



9 September 2016

Mr Scott Tucker  
Metropolitan Hotel  
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Maitland NSW 2320  
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**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – STAY  
APPLICATION ON REVIEWABLE DECISION – METROPOLITAN HOTEL,  
MAITLAND**

Dear Mr Tucker

**INTRODUCTION**

1. I refer to your application for review filed with the Independent Liquor and Gaming Authority on 31 August 2016 (Review Application).
2. The Review Application concerns a decision made by Mr Sean Goodchild, a delegate of the Secretary of the Department of Justice (Delegate) within the Compliance Section of Liquor and Gaming NSW (LGNSW) dated 3 August 2016 (Reviewable Decision).
3. In the Reviewable Decision, the Delegate imposed three new conditions (Conditions) upon the licence of the Metropolitan Hotel, Maitland (Hotel). Briefly, they require:
  - Compliance with the "LA10" noise restriction
  - Use of a noise limiter when providing amplified entertainment
  - No amplified entertainment until such time as the licensee provides LGNSW with an acoustic report confirming that amplified entertainment complies with the LA10 requirement.
4. The Conditions were determined to commence effect on 9 September 2016.
5. Under section 36A(4) of the *Gaming and Liquor Administration Act 2007* (Act) the Authority has the power to confirm, vary or revoke certain decisions made by the Secretary, including (relevantly) a decision under section 81 of the *Liquor Act 2007* on a disturbance complaint against a licensed premises made under section 79 of that Act.
6. The Authority notes that as part of the Review Application you seek a stay of the Reviewable Decision under section 36A(3) of the Act (Stay Application).

## DECISION

7. The Authority has considered all of the submissions and material provided in support of the Review Application, including a one page letter to the Authority dated 31 August 2016, a review application form dated 31 August 2016 and the Reviewable Decision with reasons dated 3 August 2016 (Review Application Material).
8. The Review Applicant briefly contends that the completion of noise amelioration works has been delayed due to economic constraints, that live entertainment is a "big part" of the hotel's operations, and that a stay of the Reviewable Decision until 30 November 2016 will assist the hotel to derive revenue to fund the noise remediation works.
9. The Authority has had regard to the Review Application Material and the factors specified in Authority Guideline 2 with regard to determining a stay application.
10. On the material before it, the Authority is not persuaded that the Reviewable Decision should be stayed and has decided not to issue a direction under section 36A(3) of the Act.
11. In making this decision, and having regard to the information provided in the Reviewable Decision, the Authority is satisfied that the licensee has had a sufficient period of time to address the noise concerns arising from live entertainment on the premises that have been the subject of complaint since September 2015.
12. The Authority further notes that the Delegate allowed the licensee around 5 weeks from the date of the Reviewable Decision before the Conditions commenced effect.
13. The Review Applicant has not specified to any great extent, let alone substantiated with independent evidence, the scope of remaining building works, the reasons for delay in completing those works, the further cost of those works or the extent to which live entertainment (as distinct from other components of Hotel revenue) will contribute to funding the remaining works over the next three months.
14. While it is generally credible to assert that live entertainment revenue will contribute to the hotel's capacity to fund noise amelioration measures, the aforementioned factors reduce the weight that may be given to the Review Applicant's case in support of staying the decision.
15. The Authority finds that the balance of convenience does not favour staying the Reviewable Decision, noting in particular that the Review Applicant does not seek any variation or revocation of the Conditions imposed by the Delegate.
16. In light of this decision the Authority invites the Review Applicant to advise, within 7 days, whether it is proceeding with the substantive Application for Review, and if so upon what basis - given that no substantive variation or revocation of Conditions is apparent from the Review Application material.



# Independent Liquor & Gaming Authority

*A statutory board established under the Gaming and Liquor Administration Act 2007*

Please contact the Internal Reviews and Secretariat Unit, Liquor and Gaming NSW via email at [review.lgnsw@justice.nsw.gov.au](mailto:review.lgnsw@justice.nsw.gov.au) if you have any enquiries about this letter.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Philip Crawford".

Philip Crawford  
**Chairperson**  
**Independent Liquor and Gaming Authority**