



Mr Brett Tobin  
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5 November 2019

Dear Mr Tobin,

<b>Application No.</b>	1-7356734279
<b>Applicant</b>	Gary Cameron
<b>Application for</b>	Variation to an extended trading authorisation
<b>Licence name</b>	Coolibah Hotel
<b>Current Trading Hours</b>	<u>Ground floor: TAB and TAB terrace; public bar and public bar terrace</u> Monday to Saturday 7:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM  <u>Ground floor: indoor and outdoor gaming areas; main stairs, kitchen and corridors; lounge, bistro and outdoor bistro area</u> Monday to Saturday 7:00 AM – 3:00 AM Sunday 10:00 AM – 10:00 PM  <u>First floor: whole floor</u> Monday to Saturday 7:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM  <u>Takeaway sales: bottle shop</u> Monday to Saturday 7:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM  <u>Ground floor: TAB and TAB terrace; public bar and public bar terrace</u> Monday to Saturday 7:00 AM – 12:00 Midnight Sunday 10:00 AM – 12:00 Midnight
<b>New Trading Hours</b>	<u>Ground floor: main stairs, kitchen and corridors; lounge, bistro and outdoor bistro area</u> Monday to Saturday 7:00 AM – 3:00 AM Sunday 10:00 AM – 12:00 Midnight  <u>Ground floor: indoor and outdoor gaming areas</u> Monday to Saturday 7:00 AM – 3:00 AM Sunday 10:00 AM – 10:00 PM  <u>First floor: whole floor</u> Monday to Saturday 7:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM  <u>Takeaway sales: bottle shop</u> Monday to Saturday 7:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
<b>Premises</b>	15-25 Sherwood Road Merrylands West NSW 2160
<b>Legislation</b>	Sections 3, 11A, 12, 14-17, 48, 49, 51 and 53 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority  
Application to vary an extended trading authorisation – Coolibah Hotel**

At its meeting of 11 September 2019 the Independent Liquor and Gaming Authority (“Authority”) considered an application made by Mr Gary Cameron on 24 May 2019

("Application") to vary an existing extended trading authorisation ("ETA") attaching to the full hotel licence number LIQH400101457 operating at the Coolibah Hotel, Merrylands West ("Premises") so that the hotel could trade between 10:00 pm and Midnight on Sunday evenings.

The Authority decided, pursuant to section 51(9)(b) of the *Liquor Act 2007* ("Act") to approve the variation *in part*, so that the extended hours are approved to the following areas of the Ground Floor of the Premises: public bar and public bar terrace, main stairs, kitchen and corridors, TAB and TAB terrace, lounge, bistro and outdoor bistro areas. However, the extension of hours has **not** been approved for the Ground Floor indoor and outdoor gaming areas.

The Authority has also decided, pursuant to section 53(1)(b) of the Act, to impose the following standard form conditions to update the conditions on the hotel's licence:

1. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of varying the extended trading authorisation on 11 September 2019.
2. CCTV
  - 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.
3. 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.

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.

4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The premises is to be operated at all times in accordance with the Plan of Management dated May 2019 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.
6. If the local consent authority does not approve the continuation of the trial period in the development consent after 29 March 2020 (or as may be extended from time to time), the trading hours of the premises will revert to 10:00 AM to 10:00 PM Sunday. A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.

These new conditions shall apply to the licence in addition to the existing conditions.

Furthermore, the Authority has decided, pursuant to section 53(1)(b) of the Act, to vary the licensed closing time for takeaway liquor sales to conform with the hours currently available for a hotel under sections 12 and 49 of the Act. As a result, the hotel is licensed to sell liquor for consumption away from the Premises between 7:00 am and 10:00 pm Monday to Saturday and between 10:00 am to 10:00 pm on Sunday. However, by the operation of an exemption in clause 117 of the *Liquor Regulation 2018* (NSW), takeaway sales may continue until 11:00 pm, Monday through Saturday.

The enclosed statement of reasons has been prepared for the purposes of section 36C of the *Gaming and Liquor Administration Act 2007* in respect of the Authority's decisions to partially approve the Application to vary the existing ETA.

If you have any questions, please contact the case manager Mr Lucas Ho via email to [lucas.ho@liquorandgaming.nsw.gov.au](mailto:lucas.ho@liquorandgaming.nsw.gov.au).

Yours faithfully



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

## Statement of reasons

### Decision

1. On 24 May 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from Mr Gary Cameron (“the Applicant”), through Liquor and Gaming New South Wales (“LGNSW”), an application (“Application”) to vary an existing extended trading authorisation (“ETA”). The Application concerns the full hotel licensed premises (LIQH400101457) located at 15-25 Sherwood Road, Merrylands West, New South Wales (“NSW”) 2160 (“Premises”), trading as *Coolibah Hotel* (“Hotel”). Mr Cameron is the licensee of the Hotel.
2. While there is an ETA currently in place extending late night trading Monday through Saturday, the Applicant seeks to vary the ETA by permitting an additional 2 hours between 10:00 pm and 12:00 midnight on a Sunday to apply to the whole of the ground floor of the hotel (excluding the bottle shop).
3. At its meeting on 11 September 2019 the Authority decided, pursuant to section 51(9)(b) of the *Liquor Act 2007* (NSW) (“Act”), to grant the Application in part so that the extended hours sought would apply to the following Ground Floor areas of the Premises: public bar and public bar terrace, main stairs, kitchen and corridors, TAB and TAB terrace, lounge, bistro and outdoor bistro areas. The extended hours were not approved for the Ground Floor indoor and outdoor gaming areas.
4. In determining the Application, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 14 - 17, 48, 49, 51 and 53 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).
5. The Authority notes that, at the time of lodging this Application, the published Application Form AM0020H *required* an application to vary an ETA to be accompanied by a Category B Community Impact Statement (“CIS”). Pursuant to section 48(2)(f) of the Act, the Authority treats this Application as a “relevant application”, requiring publication of reasons in this case. (The Authority notes that the Application Form has since changed to no longer mandate a CIS).

### Material considered by the Authority

6. The Authority has considered the Application, the accompanying CIS, and all submissions received in relation to the Application.
7. 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.
8. In accordance with its *Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records and data published by the Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health and the Australian Bureau of Statistics (“ABS”).
9. A list of the material before the Authority is set out in Schedule 1.

### Legislative framework

10. The Authority has considered the Application in accordance with 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 14-17: Specific provisions in respect of a hotel licence.
- (e) Section 48: Requirements in respect of a CIS.
- (f) Section 49: General provisions in respect of an ETA.
- (g) Section 51: General provisions relating to licence-related authorisations.
- (h) Section 53: Provisions relating to licence conditions.

11. An extract of these sections is set out in Schedule 2.

### **Key findings**

12. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings on the Application.

#### Validity, procedural and trading hour requirements

13. On the basis of the Application, CIS material and Certificate of Advertising signed by the Applicant's legal representative dated 19 June 2019, the Authority is satisfied that the Application and CIS have been validly made and meet the minimum procedural requirements prescribed by sections 48(4), 51 of the Act and clauses 20 through 29 of the Regulation.

14. The Authority is also satisfied that the variation of hours sought fall within the hours that may potentially be granted to a hotel premises having regard to sections 11A, 12, 14 and 49 of the Act. The Authority notes that the licence is not currently subject to a liquor cessation period and varying the ETA will not affect this.

#### Community impact statement

15. For the purposes of this decision and consistent with Authority *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the State suburb of Merrylands West and the relevant "broader community" comprises the local government area ("LGA") of the Cumberland Council ("Cumberland LGA").

#### Positive social impacts

16. The Authority has considered the Applicant's contention in the CIS that granting this variation to the ETA will not increase the venue's patron capacity but allow the Hotel to "better meet the needs, demands and expectations of persons residing in the local and broader community".

17. In the Applicant's 5 August 2019 submission, the Applicant seeks to cater to the growth in the "expectation" for the services currently offered by the Hotel to the local community on a Sunday night. Granting the Application will "overcome" a claimed requirement for Hotel patrons to travel to other venues to continue socialising or gaming on Sunday night and "significantly reduce" the instances of people driving on the roads to access other licensed venues.

18. The Authority accepts, having regard to a LGNSW list of licensed premises as at 20 August 2019, that the venue is the *only licensed premises* operating in the suburb of Merrylands West. The broader community, by contrast, has some 174 licensed premises 18 of which are full hotels and 14 are registered clubs (being licence types providing both liquor and gambling entertainment).

19. The Authority accepts the Applicant's contention in the 5 August 2019 submission that the closest hotel is the Greystanes Hotel, located over 1.7 kilometres from the Premises. The Authority finds that extending the Hotel's trading hours on a Sunday evening will provide some increase in convenience and choice for those in the local community seeking hotel entertainment on Sunday evenings.
20. The Authority notes the Applicant's petition in support of the Application was signed by some 84 people. Only a few signatories reside in the local community, with most living in the neighbouring suburbs of Merrylands and Greystanes. This provides only limited support for the Applicant's contention in the 5 August 2019 submission that extending the Sunday trading hours will meet local demand for late night entertainment on a Sunday evening. The Authority notes that the petition makes no reference to gambling, but refers generally to the "facilities of the hotel":

*We, the undersigned, support the application to extend the closing times for the hotel licence known as Coolibah Hotel, Merrylands West from 10.00 pm to 12.00 midnight on Sunday.*

*We regularly attend the Hotel to enjoy the atmosphere and ambience on offer at the premises. The Hotel has a safe and friendly atmosphere and we enjoy using the facilities of the Hotel and also as a meeting place.*

*In our view, extending the trading hours of the Hotel as proposed will not lead to an increase in the disturbance, crime or anti-social behaviour in the local or broader community.*

*We support the extension of the trading hours for the Hotel as proposed.*

21. Noting that no objections were received from local residents or relevant stakeholders, the Authority finds that granting the ETA will advance the expectations, needs and aspirations of the communities, in particular the local community, for the purpose of section 3(1)(a) of the Act.
22. Furthermore, in light of an absence of other hotel and club licensed facilities in the local community, the Authority is satisfied that granting the Application will provide some development of the liquor industry serving the local community, for the purpose of section 3(1)(b) of the Act.
23. The Authority has considered the Applicant's contention in the 5 August 2019 submission that granting the Application will have employment benefits through additional staff members being employed, on a casual basis, and providing longer shifts and penalty rates as part of staff employment packages. The Authority accepts that there will be some benefit to Hotel staff from a further two hours of trading, but noting that the Applicant states "the grant of the application is likely to lead to increased employment opportunities in the local (and broader) communities", which is not a clear commitment but more a general statement, making it difficult to give great weight to this claimed "community" benefit.
24. In the absence of any supporting data or analysis the Authority is unable to give any weight to the Applicant's contention that extending Sunday hours will significantly reduce the number of people driving on local roads. That is a complex contention to make without supporting evidence.

### Negative social impacts

25. The Application concerns a full hotel licensed premises. The primary purpose of a hotel is the sale of liquor by retail, although off premises sales will not be impacted by extending the ETA as proposed.
26. The Authority notes the range of services specified in the 5 August 2019 submission that are currently provided at the Hotel and will continue to be provided should the ETA be extended. These services include the sale and supply of alcoholic and non-alcoholic beverages, the provision of meals and food and the use of gaming machines and TAB.
27. This is a larger scale venue, in that the Applicant's 5 August 2019 submission indicates that the ground floor extends for some 2,600 square meters with a patron capacity of 600. The first floor (not the subject of this Application, but with the potential to accommodate patrons until extended trading hours commence on Sunday) is of a further 1,200 square metres, with a patron capacity of 300.
28. The Applicant seeks to extend Sunday trading across the whole of the ground floor, excluding the bottle shop.
29. The Authority is satisfied that the extension of Sunday night trading across a relatively large ground floor area of the Hotel provides increased scope for the operations of the Hotel or the conduct of its patrons to contribute to adverse social impacts over time. However, the Authority notes that the venue currently trades until 3:00 am Monday to Saturday in certain areas of the Hotel and there is little evidence of anti-social behaviour or adverse amenity impacts identified by local residents or stakeholder agencies during consultation on the Application.
30. The local community is exposed to some localised concentrations of crime. BOCSAR hotspot maps for Merrylands West between April 2018 and March 2019 indicate that the venue is situated within medium density hotspots for incidents of domestic assault and malicious damage to property. However, there are no hotspots within the suburb for incidents of alcohol-related assault and non-domestic assault.
31. The Authority is given some assurance in that the rates of alcohol related crime are not elevated rates at the level of the suburb or the LGA. BOCSAR data for the year to March 2019 recorded:
  - A rate of **28.7** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **60.9** for the LGA and a rate of **115.5** for NSW.
  - A rate of **28.7** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **63.9** for the LGA and a rate of **118.8** for NSW.
  - A rate of **444.6** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **507.3** for the LGA and a rate of **737.8** for NSW.
  - A rate of **0.0** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **2.2** for the LGA and with a rate of **36.6** for NSW.
32. The 2016 ABS Socio-Economic Index For Areas ("SEIFA") data presents a mixed picture. The suburb ranked in the 2<sup>nd</sup> decile and the LGA in the 6<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage compared to other suburbs and LGAs within the State. That is, socio-economic disadvantage is a concerning factor with respect to the local community, but not the broader community.

33. NSW Healthstats data indicate that from 2015 to 2017 alcohol related hospitalisations across the LGA were at a spatially adjusted rate of 597.3 per 100,000 persons of population compared to 580.6 for NSW as a whole. Alcohol attributable deaths for the LGA recorded a lower spatially adjusted rate of 17.1 per 100,000 persons (2015 to 2016) compared to the rate of 18.1 for NSW. Both of these rates are at around the State average.

*Responsible Development of Related (Gaming Machines) Industry*

34. Section 3(1)(c) of the Act provides that it is a statutory object of the Act to contribute to the responsible development of related industries.
35. The OneGov record as at 20 August 2019 indicates that there are 30 gaming machines operating on the Premises. That is, the venue is operating at the maximum capacity permitted for any hotel in NSW. The gaming machine shut down period under section 39 of the *Gaming Machines Act 2001* (NSW) (“GM Act”) is from 4:00 am to 10:00 am and extending the hours as proposed will not intersect with that period.
36. Noting the Applicant’s contention in the 5 August 2019 submission that the Hotel will not provide entertainment other than background music after 10:00 pm on Sunday, the Authority considers it likely that gaming machine facilities will be a prominent offering during the proposed extended hours.
37. The Authority notes that the Premises has been classified within a “Band 3” SA2 area for the purposes of section 33 of the GM Act. As noted in the LGNSW Fact sheet *Local Impact Assessment Scheme Overview*, each SA2 in NSW is classified into Band 1 (low risk), Band 2 (medium risk) and Band 3 (high risk) by reference to gaming machine density, gaming machine expenditure and the relative socio-economic disadvantage of the SA2. Each SA2 is assigned a score with a weighting of:
- 70% SEIFA
  - 15% gaming machine expenditure per capita
  - 15% number of gaming machines per capita.
38. All SA2s in NSW are then ranked into Band 1, Band 2, Band 3 accordingly:
- The bottom 20% (i.e those with the highest levels of socio-economic disadvantage) are put into Band 3.
  - The next 30% are put into Band 2.
  - The remaining 50% (i.e. those with the lowest levels of socio-economic disadvantage) are put into Band 1.
39. When considering whether further extending the Hotel’s trading hours would advance the “responsible” development of this related industry for the purposes of section 3(1)(c) of the Act, the Authority has given some weight to the venue’s situation in a Band 3 area.
40. Furthermore the Authority has given weight to the Hotel’s gaming machine revenue, provided by the Applicant in the 5 August 2019 submission. The Authority notes that the Hotel recorded the following gaming machine revenue over the following periods:
- From 1 April 2016 to 31 December 2016:
    - Metered Net Profits: \$4,148,034.85
    - Total Tax Payable: \$1,477,017.43
  - From 1 January 2017 to 31 December 2017:

- Metered Net Profits: \$6,684,365.88
  - Total Tax Payable: \$2,546,182.95
  - From 1 January 2018 to 31 December 2018:
    - Metered Net Profits: \$7,247,898.11
    - Total Tax Payable: \$2,827,949.07
  - From 1 January 2019 to 30 June 2019:
    - Metered Net Profits: \$4,014,482.60
    - Total Tax Payable: \$1,609,241.31
41. The Authority has also placed significant weight on data provided by licensing staff for the period from 1 July 2018 to 30 June 2019, indicating average “profit” per gaming machine (which the Authority notes means all money put through a machine less payouts) at the Hotel was \$272,916.00, compared to an average per machine of \$295,245.00 for the Guildford West – Merrylands West SA2 area, \$284,789.00 for the LGA and \$170,693.00 for Sydney metropolitan hotels with 21-30 gaming machines.
42. The Authority further notes the Applicant’s 5 August 2019 submission indicating that in the 6 months prior to that time the Hotel generated an “average weekly income” of \$34,000 on food, \$72,000.00 on liquor (including the bottleshop) and \$145,000.00 on Gaming.
43. The Authority has considered the Applicant’s key contentions relating to gaming during the proposed hours, outlined in the 5 August 2019 submission that include:
- Measures have been implemented at the Hotel in respect of the responsible conduct of gambling, including compliance with the legislative requirements, which will continue to be applied during any extended trading hours approved for the Hotel.
  - Neither Police nor the institutions that receive funding from the Responsible Gambling Fund located within the LGA have raised any concerns about the operation of gaming machines during the proposed ETA period.
  - No concerns have been expressed by any of the health-related authorities consulted regarding the proposal for increasing the temporal availability of the Hotel's gaming machines.
  - The Hotel currently actively participates in GameCare Multiple Venues Self Exclusion (“MVSE”) scheme, problem gambling and counselling self-exclusion scheme.
  - The Hotel also receives exclusion requests from other self-exclusion services, such as BetSafe. These requests are honoured by the Hotel despite the Hotel not being a member of that scheme.
  - The Hotel has been notified through Game Care MVSE of 127 persons who have self-excluded. None of these persons have attended the Hotel to personally exclude themselves from the Hotel. Given that the exclusion programs operate LGA-wide, it is more likely that these 127 persons were not regular gaming machine players of the Hotel but were patrons of other clubs and hotels.
  - The Hotel maintains up-to-date and confidential records of all persons who have registered with a Self-Exclusion Scheme. All staff involved in gambling are made aware of any new registrations to ensure that these excluded persons do not breach their self-exclusion. Further, any patron requiring assistance can approach any of the Hotel staff members who are trained to provide assistance in seeking help with problem gambling. Patrons seeking assistance are provided with all necessary details to allow direct contact to be made with Game Care MVSE. Brochures and cards are also readily available throughout the Hotel's gaming room. The Hotel's Game Care Certificate is also prominently displayed within the Hotel's gaming room to make patrons aware of compliance with the Scheme's requirements.

44. The Authority accepts that these measures are in place and will continue to apply during the proposed extended Sunday trading hours. However, these measures (and the responsible conduct of gambling provisions in the Applicant's Plan of Management dated May 2019) do not provide harm minimisation initiatives that go significantly beyond the minimum legal requirements required under the legislation. The Authority notes that hotels and clubs are required to ensure that patrons have access to a self-exclusion scheme under section 49 of the GM Act.
45. The Applicant also refers in the 5 August 2019 submission to the 2012 Ogilvy Illumination *Problem Gambling Prevalence Study* ("2012 Ogilvy Study"), noting that the Hotel is located in the former Holroyd LGA, which recorded a problem gambling rate of 0.5%, lower than the State average of 0.8%. The Authority notes that the former Holroyd LGA covered a range of economically diverse suburbs and is not a good proxy for the relevant local community, which is at the most direct risk of adverse social impact from the extension of this Hotel's gaming machine operations.
46. The 127 people in the LGA who the Applicant advises have self-excluded under the GameCare MVSE scheme provide some indication of problem gambling at the level of the broader community. While this information does not indicate that any patrons of this Hotel have self-excluded, the Application and submissions provide little insight into the frequency or extent to which staff at this venue intervene with gaming machine patrons who utilise gaming machines for a prolonged period.
47. The Applicant, as part of the 5 August 2019 submission, contends that the patron profile of persons playing the gaming machines at the Hotel varies throughout the day and from week to week. The Applicant contends that:
- From the commencement of trade until early afternoon, those persons usually using the gaming room are a mix of shift workers, older local residents, and local business owners. The average age of persons using the gaming machines during this period is around 45-55. Further, of those persons using the gaming facilities, approximately 60% are males, although this percentage varies regularly throughout the day.
  - From mid-afternoon until around 6.00 pm, the patron profile changes. Patrons using the gaming room during that period are predominantly male tradespersons, although there is a representation of females present during this time.
  - After 6.00 pm, the patronage of the gaming room varies with a predominance of office workers who attend with family members, to use other facilities on offer at the Hotel.
  - Later in the evening, the gaming room is predominately used by shift-workers on their way home from work.
48. The Authority generally accepts these observations conducted by the Applicant and that the patron profile of persons playing the gaming machines at the Hotel varies.
49. The Applicant refers to ABS Quickstats demographic data for the suburb and concludes that the profile of Merrylands West is of a "lower middle-class" population with high levels of couple families, a higher number of females, a larger population of overseas-born persons and also higher levels of unemployment and lower incomes.
50. The Applicant also submits that the 2012 Ogilvy Study found that the socio-demographic characteristics most associated with problem gamblers included being younger, male, having very low levels of educational attainment, being single/separated/divorced/widowed, unemployed and of Aboriginal and Torres Strait Islander descent. The Applicant contends that while the local population displays some

of these characteristics, it also shows more protective factors, such as higher numbers of females and high levels of relationship commitment and family bonds. In the CIS material, the Applicant contends that the general characteristics of Merrylands West are not indicative of a higher prevalence of problem gambling symptoms.

51. The Authority notes that the ABS 2016 Quickstats data for Merrylands West, provided with the Applicant's 5 August 2019 submission indicates the following:
- The suburb has a lower portion of Aboriginal and Torres Strait Islander people (1.1%) compared to NSW (2.9%).
  - The median age of residents in Merrylands West is 35 compared to 38 for NSW.
  - 48.0% of the suburb is male compared with 49.3% in NSW.
  - 4.4% of the suburb are separated compared to 3.1% for NSW, 8.5% of the suburb are divorced compared to 8.4% for NSW and 8.0% of the suburb are widowed compared to 5.4% for NSW.
  - 3.1% of the population in Merrylands West recorded that their level of highest educational attainment as *No educational attainment* compared to 0.9% in NSW and 15.4% of the suburb recorded a Bachelor Degree level and above as their level of highest educational attainment compared to 23.4% in NSW.
  - 9.1% of the suburb identified as being Unemployed compared to 6.3% in NSW.
  - Technicians and Trades Workers were the most common occupation in Merrylands West comprising 16.4% of the population compared to 12.7 % for NSW.
  - One parent families make up 21.0% of the population in Merrylands West compared to 16.0% in NSW.
  - The median household income in Merrylands West was \$1,123 compared to \$1,486 for NSW.
  - 27.9% of households in Merrylands West had a gross weekly household income of less than \$650 compared to 19.7 for NSW.
52. The Authority notes with concern the low socio-economic status of the local community, ranking in only the second decile on the SEIFA Index for Relative Socio-Economic Advantage and Disadvantage. There are some demographic factors associated with an elevated risk of problem gambling apparent from the socio-demographic data for the suburb. These include relatively higher levels of unemployment, lower median age, higher levels of no educational attainment and prevalence of low income households are of particular concern with respect to potential adverse social impact, noting the high levels of gaming machine expenditure.
53. Authority Guideline 6 places ETA applicants on notice that the Authority may consider certain gaming related research and information when considering Extended Trading Authorisations in relation to a gaming venue. The Authority accepts the independent analysis of the research provided by the Productivity Commission ("Commission"), expressed at Chapter 14 of The Australian Government Productivity Commission Inquiry Report, *Gambling*, No. 50, 26 February 2010 ("PC Report") where the Commission examined the available empirical evidence on gaming machine shut down periods across several Australian jurisdictions and found that existing shut down periods in hotels and clubs were too brief and mostly occur at the wrong times of day. The Commission recommended requiring a more extended shut down for all hotels and clubs that commences "before 2 am" and that is of "at least six hours" duration. This would better target problem gamblers without unduly restricting non-problem gamblers.

54. The Authority notes that this venue may *already* operate gaming machines until 3:00 am from Monday to Saturday. That is, it is trading beyond the preferred minimum gaming machine closure times preferred by the Commission.
55. The Commission notes in the Overview and Chapter 14 that higher risk gamblers present a much greater share of those people playing at night, and at that time gamblers are more likely to be playing under the influence of alcohol, thus reducing the capacity for informed consent on a potentially very costly activity where impulsivity and faulty cognitions are already widespread.
56. The SA2 banding, gaming machine revenue and the existing long extended trading hours across the week are factors that lead the Authority to conclude that further extending the Hotel's gaming machine operations would not be the preferable course for the responsible development of the gaming machines industry serving the local community.
57. Having regard to the various liquor and gaming services on offer at the Hotel, the Authority can only be satisfied as to the overall social impact test, in respect of the *local community*, if the further extension of late trading hours *does not* include the Hotel's gaming areas.

#### Overall social impact

58. 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 *partially* approving the variation would not be detrimental to the well-being of the local and broader community.
59. Pursuant to section 51(9)(b), the extended licensed hours sought between 10:00 pm and Midnight on Sunday evenings shall apply to the following Ground Floor areas of the Premises: public bar and public bar terrace, main stairs, kitchen and corridors, TAB and TAB terrace, lounge, bistro and outdoor bistro areas. The extension of the ETA has **not** been approved for the Ground Floor indoor and outdoor gaming areas.



Philip Crawford  
Chairperson

#### **Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* (NSW) 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 the New South Wales Civil and Administrative Tribunal ("NCAT") for an administrative review under the *Administrative Decisions Review Act 1997* (NSW).

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilqa-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 before the Authority

1. Application Form AM0020H titled *Extended trading authorisation: hotel licence* seeking to vary an existing extended trading authorisation (“ETA”) operating at the Coolibah Hotel (“the Hotel”) signed by the applicant Mr Gary McDonald (“Applicant”) and dated 24 May 2019 (“Application”). This Application was lodged with Liquor and Gaming New South Wales (“LGNSW”) on 24 May 2019 and was accompanied by the following documents:
  - (a) The public consultation site notice, police notice and local consent authority notice.
  - (b) Category B Community impact Statement (“CIS”) signed by the Applicant and dated 24 May 2019. This document was accompanied by the following material:
    - A map depicting the area in which notification of the Application was distributed.
    - A list of stakeholders and special interest groups that were notified of the Application.
    - A ten-page document providing additional information on the Application.
  - (c) Plan/diagram of the licensed premises highlighting the boundary of the licensed area, the boundary of the existing ETA and boundary of the proposed ETA in different colours [held on the LGNSW file].
  - (d) Submission letter from New South Wales (“NSW”) Roads and Maritime Services (“RMS”) dated 29 April 2019 proposing the installation of physical barriers and improved lighting and that the licensee participate in the local liquor accord.
  - (e) Submission email from Aboriginal Affairs dated 29 April 2019 advising no objection to the Application provided the NSW Aboriginal Land Council and the Local Aboriginal Land Council have been notified.
  - (f) Plan of Management dated May 2019.
  - (g) Development Consent 2009/520/4 issued by Cumberland Council (“Council”) on 29 March 2019.
  - (h) Annotated copy of the local consent authority provided by Council advising that the development consent is required but not in place.
2. Submission letter from Sergeant Scott Simmons, Licensing Supervisor, Cumberland Police Area Command of NSW Police dated 31 May 2019 advising no objection.
3. Email submission from the Applicant’s legal representative, Brett Tobin of Hatzis Cusack Lawyers (“Hatzis Cusack”), dated 25 June 2019 responding to an email from licensing staff of the same date and confirming that the proposed ETA applies to the whole of the ground floor of the Hotel only.
4. NSW *Healthstats* data on alcohol attributable deaths, Cumberland Local Government Area (“LGA”) and NSW (between 2001 and 2016) and alcohol attributable hospitalisations, LGA and NSW (between 2001 and 2017), sourced by licensing staff on 25 June 2019.
5. Submission email from the Compliance Operations Unit of LGNSW dated 22 July 2019 providing the compliance history for the Hotel.
6. A seventeen-page submission letter, prepared by Hatzis Cusack on behalf of the Applicant, dated 5 August 2019 responding to an email from licensing staff dated 19 June 2019. This submission is accompanied by the following documents:
  - (a) Certificate of Advertising signed by the Applicant’s legal representative dated 19 June 2019.
  - (b) A plan/diagram of the licensed premises highlighting in different colours the licensed area, the area covered by the existing ETA, the area to be covered by the proposed ETA and the area covered by the minors area authorisation.

- (c) Interim Certificate No 10001266000 indicating that the Applicant completed Licensee Training and Responsible Conduct of Gambling on 25 July 2019.
  - (d) Interim Certificate No10001266208 indicating that the Applicant completed Advanced Licensee Training on 26 July 2019.
  - (e) Letter from RMS dated 4 June 2019 making similar recommendations to their 29 April 2019 submission.
  - (f) The Hotel's gambling tax invoices for the period 1 April 2016 to 30 June 2019.
  - (g) Australian Bureau of Statistics ("ABS") Quickstats data based on the 2016 Census for the suburb of Merrylands West.
  - (h) ABS Quickstats data based on the 2016 Census for the LGA.
  - (i) Petition in support of the Application signed by 84 people.
7. LGNSW Licence Details Report for the Hotel between 1 July 2008 to 6 August 2019, sourced by licensing staff on 6 August 2019.
  8. Licence density calculated by licensing staff using 2016 ABS population and LGNSW licensed premises information as at 20 August 2019.
  9. LGNSW List of Licensed Premises in Merrylands West and Merrylands as at 20 August 2019.
  10. Bureau of Crime Statistics and Research ("BOCSAR") Crime data sourced by licensing staff on 20 August 2019, regarding:
    - (a) Hotspot maps for the suburb from April 2018 to March 2019 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property,
    - (b) Count and rate per 100,000 persons for alcohol related domestic assault, alcohol related non-domestic assault, malicious damage and alcohol related disorderly conduct (offensive conduct) for NSW, Merrylands West and the LGA between April 2017 and March 2019.
    - (c) Number and proportion of selected offences flagged as alcohol related by NSW Police for the LGA and NSW from 2018.
    - (d) Number of alcohol related incidents by offence type, day of week and time of day for NSW, Merrylands West and the LGA for April 2018 to March 2019.
  11. Google geographical maps and street view image of the Hotel, sourced by licensing staff on 20 August 2019.
  12. ABS Socio-Economic Indexes For Areas data based on the 2016 Census for Merrylands West and the LGA, sourced by licensing staff on 20 August 2019.
  13. OneGov licence record for the Hotel as at 20 August 2019.

## 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).

## 14 Authorisation conferred by hotel licence

- (1) A hotel licence authorises the licensee to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises.
- (2) **Trading hours for consumption on premises**  
The times when liquor may be sold for consumption on the licensed premises are as follows:
  - (a) during the standard trading period or at such other times as may be authorised by an extended trading authorisation,
  - (b) on 31 December in any year (but without limiting the operation of any extended trading authorisation)—from the start of the standard trading period for that day until 2 am on the next succeeding day,
  - (c) at any time on any day (including a restricted trading day) to a resident of the licensed premises or to a guest of such a resident while the guest is in the resident's company.
- (3) **Restricted trading days**

Despite subsection (2) (a), the times when liquor may be sold for consumption on the licensed premises on a restricted trading day are as follows:

- (a) between midnight and 5 am on that day (but only if authorised by an extended trading authorisation),
  - (b) between noon and 10 pm on that day.
- (3A) In the case of Christmas Day, liquor must not be sold for consumption on the licensed premises between noon and 10 pm unless it is sold with or ancillary to a meal served in a dining area on the licensed premises.
- (4) **Trading hours for consumption away from premises**  
Liquor may be sold for consumption away from the licensed premises during the standard trading period or at such other times as may be authorised by an extended trading authorisation.
- (4A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.
- (5) **No take-away sales on restricted trading days**  
However, the sale of liquor for consumption away from the licensed premises is not authorised on a restricted trading day.
- (6) **Functions on other premises**  
A hotel licence also authorises the licensee to sell liquor by retail for the purposes of a function to be held on such other premises as the Authority may, on application by the licensee, authorise, but only for consumption on those premises and at such times as may be specified by the Authority in the licence.
- Note.** Section 51 applies to an authorisation referred to in this subsection.

## 15 Hotel licence—general provisions

- (1) The following provisions apply in relation to a hotel licence (***the hotel primary purpose test***):
  - (a) except as provided by section 15A, the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail,
  - (b) the keeping or operation of gaming machines (as authorised under the [Gaming Machines Act 2001](#)) on the licensed premises must not detract unduly from the character of the hotel or from the enjoyment of persons using the hotel otherwise than for the purposes of gambling.
- (2) The authorisation conferred by a hotel licence does not apply unless the hotel primary purpose test is complied with in relation to the licensed premises.
- (3) Any premises (other than the actual hotel) that are authorised by the Authority for the sale of liquor under a hotel licence are, for the purposes of this Act, taken to be part of the licensed premises to which the licence relates.

### 15A Cessation of liquor sales during trading hours

#### (1) Extended trading periods

A hotelier may, at any time during the period that an extended trading authorisation is in force in relation to the licensed premises:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises).

#### (2) Authority may approve of cessation of liquor sales during standard trading period

A hotelier may, at any time during the standard trading period:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise

- permitted on the premises),  
but only with the approval of the Authority.
- (3) An application for the approval of the Authority under subsection (2) may be made by the hotelier concerned. Any such application must be accompanied by the fee prescribed by the regulations.
- (4) The Authority may give its approval only if it is satisfied that:
- (a) the operation of gaming machines on the licensed premises during the period to which the approval relates will not detract unduly from the character of the hotel, and
  - (b) gambling activities on the licensed premises will be conducted in a responsible manner.
- (5) **Cessation of liquor sales during standard trading period without gambling activities**  
A hotelier may, at any time during the standard trading period:
- (a) cease to sell or supply liquor on the licensed premises, and
  - (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings).
- However, it is a condition of the licence that the licensed premises must not be used for the purposes of any gambling activities during any such time that liquor is not being sold or supplied unless an approval is in force under subsection (2) in relation to the licensed premises.

#### **16 Hotel licence may be designated as a general bar licence**

- (1) The Authority may, in granting a hotel licence, designate the licence as a general bar licence and specify in the licence that it is a general bar licence.
- (2) The designation of a hotel licence as a general bar licence cannot be changed.
- (3) It is not lawful to keep or operate gaming machines on the premises to which a general bar licence relates. Accordingly, the keeping or operation of gaming machines on any such premises cannot be authorised under the [Gaming Machines Act 2001](#).
- (4) Despite section 14, a general bar licence does not authorise the sale or supply of liquor for consumption away from the licensed premises at any time.

#### **17 Hotel licence—miscellaneous conditions**

##### **(1) Cash advances prohibited**

A hotelier must not:

- (a) provide a cash advance in the hotel, or
- (b) permit a cash advance to be provided in the hotel on behalf of the hotelier, except as a prize or bonus won as a direct or indirect consequence of participating in a form of gambling that may lawfully be conducted on the licensed premises.

##### **(2) Hotels must be open to general public**

The business carried out under a hotel 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 hotel, or
- (b) to a particular class, or particular classes, of persons using or attending the hotel.

- (3) Subsection (2) is subject to such exceptions as may be approved by the Authority on a temporary basis in relation to any particular hotel 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 hotel if food of a nature consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied on the premises for consumption 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.

##### **(5) Prohibition on residents and employees drinking liquor in bar area outside trading hours**

Liquor may not be sold or supplied to, or consumed by, a resident or an employee of the

licensee in a bar area of the hotel except at the time when liquor is authorised to be sold or supplied to other persons in that or any other bar area of the hotel. This subsection has effect despite any other provision of this Act, but is subject to subsection (6).

- (6) The Authority may, on application by a hotelier, authorise the use of a bar area of the hotel for the sale, supply or consumption of liquor exclusively to, or by, residents at a time when liquor may not otherwise be sold or supplied in a bar area of the hotel.

**Note.** Section 51 applies to an authorisation referred to in this subsection.

#### 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.

#### **49 Extended trading authorisation—general provisions**

##### **(1) Application of section**

This section applies in relation to the following types of licences (referred to in this section as **a relevant licence**):

- (a) a hotel licence,
- (b) a club licence,
- (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
- (d) a packaged liquor licence,
- (e) a producer/wholesaler licence.

##### **(2) Extended trading authorisation for consumption on premises**

In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),

- (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
  - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
  - (d) in any case—a specified period between 10 pm and midnight on a Sunday.
- (2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods:
- (a) a specified period between 5 am and noon on a restricted trading day,
  - (b) a specified period between 10 pm and midnight on a restricted trading day.
- Note.** The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25 (3).
- (3) Despite subsection (2) (a), the Authority may, in the case of a hotel:
- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
  - (b) situated in the Kings Cross precinct, or
  - (b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or
  - (c) situated in the Kosciuszko National Park,
- authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.
- (4) **Extended trading authorisation for take-away sales on Sundays**  
 In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following:
- (c) a specified period between 5 am and 10 am on a Sunday,
  - (d) (Repealed)
- (5) **Nature of extended trading authorisation**  
 An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
  - (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
  - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (5A) Despite subsection (2) (a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.
- (6) **Extended trading period to be specified**  
 In granting an extended trading authorisation, the Authority is to specify:
- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
  - (b) the part or parts of the licensed premises to which the authorisation applies.
- (7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues**  
 Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods:

- (a) between 5 am and noon on a restricted trading day,
  - (b) between 10 pm and midnight on a restricted trading day,
  - (c) between midnight and 5 am on any day immediately following a restricted trading day.
- (8) **Restrictions on granting extended trading authorisation**The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:
- (a) practices are in place, and will remain in place, at the licensed premises 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
  - (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.
- (9) For the purposes of this section, a **special occasion** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

## 51 General provisions relating to licence-related authorisations

- (1) This section applies to the following authorisations granted by the Authority under this Act:
- (a) an extended trading authorisation,
  - (b) a drink on-premises authorisation,
  - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
  - (d) a minors area authorisation,
  - (e) a minors functions authorisation.
- (2) An application for an authorisation to which this section applies must:
- (a) be in the form and manner approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary), 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) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary) or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.

- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation:
  - (a) is subject to such conditions:
    - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
    - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
  - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Secretary or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) The Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has:
  - (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.

**53 Authority may impose, vary or revoke licence conditions**

- (1) Without limiting any other provision of this Act, the Authority may at any time:
  - (a) on application by the Secretary or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
 impose conditions on a licence.
- (1A) The conditions that may be imposed by the Authority on a licence under this section include, but are not limited to, conditions:
  - (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
  - (b) restricting the trading hours of, and public access to, the licensed premises.
- (2) The Authority may at any time:
  - (a) on application by the licensee, the Secretary or the Commissioner of Police, or
  - (b) on the Authority's own initiative,
 vary or revoke a condition of a licence that has been imposed (or taken to have been imposed) by the Authority under this Act.
- (3) An application under subsection (1) or (2) must:
  - (a) be in the form and manner approved by the Authority, and
  - (b) in the case of an application by a licensee—be accompanied by the fee prescribed by the regulations, and
  - (c) be accompanied by such information and particulars as may be prescribed by the regulations, and
  - (d) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (e) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

- (4) The Authority must not impose a condition on a licence after it has been granted, or vary or revoke a condition that has been imposed (or taken to have been imposed) by the Authority, unless the Authority has:
  - (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application under this section to vary or revoke a condition to which a licence is subject.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to vary or revoke the licence condition.