



Mr Robert Manwaring
Light Horse Hotel
337 Albury Street
MURRUMBURRAH NSW 2587

Lighthorse1@bigpond.com

Dear Mr Manwaring

**Application for Extended Trading Authorisation
"Light Horse Hotel" – Murrumburrah**

I am writing to you about the application made on 4 December 2014 by you to the Independent Liquor and Gaming Authority regarding premises located at 337 Albury Street, Murrumburrah for the grant of an extended trading authorisation.

The Authority first considered this matter at its meeting of 27 January 2016 and decided, in principle to grant the Application subject to confirmation of the Applicant's consent to several proposed conditions, to which the Applicant agreed on 3 February 2016.

The matter was finalised on 5 February 2016 and the decision to approve the Application, pursuant to section 49(2) of the *Liquor Act 2007* was informally communicated by email dated 8 February 2016.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reason with respect to those types of decisions prescribed by clause 6 of the Gaming and Liquor Administration Regulation 2008.

The enclosed document provides a statement of reasons for the Authority's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

The actual conditions to which the licence is granted are set out in the OneGov record of the liquor licence, which was provided to the Applicant on 8 February 2016.

Yours faithfully

Micheil Brodie
Chief Executive
for and on behalf of the Independent Liquor and Gaming Authority

10 MAR 2016

STATEMENT OF REASONS

INTRODUCTION

1. On 4 December 2014, the Independent Liquor and Gaming Authority (Authority) received an application (Application) made by Mr Robert Manwaring (Applicant) seeking approval of an extended trading authorisation (ETA) under section 49(2) of the *Liquor Act 2007* (Act) in respect of the Light Horse Hotel Murrumburrah located at 337 Albury Street, Murrumburrah, 2587 (Premises).
2. The hotel is currently licensed to sell or supply liquor for consumption *on* the Premises throughout the entire period of standard trading hours available under section 12 of the Act, that is, between 5:00am and 12:00 midnight Monday through Saturday and between 10:00am and 10:00pm on Sunday.
3. Being a hotel licensed venue, liquor may also be sold on the Premises for consumption *off* the Premises. The Application indicates that the Premises is currently licensed to sell takeaway liquor between 5:00am and 10:00pm Monday through Saturday and between 10:00am and 10:00pm on Sunday, although it is not apparent that the hotel actually trades the entirety of those early morning licensed hours.
4. The Application seeks the grant of an ETA to allow the Premises to engage in licensed trading until 1:00am following Friday evening trade and to 1:30am following Saturday evening trade. It is proposed that the ETA apply to the entirety of the Premises excluding the front deck.
5. The Authority considered the Application at its meeting on 25 November 2015 and decided in principle that the Application may be approved but only subject to the imposition of five conditions upon the licence, requiring:
 - a) the prohibition of live entertainment after midnight
 - b) prohibition of live entertainment on the outside decks at any time
 - c) prohibition of the sale of alcohol intended for rapid consumption at any time
 - d) LA10 noise restrictions
 - e) the standard set of CCTV camera conditions imposed by the Authority.
6. On 2 December 2015, staff assisting the Authority sought comment on the five conditions proposed by the Authority. On 4 December 2015, the Applicant consented to three of five requested conditions.
7. At its meeting on 27 January 2016 the Authority again decided to preliminarily grant the Application pursuant to section 49(2). The Authority resolved that the matter could be finalised under delegation but only if two further conditions were imposed upon the licence– the first condition restricting live entertainment and the second specifying minimum requirements for CCTV on the Premises.
8. On 3 February 2016, the Applicant consented to the imposition of these further conditions on the licence.
9. Under section 13 of the *Gaming and Liquor Administration Act 2007*, the Authority delegates the specific functions of the Authority to each position holder specified against that function, subject to two general conditions and to such additional conditions specified in respect of a particular function as is contained in the Regulatory Delegations Manual published on the Authority website.

10. The Application was finalised on 4 February 2016. Authority staff informally notified the Authority's decision by email dated 8 February 2016. This letter serves to provide a formal record of the decision.
11. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*.
12. This letter provides a statement of reasons for the Authority's decision to grant the Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.
13. The actual conditions to which the licence is granted are set out in the OneGov record of the liquor licence, which was provided to the Applicant on 8 February 2016.

MATERIAL BEFORE THE AUTHORITY

14. Licence Application Form dated 25 November 2014 and received by the Authority on 4 December 2014.
15. Category B CIS document and supporting material dated 4 December 2014.
16. Plan of Premises provided with the Application. The Plan does not indicate the current licensed area or the proposed extended trading authorisation.
17. Google maps image of the location of the Premises provided with the Application.
18. Copies of stakeholder notices in respect of the Application.
19. Development Approval (DA T2014-034) issued by Harden Shire Council (Council) on 6 October 2014. The DA describes the proposed development to be conducted on the Premises for planning purposes as the "extension of trading hours".
20. Local Consent Authority Notice provided by the Director of Environmental Services of Harden Shire Council (Council) dated 27 November 2014. It is noted that development consent for the proposed use of the Premises is required and is in place.
21. Submission from a close local resident and business owner Ms K Kemp and Mr M Tobin, (located next door to the Premises) to the Applicant dated 2 June 2014. Ms Kemp and Mr Tobin provided the following submission:

I refer to our phone discussion last week regarding your application for a late licence. As mentioned, [M Tobin] and I are still of the same opinion and we still oppose your application for a 2am late licence close at the Light Horse Hotel. As you know, we operate an accommodation outlet next door at 343 Albury Street, Murrumburrah called Heggaton artHouse Apartments. We have three 4-star accommodation apartments for overnight, short and long term stays. Apartment #1 is closest to your hotel and previously underwent a major refurbishment and has been available to let to guests since late October 2013. We purchased 343 Albury Street, Murrumburrah nearly three years ago. This dwelling was originally a Dr's Surgery and residence and then a residence with it now being an accommodation outlet.

Like you, we are trying to increase our occupancy rate and accommodate people in town. If you, The Light Horse Hotel, operate a late licence this will only drive our trade away and make our business unsustainable. We provide in our guest's compendium, services that relate to your business i.e. restaurant, bar etc. and that of all establishments/businesses in Murrumburrah so that we can increase visitor spending in our town to help ALL business grow and prosper.

We recently reviewed a number of our repeat guests to ask them to provide feedback if they would stay in our accommodation outlet if the hotel next door operated a late licence. I have outlined a couple of their responses:-

- No, I would not stay due to noise levels*
- No, I am paying to sleep there not to listen to other people party till 2am*
- Not likely due to noise of people and cars departing at 2am in the morning. If I am paying to sleep in your premises I would not want broken sleep.*

As you can see the results speak for themselves. Please do not hesitate to make contact with myself or [Mr Tobin] to discuss further.

22. Submission from A/Sgt Michael John Wood of NSW Police Cootamundra Local Area Command (LAC) (Police) dated 6 January 2015. Police made the following submissions:

Police have received a one (1) page photocopied document in relation to the proposed extended trading hours, this document was not received by the local Harden Police and signed. Police did not receive a copy of the CIS document. Police were asked by Harden Shire Council to make a submission which they did for their council meeting.

Police are objecting to the application as the Hotel is situated on a busy main road which links the Olympic Highway and the Hume Highway and is subject to a lot of heavy vehicle traffic. Police feel this is a safety risk with possible intoxicated people walking onto the path of oncoming traffic. The hotel is surrounded by many residential properties and noise would be an issue. The late trading hours would also put the hotel at risk of higher intoxication levels and anti-social behaviour which would leave the hotel vulnerable to infringement notices.

The licensee states he has a courtesy bus to convey patrons home, this bus is a small 10 or 12 seater and takes approx. 20 minutes each trip depending where patrons live as the hotel is on the outskirts of town. The licensee also states he would turn the gaming machines off at midnight. If there are patrons inside the hotel the gaming machines must be turned on unless he is going to place a sign on them stating that they are out of order.

Police are working to try to reduce the levels of intoxication and anti-social behaviour and believe that extending trading hours is not the way to do it.

If the Authority does grant the application Police would request the following conditions be placed upon the licence:

- No person to be on the front decking until 11:30pm*
- All live entertainment and discos is to cease at 12 midnight*
- Whenever the Hotel has live entertainment or discos and the premises trades after midnight and the live entertainment or discos are still in progress after midnight, two fully licensed security guards are to be employed from midnight and stay at the premises until one (1) after the premises has closed*
- An announcement must be made prior to closing stating to all patrons that they are to leave in a quiet and respectable manner as to protect the quiet and good nature of the neighbourhood*
- CCTV cameras to be erected inside the hotel and at the front of the hotel covering the front decking, the footpath, main road and across to the southern side of Albury street*
- CCTV cameras must be to the standard as defined by Alcohol Licensing Enforcement Command*
- No drinks to be served in glass after midnight*
- No drinks commonly referred to as shots to be served whatsoever*
- No alcoholic drinks to be served after 1am"*

23. Submission from a delegate of the Secretary of the (then) NSW Trade and Investment, now the Department of Justice dated 23 March 2015, by an officer within Compliance of the then Office of Liquor Gaming and Racing, now Liquor and Gaming NSW (LGNSW).

24. LGNSW note that the primary purpose of this hotel licensed business is the sale and supply of liquor for consumption on and away from the Premises.

25. LGNSW note that the hotel provides live entertainment and is situated in a residential neighbourhood. LGNSW note the existing trading hours at the Premises and that the extended hours sought by the Application. In the context of this proposed business model (an extended trading hotel), the venue is assessed as a "high risk operation".

26. LGNSW submit that the radial density of liquor licensed premises in the suburb of Murrumburrah is "well below" the State average.
27. LGNSW submit that NSW Bureau of Crime Statistics and Research (BOCSAR) data indicates that:
 - a) from October 2013 to September 2014, the rate of *alcohol related assaults* (domestic and non-domestic) that occurred within Harden Shire Local Government Area (LGA) was 323 (per 100,000 population) compared to the rate of 321 (per 100,000 population) for New South Wales as a whole
 - b) the rate of *alcohol related disorderly offences* that occurred in Harden LGA was recorded during this period at 81 (per 100,000 population) compared to 105 (per 100,000 population) for New South Wales as a whole.
28. LGNSW submit that these figures indicate that the Harden Shire LGA "does not appear to have a significant concentration of alcohol-related anti-social behaviour when compared to the whole of NSW".
29. LGNSW submit that BOCSAR statistics were based on the Harden Shire LGA rather than the state suburb of Murrumburrah, as the BOCSAR website was unable to provide accurate suburb specific data for Murrumburrah as a stand-alone suburb for comparison against the State average.
30. LGNSW note that Police object to the Application on the grounds of pedestrian safety due to the position of the Premises on a main road as well as the potential for increase in noise related issues, intoxication and anti-social issues. LGNSW note that Police seek the imposition of nine conditions on the liquor licence in the event the Application is granted.
31. LGNSW note that the Director of Environmental Services at the Council provided confirmation that the Applicant had served the notice of the Application on Council and that a DA is required and is in place for the proposed use of the Premises. LGNSW observe that there did not appear to be any information from Council to indicate whether Council support or oppose this Application, and submit that Council's view on the Application is "not known".
32. LGNSW advise that a review of Compliance records did not disclose any adverse information in respect of the Applicant since 27 June 2013.
33. Email from staff assisting the Authority to the Applicant dated 27 March 2015. The Applicant was requested to provide a signed Certificate of Advertising for the Application; a further floor plan of the Premises clearly showing a red line around the boundaries of area that the proposed extending trading hours will cover; and evidence that the local Aboriginal Land Council have been notified when the CIS was signed and completed.
34. Email from the Applicant to staff assisting the Authority dated 7 April 2015. The Applicant provided a Certificate of Advertising and an updated diagram of the Premises showing the proposed boundaries for the extended trading authorisations. Additionally, the Applicant advise that there is no Local Aboriginal Land Council for the area surrounding the Premises.
35. Email from staff assisting the Authority to the Applicant dated 7 April 2015. The Applicant was informed that there are Aboriginal Land Councils which cover the whole of NSW and was provided with an OLGR (now LGNSW) website link regarding information for preparing a Community Impact Statement (CIS).

36. Email from the Applicant to staff assisting the Authority dated 7 April 2015. The Applicant submitted that he understands that local Aboriginal Land Councils should be consulted but that "my thinking was that not having one meant we couldn't have a negative effect on them". The Applicant requested further information on how to proceed.
37. Email from staff assisting the Authority to the Applicant dated 7 April 2015. The Applicant's attention was drawn to section 11(3)(g) of the Liquor Regulation 2008 which requires an Applicant to consult with the recognised leaders or representatives of the local Aboriginal community in respect of a Category B CIS.
38. Email from the Applicant to staff assisting the Authority dated 8 April 2015. The Applicant made the following submissions:

Just so I can put forward where I am coming from. I have not purposefully omitted the local aboriginal land council. It's just that there isn't one in Harden Shire to consult with. I understand why this is a relevant part of an application, its just that I couldn't do it for that reason. To me that means they aren't really a stakeholder and they can't be disadvantaged by our application. I have put a lot of time into this application, held meetings, sent everything out to everyone and tried to do everything openly and transparently. It has been passed by the local shire council. To not have it considered because a body that doesn't exist wasn't informed would seem illogical and devastating.

39. Email from staff assisting the Authority to the Applicant dated 19 May 2015. The Applicant was provided with the website for the NSW Aboriginal Land Council and informed that the website contains a map of NSW that indicates the relevant boundaries for each Land Council covering the entire State. The Applicant was requested to provide a statement advising what steps were taken, including who you contacted and what advice you were given, to satisfy the Authority that every attempt was made to meet this legislative requirement.
40. Email from the Applicant to staff assisting the Authority dated 25 June 2015. The Applicant provided a letter from Norma Freeman, the CEO of Young Local Aboriginal Land Council (YLALC), dated 24 June 2015. In this short letter, YLALC submit that it "does not have a problem with this and we wish the Hotel all the success".
41. Email from staff assisting the Authority to the Applicant dated 25 August 2015. The Applicant was informed that should the Application be granted, the licence would be subject to the six-hour closure period as per section 11A(1)(b) of the Act. The Applicant was provided with the submissions received from Police, Ms Kemp and Mr Tobin, and LGNSW and was invited to provide comment.
42. The Applicant was requested to provide a Plan of Management and House Policy and to complete all parts of the CIS as pages 2 and 3 of the document had not been addressed (regarding the notification of local community building, facilities or places).
43. The Applicant was again requested to provide a diagram of the Premises that clearly highlights the current licensed boundaries, areas to be covered by the proposed extended trading authorisation and any other authorisations that may be in place at the Premises such as a minors' authorisation area.
44. The Applicant was informed that should the Authority be minded to grant the Application, certain standard conditions imposed upon hotel licences may be imposed upon this licence, including a requirement fixing the daily 6-hour closure period for the purposes of section 11A of the Act between 4:00am and 10:00am; a requirement that the licence not operate with a greater overall social impact on the wellbeing of the community.

45. The Applicant was also placed on notice that conditions may be imposed requiring the hotel on the Premises to be operated at all times in accordance with the Plan of Management; a requirement for active local liquor accord participation; a prohibition on live music or other live entertainment beyond 12:00 midnight on either Friday or Saturday nights; and the prohibition of use of the external area and deck at the front of the Premises after 11:30pm.
46. Email from the Applicant to staff assisting the Authority dated 21 September 2015.
47. The Applicant provided the following submissions in response to the submission from Police:

Police are objecting to the application as the Hotel is situated on a busy road and it is a safety risk. Traffic count data from the Harden Shire Council indicates that on Friday night 40 vehicles pass between 12:00pm [sic] and 1:00am and 6 vehicles pass between 2:00am to 3:00am and on a Saturday between 12:00pm [sic] and 1:00am 27 vehicles and between 2:00am to 3:00am 14 vehicles pass through. The traffic data would indicate to me that this is not a busy road at all. There is an inherent risk with any patron leaving the hotel at any time or any activity and the data provided would support a lower risk at that time of day. The second point made by the police is regarding anti-social behaviour and the impact this would have surrounding residential properties. This is an understandable concern. Currently there are no official controls in place. The police and local council have outlined control measures they would like to be put in place. I agree and consent to these conditions.

48. The Applicant provided the following submissions in response to the submission from Council:

A neighbouring bed and breakfast has objected on the ground of excessive noise. I understand and agree that their patrons and business should not be detrimentally effected [sic] by extended trading. What must be considered is that we have 12 rooms for accommodation above the bar area compared to the neighbours 3 apartment rooms that are situated 5 walls (one is half a metre of stone the others double brick) from the bar area. This can be supported by a testimonial taken from the neighbour's website. This has been provided earlier and can be again if requested. The accommodation is predominately used over the weekend which is when the extended trading would take place. It is in the interest of the hotel to ensure noise levels do not affect the pubs own [sic] accommodation and in doing so would definitely not affect the neighbouring property. The additional control measures from the police and council would further prevent this occurring.

49. The Applicant provided a Plan of Management and House Policy that addresses, *inter alia*, responsible service of alcohol (RSA); ensuring advertisements or promotions are not linked to events that appeal to minors; ensuring advertisements or promotions do not encourage excessive consumption of alcohol; prohibition on gender based promotions or practices; and education of staff regarding RSA.
50. The Applicant further provided completed pages 2 and 3 of the CIS which indicates "N/A" for all of the questions on that part of the form and an updated diagram of Premises indicating the existing licensed boundaries; areas covered by the ETA; and a minors' authorisation area boundary. It is indicated that the ETA will apply to the entire Premises excluding the front deck.
51. The Applicant also advised consent to the conditions noted by staff assisting the Authority.
52. Email from staff assisting the Authority to the Applicant dated 30 November 2015. The Applicant was advised that the Authority was, in principle, minded to grant the Application subject to the Applicant's consent to five conditions upon the licence.

53. The conditions address:
- prohibition of live or amplified entertainment both after 12:00 midnight
 - prohibition of live or amplified entertainment on the outside decks at any time
 - prohibition on the sale of "shots, shooters or slammers" at any time
 - "LA10" restrictions on noise level emissions between 7:00am and 12:00 midnight and 12:00 midnight and 7:00am
 - a set of CCTV system conditions.
54. Email from the Applicant to staff assisting the Authority dated 1 December 2015. The Applicant provided the following submissions:
- Firstly I would like to shed a bit of light on the background of this application. We are a small country pub 5 hours from Sydney in a small town of 2000 people. We are asking for a one-hour extension on our liquor license [sic] on a Friday and Saturday night in order to stay open if there is sufficient people and atmosphere to warrant it. This gives us some chance to compete with the other hotel that has a 2 o'clock license [sic] and the service clubs which can stay open to 3. It is not going to and frankly not possible to, become a night club. I also understand this is an opportunity to increase the licensing requirements but against this is just for an extra 2 hours trading a week. I just feel that we are being pigeon holed along with Kings Cross night clubs and its just not the same thing. There are a few changes to the conditions that I would like to make.*
- Currently we have live music on our back deck about twice a year. We would still like to be able to do that. On the front deck we have had bagpipes and trumpets on Anzac Day and would like to be able to have live acoustic music of an afternoon. This would be no louder than a busker.*
- In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:*
- All other public entrances and exits, whether or not in use at the time*
 - Staircases*
 - All portions of the floor area accessible to the public where entertainment is provided*
 - Toilet external entrances*
 - All public accessible areas within the premises excluding toilet and accommodation rooms*
 - The footpath areas directly adjacent to the premises, and*
 - Beer garden and smoking areas.*
- We currently have 6 cameras as is required for insurance purposes and agreed with the local area command licensing sergeant Mark Woods who stated 'cameras must be erected inside the hotel and at the front of the hotel covering the front decking, the footpath main road and across the southern side of Albury Street'. I just think this request is over the top. We are willing to put more cameras in but don't its not [sic] a high security prison.*
55. Email from staff assisting the Authority to the Applicant dated 2 December 2015. In this short email, staff assisting the Authority sought comment on all five of the proposed conditions notified on 30 November 2015.
56. Email from the Applicant to staff assisting the Authority dated 2 December 2015. In this short email, the Applicant submitted: "I accept the other conditions".
57. Email from the Applicant to staff assisting the Authority dated 8 December 2015. In this short email, the Applicant submitted "As per our discussion – Point 2: Live or amplified entertainment is permitted on the outside decks but must be concluded by 12:00 midnight".
58. File note recorded by staff assisting the Authority dated 10 December 2015. The file note records that during a telephone discussion with the Applicant, staff informed the Applicant that if an amendment of conditions was sought, the Application would need to go back to the Authority at its January 2016 meeting as the Delegate did not have delegation to finalise the Application without agreement to the Authority's proposed conditions.

59. Email from the Applicant to staff assisting the Authority dated 19 January 2016. In this email, the Applicant repeated its email submissions made on 1 December 2015 and added:
- I have read the legislation which is not overly prescriptive and says nothing about having to have cameras. Obviously the intention is that whilst we can have an extended trading period is not at the detriment of the surrounding properties. I fully understand this requirement and feel that the procedures set out in our application will fulfil this requirement.*
60. Email from staff assisting the Authority to the Applicant dated 1 February 2016. The Applicant was informed that the Authority had again decided to approve the Application in principle, subject to the imposition of two further conditions that had not been consented to by the Applicant.
61. The first condition would permit live entertainment on the back deck on only two occasions per year but permit live *acoustic* music generally on the front deck until 6:00pm and bagpipes and trumpets may be played on Anzac Day.
62. The second condition requires the installation of a prescribed set of CCTV system requirements, in the terms communicated by Authority staff.
63. The Applicant was again invited to respond to the remaining conditions.
64. Email from the Applicant to staff assisting the Authority dated 3 February 2016. The Applicant consented to the two conditions proposed by the Authority.
65. Liquor licensing data sourced from Authority licensing records noting the licence type and address for all registered club, hotel and packaged liquor licenced premises located state suburbs of Murrumburrah and Harden. This information discloses that within 2km of the Premises are:
- a) *two* full hotel licenced premises
 - b) *two* on-premises (restaurant) licence premises
 - c) *two* registered club licences
 - d) *one* packaged liquor licence.
66. BOCSAR data for the Harden LGA regarding incidents of liquor offences, malicious damage to property, assault (domestic assault) and assault (non-domestic assault) offences based on data from July 2014 to June 2015.

LEGISLATION

67. In determining the Application, the Authority has considered the relevant provisions of the Act, including the statutory 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.*

68. The power to grant an extended trading authorisation to a licensed premises is provided by section 49 of the Act, which states:

49 Extended trading authorisation-general provisions

- (1) *Application of section This section applies in relation to the following types of licences (referred to in this section as "a relevant licence"):*
 - (a) *a hotel licence,*
 - (b) *a club licence,*
 - (c) *an on-premises licence (other than an on-premises licence that relates to a vessel),*
 - (d) *a packaged liquor licence,*
 - (e) *a producer/wholesaler licence.*
- (2) *Extended trading authorisation for consumption on premises. In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:*
 - (a) *in the case of a hotel licence-a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),*
 - (b) *in the case of a relevant licence other than a hotel licence-a specified period between midnight and 5 am on any day of the week,*
 - (c) *in any case-a specified period between 5 am and 10 am on a Sunday,*
 - (d) *in any case-a specified period between 10 pm and midnight on a Sunday.*
- (2A) *Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods:*
 - (a) *a specified period between 5 am and noon on a restricted trading day,*
 - (b) *a specified period between 10 pm and midnight on a restricted trading day.*

Note: The sale of liquor at these times is subject to the requirement that a meal is also served-see section 25 (3).
- (3) *Despite subsection (2) (a), the Authority may, in the case of a hotel:*
 - (a) *situated in the area constituting the City of Sydney (as at 1 July 1994), or*
 - (b) *situated in the Kings Cross precinct, or*
 - (b1) *situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street-Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or*
 - (c) *situated in the Kosciuszko National Park, authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.*
- (4) *Extended trading authorisation for take-away sales on Sundays In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following:*
 - (a) *a specified period between 5 am and 10 am on a Sunday,*
- (5) *Nature of extended trading authorisation An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises:*
 - (a) *on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or*
 - (b) *if the authorisation so provides-on a special occasion that takes place on a specified date, or*
 - (c) *if the authorisation so provides-on up to 12 separate occasions in any period of 12 months.*
- (5A) *Despite subsection (2) (a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on*

the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.

- (6) *Extended trading period to be specified In granting an extended trading authorisation, the Authority is to specify:*
 - (a) *the extended trading hours during which the licensee is authorised to sell or supply liquor, and*
 - (b) *the part or parts of the licensed premises to which the authorisation applies.*
- (7) *Extended trading not permitted on or in relation to restricted trading days-hotels and licensed public entertainment venues Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods:*
 - (a) *between 5 am and noon on a restricted trading day,*
 - (b) *between 10 pm and midnight on a restricted trading day,*
 - (c) *between midnight and 5 am on any day immediately following a restricted trading day.*
- (8) *Restrictions on granting extended trading authorisation The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:*
 - (a) *practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and*
 - (b) *the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.*
- (9) *For the purposes of this section, a "special occasion" means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.*

SOCIAL IMPACT TEST

69. Pursuant to section 48(5) of the Act, the Authority *must not* grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regard to the CIS and any other matter the Authority is made aware of during the Application process, that the overall social impact of the licence, authorisation or approval in question being granted *will not be detrimental* to the local or broader community.

70. Section 48(5) states:

48 Community impact

- (5) *The Authority must not grant a licence, authorization or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:*
 - (a) *the community impact statement provided with the application, and*
 - (b) *any other matter the Authority is made aware of during the application process (such as by way of reports or submissions), that the overall social impact of the licence, authorization or approval being granted will not be detrimental to the well-being of the local or broader community.*

71. An application for a packaged liquor licence is a type of "relevant application" that is prescribed by section 48(2).

72. The CIS usually provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to sensitive facilities such as hospitals or health facilities, nursing homes, schools and churches.

LOCAL AND BROADER COMMUNITIES

73. As noted in Authority Guideline 6: *Consideration of Social Impact*, the Authority will identify the relevant "local" community by reference to the locality in which the licensed premises is situated, while the "broader" community will usually be the local government area in which the licensed premises is situated.
74. For the purposes of this Application, the Authority is satisfied that the relevant "local community" comprises the community located within the town or State suburb of Murrumburrah while the "broader community" comprises the Harden LGA.

Applicant Submissions on Social Impact

75. In the CIS, the Applicant made the following submissions and contentions as to the overall social impact of granting this Application upon the community:

Extended hours of operation would provide improved recreational and entertainment opportunity to the community. I am operating in a small country town that does have limited entertainment options. By providing a safe environment and safe transport home I feel I am fulfilling my responsibility to my patrons. It is in my best interest to look after the patrons I have. The late licence would not be used out of routine. It is my intention to use it judiciously and only when suitable. In the 18 months I have operated the hotel there has been a very few minor incidents. This is supported by the Shire Council's review of my development application where it states on page 49 'No clear evidence has been provided by Police, however, either that there are current problems with poor behaviour in the streets around the Commercial Hotel, or that the likelihood of this occurring would be any greater at 2am than it is at 12pm when the hotel closes'. I intend to maintain this level of behaviour. As I have previously stated, I am in a small town and am committed to maintaining a trouble free and enjoyable environment. The Gaming Room will be closed at 12:00pm.

REASONS FOR GRANT

76. The Authority has critically examined the Application and all the material before it pertaining to that Application. The Authority has decided to grant the Application pursuant to section 49(2) of the Act.
77. The Authority is satisfied that the Application has been validly made and that minimum procedural requirements with regard to the Application and CIS have been satisfied.
78. The Authority is satisfied, for the purposes of section 49(8)(a) of the Act, that practices are in place at the Premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the Premises and that all reasonable steps are taken to prevent intoxication on the Premises. This finding is made on the basis of the *Plan of Management and House Policy* provided by the Applicant and noting an absence of any adverse submission from OLGR or Police in this regard.
79. The Authority is satisfied, for the purposes of section 49(8)(b) of the Act, that extending the Premises trading hours by an extra one hour to 1:00am on Friday and by an extra hour and a half (1.5) hour to 1:30am on Saturday, will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the Premises. The Authority notes that the Premises is situated in the town centre of Murrumburrah which is a semi-rural area.
80. The Authority is satisfied, for the purposes of section 49(6)(b) of the Act, that the extended trading period and the parts of the licensed premises to which the authorisation applies have been specified. This finding is based on the diagram of the Premises

provided by the Applicant to staff assisting the Authority on 21 September 2015. The ETA will apply to the entire Premises excluding the front deck.

81. The Authority notes that development consent to use the Premises during the proposed trading hours is required and is in force. This finding is based on the DA (T2014-034) and local consent authority both issued by Council and provided by the Applicant.

Overall Social Impact

82. The Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Application will not be detrimental to the wellbeing of the local or broader community.
83. Determining the overall social impact of granting the Application requires a degree of speculation about what is likely to occur in the event that the Application is granted – albeit speculation that is informed by the prevailing circumstances in the relevant local and broader communities.
84. As noted above, with regard to the overall social impact test prescribed by section 48(5) of the Act, the Authority is satisfied that the local community comprises the state suburb of Murrumburrah and the broader community comprises the Harden LGA.

Positive Benefits

85. The Applicant has provided submissions in support of the positive benefits that are contended to flow to the local community from permitting the Premises to trade until 1:00am on Friday and 1:30am on Saturday.
86. The Authority accepts, on the basis of the submissions made by the Applicant and the Authority's information about the existing licensed premises in the local and broader community that granting the Application will improve recreational and entertainment opportunities in the local community by providing another late trading licensed entertainment option for persons in the town and surrounding areas in the broader community.
87. In this sense, and noting the limited opposition to the Application, the Authority is satisfied that granting the Application is consistent with, and will serve the expectations needs and aspirations of the communities.
88. The Authority further accepts that the granting of the Application will allow the Premises to compete with the other hotel [the Royal Hotel] and other clubs [Harden District Bowling Club and Harden Country Club]. In this sense, the Authority is satisfied that extending the hours of the hotel in the manner proposed will contribute to the responsible development of related industries, including hospitality and tourism, which is a statutory object of section 3(1)(c).

Negative Impacts

89. The Authority accepts that over time there will more likely than not be some contribution from the liquor sold at the Premises to alcohol related crime, disturbance or adverse impact on amenity from a minority of customers who consume liquor at the Premises. That risk increases with a later trading licensed venue, particularly a hotel whose primary purpose is the sale of liquor by retail.

90. However, when gauging the extent of prevailing alcohol related social problems in the communities, the 2015 BOCSAR *Report on Crime by Local Government Area and Alcohol Related Status* for 2015 (based on data from July 2014 to June 2015) satisfies the Authority that the rates on the Harden LGA for alcohol related incidents are favourable in several respects, save for alcohol related domestic violence, compared to NSW where the rate is moderately above the NSW rate.
91. This report indicates that in the Harden LGA, there were no recorded incidents of *alcohol related assault police* compared with a NSW wide rate of 18.2 per 100,000 population.
92. The rate per 100,000 population for *alcohol related domestic violence offences* was 160.0 compared with a NSW total of 122.6.
93. The rate of *alcohol related non-domestic violence related offences* was 53.3 compared with a NSW total of 144.0. That data provides some comfort given the association between late trading licensed venues and non-domestic assault, which tends to occur in public places.
94. There is a moderate cause for concern arising from alcohol related domestic violence rates in the broader community. However, BOCSAR mapping data for the period from July 2014 to June 2015, reveal that the Premises is *not* located in a particularly sensitive location in terms of concentration of prevailing crime impacts.
95. Notably, the hotel is not located within any "hotspot" for the concentration of reported domestic assault, non-domestic assault or the occurrence of reported malicious damage offences (noting that such matters may or may not be recorded as alcohol related).
96. The Authority further notes that time of week crime data before the Authority (derived from BOCSAR) does not indicate greatly elevated rates for alcohol related crime in Murrumburrah, Harden LGA for any time period including Friday and Saturday nights in either the local or broader communities.
97. The Authority further notes that although Council have not expressed an opinion on the Application, development consent is in force to use of the Premises during the relevant hours for the purposes of planning legislation.
98. The Authority notes that Police objected to the granting of the Application on the grounds of pedestrian safety and the potential for increase in noise related issues, intoxication and anti-social behaviour. However, Police have requested the imposition of nine conditions on the liquor licence should the Application be granted. The Authority notes that although the Applicant disagreed that the Premises is situated on a busy road, the Applicant has consented to the additional conditions proposed by Police.
99. The Authority further notes that NSW Roads & Maritimes Services did not provide a submission in respect of the Application despite having been notified by the Applicant as per usual CIS notification procedures.
100. The Authority notes that LGNSW do not object to the Application provided that the conditions proposed by Police are included on the liquor licence.
101. The Authority has had regard to the concerns raised by local residents and business owners, Ms Kemp and Mr Tobin to the effect that granting of the Application may result in an increase in noise related issues in the local community and the neighbourhood of the Premises. The Authority accepts that those concerns are legitimate and credible and notes the proximity of this accommodation business to the hotel.

102. However, the Authority is satisfied that the conditions with respect to which the Authority has pressed and the Applicant has accepted will provide further harm reduction and noise control measures that will constrain the scope for the Premises to contribute to any negative impacts on the local community that may otherwise arise from later trading.
103. The Authority has insisted on the imposition of the usual range of CCTV conditions notwithstanding the location of the Hotel and its scale and in the face of submissions from the Applicant seeking less exacting CCTV requirements. This Authority is satisfied that these CCTV conditions will better serve the public interest by reason that later trading hotels pose a relatively greater risk of alcohol related crime and disturbance. The regime of conditions that are usually imposed by the Authority and LGNSW fix minimum enforceable requirements as to coverage, specification and retention of footage designed to ensure that CCTV is effective in detecting, deterring and providing evidence of crime or misconduct on licensed premises.
104. If minimum standards are not specified incidents may not be covered or the footage may be of insufficient quality to be of assistance in evidence should issues arise requiring investigation by Police, LGNSW or the business itself. The Applicant has not provided a sufficient case to persuade the Authority that it should exempt from these prudent requirements.
105. On the basis of the additional licence conditions to which the Applicant has now consented, the Authority is now satisfied that the overall social impact of granting the Application will not be detrimental to the well-being of the local or broader community.
106. In making this decision the Authority has had regard to all of the statutory objects provided by section 3(1) of the Act and all of the statutory considerations prescribed by section 3(2) of the Act.



Micheil Brodie
Chief Executive

DATED 10 MAR 2016