the Act (**the red line plan**).
- 2.2 The red line plan in respect of the premises depicts an area in the north-east corner of the premises, adjacent to an entrance to the building accessed from

Barkly Street. However, renovations to the building as well as internal re-configuration of the premises has resulted in part of the liquor display area extending beyond that demarked in the red line plan.

- 2.3 The Licensee did not make an application to vary the licence in order to amend the red line plan, as required by the Act. This was identified during a compliance inspection by compliance inspectors from RAV on 21 March 2011.

3. Explanation as to why the Director considers that the conduct contravenes the Act

- 3.1 The Director considers that the conduct described above constitutes a contravention of the following provisions of the Act:

Section 108(1)(b) of the Act: Using a place other than the licensed premises to supply liquor.

4. Acknowledgement of the breach

- 4.1 The Licensee acknowledges the contravention of the Act set out in paragraph 3 above, and admits the facts, matters and circumstances described in paragraph 2 above.

5. Undertakings

The Licensee agrees to undertake the following remedial action with the aim of ensuring that it does not contravene the Act in future:

- 5.1 The Licensee will ensure that all liquor is displayed within the area demarked in the red line plan in respect of the Licence;

The Licensee will give effect to this provision immediately upon the execution of this undertaking.

- 5.2 The Licensee will ensure that all staff employed by the Licensee in the business whose duties include the supply of liquor are aware of the requirement that liquor is to be displayed within the area demarked in the red line plan in respect of the premises. In this respect, the Licensee shall provide a written notice containing appropriate instructions to all such employees, attaching a copy of the red line plan, and will provide a copy of same to the Director.

The Licensee will give effect to this provision within two (2) weeks of the date of execution of this undertaking.

6. Commencement and duration of the undertaking

- 6.1 This undertaking:

- (a) comes into effect when:
 - (i) it is executed by the Licensee; and
 - (ii) the Director of Liquor Licensing accepts and signs the undertaking.
- (b) continues in effect for a period of two (2) years from the date of commencement.

7. Acknowledgement of compliance to undertaking

7.1 The Licensee acknowledges that:

- (a) The Director and other relevant parties specified in the Act may make an application to the Victorian Civil and Administrative Tribunal to conduct an enquiry pursuant to section 90(1)(bb) on the basis of any contravention of this undertaking by the Licensee;
- (b) Pursuant to section 133G of the Act, the Director will register this undertaking in the register of undertakings on the Department of Justice website and the undertaking will be available for public inspection;
- (c) The Director and/or Minister for Consumer Affairs may from time to time publicly refer to this undertaking; and
- (d) This undertaking in no way derogates from any of the rights and remedies available to any other person in the State of Victoria arising from the conduct which is the subject of this undertaking, or a breach of the Act or Regulations.

8. Execution

EXECUTED BY BLERIOT NO. 17 PTY)
LTD ACN 007 261 261 in accordance with)
the requirements of section 127 of the)
Corporations Act 2001 (Cth):

David Cotte
.....
Name of director (print)

David Cotte
.....
Signature of director

AND BY

Richard Sims
.....
Name of director / company secretary (print)
(delete as applicable)

Richard Sims
.....
Signature of director / company secretary
(delete as applicable)

Dated the *19th* day of *July*.....2011

ACCEPTED BY:

Mark Brennan
.....
Director of Liquor Licensing

Dated the *21st* day of *July*.....2011