

ENFORCEABLE UNDERTAKING

Liquor Act 2019
Section 159(3)

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

Dominic Cain
General Manager
For and on behalf of
SSP AUSTRALIA CATERING PTY LIMITED
ACN: 134 475 924
206/83 York Street, Sydney NSW 2000

BACKGROUND:

1. The Liquor Commission (the Commission) is charged with various functions under the *Liquor Act 2019* (the Act), including the function of granting approvals for material alterations to licensed premises.
2. The Director of Liquor Licensing (the Director) is charged with conducting an investigation into an application as the Director considers appropriate, and the Commission has delegated the determination of applications for the grant of a liquor licence to the Director.
3. On 6 September 2023 the Northern Territory Liquor Commission (the Commission) approved an application by SSP Australia Catering Pty Limited (SSP) for material alterations to premises described as Northern Common at the Darwin Airport Terminal at 1 Henry Wrigley Drive, Marrara.
4. At paragraph five [5] of the decision the Commission noted "...work began on the refurbishments and were well underway when the application for a material alteration" had been lodged.
5. It was also noted in the decision there had been some confusion between the licensee and Licensing NT as to whether the proposed works constituted a material alteration as defined in section 95 of the Act.
6. Subsequent discussions have been undertaken between parties in relation to further proposed works at the premises, and the possible addition of points of sale.

THE DIRECTOR'S CONCERNS

7. As referred to by the Commission in their decision of 6 September 2023, the licensee undertook material alterations at the premises without prior written approval.
8. Such activity may be subject to disciplinary action against the licensee, and the Commission has the power to cause the alteration to be removed from the licensed premises.
9. It was also evident from the hearing and decision that some confusion arose as to what may be a material alteration, necessitating approval from the Commission prior to undertaking it, and what does not require approval.
10. The Director acknowledges the evolving nature of the premises and services provided to the travelling public, and the need for business efficacy.
11. The Director acknowledges the need for a mechanism to prevent an unintentional contravention of the Act.

ACKNOWLEDGEMENT OF CONCERNS

12. SSP Australia Catering Pty Limited acknowledges the Director's concerns and believes that they are reasonably held.

UNDERTAKING:

13. Under section 159(3) of the Act, SSP Australia Catering Pty Limited has offered, and the Director has agreed to accept, as an alternative to the examination of those persons named, the undertaking set out in this Enforceable Undertaking.
14. SSP Australia Catering Pty Limited undertakes to provide to the Director a fulsome plan of the entire licensed premises including details of each point of sale, as at the date of this Enforceable Undertaking and notify the Director of any proposed material changes to the licensed premises prior to them being undertaken.
15. Further, the licensee will await confirmation from the Director in relation to the proposed material changes as to whether they are material alterations as defined in section 95 of the *Liquor Act 2019*, and not commence any actions until such time as the Director has provided in writing their determination.

NON-COMPLIANCE

16. Should the Director believe that either party has failed to materially comply with the Enforceable Undertaking as described in clauses 14 and 15 he will write to the parties setting out the concerns regarding non-compliance.
17. The parties will have 14 days from the date of the Director's letter referred to in clause 16 to provide evidence satisfactory to the Director that it has remedied such non-compliance.
18. The provisions of clauses 14 and 15 notwithstanding, the Commission and the Director reserve the right to take disciplinary action against the licensee in accordance with the Act for any non-compliance with this undertaking.

ACKNOWLEDGEMENTS

19. The parties acknowledge that the Director, in accordance with section 159(6) of the Act, will record this Enforceable Undertaking in the Register of Enforceable Undertakings.
20. The parties also acknowledge, in accordance with section 159(7) of the Act that it may vary or withdraw this Enforceable Undertaking only with the consent of the Director.

COMMENCEMENT DATE:

21. This Enforceable Undertaking will commence operative force from the date it is accepted by the Director.

PROVISION OF DOCUMENTS:

22. The address for providing the Director with any document or notice is:

The Director of Liquor of Licensing
GPO Box 1154
DARWIN NT 0801

23. The addresses for providing SSP Australia Catering Pty Limited with any document or notice is:

SSP Australia Catering Pty Limited
206/83 York Street
Sydney NSW 2000

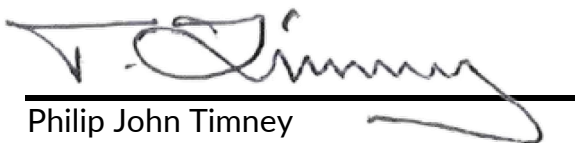
SIGNED BY:



Dominic Cain,
General Manager
For and on behalf of SSP Australia Catering Pty Limited (ACN 134 475 924)

Dated this 25th day of January 2024.

Accepted by the Director of Liquor Licensing under section 159(5) of the
Liquor Act 2019.



Philip John Timney
Director of Liquor Licensing

Dated this 29th day of January 2024.