



Mr Ka Lun Woo  
Licensee  
K1 Karaoke  
4/31-37 Dixon Street  
HAYMARKET NSW 2000

15 April 2016

*By email*

alan@k-1.com.au  
th@hatziscusack.com.au  
kort1kel@police.nsw.gov.au  
bayl1kar@police.nsw.gov.au  
siro1rya@police.nsw.gov.au  
sean.goodchild@olgr.nsw.gov.au

Dear Mr Woo

**Notice of Short Term Closure Order under section 82 of the *Liquor Act 2007*  
K1 Karaoke Lounge, Haymarket (Liquor licence number LIQO624015081)**

**INTRODUCTION**

1. At 8:46am on 14 April 2016, the Independent Liquor and Gaming Authority (**Authority**) received an application (**Application**) made to the Authority by Detective Inspector Kelly Kortlepel (**Applicant**), Commander of the Alcohol and Licensing Enforcement Command, New South Wales Police in her capacity as a delegate of the New South Wales Commissioner of Police.
2. The Application was made under section 82 of the *Liquor Act 2007* (**Act**) and seeks the issue of a Short Term Closure Order in relation to the on-premises licensed premises currently trading as "K1 Karaoke Lounge", located at 4/31-37 Dixon Street, Haymarket NSW 2000 (**Premises**).
3. At around 10:00am on 14 April 2016, a *redacted* copy of the Application Material was provided by Police to the licensee or person in charge of the business. The Authority notes that some of the information contained in the Application Material has been provided by the Applicant to the Authority on a confidential basis with a request that it not be published or released to any third party by reason that it includes confidential intelligence holdings and is classified to be sensitive law enforcement material.
4. The redacted version of the Application Material provided to the business comprises a 19-page bundle consisting of the following documents:
  - 3-page Statutory Declaration signed by the Applicant dated 14 April 2016 (**Statutory Declaration**);

- **Annexure 1:** 6-page Statement of Particulars prepared by the Applicant (**Statement of Particulars**);
- **Annexure 2:** ALEC Investigation – Strike Force K1 (redacted);
- **Annexure 3:** CCTV Evidence Matrix;
- **Annexure 4:** Linking Diagram (redacted);

(collectively, the **Application Material**).

5. The Applicant also advises the Authority that it has provided CCTV footage of the Premises to which the CCTV Evidence Matrix relates.
6. The Authority notes that it is in possession of a non-redacted version of the Application Material, comprising 24 pages of documents. The Authority has not released the non-redacted material by reason that it is not satisfied that it is in the public interest to disclose confidential criminal intelligence holdings. The Authority notes that it also has before it the CCTV footage provided to the business by Police on 14 April 2016.
7. In the Statutory Declaration, the Applicant alleges, on the basis of the material provided in support of the Application, that serious breaches of section 9(1)(b), section 74(1) and section 74(4) of the Act have occurred in relation to the Premises and that closure of the Premises is necessary to prevent or reduce a significant threat or risk to the public interest.
8. The Applicant contends that the relevant significant threat or risk to the public interest includes a risk of serious offences (having a maximum penalty of not less than 2 years' imprisonment) being committed on the Premises, specifically ongoing prohibited drug supply offences against section 25A of the *Drug Misuse and Trafficking Act 1985*.
9. The Applicant seeks the closure of the Premises for a period of 72 hours from 12:00 midday on Friday 15 April 2016 until 12:00 midday on Monday 18 April 2016.
10. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to produce and publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*.
11. This letter has been prepared in the context of a high volume liquor jurisdiction and in the context of an application that requires expeditious determination by the Authority.

## **NOTICE OF APPLICATION**

12. A copy of a Notice of Application for Short Term Closure Order (**Notice**) was communicated by the Authority to the licensee of the Premises, Mr Ka Lun Woo (**Licensee**) via email at 12:15pm on Thursday 14 April 2016.
13. The Notice enclosed a copy of the entire *redacted* version of the Application Material, noting that Police had also provided the Licensee with a copy of this redacted version of the Application Material and the associated CCTV footage to which the CCTV Evidence Matrix refers.

14. The Licensee or person in charge of the business was requested to provide the Authority with any submissions in response to the Application via email by no later than 10:00am on Friday 15 April 2016.

## **SUBMISSIONS IN RESPONSE TO THE APPLICATION**

### **Submission from the Licensee received at 8:18am on 15 April 2016**

15. At 8:18am on Friday 15 April 2016, Mr Tony Hatzis of *Hatzis Cusack Lawyers*, who act for the Licensee and the corporate business owner, Megabox Holding Pty Ltd, provided a brief two-and-a-half-page submission to the Authority in response to the Application.
16. Mr Hatzis advises that the Application for a Short Term Closure Order is “not opposed”. The submission also provides an undertaking that the Premises will remain closed “until at least 12:00 midday on Friday 22 April 2016”.
17. Mr Hatzis briefly refers to the separate application to the Authority for long term closure of the Premises filed by Police under section 84 of the Act and anticipates making more detailed submissions in response to that application.
18. Mr Hatzis makes brief submissions that his clients deny the Police allegation that the Premises has been used for the purposes of prostitution. His clients foreshadow answering more fully the Police allegations of the Licensee’s breaches of section 9(1)(b) of the Act with respect to trading outside of licensed hours. His clients “vehemently deny” the Police allegation that drug supply is “inherent in the current business model” or that the licensee, Mr Woo, is involved in those activities.

## **LEGISLATION**

19. Section 82 of the Act provides as follows:

### **82 Short-term closure of licensed premises**

- (1) *An authorised officer or the Authority may, by notice served on a licensee or a person apparently in charge of licensed premises, order the licensee to close the licensed premises from a time specified in the order until a later specified time.*
- (2) *An authorised officer or the Authority may only make an order under this section:*
- (a) *on the application of the Secretary or the Commissioner of Police, and*  
(b) *only if the authorised officer or the Authority (as the case requires) is satisfied that a serious breach of this Act has occurred, or is likely to occur, on the premises and that the closure of the premises is necessary to prevent or reduce a significant threat or risk to the public interest.*
- (3) *Without limiting the generality of subsection (2), circumstances in which there may be a significant threat or risk to the public interest include circumstances in which there is:*
- (a) *a threat to public health or safety, or*  
(b) *a risk of substantial damage to property, or*  
(c) *a significant threat to the environment, or*  
(d) *a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed on the premises.*
- (4) *An order may not require the closure of premises for a period longer than 72 hours.*



- (5) *Subject to subsection (4), an order may require the closure of premises until specified conditions are met.*
- (6) *A licensee must not fail to comply with an order made under this section.  
Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.*
- (7) *More than one order closing the same premises may not be made under this section in any period of one week.*

20. Relevantly to this Application, section 9 of the Act provides as follows:

**9 Sale or supply of liquor contrary to licence**

- (1) *A licensee or an employee or agent of a licensee must not sell or supply liquor, or cause or permit liquor to be sold or supplied:
 
  - (a) *in contravention of the conditions to which the licence is subject, or*
  - (b) *otherwise than in accordance with the authority conferred on the licensee by or under this Act.**
- (2) *Without limiting subsection (1), a licensee must not:
 
  - (a) *keep licensed premises open for the sale or supply of liquor, or*
  - (b) *sell or supply liquor,**at a time when the licensee is not authorised under this Act to sell or supply liquor.**
- (3) *A licensee must not sell, or employ or permit another person to sell, liquor on premises other than premises on which the licensee is authorised by the licence or this Act to sell the liquor.*

*Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.*

21. Relevantly to this Application, section 74 of the Act provides as follows:

**74 Sale of stolen goods and possession, use or sale of drugs on licensed premises**

- (1) *A licensee must not permit the licensed premises to be used for the sale of:
 
  - (a) *any goods that the licensee suspects of being stolen, or*
  - (b) *any substance that the licensee suspects of being a prohibited plant or a prohibited drug.**Maximum penalty: 50 penalty units.**
- (2) *A licensee must not permit the possession or use on the licensed premises of any substance that the licensee suspects of being a prohibited plant or a prohibited drug.  
Maximum penalty: 50 penalty units.*
- (3) *An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the licensed premises to be used for the sale of:
 
  - (a) *any goods that the employee, agent or person suspects of being stolen, or*
  - (b) *any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.**Maximum penalty: 50 penalty units.**
- (4) *An employee or agent of a licensee or a person (other than the licensee) in charge of licensed premises must not permit the possession or use on the licensed premises of any substance that the employee, agent or person suspects of being a prohibited plant or a prohibited drug.  
Maximum penalty: 50 penalty units.*

- (5) *It is a defence to a prosecution for an offence under this section if it is proved that the goods concerned were not stolen or that the substance concerned was not a prohibited plant or a prohibited drug.*

## **DECISION**

22. The Authority is satisfied that the Short Term Closure Order should be issued to close the Premises for a period of 72 hours from 12:30pm on Friday 15 April 2016 to 12:30pm on Monday 18 April 2016.
23. The Authority is satisfied, on the material before it and on the balance of probabilities, that serious breaches of section 9(1)(b) of the Act in relation to *sale or supply of liquor otherwise than in accordance with the authority conferred on the licensee* have occurred.
24. The Authority makes this finding on the basis of the redacted version of the Application Material and the Police allegations that 36 transactions were made on 26 February 2016 and 13 transactions were made on 24 March 2016 outside of licensed hours. While the Licensee has foreshadowed responding to those allegations at a later time, the Authority accepts these allegations on the material presently before the Authority.
25. The Authority is satisfied, on the material before it and on the balance of probabilities, that serious breaches of section 74(4) of the Act in relation to *employee or agent of licensee or person (other than licensee) in charge of licensed premises permit possession or use on the licensed premises of any substance that the employee, agent or person suspects of being a prohibited plant or prohibited drug* have occurred.
26. The Authority makes this finding on the basis of the redacted version of the Application Material and in particular the video evidence from the Premises' own CCTV system depicting, in some cases, clear evidence of the possession and/or use and supply of prohibited drugs, apparently cocaine, by patrons or staff or agents of the Licensee.
27. On the basis of the above findings, the Authority is satisfied, on the balance of probabilities, that serious breaches of sections 9(1)(b) and 74(4) of the Act have occurred or are likely to occur and that the closure of the Premises for a period of 72 hours is necessary to prevent or reduce a significant threat or risk to the public interest for the purposes of section 82 of the Act.
28. The Authority is satisfied that the relevant significant threat or risk to the public interest for the purposes of section 82 of the Act is the supply of prohibited drugs (cocaine) on the Premises.
29. The Authority notes in this respect that drug supply offences against section 25A of the *Drug Misuse and Trafficking Act 1985* have a maximum penalty of not less than two years' imprisonment.
30. The Authority is also satisfied that the operation of a licensed premises contrary to section 9(1)(b) of the Act presents a significant threat or risk to the public interest, posing a threat to public health and safety from the inadequate management of the supply of liquor on licensed premises.

31. The Authority notes that the related application under section 84 of the Act for closure of the premises for up to 6 months has yet to be considered and the merits of that application will be determined at a later time. The Authority will contact the parties shortly about the timetable for submissions on that application.

**ORDER**

32. Pursuant to section 82(1) of the Act, the Authority orders that the on-premises licensed premises currently trading as "K1 Karaoke Lounge", located at 4/31-37 Dixon Street, Haymarket NSW 2000 be closed for a period of seventy-two (72) hours from 12:30 pm on Friday 15 April 2016 until 12:30 pm on Monday 18 April 2016.

Yours faithfully



Micheil Brodie

**Chief Executive**

**For the Independent Liquor and Gaming Authority**

15 April 2016.

12:10 pm.