



Mr Tony Schwartz  
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22 May 2020

Dear Mr Schwartz,

<b>Application No.</b>	1-7357642210
<b>Applicant</b>	Mr Simon Buchanan
<b>Application for</b>	Extended trading authorisation in relation to a full hotel licence
<b>Licence name</b>	The Crown & Emperor Hotel Marrickville
<b>Current Trading Hours</b>	<u>Consumption on premises</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM  <u>Take away sales</u> Monday to Sunday 10:00 AM – 10:00 PM
<b>Proposed Trading Hours</b>	<u>Consumption on premises: Ground floor</u> Monday to Wednesday 10:00 AM – 12:00 AM Thursday to Saturday 10:00 AM – 2:00 AM Sunday 10:00 AM – 12:00 Midnight  <u>Consumption on premises: first floor and footpath public seating area</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM  <u>Take away sales</u> Monday to Saturday 10:00 AM – 9:59 PM Sunday 10:00 AM – 10:00 PM
<b>Premises</b>	220 Marrickville Road Marrickville NSW 2204
<b>Legislation</b>	Sections 3, 11A, 12, 14, 15, 15A, 16, 17, 40, 45, 48, 49, 51 and 53 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor and Gaming Authority  
Application for an extended trading authorisation – The Crown & Emperor Hotel  
Marrickville**

The Independent Liquor and Gaming Authority (“Authority”) considered at its meeting on 11 September 2019 an application for an extended trading authorisation (“ETA”) in relation to a full hotel licence (“ETA Application”) and a related application to change a liquor licence condition (“Licence Condition Application”).

After further consultation the Authority decided and notified by a preliminary advice letter on 23 October 2019 to:

- **Grant** the ETA Application pursuant to section 49(2) of the *Liquor Act 2007* (NSW) (“Act”).

- **Revoke** condition 3030 pursuant to section 53(2) of the Act.

The Authority also decided, pursuant to section 53(1) of the Act, to impose the conditions listed in Schedule 1 of this letter on the licence. These conditions will operate alongside the pre-existing conditions recorded on the licence record.

The Authority did not need to make a decision in respect of an obsolete condition 11000 as that was imposed under the previous version of the “Three Strikes” disciplinary scheme (prior to the legislative reforms to that scheme in 2017). Advice from Departmental compliance staff is that the Hotel had requested the Secretary revoke this condition under section 54(2) of the Act. The Authority notes that the condition has been removed from the licence record as of the date of this letter.

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 grant the ETA Application.

Section 36C does not require the production of reasons in respect of its decision for the Licence Condition Application. However, the Authority is satisfied that revoking condition 3030 is in the public interest having regard to the statutory objects and considerations in section 3 of the Act. This letter provides a short record only of that decision.

If you have any questions, please contact [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 & Gaming Authority**

## Statement of reasons

### Decision

1. On 4 June 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from Mr Simon Buchanan (“the Applicant”), through Liquor and Gaming New South Wales (“L&GNSW”), an application for an extended trading authorisation (“ETA”) in respect of a full hotel licensed premises (LIQH400106076) at 220 Marrickville Road, Marrickville New South Wales (“NSW”) 2204 (“Premises”), trading in the name of *The Crown & Emperor Hotel Marrickville* (“ETA Application”). Mr Buchanan is the licensee in respect of the hotel.
2. The ETA Application was accompanied by a related application to change a liquor licence condition (“Licence Condition Application”).
3. At its meeting on 11 September 2019 and after further consultation the Authority considered and decided to:
  - (1) **Grant** the ETA pursuant to section 49(2) of the *Liquor Act 2007* (NSW) (“Act”);
  - (2) **Revoke** condition 3030 pursuant to section 53(2) of the Act; and
  - (3) **Impose** the conditions listed in the cover letter pursuant to section 53(1) of the Act.
4. The Authority notes, for the purpose of section 49(6) of the Act, that the proposed ETA will extend to the ground floor of the hotel only (excluding the public seating footpath area) authorising the licensee to sell or supply liquor for consumption on the Premises between midnight and 2:00 am Thursday, Friday and Saturday and between 10:00 pm and 12:00 midnight on Sunday.
5. In determining the applications, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 14, 15, 15A, 16, 17, 40, 45, 48, 49, 51 and 53 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).
6. This statement of reasons only concerns the ETA Application.

### Material considered by the Authority

7. The Authority has considered the ETA Application, the accompanying Community Impact Statement (“CIS”), and all submissions received in relation to the ETA Application.
8. 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 ETA Application were provided with the opportunity to make submissions.
9. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW 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”).
10. A list of the material before the Authority is set out in Schedule 2.

### Legislative framework

11. The Authority has considered the ETA 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 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 CIS.
  - (h) Section 49: General provisions in respect of an ETA.
  - (i) Section 51: General provisions relating to licence-related authorisations.
12. An extract of these sections is set out in Schedule 3.

### **Key findings**

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

#### Validity, procedural and trading hour requirements

14. On the basis of the ETA Application, CIS material and Certificates of Advertising signed by the Applicant and his legal representative dated 19 June 2019, the Authority is satisfied that the ETA Application and CIS have been validly made and meet the minimum procedural requirements under sections 48(4) and 51(2) of the Act and clauses 20 through 29 of the Regulation.
15. The Authority is also satisfied that the extended hours sought by the Applicant in the ETA Application meet the requirements specified by sections 11A, 12, 14 and 49 of the Act with respect to a daily 6 - hour liquor sales cessation period and may be granted in respect of a hotel licensed premises. The Authority notes that the licence is currently subject to a liquor cessation period from 4:00 am to 10:00 am and that would not change should the ETA be granted.

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

16. The Authority is satisfied that:
- (a) For the purposes of section 45(3)(a) of the Act, the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding the Applicant's probity following consultation with relevant law enforcement agencies, including NSW Police ("Police") and the compliance section of L&GNSW.
  - (b) For the purposes of section 45(3)(b) and section 49(8)(a) of the Act, practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevent intoxication. This finding is made on the basis of the Applicant's business planning document – the *Plan of Management* dated 14 October 2019.
  - (c) For the purposes of section 45(3)(c) of the Act, the requisite development consent permitting the conduct of a hotel liquor licensed business with the proposed extended trading hours is in force. The Authority notes that a determination on a development approval 201500516 ("DA") was issued by the then Marrickville Council on 13 April 2016 permitting "internal alterations and

additions to the premises to use as a pub with dining and live entertainment”. Condition 29(a) of the DA specifies the hours of operation as between 9:00 am and 12:00 midnight Monday to Saturday (including public holidays) and between 10:00 am and 12:00 midnight Sunday (including public holidays). A trial period of 12 months, running from the issue of any occupation certificate has been specified in condition 29(b) permitting trading between 9:00 am and 12:00 midnight Monday to Wednesday (including public holidays), between 9:00 am and 2:00 am Thursday to Saturday (including public holidays) and between 10:00 am and 12:00 midnight Sunday (including public holidays). The Authority notes that the current Inner West Council (“Council”) approved application number 201500516.01 on 14 June 2018 amending conditions 1, 2, 17 and 19 of DA 201500516. A final occupation certificate granted by Essential Certifiers, is before the Authority and dated on 22 March 2019.

#### Further restrictions on granting an ETA

17. For the purpose of section 49(8)(b) of the Act, the Authority notes that the Plan of Management dated 14 October 2019 makes a number of provisions regarding the protection of local amenity, including management of neighbourhood, noise, procedures for violent/quarrelsome behaviour, procedures for noise emissions, security, staff and complaint handling. On this basis, and in the absence of information to the contrary, the Authority accepts that granting the ETA Application will not result in the *frequent* undue disturbance to the quiet and good order of the neighbourhood.

#### CIS and Gambling Activities

18. The Authority is satisfied that the CIS meets the minimum requirements of clause 28 of the Regulation in that it addresses matters relating to gambling activities on the Premises during the period in which the ETA is proposed to be in force.

#### Community impact statement

19. 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 Marrickville, and the relevant “broader community” comprises the local government area (“LGA”) of the Inner West Council (“Inner West LGA”).

#### Positive social impacts

20. The Authority accepts, as contended in the CIS, that granting the ETA for this full hotel licensed business will provide some increased choice to members of the local and broader community who wish to patronise this venue and engage in the late night licensed entertainment services offered by this Hotel. The Authority accepts that there will be some additional convenience for persons who wish to remain on the Premises later into the evenings.
21. The Authority further notes, on the basis of a L&GNSW list of licensed premises as at 20 August 2019, that there are several full hotel licensed premises and registered clubs offering similar liquor and gaming services during extended hours in the suburb of Marrickville. Their presence constrains the extent of benefit by way of increased choice and convenience at the level of the local community as a whole.
22. The Authority accepts that granting this ETA will advance, to a modest extent, the expectations, needs and aspirations of the communities for the purpose of section

3(1)(a) of the Act, and develop the liquor industry serving these communities, for the purpose of section 3(1)(b) of the Act. These benefits are somewhat constrained by the number and extent of existing late night licensed premises within the local and broader community.

23. There was limited opposition to the proposal from the local community, with one resident objection noted below. There were no objections from relevant stakeholders including Police, Council or L&GNSW who have law enforcement capabilities and local knowledge of the area.
24. The Authority has considered the Applicant's contentions in the CIS that granting the ETA will enhance social entertainment prospects by permitting residents and visitors to the local and broader community to dine and socialise in a quality and safe establishment with the changes proposed reflecting the proper development of the tourism and hospitality industries.
25. Noting that the Applicant has provided copies of the menu for the hotel and has represented in the CIS that the kitchen will be open during the ETA period (with the last food service at 1:00 am on Thursday to Saturday), the Authority is satisfied that granting the ETA Application will also advance, to a modest extent, the statutory object in section 3(1)(c) of the Act by contributing to the responsible development of related industries, including the hospitality industry.

#### Negative social impacts

26. This ETA concerns a full hotel liquor licensed premises, whose primary purpose is the sale of liquor by retail, both on premises and off premises – although off premises sales will not be impacted by the grant of the ETA Application. This licensed venue provides a bar and seating area, gaming room, kitchen, dining area and takeaway liquor service (although takeaway liquor will not be sold during the extended hours proposed).
27. The size of the proposed ETA area of 167 square metres and the patron capacity of 172 people indicate that this will be a venue of moderate scale and capacity to impact the local and broader communities.
28. The extended trading hours, between 12:00 midnight and 2:00 am Thursday to Saturday and between 10:00 pm and 12:00 midnight Sunday also provide increased scope for the hotel to contribute to adverse social impacts over time.
29. Although licence density will not be impacted by granting the ETA Application, the venue will operate during higher risk times than is presently the case. The late trading hours sought by this Application pose an adverse risk factor when assessing the overall social impact upon the local and broader communities.
30. L&GNSW licence density information as at 20 August 2019 indicates that the suburb of Marrickville has 7 full hotel licensed premises (5 of which have extended trading hours), 2 hotel general bar licensed premises (1 of which has extended trading hours) and 8 registered club licensed premises (7 of which have unrestricted trading hours and 1 of which has extended trading hours).
31. The local community is exposed to some localised concentrations of crime. BOCSAR hotspot maps for Marrickville between April 2018 and March 2019 indicate that the hotel is located within a medium-density hotspot for incidents of alcohol related assault and

within high-density hotspots for incidents of domestic assault, non-domestic assault and malicious damage to property.

32. However, the Authority finds some reassurance in a comparison of the rates of crime against State wide rates. BOCSAR crime data for the year to March 2019 recorded:
- A rate of **95.4** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **76.1** for the LGA and a rate of **115.5** for NSW.
  - A rate of **102.5** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **101.8** for the LGA and a rate of **118.8** for NSW.
  - A rate of **731.6** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **646.6** for the LGA and a rate of **737.8** for NSW.
  - A rate of **31.8** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **28.8** for the LGA and with a rate of **36.6** for NSW.
33. The 2016 ABS Socio-Economic Index For Areas data records that the suburb ranked in the 8<sup>th</sup> decile and the LGA in the 10<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 does not present as an additional risk factor when assessing these communities on the whole.
34. Health data is mixed but provides some cause for concern at the level of the broader community. NSW Healthstats data indicates that the LGA recorded a spatially adjusted rate of 866.8 per 100,000 persons of population compared to 580.6 for NSW as a whole (2015 to 2017) for alcohol attributable hospitalisations. This is an adverse risk factor. By contrast, alcohol attributable deaths for the LGA recorded a spatially adjusted rate of 17.9 per 100,000 persons (2015 to 2016) compared to 18.1 for NSW.
35. The Authority has considered the sole opposing submission from a writer who seeks to remain anonymous (and whose location is not indicated). The writer raises concerns about the additional late trading hours increasing the time in which people may gamble and the impact upon those suffering with addiction. The writer contends that Marrickville has sufficient licensed establishments offering liquor and gambling, and notes this hotel's large area for gaming. The writer concludes that the ETA Application is "detrimental to the community" as it "encourages anti-social behaviour and activities".
36. The Authority accepts, as noted above, that the late trading hours sought provides a risk factor for adverse impact upon local amenity and the consumption of liquor over an extended period. The OneGov record dated 13 August 2019 indicates that the hotel has a gaming machine threshold of 30, with 25 gaming machine entitlements. The hotel operates within an area designated as a "Band 2" SA2 area under section 33 of the *Gaming Machines Act 2001* (NSW). The extended hours pose an additional source of adverse social impact, but there is insufficient evidence or information before the Authority with respect to those risks to move the Authority to refuse the ETA Application, considering the positive and negative social impacts together.
37. The Authority has also taken into account the operation of the harm minimisation measures that this licensed Premises utilises to reduce the negative impact that gambling may have on members of the community. These measures are set out in the CIS material, Plan of Management and additional submission dated 12 August 2019

and include *inter alia* that: all staff will be trained in the responsible conduct of gambling and the operation of gaming machines; brochures advertising counselling services for problem gamblers and problem drinkers will be available at the hotel, which includes a self-exclusion program; the hotel will not display or publish signs/advertising or promoting gambling; and the hotel ensures all mandatory harm minimisation and responsible gambling practices, as set out in the *Gaming Machines Act 2001* (NSW) and the *Gaming Machines Regulation 2010* (NSW) are adhered to. The hotel will also be required to comply with the conditions of the DA.

38. The Authority considered the Police proposed condition that no patrons be allowed to enter or re-enter the Premises after 1:00 am but has determined, on the information currently before it, to not impose that restriction.

Overall social impact

39. Having considered the positive and negative impacts that are likely to flow from granting the ETA, the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting extended trading would not be detrimental to the well-being of the local community.
40. The ETA Application is granted pursuant to section 49(2) of the Act.



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/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 – Licence conditions to be imposed The Crown and Emperor Hotel Marrickville**

1. The premises is to be operated at all times in accordance with the Plan of Management dated 14 October 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.
2. If the local consent authority does not approve the continuation of the trial period in the development consent after 20 March 2020 (or as may be extended from time to time), the trading hours of the premises will revert to 10:00 AM to 12:00 AM Monday to Saturday, 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.

### **3. Incident Register**

- (1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
  - (a) any incident involving violence or anti-social behaviour occurring on the premises,
  - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
  - (c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
  - (d) any incident that results in a patron of the premises requiring medical assistance.
- (2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
  - (a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
  - (b) allow a police officer or Liquor & Gaming NSW inspector to take copied of the register or to remove the register from the premises.
- (3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

## **Schedule 2 – Material considered by the Authority The Crown and Emperor Hotel Marrickville**

### **Application material**

1. Two page letter from Back Schwartz Vaughan (“BSV”) dated 4 June 2019 lodging the following material on behalf of Simon Buchanan (“Applicant”):
  - (a) Application Form for an extended trading authorisation (“ETA”) in relation to The Crown & Emperor Hotel Marrickville (“the Hotel”) signed and dated 30 May 2019 (“ETA Application”), accompanied by the required notices.
  - (b) Category B Community Impact Statement (“CIS”) signed by the Applicant and dated 30 May 2019. This document is accompanied by the following material:
    - List of Stakeholders and special interest groups notified of the ETA Application.
    - A thirty-one page document prepared by BSV on behalf of the Applicant dated 21 May 2019 providing an assessment of the ETA Application.
    - An 8-page document titled “a review of the statistical data” including: a table comparing various demographic data across New South Wales (“NSW”), the Inner West Local Government Area (“LGA”) and the Marrickville suburb sourced from the Australian Bureau of Statistics (“ABS”) and NSW Health *Healthstats*; five graphs sourced from the Inner West Profile ID website (regarding age structure across Marrickville and the LGA in 2016; age structure across Marrickville and NSW in 2016; ancestry in Marrickville and the LGA in 2016; occupation of employment in 2016 for Marrickville and the LGA; occupation of employment in 2016 for Marrickville and NSW); a table sourced from the Inner West Profile ID website on labour force status in Marrickville and the LGA in 2016; a map sourced from the Inner West Atlas ID website depicting Inner West Council (“Council”), households renting social housing, 2016, enumerated, number.
    - The Hotel’s Plan of Management dated 21 May 2019.
    - The menu for the Hotel.
    - A thirteen-page document prepared by BSV on behalf of the Applicant providing comparative information about 8 registered club licensed premises and 8 hotel licensed premises in the Marrickville suburb regarding the distance from the Hotel, an overview of the venue, business model features, trading times, capacity, food, entertainment and gaming machines.
    - Sixteen photographs depicting the street frontage of the Hotel and from various locations inside the Hotel.
    - A map depicting the alcohol free zones in Marrickville and the location of the Hotel.
  - (c) A one-page document identifying the neighbouring premises, accompanied by an aerial view map outlining the location of the Hotel in red and an aerial view map depicting the location of the Hotel and the 100-metre radius in which notification of the ETA Application was distributed.
  - (d) One-page index listing the submissions received during the CIS consultation period, accompanied by the submissions from Aboriginal Affairs and an anonymous author (detailed below).

- (e) Application form for change liquor licence condition (“Licence Condition Application”) signed by the Applicant and dated 30 May 2019. The Licence Condition Application is accompanied by the required notices.

#### **Development consent**

2. Development Approval 201500516 dated 13 April 2016 issued by the former Marrickville Council for internal alterations and additions to the premises to use as a pub with dining and live entertainment [provided with the Application].
3. Four-page letter from Inner West Council dated 14 June 2018 advising that they approved application number 201500516.01 to modify determination no 201500516 by amending conditions 1, 2, 17 and 19 [provided with the Application].
4. Final Occupation Certificate 20181095 issued by Essential Certifiers on 22 March 2019 [provided on 1 July 2019].

#### **L&GNSW records**

5. Material held on the Liquor and Gaming New South Wales (“L&GNSW”) file in relation to an application in 2015 to remove the licence from premises in St Peters to the current location in Marrickville (“2015 Removal Application”).
6. Decision of the Independent Liquor and Gaming Authority dated 12 October 2016 in relation to the 2015 Removal Application.
7. Material held on the L&GNSW file in relation to a 2016 application for an owner in possession liquor licence transfer.
8. L&GNSW liquor licensing records as at 20 August 2019 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in the suburb of Marrickville, the LGA and NSW.
9. L&GNSW liquor licensing records as at 20 August 2019 listing all licenced premises in Marrickville.
10. L&GNSW Licence Details Report for the Hotel between 1 July 2008 to 12 August 2019.
11. OneGov licence record for the Hotel as at 13 August 2019.

#### **Crime data**

12. Bureau of Crime Statistics and Research (“BOCSAR”) NSW Recorded Crime Statistics April 2018 to March 2019 comparing certain offences by day of week and time of day in Marrickville and the LGA compared to NSW, sourced by licensing staff on 20 August 2019.
13. BOCSAR NSW Recorded Crime Statistics 2018 comparing the number and proportion of selected offences flagged as alcohol related by NSW Police in the LGA and NSW, sourced by licensing staff on 20 August 2019.
14. BOCSAR crime hotspot maps for April 2018 to March 2019, indicating the location of the premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property, sourced by licensing staff on 20 August 2019.
15. NSW crime statistics published by BOCSAR indicating that for the year to March 2019, the rates (per 100,000 population) of:
  - a) alcohol-related domestic assault in the LGA and Marrickville were 76.1 and 95.4 respectively, compared to the NSW average of 115.5,
  - b) alcohol-related non-domestic assault in the LGA and Marrickville were 101.8 and 102.5 respectively, compared to the NSW average of 118.8,

- c) malicious damage to property in the LGA and Marrickville were 646.6 and 731.6 respectively, compared to the NSW average of 737.8, and
- d) alcohol-related disorderly conduct (offensive conduct) in the LGA and Marrickville were 28.8 and 31.8 respectively, compared to the NSW average of 36.6.

(sourced by licensing staff on 20 August 2019).

### **Health data**

- 16. HealthStats NSW data showing that the LGA recorded a spatially adjusted rate of:
  - a) 17.9 for alcohol attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 18.1, in the period 2015-16; and
  - b) 866.8 for alcohol attributable hospitalisations per 100,000 of population, compared to the corresponding NSW figure of 580.6, in the period 2015-17.

(sourced by licensing staff on 28 June 2019).

### **Socio-economic data**

- 17. ABS Socio-Economic Indexes For Areas data based on the 2016 Census indicating that, on the Index of Relative Socio-Economic Advantage and Disadvantage for NSW on a scale of 1 to 10, with the 10<sup>th</sup> decile being the most advantaged and 1<sup>st</sup> decile the most disadvantaged, Marrickville ranked in the 8<sup>th</sup> decile and the LGA ranked in the 10<sup>th</sup> decile. This data was sourced by licensing staff on 20 August 2019.

### **Stakeholder submissions**

- 18. Email submission from an author who wishes to remain anonymous dated 18 April 2019 objecting to the ETA Application.
- 19. Email submission from Aboriginal Affairs dated 30 April 2019 advising no objection to the ETA Application provided the NSW Aboriginal Land Council and the Local Aboriginal Land Council have been notified.
- 20. Submission letter from NSW Roads and Maritime Services dated 14 June 2019 proposing the installation of physical barriers and improved lighting and that the licensee participate in the local liquor accord.
- 21. Submission letter from Family and Community Services ("FACS") dated 21 June 2019, in which FACS advise that they do not have a response and will not be providing input.
- 22. Email submission from Compliance Operations Unit of L&GNSW ("L&GNSW Compliance") dated 25 July 2019 providing information on the compliance history of the Hotel.
- 23. Email submission from Sergeant Nerida Pillay, Licensing Unit, Inner West Police Area Command of NSW Police dated 27 June 2019 advising no objection to the ETA Application and no objection to change condition 11000 as it is no longer relevant.

### **Other relevant information**

- 24. Email from BSV on behalf of the Applicant, dated 1 July 2019 in response to an email from licensing staff dated 28 June 2019 regarding development consent. Attached to this submission is a copy of the Final Occupation Certificate 20181095 issued by Essential Certifiers on 22 March 2019.
- 25. Emails from BSV on behalf of the Applicant dated 2 August 2019 and 12 August 2019 responding to the L&GNSW Compliance submission.
- 26. Submission letter from BSV, on behalf of the Applicant, dated 12 August 2019 providing responses to requisitions from licensing staff in their email dated 20 June 2019. This is accompanied by:

- (a) Certificates of advertising signed by the Applicant and Mr Tony Schwartz of BSV on 19 June 2019.
  - (b) Gaming sales data since the Hotel commenced business operations on 23 March 2019 up to and including 22 July 2019.
  - (c) Pie charts summarising the information in the 41 individual customer surveys of patrons at the Hotel during the review period including copies of the completed surveys.
  - (d) Pie charts summarising the visual analysis of patrons attending the Hotel during the review period together with a sample sheet illustrating how the data was collected.
  - (e) Details of the 134 members signed up to the Hotel's loyalty program as at 25 July 2019.
  - (f) FACS submission letter dated 21 June 2019.
27. Email from BSV, on behalf of the Applicant, dated 22 August 2019 in response to an email from licensing staff dated 13 August 2019 relating to conditions proposed to be imposed on the licence.
28. Email from BSV, on behalf of the Applicant, dated 14 August 2019 providing a response to the RMS submission.
29. Google map images extracted from the Google website on 20 August 2019, showing the location and photos of the Premises in map view, earth view and street view.
30. Email from BSV on behalf of the Applicant dated 25 September 2019 consenting to the imposition of a licence condition requiring an Incident Register.
31. Plans/diagrams of the premises with the licensed area of the Hotel shaded in pink and the area to be covered by the ETA identified by a green line.
32. The Hotel's updated Plan of Management dated 14 October 2019.

**Schedule 3 – Relevant extracts from the *Liquor Act 2007* (NSW)  
The Crown and Emperor Hotel Marrickville**

**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.

#### **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.

#### **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.