



Our Ref: L203/1-894076360
Your Ref: TWC:MRH 20-6820095

10 June 2011

Mr Jeff Cooper
Licensee
West Kempsey Hotel
C/O Mr David McElhone
Minter Ellison
88 Phillip Street
SYDNEY 2000

By email:

Taline.chater@minterellison.com

Cc:

Lawr1joh@police.nsw.gov.au

Sue.curtis@communities.nsw.gov.au

alec@police.nsw.gov.au

nerryl.doney@chdlaw.com.au

Dear Mr Cooper

**Decision under section 153 of the *Liquor Act 2007* ("Act")
Application for Review – West Kempsey Hotel, West Kempsey
Licence No 400114893**

INTRODUCTION

1. I refer to an application for review ("**Review Application**") made to the Casino Liquor and Gaming Control Authority ("**Authority**") by the former licensee of the West Kempsey Hotel ("**Hotel**"), Ms Carmel Montgomery, dated 21 December 2010 and received by the Authority on 23 December 2010.
2. The Review Application sought review of Conditions "1-12" of the 13 licence conditions imposed by a delegate ("**Delegate**") of the Director-General of Communities NSW (now the Department of Trade and Investment, Regional Infrastructure and Services) pursuant to a decision made under section 54 of the Act dated 2 December 2010 ("**the Reviewable Decision**"). A copy of the Reviewable Decision is attached to this letter.
3. Conditions 1-12 ("**the CCTV Conditions**") comprise a package of conditions imposing mandatory minimum standards regarding the specifications, quality, coverage, and operation of the Hotel's closed circuit television system. Condition 13 of the Reviewable Decision imposed a requirement that the licensee of the Hotel comply with NSW Police

Crime Scene Preservation Guidelines in the event of the occurrence of an act of violence upon the premises. The Applicant did not seek review of Condition 13.

POLICE SUBMISSION TO THE DELEGATE

4. The Reviewable Decision was prompted by a submission from Guy Haberley, Commander of the NSW Police Alcohol and Licensing Enforcement Command (ALEC), dated 20 September 2010 (“the **Primary Police Submission**”) requesting the exercise of the Director-General’s power to impose, vary, or revoke licence conditions under section 54 of the Act.
5. Police proposed the CCTV Conditions in the same terms in which they were ultimately imposed by the Delegate. It would appear that Police have based the drafting of the 12 CCTV Conditions upon a previous decision or decisions of the Director-General.
6. The Primary Police Submission was supported by two lever arch folders of evidence and other supporting material, mainly Computerised Operational Policing System reports prepared by Police officers following attendance at various incidents (“**COPS Reports**”) with some records of interview and victim photographs regarding alleged assaults at the Hotel. Police also submitted prosecution Fact Sheets and Witness Statements for some incidents in addition to Police crime statistics and a copy of the Office of Liquor Gaming and Racing (“**OLGR**”) 2009 *Social Profile Report* for the Kempsey Local Government Area. The Primary Police Submission also included records of communications between local Police and the former licensee, Ms Carmel Montgomery – including requests for the Hotel to provide CCTV footage regarding certain alleged assaults and other criminal acts committed by persons on the premises.
7. In support of the request for the imposition of the CCTV Conditions, Police make the following contentions:
 - (i) The Hotel has standard trading hours only, yet is rated by Police as “one of the highest risk licensed premises in the Mid North Coast Local Area Command”.
 - (ii) On 2 August 2010 the former licensee’s application for extended trading (initially filed under the former *Liquor Act 1982*) was rejected by a Local Court Magistrate by reason that the demographics in Kempsey did not support a late trading venue and an extension of trading would cause further risks of alcohol related harm.
 - (iii) The former licensee, Ms Carmel Montgomery, and her husband (and predecessor approved manager of the Hotel) Mr Craig Montgomery have “a history of not providing CCTV footage requested by Police”. Their reasons given to Police for the non-production of CCTV have included that Police have not requested the data prior to the system’s hard drive over-writing itself every 5 to 7 days. Alternatively, Police submit that the former licensees have cited damage to the CCTV system caused by officers of the NSW Police Armed Hold Up Squad removing the system’s hard drive carelessly when executing a search warrant to obtain CCTV footage of an incident that was not related to the Hotel. In other instances, the former licensees have advised that the area where an incident occurred was not covered by any cameras.

- (iv) During the period from 19 October 2006 to 17 September 2010, there have been 21 instances whereby Police have requested CCTV footage but the former licensees were not able to produce it for one or more of the above reasons.
 - (v) On 2 June 2009 the Kempsey Local Court imposed a licence condition (under Part 10 of the Act) requiring the then approved Manager, Mr Craig Montgomery, to comply with the (now defunct) Director of Liquor and Gaming's *CCTV Standards*. That decision was overturned on appeal to the District Court, by reason that the Court considered that the existing CCTV system was adequate to meet those standards without the imposition of a licence condition.
8. Police submit that, while Ms Montgomery claims that the CCTV system was functioning properly before seizure of the hard drive by the Armed Hold Up Squad in March 2010, the officer who executed that search warrant has obtained a sworn statement from a Police expert that identifies that, at the time of seizure, the system was only actually capable of storing 79 to 81 GB of data (while the system's ostensible capacity was 160 GB). According to the Police expert, this was a result of the hard drive being "corrupted". Upon examination of the system by Police at the time of its seizure, the time shown on the system was running one hour forward and the second hard drive on the system was not operating. The Police expert states that in his opinion these faults were not the result of the system being seized without being properly powered down first (as alleged by Ms Montgomery) but the system was "on its way out".
9. A spread sheet prepared for the Delegate by compliance staff within the OLGR entitled "Evidence Analysis" provides a breakdown of the supporting material contained in the Police Submission.
10. The OLGR analyst notes that of the **21** incidents recorded in the Primary Police Submission, **20** are relevant to the 13 licence conditions sought by Police.

FORMER LICENSEE'S SUBMISSION TO DELEGATE

11. In a letter dated 22 October 2010 an OLGR officer put all 13 of the licence conditions proposed by the Delegate (in the form in which they were ultimately imposed) to Ms Montgomery for comment.
12. In a letter dated 17 November 2010 Ms Montgomery made the following contentions:
- (i) The Local and District Courts have "heard and denied" Police applications to have CCTV requirements imposed as licence conditions on the basis that the CCTV system was adequate.
 - (ii) On 11 March 2010 the Armed Hold Up Squad executed a search warrant, and without the assistance of a technician ripped the units from the Hotel walls without first powering the system down.
 - (iii) Upon return of the seized components to Ms Montgomery, the cabling had been so stretched that it required replacement and the terminating connectors had been ripped at the ends.

- (iv) Ms Montgomery wrote several letters to Police asking them to make good the damage, but received no reply.
- (v) Ms Montgomery provides a copy of an email from Chubb Systems addressed to the Hotel's solicitor, Ms Nerryl Doney of Cooney Harvey Doney Lawyers, dated 20 October 2010. This email states that the cause of the corrupted hard drive:

“may have been an incorrect shut down of the unit but it is possible this may not have been the cause, my suggestion is to always use the manufacturer's shut down procedure as just powering the unit down while data is being written to the internal hard drive can cause damage.”
- (vi) Ms Montgomery also furnishes an earlier email dated 10 May 2010 that was sent to the Hotel from a local business, Datatek Systems. This email was submitted to OLGR Compliance in response to an earlier request by OLGR's compliance officers seeking the production of CCTV footage. It notes:

“Cable severely stretched, BNC connectors broken, power supply tampered...

A DVR like this is computer based with a linux operating system, so the same principles apply in way of shut down and removing of cables. If the correct procedure isn't taken great damage can occur.”
- (vii) Ms Montgomery “vehemently denies” ever wilfully withholding CCTV footage from the Police.
- (viii) Ms Montgomery submits that the system burns over itself every “7 to 10 days”. Police are aware of this, yet officers seek footage outside this time frame.
- (ix) The Hotel has a “low” rate of incidents and is located in a “very high incident area”.
- (x) Police have recently reviewed the number of incidents of violence recorded as having occurred on the Hotel premises from 12 to 9, with the result that the Hotel was not listed as a “declared premises” in Schedule 4 to the Act [during 2010].
- (xi) Most of the Hotel's recorded breaches of legislation have “related to security”. The Hotel now engages a new security provider, SIGMA, whose guards are sourced from Port Macquarie.

THE REVIEW APPLICATION

13. The Review Application form dated 21 December 2010 was received by the Authority under cover of a letter from Ms Montgomery's Solicitor, Ms Nerryl Doney, on 23 December 2010. The Review Application was supported by an Affidavit sworn by Ms Carmel Montgomery dated 21 December 2010. The Review Application was incorrectly

addressed to the “Office of Liquor Gaming and Racing” (not the Authority) and this caused some delay in the matter being brought to the Authority’s attention.

14. The Applicant also served a copy of the Review Application upon the Director-General (courtesy of the Delegate), as required by Clause 76 of the *Liquor Regulation 2008*. The Review Application otherwise met all requirements of the Regulation.
15. At its meeting of 22 February 2011 the Authority considered and granted Ms Montgomery’s request for a stay of the Reviewable Decision. This preliminary decision was notified by email to the parties that evening and formally by letter dated 23 February 2011.
16. In her affidavit in support of the Review Application, Ms Montgomery reiterates (albeit in a sworn document) many of the statements that she had previously made to the Delegate in written correspondence with regard to the CCTV Conditions. Ms Montgomery states that she was willing to *voluntarily* comply with “OLGR Guidelines” with respect to CCTV on the premises but was awaiting the outcome of an insurance claim made to the Hotel’s insurer regarding damage to the CCTV system allegedly caused by the Armed Hold Up Squad.

(The Authority notes that Ms Montgomery’s reference to the “OLGR Guidelines” is an apparent reference to the now defunct *OLGR CCTV Standards* – a policy document that was published by the former Director of Liquor and Gaming and that ceased to represent OLGR policy in late 2009).

POLICE RESPONSE TO THE REVIEW APPLICATION

17. In response to the Review Application Sergeant John Lawrie, the Mid North Coast Licensing Coordinator based at the Port Macquarie LAC, submitted a two page cover letter dated 2 March 2011 and two further COPS Reports identifying two reported serious assault incidents on the premises occurring on 23 January 2011 and 5 February 2011, where those COPS Reports noted problems with obtaining adequate CCTV footage for the incidents in question. Sergeant Lawrie also enclosed an earlier submission dated 19 November 2010 that had been provided by Police to the Delegate in response to the Licensee’s submissions dated 17 November 2010.
18. Briefly, Sergeant Lawrie’s cover letter makes the following contentions:
 - (i) The Licensee has not explained how she is “aggrieved” by the CCTV Conditions.
 - (ii) The Licensee has indicated in the Review Application a willingness to voluntarily comply with “OLGR Guidelines”.
 - (iii) The Licensee submits in her Affidavit that the Hotel’s CCTV system hard drive rewrites data every “7 to 10 days” yet material contained in the submissions made to the Delegate suggests that the system may only allow 5 days before it over writes data.
 - (iv) Police continue to experience “issues” with accessing CCTV footage at the Hotel, which is to the detriment of the safety of the community.

- (v) Police contend that “it would suit” the Hotel to not have footage available for two recent assaults as the facts of those matters are “unclear” and those incidents involved Mr Craig Montgomery, who is unwilling to provide a statement (The Authority notes that Police do indicate in what capacity Mr Montgomery was allegedly “involved”).
- (vi) The absence of adequate CCTV on premises “goes a long way” in assisting the Hotel to avoid becoming listed as a Declared Premises under Schedule 4 to the Act by reason of the number of recorded incidents of violence occurring on premises.
- (vii) Ms Montgomery is using the Review Application to stall the process of having to comply with an upgrade of CCTV by reason that “the current management is intent on leaving the Hotel in the near future” and this issue would then no longer be their problem.
- (viii) A Police COPS Report for an alleged assault on 23 January 2011 notes that Ms Montgomery advised Police that the area of the Hotel where the incident occurred was not covered by any CCTV. A Police COPS Report for an alleged assault on 5 February 2011 records that the footage obtained was of poor quality, and appears to have been taken from a camcorder which was recording the CCTV monitor displaying the footage, with no time or date stamp visible.

19. The Police letter dated 17 November 2010, provided several arguments as to why it was in the public interest to impose conditions upon the licence – arguing that the Hotel’s CCTV system is “inadequate” and “below the expected standards” and noting that Ms Montgomery had only acted to restore the operation of CCTV on premises in response to the filing of the Primary Police Submission.
20. Police cast doubt upon whether a decision maker should rely upon the undertakings of Ms Montgomery to upgrade the CCTV system in the absence of enforceable licence conditions.
21. On the issue of whether the carelessness of the Armed Hold Up Squad while seizing the CCTV system hard drive (during March 2010) caused the apparent loss of functionality to the CCTV system, Police refer to Annexure F13 of the Primary Police Submission, whereby a letter from the Hotel’s technical advisor, Datasafe PC Solutions, sent to the Hotel and dated 4 January 2010 states:

“After inspecting the DVR at West Kempsey Hotel on order to extract camera footage I have noted the following.

Due to extra camera upgrades and higher resolution cameras the hard drive is running out of space fairly quickly which is resulting in lost footage if you don’t get to it within a certain time frame.

I’ve also noticed a faulty CD Rom which is used for extracting footage to take off site. This problem has now been rectified.

We are in the process of looking for a solution to this problem. “

FURTHER SUBMISSIONS FROM THE FORMER LICENSEE

22. On 24 February 2011 a copy of three lever arch volumes, comprising all documents that OLGR staff advise were before the Delegate when the Reviewable Decision was made, was sent to Ms Montgomery's solicitor, Ms Doney, pursuant to *Authority Guideline 02/11*.
23. Ms Montgomery was requested to advise on the status of the Hotel's insurance claim regarding the CCTV system and to make any further submissions arising from material on the OLGR File by 14 March 2011. On 3 March 2011, the Police submission on the Application for Review was also forwarded to Ms Montgomery for submissions in reply.
24. In a letter dated 14 March 2011, Ms Doney submitted that, on her analysis, there has been one request for CCTV footage made by Police in 2007, one in 2008, three in 2009, eight in 2010 and two in 2011. Police were aware of the Hotel's CCTV system and the necessity of making any requests for CCTV in a timely manner and when this occurred the Hotel was able to provide footage. Ms Doney submits that the reduction in the CCTV system memory capacity has arisen due to the "installation of higher quality cameras throughout the Hotel".
25. Ms Doney furnished a letter from Lumley Insurance dated 1 March 2011 declining the Hotel's claim against its insurance policy for damage caused to the CCTV system by reason that the policy excludes damage "resulting from confiscation, nationalisation, requisition or damage to property by or under the order of any Government or Public or Local Authority".

ASSUMPTION OF POSSESSION AND CONTROL OF THE HOTEL BY RECEIVERS

26. On the early afternoon of 21 April 2011 the Authority received a facsimile letter from Mr Quentin Olde and Mr Matt Adams ("the **Receivers**") who advised that they had been appointed receivers of Rom K Pty Ltd, the owner of the Hotel business and the freehold of the premises. The Receivers had been appointed by a secured creditor of the Hotel business, the Australia and New Zealand Banking Group Ltd ("**ANZ Bank**"). The Receivers are represented by Minter Ellison lawyers in Sydney.
27. On the late afternoon of 21 April the Authority wrote to the Receivers drawing their attention to the Reviewable Decision and delivering to the office of Minter Ellison the OLGR Files, the Review Application and the Police submissions on the Review Application. The Authority noted that pursuant to section 61 of the Act the Receivers were effectively in control of the Licence and their urgent advice was requested as to whether they wished to make submissions on this matter.
28. On 27 April 2011 Minter Ellison wrote to the Authority by email advising that they required more time to get instructions. That evening, at the Authority's monthly meeting, the Authority considered the matter and deferred a determination until the next meeting, scheduled for 31 May 2011.
29. On 19 May 2011 Minter Ellison wrote to the Authority ("**Receivers' Submission**"). Minter Ellison submit that:

- (i) Its client, ANZ Bank, has recently appointed Receivers to all of the assets and undertakings of Rom K Pty Ltd (the company that owns the Hotel business) pursuant to its rights under its security.
- (ii) The Receivers have taken possession of the Hotel premises and as a result Ms Carmel Montgomery and Mr Craig Montgomery no longer have any role in operating the Hotel business.
- (iii) Rom K Pty Ltd (in liquidation) has engaged Mr Jeff Cooper to act as licensee of the Hotel. Mr Cooper has 20 years' experience in the hospitality industry including management and approved manager positions.
- (iv) The Receivers have been trading since their appointment with the assistance of Mr Cooper, "without incident". The Receivers have commenced marketing the Hotel for sale at an auction scheduled for 2 June 2011 and it is expected that the Hotel will sell at auction.
- (v) The contracts for sale of the Hotel are expected to have a settlement period of six weeks and the contract for sale of business will have a provision obliging the purchaser to comply with the CCTV Conditions under the Authority's review.
- (vi) The Authority should make the following final determination:
 - a. Note that the Receivers undertake to contractually require the purchaser to voluntarily effect compliance with the CCTV conditions.
 - b. Grant a period of "at least three months from 2 June 2011" to effect compliance with the CCTV Conditions.

30. The Receivers' Submission was forwarded to Police for comment and on 19 May 2011 the Authority received a detailed email from Sergeant Lawrie making the following points and providing some further information:

- (i) Police submit that the CCTV Conditions should be imposed upon the licence as soon as practicable in line with the intention of the Director-General.
- (ii) Kempsey licensed premises have a history of violence and assaults on and around licensed premises.
- (iii) In 2009 a Short Term Closure Order was granted by a Magistrate for the Great Northern Hotel, located 50 metres away from the Hotel.
- (iv) In 2006-7 Police obtained the imposition of licence conditions relating to CCTV and other issues with respect to the Railway Hotel, located 200 metres from the Hotel, in a determination made by the former Liquor Administration Board of a complaint that the Railway Hotel was causing undue disturbance to the quiet and good order of the neighbourhood within the meaning of section 104 of the former *Liquor Act 1982*.
- (v) Highlighting "ongoing issues" at the Hotel, Police submit that, while they

“appreciate there is currently a different management of the Hotel and that may change again in 8-10 weeks, the safeguard of having conditions on the licence provides that long term security for the community and also helps bring about a cultural change to alcohol related violence. The receivers will move on in a few months and the new licensee will only be obligated by voluntary undertakings. Any contractual agreements between the receivers and a new licensee are obviously not enforceable by police as we work towards the future. Police need the ability to enforce compliance when required to investigate violent behaviour and patrons need to be appropriately referred to the court systems. CCTV footage in my experience has been an important piece of direct evidence.”

- (vi) The Hotel had 12 assaults in the last reporting period for the purposes of determining the list of Declared Premises under Schedule 4 to the Act. This will qualify the Hotel as a “Level 2” Declared Premises and the Hotel will become subject to the imposition of special licence conditions.
- (vii) Sergeant Lawrie comments, “I see this as being a totally flawed process and sad state of affairs if the premises is not required to have CCTV as a condition, or installed sometime within the next 3 months”.
- (viii) On 29 April 2011 at about 10.30 pm there was an assault in the beer garden of the Hotel. Police asked the new caretaker licensee, Mr Cooper, for CCTV footage for the incident and there is none available. Police furnished an entry about the incident from the Hotel’s Incident Register and submit that this incident underlines the need for the CCTV conditions to be imposed to make clear to the current and future licensee the expectations as to what the CCTV system is expected to provide.
- (ix) Police refer to section 3 of the Act and submit that “the public’s health and safety should have priority”.

COMMENT

- 31. The Authority convened to consider the Review Application at its meeting of 31 May 2011. It has considered all of the submissions provided to the Delegate and the Authority and relevant provisions of the Act and Regulation including, without limitation, the Director-General’s power under section 54 of the Act to impose licence conditions if satisfied that it is “necessary or appropriate” to do so. The Authority has also considered its jurisdiction under section 153 of the Act to confirm, vary or revoke a reviewable decision.
- 32. The Authority has turned its mind to the statutory objects and considerations under section 3 of the Act, which state:

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.

33. The Act does not automatically impose licence conditions regarding minimum requirements for CCTV at licensed premises. Many hoteliers and other licensed venues install comprehensive CCTV equipment for their own benefit, given the evidentiary value of CCTV footage and the real likelihood of alcohol related disturbance incidents or accidents occurring on or near licensed premises.
34. The proposed imposition of any new licence condition, let alone 12 new conditions, is a serious matter. Breach of any regulatory requirement that has been elevated to the status of a licence condition may give rise to the prosecution of the licensee or approved manager, as the case may be. Under section 11 of the Act, the maximum penalty for breach of a licence condition is a fine of \$11,000, 12 months imprisonment or both.
35. The Authority is conscious that licence conditions mandating compliance with CCTV requirements may represent a significant financial impost by reason that a business must acquire technical advice and/or purchase new equipment. However, neither Ms Montgomery nor the Receivers have quantified or provided supporting evidence as to what upgrading the Hotel's CCTV will actually cost the business owners in this case.
36. The Authority is satisfied, based upon the material provided by Police, that there have been numerous incidents, particularly during 2010, when assaults have been reported on premises and CCTV has been unavailable and that this has impeded investigations.
37. The Authority accepts Ms Montgomery's explanation that she has not, during her tenure as licensee, deliberately withheld footage from Police, but the Authority is satisfied that the existing CCTV system at the Hotel is not performing to its specifications and has been for some months.
38. The Authority accepts that there was some physical damage apparent to the CCTV system as a consequence of the carelessness of the Armed Hold Up Squad. There is conflicting evidence as to whether conduct actually corrupted the hard drive of the system but the Authority is satisfied that even before this incident the CCTV hard drive was overwriting itself within a compressed timeframe. Ms Montgomery's solicitor submits that this was due to the installation of higher quality cameras on premises but in any event the Authority is satisfied that the CCTV system's hard drive overwrites its data within a time frame of 5 to 10 days, which would appear inadequate to assist Police

and/or the Hotel's management when investigating complaints of criminal conduct or other incidents that may give rise to public liability on the Hotel premises.

39. The Authority notes that the Hotel is located in Kempsey, an area with a high reported rate of alcohol related violence and disturbance incidents. There is a clear public interest in any Hotel operating within this locality having a fully functioning CCTV system that covers the extent of the licensed premises for a reasonable period of time.
40. As foreshadowed in the Police submission dated 19 May 2011, the Authority notes that the Hotel has only this month been added to the list of Declared Premises in Schedule 4 to the Act, by reason of the number of reported incidents of violence on premises.
41. The Authority accepts the advice of local Police that incidents of violence and alcohol related disturbances are ongoing throughout licensed venues in Kempsey.
42. While some disturbance incidents involve the immediate intervention of Police, it is not uncommon for a victim of violence or theft to delay before reporting an incident to Police, or for Police to be in a position to commence an investigation.
43. The CCTV Conditions imposed by the Delegate represent a package of conditions that are designed to ensure that there is adequate coverage and that CCTV equipment is of sufficient technical capacity to obtain and record quality footage of persons on premises. The Authority notes that Condition 8 of the CCTV Conditions requires that the system store data for at least 30 days.
44. While the Authority notes that the former licensees have engaged in upgrading of the CCTV cameras, the Authority is satisfied based upon the Police material that there is incomplete coverage of all publically accessible areas of the Hotel. The Authority is also satisfied that the period for which footage is stored and retained is inadequate.
45. The Authority notes that none of the individual terms of the CCTV Conditions has been the subject of specific or expert challenge by either Ms Montgomery or the Receivers.
46. The Authority agrees with the Delegate that it is necessary and appropriate for the Hotel to upgrade, in a timely manner, the CCTV system to meet the specifications prescribed by all 12 of the CCTV Conditions.
47. Nevertheless, given the recent change in circumstances whereby the Receivers have assumed control of the Hotel business, the Authority considers it appropriate to enable the Receivers a short period of time to voluntarily upgrade the Hotel's CCTV system, to meet the requirements of the CCTV Conditions. The Authority finds that in the circumstances of this Hotel, notwithstanding the appointment of a new licensee, it would be contrary to the public interest to allow the Receivers (or any future purchaser of the Hotel) a further 3 months to effect voluntary compliance with the CCTV Conditions. It also considers that, should the Receivers fail to do this voluntarily and in full, within the period allowed, it should confirm the Delegate's decision to impose the CCTV Conditions on the licence with immediate effect.

DETERMINATION:

48. The Authority has determined as follows:

1. The Authority's Stay Direction under section 153 (3) of the Act dated 23 February 2011 regarding the Reviewable Decision shall remain in effect until and throughout Friday 1 July 2011.
2. In the event that the licensee of the Hotel furnishes to the Chief Executive of the Authority, by no later than midday on Friday 1 July 2011, a letter from an appropriately qualified technician certifying that the Hotel's CCTV system complies with all 12 of the CCTV Conditions, The Authority **revokes** the Reviewable Decision, effective from 12.01 am on Saturday 2 July 2011.
3. If point 2 is not satisfied, the Authority **confirms** the imposition of all 12 CCTV Conditions upon the licence of the Hotel, varying the commencement date to 12.01 am on Saturday 2 July 2011.
4. For the purposes of point 2, the certifying technician shall be a person or business with respect to whom the Local Area Commander of Port Macquarie Police does not hold any reasonable, documented, probity concerns that have been notified to the licensee in writing within 72 hours of the licensee advising Police of the proposed technician(s).

Yours sincerely

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

Chris Sidoti
Chairperson