



Mr Murray Fahey
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Dear Mr Fahey

**Application to Vary an Extended Trading Authorisation
Kingsgrove Hotel, Kingsgrove**

INTRODUCTION

1. I am writing to you about an application (**Application**) made to the Independent Liquor and Gaming Authority (**Authority**) by Mr Chris Thomas (**Applicant**) on 30 May 2014 for the variation of an existing extended trading authorisation (**ETA**) under section 51(9)(b) of the *Liquor Act 2007* (**Act**) in respect of the Kingsgrove Hotel, located at 236 Kingsgrove Rd, Kingsgrove (**Premises**).
2. The Application was originally lodged by Mr Chris Thomas however the licence LIQH400102852 was transferred to Mr Andrew Cronin in October 2014. On 18 December 2014 Mr Cronin provided his consent for the Application to proceed.
3. The Kingsgrove Hotel currently has the benefit of an ETA and is licensed to sell or supply liquor for consumption *on* the Premises between 5:00 am and 3:00 am Monday through Saturday and between 10:00 am and 10:00 pm on Sunday.
4. Being a hotel licensed venue, the Premises is also licensed to sell or supply liquor for consumption *off* the Premises. The OneGov licence record indicates that the Premises is currently licensed to sell takeaway liquor between 5:00 am and 12:00 midnight Monday through Saturday and between 10:00 am and 10:00 pm on Sunday.
5. However, while the hotel may have previously enjoyed those trading hours for takeaway sales, amendments to the Act legislated in 2014 now prevent the sale or supply of liquor for consumption off any licensed premises in New South Wales after 10:00 pm on any evening. The Applicant has also voluntarily proposed to reduce its takeaway hours to between 10:00 am and 10:00 pm seven days per week.
6. The Application seeks an extension of already extended trading hours at the Premises to permit the hotel to engage in further licensed on-premises trading until 12:00 midnight on Sunday evenings.

7. The Authority's power to vary or revoke an existing ETA is conferred by section 51(9)(b) of the Act.
8. The Authority considered the Application material and all submissions made in relation to the Application at its meeting on 4 March 2015. The Authority decided to *grant* the ETA Application under section 51(9)(b) of the Act. As a result, the existing ETA attaching to the licence will now permit licensed trading until 12:00 midnight on Sunday .
9. Liquor applications comprise a high volume aspect of the Authority's jurisdiction and while this Application is not a "relevant application" in respect of which reasons must be provided, this letter serves to provide a brief summary of the Authority's reasons for granting the Application.

MATERIAL BEFORE THE AUTHORITY

10. The Authority had before it the Application, the accompanying Category B Community Impact Statement (CIS) document submitted by the Applicant (which the Authority notes was provided *voluntarily*, and was not mandated by section 48(2) of the Act) and further submissions and other relevant material.
11. Application Form and CIS filed with the Authority on 30 May 2014. In the CIS, the Applicant submits that while initially it was proposed to extend trading hours to 4:00 am on Monday through Saturday and to 12:00 midnight on Sunday, the Application has been amended to seek an extension of hours to 12:00 midnight on Sunday only. This decision was made in response to the Applicant receiving several objections from stakeholders during the consultation process.
12. The Applicant contends that granting the amended Application will have "...little to no negative impact" on the local community, but rather will "...benefit the Kingsgrove community" by providing meals "...at a time when local restaurants are closing". The Applicant submits that staff and management will comply with RSA (Responsible Service of Alcohol) and RCG (Responsible Conduct of Gaming) requirements during extended trading hours and that non-alcoholic beverages as well as food will be available to patrons.
13. In the Application form, the Applicant contends that entertainment in the form of trivia competitions and poker nights will be available during the extended trading hours sought; that "substantial meals" will be available "...at all times that the hotel is trading"; and that "...there have been no incidents of disturbances due to the conduct of staff ensuring that patrons depart in an orderly manner, that RSA is observed, that taxis are called for patrons".
14. Diagrams of the Premises provided by the Applicant indicating the area of the hotel proposed to have extended trading hours, which excludes the bottle shop.
15. *Kingsgrove Hotel House Policy & Regulations*. This one page document contains rules for staff including in relation to, *inter alia*, the need to ensure that ID is requested for age verification purposes; ensuring the responsible service of alcohol; patrons leaving the Premises quietly, without incident and in consideration of the amenity of local residents.
16. *Kingsgrove Hotel Plan of Management*. This detailed 22-page document states that its purpose is to "establish performance criteria" for the operations of the Premises and that all staff involved with the sale or supply of liquor or security should be familiar with its contents. The Plan deals with, *inter alia*, amenity of the Kingsgrove neighbourhood;

signage; noise; behaviour of patrons; RSA requirements; delivery and waste disposal; maintenance; fire and safety. In relation to security, the Plan states that a licensed security guard shall be on the Premises whilst extended trading hours are being exercised and that CCTV surveillance of the interior of the hotel as well as the entry and vicinity of the Premises shall be in operation at all times.

17. OneGov liquor licence record for licence number LIQH400102852 for the Premises as of 18 February 2015 noting the current licensed trading hours that the licensee is Mr Andrew Cronin, and the business and premises owner is George Thomas Hotels (Kingsgrove) Pty Limited.
18. Copies of stakeholder notices in respect of the Application in its original form seeking extended trading hours to 4:00 am after Monday evening trade through to Saturday, and to 12:00 midnight on Sunday evening.
19. Copies of letters from Applicant's representative, Mr Murray Fahey (Perkins Fahey Lawyers) on behalf of the Applicant to stakeholders dated 16 January 2014 advising that the response period has been extended by the Applicant for seven business days to 24 January 2014 to accommodate public holidays and concerns regarding the timing of the Application.
20. Submission from Mr Chris Minns (Labor candidate for the State electorate of Kogarah) dated 5 February 2014. (This submission was made in response to the Applicant's original proposal which included trade to 4:00 am after Monday through to Saturday evening trade.) In this submission, Mr Minns submits that he has been approached by many Kingsgrove residents who object to the Application and urges the Authority to reject the Application "...for the sake of the whole Kingsgrove area and the many families that this would have a negative impact on". Mr Minns contends that the new restrictions - which will come into force in the Sydney CBD on 24 February 2014 - will lead to young people opting to drink at local establishments with longer hours rather than going into the city.
21. Letter from Mr and Mrs Ormerod to Applicant's representative dated 7 January 2014. (This submission was made in response to the Applicant's original proposal which included trade to 4:00 am after Monday through to Saturday evening trade.) In this letter, Mr and Mrs Ormerod submit that they have "strong objections" to the Application and that if granted, an entire community will be subjected to "...greater likelihood of problem drinking and a greater sense that their neighbourhood is unsafe". They submit that certain patrons are more likely to become dangerous when inebriated and that "...cases of violence have diminished the sense of safety in the community". Mr and Mrs Ormerod request that the consultation period for the Application be extended to "...realistically allow for a proper response from the community", given a call for comments was made over the Christmas holiday period.
22. Letter from Ms Anne Colreavy, Principal of Our Lady of Fatima Catholic Primary School, Kingsgrove, to Applicant's representative dated 15 January 2014. (This submission was made in response to the Applicant's original proposal which included trade to 4:00 am after Monday through to Saturday evening trade.) In this letter, Ms Colreavy objects to the Application and submits that "...increased trading hours may result in increased alcohol related crime and public disturbance in the local community", noting that the hotel is in close proximity to the primary school. Ms Colreavy states that school children in the area have already been "...confronted by unpleasant situations" including a "...police chase through school grounds as a consequence of a crime committed at the hotel" and

contends that in a "...climate of alcohol related crime", licensed venues should be considering curbing trading hours rather than extending them.

23. Letter from Father Hamilton Ureta and Mr Damian Fisher of Our Lady of Fatima Parish, Kingsgrove (Parish) to the Applicant's representative dated 10 January 2014.

[This submission was made in response to the Applicant's original proposal which included trade to 4:00 am after Monday through to Saturday evening trade.]

In this letter, the Parish objects to the Application and expresses concerns about the impact of extended trading hours on alcohol related crime, problem gambling and public disturbance. The Parish submits that the Premises has had "...several armed robberies all within their current trading hours". The Parish submits that the Application would increase the opportunity for gambling which can be a cause for family breakdowns, and that the Applicant's consultation period was timed inappropriately over the Christmas holiday period. The Parish notes that the Applicant's notice was forwarded by the Parish to other noted interested parties, including MPs and other local churches.

24. Letter from Father Hamilton Ureta and Mr Damian Fisher of Our Lady of Fatima Parish, Kingsgrove to the Applicant's representative attaching a petition containing 350 signatures in support of the "...campaign against extending trading hours" at the Premises.

[This submission was made in response to the Applicant's original proposal which included trade to 4:00 am after Monday through to Saturday evening trade.]

25. Copies of letters from Applicant's representative to Mr and Mrs Ormerod, Ms Colreavy and Our Lady of Fatima Church dated 7 February 2014. In this letter, Mr Fahey states that the time for community response was extended by a further seven business days (to 24 January 2014), during which further submissions were received. Mr Fahey confirms that the Applicant adheres to all requirements under the Act including RSA and RCG practices. Mr Fahey states that the hotel should be contacted immediately if any incidents of community disturbance attributable to the Premises occur and provides the hotel's phone number, noting that CCTV cameras and other security measures are in place at the Premises.
26. Copies of letters from Applicant's representative to Mr and Mrs Ormerod, Ms Colreavy and Our Lady of Fatima Church dated 23 April 2014. In this letter, Mr Fahey states that the Applicant has "...amended the Application to exclude the previous proposed extended trading hours to 4 am after Monday through Saturday evening trade" and to seek only extended trading hours to 12:00 midnight on Sunday. Mr Fahey invites any further comment on the Application for inclusion in the Applicant's CIS.
27. Submission from Mr Paul Murray of Roads & Maritime Services (RMS) to the Applicant's representative dated 30 January 2014. In this submission, RMS requests that if the Applications are granted, that physical barriers be installed between the footpath outside the Premises and the roadway; access be provided to local public transport information and taxi services; material focused on drink driving and pedestrian-alcohol related issues from either Council or RMS be displayed at the Premises; and an Australian Standards Approved breath testing device, enabling patrons to test their BAC (Blood Alcohol Content) levels, be installed at the Premises.
28. Copies of letter from Applicant's representative to RMS dated 7 February 2014. In this letter, Mr Fahey states that physical barriers outside the Premises are a matter for

Council and that the Applicant does not agree to install a breath testing device as there have been instances of patrons at the Premises tampering with or otherwise misusing these devices. Mr Fahey states that the Applicant otherwise agrees with the requests made by RMS.

29. Letter from the Department of Family & Community Services dated 6 January 2014. In this letter, the Department advises that it has no response in relation to the Application.
30. Determination on Development Application number 2003/977 from Rockdale City Council (Council) dated 20 May 2014 (DA). This document records the grant of development consent for the variation of extended trading hours at the Premises to 12:00 midnight on Sundays. The DA is valid for a period of two years from the date of approval. The DA addresses issues regarding security and noise and advises that food facilities should be available during all hours of operation.
31. Report to Authority dated 2 June 2014 from a delegate of the Secretary of NSW Trade & Investment through the Compliance Division of the Office of Liquor Gaming and Racing (OLGR). OLGR object to the Application but requests that, should the Authority see fit to grant the Application that a condition be placed on the hotel's licence stipulating that the venue's kitchen must remain open and able to serve meals to patrons during the extended trading period. OLGR submits that the Premises was the subject of two armed robberies during 2013 both of which occurred during the venue's existing extended trading period, demonstrating that the current ETA has already placed staff and patrons at "...an unacceptable level of risk". OLGR notes that the Premises has had three different licensees in less than a year, with the current licensee only having been in the role for just over a month at the time of that submission.
32. OLGR submits that the Applicant's contention that the Application will benefit the Kingsgrove community by providing meals at a time when local restaurants are closing "...may be partly true" but that it is "more likely" that the Applicant is seeking additional trading hours in order to increase alcohol sales and gaming at the Premises.
33. OLGR submits that in its opinion the business model for this type of licensed business (a full hotel licence) is assessed as a "high risk" operation. OLGR notes that the radial density of licensed venues in Kingsgrove is on par with the State average and that the location risk of the venue is rated as "low".
34. OLGR submit that crime data from the NSW Bureau of Crime Statistics and Research (BOCSAR) records that the rate of *alcohol related assaults (domestic and non-domestic)* that occurred in Kingsgrove was 137 per 100,000 persons compared to 330 per 100,000 persons for the whole of NSW, and the rate of *alcohol related disorderly conduct* offences in Kingsgrove was 8 per 100,000 persons compared to 110 per 100,000 persons for the whole of NSW. OLGR submits that crime data indicates that Kingsgrove has a "mild concentration" of alcohol related anti-social behaviour when compared to the State average.
35. Submission from Senior Constable Sarah Chalmers of St George LAC (Police) dated 3 July 2014. Police advise that they do not object to extended trading hours at the Premises on a Sunday night to 12:00 midnight, however they do object to extending trade to 4:00 am on Monday through Saturday. Police submit they are unclear as to what is being sought by the Applicant and that if the Application relates to the 4:00 am closing Police wish to be advised and will make a further submission.

36. Letter from Applicant's representative to Authority dated 12 January 2015. In this letter, Mr Fahey advises the Authority that due to public submissions received in relation to the Applicant's initial proposal to extend trading hours to 4:00 am on Monday through Saturday, the Applicant readvertised the Application on 23 April 2014 in relation to its modified proposal which seeks extended trading hours only on Sunday evenings from 10:00 pm to 12:00 midnight. Mr Fahey states that "...no further reply or comment" was received after 23 April 2014.
37. Mr Fahey states that the Applicant "does not agree" with OLGR's contention that armed robberies at the Premises indicate an unacceptable level of risk during extended trading hours, as the Applicant has been "...a hotelier for a number of years and has experienced robberies in the hotel group's venues during the day and night and does not believe there is a pattern to be drawn from this". Mr Fahey also submits that no such incidents occurred at the Premises in 2014.
38. Mr Fahey states that the Applicant "does not agree" to the proposed condition that:

...the licensee must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than that could be reasonably expected from the information contained in the Community Impact Statement application and other information submitted in the process of obtaining extended trading authorisation.

The Applicant would find it difficult to know how this condition would be assessed by Police and compliance officers, and contends that the amenity of the community would be better served by the venue's staff adhering to the Hotel's Plan of Management.
39. BOCSAR crime mapping data for October 2013 to September 2014 indicating that the Premises is located within a low density hotspot for the concentration of *domestic assault* offences, and within a medium density hotspot for *malicious damage* offences.
40. BOCSAR crime data for calendar year 2013 detailing rates of offences for the Rockdale LGA compared to NSW as a whole. This data indicates that for calendar year 2013, the rate of *domestic assault* incidents in the LGA was 269.8 per 100,000 persons, below the rate for NSW as a whole of 388.1 per 100,000 persons. The rate of *non-domestic assault* incidents in this LGA was well below the NSW rate, at 241.1 per 100,000 persons, as opposed to 463.6 for the State as a whole. The rate of *assault police* incidents in this LGA was 8.6 per 100,000 persons, comfortably below the rate for NSW as a whole of 36.2. The rate of *malicious damage to property* incidents in this LGA was 639.1 per 100,000 persons, also well below the NSW rate of 1043.2.
41. BOCSAR *Report on Crime for New South Wales* for calendar year 2013.
42. BOCSAR *Report on Crime for the Rockdale LGA* for calendar year 2013. This data indicates that for calendar year 2013, the *proportion of domestic-violence related assaults* that occurred in the Rockdale LGA in which alcohol was flagged by Police as a contributing factor was 23.8%, lower than the proportion in NSW as a whole of 35.4%. The proportion of *non-domestic assaults* flagged by Police as alcohol related in this LGA was 26.6%, also lower than the proportion in NSW as a whole of 39.0%. The proportion of *malicious damage to property* incidents in the Rockdale LGA flagged by Police as alcohol related was also lower than the NSW State average, at 4.8% compared with 11.0%.
43. BOCSAR *Report on Crime by LGA and Alcohol Related Status* for calendar year 2013. This report records *rates* of alcohol related offences which occurred in each LGA and on

average across NSW. The data indicates that in calendar year 2013, the rate per 100,000 persons of alcohol-related *domestic assault* incidents in the Rockdale LGA was 64.1, lower than the NSW rate of 137.3 per 100,000 persons. The rate of *non-domestic assault* in the LGA was also 64.1 per 100,000 persons, much lower than the rate of 181.0 per 100,000 persons across NSW as a whole. Further, the rate of *assault police* incidents in this LGA was 6.7 per 100,000 persons in 2013, compared with 22.6 per 100,000 persons across NSW as a whole.

44. Authority licensing records indicating the addresses of other hotel, on-premises and other nearby licensed businesses in the suburbs of Kingsgrove and Bexley North.
45. Authority licensing data indicating that liquor licence density per 100,000 persons of population in postcode 2208 was above the NSW rates for club licences and packaged liquor licences, and well above the NSW rates for hotel licences and on-premises licences. The Rockdale LGA, by comparison, had a substantially lower rate of club licences, hotel licences and packaged liquor licences, and a rate well below the State average for on-premises licences.
46. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS) indicating that the Rockdale LGA ranked in the Eighth decile within the State on the Index of Relative Socio-Economic Advantage (with a decile ranking of 10 being the most advantaged), and the suburb of Kingsgrove ranked in the Seventh decile.

STATUTORY OBJECTS AND CONSIDERATIONS

47. In determining each of the Applications, the Authority has considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

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.*

48. The power to vary an extended trading authorisation is provided by section 51(9) of the Act, which states:

51 General provisions relating to licence-related authorisations

...

(9) *An authorisation:*

- (a) *is subject to conditions:*
 - (i) *as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or*

56. The Authority is satisfied that the extended trading hours are likely, from time to time, to lead to a minority of patrons of the Premises contributing to adverse impacts upon local amenity, including by patrons leaving the Premises in a less than orderly manner or creating alcohol related litter. Some adverse impact may also arise from patrons leaving later on a Sunday evening that would otherwise be the case, at a time of the week when most other licensed and non-licensed businesses are closing.
57. While any late-trading hotel may contribute to local adverse impacts upon amenity associated with the abuse of liquor sold or supplied on premises, those impacts will be objectively reduced in this instance by the imposition of the following conditions:
- a. *That the licensee or representative of the licensee must join and be an active participant in the local liquor accord*
 - b. *That the premises is only permitted to trade from 10 pm to midnight on Sunday during the trial period approved by the responsible consent authority and whilst that consent or any extension of that consent which remains in force; and*
 - c. *That the Premises 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 application, Community Impact Statement and other information submitted by the Applicant in the process of obtaining the extension of the extended trading authorisation from 10pm to midnight on Sunday evenings, as granted by the Authority during March 2015.*
58. The conditions imposed will be recorded on an amended version of the licence record to be issued in association with this decision letter.
59. The Authority has given consideration to the Applicant's objection to the proposed condition that the Premises must not operate with a greater level of social impact than what could be reasonably expected, but has decided that the imposition of this condition (which is commonly imposed by the Authority upon a range of liquor applicants seeking extended trading) is necessary to ensure that granting this Application is in the public interest and that the hotel's mode of trading between 10:00 pm and 12:00midnight on a Sunday evening does not involve activity of a significantly higher social impact than represented in this Application. For example, live music or a DJ during those hours has not been foreshadowed in the ETA Application.
60. These conditions will reduce the likelihood of the extended trading hours on Sunday evening leading to adverse impacts upon the amenity of Kingsgrove and the Rockdale LGA, as the licensee and staff of the Premises will be incentivised to enforce all measures outlined in the hotel's *House Policy* and *Plan of Management* and be vigilant in ensuring that patrons of the Premises depart the Premises in an orderly manner, mindful of the amenity of local residents. The Authority is satisfied that these measures are consistent with the need to minimise harm associated with misuse and abuse of liquor within the meaning of section 3(2)(a) of the Act 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.
61. The Authority has considered the concerns raised by OLGR in its report to the Authority and is satisfied that the imposition of the conditions will address those concerns insofar as they will constrain the potential for the Application to detract from the amenity of community life.

62. The Authority accepts the Applicant's contention that the Premises will benefit the community by providing meals at a time when local restaurants are closing. Whilst the Authority is satisfied that the Application has partially been sought as it is advantageous to the Applicant's business interests, the Authority notes that according to licensing records for the area, there are only two restaurants with on-premises liquor licences in Kingsgrove, two club licences (a golf club and an RSL club) and no other hotel licences. The Authority is satisfied that the provision of meals later on a Sunday night will better serve expectations of the community most likely to patronise the hotel on a Sunday evening when there are few other licensed options for patrons in the area.
63. Granting the Application and expanding the meal service at the hotel may also be said to promote the statutory object of section 3(1)(b) – to facilitate the balanced development, in the public interest, of the liquor industry and section 3(1)(c) – the responsible development of related industries, including the hospitality industry.
64. The Authority is satisfied that according to BOCSAR data, alcohol related and non-alcohol related crime in the Rockdale LGA and the suburb of Kingsgrove are very low compared with State averages for numerous offences. This is an objective factor that may be said to constrain the scope for the Premises to contribute to adverse alcohol related impacts and operate contrary to the public interest.
65. The Authority has had regard to submissions from OLGR and the public noting that armed robberies have occurred in the past at the Premises. These are matters of concern and may have been a factor in assessing the risk of extended late trading to 4:00 am as initially proposed, but the Authority is satisfied that a modest extension of Sunday night trading will not substantially increase the risk of the hotel to such crimes while delivering better licensed service to the community in what is otherwise a low crime environment. The Authority accepts the Applicant's contention that there has been an absence of armed robbery incidents during 2014, which provides some further comfort in this regard.
66. The Authority is satisfied that the Premises has adequate security measures in place, including CCTV surveillance and the employment of licensed security guards at all times during extended trading hours, to assist in deterring this threat.
67. Considering the found public benefits of an option for late-night meals on a Sunday evening, and the conditions imposed on the hotel's licence to ensure the measures proposed by the Applicant are consistently adhered to, as well as the factors that objectively constrain the extent of negative impacts in this case, the Authority is satisfied that granting the variation of the ETA will facilitate the balanced development, in the public interest, of the liquor industry, and contribute to the responsible development of related industries, including the hospitality industry.
68. On this basis, the Authority has decided to grant the Application under section 51(9)(b) of the Act and extend Sunday trading until 12:00 midnight.
69. In making this decision, the Authority has had regard to all of the objects and considerations prescribed by section 3 of the Act, but has given weight to section 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 section 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.

Arrangements will be made for the refund of any refundable component of the application fee. If you have any question, please contact the case manager, Ms Trudy Tafea, via email at trudy.tafea@ilga.nsw.gov.au .

Yours faithfully



Micheil Brodie
Chief Executive

08 APR 2015