



Independent Liquor & Gaming Authority

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The Directors
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By email and Express Post

Dear Sir/Madam

Disciplinary Complaint under Section 139 of the *Liquor Act 2007* SILK HOTEL, Newcastle West

INTRODUCTION

1. I refer to the abovementioned disciplinary complaint under section 139 of the *Liquor Act 2007* (**Act**) made by Acting Superintendent Trevor Shiels in his capacity as delegate of the NSW Commissioner of Police (**Complainant**) received by the Independent Liquor and Gaming Authority (**Authority**) on 17 February 2014 (**Complaint**).
2. The Complaint concerns the licensed premises trading as "Silk Hotel", located at 635 Hunter Street, Newcastle West (the **Premises**). As of the date of the Complaint, the owner of the freehold in the Premises was a company, Parking Towers International Pty Limited (**Premises Owner**) and its sole director was Mr Vasilis (Bill) Floros Moshos. The corporate licensee of the Premises was Silk Hotels Newcastle Pty Limited (**Licensee**) and its sole director was also Mr Vasilis Moshos. The corporate business owner of the Premises was Rightclick Holdings Pty Limited (**Business Owner**) and its sole director was Mr Georgios (George) Emmanouilidis.
3. Since the Complaint was made to the Authority, as discussed below, control of the corporate Premises Owner has apparently been transferred to two companies controlled respectively by Mr Emmanouilidis and Mr Antonios (Anthony) Moshos, the brother of Vasilis Moshos. The corporate licensee remains Silk Hotels Newcastle Pty Limited, although Mr Emmanouilidis has applied to have the licence transferred to the corporate Business Owner, Rightclick Holdings Pty Limited. This application has been objected to by

Police and has yet to be approved either on a provisional or final basis, pending the determination of this disciplinary complaint.

4. The Complaint seeks that the Authority exercise its power under Part 9 of the Act to take disciplinary action against both the Licensee and Mr Vasilis Moshos in his capacities as sole director of the Licensee and sole director of the former licensee, Silk Hotels Pty Limited (the **Former Licensee**) and arising from his roles as approved manager of the Premises (**Approved Manager**), close associate of the Premises and a person interested in the Premises.

THE COMPLAINT MATERIAL

5. The Complaint letter comprises a six (6) page NSW Police (**Police**) Cover Submission and a further 47 pages setting out the Particulars of each ground of Complaint, all of which are grounds that may potentially be relied upon by a complainant under section 139(3) of the Act.
6. The Complaint letter is accompanied by several hundred pages of submissions, evidence and other material upon which the Complainant relies. This material has been prepared by Police and consists mainly of reports sourced from the Police Computerised Operational Policing System database (**COPS Reports**) detailing numerous adverse incidents which the Complainant alleges are directly attributable to the Premises or to the operation or management of the Premises. Other material upon which the Complainant relies includes a copy of the Hotel's liquor licence; communications between the Authority, the Complainant and the Respondents; statements of evidence by Police officers; documentation recording the issue of Penalty Notices by Police and Compliance Notices by the Office of Liquor, Gaming and Racing (**OLGR**); Court Attendance Notices and the associated facts sheets; records provided by the State Debt Recovery Office (**SDRO**) in relation to the payment status of Penalty Notices issued; internal Police data sourced from the Escalated Licensing Operational Response Model (**ELORM**) and media articles from the *Newcastle Herald*.
7. The Complainant's legal representatives, Henry Davis York Lawyers, state in the Cover Submission to the Complaint dated 6 February 2014 that the Complainant also relies upon all of the submissions and other documents provided to the Authority in support of a separate application that has been simultaneously considered by the Authority in parallel with its consideration of this Complaint. That application, dated 11 December 2013, was made by Police to the Authority under section 51(9)(b) of the Act and seeks the revocation of the extended trading authorisation (**ETA**) attaching to the licence for the Premises (**Application**). The Application is primarily based upon **162** COPS Reported adverse events (**Events**) occurring during late trading hours which Police have linked to the Premises or patrons of the Premises.

[The Authority notes that the Application was determined on 27 August 2014 and the parties were notified on 9 October 2014 of the Authority's decision to revoke the ETA with effect from 11 October 2014.]

Cover Submission

8. Without purporting to recount here all of the submissions and attachments provided by the Complainant, the Cover Submission and the Complaint dated 17 February 2014 make the following observations and contentions:
 - a) Silk Hotels Newcastle Pty Limited is the holder of an hotelier's liquor licence number LIQH400117485

- b) The Hotel primarily trades on Wednesday, Friday and Saturday nights, with the Premises recently opening throughout the day
- c) The licence has an extended trading authorisation which enables the Premises to sell or supply liquor from 5:00 am to 3:30 am Monday to Saturday. The Premises is licensed to trade during standard hours only on a Sunday, from 10:00 am to 10:00 pm
- d) The Premises is located on one level with “three designated areas” being the “front, middle and rear/smoking area bars”
- e) The Premises has a maximum patron capacity of 178 persons
- f) The corporate licensee of the Premises from 23 July 2013 to the date of the Complaint (17 February 2014) is Silk Hotels Newcastle Pty Limited. Mr Vasilis Moshos is the sole director, shareholder and secretary of this company
- g) The corporate licensee of the Premises between 20 January 2010 and 22 July 2013 was another company, Silk Hotels Pty Limited (the Former Licensee). Mr Vasilis Moshos was also the sole director and shareholder of that company. Police note that liquidators were appointed to the corporate Former Licensee on 10 April 2013
- h) The Approved Manager of the Premises (as at 17 February 2014) is Mr Vasilis Moshos, who was appointed on 12 December 2013. Vasilis Moshos was also the Approved Manager from 20 January 2010 to 22 July 2013 (when the licence was held by Silk Hotels Pty Limited) and from 23 July 2013 to 8 October 2013 (when the licence was held by Silk Hotels Newcastle Pty Limited)
- i) Mr Joseph Lannutti was provisionally approved as the approved manager of the Premises on 8 October 2013. As such, except for the period from 8 October 2013 to 11 December 2013, Mr Vasilis Moshos has been the approved manager of the Premises since 20 January 2010
- j) Mr Vasilis Moshos is also (as at 17 February 2014) the sole director of the corporate Premises Owner, Parking Towers International Pty Limited (**Parking Towers**). Parking Towers has been the Premises Owner since 20 January 2010
- k) The Complainant submits that Vasilis Moshos also has a “...financial interest in the licence and Premises” and is a “...close associate” of the Licensee within the meaning of section 4 of the Act and section 5 of the *Gaming and Liquor Administration Act 2007* in the following capacities:
 - (i) As sole director of the licensee from 20 January 2010 to 23 July 2013 (in relation to the Former Licensee) and from 23 July 2013 to the date of Complaint (in relation to the current Licensee); and
 - (ii) As the sole director of Parking Towers International Pty Limited, which has been the Premises Owner since 20 January 2010
- l) The Premises is located within the Newcastle central business district (**CBD**) on the corner of Hunter and Steel Streets. The Complainant contends that this area of the CBD is known for alcohol related violence that is attributable to the operation of licensed premises
- m) The Complainant contends that the Premises “...attracts a reasonably large amount of patrons” on Friday and Saturday nights, “...especially from 10:00 pm till [closing] time of 3:30 am”

- n) The Complainant notes that the liquor licence attaching to the Premises is subject to a number of conditions that were imposed as a result of an undue disturbance complaint made by Police under section 104 of the former *Liquor Act 1982* in relation to thirteen (13) hotels located in the Newcastle CBD, including the Premises. That disturbance complaint was based upon noise, patron behaviour and security conditions.

[The Authority notes that the disturbance complaint was determined by the former Liquor Administration Board in April 2008.]

The Complainant notes that, as a consequence of the determination of that previous complaint, the Premises is currently subject to a condition requiring a lockout of patrons from 1:30 am and a closing time of 3:30 am

- o) The Complainant submits that the "...large amount of alcohol affected patrons" in the area around the Premises and in the Newcastle CBD "...creates resource issues for policing in that area". The Complainant provides a map of the relevant areas of concern to Police
- p) The Complainant submits that data derived from the Police ELORM – which rates licensed venues according to certain categories of risk including intoxication, violence, underage offences, malicious damage, stealing, security offences and criminal intelligence reports – recorded the Premises as having an overall risk rating of "extreme" for the June to August 2013 quarter. The preceding three quarters had risk ratings of "extreme", "medium" and "high" respectively. The Complainant submits that the Premises "...has consistently performed at these risk levels with no signs of abating"
- q) Over the period from March 2010 to November 2013 (the **Relevant Period**), the Complainant contends that **46** assaults occurred either on the Premises or within the vicinity of the Premises
- r) The Complainant further contends that during the Relevant Period **38** incidents of assault were recorded as occurring after 12:00 midnight, while **8** incidents of assault occurred before 12:00 midnight. The Complainant submits that this indicates that "...the issues relating to the [Premises] occur in their extended trading authorisation period"
- s) The Complainant states that Newcastle City Licensing Police have met with Mr Vasilis Moshos on a number of occasions, when they have highlighted that the "...continual occurrence of assaults and intoxication levels were concerning". The Complainant contends that "...no improvement or overt attempts to improve the manner of trade had been identified"
- t) The Complainant notes that inspectors from the Office of Liquor, Gaming and Racing have also conducted audits and attended meetings with Mr Vasilis Moshos and have "...expressed their concerns and recommendations to address those issues"
- u) The Complainant provides details of meetings held by Police with Mr Vasilis Moshos in his capacity as Approved Manager of the Premises (from 20 January 2010 to 8 October 2013) in relation to breaches of licensing legislation that occurred between 6 May 2010 and 2 October 2013
- v) The Complainant also refers to an application made by Police for a Short Term Closure Order under section 82 of the Act on 20 August 2013. That application arose

through the identification by Police of "...serious breaches of the [Act], with minors being allowed on the Premises and being supplied with liquor". The Complainant notes that this application was subsequently withdrawn by Police on the basis of the Licensee's consent to the imposition by the Authority of three (3) new ongoing licence conditions under section 53 of the Act. The conditions required the posting of security guards and the use of identification scanners every Friday, Saturday and those Sundays proceeding a public holiday Monday. The conditions also imposed detailed requirements for CCTV on the Premises

- w) The Complainant notes that another Short Term Closure Order application was lodged with the Authority by Police on 22 October 2013 based on the identification of a "serious breach" of the Act arising from recent incidents involving permission of intoxication and minors on the Premises. The Authority imposed a 72-hour closure of the Premises from 5:00 pm on Friday 25 October 2013
- x) The Complainant contends that Mr Vasilis Moshos is "...either in denial or does not wish to address the issues at the [Premises], often becoming difficult to engage during meetings". The Complainant contends that Mr Moshos "...often blames Police for the venue's issues and will avoid assisting Police in their investigations", on most occasions offering a "no comment" response to any questions put to him regarding the Premises, irrespective of whether or not an offence has been detected
- y) The Complainant submits that the Premises Owner and Mr Vasilis Moshos – in his various capacities – "...do not have patron safety or managing a legitimate or successful business as a priority"
- z) The Complainant notes that the Premises "...has been subject to a number of infringement notices and Court Attendance Notices" issued by OLGR inspectors and Police since January 2010.

Offence Summary Table

- 9. The Complaint filed with the Authority on 17 February 2014 includes a table summarising all the offences attributed to the operation of the Premises during the Relevant Period (**Offence Summary Table**) under the Act, the *Liquor Regulation 2008 (Regulation)*, the *Gaming and Liquor Administration Act 2007 (GLAA)*, the *Gaming Machines Act 2001 (GMA)* and the *Gaming Machines Regulation 2010 (GMR)*
- 10. The Complainant lists all Penalty Notices that have been issued in respect of the Premises and all prosecutions commenced by way of Court Attendance Notice against the Licensee, and the final outcome of each Penalty Notice (if paid, not paid or defended in Court) or Court prosecution brought by Police, as the case may be
- 11. The Authority understands, on the basis of the Complainant's submissions, that when a Penalty Notice has been described by Police as subject to "enforcement action" this refers to the issue of a Penalty Notice Enforcement Order by the State Debt Recovery Office, which is empowered to take a range of administrative recovery action with regard to unpaid Penalty Notices. The issue of a Penalty Notice Enforcement Order satisfies the Authority that the recipient of a Penalty Notice has neither paid the Notice nor elected to defend the Notice in Court
- 12. On 21 July 2014, the Complainant provided an updated Offence Summary Table, supported by Certificates of Conviction issued by Newcastle Local Court in respect of the Licensee, the Former Licensee or the Approved Manager, as the case may be, and SDRO business records current as of that date. The updated Offence Summary Table, the

accuracy of which has not been challenged by the other parties, provides the following information:

#	DATE	OFFENCE	PARTICULARS	LEGAL PROCESS	OUTCOME	DEFENDANT	SDRO STATUS
OFFENCES DETECTED BY NSW POLICE OFFICERS DURING RELEVANT PERIOD							
1	13.03.10	Licensee fail to comply with conditions of licence	Not make entry of assault in incident register	Penalty Notice No. 4024344840	\$1,150 Fine	Vasilis Floros MOSHOS	Not paid Enforced
2	13.03.10	Licensee fail to comply with conditions of licence	RSA certificate of licensed security guard not in RSA register	Penalty Notice No. 4024344830	\$1,150 Fine	Vasilis Floros MOSHOS	Not paid Enforced
3	30.04.10	Licensee fail to comply with conditions of licence	Not make entry of assault in incident register	Penalty Notice No. 4019195804	Court imposed Fine - \$1,293	Silk Hotels Pty Limited	Paid in Full
4	30.04.10	Licensee fail to comply with conditions of licence	Not make entry of assault in incident register	Penalty Notice No. 4019195813	Court imposed Fine \$1,293	Silk Hotels Pty Limited	Paid in Full
5	08.05.10	Licensee fail to comply with conditions of licence	RSA certificate of licensed security guard not in RSA register	Penalty Notice No. 4019195831	Court imposed Fine \$993	Silk Hotels Pty Limited	Paid in Full
6	08.05.10	Licensee fail to comply with conditions of licence	RSA certificate of licensed security guard not in RSA register	Penalty Notice No. 4019195822	Court imposed Fine \$993	Silk Hotels Pty Limited	Paid \$971, remainder written off by SDRO
7	29.05.10	Licensee not display prescribed notice in licensed premises	No Liquor sign visible behind the bar	Penalty Notice No. 4019195840	Paid \$220	Silk Hotels Pty Limited	Paid in Full
8	17.09.11	Licensee allow minor enter/remain in bar area of Hotel	Minor observed on the premises	Penalty Notice No. 4030835638	\$1,100 Fine	Silk Hotels Pty Limited	Not paid Enforced
9	03.03.12	Licensee fail to comply with conditions of licence	Not make entry of assault in incident register	Penalty Notice No. 4030835710	\$1,100 Fine	Silk Hotels Pty Limited	Not paid Enforced
10	12.05.12	Licensee fail to comply with conditions of licence	Not make entry of assault in incident register	Penalty Notice No. 4030835820	\$1,100 Fine	Silk Hotels Pty Limited	Not paid Enforced
11	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$1,100 Fine	Silk Hotels Pty Limited	Enforced
12	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$1,100 Fine	Silk Hotels Pty Limited	Enforced
13	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$1,100 Fine	Silk Hotels Pty Limited	Enforced
OFFENCES DETECTED BY NSW POLICE OFFICERS DURING RELEVANT PERIOD							
14	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$2,100 Fine	Silk Hotels Pty Limited	Enforced

#	DATE	OFFENCE	PARTICULARS	LEGAL PROCESS	OUTCOME	DEFENDANT	SDRO STATUS
OFFENCES DETECTED BY NSW POLICE OFFICERS DURING RELEVANT PERIOD							
15	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$2,100 Fine	Silk Hotels Pty Limited	Enforced
16	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$2,100 Fine	Silk Hotels Pty Limited	Enforced
17	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$2,100 Fine	Silk Hotels Pty Limited	Enforced
18	27.05.12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$2,100 Fine	Silk Hotels Pty Limited	Enforced
19	27.05./12	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H48514712	\$2,100 Fine	Silk Hotels Pty Limited	Enforced
20	08.06.12	Refuse to comply with requirement under section 34 GLAA 2007	Breach of form of demand	Court Attendance Notice No. H48514712	\$500 Fine	Silk Hotels Pty Limited	Enforced
21	13.07.13	Fail to keep register of RCG certificate pursuant to clause 61 GMR	RCG certificate of staff member not in RCG folder	Penalty Notice No. 4920248255	\$550 Fine	Silk Hotels Pty Limited	Enforced
22	28.07.13	Licensee not display prescribed notice in licensed premises	No Liquor sign visible at point of entry	Court Attendance Notice No. H52954628	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
23	13.07.13	Licensee fail to comply with conditions of licence	Fail to install CCTV on entry/exit point	Court Attendance Notice No. H52954628	\$1,000 Fine	Vasilis Floros MOSHOS	---
24	12.07.13	Licensee allow minor enter/remain in bar area of Hotel	Minor observed on the premises	Court Attendance Notice No. H52954628	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
25	12.07.13	Licensee allow minor enter/remain in bar area of Hotel	Minor observed on the premises	Court Attendance Notice No. H52954628	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
26	13.07.13	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H52954628	\$300 Fine	Vasilis Floros MOSHOS	---
27	06.07.13	Licensee fail to comply with conditions of licence	Fail to supply CCTV in accordance with licence condition	Court Attendance Notice No. H52954628	Section 10A Conviction	Vasilis Floros MOSHOS	N/A
28	23.06.13	Licensee fail to comply with conditions of licence	Licensee fail to ensure CCTV was in operating order prior to trade	Court Attendance Notice No. H52954628	\$1,000 Fine	Vasilis Floros MOSHOS	---

#	DATE	OFFENCE	PARTICULARS	LEGAL PROCESS	OUTCOME	DEFENDANT	SDRO STATUS
OFFENCES DETECTED BY NSW POLICE OFFICERS DURING RELEVANT PERIOD							
29	26.07.13	Refuse to comply with requirement under Section 34 GLAA 2007	Breach of form of demand	Court Attendance Notice No. H52954628	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
30	13.07.13	Licensee allow liquor to be sold/supplied to minor	Minor was supplied and consumed liquor within the premises	Court Attendance Notice No. H52954628	\$1,000 Fine	Vasilis Floros MOSHOS	---
31	13.07.13	Licensee allow liquor to be sold/supplied to minor	Minor was supplied and consumed liquor within the premises	Court Attendance Notice No. H52954628	\$1,000 Fine	Vasilis Floros MOSHOS	---
32	01.09.13	Licensee fail to comply with conditions of licence	Not make entry of assault in incident register	Court Attendance Notice No. H52905407	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
33	29.09.13	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H52905407	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
34	29.09.13	Licensee fail to comply with conditions of licence	Breach of 1:30am lockout	Court Attendance Notice No. H52905407	Withdrawn at Court	Vasilis Floros MOSHOS	N/A
35	29.09.13	Licensee fail to comply with conditions of licence	Patron not identification scanned prior to entry	Court Attendance Notice No. H52905407	\$500 Fine	Vasilis Floros MOSHOS	---
36	29.09.13	Licensee fail to comply with conditions of licence	Approved Manager not present at the venue during extended trade	Court Attendance Notice No. H52905407	Section 10A Conviction under the <i>Crimes (Sentencing Procedure) Act 1999</i>	Vasilis Floros MOSHOS	N/A
OFFENCES DETECTED BY INSPECTORS FROM THE OFFICE OF LIQUOR, GAMING AND RACING							
37	29.05.10	Licensee fail to comply with conditions of licence		Penalty Notice No. 3016951457	\$1,100 Fine	Vasilis Floros MOSHOS	Enforced
38	03.07.10	Fail to comply with requirement under clause 23 GMR 2010	Fail to make player information brochures available to patrons	Penalty Notice No. 3042900044	\$550 Fine	Vasilis Floros MOSHOS	Enforced
39	03.07.10	Fail to comply with requirement under section 49(3) Gaming Machines Act 2001	Fail to ensure patrons can access self-exclusion scheme	Penalty Notice No. 3042900053	\$1,100 Fine	Vasilis Floros MOSHOS	Enforced
40	03.07.10	Fail to comply with requirement under section 95(2) of the Act	Licensee alter name of premises without approval or endorsement	Penalty Notice No. 3042900026	\$55 Fine	Vasilis Floros MOSHOS	Enforced

#	DATE	OFFENCE	PARTICULARS	LEGAL PROCESS	OUTCOME	DEFENDANT	SDRO STATUS
OFFENCES DETECTED BY INSPECTORS FROM THE OFFICE OF LIQUOR, GAMING AND RACING							
41	03.07.10	Fail to comply with requirement under clause 52 GMR 2010	Hotel not make available to patrons problem gambling counselling services	Penalty Notice No. 3042900062	\$1,100 Fine	Vasilis Floros MOSHOS	Enforced
41(a)	03.07.10	Fail to comply with requirement under clause 54 GMR 2010	Fail to display gambling contact cards in accordance with legislation	Penalty Notice No. 3042900035	\$550 Fine	Vasilis Floros MOSHOS	Enforced
42	17.09.11		Responsible adult leave minor unaccompanied in hotel	Penalty Notice issued by Police – Offence #8	\$330 Fine		---
43	17.02.12	Fail to comply with requirement under clause 59(4) GMR 2010	Employ/continue to employ person without recognised RCG certification	Penalty Notice No. 3050197417	\$1,100 Fine	Silk Hotels Pty Limited	Enforced
44	17.02.12	Fail to comply with requirement under clause 54 GMR 2010	Not display gambling contact cards clearly seen when approaching bank of gaming machines	Penalty Notice No. 3050197408	\$550 Fine	Silk Hotels Pty Limited	Enforced

Grounds of Complaint

- The full text of the thirteen (13) grounds of the Complaint (**Grounds**) as specified in the Complaint dated 17 February 2014 is set out below, along with the Complainant's identification of the natural persons or corporate entities who are the subject of each Ground and the evidence and particulars relied upon by the Complainant in support of each Ground.
- The Authority notes that the "item" numbers in the Complainant's Particulars refer to the offences numbered in the Offence Summary Table that accompanied the initial Complaint (extracted, with some outcomes updated by the Complainant, in the Offence Summary Table above). References to "manager" in the Grounds and Particulars are references to the "approved manager" appointed by the Licensee within the meaning of section 66 of the Act.

GROUND ONE – s.139(3)(a)

That the licensee or manager has, while holding a licence or managing licensed premises, been convicted of an offence under the *Liquor Act* or the *Liquor Regulation 2008* (or under the former Act) or of an offence prescribed by the Regulation.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013).

Evidence/Particulars

The Complainant submits that the Former Licensee has been convicted of the offences set out in items #1 to #21 and items #37 to #44 of the Offence Summary Table, being offences under the Act or the Regulation or offences prescribed by the Regulation.

Several additional matters are currently before the Court in relation to breaches of the Act, the Regulation, and the GLAA 2007 by the current Licensee (items #22 to #36 of the Offence Summary Table).

The Complainant submits that the above evidence establishes the Ground of Complaint under section 139(3)(a) of the *Liquor Act 2007*.

The Complainant also notes that "...at all material times in relation to all of the established offences and matters currently before the Court" Mr Moshos has been a close associate and interested person of the Licensee and Former Licensee.

GROUND TWO – s. 139(3)(b)

That the licensee or manager failed to comply with any of the conditions to which the licence is subject.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Approved Manager: Mr Vasilis Moshos (20 January 2010 to present – 17 February 2014, excluding 8 October 2013 to 12 December 2013).

Evidence/Particulars

The Complainant submits that the Former Licensee has failed to comply with conditions to which the licence is subject as identified in items #1 to #6, items #9 to #19 and item #37 of the Offence Summary Table, and has been convicted in relation to those failures.

As the business of the Former Licensee was, for all intents and purposes, conducted by the manager, Mr Moshos, the Complainant contends that the manager has "...failed to comply with conditions to which the licence is subject" in that Mr Moshos was the manager when the Former Licensee engaged in the conduct referred to above.

Several additional matters are currently before the Court in relation to breaches of the conditions of the licence by the current Licensee (items #23, #26 to #28 and #32 to #36 of the Offence Summary Table).

As the business of the current Licensee is, for all intents and purposes, conducted by the manager, Mr Moshos, the Complainant contends that the manager has "...failed to comply with conditions to which the licence is subject" in that Mr Moshos was the manager when the current Licensee engaged in the conduct referred to above.

The Complainant submits that the above evidence establishes the Ground of Complaint under section 139(3)(b) of the *Liquor Act 2007*.

The Complainant also notes that "...at all material times in relation to all of the established breaches of conditions and matters currently before the Court" Mr Moshos has been a close associate and interested person of the Licensee and Former Licensee.

GROUND THREE – s.139(3)(c)

That the licensee has failed to comply with any of the conditions to which any authorisation or approval held by the licensee under the *Liquor Act* is subject.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Evidence/Particulars

The Complainant submits that the Former Licensee has failed to comply with conditions to which the authorisations and approvals held by the licensee were subject as identified in items #1 to #6, items #9 to #19 and item #37 of the Offence Summary Table, and has been convicted in relation to those failures.

Nine additional matters are currently before the Court in relation to breaches of the conditions to which any authorisation or approval held by the current Licensee is subject (items #23, #26 to #28 and #32 to #36 of the Offence Summary Table).

The Complainant submits that the above evidence establishes the Ground of Complaint under section 139(3)(c) of the *Liquor Act 2007*.

The Complainant also notes that "...at all material times in relation to all of the established breaches of authorisations or approvals and matters currently before the Court" in that regard, Mr Moshos has been a close associate and interested person of the Licensee and Former Licensee.

GROUND FOUR – s.139(3)(d)

That the licensee or manager has failed to comply with any other requirement under this Act or the Regulation, relating to the licence or the licensed premises.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Approved Manager: Mr Vasilis Moshos (20 January 2010 to present – 17 February 2014, excluding 8 October 2013 to 12 December 2013).

Evidence/Particulars

The Complainant submits that the Former Licensee has failed to comply with requirements under the Act or Regulation relating to the licensee or the licensed premises as set out in items #1 to #21 and items #37 to #44 of the Offence Summary Table, and has been convicted in relation to those failures.

As the business of the Former Licensee was, for all intents and purposes, conducted by the manager, Mr Moshos, the Complainant contends that the manager has "...failed to comply with conditions to which the licence is subject" in that Mr Moshos was the manager when the Former Licensee engaged in the conduct referred to above.

The Complainant submits that the current Licensee has failed to comply with requirements under the Act or Regulation relating to the licensee or the licensed premises as identified in items #22 to #36 of the Offence Summary Table, and those failures are currently before the Court for determination.

As the business of the current Licensee is, for all intents and purposes, conducted by the manager, Mr Moshos, the Complainant contends that the manager has "failed to comply with conditions to which the licence is subject" in that Mr Moshos was the manager when the current Licensee engaged in the conduct referred to above.

Offences determined by Penalty or Compliance Notice

- The Former Licensee, Silk Hotels Pty Limited, has been issued with eleven (11) Penalty Notices by Police for a range of offences under the Act. In relation to these Penalty Notices, the Licensee has only paid one (item #7 of the Offence Summary Table) and elected to have items #3 to #6 heard at Newcastle Local Court. In relation to items #1, #2, items #8 to #10 and item #21, the Licensee has neither paid nor elected to have these matters heard at Court, with these Penalty Notices being subject to enforcement orders by SDRO.
- The Former Licensee has been issued with nine (9) Penalty Notices and eight (8) Compliance Notices by OLGR inspectors under the Act, the *Gaming Machines Act 2001* and the *Gaming Machines Regulation 2010*.
- Newcastle City Council prosecuted the Premises Owner, Parking Towers International Pty Limited, for "...failure to maintain essential fire safety measures". The matter was heard at Newcastle Local Court on 18 February 2013, where the defendant pleaded guilty and was fined \$380.00 and ordered to pay Court costs.
- The Premises Owner was issued with a further Penalty Notice No. 4916151195 by Newcastle City Police for "...owner fails to maintain essential fire safety measures" on 23 April 2013.

Offences determined by Court Attendance Notice

- The Licensee has been served with a Court Attendance Notice by Police in which there were a total of ten (10) charges (items #11 to #20 of the Offence Summary Table). These matters were heard at Newcastle Local Court on 19 February 2013 before Magistrate Chicken. The Former Licensee, Silk Hotels Pty Limited, pleaded guilty to all 10 offences and was sentenced to fines and Court costs which totalled **\$17,230.00**. Police submitted an application under section 148 of the Act for additional penalties, and Magistrate Chicken approved two (2) additional conditions relating to the authorised approved manager being on the premises during extended trade and conditions relating to CCTV for the Premises.

Sanctions against Silk Hotels Pty Limited

- On 10 April 2013, the Former Licensee gave notification to the Authority of a winding up order for the company, and a liquidator was subsequently appointed. The Complainant notes that the Former Licensee still has an outstanding balance of

\$23,395.00 owing to SDRO. As the company is in liquidation, the outstanding amount cannot be obtained by SDRO at this time.

- Due to the corporate Former Licensee going into liquidation, on 23 July 2013 the Premises Owner transferred the licence from Silk Hotels Pty Limited to Silk Hotels Newcastle Pty Limited (the current Licensee). The director of the Licensee is Mr Vasilis Moshos, who was also appointed as Approved Manager.

Recidivism of the Licensee

- During the period between January 2010 and October 2013, the Former Licensee and current Licensee were issued with twenty (20) Penalty Notices and three (3) Court Attendance Notices. The level and type of offence has consistently occurred with the same type of breach being detected over a number of years, such as not recording incidents in the incident register occurring in March 2010, April 2010, March 2012, May 2012 and September 2013. The offence of RSA/RCG certificate not being available at the time of request occurred in March 2010, May 2010 and July 2013. The offence of breach of 1:30 am lockout occurred in May 2012, July 2013 and September 2013.

[The Authority notes that Police provide short accounts of each offence listed in the Offence Summary Table, and reiterate the ELORM data included in the Cover Submission to the Complaint.]

- The Complainant submits that the above evidence establishes the Ground of Complaint under section 139(3)(d) of the *Liquor Act 2007*.
- The Complainant also notes that "...at all material times in relation to the failures to comply with the Act or Regulation relating to the licensee or the licensed premises" Mr Moshos has been a close associate and interested person of the Licensee and Former Licensee.

GROUND FIVE – s.139(3)(f)

That the licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor (such as binge drinking or excessive consumption).

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Approved Manager: Mr Vasilis Moshos (20 January 2010 to present – 17 February 2014, excluding 8 October 2013 to 12 December 2013)

Evidence/Particulars

The Complainant submits that the Licensee or the Former Licensee has "...engaged in conduct or activities that are likely to encourage misuse or abuse of liquor" as alleged in Grounds One, Two, Three, Four, Six, Seven, Eleven and Twelve of the Complaint.

The Complainant submits that the evidence or material relied upon in those grounds is sufficient to establish the Ground of Complaint under section 139(3)(f) of the *Liquor Act 2007*.

The Complainant also notes that “...at all material times” when the Licensee or Former Licensee or manager has engaged in conduct or activities that are likely to encourage misuse or abuse of liquor, Mr Moshos has been a close associate and interested person of the Licensee and Former Licensee.

GROUND SIX – s.139(3)(h)

That acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises.

Evidence/Particulars

The Complainant submits that “...acts involving violence against persons or damage to property have frequently been committed” on or near the licensed premises by persons who have been on the licensed premises, noting the following incident categories:

- Common assault (33)
- Assault occasioning actual bodily harm (6)
- All other assault (7)
- Crowd control – riot and affray (7)
- Malicious damage events (5)

NSW Police Comment

Police have recorded 53 COPS Events where patrons of the Premises have been involved in acts of violence either within or within the vicinity of the licensed premises and a further five (5) Events involving malicious damage.

Police have “concerns” that the recorded assaults attributed to the Premises “...could be much higher” if all assaults that occurred on the Premises were reported to Police. The severity of injuries received ranges from swelling and bleeding to broken teeth and fractures.

Fault attributable to conduct of Licensee

The frequency of the abovementioned assaults can be attributed to a number of factors which the Complainant submits place Mr Moshos (in his various capacities) at fault due to his “...failure to implement any measures to reduce the risk of violence on or about the Premises”.

- Despite regular meetings with Police where updating the CCTV at the Premises has been discussed, assaults at the Premises continue. According to the Plan of Management supplied by Mr Moshos to Police on 7 June 2013, “...assault levels [on the Premises] have been very, very low to non-existent”. Police submit that the Licensee is “...naïve or does not care how many assaults have occurred at the Premises” and that the Plan of Management shows that “...even though the Licensee has recorded a high number of assaults, Mr Moshos has not implemented any regular security at the venue”.
- The Complainant contends that “...due to the failure of Mr Moshos (in his various capacities) to implement measures which would reduce the risk of assaults to staff and patrons, Mr Moshos should be considered at fault”.

The Complainant then reiterates the ELORM data and Police crime statistics that were provided with the section 51 Application, submitting that this evidence is

sufficient to establish the Ground of Complaint under section 139(3)(h) of the *Liquor Act 2007*.

GROUND SEVEN – s.139(3)(i)

That the licensee is not a fit and proper person to be the holder of a licence (whether for the same reason as that set out in section 45(5) or otherwise) or the manager is not a fit and proper person to be the manager of the licensed premises (whether for the same reason as that set out in section 68(4A) or otherwise).

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Evidence/Particulars

NSW Police Position

The Police position is that within the last three (3) years, the Premises has been linked to a number of incidents of assault, intoxication, liquor licensing detections and breaches of the *Local Government Act*. The majority of these offences have occurred during the hours authorised for extended trading. Since January 2010, the Premises has had 46 assaults ranging from common assault to assault occasioning grievous bodily harm.

Despite Police having informed Mr Moshos, on a number of occasions, of their concerns relating to the level of violence and intoxication occurring, "...little has been done in relation to alleviating the serious risk to public health and safety" of patrons of the Premises. Police submit that this has been demonstrated by the number of incidents related to violence and intoxication that have occurred each week since January 2010.

The Complainant contends that, despite "continuing attempts" to engage Mr Moshos, there has ostensibly been "...no improvement in his business practices" and that the "...continual flaunting of conditions indicates a propensity for Mr Moshos to continue the behaviour and lack of compliance". The Complainant also contends that the frequency of events of intoxication and violence both in and near the Premises continues, and therefore so does the "threat to public safety".

The Complainant submits that persons utilising public spaces to move near the venue are also in "...clear and imminent risk due to the continuing behaviour of the patrons of the Premises, directly linked to the inability of Mr Moshos to comply with even the most basic of conditions and regulatory requirements".

The Complainant submits that the revocation of the ETA attaching to the licence is "...in the best interests of the public", together with the other outcomes sought in this Complaint.

Knowledge and Ability

Police have "serious concerns" that Mr Moshos does not possess the "...ability to fulfil his role" at the licensed premises of Licensee, Approved Manager and close associate.

Grounds One, Two and Three of the Complaint outlined twenty-one (21) offences detected while the Licensee has had control of the Premises. The Premises has only recommenced

trading for seventeen (17) days since it was subject to a Short Term Closure Order on 25 October 2013, and Police have already detected “three serious breaches” of the Act.

Police have issued a Penalty Notice for the offence of “Licensee Permit Intoxication” under section 73(1) of the Act, for an offence occurring on 2 November 2013. Offences detected on 16 November 2013 are being investigated with infringements to be issued.

Police have “grave concerns” in relation to the ability of Mr Moshos (as the Licensee and Approved Manager) to manage the Premises. Police submit that even when Mr Moshos became aware of issues at the licensed premises, he has “...been unable to put practices in place to limit offences and the level of violence in the venue”. Police have “never” been supplied documentation showing that Mr Moshos has attended any training to assist him in running the Premises.

The Complainant submits that under section 139(3)(i) of the *Liquor Act 2007*, Mr Moshos is “...not a fit and proper person to be the holder of a licence or the manager of the [Premises]”.

The Complainant notes that “whether or not a person is fit and proper is discretionary and has wide scope”. The Complainant contends that in this case, because of the nature of the business of the Licensee, factors including “conduct engaged in, risk of the conduct continuing, whether [Police] can have confidence that the conduct will not occur or continue to occur, and character” are all relevant to making the determination.

The Complainant contends that Mr Moshos (as director of the Former Licensee and current Licensee) is *not* (emphasis added) a fit and proper person to be a holder of a licence in that:

- a. he has been the director of the current Licensee and Former Licensee during the period of the offences set out in Ground One, but failed to take all reasonable steps to prevent those offences occurring
- b. he has been the director of the current Licensee and Former Licensee during the period of the failures to comply with licence conditions as set out in Ground Two, but failed to take all reasonable steps to prevent those failures occurring
- c. he has been the director of the current Licensee and Former Licensee during the period of the failures to comply with any authorisations or approvals held by the Licensee as set out in Ground Three, but failed to take all reasonable steps to prevent those failures occurring
- d. he has been the director of the current Licensee and Former Licensee during the period of the failures to comply with any requirements under the Act or the Regulation as set out in Ground Four, but failed to take all reasonable steps to prevent those failures occurring
- e. he has been the director of the current Licensee and Former Licensee during the period when the Licensee, Former Licensee and Approved Manager engaged in conduct or activities that are likely to encourage misuse or abuse of liquor as set out in Ground Five, but failed to take all reasonable steps to prevent that conduct and those activities occurring, and
- f. he has been the director of the current Licensee and Former Licensee during the period when acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have

been on the licensed premises as set out in Ground Six, but failed to take all reasonable steps to prevent those failures occurring.

The Complainant submits that Mr Moshos is not a fit and proper person to be the manager of the licensed premises in that:

- a. he has been the approved manager during the period of the offences set out in Ground One, but failed to take all reasonable steps to prevent those offences occurring
- b. he has been the approved manager during the period of the failures to comply with licence conditions as set out in Ground Two, but failed to take all reasonable steps to prevent those failures occurring
- c. he has been the approved manager during the period of the failures to comply with any authorisations or approvals held by the Licensee as set out in Ground Three, but failed to take all reasonable steps to prevent those failures occurring
- d. he has been the approved manager during the period of the failures to comply with any requirements under the Act or the Regulation as set out in Ground Four, but failed to take all reasonable steps to prevent those failures occurring
- e. he has been the approved manager during the period when the Licensee, Former Licensee and manager engaged in conduct or activities that are likely to encourage misuse or abuse of liquor as set out in Ground Five, but failed to take all reasonable steps to prevent that conduct and those activities occurring, and
- f. he has been the approved manager during the Period when acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises as set out in Ground Six, but failed to take all reasonable steps to prevent those failures occurring.

GROUND EIGHT – s.139(3)(j)

That a close associate of the licensee is not a fit and proper person to be a close associate of the licensee.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Close Associate: Mr Vasilis Moshos (20 January 2010 to present – 17 February 2014).

Close Associate

Section 4 of the *Liquor Act 2007* provides that a “close associate” is a “...close associate within the meaning of the *Gaming and Liquor Administration Act 2007*”.

Section 5 of the GLAA relevantly provides that:

*For the purposes of the gaming and liquor legislation, a person is a **close associate** of an applicant for, or the holder of, a gaming or liquor licence if the person:*

- (a) *holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his or her own right or on behalf of any other person), in the business of the applicant or licensee that is or will be carried on under the authority of the licence, and by virtue of that interest or power is or will be able (in the opinion of the Authority) to exercise a significant influence over or with respect to the management or operation of that business, or*
- (b) *holds or will hold any relevant position, whether in his or her own right or on behalf of any other person, in the business of the applicant or licensee that is or will be carried on under the authority of the licence.*

The GLAA provides in section 4 that the “gaming and liquor legislation” includes the *Liquor Act 2007*.

“Relevant financial interest” is defined in section 5(2) as follows:

relevant financial interest, in relation to a business, means:

- (a) *any share in the capital of the business, or*
- (b) *any entitlement to receive any income derived from the business, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or*
- (c) *any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business of the club is or is to be carried on (such as, for example, an entitlement of the owner of the premises of a registered club to receive rent as lessor of the premises).*

“Relevant position” is defined in section 5(2) as follows:

relevant position means:

- (a) *the position of director, manager or secretary, or*
- (b) *any other position, however designated, if it is an executive position.*

“Relevant power” is defined in section 5(2) as follows:

relevant power means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others:

- (a) *to participate in any directorial, managerial or executive decision, or*
- (b) *to elect or appoint any person to any relevant position.*

Evidence/Particulars

The Complainant notes that the current Licensee of the Premises is Silk Hotels Newcastle Pty Limited. The sole director and sole secretary of the Licensee is Mr Vasilis Floros Moshos. Mr Moshos is the sole shareholder in the corporate Licensee. Mr Moshos is also the sole director and secretary of the Premises Owner, Parking Towers International Pty Limited.

The Complainant submits that:

- Mr Moshos holds a relevant financial interest in the Licensee and is entitled to exercise a relevant power in the business of the Licensee, and by virtue of that interest or power is or will be able to exercise a significant influence over or with respect to the management or operation of that business
- Mr Moshos holds or will hold any relevant position, whether in his own right or on behalf of any other person, that is or will be carried on under the authority of the Licensee’s licence, and

- accordingly, the Complainant considers that Vasilis Moshos is a close associate of the Licensee for the purposes of the *Liquor Act 2007*.

The Complainant contends that Mr Moshos is not a fit and proper person to be a close associate of the Licensee in that:

- a. he has been a close associate of the Licensee and Former Licensee during the period of the offences set out in Ground One, but failed to take all reasonable steps to prevent those offences occurring
- b. he has been a close associate of the Licensee and Former Licensee during the period of the failures to comply with licence conditions as set out in Ground Two, but failed to take all reasonable steps to prevent those failures occurring
- c. he has been a close associate of the Licensee and Former Licensee during the period of the failures to comply with any authorisations or approvals held by the Licensee as set out in Ground Three, but failed to take all reasonable steps to prevent those failures occurring
- d. he has been a close associate of the Licensee and Former Licensee during the period of the failures to comply with any requirements under the Act or the Regulation as set out in Ground Four, but failed to take all reasonable steps to prevent those failures occurring
- e. he has been a close associate of the Licensee and Former Licensee during the period when the Licensee, Former Licensee and Approved Manager engaged in conduct or activities that are likely to encourage misuse or abuse of liquor as set out in Ground Five, but failed to take all reasonable steps to prevent that conduct and those activities occurring, and
- f. he has been a close associate of the Licensee and Former Licensee during the period when acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises as set out in Ground Six, but failed to take all reasonable steps to prevent those failures occurring.

In addition, the Complainant submits that Mr Moshos "...does not appear to have any desire to exercise his powers as a close associate to take steps to ensure compliance with all relevant legislation and the conditions of the Licensee's licence", nor has he shown "...any material willingness to direct or to address serious safety concerns at the Premises". In particular, having regard to the number of, and seriousness of, violent assaults being committed on or about the licensed premises (which show "no sign" of abating), it is "apparent" that Mr Moshos has a "...reckless disregard for the safety of members of the public and Police and other emergency services personnel" who may be on or about the Premises from time to time.

Accordingly, the Complainant submits that:

- a. Mr Moshos is not a fit and proper person to be a close associate of the licensee in that during the period in which the present Licensee has held the licence and during the period in which the Former Licensee held the licence, Mr Moshos has always been the close associate and, having regard to the history of offences and other conduct, that that conduct provides an indication as to likely future conduct and the general community can have no confidence that the conduct intended to be prevented by the Act will not occur, and

- b. Mr Moshos is not a fit and proper person to be a close associate of the Licensee for the purposes of section 139(3)(j) of the *Liquor Act 2007*.

GROUND NINE – s.139(3)(k)

That a complaint against a licensee under this section has been made and that:

- (i) the close associate of the licensee knew or ought reasonably to have known that the licensee was engaging (or was likely to engage) in conduct of the kind to which the complaint relates; and
- (ii) the close associate of the licensee failed to take all reasonable steps to prevent the licensee from engaging in conduct of this kind.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Close Associate: Mr Vasilis Moshos (20 January 2010 to present – 17 February 2014)

Evidence/Particulars

The Complainant submits that Mr Moshos was given notice of the complaints against the Licensee and himself (in his capacity as approved manager and close associate of the Licensee) under section 139 of the Act by way of correspondence from the Authority dated 30 December 2013.

The Complainant submits that Mr Moshos has “at all material times” been the Licensee, the approved manager of the Licensee’s licence (except from 8 October 2013 to 12 December 2013) and is a close associate of the Licensee. He has also been personally present at a significant number of meetings with Police or at times when Police have attended the Premises in the exercise of their duties. The Complainant submits that Mr Moshos has “actual and constructive knowledge” that the Licensee and Approved Manager were engaging (or were likely to engage) in conduct of the kind to which this Complaint relates.

The Complainant contends that, both prior to and following the making of this Complaint, Mr Moshos (in his capacity as a close associate of the Licensee) has “not taken any constructive steps” to remedy the matters the subject of the Complaint or to cause the Licensee to do so.

To the best of the Complainant’s knowledge, Mr Moshos has not taken, or has not sufficiently undertaken, the following reasonable steps to ensure compliance with all requirements and conditions of the Licensee’s licence and all applicable legislation and regulations:

- a. Implementing policies to ensure compliance with the law
- b. Training staff to ensure compliance with the law
- c. Checking compliance by staff with laws
- d. Auditing compliance by staff with laws

- e. Documenting the above practices
- f. Ensuring that contracts/agreements with service providers include compliance assurance conditions
- g. Ensuring working/usable fire doors
- h. Completing paperwork for the Authority and OLGR
- i. Maintaining functioning CCTV capability, and
- j. Failing to implement the recommendations made by Police.

Accordingly, the Complainant submits that Mr Moshos, in his capacity as a close associate of the Licensee, has failed to take all reasonable steps to prevent the Licensee from engaging in conduct of the kind alleged by this Complaint for the purposes of section 139(3)(k) of the *Liquor Act 2007*.

GROUND TEN – s.139(m)

That a person who is interested in the business, or in the conduct or profits of the business carried on under the licence, is not a fit and proper person to be so interested.

Relevant Persons

Licensee: Silk Hotels Newcastle Pty Limited (23 July 2013 to present – 17 February 2014)

Former Licensee: Silk Hotels Pty Limited (20 January 2010 to 22 July 2013)

Interested Person: Mr Vasilis Moshos (20 January 2010 to present – 17 February 2014).

Evidence/Particulars

As noted in Ground Eight, Mr Moshos is the sole director of the corporations which are the current Licensee and the Premises Owner. He is also a shareholder in the corporate Licensee.

The Complainant submits that Mr Moshos is a person who is “...interested in the business, or in the conduct or profits of the business”, carried on under the Licensee’s licence.

For the same reasons given in Ground Eight of the Complaint, the Complainant submits that Mr Moshos is not a fit and proper person to be interested in the Licensee’s business or the conduct or profits of the business for the purposes of section 139(3)(m) of the *Liquor Act 2007*.

GROUND ELEVEN – s.139(3)(s)

That the licence has not been exercised in the public interest.

Evidence/Particulars

Breaches of the Liquor Act and other legislation

The Complainant notes that Grounds One and Four of this Complaint detail ten (10) incidents for which Police have initiated legal proceedings against the Licensee, including

twenty (20) Penalty Notices and three (3) Court Attendance Notices; in addition to four (4) incidents where OLGR Inspectors issued the Licensee with nine (9) Penalty Notices. The Licensee has offended against the *Liquor Act*, gaming legislation and *Local Government Act*.

Acts of Violence

The Complainant notes that Ground Six of this Complaint evidences the details of 53 assaults occurring on or near the Premises where patrons have been involved in acts of violence. These assaults range from common assaults to affray, with a range of injuries from bruising to fractures occurring as a result of these incidents.

Presence of Intoxication

The Complainant notes that the COPS Reports of the assaults recorded in Ground Six of this Complaint show that twenty-two (22) of the victims or the offenders are listed as being well affected by alcohol, with a further fourteen (14) persons being moderately affected. Police COPS Reports for these Events display that intoxicated persons are being identified either within or within the vicinity of the licensed premises, with all events showing the intoxicated person as being seriously and well affected by alcohol.

NSW Police Comment

Police submit that, over the period of time that Mr Moshos has been in control of the liquor licence on behalf of the Licensee, he "...has not exercised that control in the public interest" and that, in the absence of improvement from Mr Moshos (as the Licensee or the Approved Manager or both) over four (4) years, the continuation of the licence is "not in the public interest" due to the "...vast number of licence conditions that the Licensee has breached" and the Approved Manager's "...disregard for legislation that is put in place to protect patrons and to ensure that alcohol related crime does not impact on the community". The Licensee has also breached fire safety measures that were put in place by Newcastle City Council to ensure the safety of patrons if a fire occurred on the Premises, which Police contends further illustrates that "...the public interest was not considered by Mr Moshos", either as the licensee or as its approved manager.

The Complainant submits that "...a combination of poor management, intoxication and breaches of Acts to protect the community" demonstrates that the licence is not being exercised in the public interest, or within the objects of the *Liquor Act 2007* as set out in section 3 of that Act.

The Complainant contends that the Premises is "...detracting from the community life of the Newcastle CBD", which is demonstrated in comments attached to a *Newcastle Herald* news article dated 25 October 2013.

Finally, the Complainant submits that the manner in which the licence is exercised has created a "...considerable drain on public resources" from emergency services (including but not limited to Police) having to attend the venue with persons suffering from intoxication or being the victims of assaults, while Police "...redirects resources to investigate offences or ensure public order in or around the [Premises]". The Complainant submits that the "...consequential detriment arising from the operation of the Premises is not in the public interest".

GROUND TWELVE – s.139(3)(t)

That the continuation of the licence is not in the public interest.

Evidence/Particulars

The Complainant relies upon the same evidence or material given in Ground Eleven of this Complaint and submits that that evidence or material sufficiently establishes the Ground of Complaint under section 139(3)(t) of the *Liquor Act 2007*.

GROUND THIRTEEN – s.139(3)(g)

That intoxicated persons have frequently been on the licensed premises or have frequently been seen to leave those premises.

Evidence/Particulars

The Complainant relies upon the same evidence or material provided in Grounds Six, Seven and Eleven of this Complaint and submits that that evidence or material sufficiently establishes the Ground of Complaint under section 139(3)(g) of the *Liquor Act 2007*.

Outcomes Sought

15. While noting that the determination of the Complaint is at the sole discretion of the Authority, the Complainant requests that the Authority consider imposing one or more of the following outcomes:
 - a. Cancelling the Licensee's licence – section 141(2)(a)
 - b. Disqualifying the Licensee from holding a licence for life, or for such other period as the Authority thinks fit – section 141(2)(f)
 - c. Withdrawing Mr Moshos' approval to manage licensed premises – section 141(2)(g)
 - d. Disqualifying Mr Moshos from being the manager of licensed premises – section 141(2)(h)
 - e. Disqualifying Mr Moshos from being a close associate of a licensee for life or for such other period as the Authority thinks fit – section 141(2)(j)
 - f. Disqualifying Mr Moshos (as a close associate) for life from holding a licence, or for such other period as the Authority thinks fit – section 141(2)(k) and/or
 - g. Disqualifying Mr Moshos, as a person who is interested in the business, or in the conduct or profits of the business carried on under a licence, for life from being a person interested in the business, or in the conduct or profits of the business, carried on under a licence – section 141(6)(a).

BUSINESS OWNER SUBMISSIONS DATED 14 APRIL 2014

16. On 3 March 2014, the Authority issued an invitation to the corporate Business Owner, Rightclick Holdings Pty Limited (**Rightclick**), to make submissions on both the Complaint and the Application before the Authority. The sole director and shareholder of Rightclick, Mr George Emmanouilidis, provided submissions to the Authority in relation to both of these matters on 14 April 2014.
17. Briefly, Mr Emmanouilidis' contentions and submissions, which primarily address the Application rather than the Complaint, may be summarised as follows:

- 1) Rightclick became the “relevant licensee” of the Premises on 25 March 2014 under section 61(3) of the Act, when it “removed” the incumbent licensee, Silk Hotels Newcastle Pty Limited (**Silk Hotels Newcastle**). George Emmanouilidis is the director of Rightclick and lodged a Notice of Appointment of Manager with OLGR on 16 April 2014, nominating himself as manager.

[The Authority notes that, at the time of this decision, an application to transfer the licence from Silk Hotels Newcastle to the corporate Business Owner, Rightclick, that was filed by Mr Emmanouilidis, is yet to be determined – either on a provisional or final basis. As a consequence the licensee at the time of this decision remains Silk Hotels Newcastle.]

- 2) Mr Emmanouilidis submits that the Authority and the Complainant were notified of the “removal” of Silk Hotels Newcastle as the licensee of the Premises via email dated 27 March 2014.
- 3) Police “have not suggested” that Rightclick should be a “respondent” to the Application. Mr Emmanouilidis submits that “...there would appear to be good reason” for this, and that there is “...no reference to any adverse conduct issues of Rightclick or myself in the Application”.
- 4) If the Application to revoke the ETA attaching to the licence were granted by the Authority, it would not affect the interests of Silk Hotels Newcastle, but “...could only affect the interests of Rightclick and the community of Newcastle itself”. Mr Emmanouilidis submits that, if Police wish to continue with the Application, then “...they would have to do so with Rightclick as the respondent”.
- 5) Mr Emmanouilidis refers to *McGuinness v State of New South Wales* (2009) NSWSC 40 and contends that “...the power to impose or change licence conditions can only be exercised after the relevant licensee has been given a reasonable opportunity to be heard and his or her submissions considered”.
- 6) Mr Emmanouilidis then refers to *Slatter v Railway Commissioners (NSW)* (1931) 45 CLR 68; [1931] HCA 13 and *Boreland v Docker & Ors* [2007] NSWCA 94 and submits that the licence was “...never the property of [Silk Hotels Newcastle]” and that “...a licensee’s conduct can only affect the licence itself, whilst soever the licensee has the authority to sell liquor under the licence itself”.
- 7) Mr Emmanouilidis submits that the Application was lodged by Police “...as a result of alleged concerns to community safety that would continue if the [ETA] were to remain whilst [Silk Hotels Newcastle] and its approved managers, Mr Moshos and Mr Lannutti, had the authority” to sell liquor by retail on the licensed premises for consumption on or away from the licensed premises pursuant to section 14 of the Act.
- 8) Mr Emmanouilidis submits that the Application lodged by Police contained “...no concerns associated with Rightclick or myself” with respect to the authorisation conferred by a Hotel licence under section 14 of the Act.
- 9) Mr Emmanouilidis contends that all the Police concerns as to “...resolution and remedial action” and “...licensee’s response of identified risk” refer either to Silk Hotels Newcastle, Mr Moshos or Mr Lannutti and that “...no determination adverse to Rightclick’s interests can be made” by the Authority in relation to the Application before it.

- 10) Mr Emmanouilidis submits that Rightclick has been the lessee and business owner of the licensed premises since 2013 and that there is "...no evidence as to any conduct of Rightclick or attempts by Police to discuss and resolve concerns with either Rightclick or myself".
- 11) Mr Emmanouilidis submits that "...there is no assertion that Police have informed Rightclick as business owner or myself" of their concerns, and that there is "...no reference to Rightclick or myself having been engaged by Police in any process whatsoever".
- 12) Mr Emmanouilidis notes that Rightclick only "started" as Business Owner in 2013 and that Mr Emmanouilidis was overseas from October 2013 to January 2014, so that Rightclick "...simply cannot provide submissions in relation to the alleged incidents described by Police".
- 13) Mr Emmanouilidis submits that Rightclick "...has adopted a position of understanding of Police concerns" by removing Silk Hotels Newcastle as licensee of the Premises.
- 14) Mr Emmanouilidis submits that he "understands" what his obligations are as "approved manager" and states that he "...cannot and will not be away from the licensed premises where to do so would breach my obligations or detrimentally [a]ffect my business concerns".
- 15) Mr Emmanouilidis submits that upon receiving notice of Police concerns with the Licensee and approved manager contained within the Application and Complaint on 3 March 2014, he has taken "direct and swift action" in response to those concerns in the form of removing Mr Moshos' company as the Licensee, engaging in "fruitful and encouraging" discussions with Newcastle Police regarding issues with the Premises and "...researching Authority decisions on compliance issues generally".
- 16) Mr Emmanouilidis refers to the Authority decision concerning the *Bada Bing Night Spot, Kings Cross* (11 December 2013), noting that one of the issues raised by the Authority in that decision was that "personnel may change" in that the licensees and approved managers who were a source of the concerns could simply be reappointed at a later date. Mr Emmanouilidis submits that "...no such concerns may exist" in this Application as Mr Moshos was disqualified from being an approved manager of any licensed premises for a period of twelve (12) months by an Order of the Newcastle Local Court on 31 March 2014 (after Rightclick "removed" Silk Hotels Newcastle as licensee).
- 17) Mr Emmanouilidis notes that the disciplinary Complaint empowers the Authority to "...take action to ensure Mr Moshos could have no further involvement with any licensed premises beyond 31 March 2015".
- 18) Mr Emmanouilidis submits that the *Bada Bing* decision was venue specific, whereas the concerns with the Application and Complaint in relation to these Premises are "person specific, that is, there is an alleged failure of particularly one (1) individual to properly exercise the [authorisation]" conferred by section 14 of the Act.
- 19) Mr Emmanouilidis contends that "...there has been no allegation made and can thereby be no finding by the Authority that the nature of the venue itself or entertainment facilities offered are against the public interest".
- 20) Mr Emmanouilidis notes that the licensed premises at 635 Hunter Street, Newcastle West has operated since 1937, when Newcastle was "...a much smaller community".

- 21) Mr Emmanouilidis submits that the Complainant “implicitly denies” that the nature of the venue and/or entertainment offered is “of a concern” and that the accusation by the Complainant is that the alleged assaults and incidents that instigated the Application and Complaint “...are directly linked to the inability of the licensee, [Premises] owner and staff to comply with even the most basic of conditions and regulatory requirements”.
- 22) Mr Emmanouilidis contends that, through the “voluntary conduct” of Rightclick, the concerns of Police in the Application have been “taken seriously” and have been “resolved”.
- 23) Mr Emmanouilidis states that he is “provisionally approved” to be manager of the licensed premises.
- 24) Mr Emmanouilidis states that he has a degree in Economics, a Master of Business Administration and a Master of International Business and that he has “...never been involved in a failed business venture” and is “...qualified and experienced to manage businesses on a much larger scale than a hotel”. Mr Emmanouilidis submits that he has “...made a decision and commitment to manage this hotel” and that he “...will not risk [his] exemplary reputation by allowing any previous management or staff failings to remain”.
- 25) Mr Emmanouilidis also notes his intention to “actively participate” in the Newcastle/Hamilton Precinct Liquor Accord “...with a view to being involved in policy making and management” and submits that a person with such “...extensive tertiary qualifications and management experience” as himself “would only benefit” the Newcastle liquor industry.
- 26) Mr Emmanouilidis submits that the clear statutory language of the [Act], common sense and fairness principles dictate that neither the Newcastle community nor Rightclick as “licensee” can or should be “punished” through the conduct of [Silk Hotels Newcastle] and its approved manager as the public interest “...would simply not be served” in doing so.
- 27) Mr Emmanouilidis submits that the licence for the Premises has operated from “...at least 12:00 midnight to 3:00 am since 1937” (*sic*) and that the ETA was automatically endorsed under the Act in July 2008 to allow the Premises to retain the pre-existing trading hours that would otherwise have been reduced under the operation of the standard trading period prescribed for hotel licences by section 14 of the Act.
- 28) Mr Emmanouilidis contends that the reason for the automatic endorsement of the ETA in 2008 is contained in the explanatory notes to the Act, which evince a Parliamentary intention to “continue” and “...preserve existing trading entitlements and authorisations”.
- 29) Mr Emmanouilidis submits that “...late trading venues offer obvious community benefit and consumer choice” and refers to the Authority decision concerning the *Ashfield Hotel, Ashfield* (5 March 2014) which states that there are “...consumer benefits and convenience offered to the community by having...late trading licensed venues available”.
- 30) Mr Emmanouilidis notes that there are numerous late night eateries, fast food and shopping facilities in the immediate vicinity of the Premises, along with one (1) other late trading licensed business, being the King Street Hotel. Mr Emmanouilidis contends that, if the ETA for the Premises were revoked, it would “...operate as a

restraint of trade in the Newcastle inner city area” as there would be a “...de facto monopoly on liquor sales from 12:00 midnight to 3:00 am granted to the King Street Hotel and this would have [an] obvious effect on consumer choice and cost of liquor sales”.

- 31) Mr Emmanouilidis submits, in respect of alcohol consumption and public safety, that the “...importance of the 'walking distance' monopoly cannot be understated” as limiting the options for licensed premises within walking distance of the Premises “...could only encourage persons who are potentially affected by alcohol to drive, where they otherwise would not do so”.
- 32) Mr Emmanouilidis submits that the “...obligation is on the Complainant to establish that granting an application to vary the [ETA] is in the public interest” as noted in the Authority decision concerning *NaruOne, Sydney* (25 February 2014).
- 33) Mr Emmanouilidis concludes that, even if the Application was “properly” made against Rightclick as the “relevant licensee” and the “...licensee to whom the authorisation relates”, Police would then have to establish, on the balance of probabilities, that it is in the “public interest” to revoke the ETA where:
 - a) Parliament has expressly stated that principal purposes of the Act, which evidence community intention and public interest, are to “continue” and “preserve” trading entitlements that existed for licensed premises prior to July 2008.
 - b) The Authority has advised the community in decisions made to date that it believes late trading venues offer “...consumer benefits and convenience...to the community”.
 - c) The revocation of the ETA would operate as a restraint of trade and grant a “walking distance” monopoly to the King Street Hotel.
 - d) There are “...objective public safety concerns” attached to a “walking distance” monopoly being granted to the King Street Hotel.
 - e) The Premises has operated with a late trading entitlement providing public benefit from 12:00 midnight to 3:00 am since 1937.
 - f) As the Premises has operated as a licensed hotel from 12:00 midnight to 3:00 am for nearly eighty (80) years, the removal of the late trading entitlement would “...necessarily and significantly detrimentally affect the social fabric of the community”.
 - g) Rightclick is the licensee which has the authority under the licence “...to sell liquor by retail on the licensed premises”.
 - h) Rightclick became aware of this Application and Police concerns as to the conduct of the former licensee (being Silk Hotels Newcastle) and approved managers in early to mid-March 2014.
 - i) Rightclick removed the former licensee (Silk Hotels Newcastle) and approved manager (Mr Vasilis Moshos) allegedly causing Police concern approximately two (2) weeks following receipt of the Application, on 25 March 2014.

- j) Rightclick notified the Complainant on 27 March 2014 of the “removal” of Silk Hotels Newcastle as licensee, and that it had since become the licensee of the Premises.
- k) Rightclick has “engaged in discussions” with Police since 27 March 2014.
- l) “No complaint” has been made by the Complainant as to Rightclick’s conduct as licensee or Business Owner of the licensed premises.
- m) Rightclick’s position, which is “not denied” by the Complainant, is that it “will not ever allow” Mr Moshos to have a relevant position of control at the Premises.
- n) There is no *Bada Bing* “personnel may change” concern that applies in this Application if the ETA were to remain, the reason for this being that Mr Moshos has been banned from being an approved manager for twelve (12) months and any more permanent restrictions on Mr Moshos can be applied by the Authority through this Part 9 Complaint.
- o) The response by Rightclick in removing Silk Hotels Newcastle as licensee “...accords with the objects of the Act” to allow the balanced development, in the public interest, of the liquor industry through a flexible and practical regulatory system with minimal technicality and formality.
- p) The response of Rightclick in removing Silk Hotels Newcastle as licensee and Mr Moshos as approved manager of the Premises “...obtains a more durable response” to Police concerns as such persons cannot be involved in the sale of liquor on the premises *at all* (emphasis added), whereas the Application before the Authority simply seeks to *limit* (emphasis added) the involvement of such persons in the sale of liquor on the premises.
- q) The provisionally approved manager of the premises (Mr Georgios Emmanouilidis) has “...extensive business management experience and tertiary qualifications” in economics and business management that will “...ensure any prior failings of management will not further occur”.
- r) The Complainant had not provided any updated information to the Authority on the “critical issue” of Rightclick becoming the licensee of the Premises, despite the obligation of the Complainant to do so “...both on a common sense basis and where failure to provide such information may result in criminal penalty”.

SUBMISSION FROM MR MOSHOS DATED 14 APRIL 2014

18. On 14 April 2014, Mr Vasilis Moshos provided submissions to the Authority in response to the Complaint. Briefly, those submissions may be summarised as follows:

- a) On 25 March 2014, Silk Hotels Newcastle Pty Limited was “removed” as the licensee of the licensed premises known as “Silk Hotel”, situated at 635 Hunter Street, Newcastle West.
- b) Mr Moshos submits that “...the complaint against [the Licensee] would appear to be resolved by its removal as licensee” and that “...any concerns as to its conduct as licensee would be properly considered in the application process should it subsequently make an application in the future to be a licensee of licensed premises”.

- c) Mr Moshos advises that on 31 March 2014 at Newcastle Local Court, there were fifteen (15) charges listed for hearing against him in relation to his conduct as approved manager of the Premises. There was also an application for additional penalty, being the Application to revoke the ETA.
- d) Mr Moshos advises that, "...by agreement between myself and Police", six (6) charges were dropped and a plea of guilty was entered for the remaining nine (9) charges. Mr Moshos advises that "...an aspect of this agreement was that I be disqualified from being an approved manager of licensed premises for a period of twelve (12) months" until 31 March 2015.
- e) Mr Moshos advises that with regard to the Complaint before the Authority, the Complainant would no longer be able to rely upon the incidents the subject of the six (6) charges that were dropped by Police.
- f) Mr Moshos also advises that there was "no agreement" as to the fines that would be imposed in relation to the guilty pleas and advises that Magistrate Jennifer Atkinson noted that some of the charges were "trivial or technical". He states that the matters before the Court resulted in the imposition of a "relatively minor" fine of \$4,800.
- g) Mr Moshos submits that the Authority should not make any determination on the Complaint at all, as "...the agreement with Police has effectively ousted any purpose in doing so".
- h) In the alternative, Mr Moshos submits that the Authority should not make any determination that "...would be contrary to, or allow for any adverse consequences in excess of the twelve (12) month disqualification that is already in place and is the subject of the agreement with Police".

CONFERENCE ON 2 JULY 2014

- 19. In response to the requests made by the Premises Owner and Business Owner, a conference was convened by the Authority on 2 July 2014 for the purpose of discussing any issues arising from the Application and the Complaint (**Conference**).
- 20. At the Conference, Police were represented by Ms Jennifer Degotardi and Mr James York of Henry Davis York, Ms Margaret Hayman Johnson, a solicitor at the Police Office of General Counsel, Superintendent John Gralton, Commander of Newcastle City Police and Sergeant Wayne Buck, Licensing Supervisor for the Greater Newcastle Region.
- 21. Although Mr Emmanouilidis had indicated shortly prior to the Conference that he would be accompanied by his "company's legal counsel" on the day of the Conference, Mr Emmanouilidis attended alone. Mr Moshos did not attend the Conference.
- 22. At the commencement of the Conference, prior to the Authority hearing oral submissions from Police and Mr Emmanouilidis, Mr Emmanouilidis advised the Authority (for the first time) that, in addition to being the sole director and shareholder of the corporate Business Owner, Rightclick Holdings Pty Limited, he was now (as of 21 March 2014) the director of the corporate Premises Owner, Parking Towers International Pty Limited (**Parking Towers**), by reason of a transaction involving changes in the ownership and control of that company.
- 23. Mr Emmanouilidis advised the Authority (for the first time) that Mr Vasilis Moshos was no longer a director or shareholder of Parking Towers and that Mr Vasilis Moshos had divested himself of any financial or other interest in that company. Mr Emmanouilidis also

advised the Authority (for the first time) that as of 21 March 2014, Mr Emmanouilidis and Mr Anthony Moshos, the brother of Mr Vasilis Moshos, now each possess a 50 per cent shareholding in a company known as DeallInvest Pty Limited, which in turn is the sole shareholder in Parking Towers.

24. Mr Emmanouilidis stated at the Conference that he had “evicted” Mr Vasilis Moshos and the corporate Licensee (Silk Hotels Newcastle) on 25 March 2014 under section 61(3) of the Act after being made aware of the Application and Complaint.
25. Mr Emmanouilidis stated at the Conference that he had made an application to the Authority to transfer the licence from Silk Hotels Newcastle Pty Limited to Rightclick Holdings Pty Limited on 2 May 2014.
26. The Authority notes that (as disclosed in the Complaint) Mr Vasilis Moshos had been the sole director and shareholder in the Premises Owner, Parking Towers, since 20 January 2010. Furthermore, the Authority notes that in the communications made to the Authority by Mr Emmanouilidis dated 25 March 2014 and 2 May 2014 seeking to transfer the licence from Silk Hotels Newcastle to Rightclick, the Premises Owner identified on the application forms was Parking Towers, with no mention made of a change in control of the corporate Premises Owner in that correspondence.
27. The Chairperson of the Authority noted during the Conference that Mr Emmanouilidis’ application to transfer the licence from Silk Hotels Newcastle Pty Limited to Rightclick Holdings Pty Limited had yet to be determined – either provisionally or otherwise. Consequently, Silk Hotels Newcastle Pty Limited remains the Licensee of the Premises and the last appointed approved manager was Mr Vasilis Moshos.
28. The Chairperson further noted that, since Mr Moshos was disqualified by the Newcastle Local Court on 31 March 2014 from being the approved manager of any licensed premises for a period of twelve (12) months, there is currently no approved manager appointed by the Licensee in place at the Hotel – and there has not been any approved manager in place since 31 March 2014 – thus rendering the Licensee potentially in breach of the Act due to its failure to have a nominated approved manager.
29. Mr Emmanouilidis advised the Conference that the Premises has been closed since “early March” 2014, prior to the findings of Newcastle Local Court in regard to Mr Vasilis Moshos. Mr Emmanouilidis said that the hotel had been closed “...out of respect for all the trouble and respect for the Police of Newcastle and respect for the [Authority]” until a determination had been made on the Complaint and Application currently before the Authority.
30. The Chairperson further noted that Mr Russell Richardson, licensee of the King Street Hotel, had recently provided a written submission to the Authority on 5 June 2014 advising that his company had contracted to purchase both the Premises and the business operating on the Premises, subject to the satisfactory resolution of the Complaint and Application before the Authority.
31. Mr Emmanouilidis told the Authority that this contract was still on foot and that it was his intention to effect, with Mr Richardson’s cooperation, the proposed arrangement for the sale of the Premises and the licensed business operating on the Premises.
32. Superintendent John Gralton then advised the Conference of correspondence he had received from Mr Richardson’s lawyers dated 2 July 2014 advising that Mr Richardson now intends to rescind the contract for the purchase of the Premises and the licensed business

operating on the Premises. The Authority's Chief Executive advised the Conference that the Authority had received similar advice that morning.

33. Briefly, the oral submissions made by Ms Jennifer Degotardi (a partner from Henry Davis York) on behalf of the Complainant were as follows:

- a) The section 51 Application and the section 139 disciplinary Complaint are based on a "...long history of offences which have caused Police concern".
- b) The Complainant contends that the potential sale or otherwise of the Premises to another entity is not a matter for Police and that the Authority's focus should be the history and the offences which have given rise to this Conference and whether or not those incidents are breaches which justify granting the Application and establishing the Complaint under, respectively, sections 51 and 139 of the Act.
- c) The Complainant notes that the transfer of the lease to Rightclick as the owner of the licensed business operating on the Premises occurred in July 2013. Police submit that, since then, all of the issues or offences linked to the Premises have remained "unchanged".
- d) The Complainant submits that, over the period from March 2010 until November 2013, there were **46** assaults that had occurred on or around the Premises, and **82%** or **38** of those assaults occurred later than 12:00 midnight. The Complainant contends that this demonstrates a "...sustained history of breaches of the Act" with "multiple offences" occurring "...during the extended trade period".
- e) The Complainant notes that the disciplinary Complaint has been made against Silk Hotels Pty Limited, Silk Hotels Newcastle Pty Limited and Mr Vasilis Moshos. The Complaint is not focussed upon Rightclick Holdings Pty Limited at this time.

34. Briefly, the oral submissions made by Superintendent Gralton on behalf of the Complainant during the Conference were as follows:

- a) Despite Police attempting "on numerous occasions" to rectify the behaviour of the Premises through observing the operation of the Premises, conducting numerous meetings, entering into local licensing agreements (voluntary arrangements with the Licensee), making applications for Short Term Closure Orders and improving the CCTV equipment on the Premises, the Premises' behaviour and the anti-social behaviour and the assaults occurring in relation to the Premises ..."just didn't seem to abate".
- b) Police have "...done everything in our power" to try and rectify or change the behaviour of the Premises and the environment of the Premises but it "hasn't changed".
- c) The Premises and the people that are engaged in and around the management of the Premises "...do not have the capacity to operate it in a way that can reduce those anti-social behaviour incidents occurring".

35. Following Superintendent Gralton's oral submissions, the Chairperson of the Authority put to Ms Degotardi that the cancellation or suspension of the licence pursuant to the Complaint or the revocation of the ETA pursuant to the Application would clearly have an impact on the profitability of the licensed business. The Chairperson asked how much, if any, weight should be given to that consideration when the Authority determines the matters.

36. In response, Ms Degotardi noted that Rightclick had assumed the lease of the Premises in July 2013. Although Rightclick was not the licensee since that time, it had "...controlled the premises from which the Licensee was operating" in its capacity as business owner.
37. Ms Degotardi submitted to the Authority that this fact was relevant insofar as the incidents occurring on or around the Premises during extended trading hours were an "ongoing problem" with the Hotel in circumstances in which Rightclick was "...not an entirely new party".
38. Mr Emmanouilidis then made oral submissions to the Conference that may be summarised as follows:
- a) Rightclick "...never received any documentation" regarding the Application or the Complaint until March 2014 and it "...did not have knowledge" of the issues affecting the Premises until this time.
 - b) Upon receiving notification of the Application and Complaint, it "...took immediate action" and "...removed the bad people straightaway".
 - c) Mr Emmanouilidis states that Silk Hotels Newcastle Pty Limited was "removed" from being the Licensee and Mr Moshos was "removed" from being the approved manager of the Premises and from having "...any kind of involvement with anything that's got to do with the building, the business or the licence".
 - d) Although Mr Emmanouilidis' company has controlled the business since July 2013, he states that he "...realised that there were some issues, [but] I didn't realise the size of them" and reiterated that "...there was never any documentation directed to Rightclick Holdings".
 - e) Mr Emmanouilidis concedes that he "should have known" about the full extent of the prosecutions that Police were conducting and that, if he had known, he "...would have taken action earlier".
 - f) Mr Emmanouilidis states that he has not operated any late trading hotels prior to July 2013, but was previously employed on the Premises before he acquired the business and "...was present on many occasions" including between the hours of 12:00 midnight and 3:00 am while working at the Hotel.
 - g) Mr Emmanouilidis contends that, over the past few years, the Premises has "...had a good trade overall" in that it has never been declared as a "Level 1" or "Level 2" premises for the purposes of schedule 4 to the Act.
- [The Authority notes that at the time of this determination, the Premises has been declared a "Level 2" premises for the purposes of schedule 4 to the Act.]
- h) It was put to Mr Emmanouilidis by the Authority's General Counsel that the recent changes in ownership and control of the corporate Premises Owner were a "sham" or an attempt to evade regulatory action. In reply, Mr Emmanouilidis simply denied this and stated that he "...wouldn't come to a meeting here with the [Authority] and the Police to create a fake picture or illusion" and that he "took immediate action" in relation to removing the Licensee (Silk Hotels Newcastle Pty Limited) and Approved Manager (Mr Vasilis Moshos) and is "...obviously looking toward the future" with respect to the proposed sale of the business and the property in the Premises to Mr Russell Richardson's company.

- i) Mr Emmanouilidis reiterated his submission that the Premises has been trading as a Hotel until 3:00 am since 1937 and that it is "...in the public interest [for] the people of Newcastle especially" for the Premises to retain the ETA attaching to the licence. In response to this statement, the Chairperson of the Authority noted that this was incorrect and that it was "...not possible [for any licensed venue] to trade until 3:00 am in 1937 or in 1967 or in 1987".
 - j) Mr Emmanouilidis states that, if the ETA were to be revoked, a "...monopoly of premises" would be created in the area – that is, the nearby King Street Hotel and other late trading licensed businesses in the immediate vicinity would have a "monopoly" on liquor sales between 12:00 midnight and 3:00 am.
 - k) Mr Emmanouilidis submits that "...the whole problem [was] created" because of "...just one or two people" and that he has done "...everything I could in my power to remove this element" and that, following the removal of the corporate Licensee and the Approved Manager, "...the bad element has been removed once and for all".
 - l) Mr Emmanouilidis submits that "...it is good for [the ETA attaching to the licence] to be there" and that "...it is in the public interest to have late night venues so people can go and enjoy their drink".
 - m) Mr Emmanouilidis told the Conference that completing his tertiary studies in business management and international business was the catalyst for his decision to acquire the business in July 2013 as he "...realised [he had] the capacity to make it work" and he believed it was "...not a bad investment idea".
 - n) Mr Emmanouilidis notes that the Premises was up for sale in July 2013 at the time that he acquired the business.
39. The Chief Executive noted the numerous outcomes recommended by Police in the Complaint and questioned whether some outcomes were considered more of a priority to Police than others.
40. In reply, Ms Degotardi submitted that the intention of Police was to "...ensure that people who are not...fit to hold a licence, aren't operating licensed premises" and that there is no suggestion that one of the outcomes sought in the Complaint is "better" than another option. The Police position is "...more focussed on the removal of Silk Hotels Newcastle and Mr Moshos as [entities] who are involved in licensed premises".
41. In relation to the section 51 Application, Ms Degotardi noted that this matter is directed against the *licence of the Premises itself* and, on that basis, Police "...are firmly of the view" that Rightclick, as the entity that has been legally in control and occupation of those Premises, is "...not able to avoid responsibility for those things that have happened since July 2013" as since that time nobody else can enter the Premises except with its express permission.
42. Ms Degotardi submitted that the preferred outcome for Police would be that Silk Hotels Newcastle Pty Limited "in its various incarnations" is prevented from being a licensee, and that the ETA attaching to the licence of the Premises should be revoked so that the Premises is no longer a late trading venue. Police submit that this would protect the community from the harm that, in the long run, has been emerging from the operation of the Premises in its current format.
43. When questioned by the Chairperson about Mr Moshos' recent disqualification by the Newcastle Local Court from being an approved manager of any licensed premises,

Ms Degotardi submits that this disqualification for twelve (12) months by the Court is “...only a temporary measure” and that this Order “...did not deal with the full range of matters” that Police believe are relevant to the Application and Complaint now before the Authority.

44. Mr Emmanouilidis then made the following final oral submissions to the Conference:

- a) Neither Mr Emmanouilidis nor Rightclick was ever mentioned in the Application or the Complaint, and “...Police never had a problem with me, they never pulled me aside to tell me anything”.
- b) Mr Emmanouilidis submits that his studies at Newcastle University have furnished him with “...enough knowledge to be able to manage a business through my degrees”.
- c) Mr Emmanouilidis submits that he had “...done the best [he] could” by removing the people and the entities the subject of the Police Application and Complaint, and notes that he “...would have done it earlier” had he known the extent of the Application and the Complaint.
- d) Mr Emmanouilidis submits that the Hotel operating on the Premises “...belongs to Newcastle” and that it “...has got a right to exist”.
- e) Mr Emmanouilidis advises that he has recently joined “Newcastle NOW”, a Local Government funded group where “...local people just [discuss how] to improve the city”. He submits that he is “...trying to turn the situation around...by trying to be part of our local community”.

45. Ms Degotardi then made the following final oral submissions on behalf of the Complainant:

- a) The section 139 Complaint is made against Silk Hotels Pty Limited, Silk Hotels Newcastle Pty Limited and Mr Vasilis Moshos. There is a “...long list of supporting evidence” as to why that Complaint is justified.
- b) The Complainant submits that the abovementioned entities are “...not the proper people to be associated with holding licences or being approved managers”.
- c) Police “acknowledge” that Rightclick is not a respondent to the section 139 Complaint.
- d) Unlike the Complaint, the section 51 Application is not made on the basis of the conduct of any *individual natural persons or entities* but the adverse incidents that have occurred in relation to the Premises and the times at which they have occurred. Police submit that the “majority” of the offences attributed to the Premises have occurred during extended trading hours and that an ETA is therefore “...no longer appropriate for these premises” and should be revoked.
- e) Police submit that the Business Owner, Rightclick Holdings Pty Limited, is relevant to the section 51 Application in that Rightclick is the tenant holding occupation rights to the hotel Premises.

SUBMISSIONS ON DISCIPLINARY ACTION

46. On 3 October 2014, the Authority distributed among the Complainant, Silk Hotels Newcastle Pty Limited, Parking Towers International Pty Limited, Rightclick Holdings Pty

Limited, Mr Moshos and Mr Emmanouilidis a draft decision setting out findings on the Grounds of Complaint (as detailed below) that the Authority was minded to make. The Authority invited submissions on the question of what, if any, disciplinary action the Authority should take in light of those proposed findings. The Complainant was invited to respond first, and when that submission was received it was distributed among the other parties for final submissions in reply.

47. Only two final submissions were received by the Authority. One was from the Complainant dated 24 October 2014, and the other was from Mr Moshos dated 3 November 2014.

Final Submission from Complainant dated 24 October 2014

48. Briefly, in this submission from Superintendent John Gralton of the Newcastle Local Area Command, Licensing Unit, Police submit in light of the Authority's proposed findings that:
- a) Relevantly to the current licensee (Silk Hotels Newcastle Pty Limited), Grounds One, Seven, Ten and Eleven have been established.
 - b) Relevantly to the former licensee (Silk Hotels Pty Limited), Grounds Two, Three, Four, Five, Seven, Ten and Eleven have been established.
 - c) Relevantly to Mr Moshos in his capacity as approved manager of the Hotel, Grounds One, Two, Four, Five, Seven and Eleven have been established.
 - d) Relevantly to Mr Moshos in his capacity as a close associate of the Licensee, Grounds Eight, Nine and Ten have been established.
 - e) Relevantly to the "general administration and impact" of the operation of the Premises, Grounds Six, Twelve and Thirteen have been established.
49. The Complainant submits that the Authority should take action pursuant to section 141(2)(d) of the Act to cancel any authorisation or other approval held by the Former Licensee and the current Licensee. The Complainant further submits that the Authority should disqualify these entities pursuant to section 141(2)(f) from holding a licence for a "...significant time period, if not for life".
50. The Complainant submits that the Authority should take action under section 141(2)(h) against the Approved Manager (Mr Moshos) to disqualify him from being the approved manager of any licensed premises and take action under section 141(2)(g) to withdraw the Approved Manager's approval to manage licensed premises generally. The recommended period of disqualification should be for "...a significant time period, if not for life".
51. The Complainant submits that the Authority should take action in relation to Mr Moshos as a close associate of the Licensee by disqualifying him, under section 141(2)(j) of the Act, from being the close associate of any licensee and also to disqualify the close associate from holding a licence under section 141(2)(k) of the Act. The Complainant submits that the disqualification should be for such period as the Authority thinks fit – being a "...significant time period, if not for life".
52. The Complainant submits that, in light of the Authority's recent decision dated 9 October 2014 to revoke the extended trading authorisation attaching to the licence under section 51(9)(b) of the Act, the Complainant does not seek any further action against the licence itself.

53. The Complainant makes these submissions having regard to what Police consider to be the “likelihood” that the above named corporate and natural persons will seek to be involved in a licensed business again and the “high probability” that the type of offences and behaviour found by the Authority in this matter will be repeated in the future by those parties.
54. The Complainant briefly refers to the objects and considerations in section 3 of the Act and argues that, in light of the gravity of the found conduct, it would be a “...proportionate measure to protect the public” to disqualify these parties “for life”.

Final Submission from Mr Moshos dated 3 November 2014

55. Mr Moshos’ submission dated 3 November 2014 attaches a copy of a previous submission made by Police to Magistrate John Chicken of Newcastle Local Court dated 3 December 2013.
56. Mr Moshos submits that he has already been disqualified by the Newcastle Local Court from being an approved manager of any licensed premises from 31 March 2014 for a period of twelve (12) months.
57. Mr Moshos submits that, when the Local Court disqualified him, it had before it the Police Submission dated 3 December 2013, which referred to the “identical 44 offences” that are now reproduced by the Authority at pages 7 to 11 of this decision letter and an “effectively identical” evidence matrix that was placed before the Authority by Police for the purposes of this Complaint, which referred to 162 adverse COPS Events.
58. Mr Moshos submits that, although the “...offences before the Court” when it ordered his disqualification were of a “...much lesser number” than the adverse events found by the Authority when considering this Complaint, the “...actual material before the Court” when imposing this additional penalty was “...identical to the material before the Authority” when considering this Complaint.
59. Mr Moshos submits that there can be “...no rational basis” for the Authority to “...apply any further additional penalty” to himself as either an approved manager or close associate when “the issue has already been determined by a Court”.

FINDINGS ON GROUNDS OF COMPLAINT

60. As an administrative matter, the Authority’s findings are made on the civil standard of proof (the balance of probabilities) although the Authority is mindful of the need to take care when fact finding in response to allegations of the commission of offences or other serious moral wrongdoing – pursuant to the principle in *Briginshaw v Briginshaw* (1938) 60 CLR 336.

Ground One

61. The Authority is satisfied, as alleged by the Complainant, that the Former Licensee of the Premises, Silk Hotels Pty Limited, has, while holding the licence to the Premises, been convicted of an offence under the Act or Regulation or of an offence prescribed by the Regulation.
62. The Authority is satisfied that Silk Hotels Pty Limited as Licensee has been convicted of the following offences:

- a) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register contrary to section 11(2) of the Act. This matter is described as item #3 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- b) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register, contrary to section 11(2) of the Act. This matter is described as item #4 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- c) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #5 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #6 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- e) 29 May 2010: failing to display a prescribed notice on the licensed premises in that a notice prohibiting the sale or supply of liquor to minors was not visible behind the bar, contrary to clause 31 of the Regulation. This matter is described as item #7 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4019195840 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under Part 9 of the Act.
- f) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #11 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #12 in the Offence Summary Table provided by the Complainant,

and a Certificate of Conviction dated 19 February 2013 from the Newcastle Local Court has been provided by the Complainant in respect of that offence.

- h) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #13 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - i) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #14 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - j) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #15 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - k) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #16 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - l) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #17 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - m) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #18 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - n) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #19 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
63. Further to Ground One, the Authority is satisfied, as alleged by the Complainant, that the Approved Manager of the Premises, Mr Vasilis Moshos, has, while managing the licensed premises, been convicted of an offence under the Act or Regulation. The Authority is satisfied that Mr Vasilis Moshos has been convicted of the following offences:
- a) 3 July 2010: licensee altering the name of licensed premises without approval or endorsement, contrary to section 95(2) of the Act. This matter is described as item #40 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900026 issued in respect

of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.

- b) 23 June 2013: failing to comply with a condition of the licence, being a failure to ensure that CCTV was in operating order prior to trade, contrary to section 11(2) of the Act. This matter is described as item #28 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- c) 6 July 2013: failing to comply with a condition of the licence, being a failure to furnish CCTV footage upon request by Police, contrary to section 11(2) of the Act. This matter is described as item #27 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 13 July 2013: failing to comply with a condition of the licence by failing to install CCTV on an entry/exit point, contrary to section 11(2) of the Act. This matter is described as item #23 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- e) 13 July 2013: failing to comply with a condition of the licence, being a requirement to maintain a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #26 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- f) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #30 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #31 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- h) 29 September 2013: failing to comply with a condition of the licence in that a patron was not identification scanned prior to entry, contrary to section 11(2) of the Act. This matter is described as item #35 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- i) 29 September 2013: failing to comply with a condition of the licence in that the approved manager not present on the Premises during extended trading hours, contrary to section 11(2) of the Act. This matter is described as item #36 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

Ground Two

64. The Authority is satisfied, as alleged by the Complainant, that the Former Licensee of the Premises, Silk Hotels Pty Limited, has, while holding the licence to the Premises, failed to comply with conditions to which the licence is subject.
65. The Authority is satisfied that this Ground is established in respect of the Former Licensee on the basis of the following convictions recorded against the Former Licensee:
- a) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after midnight. An assault was not recorded in the register contrary to section 11(2) of the Act. This matter is described as item #3 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - b) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register, contrary to section 11(2) of the Act. This matter is described as item #4 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - c) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #5 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - d) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #6 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - e) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30am lockdown, contrary to section 11(2) of the Act. This matter is described as item #11 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - f) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockdown, contrary to section 11(2) of the Act. This matter is described as item #12 in the Offence Summary Table provided by the Complainant,

and a Certificate of Conviction dated 19 February 2013 from the Newcastle Local Court has been provided by the Complainant in respect of that offence.

- g) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #13 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - h) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #14 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - i) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #15 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - j) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #16 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - k) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #17 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - l) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #18 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - m) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #19 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
66. The Authority is satisfied, as alleged by the Complainant, that the Approved Manager of the Premises, Mr Vasilis Moshos, has, while managing the licensed premises, failed to comply with conditions to which the licence is subject, on the basis of the convictions recorded against Mr Vasilis Moshos as Approved Manager:
- a) 23 June 2013: failing to comply with a condition of the licence, being a failure to ensure that CCTV was in operating order prior to trade, contrary to section 11(2) of the Act. This matter is described as item #28 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from

Newcastle Local Court has been provided by the Complainant in respect of that offence.

- b) 6 July 2013: failing to comply with a condition of the licence, being a failure to furnish CCTV footage upon request by Police, contrary to section 11(2) of the Act. This matter is described as item #27 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- c) 13 July 2013: failing to comply with a condition of the licence by failing to install CCTV on an entry/exit point, contrary to section 11(2) of the Act. This matter is described as item #23 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 13 July 2013: failing to comply with a condition of the licence, being a requirement to maintain a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #26 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- e) 29 September 2013: failing to comply with a condition of the licence in that a patron was not identification scanned prior to entry, contrary to section 11(2) of the Act. This matter is described as item #35 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- f) 29 September 2013: failing to comply with a condition of the licence in that the approved manager not present on the Premises during extended trading hours, contrary to section 11(2) of the Act. This matter is described as item #36 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

Ground Three

- 67. The Authority is satisfied, as alleged by the Complainant, that the Former Licensee of the Premises, Silk Hotels Pty Limited, has, while holding the licence to the Premises, failed to comply with conditions to which an authorisation or approval held by the licensee under the *Liquor Act* is subject.
- 68. The Authority is satisfied that this Ground is established on the basis of the following convictions recorded against Silk Hotels Pty Limited:
 - a) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after midnight. An assault was not recorded in the register contrary to section 11(2) of the Act. This matter is described as item #3 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - b) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to

sell or supply liquor after midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after midnight. An assault was not recorded in the register, contrary to section 11(2) of the Act. This matter is described as item #4 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- c) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #11 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #12 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from the Newcastle Local Court has been provided by the Complainant in respect of that offence.
- e) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #13 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- f) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #14 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #15 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- h) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #16 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- i) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #17 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- j) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #18 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- k) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #19 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
69. The Authority is satisfied, as alleged by the Complainant, that the Approved Manager of the Premises, Mr Vasilis Moshos, has, while managing the licensed premises, failed to comply with conditions to which an authorisation or approval held by the licensee under the *Liquor Act* is subject, on the basis of the convictions recorded against Mr Vasilis Moshos as Approved Manager:
- a) 13 July 2013: failing to comply with a condition of the licence, being a requirement to maintain a 1:30am lockout, contrary to section 11(2) of the Act. This matter is described as item #26 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - b) 29 September 2013: failing to comply with a condition of the licence in that the approved manager not present on the Premises during extended trading hours, contrary to section 11(2) of the Act. This matter is described as item #36 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

Ground Four

70. The Authority is satisfied, as alleged by the Complainant, that the Former Licensee of the Premises, Silk Hotels Pty Limited, has, while holding the licence to the Premises, failed to comply with other requirements under the Act or the Regulation, relating to the licence or the licensed premises.
71. The Authority is satisfied that this Ground is established on the basis of the conviction recorded against Silk Hotels Pty Limited for the offence of failing to display a prescribed notice on the licensed premises on 29 May 2010, in that a notice prohibiting the sale or supply of liquor to minors was not visible behind the bar, contrary to clause 31 of the Regulation. This matter is described as item #7 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4019195840 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under Part 9 of the Act.
72. The Authority is satisfied, as alleged by the Complainant, that the Approved Manager of the Premises, Mr Vasilis Moshos, has, while managing the licensed premises, failed to comply with the following other requirements under the Act or the Regulation:
- (i) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #30 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - (ii) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the

Act. This matter is described as item #31 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

Ground Five

73. The Authority is satisfied, as alleged by the Complainant, that the Former Licensee of the Premises, Silk Hotels Pty Limited, has, while holding the licence to the Premises, engaged in conduct or activities that are likely to encourage misuse or abuse of liquor – such as binge drinking or excessive consumption.

74. The Authority is satisfied that this Ground is established in respect of Silk Hotels Pty Limited, by reason that the following offences were committed during the tenure of that company as licensee. These offences, considered cumulatively, satisfy the Authority that the corporate Former Licensee is responsible for a course of conduct which is likely to encourage the misuse or abuse of liquor on the Premises. It demonstrates sustained laxity by the Former Licensee with regard to regulatory requirements the purpose of which is to reduce the risk of the misuse or abuse of liquor on the Premises. The offences are as follows:

- a) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register contrary to section 11(2) of the Act. This matter is described as item #3 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- b) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after midnight. An assault was not recorded in the register, contrary to section 11(2) of the Act. This matter is described as item #4 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- c) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #5 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #6 in the Offence Summary Table provided by the Complainant, and a Certificate of

Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- e) 29 May 2010: failing to display a prescribed notice on the licensed premises in that a notice prohibiting the sale or supply of liquor to minors was not visible behind the bar, contrary to clause 31 of the Regulation. This matter is described as item #7 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4019195840 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under Part 9 of the Act.
- f) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #11 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #12 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from the Newcastle Local Court has been provided by the Complainant in respect of that offence.
- h) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30a m lockout, contrary to section 11(2) of the Act. This matter is described as item #13 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- i) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #14 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- j) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #15 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- k) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #16 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- l) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #17 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- m) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #18 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - n) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #19 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - o) 8 June 2012: failing to comply with a requirement under section 34(1) of the GLAA 2007, being a breach of a demand for the production of CCTV footage to Police. This matter is described as item #20 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- 75.** The Authority is satisfied that this Ground is established in respect of the Approved Manager of the Premises, Mr Vasilis Moshos, for the following offences committed while he was approved manager and personally responsible for regulatory compliance under the Act:
- a) 23 June 2013: failing to comply with a condition of the licence, being a failure to ensure that CCTV was in operating order prior to trade, contrary to section 11(2) of the Act. This matter is described as item #28 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - b) 6 July 2013: failing to comply with a condition of the licence, being a failure to furnish CCTV footage upon request by Police, contrary to section 11(2) of the Act. This matter is described as item #27 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - c) 13 July 2013: failing to comply with a condition of the licence by failing to install CCTV on an entry/exit point, contrary to section 11(2) of the Act. This matter is described as item #23 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - d) 13 July 2013: failing to comply with a condition of the licence, being a requirement to maintain a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #26 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - e) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #30 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- f) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #31 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 29 September 2013: failing to comply with a condition of the licence in that a patron was not identification scanned prior to entry, contrary to section 11(2) of the Act. This matter is described as item #35 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- h) 29 September 2013: failing to comply with a condition of the licence in that the approved manager not present on the Premises during extended trading hours, contrary to section 11(2) of the Act. This matter is described as item #36 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

Ground Six

- 76. The Authority is satisfied, as alleged by the Complainant, that acts involving violence against persons or damage to property have frequently been committed on or near the licensed premises by persons who have been on the licensed premises.
- 77. The Complainant here relies upon an **Evidence Matrix** – an Excel format spread sheet that accompanies the section 51 Application concurrently before the Authority and that has also been provided in support of the Complaint. A copy of that Evidence Matrix is annexed to this decision. The Evidence Matrix summarises the facts of a total of **162** adverse incidents that the Complainant alleges as having either *occurred on the Premises* or that Police have *linked to the Premises* during the Relevant Period (**Events**).
- 78. These Events were recorded primarily in COPS Reports prepared by individual reporting Police officers. The Applicant provides the full text of all COPS Reports of Events summarised in the Evidence Matrix, comprising some several hundred pages of material.

[The Authority notes that COPS Reports typically comprise contemporaneous reports entered into the Police Computerised Operational Policing System database by individual Police officers. COPS Reports usually provide a narrative of observations made by Police while engaging the person or persons who are the subject of the Event in question and may also record reports of the incident provided to Police by the victim of an alleged offence or witnesses to the Event. COPS Reports will usually indicate the time and date when the Event occurred and (if the Event is alcohol related) the extent to which the person(s) engaged with by Police were affected by alcohol.]

- 79. The Authority is satisfied, on the balance of probabilities, having critically examined the Evidence Matrix and accompanying COPS Reports for each Event, that during a period from March 2010 to December 2013, thirty-three (**33**) Events have occurred whereby patrons of the Premises were involved in acts of violence of varying degrees of severity occurring either on the Premises or in public places near the Premises.
- 80. The Authority is satisfied that these Events occurred on the Premises or within the vicinity of the Premises, which (by reference to the statutory definition of “vicinity” in section 78 of the Act as a guide) is 50 metres in any direction from the Premises.

81. The Authority notes that these found Events may be broken down into the following Event categories. The corresponding Event numbers as noted in the Evidence Matrix are as follows:

EVENT CATEGORY	EVIDENCE MATRIX EVENT NUMBER
Common assault (22)	#10, #16, #21, #28, #34, #39, #57, #59, #66, #88, #89, #90, #92, #98, #115, #117, #125, #137, #146, #150, #159, #160
Crowd control/management – riot and affray (5)	#15, #56, #60, #129, #140
Assault occasioning actual bodily harm (3)	#12, #152, #162
Assault Police (3)	#43, #67, #151

82. On 27 May 2014, Police filed an objection to the application lodged by Mr Emmanouilidis on 2 May 2014 to transfer the licence from Silk Hotels Newcastle to Rightclick (**Objection**). The Authority notes that Police rely on the submissions and COPS Reports provided in the Objection in relation to the section 51 Application and Complaint in relation to the Hotel.
83. The Objection is made on the basis that the sole director of Rightclick, Mr Georgios Emmanouilidis, has been involved in the running of (or been present at, in some official capacity) the Premises during the Relevant Period upon which the Application and Complaint before the Authority are based.
84. The Objection comprises a one (1) page Cover Submission signed by Detective Acting Inspector Robert Waugh and a further 89 pages of supporting evidence or other material, being the full text of thirty-one (31) COPS Reports that note Mr Emmanouilidis as being present at the Premises at the time of each incident reported in the COPS Report.
85. The Authority is satisfied, on the basis of the COPS Reports contained in the Objection, that a further two (2) incidents where patrons of the Premises were involved in acts of violence of varying degrees of severity are recorded as occurring either on the Premises or in public places near the Premises, as evident from COPS Event numbers E52748819 and E180032194.
86. In light of these findings, the Authority is satisfied that over the Relevant Period, a total of thirty-five (35) incidents involving acts of violence to persons or malicious damage to property have been committed on or near the Premises by persons who were on the Premises and that those events have occurred with the requisite degree of “frequency” for this Ground to be established.

Ground Seven

Fitness and Propriety at General Law

87. It is well established at common law for the purposes of licensing that to be “fit and proper” a person must have a requisite knowledge of the Act (or Acts) under which he is to be licensed and the obligations and duties imposed thereby: *Ex parte Meagher* (1919) 36 WN 175 and *Sakellis v Police* (1968) 88 WN (Pt 1) (NSW) 541. Being fit and proper normally comprises the three characteristics of “honesty, knowledge and ability”: *Hughes & Vale Pty Ltd v NSW* (No 2) (1955) 93 CLR 127.

88. Where a person has been convicted of offences, the decision maker must consider the circumstances of those convictions and the general reputation of the person apart from the convictions and the likelihood of repetition – *Claraham v Register of Motor Vehicle Dealers in the ACT* (1994) 17 FLR 44.

89. In *Australian Broadcasting Tribunal v Bond* (1990) 170 CLR 321, the High Court of Australia has held that:

"The expression 'fit and proper person' standing alone, carries no precise meaning. It takes its meaning from its context, from the activities in which the person is or will be engaged and the ends to be served by those activities. The concept of 'fit and proper' cannot be entirely divorced from the conduct of the person who is or will be engaging in those activities. However, depending on the nature of those activities, the question may be whether improper conduct has occurred, whether it is likely to occur, whether it can be assumed that it will not occur, or whether the general community will have confidence that it will not occur. The list is not exhaustive but it does indicate that, in certain contexts, character (because it provides an indication of likely future conduct) or reputation (because it provides an indication of public perception as to likely future conduct) may be sufficient to ground a finding that a person is not fit and proper to undertake the activities in question."

90. The Authority is satisfied that the Former Licensee, Silk Hotels Pty Limited, has, while holding the licence to the Premises, been issued Penalty Notices and/or been convicted by the Newcastle Local Court for numerous offences in respect of the following breaches of the liquor and gaming legislation:

- a) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register contrary to section 11(2) of the Act. This matter is described as item #3 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- b) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register, contrary to section 11(2) of the Act. This matter is described as item #4 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- c) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #5 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the

licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #6 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- e) 29 May 2010: failing to display a prescribed notice on the licensed premises in that a notice prohibiting the sale or supply of liquor to minors was not visible behind the bar, contrary to clause 31 of the Regulation. This matter is described as item #7 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4019195840 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under Part 9 of the Act.
- f) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30am lockout, contrary to section 11(2) of the Act. This matter is described as item #11 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #12 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from the Newcastle Local Court has been provided by the Complainant in respect of that offence.
- h) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #13 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- i) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #14 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- j) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #15 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- k) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #16 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- l) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #17 in the Offence Summary Table provided by the Complainant,

and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- m) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #18 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- n) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #19 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- o) 8 June 2012: failing to comply with a requirement under section 34(1) of the GLAA 2007, being a breach of a demand for the production of CCTV footage to Police. This matter is described as item #20 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- p) 13 July 2013: failing to maintain a Register with RCG certificates in that an RCG certificate of a staff member was not in the RCG folder when inspected, contrary to clause 61 of the *Gaming Machines Regulation 2010*. This matter is described as item #21 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4920248255 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.

91. The Authority is also satisfied that the company director of the Former Licensee and Approved Manager of the Premises, Mr Vasilis Moshos, has, while managing the Premises, been convicted of the following offences in respect of the following provisions of the liquor and gaming legislation:

- a) 3 July 2010: failing to make gaming machine player information brochures available to patrons of the Hotel, contrary to clause 23 of the GMR. This matter is described as item #38 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900044 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- b) 3 July 2010: failing to ensure that patrons of the Hotel can access a self-exclusion scheme, contrary to section 49(3) of the *Gaming Machines Act 2001*. This matter is described as item #39 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900053 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- c) 3 July 2010: altering the name of licensed premises without approval or endorsement, contrary to section 95(2) of the Act. This matter is described as item #40 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the

Complainant recording payment of Penalty Notice No. 3042900026 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.

- d) 3 July 2010: failing to make available to patrons of the Hotel information as to the name and contact details of problem gambling counselling services, contrary to clause 52 of the GMR. This matter is described as item #41 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900062 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- e) 3 July 2010: failing to display gambling contact cards in accordance with legislation, contrary to clause 54 of the GMR. This matter is described as item #41(a) in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900035 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- f) 17 February 2012: employing/continuing to employ a person without recognised RCG certification, contrary to clause 59(4) of the GMR. This matter is described as item #43 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3050197417 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- g) 17 February 2012: failing to display gambling contact cards so as to enable a person to clearly see the gambling contact cards when approaching the bank of gaming machines, contrary to clause 54 of the GMR. This matter is described as item #44 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3050197408 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- h) 23 June 2013: failing to comply with a condition of the licence, being a failure to ensure that CCTV was in operating order prior to trade, contrary to section 11(2) of the Act. This matter is described as item #28 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- i) 6 July 2013: failing to comply with a condition of the licence, being a failure to furnish CCTV footage upon request by Police, contrary to section 11(2) of the Act. This matter is described as item #27 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- j) 13 July 2013: failing to comply with a condition of the licence by failing to install CCTV on an entry/exit point, contrary to section 11(2) of the Act. This matter is described as item #23 in the Offence Summary Table provided by the Complainant,

and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- k) 13 July 2013: failing to comply with a condition of the licence, being a requirement to maintain a 1:30am lockout, contrary to section 11(2) of the Act. This matter is described as item #26 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- l) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #30 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- m) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #31 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- n) 29 September 2013: failing to comply with a condition of the licence in that a patron was not identification scanned prior to entry, contrary to section 11(2) of the Act. This matter is described as item #35 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- o) 29 September 2013: failing to comply with a condition of the licence in that the approved manager not present on the Premises during extended trading hours, contrary to section 11(2) of the Act. This matter is described as item #36 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

92. The Authority is also satisfied that Silk Hotels Pty Limited has been issued with the following Penalty Notices for a range of offences under the Act which the Former Licensee has neither paid nor elected to have heard at Court:

- a) Penalty Notice No. 4024344840: Licensee fail to comply with conditions of licence – not make entry of assault in incident register, contrary to section 11(2) of the Act.
- b) Penalty Notice No. 4024344830: Licensee fail to comply with conditions of licence – RSA certificate of licensed security guard not in RSA register, contrary to section 11(2) of the Act.
- c) Penalty Notice No. 4030835638: Licensee allow minor to enter/remain in bar area of Hotel – minor observed on the premises, contrary to section 124(1) of the Act.
- d) Penalty Notice No. 4030835710: Licensee fail to comply with conditions of licence – not make entry of assault in incident register, contrary to section 11(2) of the Act.
- e) Penalty Notice No. 4030835820: Licensee fail to comply with conditions of licence – not make entry of assault in incident register, contrary to section 11(2) of the Act.

93. The Authority is satisfied, as alleged by the Complainant, that Mr Vasilis Moshos has not undertaken any further education or training, or that he otherwise acquired the requisite knowledge of the various statutory duties and prohibitions which the Premises must observe under the liquor and gaming legislation. Mr Moshos has not provided any evidence or material in response to this contention.
94. Regardless of his degree of knowledge of licensing requirements, the multiple contraventions of the liquor and gaming legislation that have been found by the Authority to have occurred during the period in which Mr Moshos was the director of the Former Licensee and the Approved Manager of the Premises leads the Authority to conclude that Mr Moshos has not demonstrated a degree of diligence with regard to regulatory compliance that one would expect from a reasonably diligent person in the position of Approved Manager/Licensee of licensed premises.
95. That is, Mr Moshos has not demonstrated the *ability* to identify and take reasonable steps to ensure compliance by the licensed business with the key regulatory obligations arising under the liquor and gaming legislation.
96. The accumulation of **\$23,395.00** in unpaid Penalty Notices demonstrates, in the view of the Authority, that Mr Moshos has little regard for the regulatory scheme provided by the licensing legislation. Rather than paying the numerous Penalty Notices issued in respect to the operation of the Hotel business on the Premises, he has simply permitted the corporate Former Licensee, Silk Hotels Pty Limited, to be liquidated and recommenced business through a new entity, Silk Hotels Newcastle Pty Limited.
97. The Authority is satisfied that the Certificates of Conviction issued by Newcastle Local Court and the records provided from SDRO in respect of the Penalty Notices issued to the Former Licensee and Approved Manager of the Premises demonstrate a persistent and prolonged series of breaches of legislative standards that are designed to ensure that the harm arising from the misuse and/or abuse of liquor is minimised. These are not isolated incidents, or oversights, but evidence of a systemic lack of compliance.
98. In addition to the convictions recorded against the Former Licensee and Approved Manager of the Premises, the Authority is satisfied that the repeated contravention of licensing requirements by the business conducted on the Premises over a sustained period of time in respect of which Penalty Notices have been issued and neither paid nor defended in Court presents a further basis for finding that the licensed premises has been conducted with little regard for the regulatory scheme provided by the Act.
99. The Authority is satisfied, on the basis of the information provided in relation to the section 51 Application concurrently being considered by the Authority, that during the Relevant Period and on the balance of probabilities, thirty-five (35) COPS Reported Events have occurred whereby patrons of the Premises have been involved in acts of violence, of varying degrees of severity, either on or near the Premises.
100. The Authority is further satisfied, as alleged by the Complainant, that Mr Moshos was aware of the numerous contraventions by the Former Licensee and Approved Manager of the Premises of the liquor and gaming legislation and that he engaged in numerous meetings with Police when issues pertaining to regulatory matters and the conduct of hotel were discussed. Despite this, Mr Moshos failed to implement sufficient measures to address those ongoing breaches of regulatory requirements, nor did he take sufficient measures to address the occurrence of acts of violence or other anti-social conduct occurring on or near the Premises perpetrated by patrons of the Premises.

101. The Authority notes that an application for a Short Term Closure Order under section 82 of the Act was lodged with the Authority on 20 August 2013 due to the detection by Police of serious breaches of the Act, including minors being allowed on the Premises and being supplied with liquor. Police later withdrew this application on the basis of Mr Moshos' consent to the imposition of three (3) conditions upon the liquor licence under section 53 of the Act, including measures mandating minimum requirements for the use of CCTV and the use of identification scanners. Those new conditions were then contravened by the Former Licensee, as evident from items #35 and #36 of the Offence Summary Table and accompanying material.
102. The Authority notes that a second application for a Short Term Closure Order under section 82 of the Act was lodged with the Authority on 22 October 2013 due to the detection by Police of further serious breaches of the Act, including excessive consumption of alcohol and permission of intoxication on premises. This application was granted and the Premises was ordered to cease trading for a period of 72 hours from 5:00 pm on Friday 25 October 2013. Although Mr Joseph Lannutti was the approved manager of the Premises at this time, the company directed by Mr Vasilis Moshos was the Licensee during the short period of Mr Lannutti's tenure as approved manager from 8 October 2013 to 11 December 2013. The Authority is satisfied that Mr Moshos was made aware of the regulatory problems that gave rise to the making of that Order.
103. The Authority notes that a third application for a Short Term Closure Order under section 82 of the Act was lodged with the Authority on 18 March 2014 due to the detection by Police of further serious breaches of the Act, including events involving permission of intoxication on premises and minors being allowed on the Premises and being supplied with liquor. This application was granted and the Premises was ordered to cease trading for a period of 72 hours from 5:00 pm on Friday 21 March 2014. The Authority is satisfied that Mr Moshos was made aware of the regulatory issues that gave rise to the making of this Order.
104. The Authority is satisfied that the Licensee, Former Licensee and Mr Moshos were at relevant times on notice of the frequent commission of offences by the Licensee, Former Licensee and Approved Manager and the ongoing adverse regulatory and compliance history of the Premises – yet those parties failed to take reasonable and sufficient steps to prevent those offences occurring.
105. The Authority is satisfied that Mr Vasilis Moshos was disqualified from being an approved manager of any licensed premises in New South Wales for a period of twelve (12) months from 31 March 2014. This action was taken by Newcastle Local Court by way of the imposition of an additional penalty pursuant to Part 10 of the *Liquor Act 2007* by reason of the multiple contraventions of licensing legislation that were before the Court on that occasion. The Authority notes that the contraventions before the Court then were only some of the larger number of contraventions that are the basis of this Complaint.
106. All of these matters satisfy the Authority that the Licensee and the Former Licensee are not fit and proper corporate persons to hold a liquor licence in New South Wales and that the Approved Manager, Mr Vasilis Moshos, is not a fit and proper person to act as a manager of licensed premises in New South Wales. All three of those parties have demonstrated that they do not have the ability to observe the requirements of licensing legislation.

Ground Eight

107. The Authority is satisfied that at all relevant times Mr Vasilis Moshos was a close associate of the Licensee and Former Licensee within the meaning of section 4 of the Act, in that:

- a) Mr Moshos had a relevant financial interest in the business operating on the Premises
- b) Mr Moshos held a relevant position in the Licensee and Former Licensee companies, and
- c) Mr Moshos possessed a relevant power in respect of the Licensee and Former Licensee companies.

108. The Authority is satisfied that Mr Vasilis Moshos was during relevant times the sole director of the corporations which are the current Licensee, the Former Licensee and the Premises Owner. The Authority notes that liquidators were appointed to the Former Licensee, Silk Hotels Pty Limited, in April 2013. The Authority notes that Mr Moshos remains a director of the Licensee as of the date of this letter.
109. The Authority is satisfied, as alleged by the Complainant, that a close associate of the Licensee, Mr Vasilis Moshos, is not a fit and proper person to be a close associate of a licensee.
110. The Authority is satisfied that this Ground is established on the basis of the findings, evidence and other material upon which Ground Seven of the Complaint has been established. As the sole director of the Licensee and Former Licensee and in his own capacity as Approved Manager, Mr Vasilis Moshos was in a position to take action to minimise the scope for the occurrence of offences in relation to the exercise of the licence, but failed to do so.

Ground Nine

111. The Authority is satisfied, as alleged by the Complainant, that a complaint against a licensee under section 139(3)(k) of the Act has been made and that:
- a) The close associate of the licensee knew or ought reasonably to have known that the licensee was engaging (or was likely to engage) in conduct of the kind to which the complaint relates, and
 - b) The close associate of the licensee failed to take all reasonable steps to prevent the licensee from engaging in conduct of this kind.
112. The Authority is satisfied that at all relevant times Mr Vasilis Moshos was a close associate of the Licensee and Former Licensee within the meaning of section 4 of the Act, in that:
- a) Mr Moshos had a relevant financial interest in the business operating on the Premises
 - b) Mr Moshos held a relevant position in the Licensee and Former Licensee companies, and
 - c) Mr Moshos possessed a relevant power in respect of the Licensee and Former Licensee companies.
113. The Authority is satisfied, as alleged by the Complainant, that Mr Moshos had been made aware by Police of the numerous contraventions by the Former Licensee, Licensee and Approved Manager of the Premises with respect to the licensing and gaming legislation and that Mr Moshos had engaged in regular meetings with Police – yet Mr Moshos failed to take all reasonable steps to prevent the licensee at the time from engaging in conduct

which gave rise to offences against the legislation. Nor did Mr Moshos implement any measures by which to reduce the risk of violence or other anti-social alcohol related misconduct occurring on or near the Premises.

114. The Authority is satisfied that this Ground is established on the basis of the findings, evidence and other material upon which Ground Seven of the Complaint has been established.

Ground Ten

115. The Authority is satisfied, as alleged by the Complainant, that a person who is interested in the business, or in the conduct or profits of the business, carried on under the licence is not a fit and proper person to be so interested.

116. The Authority is satisfied that at all relevant times Mr Vasilis Moshos was an interested person in the Licensee and Former Licensee corporations within the meaning of section 4 of the Act, in that:

- a) Mr Moshos had a relevant financial interest in the business operating on the Premises
- b) Mr Moshos held a relevant position in the Licensee and Former Licensee companies, and
- c) Mr Moshos possessed a relevant power in respect of the Licensee and Former Licensee companies.

117. The Authority is satisfied that Mr Vasilis Moshos was at relevant times the sole director of the corporations which are the current Licensee, the Former Licensee and the Premises Owner. The Authority notes that liquidators were appointed to the Former Licensee, Silk Hotels Pty Limited, in April 2013. The Authority is satisfied that Mr Moshos is a close associate of the Licensee at the time of this decision.

118. The Authority is satisfied that this Ground is established on the basis of the findings, evidence and other material upon which Ground Seven of the Complaint has been established.

Ground Eleven

119. The Authority is satisfied, as alleged by the Complainant, that the licence has not been exercised in the public interest.

120. The Authority is satisfied that the Former Licensee, Silk Hotels Pty Limited, has, while holding the licence to the Premises, been issued Penalty Notices and/or been convicted by Newcastle Local Court for numerous offences in respect of the following breaches of the liquor and gaming legislation:

- a) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register contrary to section 11(2) of the Act. This matter is described as item #3 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013

from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- b) 30 April 2010: failing to comply with a condition of the licence, arising through the operation of section 56 of the Act, requiring that any licensed premises authorised to sell or supply liquor after 12:00 midnight use an incident register to record any incident involving violence or anti-social behaviour on the premises after 12:00 midnight. An assault was not recorded in the register, contrary to section 11(2) of the Act. This matter is described as item #4 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- c) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #5 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- d) 8 May 2010: failing to comply with a condition of the licence, arising through clause 44 of the Regulation, requiring that a licensee of licensed premises must keep a register containing current existing RSA certificates for any staff employed by the licensee. The RSA Certificate of a licensed security guard was not in the RSA register, contrary to section 11(2) of the Act. This matter is described as item #6 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- e) 29 May 2010: failing to display a prescribed notice on the licensed premises in that a notice prohibiting the sale or supply of liquor to minors was not visible behind the bar, contrary to clause 31 of the Regulation. This matter is described as item #7 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4019195840 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under Part 9 of the Act.
- f) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #11 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- g) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #12 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from the Newcastle Local Court has been provided by the Complainant in respect of that offence.
- h) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #13 in the Offence Summary Table provided by the Complainant,

and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.

- i) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #14 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- j) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #15 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- k) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #16 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- l) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #17 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- m) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #18 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- n) 27 May 2012: failing to comply with a condition of the licence requiring the maintenance of a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #19 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- o) 8 June 2012: failing to comply with a requirement under section 34(1) of the GLAA 2007, being a breach of a demand for the production of CCTV footage to Police. This matter is described as item #20 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 19 February 2013 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- p) 13 July 2013: failing to maintain a Register with RCG certificates in that an RCG certificate of a staff member was not in the RCG folder when inspected, contrary to clause 61 of the GMR. This matter is described as item #21 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 4920248255 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.

121. The Authority is also satisfied, as alleged by the Complainant, that the Premises Owner, Parking Towers International Pty Limited, was prosecuted by Newcastle City Council for failing to maintain essential fire safety measures. The matter was heard at Newcastle Local Court on 18 February 2013, where the defendant pleaded guilty and was fined \$380.00 and ordered to pay Court costs.
122. The Authority notes that the Premises Owner was issued with a further Penalty Notice No. 4916151195 by Newcastle City Police for the offence of "owner fails to maintain essential fire safety measures" on 23 April 2013.
123. At the time, Parking Towers was controlled by Mr Vasilis Moshos, who was also the Approved Manager of the Premises. The Authority considers this breach of environmental planning legislation with regard to fire safety to be a form of misconduct that is relevant to the maintenance of licensed premises, and contravention of this legislation is further evidence that the licence had been exercised in a manner that is contrary to the public interest in the safe conduct of licensed premises.
124. Furthermore, the Authority is satisfied that the following offences were committed in relation to the exercise of the licence by the Licensee, the Former Licensee or Mr Vasilis Moshos, as the case may be:
 - a) 3 July 2010: failing to make gaming machine player information brochures available to patrons of the Hotel, contrary to clause 23 of the GMR. This matter is described as item #38 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900044 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
 - b) 3 July 2010: failing to ensure that patrons of the Hotel can access a self-exclusion scheme, contrary to section 49(3) of the GMR. This matter is described as item #39 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900053 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
 - c) 3 July 2010: altering the name of licensed premises without approval or endorsement, contrary to section 95(2) of the Act. This matter is described as item #40 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900026 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
 - d) 3 July 2010: failing to make available to patrons of the Hotel information as to the name and contact details of problem gambling counselling services, contrary to clause 52 of the GMR. This matter is described as item #41 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900062 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.

- e) 3 July 2010: failing to display gambling contact cards in accordance with legislation, contrary to clause 54 of the GMR. This matter is described as item #41(a) in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3042900035 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- f) 17 February 2012: employing/continuing to employ a person without recognised RCG certification, contrary to clause 59(4) of the GMR. This matter is described as item #43 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3050197417 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- g) 17 February 2012: failing to display gambling contact cards so as to enable a person to clearly see the gambling contact cards when approaching the bank of gaming machines, contrary to clause 54 of the GMR. This matter is described as item #44 in the Offence Summary Table provided by the Complainant, and correspondence from SDRO current as of 3 July 2014 has been provided by the Complainant recording payment of Penalty Notice No. 3050197408 issued in respect of that offence, which is deemed by section 150 of the Act to be a conviction for the purposes of a disciplinary complaint under part 9 of the Act.
- h) 23 June 2013: failing to comply with a condition of the licence, being a failure to ensure that CCTV was in operating order prior to trade, contrary to section 11(2) of the Act. This matter is described as item #28 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- i) 6 July 2013: failing to comply with a condition of the licence, being a failure to furnish CCTV footage upon request by Police, contrary to section 11(2) of the Act. This matter is described as item #27 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- j) 13 July 2013: failing to comply with a condition of the licence by failing to install CCTV on an entry/exit point, contrary to section 11(2) of the Act. This matter is described as item #23 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- k) 13 July 2013: failing to comply with a condition of the licence, being a requirement to maintain a 1:30 am lockout, contrary to section 11(2) of the Act. This matter is described as item #26 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
- l) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #30 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from

Newcastle Local Court has been provided by the Complainant in respect of that offence.

- m) 13 July 2013: allowing liquor to be sold/supplied to a minor in that a minor was supplied with and consumed liquor on the premises, contrary to section 117(8) of the Act. This matter is described as item #31 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - n) 29 September 2013: failing to comply with a condition of the licence in that a patron was not identification scanned prior to entry, contrary to section 11(2) of the Act. This matter is described as item #35 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
 - o) 29 September 2013: failing to comply with a condition of the licence in that the approved manager not present on the Premises during extended trading hours, contrary to section 11(2) of the Act. This matter is described as item #36 in the Offence Summary Table provided by the Complainant, and a Certificate of Conviction dated 31 March 2014 from Newcastle Local Court has been provided by the Complainant in respect of that offence.
125. The Authority notes that the Former Licensee of the Premises, Silk Hotels Pty Limited, and the Approved Manager of the Premises, Mr Vasilis Moshos, have cumulatively incurred an extraordinary amount of fines, in excess of **\$30,000.00**.
126. Many of these Penalty Notices concern alleged offences against the gaming and liquor legislation, or matters closely related to the operation of licensed premises, such as breaches of conditions of development consent or failure to observe fire safety regulations.
127. The Authority notes that, while the issue of a Penalty Notice is not, of itself, proof of the commission of an offence described in the Notice, the payment of a Penalty Notice for a liquor offence is deemed by section 150 of the Act to be a conviction for that offence for the purposes of a complaint made under part 9 of the Act.
128. The Authority has not had regard to those Penalty Notices that were defended in Court and/or were either withdrawn by Police or were dismissed.
129. The Authority is also satisfied that the Former Licensee, Silk Hotels Pty Limited, has been issued with the following Penalty Notices for a range of offences under the Act which the Former Licensee has neither paid nor elected to have heard at Court:
- a) Penalty Notice No. 4024344840: Licensee fail to comply with conditions of licence – not make entry of assault in incident register, contrary to section 11(2) of the Act.
 - b) Penalty Notice No. 4024344830: Licensee fail to comply with conditions of licence – RSA certificate of licensed security guard not in RSA register, contrary to section 11(2) of the Act.
 - c) Penalty Notice No. 4030835638: Licensee allow minor to enter/remain in bar area of Hotel – minor observed on the premises, contrary to section 124(1) of the Act.
 - d) Penalty Notice No. 4030835710: Licensee fail to comply with conditions of licence – not make entry of assault in incident register, contrary to section 11(2) of the Act.

- e) Penalty Notice No. 4030835820: Licensee fail to comply with conditions of licence – not make entry of assault in incident register, contrary to section 11(2) of the Act.
130. The Authority is satisfied that the Certificates of Conviction issued by Newcastle Local Court and the records provided from SDRO in respect of the Penalty Notices issued to the Former Licensee and Approved Manager of the Premises demonstrate a persistent and prolonged pattern of contravening legislative standards that are designed to ensure that the harm arising from the misuse and/or abuse of liquor is minimised. These are not isolated incidents, or oversights, but evidence of a systemic lack of compliance.
131. In addition to the convictions recorded against the Former Licensee and Approved Manager of the Premises, the Authority is satisfied that the repeated contravention of licensing requirements in respect of which Penalty Notices have been issued and neither paid nor defended in Court presents a further basis for finding that the licence has been exercised with little regard for the regulatory scheme provided by the Act and contrary to the public interest.
132. Further and in the alternative, the Authority is satisfied, on the balance of probabilities and on the basis of the supporting evidence and material provided by the Complainant, that thirty-five (35) COPS Reported Events have occurred between March 2010 and December 2013 whereby patrons of the Premises have been involved in acts of violence of varying degrees of severity either on or near the licensed premises over the Relevant Period. Moreover, the Evidence Matrix provided by the Complainant satisfies the Authority that there were numerous additional COPS Reported Events during the Relevant Period which, while not involving violence or malicious damage, involved other acts of alcohol related anti-social conduct perpetrated by patrons of the Premises requiring the intervention of Police. The overall pattern of these adverse alcohol related incidents provides a further basis for finding that the licence has not been exercised in the public interest.
133. The Authority is satisfied, as alleged by the Complainant, that Mr Moshos was aware of the numerous contraventions by the Former Licensee and Approved Manager of the Premises of the liquor and gaming legislation. The Authority is satisfied that Mr Moshos engaged in numerous meetings with Police, yet failed to implement sufficient measures to address those ongoing breaches of regulatory requirements or measures to stem the ongoing occurrence of acts of violence or other anti-social conduct on the Premises or near to the Premises perpetrated by patrons of the Premises.
134. The Authority notes with concern that, although the first application for a Short Term Closure Order lodged by Police on 20 August 2013 was resolved by the Approved Manager (Mr Moshos) agreeing to the imposition of three (3) conditions upon the liquor licence under section 53 of the Act, mandating minimum requirements for the use of CCTV and identification scanners, those conditions would shortly thereafter be contravened, as evident from item #35 of the Offence Summary Table and the accompanying material provided by the Complainant.
135. The Authority notes with concern that a second application for a Short Term Closure Order under section 82 of the Act was lodged with the Authority on 22 October 2013, issued by reason of the detection by Police of further serious breaches of the Act, including excessive consumption of alcohol and permission of intoxication on premises. The Premises was ordered to be closed by the Authority for a period of 72 hours from 5:00 pm on Friday 25 October 2013. Although Mr Joseph Lannutti was the approved manager of the Premises at this time, the corporate Licensee directed by Mr Vasilis Moshos remained the licence holder from 8 October 2013 to 11 December 2013 and the Authority is satisfied that Mr Moshos was aware of those further incidents.

136. The Authority notes with concern that a third application for a Short Term Closure Order under section 82 of the Act was lodged with the Authority on 18 March 2014 due to the detection by Police of further serious breaches of the Act, including permission of intoxication on premises and minors being allowed on the Premises and being supplied with liquor. This application was granted and the Premises was ordered by the Authority to cease trading for a period of 72 hours from 5:00 pm on Friday 21 March 2014.
137. The Authority notes with concern the breaches of licence conditions requiring the maintenance of a lockout from 1:30 am, being conditions imposed by the former Liquor Administration Board in response to a previous disturbance complaint involving several late trading hotels in the Newcastle Central Business District, as evident from items #11 through #19 (in respect of the Former Licensee) and item #26 (in respect of the Approved Manager) of the Offence Summary Table and accompanying material.
138. The Authority notes that, by order of Newcastle Local Court, Mr Vasilis Moshos was disqualified, by way of an additional penalty, from being an approved manager of any licensed premises for a period of twelve (12) months from 31 March 2014 due to the multiple contraventions of the gaming and licensing legislation attributable to the operation of the Premises that were dealt with by the Court on that occasion. Those matters amount to only a subset of the adverse events before the Authority when considering this Complaint.
139. The Authority is satisfied, as alleged by the Complainant, on the basis of the regulatory record of the Premises, the convictions recorded against Mr Vasilis Moshos in his capacities as director of the Former Licensee and Approved Manager of the Premises, and the further evidence relied upon above, that the licence has not been exercised in the public interest.
140. When discerning the relevant “public interest” the Authority has been guided by the statutory objects and considerations in section 3 of the Act, in addition to the specific offence provisions within the Act and the conditions of the licence.

Ground Twelve

141. A finding that a liquor licence has not been exercised in the public interest would ordinarily require action to be taken against the licence itself. However, in this instance, the Authority has determined, in response to the section 51 Application made by Police to the Authority that has been considered concurrently with this Complaint, that the extended trading authorisation shall be revoked. This administrative action will reduce the scope for the Premises to be a source of harm and disturbance to the community by winding back the licensed trading hours from 3:30 am on six (6) days of the week to the standard hours prescribed by section 12 of the Act.
142. While the Authority is satisfied that the continuation of the licence in its current form would not be in the public interest, the revocation of the extended trading authorisation is sufficient to enable the Authority to be satisfied that the discontinuation of the licence is not required at the time of determining this Complaint.

Ground Thirteen

143. The Authority is satisfied, as alleged by the Complainant, that intoxicated persons have frequently been on the Premises or have frequently been seen to leave the Premises.

144. The Authority is satisfied, on the basis of the Evidence Matrix and the COPS Reports detailing the adverse Events attributed to the Premises provided by the Complainant, that over the Relevant Period there were five (5) incidents of intoxicated persons on the Premises, three (3) “fail to quit” incidents and ten (10) “move on” directions issued by Police to patrons who were well affected by alcohol. The corresponding Event numbers as noted in the Evidence Matrix are as follows:

EVENT CATEGORY	EVIDENCE MATRIX ITEM NUMBER
Intoxicated persons (5)	#49, #50, #77, #113, #151
“Fail to quit” (3)	#35, #87, #112
“Move on” directions (10)	#9, #26, #41, #44, #47, #48, #77, #80, #122, #131

145. The Authority is further satisfied that this Ground is established on the basis of the material relied upon by the Complainant to establish Ground Six of the Complaint, as numerous found Events involving acts of violence on or near the Premises (Events #10, #16, #21, #28, #34, #43, #67, #88, #89, #90, #92, #98, #140 and #151) involved patrons who were recorded as being “well affected” by alcohol at the time they were dealt with by Police.

DISCIPLINARY ACTION

146. When considering the question of what, if any, disciplinary action should be taken pursuant to section 141 of the Act, the Authority has had regard to the statutory objects and considerations provided by section 3 of the Act:

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.*

147. While all of these objects and considerations have been taken into account, in light of the serious and repeated regulatory non-compliance arising from the exercise of the licence (by the current and former licensee) during the relevant period, the Authority, when determining what disciplinary action is appropriate, has given weight to subsection 3(2)(a) – the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) and subsection 3(2)(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.

148. The Authority accepts Mr Moshos’ contention that there was a good deal of overlap between the Police submissions that were before Newcastle Local Court on 31 March 2014 when Mr Moshos was disqualified from being an approved manager and the matters now relied upon by Police in support of this Complaint.

149. While the offences for which Mr Moshos was convicted on 31 March 2014 represent only a subset of the offences found by the Authority in this decision, the written submissions from Police that were before Newcastle Local Court extended to a range of adverse events comprising many, but not all, of the matters that have formed the basis of the Authority's satisfaction as to the Grounds of Complaint.
150. Nevertheless, the argument made by Mr Moshos that his disqualification for twelve (12) months leaves no rational basis for the Authority to consider any further regulatory action is misconceived.
151. First, Newcastle Local Court imposed an additional penalty upon Mr Moshos in relation to his capacity as an approved manager of the Premises. It did not make any order in relation to Mr Moshos in his capacity as a close associate of the licence exercised on the Premises.
152. Second, the power of a Local Court to impose an *additional penalty* under Part 10 of the Act is *punitive* by nature. Section 148 of the Act states:

148 Additional penalties may be imposed by court

- (1) *In addition to any other penalty that a court may impose on a licensee or other person for an offence under this Act or the regulations, the court may, if it thinks it appropriate, do any one or more of the following:*
- (a) *reprimand the licensee or person,*
 - (b) *impose a condition to which a licence is to be subject,*
 - (c) *suspend a licence for such period, not exceeding 12 months, as the court thinks fit,*
 - (d) *cancel a licence,*
 - (e) *disqualify the licensee from holding a licence for such period as the court thinks fit,*
 - (f) *withdraw the person's approval to manage licensed premises,*
 - (g) *disqualify the person from being the holder of an approval to manage licensed premises for such period as the court thinks fit,*
 - (h) *give such directions as to the exercise of the licence as the court thinks fit.*
- (2) *Any condition imposed on a licence by a court under subsection (1)(b) may be revoked or varied by the court on application by the licensee, the Authority, the Director-General or the Commissioner of Police.*

153. By contrast, the Authority's disciplinary jurisdiction under Part 9 of the Act serves a broader purpose – the protection of the public interest in respect of the Act.
154. In *Seagulls Rugby League Football Club Ltd v Superintendent of Licences* (1992) 29 NSWLR 357, the NSW Supreme Court observed that the then licensing regulator's disciplinary jurisdiction provided by Part 6A of the *Registered Clubs Act 1976* is "concerned with the protection of the public and of members of [registered clubs] by the maintenance of the standards as laid down in the [Registered Clubs Act]".
155. The NSW Supreme Court has also observed (in the context of registered clubs) that, when determining the nature of the appropriate discipline, the conduct of the respondent up to the hearing of the complaint is relevant and should be taken into account: *Sydney Aussie Rules Social Club Ltd v Superintendent of Licences* (unreported, Grove J, 1 July 1991).
156. The Authority notes the observations made in the judgment of Basten JA of the New South Wales Court of Appeal in *Director-General, Department of Ageing, Disability and Home Care v Lambert* (2009) 74 NSWLR 523 at paragraph 83 to the effect that, while disciplinary proceedings are protective, that is not to deny that orders made by disciplinary bodies may nonetheless have a "punitive effect" and that a Court should be mindful that a protective order is reasonably necessary to provide the required level of public protection. The "punitive effects" may be relevant to the need for protection in that:

...in a particular case, there may be a factual finding that the harrowing experience of disciplinary proceedings, together with the real threat of loss of a livelihood may have opened the eyes of the individual concerned to the seriousness of his or her conduct, so as to diminish significantly the likelihood of its repetition. Often such a finding will be accompanied by a finding that the person concerned has achieved a high level of insight into his or her own character or misconduct, which did not previously exist.

157. Paragraph 85 of the judgment in *Lambert* observed further that:

...the specific message of the disciplinary cases explaining that the jurisdiction is entirely protective is to make clear that the scope of the protective order must be defined by the reasonable needs for protection, as assessed in the circumstances of the case.

- 158.** Mr Moshos' current period of disqualification is relevant to the present case in two respects. First, Mr Moshos has been prevented from serving as an approved manager of any licensed premises in New South Wales and will continue to be so disqualified until 31 March 2015, approximately three months from the time of this decision.
- 159.** Second, his disqualification by Newcastle Local Court is likely to have had some deterrent effect by focusing Mr Moshos' mind upon the consequences of repeatedly committing offences against the Act.
- 160.** However, there is little in the submissions from Mr Moshos in response to this Complaint that demonstrates acknowledgement of the serious adverse conduct found by the Authority or that would give the Authority confidence that his eyes have been opened to the consequences of operating a licensed premises in sustained contravention of licensing requirements.
- 161.** On the contrary, Mr Moshos' brief submissions have disputed any need for regulatory action to be taken against him on the facts alleged by the Complainant. This position is based upon the purported "removal" of Silk Hotels Newcastle Pty Limited as the licensee of the Premises by the Premises Owner and his disqualification by Newcastle Local Court from acting as an approved manager of licensed premises for twelve (12) months.
- 162.** The Authority is aware from recent Australian Securities and Investments Commission (ASIC) searches and searches of the Authority's liquor licensing records that Silk Hotels Newcastle Pty Limited remains the licensee of the Premises at this time and that Mr Moshos is the sole director and shareholder of that company.
- 163.** As such, Mr Moshos is a "close associate" of the licence to the Premises within the meaning of Act (which refers to the meaning of that expression in section 5 of the *Gaming and Liquor Administration Act 2007*). Mr Moshos was a close associate of the licence (held by the former or current licensee) at relevant times for the purposes of this Complaint.
- 164.** While the Complainant recommends disqualifying Mr Moshos, Silk Hotels Newcastle Pty Limited and Silk Hotels Pty Limited for "life", the primary submission from the Complainant is that these persons be disqualified for a "significant" period of time.
- 165.** The Authority is aware from its recent ASIC searches that the former licensee, Silk Hotels Pty Limited, was de-registered as a company under the *Corporations Act 2001* on 2 November 2014. The Authority is satisfied, on the basis of material provided by the Complainant, that this company had incurred a substantial amount of fines arising from the exercise of the licence which went unpaid to the State Debt Recovery Office.
- 166.** Rather than paying those fines, Mr Moshos incorporated Silk Hotels Newcastle Pty Limited to replace Silk Hotels Pty Limited as the corporate vehicle to hold the liquor licence. Acts

of serious regulatory non-compliance continued, notwithstanding the change of corporate licensee, which remained under Mr Moshos' control.

167. In the present circumstances, the Authority does not consider it reasonably necessary to take disciplinary action against the now deregistered company. In the unlikely event that Silk Hotels Pty Limited was re-registered, the Authority would revisit a complaint in relation to that entity, with a view to preventing its use as a vehicle for the conduct of a licensed business in New South Wales.
168. As noted above, the Grounds of Complaint have been established on the basis of numerous offences committed against the Act and substantial other acts of non-compliance with the licensing legislation. While disqualifying a natural or corporate person "for life" from participation in the industry in certain regulated capacities is possible, the Authority is not aware of any disciplinary decision by the Authority or its predecessor, the NSW Licensing Court, imposing that ultimate sanction.
169. The Complainant has not articulated any specific case as to why a "life" ban would be appropriate in this instance, rather than broadly referring to the gravity of the Authority's findings in the draft decision and the objects and considerations provided by section 3 of the Act.
170. While the Authority is not satisfied that it would be proportionate to ban the relevant persons for life, the Authority has no difficulty accepting that Mr Moshos has demonstrated, through his control of the current and former licensee companies, over the course of around four (4) years, that he poses a significant threat to the public interest in respect of the Act.
171. By reason of the Authority's findings on the Grounds of Complaint, the Authority is satisfied that Mr Moshos should be disqualified from participating in the New South Wales liquor industry in the capacity of an approved manager, close associate or licensee of any licensed business for a substantial period of time.
172. By reason of the Authority's findings in relation to Silk Hotels Newcastle Pty Limited, the Authority is satisfied that this company should also be disqualified from holding a licence for a substantial period of time.
173. On the material before it, the Authority is satisfied that a disqualification period of **ten years** is a reasonable and proportionate protective measure to impose, in light of the number and nature of the offences and the other instances of regulatory non-compliance that have been found by the Authority.
174. Accordingly, the Authority has decided to take the following action:
 - a) Pursuant to section 141(2)(f) of the Act, the Authority disqualifies the licensee, Silk Hotels Newcastle Pty Limited (ABN 65 150 071 597), from holding a liquor licence for a period of ten (10) years from the date of this decision.
 - b) Pursuant to section 141(2)(g) of the Act, the Authority withdraws, with effect from the date of this decision, the approval of the approved manager, Mr Vasilis (Bill) Moshos, to manage licensed premises.
 - c) Pursuant to section 141(2)(h) of the Act, the Authority disqualifies the approved manager, Mr Vasilis (Bill) Moshos from being the manager of a licensed premises for a period of ten (10) years from the date of this decision.

- d) Pursuant to section 141(2)(j) of the Act, the Authority disqualifies the close associate, Mr Vasilis (Bill) Moshos from being a close associate of a licensee for a period of ten (10) years from the date of this decision.
- e) Pursuant to section 141(2)(k) of the Act, the Authority disqualifies the close associate, Mr Vasilis (Bill) Moshos from holding a licence for a period of ten (10) years from the date of this decision.

REVIEW RIGHTS

175. Pursuant to section 144 of the Act, an application for review of this decision may be made to the New South Wales Civil and Administrative Tribunal (**NCAT**) by the Complainant or any person against whom any disciplinary action is taken, no later than 28 days after those parties receive notification of this decision. For more information, visit the NCAT website at www.ncat.nsw.gov.au or contact the NCAT Registry at Level 9, John Maddison Tower, 86-90 Goulburn Street, Sydney.

Yours faithfully



Micheil Brodie
Chief Executive

- 3 FEB 2015