

Our Ref: L 170
Your Ref: TS NN 20644

2 July 2009

Mr Tony Schwartz
Back Schwartz Vaughan
75 Elizabeth Street
SYDNEY NSW 2000

**Application for Review under section 153 of the *Liquor Act 2007* (“Act”)
regarding the Grand Hotel, Bondi Junction**

Dear Sir

I refer to the application for review (“**Application**”) made under section 153 of the *Liquor Act 2007* (“**Act**”) regarding a decision of the Director of Liquor and Gaming (“**Director**”) dated 26 March 2009 (“**Decision**”) to impose four new conditions upon licence number LIQH400102690 for the premises known as the Grand Hotel (“**Hotel**”) located at Bondi Junction. A copy of the Decision is annexed.

Determination

The Authority convened to review the Application on 25 June 2009. After considering all the material that was before the Director when the Decision was made, the Application, the Applicant’s supplementary submissions, certain NSW Bureau of Crime Statistics and Research (“**BOCSAR**”) data, the Director’s submission dated 18 May 2009 and relevant provisions of the Act (including the statutory objects and considerations set out under section 3) the Authority has decided:

To **vary** Conditions 1 and 2 of the Decision to provide:

1. From 12.00 am each Friday, Saturday and Sunday until the premises ceases trading any drink (whether or not it contains liquor) sold or supplied for consumption on the premises must not be served or supplied in a glass or breakable plastic container. Permitted containers include but are not limited to polycarbonate drinking vessels.
2. From 12.00 am each Friday, Saturday and Sunday, the licensee or person in charge of the premises shall commence removing glass drink containers from patrons and the public areas of the premises as soon as they are emptied and shall ensure that by 12.30 am each Friday, Saturday and Sunday all glass is removed from public areas.

To **confirm** Condition 3.

To **confirm** Condition 4, save that it shall take effect from 21 July 2009.

Comment

The Authority notes that during December 2008 the Parliament of New South Wales considered it necessary to impose, under Schedule 4 to the Act, general conditions upon 48 licensed premises (“**Declared Premises**”) that had the highest levels of assault linked to those premises, as recorded in data compiled by BOCSAR.

The Hotel is not a Declared Premises.

The imposition of general conditions upon Declared Premises does not prevent the Director or the Authority from imposing specific conditions upon either a Declared Premises or a licensed premises that is not a Declared Premises, provided that such conditions are not inconsistent with the Act.

The Authority considers that Schedule 4 to the Act provides a relevant benchmark in cases where the imposition of restrictions upon the service or supply of liquor is warranted as an appropriate harm reduction measure.

The Authority notes that the Hotel has not once appeared in the BOCSAR list of "Top 100" licensed premises (ranked according to assaults linked to those premises). However, Police have submitted evidence to the Director that satisfies the Authority that numerous assaults have taken place on or near the Hotel throughout the 2005 to 2008 period. The Authority is satisfied that in three (3) of those cases (two of which occurred during 2008), the presence of glass contributed to the seriousness of each incident.

While the Authority acknowledges that the Hotel has taken the initiative in introducing voluntary measures designed to reduce the risk of glassing assaults, the Authority has determined that it is reasonable and necessary to impose enforceable licence conditions regarding the use of glass and that 12.00 midnight on Thursday Friday and Saturday evenings is the preferable commencement time for glass restrictions.

In its Application the Applicant proposed a glass restriction that would permit the use of containers made of "shatterproof glass". The Authority may consider a variation of Conditions 1 and 2 of this determination after it convenes a conference on 29 July 2009 for the purposes of a separate application regarding the Crows Nest Hotel, when the Authority will consider the merits of trialling "tempered" or "toughened" glass as an alternative measure at suitable venues.

With regard to Condition 3, the Authority considered the Applicant's proposal in its submission dated 25 May 2009 that a modified crime scene preservation condition be imposed upon its licence. The Authority regards it as highly desirable that crime scene preservation practices be observed in a manner that is consistent across the industry, noting that NSW Police have particular expertise in this area. When, as in this case, the Authority finds it appropriate to impose a crime scene preservation licence condition, the NSW Police Crime Scene Preservation Guidelines provide the preferable standard.

With regard to Condition 4, the Authority notes Police submissions to the Director identifying deficiencies in the Hotel's CCTV system, including incidents that were not adequately captured by CCTV. The Authority has considered the Applicant's detailed submissions in reply, and finds that while the Hotel has taken steps to remedy some of the identified deficiencies, there remains room for improvement. The Authority considers that a licence condition requiring compliance with the Director's CCTV standards offers a reasonable and appropriate measure for improving the Hotel's CCTV system and that this would be in the best interests of Hotel staff and patrons alike.

Yours sincerely

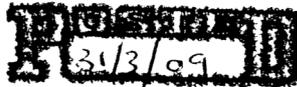
A handwritten signature in black ink, appearing to read 'Chris Sidoti', with a small flourish at the end.

Chris Sidoti
Chairperson

NSW Office of
Liquor, Gaming & Racing



Mr Lloyd Harris
Senior Associate
Back Schwartz Vaughan
Solicitors and Attorneys
Level 5
75 Elizabeth Street
SYDNEY NSW 2000



26 March 2009

Reference: Order to impose conditions on licence SEB X08-5029. The Grand Hotel, Bondi Junction.

Dear Mr Harris

Thank you for your correspondence dated 25 March 2009 in reference to conditions imposed on The Grand Hotel, Bondi Junction, under section 54 of the *Liquor Act 2007*.

After consideration of the issues you have raised, I have immediately revoked the conditions imposed as listed within Schedule 1 of correspondence dated the 13 March 2009 and imposed conditions as set out in the attached Schedule 1. I draw your attention to the revised effective date pertaining to Condition 4.

The case officer is Jeffrey Etto, who may be contacted on phone no. (02) 9995 0315

Yours sincerely


Albert Gardner
Director of Liquor and Gaming

Encl
CC: Local Area Commander
CC: Commander ALEC

Schedule 1.

Conditions imposed on the licence by the
Director of Liquor and Gaming under Section 54 of the *Liquor Act 2007*

The Grand Hotel Lic No.102690

Conditions 1-3 : Effective: 27 March 2009

Condition 4 : Effective : 14 May 2009

1. From midnight until the close of business, any drink (whether or not it contains liquor) sold or supplied for consumption on the premises must not be served or supplied in a glass or breakable plastic container.
2. From 11.30pm, the licensee shall start removing all glass drink containers from patrons and the public areas of the premises, so that by midnight no patron has in their possession, or has access to, any glass drink container.
3. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:

Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence in accord with Crime Scene Preservation Guideline, issued by NSW Police,

- ii. Make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
 - iii. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.
4. An In Venue CCTV system must operate in accordance with the Policies and Standards approved by the Director of Liquor and Gaming (attached). In addition, the system is to capture images of:
 - (a) the external perimeter of the premises, and
 - (b) all main entrances and exits; and
 - (c) all publicly accessible areas within the premises (excluding toilets and accommodation rooms), including public bars, entertainment areas, dance floors, beer garden and smoking areas, etc.