



Mr Brett Tobin
Hatzis Cusack Lawyers
bt@hatziscusack.com.au

11 April 2018

Dear Mr Tobin

Application No.	APP 1-5596817977
Application for	Variation of Extended Trading Authorisation
Proposed Trading Hours	Monday to Saturday 8:00 am – 2:00 am Sunday 10:00 am – 12:00 Midnight (sports lounge and TAB area near bistro, bistro dining, bistro terrace, bistro bar, indoor and alfresco gaming, and sanitary facility areas).
Applicant	Mr Anthony Hayes
Licensed premises name	Lakes Hotel - The Entrance
Premises	201 The Entrance Road, The Entrance 2261
Issue	Whether to vary the existing Extended Trading Authorisation to increase the extended trading hours to the proposed licensed hours in the specified areas.
Legislation	Sections 3, 11A, 48, 51 and 53 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application to vary Extended Trading Authorisation – Lakes Hotel – The Entrance**

The Independent Liquor and Gaming Authority (“the Authority”) has considered application number 1-5596817977 to vary the existing extended trading authorisation seeking late night trading in certain areas of the Lakes Hotel until 2 am Monday through Saturday and until Midnight on Sunday (“the Application”).

Pursuant to section 51(9) of the *Liquor Act 2007* (“Act”), the Authority has decided to **grant** the Application on the basis that the licence and the authorisation will be subject to the following *new* conditions, which shall apply in addition to the conditions that are currently on the licence:

1. The premises are to be operated at all times in accordance with the Plan of Management dated May 2017 as may be varied from time to time after consultation with NSW Police.

2. **CCTV**

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW or council inspector to provide such recordings.
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of varying the extended trading authorisation until 2:00 am.
5. No alcoholic drinks are to be sold or supplied after 12:00 midnight Monday to Saturday inclusive and 11:00 pm on Sunday.
6. No live entertainment other than background music will be provided in the hotel after 12:00 midnight.
7. Entry/exit to the hotel after 12:00 midnight will be restricted to The Entrance Road entry.
8. On any night when extended trading hours are exercised, thirty (30) minutes prior to closing time the licensee shall broadcast an audio message that can be heard by all patrons in the licensed premises requesting patrons to leave the premises quickly and quietly to maintain the good order of the neighbourhood.
9. Save for New Year's Eve, the licensee must ensure that no more than 90 patrons are on the premises at any time after midnight.
10. On Friday and Saturday evenings, the licensee must ensure that two (2) independent licensed uniformed security guards are on duty who are required to constantly monitor and patrol the exterior perimeter of the premises, including Fairview Avenue and The Entrance Roads, to a distance of 50 metres in all directions, from Midnight until 30 minutes after the venue closes. These guards shall also ensure that the hotel carpark and any areas near adjacent residential

apartments are kept free of loitering patrons (or potential patrons) by engaging such persons and making reasonable efforts to encourage their departure from the vicinity quickly and quietly. On Thursday and Sunday evenings, at least one (1) external uniformed licensed security guard must be on duty and tasked with these functions, although on Sunday evening the guard shall be posted from 10:00 pm until 30 minutes after closing. Security staff shall be in constant communication with each other and the hotel staff responsible for supervising the premises during these times, using personal radio communicators.

The Authority has decided pursuant to section 53(2)(b) of the Act that it is in the public interest to revoke, of the Authority's initiative, the former conditions numbered 240 and 250 from the licence. Those conditions concerned requirements to conduct security patrols of the exterior areas of the hotel that have been incorporated into a more comprehensive condition requiring the use of external security guards that is specified above.

For the purposes of section 49(6) of the Act, the Authority specifies that the extended trading hours granted in this decision only apply to the sports lounge and TAB area near bistro, bistro dining, bistro terrace, bistro bar, indoor and alfresco gaming, and sanitary facility areas.

The Authority has determined, pursuant to section 53(2)(b) of the Act, with effect from the day after the date of this letter, that the licensed trading hours for those areas of the hotel that *do not* fall within the Extended Trading Authorisation area will be from 8:00 am to Midnight Monday through Saturday and from 10:00 am to 11:00pm on Sunday.

If you have any questions about this letter, please email the case manager via ash.maurya@liquorandgaming.nsw.gov.au

Yours faithfully



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

Statement of reasons

Decision

1. On 16 February 2017 the Independent Liquor and Gaming Authority (“the Authority”) received an application (“Application”) from Mr Anthony Hayes (“the Applicant”) made through Liquor and Gaming NSW (“LGNSW”), seeking the variation of an existing extended trading authorisation that currently attaches to the full hotel licence of the Lakes Hotel – The Entrance (LIQH400109962) in respect of premises located at 201 The Entrance Road, The Entrance (“the Premises”). Mr Hayes is the licensee of the hotel operating on the Premises.
2. The Onegov licence record for the hotel indicates that the Premises is currently licensed to trade from 5:00 am to Midnight on Monday through Saturday and from 9:00 am until 11:00 pm on Sunday. That is, there is currently an extended trading authorisation in place on Sundays only between 9:00 am and 10:00 am and between 10:00 pm and 11:00 pm.
3. Pursuant to section 51(9)(b) of the *Liquor Act 2007* (“the Act”), the Authority has granted the Application to vary the extended trading authorisation so that the licensed trading hours of the hotel will now extend from 8:00 am to 2:00 am Monday through Saturday and from 10:00 am to Midnight on Sunday. As proposed by the Applicant, the Authority has varied the *opening hours* on Monday to Saturday within the standard trading period pursuant to section 53 of the Act.
4. The extended trading hours granted in this decision only apply to the Sports Lounge, TAB, Bistro Dining and Bar, Bistro Terrace, Indoor Gaming Area, Alfresco Gaming and sanitary facility areas of the Premises.
5. In reaching this decision, the Authority has had regard to all the material before it, the legislative requirements under sections 3, 11A, 48, 51 and 53 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“the Regulation”).

Material considered by the Authority

6. The Authority has considered the Application, the accompanying Community Impact Statement (“CIS”), and all submissions received in relation to the Application.
7. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
8. As foreshadowed in *Authority Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by LGNSW staff from publicly available sources.
9. The material considered by the Authority is listed in the Schedule, briefly described where appropriate.

Legislative framework

10. The Authority has considered the Application in accordance with the following legislative provisions.

Objects of the Act

11. The objects of the Act, as set out in section 3(1), are 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, to facilitate the balanced development, in the public interest, of the liquor industry, and to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
12. In the pursuit of these objectives, section 3(2) requires the Authority to have due regard to the need to minimise harm associated with the misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Trading hours and 6-hour closure period

13. Section 12 of the Act prescribes the standard trading period for different types of liquor licences. Section 11A requires the cessation of the sale of liquor by retail on a licensed premise for a continuous period of 6-hours during each consecutive period of 24 hours.

Public Interest Test

14. Section 51(9) of the Act provides that the Authority may vary or revoke an extended trading authorisation from time to time, subject to consultation with the licensee (section 51(13) of the Act).
15. While section 51 is silent as to the legal test to be applied when taking action under that section, it is apparent that the Authority should only vary or revoke an extended trading authorisation if satisfied that it is in the public interest to do so, informed by the statutory objections and considerations in section 3 of the Act.

Key findings

16. Having regard to the material before it and the relevant legislative requirements, the Authority makes the following findings.

Validity, procedural and trading requirements

17. The Authority finds that the Application has been validly made and meets the minimum procedural requirements under section 51 of the Act. The Authority notes that section 11A does not apply to this licence, by reason that the licence and extended trading authorisation were in force prior to 30 October 2008.
18. When considering whether the grant of the Application is in the public interest the Authority has considered whether the proposed extended trading hours fall within the scope of the development consent permitting use of the premises for the purposes of environmental planning legislation. The Authority is satisfied that development consent is in force for the proposed use of the Premises as a hotel, on the basis of historical development approval records issued by the former Wyong Shire Council and provided by the Applicant in correspondence dated 13 December 2017. The new Central Coast Council advises that consent was granted for use of the Premises as a hotel in 1941. The Applicant has provided a series of development approval determinations dating

from 2006 to 1986 recording permission to develop, or refurbish, or alter the Premises as a hotel, with no apparent restriction on the hours of use. The Authority is satisfied that these consent documents establish that permission to use the Premises as a hotel is in force with no express limitation as to the permitted hours of use for planning purposes.

Findings on Public Interest Test

19. The Authority is satisfied, on the basis of the information provided by the Applicant, that there is some significant support among those patrons of the hotel who utilize the hotel's service for the proposed further extended hours of operation. The Applicant has provided evidence of this support by way of a petition signed by 229 persons. However, the weight given to that evidence has been diminished by the fact that there is a significant minority of signatories using obviously false names, or who are located outside of the likely community that will ordinarily be served by, or impacted by, the operation of the hotel. There were also several signatories who had signed on more than one occasion. Nevertheless, the Authority accepts that a significant number of persons in the Central Coast Local Government Area ("LGA") and in particular The Entrance support the proposition.
20. That is, there is some evidence that granting the Application is consistent with the expectations, needs and aspirations of the relevant community, in furtherance of the statutory object in section 3(1)(a) of the Act. The venue will increase choice and some convenience for those on the premises at Midnight who wish to remain on the Premises and consume non-liquor goods and services or socialize at the venue for a longer period.
21. This community support is not unanimous. Local Police object to the proposal (on the bases discussed below) and 8 local residents who live in Torrens Avenue, Armidale Street and Fairview Avenue, in the neighbourhood of the hotel, oppose the Application primarily on the basis that extending the venue's hours will increase the prevailing adverse impacts upon local amenity that are currently experienced by neighbours.
22. The Authority accepts as credible the claimed disturbance that those submitters have alleged and have attributed to hotel patrons and finds it credible for those nearby the Premises to be concerned that later trading will bring with it patrons migrating to and from the hotel until later hours than is currently the case.
23. The Authority has only granted the Application over their opposition on the basis of the limitations proposed by the Applicant with respect to later trading activity and the additional harm minimization conditions imposed by the Authority aimed at the closer management of potential amenity impacts in the vicinity of the hotel.
24. The Authority is also satisfied that granting the Application will serve the *balanced* development of the liquor industry, in furtherance of the statutory object in section 3(1)(b) of the Act. Granting the Application will extend the availability of hospitality services on the Premises but with liquor service limited to midnight Monday through Saturday and 11:00 pm on Sunday – which is currently the case. Notably, a new licence condition will confine the maximum number of patrons on the Premises to 90 after midnight.
25. The Authority is further satisfied that granting the Application will contribute to the *responsible* development of related industries, which is a statutory object of section

- 3(1)(c) of the Act. The hotel will provide non-liquor services during the further extended licensed hours sought in this Application. The Application and CIS indicate that this will primarily, but not exclusively, take the form of later trading gaming and wagering services to be conducted in the gaming and sports bar areas but will also include the supply of non-liquor food and beverages during these later hours.
26. The Authority notes that Police have expressed concern about the social impact of expanding gaming or gambling operations on the Premises. The Authority accepts that the venue is prescribed as a Band 3 LGA under section 33 of the *Gaming Machines Act 2001* (“GM Act”), and that gaming machine related social impacts are relatively higher in the Central Coast LGA by comparison to most other local government areas in New South Wales. The Authority also accepts the Police contention that The Entrance is a disadvantaged community, on the basis of the Socio-Economic Indexes For Areas (“SEIFA”) data ranking the suburb in only the first decile on the Index of Relative Socio-Economic Advantage and Disadvantage compared to other suburbs within the State.
 27. There is an application to vary an existing extended trading authorisation under section 51(9) of the Act. Unlike an application for extended trading at first instance, when clause 10A of the Regulation mandates that a CIS address gambling impacts during the proposed extended trading period, the legislation does not mandate the provision of a CIS in support of an application to vary an existing extended trading authorisation. The Applicant has nevertheless furnished a CIS document providing relevant information about the Application and has provided detailed and specific submissions dated 25 October 2017 on the nature and scope of gambling impacts that may be expected to occur on the Premises during the hours sought, addressing matters identified in Authority Guideline 6.
 28. Without purporting to repeat the Applicant’s submissions, they submit that the LGA is on the “cusp” of Bands 2 and 3; provide a comparison of this LGA to other Band 3 areas; note the extent of additional gambling hours sought by the Application; specify the availability and proximity of other hotels and clubs in the local community; refer to gambling prevalence research performed by Ogilvy Interactive for LGNSW during 2011 finding that problem gamblers constituted 0.8% of the population on the Central Coast, equal to the State average and submit that Police have not provided a report to which they refer on problem gambling on the Central Coast. The Applicant also provides net gaming machine profit analysis for the venue’s gaming machines indicating that the “per capita” profit obtained by this venue’s machines is substantially lower than the average profit per capita for the LGA as a whole and demographic data from the hotel’s customer loyalty program showing that 73.5% of gaming machine players are over 40 years, not in the highest risk age group for problem gambling.
 29. The Authority is not, in this context, performing an overall social impact assessment of late night gambling services to be conducted on the premises. It has assessed the information provided in the Application about the range of services to be provided, including gaming machines and TAB services, through the prism of the statutory objects and considerations provided by section 3 of the Act.
 30. There will be no apparent expansion in the *nature* of gaming and wagering services provided at the hotel during the additional hours, with the venue maintaining the same number of gaming machines and its current sports bar operations.

31. Plainly enough, the availability of gambling will increase over an additional 13 hours per week in the evening. While the extension of gaming and gambling at this venue is a significant development and may well pose a risk of adverse social impacts (given the relatively sensitive nature of the Central Coast LGA to gaming related impacts), the venue will be closed for at least 6 hours from 2:00 am to 8:00 am, providing a break in the availability of gambling services on the Premises.
32. The proposed extension of opening hours disclosed in the Application does not present as an *irresponsible* development of a “related industry” contrary to the object of section 3(1)(c). This is particularly the case when considered in the context of the late trading gambling services offered the Entrance Bowling Club and other hotels and clubs in the LGA, as evident from LGNSW licensed premises information before the Authority.
33. There is no planned increase in the nature of gaming or gambling operations (other than later trading times) and the Authority expects that the gambling operations at the venue will not expand beyond that disclosed in the Application and submissions.
34. Of the statutory considerations that the Authority is required to consider under section 3(2) of the Act, sections 3(2)(a) and 3(2)(c) are most relevant. There is no evidence or information regarding irresponsible sales practices by the hotel or indicating that granting this Application would increase the scope for the irresponsible promotion, sale, supply, service and consumption of liquor pursuant to section 3(2)(b) of the Act.
35. Section 3(2)(a) of the Act requires the Authority to consider the need to minimize harm associated with the misuse and abuse of liquor. This factor requires careful assessment and the Authority accepts, on the basis of BOCSAR crime data for The Entrance that this community (most likely to patronize the venue) is exposed to substantially higher rates of *alcohol related non-domestic assault* and *alcohol related domestic assault* than NSW generally, with a concentration of alcohol related assault across the area in which the hotel is situated apparent from BOCSAR hotspot maps before the Authority.
36. However, granting this Application will not extend the hours in which liquor may be sold or supplied on the Premises. The Applicant does not seek to extend its liquor service hours and consents to the imposition of a condition that would prevent the sale or supply of liquor after midnight Monday to Saturday and after 11 pm on Sunday.
37. That does not mean that extending the hours of the venue may not contribute to liquor related impacts, in that patrons who order last drinks before those times may now be able to remain on the Premises and complete the consumption of those drinks for a time thereafter. Granting the Application will also mean that alcohol affected patrons are likely to be leaving the Premises at a later time of the morning than is currently permitted by the licence.
38. Nevertheless, the condition ceasing liquor service during the proposed further trading hours, considered alongside some reduction in licensed liquor trading hours in the mornings, combined with the measures recorded in the now enforceable Plan of Management dated May 2017 and the additional licence conditions imposed by the Authority in this decision (including a maximum post-midnight patron limit of 90 persons) satisfy the Authority that the proposal satisfies the statutory consideration in section 3(2)(a) of the Act.

39. Section 3(2)(c) of the Act requires the Authority to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life. This consideration is most pertinent to this Application, by reason of the credible adverse amenity impacts described by residents of the neighbourhood, and the potential for an increase in late night trading hours to increase the scope for adverse impact upon local amenity. This is a natural consequence of patrons travelling to, or leaving, the Premises at later and more sensitive times of the evening than is currently permitted by the licence.
40. Local neighbouring residents contend, and the Authority accepts, that they have been subject to noise impacts, patron migration, anti-social behaviour, crime, litter (glass and bottles), behaviour of intoxicated patrons, cars being set alight, patrons sleeping naked on residents' porches, and persons swearing and fighting.
41. The Authority has considered a compliance report conducted by A and M Consultants making certain positive observations on the hotel's liquor compliance practices and noting no anti-social conduct was observed by patrons of the venue during a covert observation but the Authority finds that neighbouring residents are better placed to gauge actual amenity impacts from the Hotel's patrons over time than a consultant who was engaged by the Applicant to attend the Premises over one Friday and one Saturday evening.
42. During its consideration of this Application a significant and relevant event was brought to the Authority's attention. It concerned a "one punch" death that occurred on the street in the neighbourhood of the Premises on New Year's Day 2018. Aside from media reports the only direct evidence before the Authority is an unsworn written statement by the Applicant as to what he observed of the incident.
43. The Authority accepts, on the basis of the Applicant's statement, that the victim, Mr Haydn Butcher, was asked to leave the hotel by a security guard at 11 pm on 31 December 2017 for showing signs of intoxication. He left the premises without incident. Mr Butcher continued to come and go to the venue between 11 pm and 1 am but was refused re-entry. An altercation occurred between a young male and a young female at 1 am. The young female left the hotel and ran down Fairview Avenue towards the hotel's carpark and was knocked to the ground by Mr Butcher. The Applicant observed a male, Mr George Habkhouk, run down the road in the same direction and punch Mr Butcher in the face, causing Mr Butcher to fall to the concrete hitting his head. The Applicant called an Ambulance. A review of CCTV showed that Mr Butcher was served "three drinks" and Mr Habkhouk had drunk "3-4 schooners of beer".
44. Ordinarily, the BOCSAR data indicating elevated rates of alcohol related assault in the suburb in which a venue is situated, venue specific evidence of amenity impacts and a recent late-night assault causing the death of a patron are factors that may militate the extension of late trading hours.
45. However, by reason that there will be no late-night extension of liquor sales anywhere on the Premises, the measures in the enforceable Plan of Management dated May 2017 and the new conditions imposed by the Authority with regard to increased external security and patron limits, the Authority is satisfied that the proposed extension of the existing extended trading authorisation is in the public interest.

46. The Authority accepts the information provided by the Applicant through his solicitor that the hotel has not been the subject of any alleged breaches of licensing legislation in the last three years and has not been a “declared” premises in any of the rounds of assessment of violent licensed premises for the purposes of Schedule 4 to the Act. The hotel has a good recent record of compliance with licensing legislation.
47. The Authority notes that the enforceable Plan of Management dated May 2017 requires cleaners to maintain the area of the hotel. There are clearly sensitivities in the Premises. Police have put the licensee on notice of their concerns regarding management of patrons after midnight. Should late night anti-social conduct and/or litter reasonably attributable to the hotel’s operations or its patrons cause additional disturbance to nearby residents, notwithstanding the conditions imposed by this decision, residents would be within their rights to seek remedial action from the Secretary of the Department of Industry (via a complaint to the Compliance Section of LGNSW under section 79 of the Act) on the basis that the hotel’s operations and/or the behaviour of patrons is causing undue disturbance to the quiet and good order of the neighbourhood.
48. Finally, the Authority notes that there are several areas within the hotel’s licensed boundary that are *not* the subject of this Application. They include the areas described on the Applicant’s diagram of the Premises as “TAB” (a second, larger TAB area), Pool Table, Public Bar, Terrace, Bottle Shop, Cool Room, Warehouse and Kitchen areas. These areas were licensed from 5:00 am to Midnight Monday through Saturday and from 9:00 am to 11:00pm on Sunday.
49. However, on the basis of the information about the hotel’s trading hours that was provided to the community in the CIS, the extension of evening licensed trading now granted by the Authority and noting the Applicant’s consent in an email dated 10 April 2018, the Authority has decided, pursuant to section 53(2)(b) of the Act, to reduce the licensed trading hours for those other areas of the Premises to between 8:00 am and Midnight on Monday through Saturday and between 10:00 am and 11:00 pm on Sunday.



Philip Crawford
Chairperson

Important Information:

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

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <http://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

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

Schedule

Material before the Authority

1. Application form seeking variation of licence conditions made to the Authority by the Applicant, Mr Anthony Hayes dated 16 February 2017, with Notice of Application to NSW Police, Notice to Local Consent Authority, a Site Notice and Notice to Neighbouring Premises and other Stakeholders all signed by the Applicant and dated 16 February 2017.
2. CIS Form submitted by the Applicant accompanying the Application. It includes legal submissions on the merits of the Application, information about the nature of the scope of extended trading sought, proposed conditions to which the licence will be subject, services to be provided during extended hours, information about the Plan of Management, security and transport availability, licence density, responses to pre Application consultation and submissions on the objects and considerations in section 3 of the Act. Also provided is a diagram of the licensed boundary of the Premises and the areas to which the extended trading hours and minors area authorisation will and will not apply.
3. Copy of letter from the Applicant to Central Coast Council dated 16 February 2017 accompanied by an annotated Notice to Local Consent Authority from Council's Development Assessment Unit dated 2 March 2017 advising that development consent to use the Premises as a hotel has been in force since 1941. Council also refer to DA 692/03 for refurbishment of the hotel and DA646/12 on an application for alternations to the hotel.
4. Four and a half pages submission from Senior Constables David Zappas and Matt Dyer of the Tuggerah Lakes Licensing Unit of NSW Police dated 4 April 2017 (with supporting correspondence from other officers) opposing the Application noting that section 15(1)(a) of the Act requires the primary purpose of a hotel licensed premises to be the sale of liquor and section 15(1)(b) which requires that gaming machine operations not unduly detract from the character of the venue or the enjoyment of patrons using the hotel otherwise than for the purpose of gambling. Police raise concerns as to how management will manage the reduction in patron numbers in the proposed extended trading areas down to 90 at midnight and the orderly exit of patrons from the Premises, proposing measures that may assist with that transition. Police submit that a 2010-2011 survey indicated that the Central Coast had the highest prevalence of gaming machine problem gamblers in NSW and that patrons aged 18-24 on the Central Coast are a high-risk group for problem gambling. Police note that the Central Coast LGA is designated as a Band 3 area under the GM Act and attach articles on Gambling in Australia from a blog problemgambling.net.au and an article from the Daily Telegraph dated 8 December 2016 on problem gambling on the Central Coast, with a LGNSW Fact Sheet on the division of LGAs into Bands under the GM Act. Police submit that the closure of the only "active" late trading venue in 2012 (a nightclub) coincided with a reduction in crime and emergency call outs in The Entrance noting that many such incidents occurred between midnight and 3 am. Police provide further Local Area Command data indicating that midnight to 6 am is a higher risk time of licensed trading for assaults and brawls. Police also refer to BOCSAR crime data for The Entrance and submit that the hotel is currently designated a "level 3" premises under the scheme for violent venues in Schedule 4 to the Act (recording between 8-11

incidents of violence over a 12-month regulatory period). In the alternative, Police propose a number of harm minimisation conditions should the Application be granted, including inter alia additional security guards, restrictions on liquor and live entertainment, and confining the extended hours to the Sports Lounge and Gaming Room only.

5. Plan of Management for the Premises dated May 2017.
6. Applicant legal submissions via Hatzis Cusack Solicitors dated 22 June 2017 in response to communication from licensing staff seeking responses to community submissions (including Police submissions) and further information on the Application. The submissions included information about the classification of local government areas under the Gaming Machines legislation, a petition in support of the Application, a Compliance Report from A and M Consultants dated 5 June 2017, images from the hotel website featuring its bar, accommodation, bistro, VIP Lounge (which the Authority understands to be its gaming room) and entertainment services
7. Applicant legal submissions via Hatzis Cusack Solicitors dated 29 June 2017 in response to communication from licensing staff providing Certificates of Advertising completed by Mr Brett Tobin, Solicitor and Mr Jordan Harris and an amended Plan of Management for the Premises dated May 2017 and clarifying that for those areas of the Premises that are not the subject of this Application, Sunday trading will remain as presently exercised, from 9:00 am until 11:00 pm.
8. Submission from NSW Aboriginal Affairs dated 27 September 2016 advising no objection provided that local Aboriginal organisations have been consulted.
9. Email submission from an unnamed resident of Torrens Avenue (apparently provided to the Applicant during the CIS process and filed with the CIS) responding to the Application contending that the venue currently generates loud music and unruly conduct from hotel patrons. Noting that the writers unit overlooks the car park, they contend that music escapes from the venue and that noise impacts affect their ability to sleep and extending the hours will make this situation worse.
10. Email submission from Mr Balks, a resident living next to the hotel dated 1 October 2016 contending that residents are already subject to loud noise and anti-social behaviour most weekends and this impacts the ability of people to get up early for work.
11. Email submission from Mr Fitzsimmons, a resident living adjacent to the hotel, dated 6 October 2016 contending that residents are already subject to noise from live entertainment, and general anti social behaviour. The hotel pays scant attention to security in the general area and in particular their car park, with serious assaults, thefts, brawls and cars set on fire in the area. The executive of the apartment building receive constant complaints about noise from the hotel impacting the ability of residents, including shift workers, to sleep.
12. Email submission from Mr Heinz, a resident directly behind the hotel dated 6 October 2016 contending that the location of the hotel and in particular the car park currently creates a noise factor for residents and extending the hotel's hours would be "intolerable".

13. Email submission from Ms Hodges, a resident living directly behind the hotel dated 10 October 2016. The author writes that limiting the exit to The Entrance Road will make no difference to residents by reason that patrons still access the parking lot, do not do so quietly and throw glasses and bottles onto the nearby grassed area. Recently a group set fire to a car in that area causing noise and damage. The writer contends that she has witnessed “many distasteful things” at the hotel and that even though the hotel has cleaned up its practices the environment is not conducive to extended trading.
14. Email submission from D and C Baker, residents of Armidale Street dated 12 October 2016 advising that their one concern is the prospect of live music continuing until 2 am by reason that they live very close to the hotel.
15. Email submission from Ms Henry, a resident who lives “close by” to the hotel dated 13 October 2016 and who contends that she is currently impacted by noise and rowdy behaviour of intoxicated patrons leaving the hotel and this would be accentuated on a more regular basis if the Application is granted.
16. Two-pages letter from Ms Hollands and Mr Zammit of Fairview Avenue dated 14 October 2016 contending that a substantial residential development is located within 50 metres from the hotel, and their 78 years old mother lives there. The writers contend that their mother is exposed to noise and anti-social behaviour from patrons of the hotel, including one instance of a patron taking his clothes off and sleeping on her front porch. They contend that during Summer when their mother needs to keep her windows open she is subject to noise impacts and enabling the venue to run until 2 am will impact her ability to sleep. They contend that patrons leaving the venue are noisy and disruptive, swearing and occasionally fighting. They contend that restricting the exit to The Entrance Road will not prevent these impacts and that existing parking is inadequate, causing patrons to move down their mother’s road. They question whether Security staff will have the authority to prevent these impacts, other than to break up fights. They submit that the commercial interests of the hotel owners and the convenience of patrons and mostly tourists should not override the interests of residents who have to live nearby. The hoteliers should acquire a more appropriately located venue if they wish to trade late.
17. Submission from Applicant via Hatzis Cusack lawyers dated 25 October 2017 responding to Police concerns about gambling issues at the venue. The submission addresses whether Banding of an LGA per se is a suitable proxy for gaming machine related harm in a suburb within that LGA, notes that Police do not provide the survey to which they refer about problem gambling on the Central Coast, notes that the Ogilvy Interactive Survey performed for LGNSW in 2011 found problem gambling prevalence in the Central Coast to be at the State average of 0.8%, and providing data on gaming machine profits for the hotel to the effect that the per capita gaming machine profits exacted from persons in The Entrance may be relatively modest compared to the per capita profits gained by hotels across the LGA and noting that no Central Coast hotels ranked in the top 150 venues for gaming machine profit in the most recently available LGNSW rankings. The Applicant further submits that its customer loyalty data indicates that its customer base is skewed towards older age groups (with 73.5% over 40 years), not in the 18-24 age group that is considered particularly at risk for problem gambling. The Applicant also refers to the hotel’s participation in 3 gambling harm minimisation schemes and that only 2 patrons have approached the hotel in the past 3 years

seeking voluntary self-exclusion. The Applicant makes a number of contentions as to how its gaming operations will benefit the local community.

18. Submission from the Applicant via Hatzis Cusack lawyers dated 13 December 2017 providing submissions on the development consent instruments issued with respect to the Premises. The Applicant provides details of instruments dating from 2006 to 1986, noting that none of those development approvals or decisions permitting refurbishment or alteration of the Premises prescribe hours of use of the Premises. The Applicant submits that the planning instruments permitting use of the Premises as a hotel are silent as to hours, the hours are unrestricted for the purposes of planning legislation. The Applicant submits that the hotel is subject to both the Wyong Development Control Plan 2013 and Wyong Local Environmental Plan LEP 2013 and neither contains provisions regulating the operation of licensed premises in The Entrance or would restrict this Hotel from operating after Midnight Monday to Saturday or after 10:00 pm on Sunday.
19. Sydney Morning Herald article dated 2 January 2018 titled "man charged after alleged one-punch attack on Central Coast".
20. Submission from the Applicant via Hatzis Cusack lawyers dated 15 January 2018 summarising the Applicant's understanding of the death of Mr Haydn Butcher in the neighbourhood of the Premises early in the morning on 1 January 2018 following an assault upon him by a hotel patron. A signed statement is provided by the Applicant dated 15 January 2018.
21. LGNSW Inspection Summary Report dated 5 February 2018 by LGNSW officers Mathew Bianco and Daniel Zuccarini regarding covert inspection of the Premises on 20 January 2018, 25 January 2018 and 2 February 2018. No breaches were detected during the first two inspections, although three intoxicated females were observed on the Premises during the third inspection, while the officers did not observe the patrons purchasing liquor while at the venue. Police detected no breaches that evening.
22. Social Impact data obtained by licensing staff current as of June 2017, including licence and late trading density data for NSW, the former Gosford and Wyong Council areas and The Entrance, using population data from ABS and LGNSW licensed premises data as of June 2017.
23. LGNSW list of licensed premises in the Central Coast LGA as of 19 June 2016.
24. BOCSAR Crime hotspot data for The Entrance for the period April 2016 to March 2017 for alcohol related assault, domestic assault, non-domestic assault and malicious damage.
25. Google Maps and aerial photographs of the Premises and surrounding streets.
26. ABS SEIFA, BOCSAR and NSW Department of Health data obtained by licensing staff for the former Gosford LGA.
27. OneGov licence record for the licence number LIQH400109962 as at 19 April 2017.
28. LGNSW Compliance Record for the Premises for the period from July 2008 to July 2017.
29. Additional data (sourced by the Authority Secretariat) was also before the Authority which included:

- BOCSAR hotspot maps for the local community from October 2016 to September 2017 for incidents of non-domestic assault, domestic assault, malicious damage to property and alcohol related assault;
 - BOCSAR crime data for the Year to September 2017 for the Entrance, Central Coast LGA and NSW for incidents of alcohol related assault, alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property. The rate of alcohol related domestic assault in The Entrance was 760.5 per 100,000 persons compared to a NSW rate of 114.3. The rate of alcohol related non domestic assault was 564.3 per 100,000 persons compared to 131.9;
 - SEIFA scores for the Entrance and the former Gosford and Wyong LGAs;
 - BOCSAR proportion of incidents by offence type, day of week and time of day for the former Wyong and Gosford LGAs.
30. Email from the Applicant through its solicitors to licensing staff dated 10 April 2018 consenting to the imposition of licensed trading hours in the ETA area of the Premises from 8:00 am to 2:00 am Monday through Saturday and 10:00 am to Midnight on Sunday. In all other areas of the Premises the Applicant consents to licenced trading hours of 8:00 am to Midnight on Monday through Saturday and 10:00 am to 11:00pm on Sunday. The Applicant also consents to a new security condition.