

LIQUOR CONTROL REFORM ACT 1998
ENFORCEABLE UNDERTAKING
SECTION 133F

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

EVINRIDGE PTY LTD
FOSTER-TIDAL RIVER ROAD
YANAKIE 3960

1. Description of the Licensee and other relevant particulars

- 1.1 Evinridge Pty Ltd ACN 006677167 (**the Licensee**) is an Australian Proprietary Company, limited by shares, registered on 12 December 1986.
- 1.2 The directors of the Licensee are Michael Philip Heal and Deborah Anne Heal. Deborah Ann Heal is the nominee of the licence and Michael Philip Heal is the sole company secretary of the Licensee.
- 1.3 The Licensee holds a Packaged liquor licence number 32004911 (**the licence**) which authorises the Licensee to supply liquor up to and including 31 December 2011 in accordance with the conditions of the licence.
- 1.4 The Licensee operates under the name 'Yanakie Licensed Store' and operates from the premises situated at Foster-Tidal River Road, Yanakie, Victoria 3960 (**the premises**).
- 1.5 In this undertaking -

Act means the *Liquor Control Reform Act 1998*;

Director means the Director of Liquor Licensing;

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

RAV means Responsible Alcohol Victoria.

2. Description of conduct that RAV investigated

Supply of liquor outside the authorised licensed area as shown in the red line plan

- 2.1 Yanakie Licensed Store is a multi-purpose store operating as a supermarket.
- 2.2 Pursuant to the licence, liquor must only be supplied (which includes offering or exposing liquor for sale) within a defined area shown by a red line on the plan of the premises approved by the Director (**red line plan**).
- 2.3 In 2008, renovations to the building as well as internal re-configurations of the premises have resulted in part of the liquor display area extending outside the red line plan.

- 2.4 On 17 August 2011, Compliance Inspectors from RAV conducted an unannounced inspection of the premises. They observed that the Licensee had constructed additional shelving units for the supply of liquor which extended outside the red line plan towards the main entry door and had removed the cash register which was inside the red line plan. Consequently, all liquor sales are transacted from a cash register outside the red line area, without prior approval from the Director.
- 2.5 Compliance Inspectors also observed that the Licensee had displayed a wine barrel, a selection of wine and seven cartons of selected beer varieties to the side of the additional shelving units, which were also outside the red line plan. Cartons of beer were also displayed in front of the cash register outside the red line area.
- 2.6 The Licensee did not make an application to vary the licence in order to amend the red line plan, as required by the Act.

3. Brief details of the investigation by RAV

- 3.1 On 17 August 2011, a Compliance Inspector from RAV conducted a compliance inspection of the premises and obtained information regarding the operation of the premises and business where the conduct described above in paragraph 2 was first identified.

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

- 4.1 The Director considers that the conduct described in paragraph 2 above constitutes a contravention of section 108(1)(a)(i) of the Act, in that:
- (a) the Licensee has supplied liquor other than in accordance with the licence by offering or exposing liquor for sale in an area outside the authorised area; and
 - (b) the sale of liquor has occurred outside the authorised area as a consequence of the location of the cash register outside the authorised area.

Accordingly, the Director considers that the conduct of the Licensee demonstrates poor management practices which are conducive to or encourage the misuse or abuse of alcohol, and an insufficient knowledge of the requirements of the Act and of the licence.

5. Acknowledgement of the breach

- 5.1 The Licensee acknowledges that it has contravened section 108(1)(a)(i) of the Act set out in paragraph 4 above, and admits the facts, matters and circumstances described in paragraph 2 above.

6. Undertakings given by the Licensee

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

- (a) Ensure that all liquor on the premises is displayed only within the authorised area of the premises, within the defined area shown within the red line plan in accordance with the approved plan of the premises. The Licensee will ensure that all such liquor is displayed accordingly **within ten (10) business days from the execution of this undertaking;**
- (b) Submit an application to the Director to gain approval for a variation of the current authorised area to extend the perimeter and location of the packaged liquor licence;
- (c) Seek approval from the Director for remote checkout authorisation, to enable payment of liquor purchases to be finalised at the current cash register situated at the front of the premises;
- (d) Develop and retain a set of "House Rules" as required by the Code of Conduct. The Licensee will provide a copy of the "House Rules" developed in accordance with this undertaking to the Director **within one (1) month of the date of execution of this undertaking;** and
- (e) Ensure that the directors of the Licensee complete, at its own cost, the 'Licensee Compliance Certificate' available through Franklyn Scholar Hospitality **within three (3) months of the date of execution of this undertaking.**

7. Commencement and duration of the undertaking

7.1 This undertaking:

- (a) comes into effect when:
 - (i) it is executed by the Licensee; and
 - (ii) the Director accepts and signs the undertaking.
- (b) continues in effect for a period of one (1) year from the date of commencement.

8. Acknowledgement by Licensee

8.1 The Licensee acknowledges that:


- (a) The Director and other interested parties specified in the Act may make an application to the Victoria Civil and Administrative Tribunal to conduct an inquiry pursuant to section 90(1)(bb) of the Act 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 inspections;

- (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.

9. Execution of undertaking


EXECUTED BY EVINRIDGE PTY LTD)
 ACN 006677167 in accordance with the)
 requirements of section 127 of the)
Corporations Act 2001 (Cth):

DEBORAH HEAL
 Name of director (print)


 Signature of director

AND BY

MICHAEL HEAL
 Name of director / company secretary (print)


 Signature of director / company secretary

Dated the 21st day of OCTOBER 2011

Accepted by:

THE DIRECTOR OF LIQUOR LICENSING, VICTORIA


 Director of Liquor Licensing

Dated this 27th day of OCTOBER 2011