



Mr Brett Tobin
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13 February 2019

Dear Mr Tobin

Application No.	1-6790743912
Applicant	Rink Family Holdings Pty Ltd
Application for Licence name	Small Bar Licence Alexanders Bar N Cafe
Trading hours	Monday to Saturday 12:00 Noon – 12:00 Midnight Sunday and Public Holidays 12:00 Noon – 10:00 PM
Premises	1 Kurrawyba Road Terrigal NSW 2260
Legislation	Sections 3, 11A, 12, 20A, 20B, 20C, 40, 45 and 48 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority
Application for a Small Bar Licence – Alexanders Bar N Cafe**

The Independent Liquor and Gaming Authority considered the above application (“Application”) at its meeting on 12 December 2018 and, following further consultation with the Applicant has decided, pursuant to section 45 of the *Liquor Act 2007* (NSW), to **approve** the Application subject to the imposition of the following licence conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between **4:00 AM and 10:00 AM** during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

2. **Consumption on premises**

Good Friday Not permitted

Christmas Day Not permitted

December 31st Normal trading

Note: Trading is allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5.00 AM.

3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the application and other information submitted in the process of obtaining the licence.
4. The premises is to be operated at all times in accordance with the Plan of Management provided to the Authority on 19 December 2018, as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and

Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

5. Crime scene preservation

Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.
- 5) In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.

6. Closed-circuit television system

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

7. The licensee or its representative must join and be an active participant in the local liquor accord.

8. There is to be no live entertainment or amplified music within the premises after 11.30pm.

9. There is to be no amplified music or entertainment in the outdoor areas.
10. The licensee is to ensure that no drinks commonly referred to as shots, shooters or slammers and/or bombs are to be sold or supplied at the premises.
11. No patrons may enter or re-enter the premises after 11.30pm.
12. The liquor trading hours for the outdoor dining area shall finish at 11.00pm each night.
13. The licensed premises must cease to trade by 10:00pm, on public holidays.

If you have any questions about this letter, please contact the case manager via email to andrew.whitehead@liquorandgaming.nsw.gov.au

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 21 May 2018 Rink Family Holdings Pty Ltd (“Applicant”) lodged an application (“Application”) to the Independent Liquor and Gaming Authority (“Authority”) through Liquor and Gaming New South Wales (“LGNSW”), seeking the grant of a new small bar licence in respect of premises located at 1 Kurrawyba Road, Terrigal NSW 2260 (“Premises”).
2. The Authority considered the Application at its meeting on 12 December 2018 and, pursuant to section 45 of the *Liquor Act 2007* (“Act”), decided to grant the Application.
3. A preliminary notification of this decision was sent to the Applicant on 14 January 2019 together with the licence document for the Premises.
4. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 20A, 20B, 20C, 40, 45 and 48 of the Act, and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

Material considered by the Authority

5. The Authority has considered the Application and all submissions received in relation to the Application.
6. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
7. In accordance with its *Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health and Australian Bureau of Statistics (“ABS”).
8. A list of the material considered by the Authority is set out in Schedule 1.

Legislative framework

9. The Authority has considered the Application in the context of the following provisions of the Act:
 - (a) Section 3: Statutory objects of the Act and relevant considerations.
 - (b) Section 11A: 6-hour closure period.
 - (c) Section 12: Standard trading period.
 - (d) Sections 20A, 20B and 20C: Authorisations conferred by small bar licences, trading hours and miscellaneous conditions.
 - (e) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - (f) Section 45: Criteria for granting a liquor licence.
 - (g) Section 48: Requirements in respect of a Community Impact Statement (“CIS”).
10. An extract of these sections is set out in Schedule 2.

Key findings

11. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading hour requirements

12. The Authority finds that the Application has been validly made and meets the minimum procedural requirements under section 40 of the Act. This finding is made on the basis of the Application material before the Authority and the Certificate of Advertising signed by the Applicant's legal representative and dated 11 May 2018.
13. The Authority finds that the proposed trading hours (as set out in the Applicant's Additional Information document) and proposed six-hour closure period (agreed by the Applicant in its submission dated 31 October 2018) meet the requirements of sections 11A, 12 and 20B of the Act in respect of licensed trading and 6-hour closure periods. Although section 20B(2) authorises a small bar licensed premises to trade between midnight and 2:00 am, the Applicant has only applied for licensed trading that will cease at 12:00 midnight Monday to Saturday and at 10:00 pm on Sunday, in order to keep licensed trading hours in line with Council approved trading hours specified in the development consent. The Authority has determined the Application on that basis.

Fit and proper person, responsible service of alcohol and development consent

14. Pursuant to section 45 of the Act, the Authority is satisfied that:
 - (a) for the purposes of section 45(3)(a), the Applicant is a fit and proper person to carry on the proposed business or activity to which the licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with law enforcement agencies including NSW Police ("Police") and LGNSW. The Authority accepts the information provided by the LGNSW Compliance Operations Unit ("LGNSW Compliance") in a submission dated 30 October 2018 that the sole director of the corporate Applicant, Mr Glynatsis, in his capacity as the licensee of Sirens Nightclub (LIQO624012658 - located directly above the Premises) was the subject of a Warning Notice issued by LGNSW Compliance on 28 March 2018 for failing to comply with a licence condition relating to patron capacity. The Authority further accepts that Mr Glynatsis was issued with three Penalty Notices for permitting intoxication and the sale/supply of liquor to an intoxicated patron on 3 August 2008. The Authority further accepts the information provided by Police in their submission dated 16 November 2018 that Mr Glynatsis was the subject of a section 139 complaint which was withdrawn. Having regard to the nature, number and dates of that previous regulatory action, the Authority remains satisfied that the corporate Applicant is a fit and proper person.
 - (b) for the purposes of section 45(3)(b), practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication. This finding is made on the basis of the Applicant's updated Plan of Management dated June 2018 that was provided to the Authority on 19 December 2018, and
 - (c) for the purposes of section 45(3)(c), the requisite development consent permitting use of the Premises as a small bar licensed business is in force. This finding is made on the basis of a determination by the Central Coast Council ("Council") dated 27 April 2018 for DA52739/2017 (Part 1) permitting "Use and Occupation – Coffee Shop and Small Bar" in respect of the Premises. Condition 2.3 permits such use between 6:00 am and 12:00 Midnight Monday to Saturday and between 6:00 am and 10:00 pm Sundays and Public Holidays.

Community Impact Statement

15. Section 48(3A) of the Act provides that a small bar application is not required to be accompanied by a CIS if (a) development consent is required and (b) local police and the Secretary of the NSW Department of Industry are, no more than 2 working days after the application for or any variation of the required development consent is made, notified by the applicant of the making of the application for, or variation of, development consent. The Authority is satisfied, on the information provided in the Application form, that the exemption provided by section 48(3A) of the Act applies in this case.
16. Although no CIS is required, an application for a new small bar licence is deemed to be a “relevant application” by section 48(2) of the Act. Section 48(5) requires that the Authority must not grant a licence, authorisation or approval to which a relevant application relates unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
17. For the purposes of this decision and consistent with the Authority’s *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Terrigal, while the “broader community” comprises the relevant local government area (“LGA”), Central Coast Council (“Central Coast LGA”).

Provisions specific to a small bar licence

18. The Authority is satisfied, on the basis of the Additional Information document lodged with the Application and the revised Plan of Management provided on 19 December 2018, that the proposed business will sell liquor for consumption on the licensed Premises only.
19. The Authority is further satisfied, on the information provided in the Application form, that the proposed patron capacity is 60, substantially fewer than the 100 patrons permitted by clause 39 of the Regulation for a small bar licensed premises.
20. The Authority is further satisfied, on the basis of the Additional Information document and amended Plan of Management, that the business will be open to the general public and that food will be available whenever liquor is sold and supplied on the Premises, to meet the minimum requirements of sections 20C(2) and (4) of the Act.

Positive social impacts

21. While no CIS is required, the Authority has determined this Application on the basis of information provided with the Application and any submissions made in respect of the Application - noting that the Application was exposed for public comment for at least 30 days via the Applications Notice Board on the LGNSW website.
22. The Authority is satisfied, on the information provided in the Applicant’s submission dated 24 July 2018 and on the basis of LGNSW licensed premises information for Terrigal that the venue will offer a more intimate small bar style of venue and will be the first small bar licence granted in the local community.
23. The Authority is satisfied, on the basis of the Certificate of Advertising, that the Applicant has observed the minimum notification requirements prescribed by clause 24 of the Regulation which requires notification of Police that the Application has been made no later than 2 working days after the filing of the Application. Although the usual advertising requirements in Division 1 of the Regulation do not apply through the operation of clause 24(1), the Application Form was accompanied by a signed Police notice, local consent authority notice and a public consultation site notice, all dated 2 May 2018. Other than a submission from

local Police which is addressed below there was no opposition to the Application voiced from within the local or broader communities.

24. The Authority is satisfied that granting the Application will be consistent with the “expectations, needs and aspirations of the community” being a statutory object of section 3(1)(a) of the Act, by increasing the choices of smaller licensed venues in the local and broader community.
25. Notwithstanding that there are a range of hotel, club and on-premises licensed restaurants operating within Terrigal, the Authority finds that this new style of smaller licensed bar will make a modest contribution to the balanced development, in the public interest, of the liquor industry serving the local and broader communities, being a statutory object in section 3(1)(b) of the Act.
26. On the limited information provided in the Applicant’s submission dated 24 July 2018 advising that some unspecified “ancillary entertainment” will be provided and having regard to the popular seaside location of the venue, the Authority accepts that the new licence will also make a modest contribution to the responsible development of related industries, such as the live music, entertainment, tourism and hospitality industries, a statutory object in section 3(1)(c) of the Act.

Negative social impacts

27. The Authority considers that over time there is a risk that liquor sold at this small bar will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities caused by a minority of customers who abuse liquor or engage in alcohol related misconduct.
28. However, the legislation limits the patron capacity of small bars. This proposal is for a very small patron capacity of 60, enforceable through a licence condition requiring compliance with the Plan of Management, which specifies this patron capacity. The Authority finds that this venue will be readily amenable to active monitoring of alcohol consumption and patron conduct on or near the Premises.
29. The Premises is of a modest scale, with a licensed area of around 240 sqm. While the licensed trading hours will be reasonably extensive across the week, the Authority notes that the venue operate as a café (without liquor) prior to midday each day.
30. The Authority has considered Police submissions regarding what they claim to be the inherent risk for higher incidents of violence and anti-social behaviour to be associated with small bar licences (although no evidence or research is provided by Police in support of this statement), the high licence density in the Terrigal Central Business District (“CBD”) and the increasing incidents of malicious damage, assaults and other anti-social behaviour offences in the early hours of the morning recorded in Terrigal.
31. The Authority has considered the BOCSAR alcohol related crime data referred to by Police, who contend that the levels of violent, anti-social and hazardous behaviour after 10:00 pm each Friday, Saturday and Sunday night in close proximity to the Premises are “already unacceptable” with the Sirens Nightclub (situated directly above the Premises) and other late trading venues contributing to these impacts. Police are concerned that this new bar will trade “with a nightclub model”, exacerbating the current problems experienced on Friday, Saturday and Sunday nights.

32. The LGNSW list of licensed premises, sourced by licensing staff as at 12 October 2018, indicates that the suburb of Terrigal has **1** Club licence, **2** full hotel licences, **1** hotel (general bar) licence and **33** on-premises licences.
33. Although Police are concerned about licence density in the Terrigal CBD, the Authority notes that the rate (per 100,000 persons) for small bars is **0** for the State suburb, **0.31** for the Central Coast LGA and **1.47** for NSW.
34. The Authority accepts that the Terrigal CBD is experiencing concentrations of crime, with the BOCSAR hotspot maps for the suburb of Terrigal between July 2017 and June 2018 indicating that the Premises is located *within* high-density hotspots for incidents of alcohol related assault, non-domestic assault and malicious damage to property and *within* a low-density hotspot for incidents of domestic assault.
35. These concentrations of crime occur within the context of elevated crime rates within Terrigal for certain offence types. BOCSAR crime data for the year to June 2018 indicates:
- A rate of **126.8** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **183.4** for the LGA and a rate of **114.0** for NSW.
 - A rate of **414.3** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **167.9** for the LGA and a rate of **127.3** for NSW.
 - A rate of **625.7** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **887.8** for the LGA and a rate of **768.4** for NSW.
 - A rate of **126.8** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **27.7** for the LGA and a rate of **40.3** for NSW.
36. The main points of concern arising from the application of this data to a proposed new bar are the relatively high rates in Terrigal for alcohol related non-domestic assault and disorderly conduct.
37. The Authority further accepts information from the LGNSW Liquor Accords Team in a submission dated 9 November 2018, that the existing licensed venues in this area are concerned with patrons loitering after all licensed premises are closed. This venue will close at an earlier time than other later trading venues, but the Authority accepts that the concentration of venues in Terrigal CBD is giving rise to patron migration.
38. Alcohol related health data provides another factor of concern with the former Wyong LGA recording a smoothed standardised alcohol related mortality ratio of **128.2** (2013) and a smoothed standardised alcohol related hospitalisation ratio of **98.3** (2015). The former Gosford LGA recorded a smoothed standardised alcohol related deaths ratio of **120.8** (2013) and a smoothed standardised alcohol related hospitalisation ratio of **105.9** (2015).
39. Socio-Economic Indexes For Areas data indicates that the local and broader communities are relatively advantaged, with Terrigal ranking in the 9th decile and the LGA ranking in the 7th decile on the Index of Relative Socio-Economic Advantage and Disadvantage.
40. With respect to the Police concern that this new bar will operate in the mode of a nightclub, the Authority notes that there is common business ownership between this venue and Sirens Nightclub. Nevertheless, both licensed businesses will need to comply with the requirements of their respective licences. The information as to past adverse regulatory action taken in respect of Sirens potential risks are associated with a nightclub style of venue. While the close proximity of this new bar may potentially increase the risk profile of both venues, the adverse information is somewhat dated and insufficient to warrant refusal of this Application.

41. The Authority notes that in a submission dated 16 November 2018, Police do not oppose the Application, should licensed hours cease at 11:00 pm Monday to Saturday and 10:00 pm on Sunday. The Authority accepts the Applicant's advice in their submission dated 26 November 2018 that the Applicant has already reduced its hours sought in response to Police consultation during the development consent process. Had the Applicant sought extended trading hours for this small bar there may be a stronger case that both venues will effectively operate in concert, given their common ownership. On balance (and given the limited recent adverse information pertaining to the nightclub), the Authority is satisfied that the small bar should be licensed until midnight Monday through Saturday and 10:00 pm on Sunday and Public Holidays.
42. The Authority has also taken into account the conditions to which the licence will be subject, which include crime scene preservation, CCTV requirements, membership of the local liquor accord, no live entertainment or amplified music after 11:30 pm, no amplified music or entertainment in the outdoor areas, no patrons to enter or re-enter after 11:30 pm, liquor trading hours to cease at 11:00 pm in the outdoor area and no shots, shooters slammers and or bombs. The Authority notes that most of the conditions sought by Police will be imposed upon this licence, either through specific licence conditions or the Plan of Management.
43. Where Police proposed conditions overlapped with the Authority's standard licence conditions, the Authority has imposed its standard licence condition. The Authority determined not to impose the Police proposed condition relating to engagement and duties of licensed security officers, as this is already clearly set out as condition 2.9 of development consent DA52739/2017 Part 1. The Authority further determined not to impose the Police recommended condition relating to the kitchen remaining operational at all times alcohol is sold, as the Authority accepts the Applicant's contention in their submission dated 24 July 2018 that they are aware of and will comply with the statutory requirement for food to be available at all times whilst the Premises are open for the sale and supply of liquor.

Overall social impact

44. Having considered the positive and negative impacts that are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting this new small bar licence would not be detrimental to the well being of the local and broader communities.
45. The Application is granted pursuant to section 45 of the Act.



Philip Crawford
Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published in the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>

Schedule 1

Material considered by the Authority

1. Small Bar Licence Application Form ("Application") lodged on 21 May 2018 in respect of premises to be located at 1 Kurrawyba Road, Terrigal NSW 2260 ("Premises") signed by Mr Ross Glynatsis, sole director of Rink Family Holdings Pty Ltd ("Applicant"), dated 2 May 2018 and accompanied by:
 - (a) Notices to Local Consent Authority, Police, Public Consultation and Site Notices all signed by the Applicant and dated 2 May 2018.
 - (b) Australian Securities and Investments Commission ("ASIC") Record of Registration for Business Name "Alexanders Bar N Café" dated 30 January 2018.
 - (c) ASIC Current Organisation Extract for Rink Family Holdings Pty Ltd 4 September 2017.
2. A two-page *Additional Information* document prepared by the Applicant's legal representative, Mr Brett Tobin of Hatzis Cusack Lawyers, lodged with the Application on 21 May 2018 and is accompanied by:
 - (a) A one-page Liquor and Gaming NSW ("LGNSW") official *Notice of Development Application* form signed by the Applicant and dated 25 August 2017.
 - (b) A one-page letter from Mr Tobin, on behalf of the Applicant, to the Secretary of the Department of Industry dated 25 August 2017, providing notice of lodgement of the development application.
 - (c) A one-page letter from Mr Tobin, on behalf of the Applicant, to the Licensing Sergeant at Brisbane Waters Local Area Command of NSW Police dated 25 August 2017, providing notice of lodgement of the development application.
 - (d) Second reading speech by Mr Barry O'Farrell for the *Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014* and *Liquor Amendment Bill 2014* dated 30 January 2014.
 - (e) Second reading speech by Mr George Souris for the *Liquor Amendment (Kings Cross Plan of Management) Bill 2012* dated 24 October 2012.
 - (f) Second reading speech by Mr George Souris for the *Liquor Amendment (Small Bars) Bill 2013* dated 20 February 2013.
3. Decision on application for development approval DA52739/2017 Part 1 ("DA") issued by Central Coast Council ("Council") for "Use and Occupation – Coffee Shop and Small Bar" operating from 27 April 2018, lodged with the Application on 21 May 2018.
4. Plan/diagram of the Premises highlighting the proposed licensed area in blue, lodged with the Application on 21 May 2018.
5. A five-page letter from Senior Constable Sean Tobin of Brisbane Water Police District of NSW Police ("Police") to LGNSW dated 28 May 2018 making submissions on the Application, sent via email dated 1 June 2018. It was accompanied by two Bureau of Crime Statistics and Research ("BOCSAR") crime hotspot maps depicting hotspots for incidents of non-domestic assault and malicious damage to property in Terrigal between January 2017 and December 2017 and a list of Police proposed licence conditions.
6. An eight-page submission letter sent by email from the Applicant via Mr Tobin on 24 July 2018 in response to questions from licensing staff in an email dated 29 May 2018 and the Police submission dated 28 May 2018. The following supporting material was provided:
 - (a) Certificate of Advertising signed by Mr Tobin dated 11 May 2018.
 - (b) LGNSW Notice of Appointment of Manager Form indicating that Ms Bronwyn Erica English will be the approved manager upon the grant of the Application. The form is signed by the Applicant (on 26 June 2018) and Ms English (on 2 July 2018).
 - (c) Five photographs of the outdoor areas of the Premises including the means of physical definition from the adjacent footpath.
 - (d) Plan of Management dated June 2018 (as at 24 July 2018).
 - (e) Social Impact Assessment prepared by Dr Rigmor Berg of BB Professional Services dated March 2018, requested by Council in relation to DA52739/2017.
7. Licence density data calculated by licensing staff using the 2016 Australian Bureau of Statistics ("ABS") population data and licensed premises information as at 12 October 2018.
8. LGNSW List of Licensed Premises in Terrigal at 12 October 2018 sourced by licensing staff.

9. BOCSAR hotspot maps for the State Suburb of Terrigal from July 2017 to June 2018 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property, sourced by licensing staff on 29 October 2018.
10. Google geographical maps and street view images of the Premises and surrounds sourced by licensing staff on 29 October 2018.
11. BOCSAR Crime data for July 2016 to June 2018 comparing the count and rate per 100,000 persons for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) for NSW, the suburb of Terrigal and the Central Coast Local Government Area ("LGA"), sourced by licensing staff on 30 October 2018.
12. BOCSAR number and proportion of selected offences flagged as alcohol related by NSW Police for the Central Coast LGA and NSW from 2017, sourced by licensing staff on 30 October 2018.
13. ABS Socio-Economic Indexes For Areas data based on the 2016 Census for Terrigal and Central Coast LGA, sourced by licensing staff on 30 October 2018.
14. NSW Healthstats data on alcohol attributable deaths/hospitalisations in the former Gosford and Wyong LGAs between 2011 and 2015, sourced by licensing staff on 30 October 2018.
15. LGNSW Review of Small Bars Legislation Report dated September 2016 which is accompanied by a list of small bar licences in NSW as at 8 September 2016, Small Bars Review Information Paper, a list of parties that lodged a public submission, the general stakeholder survey and the licensed venue survey, sourced by licensing staff and provided to the applicant for comment on 20 November 2018.
16. A two-page submission letter from the Compliance Operations Unit of LGNSW ("LGNSW Compliance") dated 30 October 2018 providing compliance history and violent incidents information for relevant venues.
17. A three-page submission from Mr Tobin on behalf of the Applicant dated 31 October 2018 in response to an email from licensing staff dated 30 October 2018. This submission was sent via email dated 31 October 2018 and responds to questions in relation to licence conditions from licensing staff and the LGNSW Compliance submission dated 30 October 2018.
18. A one-sentence email from Mr Tobin on behalf of the Applicant dated 31 October 2018 in response to an email from licensing staff of the same date regarding the licensed area depicted on the plan/diagram of the Premises.
19. A four-sentence internal email between licensing staff dated 9 November 2018 referring to two local bus routes that run past the Terrigal Surf Club or close by (Timetables held on the licensing file).
20. A one-half page email submission from Mr L Bucciarelli, Project Officer, Liquor Accords LGNSW ("LGNSW Liquor Accords Team") dated 9 November 2018 providing information on the Brisbane Water Liquor Accord and potential concerns for this venue.
21. A one-half page email submission from Police to licensing staff dated 16 November 2018 advising that Police rely upon the original submission while providing additional information in response to emails from staff dated 9 November 2018 and 15 November 2018.
22. BOCSAR data on number of offences flagged as alcohol related by NSW Police by offence type, day of week and time of day for NSW, the suburb of Terrigal and the Central Coast LGA from July 2017 to June 2018, as sourced by licensing staff on 25 November 2018.
23. An eight-page submission letter from the Applicant via email from Mr Tobin dated 26 November 2018 in response to an email from licensing staff dated 20 November 2018. This submission addresses BOCSAR data, general research prepared by LGNSW in 2016 in respect of small bar licences, the submission from LGNSW Liquor Accords Team and the submission by Police dated 16 November 2018 that Police do not oppose the Application if hours are restricted to 11:00 pm Monday to Saturday and 10:00 pm Sunday.
24. Three-sentence email submission from the Applicant via Mr Tobin dated 19 December 2018 responding to an email from licensing staff of that date providing an amended version of the Plan of Management dated June 2018.

Schedule 2 – Relevant extracts from the *Liquor Act 2007* (NSW)

3 Objects of Act

- (1) The objects of this Act are as follows:
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the standard trading period means:
 - (a) for any day of the week other than a Sunday:
 - (i) the period from 5 am to midnight, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
 - (b) for a Sunday:
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the standard trading period for a small bar is the period from noon to midnight on any day of the week.

Note. Small bars are subject to the 6-hour closure period under section 11A.
- (1B) Despite subsection (1) (a), the standard trading period for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
 - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
 - (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

20A Authorisation conferred by small bar licence

A small bar licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on the licensed premises only.

Note. Gaming machines in small bars are prohibited under the *Unlawful Gambling Act 1988*.

20B Trading hours for small bars

- (1) The times when liquor may be sold under the authority conferred by a small bar licence are during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (2) In the case of a small bar that is situated in an area that is not a prescribed precinct, an extended trading authorisation under section 49A is, on the granting of the licence, taken to be in force authorising the sale or supply of liquor on the licensed premises between midnight and 2 am on any day of the week.

Note. Small bars in a non-prescribed precinct can apply for longer trading periods under section 49A. Small bars in a prescribed precinct can also apply for an extended trading authorisation under section 49A to trade after midnight.
- (3) This section does not authorise liquor to be sold in a small bar on a restricted trading day.

- (4) Subsection (3) does not apply in relation to the period between midnight and such later time as may be authorised by an extended trading authorisation on a restricted trading day that immediately follows a day that is not a restricted trading day.
- (5) (Repealed)

20C Small bar licence – miscellaneous conditions

(1) Maximum number of patrons

Liquor must not be sold or supplied in a small bar if the number of patrons on the premises exceeds 60 or such greater number as may be prescribed by the regulations.

(2) Small bars must be open to general public

The business carried out under a small bar licence must not be, or include, a business that is limited to the sale or supply of liquor only:

- (a) to persons who have been invited to use or attend the small bar, or
- (b) to a particular class, or particular classes, of persons using or attending the small bar.

- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular small bar or to such other exceptions as may be prescribed by the regulations. Also, subsection (2) does not apply to the extent that is necessary to comply with any other provision of this Act or with any other law.

(4) Food must be made available

Liquor may only be sold or supplied in a small bar if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises. If any requirements are prescribed by the regulations in relation to the nature of any such food, those requirements must be complied with.

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.
- (3) An application for a licence may not be made by:
 - (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
 - (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

Note. Controlled members are prohibited from applying for licences—see section 27 of the Crimes (Criminal Organisations Control) Act 2012.

- (4) An application for a licence must:
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations. **Note.** See also section 48 which requires a community impact statement to be provided with certain licence applications.
- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by

the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.

- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
 - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
 - (c) if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
 - (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of, a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012, and
 - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:
 - (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
 - (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:

relevant application means any of the following:

 - (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small

- bar licence or packaged liquor licence to other premises,
- (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.

- (6) The regulations may make provision for or with respect to the following:
 - (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.