

**LIQUOR CONTROL REFORM ACT 1998
ENFORCEABLE UNDERTAKING
PURSUANT TO SECTION 133F**

The commitments in this undertaking (the **Undertaking**) are offered to the Victorian Commission for Gambling and Liquor Regulation (the **Commission**) by McKenzie Nominees (Australia) Pty Ltd (the **Licensee**).

1. Background

- 1.1. The Licensee is the holder of a Late Night (General) Licence, No. 31902784, (the **Licence**) for the premises known as the Colonial Club Hotel, located at 105 Foster Street, Sale (the **Premises**).
- 1.2. On 4 October 2012, Inspector Michael McGinn (the **Requestor**) made written requests, pursuant to sections 91 and 94 of the *Liquor Control Reform Act 1998* (the **LCR Act**), to the Commission to conduct an inquiry into whether:
 - 1.2.1. there are grounds to take disciplinary action against the Licensee; and
 - 1.2.2. continuation of the Licence would detract from or be detrimental to the amenity of the area in which the Premises is situated.
- 1.3. The Requestor is a licensing inspector appointed under section 172 of the LCR Act.
- 1.4. Michael Robert McKenzie a Director of the Licensee.
- 1.5. On 21 February 2013, the Commission determined to conduct an inquiry under sections 91(1) and 94(2) of the LCR Act.
- 1.6. On 31 July 2013 a public hearing was heard pursuant to section 28(2)(c) of the *Victorian Commission for Gambling and Liquor Regulation Act 2001*. At the public hearing the Requestor and the Licensee filed with the Commission a Statement of Agreed Facts and proposed Terms of Settlement for each inquiry.
- 1.7. In relation to the section 94 inquiry, the proposed Terms of Settlement included a provision that the Licensee would enter into an undertaking in accordance with section 133F of the LCR Act to the Commission.
- 1.8. The Commission determined to accept a written undertaking in the terms set out in Section 3 below.

2. Statement of Agreed Facts

Between May 2009 and June 2012, the following incidents/events occurred:

- 2.1. On six occasions the CCTV did not clearly identify individuals in contravention of the Licence. The Licensee paid a penalty notice for one of the occasions.
- 2.2. On three occasions the CCTV did not provide continuous images of all bars in contravention of the Licence.
- 2.3. On one occasion the licensee failed to provide a copy of the recorded images in contravention of the Licence.
- 2.4. The Licensee, despite a written warning, failed to address the compliance issues of the CCTV.
- 2.5. On nine occasions a drunken person was on the Premises.
- 2.6. On one occasion the crowd controller register failed to include details that were required under the LCR Act.
- 2.7. On one occasion liquor was supplied to an intoxicated person.

3. Undertaking

The Licensee undertakes that:

- 3.1. Within three months from the date of the Undertaking Michael McKenzie will complete the Licensee Compliance Training delivered by Franklin Scholar Hospitality and will provide evidence of completion to the Commission.
- 3.2. As and from the date of the Undertaking, no drunk person is to be on the Premises.

4. Commencement and duration of the Undertaking

This Undertaking comes into effect on the date it is executed by the Licensee and the Commission and will continue to take effect for a period of two (2) years.

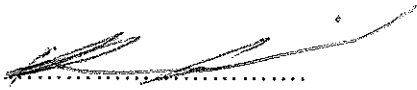
5. Acknowledgements

The Licensee acknowledges that:

- 5.1. pursuant to section 133G of the Act, the Commission will register this undertaking in the Register of Undertakings and the undertaking will be available for public inspection on the website of the Commission;
- 5.2. the Licensee and the related persons, the Commission and/or the Premier or a Minister of the Government of Victoria may from time to time publicly refer to this undertaking; and
- 5.3. the Commission, by accepting this Undertaking, does not fetter the Commission or others in any way, with regards to the Act.

6. **Execution**

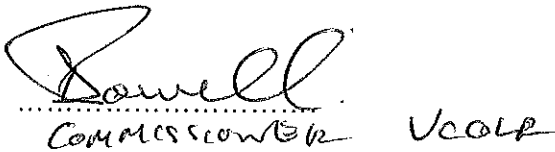
Executed by **MCKENZIE NOMINEES (AUSTRALIA) PTY LTD** by:



Director (Michael McKenzie)

Dated the *22* day of *JAN* 2014

Executed by the **VICTORIAN COMMISSION FOR GAMBLING AND LIQUOR REGULATION:**



COMMISSIONER VCOLP

Dated the *3rd* day of *February* 2014