

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

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

**OPEN DOOR PUB CO PTY LTD
ACN 089 164 803
481 BURWOOD ROAD
HAWTHORN VIC 3122**

1. Description of the licensee and other relevant particulars

- 1.1 Open Door Pub Co Pty Ltd ACN 089 164 803 (**the Licensee**) is an Australian proprietary company, limited by shares, registered on 19 August 1999.
- 1.2 The current sole director and company secretary of the Licensee is Michael Thiele.
- 1.3 The Licensee is a wholly-owned subsidiary of Like Minded People Pty Ltd ACN 108 997 422, an Australian proprietary company limited by shares, which is controlled by Michael Thiele.
- 1.4 The Licensee holds a General liquor licence number 31902920 (**the Licence**) which authorises the Licensee to supply liquor on the licensed premises for consumption on and off the licensed premises in accordance with the conditions set out in the Licence.
- 1.5 The nominee endorsed on the Licence is Mark Sorenson.
- 1.6 The Licensee carries on a hotel/pub business known as the 'College Lawn Hotel' (**the business**) from premises located at 36 Greville Street, Prahran (**the premises**) from which it trades pursuant to the licence.
- 1.7 The premises is situated in a Residential 1 Zone pursuant to the City of Stonnington planning scheme, and is surrounded by medium density housing.
- 1.8 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 The following conditions are endorsed on the Licence:

AMENITY

The licensee shall not cause or permit undue detriment to the amenity of the area to arise out of or in connection with the use of the premises to which the licence relates during or immediately after the trading hours authorised under this licence.

The licensee shall ensure that the level of noise emitted from the licensed premises shall not exceed the permissible noise levels for entertainment noise as specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No.N-2. [the SEPP-2]

Musical entertainment other than background music be not permitted during operation of the licence.

Musical entertainment to cease at 11 pm on evenings Thursday to Saturday both inclusive.

2.2 At about 8.15 pm on 12 June 2011, compliance inspectors from RAV conducted an unannounced inspection of the premises. The business was trading at that time, and the premises was at or near patron capacity.

2.3 Prior to entering the premises, compliance inspectors observed numerous empty liquor bottles and cans of alcohol in the immediate vicinity of the premises along Perth Street, as well as evidence that persons had been urinating in the area.

2.4 Upon entering the premises, compliance inspectors observed that live musical entertainment was being performed by a band. The compliance inspectors were of the opinion that the noise level of the music was at a level greater than 'background music', in that it was not possible for compliance inspectors to maintain a conversation with the manager of the business while inside the premises because of the level of the music.

2.5 Upon leaving the premises, compliance inspectors made further observations of empty liquor bottles along Perth Street.

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)(a)(i) of the Act: Supplying liquor on the licensed premises other than in accordance with the conditions of the licence.

4. Acknowledgement of the breach

4.1 The Licensee acknowledges there are legitimate concerns held by RAV and the Director with respect to the operation of the business set out in paragraph 2 and 3 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 erect and maintain, at its own expense, signage at all exit points to the licensed premises displaying the words:

“PLEASE BE MINDFUL OF LOCAL RESIDENTS AND LEAVE QUIETLY”--

in letters no less than 20mm in height, followed by the words:

“IT IS OUR RESPONSIBILITY UNDER OUR LIQUOR LICENCE TO ENSURE THAT PATRONS DO NOT CAUSE UNREASONABLE NOISE WHEN LEAVING”--

in letters no less than 15mm in height.

The Licensee will give effect to this provision within 2 weeks of the date of execution of this undertaking, or such longer period as the Director may approve (if necessary).

- 5.2 The Licensee shall install and maintain at the premises a noise-attenuation device (**the Device**) capable of limiting or restricting any live or amplified music or other sound played on the premises to a level permitted by the SEPP-2 (as measured in respect of the nearest affected residence).

The Licensee shall supply to the Director a certificate or report from a qualified acoustic consultant or technician engaged by the Licensee (**the nominated acoustic consultant**) confirming that the Device is calibrated to ensure that amplified music or noise does not exceed the level permitted by the SEPP-2.

The Licensee will give effect to this provision within 3 months of the date of execution of this undertaking, or such longer period as the Director may approve (if necessary).

- 5.3 The Licensee shall engage an acoustics engineer, who shall be nominated in writing to the Director, to undertake an inspection of the premises and to provide a report on what (if any) measures would be necessary to ensure that noise from the premises arising out of or in connection with the business (including noise from patrons, music, machinery or other equipment used on the premises) does not exceed the level permitted by the SEPP-2.

The Licensee shall provide a copy of any such report to the Director as soon as practicable.

The Licensee will ensure that any measures suggested in the report are implemented in accordance with the recommendations of the acoustics engineer.

The Licensee will give effect to this provision within 3 months of the date of execution of this undertaking, or such longer period as the Director may approve (if necessary).

- 5.4 The Licensee shall arrange quarterly meetings where residents from the area around the premises are able to meet with management of the business to discuss any issues or concerns about noise from the premises arising out of or in connection with the business.

The Licensee shall display a notice of the date, time and place of such meeting at the entrance to the premises for no less than one (1) month prior to the scheduled date of such meetings, inviting residents to attend in order to discuss any such issues or concerns.

The Licensee shall ensure that written minutes or record are kept of such meetings (including any issues or concerns raised and the Licensee's response to same) and shall make available a copy of such minutes or record on request by the Director.

The Licensee will give effect to this provision within 2 months of the date of execution of this undertaking, or such longer period as the Director may approve (if necessary).

- 5.5 So long as this undertaking is in force, the directors and managers of the Licensee will undertake bi-annual training conducted by the Director or a suitably qualified person, approved by the Director, training with respect to their requirements as directors and managers pertaining to the Act.

The Licensee will give effect to this provision within 6 months of the date of execution of this undertaking, or such longer period as the Director may approve (if necessary).

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 so long as the Licensee continues to hold the licence in respect of the premises.

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. Notations

- 8.1 The Director notes that the Licensee will be subject to a variation in accordance with Section 58 of the Act to vary the Licence to remove the following conditions (**the Section 58 Application**):

Musical entertainment other than background music be not permitted during operation of the licence.
Musical entertainment to cease at 11 pm on evenings Thursday to Saturday both inclusive--

and to insert the following conditions:

When live or recorded music other than background music is provided:

- The licensee shall install and maintain a surveillance recording system able to clearly identify individuals, which shows time and date and provides continuous images of all entrances and exits, bars and entertainment/dance floor areas. The surveillance recording system must operate from 30 minutes before the start of the entertainment being provided, until 30 minutes after closure. A copy of the recorded images must be available upon request for immediate viewing or removal by the Victoria Police, or a person authorised in writing by the Director of Liquor Licensing, or otherwise retained for at least one month. The position of the cameras will be to the satisfaction of the Licensing Inspector.
- Signs, as described below, are to be displayed in all areas subject to camera surveillance. Such signs shall read:

"For the safety and security of patrons and staff this area is under electronic surveillance".

- Crowd controllers, licensed under the Private Security Act, are to be employed at a ratio of 2 crowd controllers for the first 100 patrons and 1 crowd controller for each additional 100 patrons or part thereof. One crowd controller is to be present outside the premises to monitor patrons arriving at and departing from the

premises. Crowd controllers are to be present from 30 minutes before the start of the entertainment being provided, until 30 minutes after closure.

The Director notes that the Licensee will give effect to the provisions relating to installing the CCTV system within 6 months of the date of consenting to the change of conditions, or such longer period as the Director may approve (if necessary).

The Director notes that the Licensee will give effect to the crowd controller provision immediately upon the date of execution of this variation.

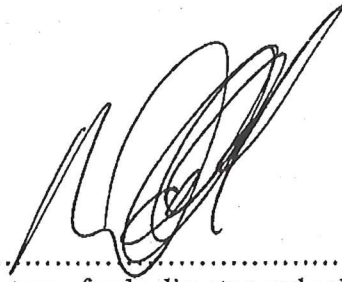
- 8.2 The Licensee acknowledges the proposed contents and effect of the Section 58 Application contemplated by paragraph 8.1. The Licensee does not object and expressly consents to the Section 58 Application.
- 8.3 The Director (or his delegate) will grant the Section 58 Application within (7) days of the date of the execution of this undertaking.
- 8.4 Should the Licensee fail to comply with the terms of this undertaking the Director will be entitled to re-instate the conditions referred to in paragraph 8.1. The Licensee will not be entitled to object to such re-instatement.

Execution

EXECUTED BY OPEN DOOR PUB CO.)
PTY LTD ACN 089 164 803 in accordance)
with the requirements of section 127 of the)
Corporations Act 2001 (Cth):

.....*Michael Thiele*.....

Name of sole director and sole company secretary (print)



.....
Signature of sole director and sole company secretary

IN THE PRESENCE OF

.....*Craig Redison*.....

Name of witness (print)



.....
Signature of witness

Dated the *24th* day of *JUNE* 2011

ACCEPTED BY:

.....*[Signature]*.....

Director of Liquor Licensing

Dated the *24th* day of *JUNE* 2011