

Mr Brett Tobin
Hatzis Cusack Lawyers
By email to: bt@hatziscusack.com.au

27 February 2024

Dear Mr Tobin

Application No.	1-8780412462 & 1-8780412649
Applicant	IRIS Hotel Group
Application for	New extended trading authorisation (ETA) and change of conditions (COC) – Hotel licence (full)
Decision Date	14 December 2023
Licence name	The Homebush Hotel
Licence No.	LIQH440019026
Proposed trading hours	Consumption on premises – Interior areas of the hotel Monday to Saturday 10:00 AM – 4:00 AM Sunday 10:00 AM – 12:00 midnight Consumption on premises – Outdoor courtyard Monday to Sunday 10:00 AM – 12:00 midnight Take away sales Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 11:00 PM
Current trading hours	Consumption on premises – Interior areas of the hotel Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises – Outdoor courtyard Monday to Sunday 10:00 AM – 10:00 PM Take away sales Monday to Sunday 10:00 AM – 10:00 PM
Premises	136 Parramatta Road Homebush NSW 2140
Legislation	Sections 3, 11A, 12, 14, 15, 40, 44, 45, 48, 49 and 53 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority
Application for a new ETA and COC – Hotel licence (full) – The Homebush Hotel

We **refuse** the application under sections 49 and 53 of the *Liquor Act 2007*.

Statement of reasons

Overall, we are not satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness and the proposed trading hours for the premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods.
- the Community Impact Statement (CIS) meets the relevant requirements.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

Development consent requirements

The necessary development consent is in force. Strathfield Council approved the development application DA2019.57.6 for the premises on 2 June 2022. The proposed extended trading authorisation is in accordance with that consent.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Homebush, and the relevant 'broader community' comprises the Local Government Area (LGA) of Strathfield.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Homebush shows:

- there are 19 authorised liquor licenses, of which 8 are authorised to sell packaged liquor. This includes 4 packaged liquor licences, 1 registered club licence, 2 hotel licences and 1 Producer/Wholesaler.
- saturation of hotel licences (full) is higher in Homebush compared to the LGA of Strathfield and lower compared to all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to June 2023:

- the premises were located in high-density hotspots for alcohol-related domestic assault and malicious damage to property and in a medium-density hotspot for alcohol-related non-domestic assault.
- alcohol-related domestic and non-domestic assault was higher in Homebush compared to the Strathfield LGA and lower compared to all of NSW.
- malicious damage to property in Homebush was higher compared to the Strathfield LGA and significantly lower compared to all of NSW.
- No incidents were reported for alcohol-related offensive conduct in Homebush and the Strathfield LGA hence the rate is lower compared to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

Homebush and the Strathfield LGA were ranked as showing high levels of relative socio-economic advantage in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

We note that the primary purpose of the existing business model involves motel style accommodation as well as the retail sale of liquor for consumption on and away from the licensed premises. Electronic gaming machines are also operated at the venue.

Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- increased convenience for patrons to remain at the premises after midnight that would otherwise have to travel to other licensed premises that have the ability to operate after that time
- experienced operator of late-night trading venues, with a proven track record in the industry
- increased employment opportunities for staff by offering longer and additional shifts, thereby actively supporting and contributing to the growth of the hospitality industry

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 14 September 2023, which notes recommendations to impose additional conditions to the licence, no objection
- Local Council, dated 12 September 2023, which notes their agreement with proposed licence conditions, no objections
- L&GNSW Compliance, dated 30 August 2023, which notes that a penalty notice was issued to the licensee on 31 July 2023 for publishing/causing to publish gaming machine advertising. It further noted recommendations to incorporate controls and strategies into the liquor plan of management, no objection
- L&GNSW Gaming, dated 13 November 2023, which notes that the venue's gaming plan of management (GPOM) was assessed as satisfactory and a recommendation to impose the GPOM and a Responsible Gambling Officer as conditions to the licence, no objection
- seven members of the public objecting to the proposal with the common concern being the potential increase of anti-social behaviour and noise disturbances in the neighbourhood
- a public petition was provided by the applicant in support of the extended trading hours sought. The petition contains 194 signatures from patrons of the premises.

We also considered the Applicant's submission in response, to these submissions, which notes that:

- the hotel operates pursuant to a detailed Plan of Management (POM) and GPOM adopting practices to ensure excessive noise, intoxication and anti-social behaviour do not occur among patrons, that facilities are operated responsibly and that ensure risk gambling patrons are quickly identified
- the penalty notice issued to the licensee would not have bearing on the application currently under consideration
- the signed petition is an expression of public support for the proposed application for late-night trading.

Findings of concern

There is a risk that if the licence was granted, liquor sold at the premises will contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and

broader communities, and in other areas of the State. The hotel is located in high-density hotspots for alcohol-related domestic assault and malicious damage to property.

We note that the proposal seeks to increase trading hours until 4:00 AM Mondays to Saturdays and until 12:00 midnight on Sundays. We also note the applicant would agree to a condition prohibiting gaming after 2:00 AM, should the application be otherwise approved.

Our concerns are somewhat mitigated by:

- lower overall crime rates in the suburb and LGA for offences usually considered by us compared to NSW
- lower density of all relevant licence types in the suburb and LGA compared to NSW and the fact that it will remain unchanged if the application is approved
- harm minimisation measures outlined in the POM and GPOM.

However, we are persuaded by the increasing body of evidence of the association between late night gaming (being gaming after 12:00 midnight) and gaming related harm (Roy Morgan Research 2023). The evidence demonstrates a significant increase in problem gambling after 12:00 midnight with gamblers classified at moderate risk of problem gambling doubling in prevalence after 12:00 midnight. The high gaming revenue of the hotel also indicates existing high levels of gaming intensity at the venue and commensurably, the potential for significant gaming harm in the event that gaming continued after midnight.

It is well known that gambling harm affects not just the gambler but others, including family members. The form of gambling most associated with harm to others across jurisdictions in Australia, including NSW, is gaming machines (Roy Morgan Research 2023). In that regard we note the location of the premises within a hotspot for domestic violence.

As a result of our concerns, we cannot be satisfied that the overall social impact of granting the application will not be detrimental to the well-being of the local and broader community.

We are also of the view that, due to the potential for an increase in alcohol and gaming related harm in the area, the business development and community benefit proposed by the application is not in the public interest. Approving the application would therefore be inconsistent with the objects of the legislation which require us to have due regard to:

- the need for gambling harm minimisation and the fostering of responsible conduct in relation to gambling, and
- the need to minimise harm associated with misuse and abuse of liquor.

We do not believe that imposing additional harm minimisation conditions under section 53 of the *Liquor Act 2007* would effectively mitigate the high risks presented.

The material we considered

We considered all the material we received about the application, including:

Application Material

- completed application dated 20 July 2023
- completed Category B Community Impact Statement (CIS) dated 12 July 2023
- completed certification of advertising dated 10 October 2023
- liquor plan of management documents for the premises, titled *Plan of management for the hotel at 136-144 Parramatta road, Homebush* and dated November 2023
- gaming plan of management documents for the premises, titled *The Homebush Hotel Gaming Plan of Management* and dated January 2022

- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 7 November 2019, indicating the proposed licensed area to which the ETA would apply.

Under [Guideline 6](#), we also considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material

- submissions received
- correspondence between L&GNSW staff and the applicant between 10 October 2023 and 14 November 2023 in relation to the assessment of the Application
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

This decision will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you're not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

If you have any questions

Please contact the case manager, Andy Whitehead, at andrew.whitehead@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**