



Mr Brett Tobin
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3 August 2017

Dear Mr Tobin

Application No.	1-5461651693
Application for	Extended Trading Authorisation
Current Trading hours	<u>Consumption on Premises</u> Monday to Saturday: 5:00 am to 12:00 am Sunday: 10:00 am to 10:00 pm <u>Takeaway Sales</u> Monday to Saturday: 5:00 am to 11:00 pm Sunday: 10:00 am to 10:00pm
Proposed Trading Hours	<u>Consumption on Premises – Main Bar and Gaming Room</u> Monday to Saturday: 8:00 am to 2:00 am Sunday 10:00 am to 12:00 am <u>Consumption on Premises – Beer Garden</u> Monday to Thursday: 10:00 am to 11:00 pm Friday and Saturday: 10:00 am to 12:00 am Sunday: 10:00 am to 10:00 pm <u>Consumption on Premises – All Other Areas</u> Monday to Saturday: 8:00 am to 12:00 am Sunday 10:00 am to 10:00 pm <u>Takeaway Sales</u> Monday to Saturday: 8:00 am to 11:00 pm Sunday: 10:00 am to 10:00 pm
Applicant	Ms Cassandra Anne Elton
Licensed premises name	The Village Hotel
Premises	61 Mount Druitt Road MOUNT DRUIT NSW 2770
Issue	Whether to grant or refuse an application for an extended trading authorisation
Legislation	Sections 3, 11A, 45, 48, 49 and 51 <i>Liquor Act 2007</i>

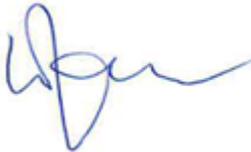
Decision of the Independent Liquor and Gaming Authority

Application for an extended trading authorisation – The Village Hotel

The Independent Liquor and Gaming Authority (“the Authority”) has considered your application for an extended trading authorisation in respect of an existing full hotel licence number LIQH400118937 (“the Application”). Pursuant to section 49(2) of the *Liquor Act 2007* (“the Act”), the Authority has decided to **refuse** the Application.

If you have any questions, please email the case manager via trudy.tafea@justice.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P. Crawford', is positioned above the printed name and title.

Philip Crawford

Chairperson

For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 31 December 2016 the Independent Liquor and Gaming Authority (“the Authority”) received from the Applicant, through Liquor and Gaming NSW (“L&GNSW”), an application for an extended trading authorisation (“ETA”) in relation to the full hotel licence LIQH400118937 for The Village Hotel (“the Application”).
2. Pursuant to section 49(2) of the *Liquor Act 2007* (“the Act”), the Authority has decided to refuse the Application.
3. In reaching this decision, the Authority has had regard to all the material before it, the legislative requirements under sections 3, 11A, 45, 48, 49 and 51 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“the Regulation”).

Material considered by the Authority

4. The Authority has considered the Application, the accompanying Community Impact Statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. As foreshadowed in the Authority’s *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by L&GNSW staff from publicly available sources.
7. The material considered by the Authority is listed in the Schedule, with a summary where appropriate.

Legislative framework

8. The Authority has considered the Application in accordance with the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3(1), are to regulate the supply of liquor in line with the expectations and needs of the community, facilitate the balanced development in the public interest of the liquor industry and contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
10. In the pursuit of these objectives, section 3(2) requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise harm associated with the misuse and abuse of liquor (including harm from violence and anti-social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, and the liquor supply practices, and the need to ensure that the sale, supply and consumption of liquor does not detract from the amenity of community life.

Minimum procedural requirements

11. Section 51 of the Act prescribes the minimum procedural requirements for an ETA to be validly made to the Authority.

Fit and proper person, responsible service of alcohol, and development consent

12. The Authority notes that section 51(3) of the Act, which provides that when determining an application for a licence related authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence.
13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
- the applicant is a fit and proper person to carry on the proposed business,
 - practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
 - if any applicable development consent (“DC”) is required to use the premises for the business or activity to which the licence relates, such consent is in force.

Restrictions on granting extended trading authorisation

14. Section 49(8) of the Act provides that the Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:
- 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
 - 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.

Community Impact Statement

15. Section 48 of the Act requires certain applications, including an application for an ETA in relation to a hotel licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
16. Section 48(5) provides that the Authority may only grant the authorisation if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter the Authority becomes aware of during the application process.

Provisions specific to hotel liquor licence

17. Further legislative provisions specific to hotel liquor licences are set out in sections 14, 15, 15A, 16 and 17 of the Act and in the Regulation.

Matters relating to gambling activities

18. Section 10A of the Regulation requires, in the case of an application for an ETA in relation to a hotel licence, the CIS to address matters relating to gambling activities that will be conducted on the Premises during the period that the authorisation is proposed to be in force.

Key findings

19. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings in relation to the Application.
20. Pursuant to section 51(2) and section 40 of the Act, the Authority is satisfied that the Application has been validly made and meets the minimum procedural requirements.
21. Pursuant to section 45 of the Act, the Authority is satisfied that:
- for the purposes of section 45(3)(a), the Applicant is a fit and proper person to carry on the proposed business, on the basis that no issues of concern were raised

regarding the probity of the Applicant following consultation with relevant law enforcement agencies,

- for the purposes of section 45(3)(b), practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's Plan of Management document titled "Venue Management Plan" dated March 2017 ("POM") and willingness to comply with the proposed conditions, and
- for the purposes of section 45(3)(c), the requisite development consent permitting use of the Premises as a hotel is in force, pursuant to the Notice of Determination number 06-3532 issued by Blacktown City Council ("Council") on 21 September 2007 permitting demolition of hotel and motel buildings and construction of new hotel and motel buildings. The Authority notes that local residents have, in their submissions on this Application, questioned the need for the Applicant to submit an application to modify the DC. The Authority is satisfied on the basis of this consent and the Applicant's submissions that the only condition of the consent that limits the trading hours concerns the beer garden area, which is not the subject of this Application.

22. The Authority has taken into account the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.

23. For the purposes of this decision and consistent with its position in *Guideline 6* and longstanding practice, the Authority is satisfied that the relevant "local community" is the community within the suburb of Mount Druitt, and the relevant "broader community" comprises Blacktown Local Government Area ("the Blacktown LGA").

Positive social impacts

24. The Authority has considered the Applicant's contentions, made in the Additional Information document that accompanies the CIS, that the current hours are not sufficient to meet the needs, demands and expectation of current patrons. The Applicant contends, in a letter from the Applicant's legal representative dated 28 April 2017, that due to the significant population growth and demand of the services that are currently offered at the hotel, the business owner wishes to meet the contemporary needs and demands of people who wish to enjoy the hotel's facilities (many of which are shift workers).

25. The Applicant has provided a petition signed by 85 persons, 33 of whom state that their place of residence is Mount Druitt. The Applicant also provides five letters from local residents in support of the Application.

26. While the Applicant has provided some evidence of local community support for the proposal community attitudes toward the proposal are divided, with vigorous opposition from numerous local residents whose homes are situated in very close proximity to the Premises.

27. Council has raised a number of concerns with the suitability of extending trading hours by reason of the prevailing environment in which this hotel will operate and the scope for increased hours to have increased adverse social impact, particularly among young people. Council noted with concern the prevailing rates of prescribed concentration of alcohol events in the Blacktown LGA and concerns among the local community of Mount Druitt regarding the increased use of alcohol and drugs and anti-social activity in public spaces, as reported in the Blacktown City Social Profile of 2016,

28. Giving weight to the status of Council as the jurisdictional representative of the broader community and noting the close proximity of the opposing residents' homes to the

Premises, the Authority is not satisfied that, in this case, granting the Application will advance to any great extent the needs, expectations and aspirations of the local or broader community *on the whole* for the purposes of section 3(1)(a) of the Act. This is notwithstanding some evident support for extending the venue's hours among Mount Druitt and other residents.

29. The Authority is satisfied that granting the increased trading hours will provide some modest increase in convenience and choice of late night licensed entertainment within this local community (primarily for those preferring to utilise gambling services at this venue). However, the scope for those benefits is constrained by the number and proximity of other late trading licensed hotels within Mount Druitt, and other late trading venues, particularly hotels and clubs in neighbouring suburbs within the broader community.
30. L&GNSW licensed premises information as at 6 February 2017 indicates that there are 27 hotel licences within the Blacktown LGA. The rate of hotel licences in the LGA (8 per 100,000 persons of population) is below the rate for NSW as a whole (26.41 per 100,000 persons) while the rate of club licences (5 per 100,000) is also below the rate for NSW (16.33 per 100,000 persons).
31. The suburb of Mount Druitt has 9 licensed premises (comprising club, hotel, on-premises, small bar and packaged liquor licensed premises) including 2 venues trading after midnight (both hotel licences – Vegas Hotel and Uncle Buck's Hotel). Blacktown LGA has a total of 159 licences (club, hotel, on-premises, small bar and packaged liquor licensed premises). Not including late trading clubs, there are 24 hotel licences trading after midnight and 4 on-premises licences trading after midnight within the LGA.
32. So while the licensed premises information discloses that licence density for hotels and clubs (gaming venues) are comfortably below the State-wide rate for both the local and broader communities, the community of Mount Druitt already has convenient access to two late trading licensed hotels that provide mainstream licensed hospitality and gaming services, with numerous more late-night hotels and clubs in neighbouring suburbs throughout the LGA.
33. This proposal primarily seeks to extend the availability of late night gambling on the Premises, with little specification as to the late- night food and other hospitality services to be provided. The proposal does not disclose much that is new by comparison to the mainstream licensed entertainment services that are already available through the hotels and clubs in the local and broader community.
34. On the information before it, the Authority finds that granting this Application will provide a very modest contribution to the balanced development of the liquor industry for the purpose of section 3(1)(b) of the Act and the responsible development of the related hospitality and gambling industries for the purposes of section 3(1)(c) of the Act. The proposal offers only marginal benefits in respect of the broader community, given the substantial number and location of late trading clubs and hotels servicing that community.

Negative social impacts

35. The licence type is a full hotel licence, which has a primary purpose of the sale of liquor by retail. The hotel is a single level building with a maximum patron capacity of 600, although the proposed patron capacity for the Main Bar and Gaming Room that are the subject of the ETA is 100 persons.
36. The increased evening trading hours sought by the ETA Application are between midnight and 2:00am Monday through Saturday and between 10:00pm until 12:00 midnight on Sunday.
37. The BOCSAR crime data provides a mixed picture for alcohol related crime and other anti-social conduct. During the period from October 2015 to September 2016 Blacktown LGA

recorded only slightly higher rates of *alcohol related domestic violence assault* (a rate of 121 per 100,000 persons compared to the New South Wales rate of 118) and somewhat higher rates of *malicious damage to property* (a rate of 1,014 per 100,000 persons compared to the New South Wales rate of 838) compared to NSW. There were moderately lower rates of *alcohol related assault* across the LGA (a rate of 240 per 100,000 persons compared to 272 for New South Wales) and *alcohol related non-domestic assault* (a rate of 105 per 100,000 persons compared to 138 for New South Wales) compared to NSW as a whole.

38. However, BOCSAR crime maps for the year ending December 2016 indicate that the local community of Mount Druitt is exposed to troubling concentrations of crime and anti-social conduct. Notably, the Premises is located within *high density hotspots* for the concentration of domestic assault events. The Premises is situated on the edge of a low-density hotspot for malicious damage to property events with extensive medium and high- density areas of malicious damage offences recorded nearby.
39. The Authority notes that there is a medium density hotspot located within short walking distance to the north east of the Premises for incidents of *alcohol related assault*. There is another extensive high-density hotspot within walking distance to the north east of the Premises for incidents of *non-domestic assault*. While the broader community of Blacktown LGA performs relatively well for alcohol related crime there is cause for concern regarding the crime mapping for the occurrence of alcohol related crime and anti-social conduct within the local community of Mount Druitt, reinforcing the concerns raised by local residents and Council in response to this Application.
40. The Authority notes that in Council's submission dated 12 January 2017, Council refer to BOCSAR data for the period between April 2007 and March 2012 when Blacktown LGA recorded the highest numbers of drivers exceeding the prescribed content of blood alcohol (PCA) and committing those offences by comparison to any local government area in Greater Western Sydney. Council also notes that during June 2010 to June 2015, there were a total of 2,598 incidents of alcohol related domestic violence assaults and a total of 2,225 alcohol related non-domestic violence assaults recorded for the Blacktown LGA.
41. The Authority accepts that drink driving has been a problem for the LGA in recent times, and that drink driving is a hazard that is of relevance when considering extending the trading hours of a licensed venue later into the evening, when patrons affected by alcohol who have been on the premises for a prolonged period may be tempted to drive home.
42. In response to the issue of PCA offences, the Applicant contends in their submission dated 28 April 2017 that granting the extended trading hours without alcohol being served during these hours allows for a "wind down" period before people leave the hotel and this makes it less likely that people will be driving home with blood alcohol levels above the prescribed limits.
43. The Applicant refers to Land and Environment Court of NSW decisions in *McHugh Holdings Pty Limited v Sydney City Council* [2007] NSWLEC 194; *McHugh Holdings Pty Limited v Manly Council* [2010] NSWLEC 1160, in which the Applicant contends that the Land and Environment Court of NSW recognises the benefits of a progressive dispersal of hotel patrons.
44. While the Authority notes that no liquor will be sold after midnight Monday through Saturday and after 10pm on Sunday and the Authority accepts that granting the Application may encourage progressive dispersal of patrons, that does not adequately address the prospect that alcohol affected patrons who have been on the Premises for prolonged periods during later hours of the evening may be tempted to drink drive. Nor does it address the prospect, raised by nearby residents, that patrons who are already creating noise and other adverse amenity impacts during the hotel's current midnight trading format may do so during later hours if the Application is granted.

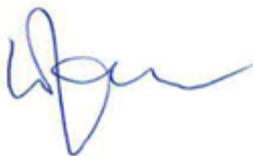
45. The primary issue of concern to close neighbouring residents has been the adverse impact of hotel patrons upon the neighbourhood. The Authority accepts the information provided by nearby local residents, Mrs Scott, Ms Dykyj, Mrs Zafar and Mr Bak all of whom raise specific accounts of disturbance from hotel patrons including litter, patrons leaving the hotel in a noisy manner, property damage, pranks, tipped over garbage bins, garbage emptied over the road, front fence panels from residences cut, front gates of residences being opened, persons talking, arguing, urinating in public, removing safety panelling over gas pipes and gas mains in the street, broken glass, alcohol-related domestic violence, knocking on windows of neighbouring residences, rocks being thrown through car windows, swearing, shouting, loud singing, the setting alight of a For Sale sign and loud “doughnuts” and “burn outs” in cars when departing the Premises.
46. The Authority finds those submissions to be credible and is satisfied that the venue is already problematic by reason of the conduct of its patrons and its close proximity to neighbouring residents.
47. The Authority is satisfied that opening until 2 am six nights per week including throughout the working week and until midnight on Sunday will mean that persons affected by liquor to varying degrees will be migrating to and from the venue at more sensitive times of the evening/early morning than may otherwise be the case. This will exacerbate the prevailing adverse amenity impacts already reported by neighbours, notwithstanding the cessation of liquor supply during the proposed extended trading hours.
48. The Authority is satisfied that noise disturbance from migrating patrons affected by liquor to varying degrees is likely to take a number of forms - from patrons congregating outside, smoking nearby, talking in groups, arguing, yelling or getting into transport while moving through neighbouring streets. This may cause disturbance to residential amenity regardless of whether or not such conduct rises to the level of criminality.
49. The Authority accepts the contentions made by local resident, Ms R Dykyj in her letter dated 15 July 2016, that drinkers are likely to linger on the premises after liquor cessation has stopped. While the Applicant has proposed controls which include preventing patrons from stockpiling alcohol, the Authority notes that drinkers will still be able to buy 2 alcoholic drinks per person from 11:30pm and 1 alcoholic drink per person from 11:45 pm until the sale of liquor ceases as 12:00 midnight on Mondays to Saturdays, permitting patrons to continue to consume alcoholic drinks during late hours.
50. The Authority notes and accepts Ms Dykyj’s contentions relating to the location of the Premises abutting domestic residents yards, that the Premises is situated squarely within a residential area, that “comparable facilities” are located in the Mt Druitt commercial/retail area, that gaming patrons already have a wide choice of premises, and that late night gambling services are available at The Band Club, St Mary’s RSL and Rooty Hill RSL (which is evident from L&GNSW licensed premises data).
51. The Authority accepts the writer’s contention that the Premises was held up by an armed robber (in 2015) and accepts the point that this illustrates a further category of risk that may be associated with late trading, while noting that no concerns were raised by Police in relation to the safety of patrons and hotel staff arising from this incident.
52. The Authority has considered Ms Dykyj’s concerns in relation to parking, traffic and pedestrian safety but is satisfied that those concerns are primarily planning matters. Insufficient evidence or information is before the Authority to warrant a finding that the proposed extended trading hours are sufficient to cause parking and traffic issues late in the evening.

53. The Authority notes and accepts Council's information that during 2015, residents in the Mount Druitt Precinct reported concerns about the increased use of alcohol and drugs and linked this to antisocial behaviour in public spaces. Local resident perceptions of this conduct were reported as having a major impact on perceptions of community safety when surveyed for the Blacktown City Social Profile 2016. Council's information confirms that the Premises is located in a residential area with houses located on three adjacent perimeters.
54. While NSW Police ("Police") did not oppose the Application, they recommended that the ETA be granted on a trial period. In apparent recognition of the increased scope for noise, PCA offences and litter impacts, Police recommended the imposition of conditions should the Application be granted, including restricting live entertainment after midnight, the provision of a courtesy bus, a requirement for security staff to be present and requiring glass/rubbish collection after closure.
55. The Authority has also considered the observations made by the Applicant's consultant, Mr Adam Purcell as a result of his inspection of the Premises and surrounds over two days, Friday 17 March 2017 (St Patricks Day) between 9:30pm and 12:15am and Thursday 23 March 2017 between 10:00pm and 12:00 Midnight. The Authority accepts that when he attended the hotel the Premises appeared to be well run and that his searches of the local area did not locate any evidence of anti-social behaviour.
56. Nevertheless, the Authority finds that that nearby local residents are better placed than Mr Purcell to gain a sense of the likely amenity impacts arising from persons migrating to or from the venue over time. The Authority accepts that the venue is well run but also accepts that its patrons or persons attracted to the venue have and are likely to cause significant adverse amenity impacts to nearby neighbours. The Authority is satisfied that extending the licensed trading hours in the manner proposed by the Applicant will increase the scope for noise and other anti-social conduct to occur at later and more sensitive times of the evening/early morning than is presently the case.
57. The Authority has also had regard to the ABS Socio-Economic Indexes For Areas ("SEIFA") data indicating that the broader community of Blacktown LGA ranked in the 6th decile within NSW on the Index of Relative Socio-Economic Advantage and Disadvantage. The Authority is also aware, through previous examination of SEIFA data that Mount Druitt is a historically very disadvantaged area. While that situation may be evolving in many areas of Western Sydney with residential development and demographic change, the latest published ABS data that is available from the 2011 Census recorded a SEIFA ranking on only the 2nd decile on the Index of Relative Social Advantage and Disadvantage.
58. The Authority further notes that Council, in their submission dated 12 January 2017, referred to the SEIFA Index of Relative Socio-Economic Disadvantage and contended that in 2011, Mount Druitt had a greater level of disadvantage with an index of 896.3 compared to Blacktown City (968) and Greater Sydney (1,011).
59. The available information satisfies the Authority that considerable local social disadvantage is still a compounding factor of concern when assessing the overall social impact of extending the licensed hours of a venue that is already subject to complaints from nearby residents with regard to anti-social conduct. It underscores the concerns raised by Council as to the potential adverse social impact of extending licensed trading hours upon *this* local community.
60. NSW Department of Health data for the Blacktown LGA during 2012-2013 recorded a Smoothed Estimate of Standardised Mortality Ratio (alcohol related deaths) at 91.600, with a Smoothed Estimate of Standardised Separation Ratio (alcohol related hospitalisation) at 100.100. With the NSW wide rate fixed at 100, those rates for the broader community are not problematic.

61. The Authority has considered a number of harm reduction measures proposed by the Applicant. Notably, the Applicant will not sell or supply liquor after midnight on Monday to Saturday nor after 10:00pm on Sunday and restrictions on the sale of some drinks and measures to prevent drink stockpiling will be in place after 11:30. The Applicant has also adopted some of the conditions requested by Police by including them in the Venue Management Plan. These include restrictions on live entertainment after midnight, the provision of a courtesy bus (from 5:00pm on Thursday to Saturday inclusive until close), providing security staff on any evening that the hotel trades past midnight (including patrolling of the “vicinity” of the hotel) a requirement that at least one manager be in attendance from midnight until close and that the manager must maintain radio contact with the security officer(s) at all times and a requirement that, at closing, the guard(s) is/are to be stationed outside the hotel to assist with the orderly dispersal of patrons. The Applicant has also agreed to a requirement that a glass/rubbish collection occur after closure. These are meaningful measures that will contribute towards reducing adverse social impact that may otherwise flow from licensed trading until 2 am six nights per week and until midnight.
62. While the Authority accepts the Applicant’s submission that the venue does not have a history of violence on the premises for the purposes of Schedule 4 to the Act and notes the additional measures to manage patrons, including security staff, that will be in place should the Application be granted, these measures are insufficient to displace the Authority’s concerns that patrons arriving and departing the venue, as late as 2 am on every week day and Saturday, in addition to midnight on Sunday, will more likely than not have an increased adverse amenity impact on the neighbourhood within the local community as they move through neighbouring streets. That impact is already problematic and being felt by neighbouring residents. On the material before it the Authority does not consider it in the public interest to increase the scope for this venue to attract and generate late night adverse social impacts in the local community.

Overall social impact

63. Having considered the positive and negative impacts that are likely to flow from granting the ETA, the Authority is **not** satisfied that the overall social impact of granting the authorisation would not be detrimental to the well-being of the local community of Mount Druitt.
64. In making this decision the Authority has considered all of the statutory objects and considerations prescribed by section 3 of the Act, but has given weight to the statutory considerations in section 3(2)(a) of the Act – the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) and section 3(2)(c) – The need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
65. Accordingly, the Authority has decided to refuse the Application under section 49(2) of the Act.



Philip Crawford
Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule

Material before the Authority

1. Compliance details for The Village Hotel between 1 July 2008 to 2 June 2017. This document revealed that there have been a number of incidents recorded at the Premises. The hotel is currently Level Three (Below Threshold) with less than 12 incidents recorded. Incident history at the Premises recorded from February 2013 to December 2016: Assault, Bodily Harm and Riot Offences (Police notifications).
2. ABS SEIFA data based on the 2011 Census for the Blacktown LGA.
3. HealthStats NSW data showing alcohol-related deaths and hospitalisations in the Blacktown LGA for the period 2012-13.
4. BOCSAR data for the broader community of Blacktown LGA for the period October 2015 to September 2016.
5. Letter from the Applicant's legal representative, Mr Brett Tobin of Hatzis Cusack Lawyers, to Council dated 1 July 2016 notifying Council of the Application and providing a copy of the notice of intention to apply for a liquor licence or a licence authorisation.
6. File note of a conversation between the Applicant's legal representative Mr Brett Tobin of Hatzis Cusack Lawyers and a resident of Mt Druitt on 5 July 2016 raising concerns about the ETA and the issue of music. After Mr Tobin's response that there would be no entertainment and no alcohol during the extended trading hours, Ms Williams had no concerns in relation to the Application but wished to bring the hotel's attention to concerns regarding patrons remaining in the car park with music coming from the cars after midnight. Mr Tobin advised that this will be brought to the hotel's attention, otherwise there were no concerns to the Application based on gaming only to be provided.
7. Email from a resident of Swords Place, Mount Druitt to the Applicant's legal representative Mr Brett Tobin dated 5 July 2016 raising concerns about litter strewn by patrons exiting the venue.
8. Email from Aboriginal Affairs to the Applicant's legal representative Mr Brett Tobin dated 6 July 2016 raising no objection to the Application on the basis that the NSW Aboriginal Land Council and Local Aboriginal Land Council have been notified of the Application.
9. Letter from RMS to the Applicant's legal representative Mr Brett Tobin dated 7 July 2016 including road crash statistics and recommendations for the operation of the Premises.
10. File note of a conversation between the Applicant's legal representative, Mr Brett Tobin of Hatzis Cusack Lawyers, and a person who called the law practice on 11 July 2016 requesting the current trading hours for the Premises.
11. Email from Senior Constable Bruce Havord of Mt Druitt Local Area Command ("LAC") of Police to the Applicant's legal representative Mr Brett Tobin of Hatzis Cusack Lawyers dated 19 July 2016. Police observe that the Applicant has complied with their request for a letterbox drop and advise that a number of residents have called Police and cited serious concerns with the proposal. Police advise that approximately four nearby residents do not want this Application to proceed. Police then discuss the model/option with regards to the 2-year trial period for Thursday/Friday/Saturday trading days to extend to 2:00am and the conditions consented to. Police advise that they have not as yet seen or reviewed any prospective Plan of Management.
12. Letter from Council to L&GNSW dated 22 July 2016 advising that an objecting submission was received from Mrs R Dykyj of Mount Druitt Road, Mount Druitt. A copy of this submission is attached to this letter.

13. Letter from local resident, Ms R Dykyj of Mount Druitt Road, Mount Druitt to Council dated 15 July 2016 objecting to the Application. In this four-page submission, Ms Dykyj makes a number of contentions about the adverse social impacts she has experienced from hotel patrons, raises concerns about drinkers stockpiling or otherwise lingering on the Premises after liquor supply ceases, describes other licensed hotels and clubs providing late night services, questions the impact of problem gambling in lower socio economic areas like Mount Druitt and raises concerns about the location of the Premises in a residential area, the safety patrons, the safety of hotel staff, parking ,traffic and pedestrian safety.
14. Letter from Mr G Neil, Session Clerk, on behalf of Presbyterian Church of Eastern Australia dated 6 August 2016 opposing the Application and contending that the existing hours are more than adequate.
15. Letter from Mr Kevin Anderson MP to Mr Edmond Atalla MP, Member for Mount Druitt dated 4 October 2016 outlining the process of lodging an Application with the Authority and making submissions and advising that Council has advised that the hotel will be required to make an application to modify the existing development application.
16. BOCSAR crime maps for the year ending December 2016, for the local community.
17. ETA application form lodged on 30 December 2016, signed by the Applicant and dated 13 December 2016. This document is accompanied by the notice to local consent authority, notice to Police and the site notice all signed by the Applicant and dated 13 December 2016.
18. Category B CIS form lodged on 30 December 2016, signed by the Applicant and dated 13 December 2016. This document is accompanied by an eleven-page additional information document, a geographical map highlighting the notification zone, a list of special interest groups and stakeholders notified of the Application.
19. In this additional information document, the Applicant describes the mode of operation during the proposed extended trading hours (mainly for the provision of gaming services) refers to the Plan of Management, its RSA measures, its security and CCTV measures, the proposed cessation of liquor during the extended hours with restrictions from 11:30 pm and its provision of a courtesy bus. The Applicant also makes submissions on the venue's record under Schedule 4 to the Act.
20. The Applicant makes submissions on licence density and the location of other hotels in Mount Druitt, and submissions in the context of gambling services to be provided on the Premises in relation to the make-up of persons in Mount Druitt. The Applicant makes submissions on SEIFA data for the Blacktown LGA (but not Mount Druitt). The Applicant distinguishes this Application from a previous extended trading application for the Premises and makes submissions in response to the submissions from Police and the local community.
21. The Applicant also provides information about the responsible conduct of gambling measures on the Premises and broader submissions on the statutory objects and considerations in section 3 of the Act. The Applicant also makes submissions on late night gambling impacts for the purposes of clause 10A of the Regulation and after discussing the 2011 report *Profiling problem Gambling Symptoms in the Australian Capital Territory: Socioeconomic and Demographic Characteristics and Gambling Participation* by Tanya Davidson and Bryan Rodgers and providing certain demographic statistics for Mount Druitt from the 2011 Census, contends that the Mount Druitt population is not "acutely" problematic with respect to problem gambling.
22. Email from Sarah Hatch, Electorate Officer, Office of Edmond Atalla MP, Member for Mount Druitt dated 22 December 2016 regarding the extension of time for submissions.

23. Email from local resident Mrs C Scott to the Mount Druitt Electorate Office dated 22 December 2016 raising concerns about the adequacy of the 30-days community submission period, the sufficiency of consultation, raising concerns about noise, patron control and garbage and consultation with persons for whom English is a second language.
24. Online submission lodged by local resident, Mrs F Zafar of Mount Druitt Road, Mount Druitt on 28 December 2016 objecting to the Application and raising concerns about anti-social behaviour (similar to concerns raised by Ms Dykyj in her submission dated 15 July 2016), potential security risks to residents and hotel staff, noise and the location of the hotel in a medium density residential area.
25. Letter from Member for Mount Druitt, the Hon Edmond Atalla MP dated 11 January 2017 attaching correspondence from local resident Mrs Scott (which is already discussed above and provided by Council) and raising concerns about the timing of the Application close to the festive season.
26. Email from Ms Yvonne Hajgato, Electorate Officer, Office of Edmond Atalla MP, Member for Mount Druitt dated 11 January 2017 regarding the extension of time for submissions
27. Letter from local resident, Ms R Dykyj of Mount Druitt Road, Mount Druitt to Mr Edmond Atalla MP, Member for Mount Druitt dated 12 January 2017 objecting to the Application. In this four-page submission Ms Dykyj makes similar contentions to her previous letter dated 15 July 2016. In addition, Ms Dykyj also raises concerns in relation to the consultation period on the Application during the festive season; that Council's approval is no longer required in relation to modifying the development application (meaning that no further formal notification process in relation to the *development consent* will be undertaken); the difficulty in lodging an online submission; the negative effects of excessive alcohol consumption on families and the community; the link between domestic violence and alcohol abuse; the social problem of compulsive gambling; the abundance of licensed premises in the area; increase in anti-social behaviour by hotel patrons; incidents involving violence in 2014; and noise.
28. Letter from Council to L&GNSW dated 12 January 2017 objecting to the Application and attaching a one-page submission from local resident Mrs C Scott of Mt Druitt Road, Mt Druitt raising concerns about offensive noise and adverse behaviour of patrons when leaving the venue. Council's 4-page submission questions the extent of consultation conducted on the Application, refers to Australian and international research on the link between late licensed trading hours and adverse social impacts, refers to information on risky drinking among young adults in Blacktown LGA, concerns about prescribed concentration of alcohol offences in the Blacktown LGA, concerns expressed by residents on alcohol and drug abuse and anti-social conduct in public places, and refers to socio demographic data for the local community of Mount Druitt indicating at risk communities and social disadvantage. Council conclude with advice that they will require the submission of a section 96(1A) application under the *Environmental Planning and Assessment Act 1979* to modify the existing development consent for the proposed use of the Premises during the extended trading hours.
29. Letter from local resident Mrs C Scott of Mt Druitt Road, Mt Druitt to the licensee of the hotel (undated) attached to the Council submission dated 12 January 2017. In this one-page submission the writer complains about a band that performed on the Premises on Friday 29 May 2015 and raises concerns about noise and the adverse behaviour of patrons when leaving the Premises (including doing "donuts and wheelies" in Mt Druitt Road and Berry Street).
30. Letter from local resident Mrs C Scott of Mt Druitt Road, Mt Druitt to the L&GNSW (undated) attached to the Council submission dated 12 January 2017 objecting to extended trading hours. In this two-page letter Mrs Scott raises concerns about the

consultation process and the absence of information on how to object; the location of the Premises in a residential area; impacts of late trading on families, workers and the elderly; the correlation between extended trading hours and violence; claims as to a range of anti-social behaviour linked to the hotel; a recent armed robbery and impacts from loud live entertainment. The writer also makes submission regarding the impact on an overworked Local Area Command of NSW Police and impacts on pedestrian safety from cars speeding from the hotel. The writer specifies by name alternative venues within five kilometres providing late night licensed entertainment.

31. Letter from Member for Mount Druitt, Edmond Atalla MP dated 17 January 2017 attaching a letter from Mr Kevin Anderson MP, Parliamentary Secretary to the Deputy Premier and for Regional Roads and Rail dated 29 September 2016 and correspondence from local resident Ms Dykyj dated 12 January 2017.
32. Email from local resident, Mrs Scott, to the Mount Druitt Electorate Office dated 20 January 2017 raising concerns about the boundary of the ETA highlighted on the plan/diagram of the Premises, noise from the hotel, the lack of acknowledgement of L&GNSW in regards to a request for number of licensees , a claimed lack of commitment by the management of the hotel to the area and residents and concerns that consultation will not be effective for many residents who use English as a second language.
33. Letter from Senior Constable B.A Havord of Mount Druitt LAC of Police dated 23 January 2017 and lodged online on 4 April 2017. This seven-page submission is accompanied by three submissions objecting to the Application: a one-page submission (where the author and date are unknown); a two-page letter from local resident Mrs C Scott of Mt Druitt Road, Mount Druitt (which is discussed in detail above when previously supplied by Council) and a one-page letter from Edmond Atalla MP, Member for Mount Druitt dated 11 January 2017.
34. Police provide a brief history of the hotel to date (including the previous refusal of an extended trading application for the Premises); the current and proposed trading hours, the initial engagement between Police and the venue in 2016; Police recommendations (including a letterbox drop for residents within 50 metres in either direction of the venue; that a two year “trial” period apply for extended trading on Thursday/Friday/Saturday trading days and conditions relating to live entertainment, a courtesy bus, security guard and rubbish collection). Police provide comments on the CIS prepared by Hatzis Cusack Lawyers; and comments on the Venue Management Plan. Police raise legal concerns arising from section 59 of the *Gaming Machines Act 2001* and discuss CCTV, security guard and courtesy bus proposals.
35. Police attach a one-page submission (with the name and date unspecified) from a third party that has been provided to Police. The complainant makes submissions questioning the map provided by the Applicant, complaints about the information provided by L&GNSW, questions the number of licensees on the Premises in the last five years and the sufficiency of consultation when many residents have English as a second language. The submission also raises concerns about the social cost of extending licensed hours and the behaviour of patrons of the hotel with potential noise impacts.
36. Letter from Member for Mount Druitt, Edmond Atalla MP dated 23 January 2016 [an apparent typographical error that should read “2017”] containing correspondence from Mrs Scott dated 22 December 2016 (which is discussed above) and requesting an extension of time for submissions.
37. Online submission lodged by local resident, Ms R Dykyj of Mount Druitt Road, Mount Druitt on 25 January 2017 raising similar concerns as those expressed in the letter to Mr Edmond Atalla MP, Member for Mount Druitt dated 12 January 2017.

38. Letter from the Applicant's legal representative, Mr Tony Hatzis of Hatzis Cusack Lawyers dated 28 April 2017 attaching the following documents:
- (a) Plan/diagram of the Premises highlighting the boundary of the ETA and the current facilities of the hotel
 - (b) Petition signed by 85 people in support of the Application.
 - (c) Letters of support from:
 - Mr J Sneesby of Rope Creek Road, Mount Druitt contending that: if the hotel was open later that Mr Sneesby and his family wouldn't have to rush to get there before closing time; that Mr Sneesby and his son attend the hotel on Friday nights to listen to the band, with extra hours being great to spend more time together; and that the hotel is in "walking distance and their never being any dramas there".
 - Mr P Keller of Wehlow Street, Mount Druitt- a local patron of the hotel for 28 years who contends that an extra few hours "would be great" to spend catching up with other locals on his days off.
 - Mr G Gay of Samanai Road, Whalan – contending that Mr Gay is a shift worker who mainly works afternoons until late; that extending the trading hours would mean that Mr Gay could stop in on his way home from work to have "a quick punt".
 - Mr J Smallwood of Whistler Crescent, Erskine Park dated 28 February 2017 – contending that Mr Smallwood is a shift worker who is regular at the hotel and that extending the hours would benefit Mr Smallwood.
 - Mr J Dobson of Brisbane Street, Oxley park – contending that he would like the hotel to stay open longer for social reasons; that he is a "regular" who visits on a daily basis; that extra hours would mean Mr Dobson could socialize longer; and that when purchasing a house, Mr Dobson asked the real estate to find a house close to the hotel in order for Mr Dobson to visit more often.
 - (d) Amended Venue Management Plan incorporating police requests dated March 2017.
 - (e) Notice of determination number 06-3532 issued by Council on 21 September 2007 for demolition of existing hotel and motel buildings and construction of new hotel and motel buildings.
 - (f) A & M Consultants Report conducted by Mr Adam Purcell dated 26 March 2017. Mr Purcell conducted two nights of surveillance at the hotel on Friday 17 March 2017 (St Patricks Day) between 9:30pm and 12:15am and Thursday 23 March 2017 between 10:00pm and 12 midnight. In this three-page report, Mr Purcell discusses noise, patron behaviour and litter. Mr Purcell concludes that he did not see any issues with the granting of the ETA to the hotel. The curriculum vitae of Mr Purcell is attached to this report.
39. In this 18-page submission the Applicant *inter alia* confirms the proposed trading hours, , confirms the hours proposed for take away liquor sales, consents to a number of conditions and outlines a number of management practices adopted by the hotel to ensure the quiet and good order of the neighbourhood of the community is not adversely affected by the ETA. The Authority notes that these controls relate to patron capacity, security personnel, entry/exit to the hotel after midnight, a courtesy bus, the cessation of liquor and the plan of management.
40. The Applicant discusses the background to the Application and makes submissions on the demand for the proposed extended trading services given the significant population growth

underway in Western Sydney, contending that the extended hours will be convenient for local shift workers and facilitate the progressive departure of patrons, with a “wind down” of liquor service rather than patrons leaving together at midnight closing.

41. The Applicant responds to Police noting its letter drop to residents, the limited number of objections, advising that the Applicant agrees to Police proposals for a trial period and its agreement to certain other conditions proposed by Police in the Plan of Management, including CCTV and security measures. The Applicant makes submissions on the primary purpose test and recent amendments to the legislation with the effect of “decoupling” the regulation of liquor and gaming services during the early hours of the morning, reducing the impacts of alcohol on the gaming machine players and providing for safer hotels.
42. The Applicant responds to Council by contending that the proposal is to extend trading hours without extending liquor supply- that patrons can stay in the confines of the Premises enjoying soft drinks, coffee, water, food, enjoying the gaming facilities, watching TV or otherwise socialising with friends and this will enable a "wind down" period before leaving the hotel which makes it less likely that people will be driving home with blood alcohol levels above the prescribed limits. The Applicant further submits that there is no requirement to "modify" the existing development consent to enable the hotel to stay open for the additional 2 hours sought.
43. In response to submissions from Mrs Scott and Ms Dykyj the Applicant submits that the Application complied with statutory consultation requirements. The Applicant reiterates its submissions on the nature of services to be provided during late hours and the scope for extended hours to facilitate a “wind down” in liquor service and the progressive departure of patrons. The Applicant refers to the increased harm minimisation measures proposed during late hours and the operation of a courtesy bus on the busier nights of trade. The Applicant also makes submissions on the regulatory history of the Premises and its absence from the Schedule 4 list of violent venues and contends that some of the anti-social behaviour issues raised appear to concern matters that have occurred a number of years ago.
44. The Applicant refers to a report that it has provided from its consultant, Mr Purcell, who found the premises to be well run with no evidence of anti-social behaviour. The Applicant contends that Mrs Scott’s claims are not corroborated by anything in the Police submission and contend that Police “appear” to recognise that the impact of the application is “likely to be benign”. The Applicant reiterates contentions that later hours will cater for shift workers and provide a wind down period for persons leaving the venue. The Applicant submits that there is no basis for comparison between the situation in Mount Druitt and the regulation of licensed premises in the Sydney CBD.
45. The Applicant also makes submissions regarding the L&GNSW response to the Application and contends that the EVAT report suggests that the risk factors relating to this particular application are relatively benign and that no amendment to the development consent is required. The Applicant consents to the two conditions requested by L&GNSW regarding the sale of liquor and the provision of entertainment.
46. The Applicant address compliance issues by contending that to the best of the current and former business owner’s knowledge there have been no breaches recorded against the current or former licensees of the hotel. The Applicant contends that the hotel has been operated by the current business owner since 2009, whilst the hotel was operated from 1986 to 2009 by the current business owner's brother. The Applicant contends that the hotel has not featured as a regulated venue (Level 1 or Level 2) in any of the 16 rounds of assessment pursuant to Schedule 4 of the Act and no strikes are recorded against the hotel since the commencement of the Three Strikes Scheme.
47. The Applicant discusses responses received from special interest groups and stakeholders, the wider merits of the present Application for extended trading hours and

minimising harm associated with the misuse and abuse of liquor. The Applicant contends that a reasonable decision maker would not conclude that the grant of this Application is at all likely to exacerbate rates of crime in the local community and that there is no evidentiary basis for determining that the grant of this Application, subject to the proposed controls, is likely to cause any undue disturbance impacts. The Applicant then discusses the harm minimisation and responsible service of alcohol measures presently in place and that will be in place during the ETA before contending that the Authority can be satisfied that 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 and served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the licensed premises.

48. The Applicant also discusses the requirement in relation to section 49(8)(b) of the Act relating to frequent or undue disturbance to the quiet and good order of the hotel (which the Applicant contends will not occur as a result of conditions relating to the cessation of liquor and no entertainment during the extended trading period) and clause 10A of the Regulation relating to responsible conduct of gaming during extended hours (in which the Applicant refers to its harm reduction measures with respect to the hotel's participation in the "Game Care" self-exclusion scheme, use of required signage, adequate staffing to enforce compliance, the requirements of clause 10A and 11(4) of the Liquor Regulation, the scope of the Applicant's consultation with local organisations receiving funding from the Responsible Gambling Fund and the absence of submissions indicating that the proposal might cause "unacceptable" gambling related harms.
49. The Applicant concludes with submissions to the effect that granting the Application will serve the expectations, needs and aspirations of this community and facilitate the balanced development of the liquor industry while providing significant controls reflecting the need to minimise harm associated with any possible misuse and abuse of liquor. The Applicant contends that granting the Application will positively contribute to the amenity of community life in Mount Druitt and surrounding suburbs.
50. L&GNSW licensed premises information as at 6 February 2017 for club licences, hotel licences, on-premises licensed, packaged liquor licences and small bar licences in Blacktown LGA and the state of NSW.
51. Liquor licensing records from L&GNSW as at 2 May 2017, for a combined total of club, hotel, on-premises, small bar and packaged liquor licences and late trading licences after 12:00am in the suburb of Mount Druitt, Blacktown LGA and the State of NSW
52. Liquor licensing records from L&GNSW as at 2 May 2017 providing a list of all licences (club, hotel, on-premises, small bar and packaged liquor licences) with an ETA after 12:00am in the Blacktown LGA and the suburb of Mount Druitt.
53. Google maps showing the location of the Premises, extracted from the Google website on 2 May 2017.
54. Letter from the Applicant's legal representative, Mr Tony Hatzis dated 23 May 2017 responding to the further submission of Mr[s] F Zafar.
55. In this document the Applicant makes the following key contentions that: the prescribed consultation and notification process was followed in respect of this Application, at 2 stages - the CIS and Application stages; 86 hotel patrons stated their support for the Application by way of a petition with 33 of those petitioners giving their place of residence as Mount Druitt; there is nothing stated in his submission about how recently the claimed disturbances have occurred or over what period of time; the present licensee and business owners have not received any complaints about the operation of the hotel from Mr[s] Zafar; the Applicant has agreed to the safeguards put forward as part of this Application to minimise instances of disturbance; and the longer hours will facilitate a staggering of

patron departures, thereby reducing the potential for disturbance impacts on local residents.

56. OneGov liquor licence details recorded as at 25 May 2017 for The Village Hotel.
57. Plan/diagram of the Premises indicating the boundary of the total licensed area and the boundary of the proposed ETA within that area.
58. Plan/diagram of the Premises indicating the boundary of the licensed area in yellow and the boundary of the proposed ETA in purple.