



## UNDERTAKING

### *Liquor Licensing Act 1997*

Undertaking given to the Liquor and Gambling Commissioner for the purposes of Section 119A(1) of the *Liquor Licensing Act 1997* by:

Carpe Diem Hotel Group Pty Ltd **and** Ms Kimberley McInnes

#### Persons Giving this Undertaking

1. This undertaking is given to the Liquor and Gambling Commissioner (**the Commissioner**) by Carpe Diem Hotel Group Pty Ltd and Ms Kimberley Renae McInnes in relation to the business conducted under General & Hotel Licence and Gaming Machine Licence, number 57003902, for the purposes of Section 119A(1) of the *Liquor Licensing Act 1997* (**the Act**)

#### Background

2. Carpe Diem Hotel Group Pty Ltd (**the licensee**) has held a General & Hotel Licence, number 57003902, pertaining to the premises known as St Kilda Hotel (**the Premises**), located at 2–10 Fooks Terrace, St Kilda, South Australia, pursuant to Section 32 of the Act since 7 August 2019.
3. Ms Kimberley Renae McInnes is the sole director of the licensee.

#### Conduct of Concern

4. On 6 August 2020, at 15:22 hrs, the Premises, while open to the public, was under the sole supervision of Mr Edward Selby-Fullgrabe, who was not approved to act as a responsible person for a licensed premises.

#### Contraventions

5. Section 97(1) of the Act relevantly provides:
  - (1) The business conducted under a licence—
    - (a) must, at all times when the licensed premises are open to the public, be personally supervised and managed by a natural person (**a responsible person**) who is—
      - (i) the licensee or a director of the licensee and qualified for the purpose in accordance with subsection (1a); or
      - (ii) a person approved by the licensing authority as a responsible person for the purposes of this section; or

6. The Commissioner considers, and the licensee acknowledges, that:
  - 6.1. by permitting the conduct described in paragraph 4, the licensee has not properly supervised or managed the business conducted under the licence in accordance with section 97(1) of the Act; and
  - 6.2. there are proper grounds for disciplinary action pursuant to section 119(1)(b)(viii)(B) of the Act.

## **Undertaking**

7. The licensee undertakes to the Commissioner that it will ensure that the premises are always, when open to the public, supervised by an approved responsible person in accordance with the requirements of section 97(1) of the Act.

## **Commencement of Undertaking**

8. This undertaking comes into effect when:
  - 8.1. The undertaking is executed by the licensee; and
  - 8.2. The Commissioner accepts the undertaking so executed.

## **Acknowledgments**

9. The licensee acknowledges that:
  - 9.1. Consumer and Business Services (CBS) will make this undertaking publicly available including by publishing it on CBS' public register of undertakings on its website; and
  - 9.2. CBS may, from time to time, make public reference to the undertaking including in news media statements and in CBS publications; and
  - 9.3. This undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

## **Executed as an Undertaking**

Executed by Ms Kimberley Renae McInnes as sole Director of Carpe Diem Hotel Group Pty Ltd on behalf of the licensee:



Signature

Kimberley McInnes

Date: 4/3/2021



Signature of Witness

Name of Witness: Edward Selby -fullgrabe

Date: 4/3/2021

Accepted by the Liquor and Gambling Commissioner pursuant to Section 119A(1) of the Liquor Licensing Act 1997.



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Liquor and Gambling Commissioner

Date: 10/3/21