



Ms Michelle Mancini
Licensee
(or the person apparently in charge of the premises)
Imperial Hotel
35-39 Erskineville Road
ERSKINEVILLE NSW 2043

info@imperialersknvl.com.au
k.stapleton@jdklegal.com.au
alec@police.nsw.gov.au

ryan.watts@slaterandeliass.com.au
anthony.keon@olgr.nsw.gov.au

Dear Sir/Madam

**Notice of Short Term Closure Order
LIQH400103115 – Imperial Hotel, Erskineville
STATEMENT OF REASONS**

INTRODUCTION

1. I refer to the Notice of Application for Short Term Closure Order (Notice) communicated by the Independent Liquor and Gaming Authority (Authority) to the solicitor for the licensee and the business owner of the Imperial Hotel, Mr Kim Stapleton of *JDK Legal*, via email at 9:40am on 22 July 2015.
2. A copy of the Notice was also communicated to the solicitor for the premises owner, Ryan Watts of *Slater and Elias*, via email at 10:16am on 22 July 2015.
3. The Notice concerns an application (Short Term Application) made to the Authority on the afternoon of 21 July 2015 by Mr Anthony Keon (Applicant) who is the Director of Compliance and Enforcement for the Office of Liquor, Gaming and Racing (OLGR) and a delegate of the Secretary of the NSW Department of Justice (Secretary).
4. The Application is made under section 82 of the *Liquor Act 2007* (Act) and seeks the issue of a Short Term Closure Order in relation to the Imperial Hotel, located at 35-39 Erskineville Road, Erskineville (Premises).
5. The OneGov licensing database record for the Premises as of 20 July 2015 discloses that the Premises has a "full" hotel liquor licence number LIQH400103115 and is authorised to trade 24 hours per day, Monday through Saturday and from 5:00am to 12:00 midnight on Sunday.
6. The licence record also indicates that the hotel may also sell liquor for consumption off the Premises between 5:00am and 12:00 midnight, seven days a week. The Authority notes, however, that as part of package of reforms to the Act that commenced effect in February 2014 which also included new controls in respect of licensed premises in the declared Kings Cross and Sydney CBD Entertainment Precincts, liquor may no longer be sold for consumption off any licensed premises in New South Wales after 10:00pm.

7. There are several conditions currently endorsed on the licence, including (in addition to those conditions imposed by operation of the liquor legislation) a requirement that the licensee provide two (2) security personnel to patrol streets in the vicinity of the Premises between midnight and 3.30am to "...ensure the orderly departure and arrival of patrons"; a requirement that that staff be stationed at the exit at closing time to remind patrons to depart the neighbourhood quietly and a requirement that liquor not be taken to or consumed on the outdoor smoking terrace on the first floor.
8. The licence record indicates that the current licensee (Licensee) of the Premises is Ms Michelle Mancini, who has only held that position since 10 July 2015.
9. The current business owner of the Premises since 26 April 2015 (Business Owner) is Atesh Pty Limited (ACN 603 085 883), whose sole director is Mr Murat Kilic. Mr Kilic was the licensee of the Premises from the time of acquisition of the business until the appointment of Ms Mancini.
10. The Business Owner occupies the Premises pursuant to a commercial lease and the owner of the freehold in the Premises since 6 June 2003 is another company, Wonarla Pty Limited (Premises Owner).
11. The material accompanying the Short Term Application comprises:
 - Statutory Declaration by the Applicant dated 21 July 2015
 - Application letter dated 21 July 2015
 - File Note prepared by OLGR Senior Compliance Officer, Ms Trudie Enks and OLGR Compliance Officer Mr Paul Newman dated 21 July 2015
 - Reports sourced from the NSW Police Computerised Operational Policing System database (COPS Reports) detailing five (5) adverse events (Events) alleged by the Applicant to have very recently occurred in relation to the operation of the Premises - COPS Report numbers E58623846, E58194305, E58096017, E58557076, and E58971328.
12. However, the Applicant also refers to and relies upon material provided to the Authority in support of a separate application for a Long Term Closure Order (Long Term Application) made by Mr Keon under section 84 of the Act on 17 July 2015. That material comprises:
 - Statutory declaration by the Applicant dated 17 July 2015
 - Application letter dated 17 July 2015
 - File Note prepared by OLGR Compliance Officers Ms Sally Turner and Mr Paul Newman dated 16 June 2015
 - A copy of a previous application made by OLGR under section 82 of the Act (Previous Short Term Application) dated 18 June 2015 in respect of the Premises
 - A copy of the Authority's decision with reasons issuing a Short Term Closure Order closing the Premises for a period of 72 hours from the evening of 19 June 2015 (Previous Short Term Closure Order)
 - COPS Report E59295316 regarding a covert inspection conducted by NSW Police on the Premises on 11 and 12 July 2015
 - Police Prosecution Facts Sheet dated 12 July 2015 in relation to a drug prosecution arising out of the Police inspection on 11 July 2015
 - COPS Report E58013835 arising from a Police inspection of the Premises on 5 July 2015 regarding the arrest of an intoxicated person on the Premises
 - COPS Report E58439757 noting a Police inspection on the Premises on 4 July 2015 whereby an intoxicated male and certain deficiencies in security

procedures were observed by Police, as were a number of persons refused entry to the Premises by hotel staff

- COPS Report E58500759 noting a Police inspection on 26 June 2015 where Police make general observations about patrons displaying behaviour consistent with intoxication by illicit drugs
- COPS Report E58834777 noting a Police inspection on 4 July 2015 whereby a female patron refused to quit the Premises, continued to create disturbance and disobeyed security staff. The female was arrested and assaults Police
- COPS Report E885345590 noting a Police inspection on 28 June 2015 where a patron displayed behaviour consistent with intoxication from alcohol and drugs, failed to quit the Premises, creates disturbance, is arrested and resists arrest
- Witness Statement dated 30 June 2015 in relation to the matter described as *Police v Imperial Hotel*. This statement is made by a person described as a longstanding patron of the Premises who attended prior to the current ownership of the business. The patron complains about aspects of disturbance to the neighbourhood by what the witness alleges is the conduct of patrons of the venue that has operated on the Premises since about April 2015
- Witness Statement dated 3 June 2015 in relation to the matter of *Police v Imperial Hotel*. This resident of Gowrie Street provides evidence of instances of disturbance to the neighbourhood by what the witness alleges are patrons of the venue operating on the Premises since about April 2015
- Witness Statement dated 26 June 2015 in relation to the matter of *Police v Imperial Hotel*. This resident of Erskineville Road provides evidence of aspects of disturbance to the neighbourhood by what the witness alleges are patrons of the venue operating on the Premises since April 2015
- Witness Statement dated 23 June 2015 in relation to the matter of *Police v Imperial Hotel*. This resident of Baldwin Street provides evidence of aspects of disturbance to the neighbourhood by what the witness alleges are patrons of the venue operating on the Premises during the month preceding this statement
- Witness Statement dated 22 June 2015 in relation to the matter of *Police v Imperial Hotel*. This resident of Erskineville Road provides evidence of what the witness alleges are incidents of disturbance to the neighbourhood since April 2015
- Witness Statement dated 11 July 2015 in relation to the matter of *Police v Imperial Hotel*. This resident of Gowrie Street provides evidence of what the witness alleges are incidents of disturbance to the neighbourhood since April 2015
- Email to Police from a neighbour of the Premises dated 27 June 2015. This resident complains of recent noise from Toogood Lane and from the Hotel generally on Friday and Saturday nights. It details an incident whereby a male was scouring the rooftop next door to her premises and startled the witness who was inside her home showering at the time
- COPS Report E57741750 reporting that on 26 April 2015 at 8:00am Police observed 30 to 40 people at the service station across from the Premises who had been on the Premises and were affected by alcohol or drugs before being moved on. Police spoke to hotel security staff, who were visibly affected by liquor. Police spoke to the then licensee of the Premises (Mr Kilic) who was allegedly displaying behaviour consistent with being affected by illicit drugs
- COPS Report E58794877 notes Police attendance at the Premises on 28 June 2015 at 2am. Police encountered an argumentative male person telling Police to "be quiet". He claimed to be the duty manager and was observed by Police to be "well intoxicated". Police observed that the male was "very well affected by alcohol" and identified their concerns as to the implications of the hotel duty manager being affected by alcohol while on duty on the Premises. The male

person allegedly then "started back peddling" and stated that he was "not the manager". He was then directed to move on by Police

- Police Witness Statement by Constable Ilgaz dated 19 July 2015 in relation to the matter of *Police v Kilic*. In this statement, Officer Ilgaz describes how the person with whom Police had dealings on the Premises on 28 June 2015 (who told Police to "be quiet") was actually Mr Murat Kilic. Mr Kilic is stated to have admitted drinking on the Premises
 - Police Witness Statement by Constable White dated 9 July 2015 in relation to the matter of *Police v Kilic*. In this statement, Officer White gives similar but less detailed evidence to Con Ilgaz about encountering the then licensee, Mr Kilic
 - Letter from OLGR to the then licensee of the Premises, Mr Murat Kilic dated 3 July 2015 giving notice that OLGR are considering imposing new licence conditions upon the liquor licence pursuant to section 54 of the Act – including conditions requiring a 1:30am lockout; restrictions on the types of drinks that may be sold after midnight; cessation of service of liquor at 4:00am; a requirement to engage Responsible Service of Alcohol (RSA) Marshals on the Premises; a requirement for supervision of the Premises by a person with at least two years' experience at all times when the licensee is not on the Premises; new security staffing requirements after 9:00pm; new CCTV requirements; crime scene preservation requirements; a requirement to maintain an Incident Register and a requirement to have and maintain a Plan of Management as an enforceable licence condition.
13. The Long Term Application seeks the closure of the Premises for up to six months, or until either of the following occurs:
- (a) An investigation by the Secretary into the Business Owner, Mr Murat Kilic and the Licensee, Ms Michelle Mancini currently underway pursuant to section 138 of the Act has been finalised and any disciplinary complaint arising from that investigation finalised by the Authority; OR
 - (b) The Licensee, Ms Mancini is replaced by a new licensee who is "unconditionally approved" by the Authority and the licensed hours of the Premises are restricted to standard trading hours (within the meaning of section 12 of the Act).
14. On 20 July 2015 the Long Term Application material was sent by courier to the registered company address of the Business Owner and the Premises Owner, with a further copy sent to the Premises of the hotel.
15. On the morning of 21 July 2015, at the direction of the Authority, OLGR provided the Authority with additional material, being the full text (not summaries) of 27 COPS Reports (27 Indexed COPS Reports) upon which the Applicant seeks to rely in support of the Long Term Application. The Authority notes that these COPS Reports are also before the Authority in relation to the Short Term Application and that parties were on notice of this. Copies were provided to solicitors for the Business Owner on 21 July 2015 and to the solicitors for the Premises Owner on 22 July 2015.
16. At 4:00pm on 21 July 2015 the Authority's Chief Executive convened a directions meeting and attended by representatives from OLGR for the Applicant and solicitors from JDK Legal to discuss the procedure for the Long Term Application. At this meeting OLGR also provided a copy of the Short Term Application to the Authority and to JDK Legal.
17. At 12:57pm on 22 July 2015, OLGR provided a brief report (OLGR Historical Report) providing further material to the Authority that had been requested by the solicitors for the Business Owner during the directions meeting.

18. The OLGR Historical Report concerns regulatory and compliance information held by OLGR in relation to the Premises for the 12 months preceding 17 April 2015, including any Police reported Events accessible by OLGR. Copies of the OLGR Historical Report were forwarded to the Business Owner and Premises Owner shortly after their receipt by the Authority.
19. This report advised that OLGR had engaged with the Premises on three (3) occasions in the 12 months preceding 17 April 2015 however, no breaches of licensing legislation were identified by OLGR officers.
20. The OLGR Historical Report also furnishes the full text of all NSW Police COPS Reports produced to OLGR by Newtown Police in respect of the 12 months preceding 17 April 2015. These reports pertain to assaults, drug offences and other offences detected in relation to the operation of the hotel on the Premises during the relevant period.

Applicant Case for Short Term Closure of the Premises

21. In the Short Term Application letter dated 22 July 2015, the Applicant seeks closure of the Premises for a period of 72 hours from 5:00pm Friday 24 July 2015 by reason that, in addition to the serious breaches identified by the Applicant as part of a recent application for a short term closure order made in respect of the Premises on 18 June 2015 (granted by the Authority on 19 June 2015) further serious offences against the Act have occurred on 18 July 2015 in that the licensee permitted intoxication on the Premises contrary to section 73(1)(a) of the Act.
22. The Applicant contends that it is "extremely likely" that further breaches against the Act will occur this coming weekend and there is a "...significant threat or risk to the public interest".
23. The Applicant also incorporates by reference further allegations and evidence in relation to other alleged serious breaches of the Act contained in the Long Term Application.
24. The Applicant contends that since the recent closure of the Premises by the Authority further offences against sections 73 and 74 of the Act either have occurred or are likely to occur and that closure of the Premises for 72 hours from 5:00pm on Friday 24 July 2015 is necessary to prevent or reduce a significant threat to the public interest.
25. On the basis of all of the material before the Authority in support of the Short Term Application and Long Term Application (Application Material), the Applicant contends that serious breaches of the Act in relation to drug possession, use and supply and intoxication on the Premises, being breaches of sections 73 and 74 of the Act, have been recently detected in relation to the Premises by NSW Police officers and OLGR Inspectors.
26. The Applicant contends that serious breaches of the Act have occurred and that it is "extremely likely" that further breaches of sections 73 and 74 of the Act will occur, should the Premises continue to trade under its "current business model".
27. The Authority understands this reference to the "current business model" refers to the fact that the Premises is a substantial, very late trading hotel with a strong focus on live entertainment in particular ticketed weekend dance music events.
28. The Authority notes, on the basis of submissions from Mr Kilic in response to the Previous Short Term Closure Application, that Mr Kilic describes himself as a disc jockey

(DJ) of some international renown. In the current submissions before the Authority from the Business Owner dated 23 July 2015, Mr Kilic's 20 years' experience as a professional DJ is emphasised along with his prior experience as an investment analyst in institutional equities markets.

29. The Applicant contends that closure of the Premises for a period of 72 hours from 5:00pm on Friday, 24 July 2015 is necessary to prevent or reduce a "...significant threat or risk to the public interest" for the purposes of section 82 of the Act.

NOTICE OF ORDER

30. At around 6:00pm on Friday 24 July 2015 the Authority provided by email to the parties, a short form decision letter advising that the Authority had decided to issue an order under section 82(1) of the Act, to close the Premises from 7:00pm that evening for a period of 72 hours (Notice of Order). The time of the Order was 5.45pm.
31. Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish, as soon as practicable, statements of reasons with respect to those types of decisions prescribed by clause 6 of the Gaming and Liquor Administration Regulation 2008.
32. This letter has been prepared in the context of a high volume liquor jurisdiction and in response to a type of application that requires expeditious determination by the Authority.

SUMMARY OF THE SHORT TERM APPLICATION

33. Briefly (as noted in the Long Term Application letter dated 17 July 2015, which is incorporated by reference in the Short Term Application letter) the Applicant notes the extended licensed trading hours of the Premises authorised to trade 24 hours per day, Monday through Saturday and from 5:00am to 12:00 midnight on Sunday.
34. The Applicant contends that the Hotel business regularly conducts "large scale ticketed weekend events" from 9:00pm, and trades up until 7:00am the following morning.
35. The Applicant submits that the Licensee, Ms Michelle Mancini, was provisionally approved by the Authority as the licensee on 10 July 2015 and that Ms Mancini has been employed at the Premises since May 2013 as a "Duty/Venue Manager".
36. The Applicant notes that prior to Ms Mancini commencing as licensee, Mr Murat Kilic was the licensee of the Premises from 26 April 2015.
37. The Applicant submits that the current Business Owner of the Premises since 26 April 2015 is Atesh Pty Limited (ACN 603 085 883), whose sole director is Mr Murat Kilic.
38. The Applicant notes, on the basis of Mr Kilic's submissions made in response to the Previous Short Term Closure Application that was granted by the Authority on 19 June 2015, that Mr Kilic is a personal guarantor for the lease for the Premises.
39. The Applicant contends that Mr Kilic is still "...closely associated with the hotel" and is able to exert "considerable influence" over the operations of the hotel business that operates on the Premises.
40. In the Short Term Application letter dated 22 July 2015, the Applicant submits that since the Long Term Application was submitted to the Authority on Friday 17 July 2015, there

have been further observations made by OLGR Inspectors and Police officers over the most recent weekend (18-19 July 2015) which provide further evidence that there is an "unacceptable risk" to the community, should the Premises continue trading over the coming weekend (25-26 July 2015).

41. The Applicant contends that, in addition to the serious breaches identified as part of the Previous Short Term Closure Application and the Long Term Application, further serious offences occurred on the night of 18 July 2015, in that the Licensee allegedly permitted intoxication on the Premises contrary to section 73(1)(a) of the Act. The Applicant states that those allegations are "...currently under investigation by this office".
42. The Applicant refers to a file note prepared by OLGR Inspectors Ms Trudie Enks and Mr Paul Newman dated 21 July 2015 regarding their covert observations on 18 July 2015 (OLGR File Note).
43. The Applicant submits that this document details instances of patrons who were intoxicated on the Premises. The key points from that OLGR File Note are summarised by the Applicant as follows:
 - *At 1:00am a male patron with slurred speech was observed drinking hot water from the bathroom taps. The male was subsequently asked to leave by venue security.*
 - *At 1:50am a male person showing signs of intoxication including unsteadiness on his feet fell back into his chair twice and was slumping in the chair. The male went to the bar with another person who told him to go and sit down while he was ordering two beers. The intoxicated male was observed to consume his beer, then got up and was dancing and stumbling.*
 - *At 2:15am a male person showing signs of intoxication was observed swaying and his movements were slow and languid. The male was slumped into chair, his eyes closing slowly. A friend went to bar and bought him another beer which he consumed and the fell asleep. Later in the night the male was observed the stumble to the toilets and urinate on himself.*
 - *At 3:15am a male person showing signs of intoxication was observed slumped against a wall slowly blinking until he fell asleep.*
 - *At 3:45am and 3:50am male patrons were observed to be 'cut off' but were not asked to leave.*
 - *At 5:00am a male person showing signs of intoxication was observed swaying and leaning on a statue.*
44. The Applicant notes that the OLGR Inspectors did not bring the intoxicated persons on the Premises to the attention of Hotel management on the night of this inspection. The purpose of this was to ensure that there was a sufficient observation period to monitor management's response to the issues of intoxication observed by OLGR inspectors.
45. Further, due to safety concerns, the inspectors were under instruction to contact Police should they intend to engage hotel management regarding any suspected breaches of the Act.
46. The intoxicated patrons observed by OLGR variously left the Premises of their own accord or were asked to leave by hotel staff. There was no opportunity for OLGR inspectors to bring the intoxication of those patrons to the attention of venue management.
47. In the case of one intoxicated male observed by OLGR at 5:00am, OLGR observe that Police were called prior to the OLGR Inspectors approaching hotel management. However, this patron then left the Premises of his own accord in the intervening period before Police could respond to the call.

48. The Applicant submits that in addition to this matter, Police inspections carried out over the last weekend (18 and 19 July 2015) provide further evidence that intoxication on the Premises is "...not being adequately controlled".
49. The Applicant refers to the information provided in the five COPS Reports provided with the Short Term Closure Application (E58623846, E58194305, E58096017, E58557076 and E58971328) which are summarised below.
50. The Applicant submits that these COPS Reports show a "continuing pattern" of patrons who are "well affected" by alcohol being asked to leave and then becoming aggressive toward venue security and Police. This in turn leads to instances of confrontation and aggression, often in public spaces, which adversely affect the amenity of the neighbourhood.
51. The Applicant contends that there is an "unacceptable risk" of alcohol related violence and anti-social behaviour on the Premises which is contrary to the public interest.
52. In addition to the evidence of intoxication on the Premises, the Applicant submits that there is also evidence that an "...illicit drug culture [is] continuing to proliferate" on the Premises.
53. The Applicant submits that the OLGR File Note includes a report that a patron approached an OLGR officer and asked where he could get some drugs, while COPS Event number E58557076 reports that on 18 July 2015, the venue's drug dog had made nine drug detections on patrons.
54. The Applicant contends that, based upon material provided in support of the Long Term Application and the most recent evidence or material noted above, it is "extremely likely" that, should the hotel continue to trade under the "current business model", there will be further breaches of the Act in relation to drug possession, use and supply and intoxication on the Premises.
55. The Applicant contends that it is "extremely likely" that breaches will occur this coming weekend (25 to 26 July 2015) and that there is a significant threat or risk to the public interest.

SUMMARY OF THE APPLICATION MATERIAL

OLGR File Note dated 21 July 2015

56. Between 11:55pm on Saturday, 18 July 2015 and 5:30am on Sunday, 19 July 2015, OLGR Senior Compliance Officer Trudie Enks (SCO Enks) and Compliance Officer Newman (CO Newman) attended the Premises and recorded their observations in a detailed file note dated 21 July 2015.
57. The OLGR File Note records that between 11:55pm on Saturday, 18 July 2015 and 12:00am on Sunday, 19 July 2015, the following external observations were made on the Premises:

CO Newman and SCO Enks arrived at the Premises at approximately 11:55pm and drove around the vicinity of the hotel. Four security guards were noted around the entrance of the Premises. Two guards were at either side of the Premises entrance on Erskineville Road – one of these guards held a handheld metal detector wand. One female security guard with a spaniel dog stood approximately 5 to 7 metres away toward the intersection of Erskineville Road and Union Street. A fourth guard appeared to be a roaming guard, coming and going from the

Premises as necessary. There was no queue at the entrance to the Premises. No guards were observed at the Budget petrol station across from the Premises. A number of taxis were coming and going through the petrol station.

CO Newman and SCO Enks drove into the parking lot next to the Erskineville Hotel, diagonally across from the Imperial Hotel entrance. Upon entering the carpark, SCO Enks and CO Newman observed a male urinating against the wall at the far end of the carpark.

After parking the vehicle, CO Newman contacted Inspector Mick Dykes at NSW Police, Newtown Local Area Command to advise that they had commenced duties and were about to enter the Premises.

SCO Enks and CO Newman crossed the road and approached the Premises entrance. There were four security guards outside the Premises at this time. The two guards by the front door and the female guards with the dog were in the same positions as identified during the previous drive past. The fourth roaming guard stood approximately 5 metres away from the Premises entrance towards the Union Street intersection – he was searching a female patron's handbag.

The female guard with the dog did not approach SCO Enks or CO Newman. The guard to the right of the door directed SCO Enks and CO Newman to form a queue beside him. He then requested to see ID. CO Newman and SCO Enks produced their ID. SCO Enks was then directed inside – no search of her handbag was conducted, nor was she asked to submit to a scan with the handheld metal detector.

CO Newman was asked to step to the left of the entrance where the guard to the left of the entrance scanned him with the handheld metal detector. SCO Enks observed from the Premises doorway. CO Newman was asked what was in his left pocket. CO Newman said, "My wallet" and showed the guard his wallet. CO Newman was then asked what was in his right pocket. CO Newman said, "A book" and opened his pocket. The guard did not ask CO Newman to remove the book from his pocket.

58. Between 12:00 midnight and 5:15am on Sunday, 19 July 2015, the following further observations were made regarding the "Spice Cellar" nightclub that is conducted on part of the Premises:

Just inside the front doors, a tall male host directed SCO Enks and CO Newman to a counter down the corridor and to the left to purchase tickets for Spice. CO Newman asked why they did not need to go upstairs. The host explained that the venue had just changed the set-up for ticket purchase this week and the tickets were now to be purchased at the counter down the corridor. SCO Enks and CO Newman walked down the corridor and joined a queue of approximately eight to 10 people near the desk. CO Newman purchased two tickets for \$70. SCO Enks and CO Newman received a black ink stamp on the inside of one wrist that said "SPICE".

SCO Enks and CO Newman then commenced a walk-through of the Premises.

At 12:05am, SCO Enks and CO Newman entered the Lounge bar at the rear of the ground floor. The room was relatively full – about 100 patrons. The patrons were a mixed demographic between the ages of 18 to 35 years old. There was a DJ with decks set up on the stage playing a mix of vocal house music. Approximately 15 to 20 patrons were dancing on or near the elevated dancefloor. Inspectors observed two bar staff serving liquor from behind the bar and one bar back. A water station was located near the entry hatch. One female security guard was stationed towards the rear of the room; another female guard was observed picking up glasses and objects from the floor. One male security guard appeared to be a roaming guard – he entered the room, walked halfway around the perimeter of the room, then left. He did not engage with any patrons. The bar area and the DJ stage were well lit; however, the rest of the room was quite dark. The patrons did not appear to be showing any noticeable signs of intoxication.

At 12:10am, SCO Enks and CO Newman entered the front bar. Again, the front bar was relatively full – about 100 patrons. The patrons were of mixed demographic, around 18 to 55 years of age. A DJ was located to the left of the bar playing retro house music and a number of patrons were dancing in front of the DJ box. The roaming male guard from the Lounge bar also patrolled the front bar. Whilst in the front bar, CO Newman purchased two bottles of Asahi beer in order to blend in. The Asahi was not consumed by inspectors. There were four bar staff observed serving alcohol to patrons with a water station located at the end of the bar near the DJ. After purchasing the beer, SCO Enks and CO Newman stood in a central position near the bar. A short, stocky female with shoulder length wavy dark hair walked past wearing a fluoro orange, hi-visibility vest. The vest bore the words "RSA Marshal" on the back, written in black marker pen. The RSA Marshal did not proactively engage with patrons. The patrons did not

appear to be showing any obvious signs of intoxication at this point, although there were a few people on the dancefloor who were quite loud and animated.

SCO Enks and CO Newman then proceeded to the entrance of the Spice Cellar. There was one guard stationed at the entrance next to the ticket desk. The guard advised that no glass was allowed downstairs and we needed to pour our drinks into plastic glasses. The guard motioned to some red plastic glasses to the right of the entrance. After decanting the Asahi beer into glasses, SCO Enks and CO Newman proceeded through the door and down some stairs to the Spice Cellar. One guard was observed stationed just inside the door to the Spice Cellar. SCO Enks and CO Newman observed patrons and staff from the mezzanine level. One guard appeared to be roaming around the mezzanine level of the room, but was not engaging patrons. The room seemed only about half full, with approximately 170 to 200 patrons. The patrons were not showing noticeable signs of intoxication. However, a number of patrons were very animated.

At approximately 12:30am, SCO Enks and CO Newman moved downstairs and onto the dancefloor where they danced amongst the patrons. At around 12:45am, a tall, slim male wearing a yellow waterproof hooded jacket (**M1**) leaned down and had a conversation with SCO Enks to the following effect:

M1: "Do you know where I can get some drugs?"
Enks: "Pardon?"
M1: "I want to get some drugs, do you know anyone?"
Enks: [smiles and laughs]
M1: "I'm serious!"
Enks: "No, I don't. Sorry."

M1 was slightly slurring his words, but was still intelligible. After the conversation he walked off. SCO Enks advised CO Newman of the conversation and both inspectors continued to observe M1, but he did not appear to engage with any other patrons at this point.

At approximately 1:00am, the RSA Marshal was sighted near the main door. The Marshal looked around the immediate vicinity, did not engage with any patrons and walked away.

Shortly after 1:00am, CO Newman entered the men's toilets in the corner of the mezzanine level behind the DJ stage. Whilst in the bathroom, CO Newman engaged with a male patron (**M2**) – 180cm tall, wearing grey twill style coat and blue jeans. The conversation had words to the following effect:

M2: "Hey, mate, are you a tradie?"
Newman: "Nah, am a desk jockey. You?"
M2: "You're a DJ?"
Newman: "No, DESK jockey. What do you do?"
M2: "I make and fit lifts."

M2 then began to demonstrate with his hands what looked like to be a hammering and screwing action.

Newman: "Oh, cool. You enjoy it then?"
M2: "Fucken yeah."

M2 then staggered to the wash basin; his speech was slurred, yet decipherable. M2 was then observed consuming hot water from the taps. CO Newman then left the restroom and returned to SCO Enks and relayed the observations.

At around 1:10am, two male guards were observed roaming around the mezzanine level. One of the guards engaged with M2 and asked him to leave. After M2 was asked to leave, there was a heightened level of security activity in the men's bathroom. CO Newman returned to the bathroom to make some further observations, however there was nothing to report.

Inspectors then moved around the mezzanine to the area above the downstairs bar. At around 1:20am, inspectors noticed the RSA Marshal standing at the stair landing at the back of the dancefloor. The Marshal did not engage with any patrons. SCO Enks noticed bar staff handing two drinks in plastic cups to a patron together with a can of Red Bull. SCO Enks suggested that the inspectors head downstairs and try and order a vodka Red Bull to test what the staff were serving.

At 1:25am, SCO Enks and CO Newman approached the downstairs bar. SCO Enks had a conversation with the female barperson (**BP1**) to the following effect:

Enks: "Two vodka Red Bulls, please."
BP1: "We don't do vodka Red Bulls."
Enks: "Are you sure you can't? I've had one before."
BP1: "No, but what I can do is give you vodka with a dash of soda or lemonade and give you a can of Red Bull."
Enks: "OK, two with soda, please."

SCO Enks then observed BP1 pour one measure of vodka into each tall glass, then a scoop of ice into each. BP1 then added a squirt of soda into each glass. BP1 then handed the two glasses to SCO Enks with an unopened can of Red Bull. CO Newman paid for the drinks. Inspectors then looked into the glass and estimated that the drinks were about half vodka, half soda and contained a lot of ice.

At approximately 1:40am, SCO Enks overheard a patron with shoulder length dark hair and beard (M3) say the word "ecstasy" to another patron. Inspectors kept an eye on M3 for about 10 minutes. M3 wandered through the dancefloor then back up to the mezzanine level. He did not appear to interact with any other patrons. However, he attempted to make two phone calls on his mobile.

At around 1:50am, SCO Enks and CO Newman moved back upstairs to the front bar. Inspectors stood near the bar towards the middle of the bar area. After a few minutes, the inspectors observed a male, average build, average height, in his mid-40s (M4) who appeared to be unsteady on his feet. As inspectors continued observations, M4 stumbled slightly into patrons in his vicinity. M4 then started hugging a male friend in a striped jumper, but appeared to be leaning quite heavily on his friend. During observations, M4 fell back into his chair twice. M4 displayed signs of over-affection towards his friend and leaned on him on numerous occasions due to his being very unsteady on his feet when standing. On a number of occasions he was required to be held up by the male friend. When he teetered forward, his friend would hold him up and his head and face would slide off the male's chest and arm.

There was also a group of men in their 30s dancing erratically on the dancefloor. They were loud, boisterous and were running 10 metres across the floor and attempting to lift each other in the air. Security very briefly engaged the group of males, but did not appear to stop the boisterous behaviour, nor did the engagement stop them lifting each other into the air.

At around 2:10am, M4 spoke to a male in his mid-30s, large build, average height (M5) who appeared to be in the same group of friends. M5 indicated by hand motion if M4 wanted another drink. M4 nodded his head in agreement and pointed to a schooner vessel on the table. M4 and M5 walked towards the bar. M5 then motioned to his friend to go back and sit down while he was ordering. It appeared that M5 was aware of M4's intoxicated state and was aware that his approaching the bar would alert staff to his condition, refusing him service. M5 then proceeded to order two beers. While M4 was sitting in his chair, he was slumped to one side. M5 handed him a beer. M5 was observed to consume some of the beer. M5 and M4 then got up and were dancing and stumbling.

Whilst M4 was dancing, he staggered and bumped into other patrons and members of his group. He had stumbled back into the chair, got up and consumed from the schooner of beer. As he did so, the beer would spill onto his chin, hand, his jeans and the floor. M5 was also dancing and had consumed from his schooner of beer in a rapid manner. Whilst M5 was not sculling, he had gulped a large amount in one go. M5 spilled beer from the sides of his mouth while consuming.

At about 2:15am, CO Newman indicated to SCO Enks that he was going to contact FC Drohan and relay the observations so far. CO Newman contacted FC Drohan and advised of our observations and proposed current action. CO Newman returned to SCO Enks and continued the observations.

At around 2:15am, SCO Enks observed another male patron, tall, large build, balding grey hair, around mid-50s (M6), swaying while he was standing and consuming a beer. M6's movements were slow and languid. M6 gestured to his friend that he needed a seat. His friend did not move, so he gestured more urgently and offered a hand to get his friend out of the chair before sitting down quite heavily into the chair. He was observed to slump to the side in the chair. M6's friend appeared to gesture to ask M6 if he wanted another drink. M6's friend then went to the bar and bought him another beer. M6 was observed to consume the beer. M6's eyes started slowly closing and by about 2:30am he was asleep, slumped to the side of his chair.

At 2:43am, M5 went to the bar and ordered another beer for himself which he then consumed. At around this time, a patron bumped into the table on which M4 had put his beer. The beer spilled and a glass from the table smashed into the floor. Security and staff did not

engage with the patrons in the vicinity of the broken glass to ascertain what had happened. A staff member cleaned up the broken glass and righted the table, then walked away. M4 did not appear to consume any further drinks after his beer was spilled. Over a period of 50 minutes, M5 was observed to purchase and consume approximately six alcoholic beverages ranging from beer to bourbon and Coke. On each occasion, at least two of the same staff members had served M5 and did not assess or engage him as a result of his drinking practices.

Inspectors observed new patrons enter the main door at approximately 2:45am, despite a sign on the door saying, "No Passouts". These patrons were easy to identify as they were not observed previously in the venue by inspectors.

At 2:53am, three uniformed Police officers walked into the venue and proceeded into the front bar. M6 was woken by his friend, who appeared to let him know that the Police were in the bar. M6 made a gesture with two fingers to his friend that appeared to indicate he wanted to have a cigarette. The Police walked behind M4 and M6, looked around the area for a minute, then left.

At 2:55am, the Premises' licensee, Michelle Mancini, was observed to speak with the Police, walk behind the front bar area briefly, then back out into the main corridor. This was the first, and only, time the licensee was observed on the Premises by inspectors.

At around 3:00am, M6 was observed by inspectors to get up from his chair and make his way to the male toilets. He walked towards the toilets in an uncoordinated and unbalanced manner. M6 stumbled a number of times on the way to the bathroom – into both furniture and other patrons. When he bumped into a chair while going to the toilets, M6 staggered to one side as he tried to regain balance. In doing so, M6 overcompensated and staggered to the opposite side into a patron as he made his way to the toilet. CO Newman followed M6 into the male toilets.

When CO Newman entered the restroom, M6 was located against the urinal wall with his head and face resting on the mirror. M6 used his forehead to maintain his balance as he urinated. CO Newman noticed that the male was urinating on the sleeve of the light grey jumper which was tied around his waist. The urine was missing the trough and spraying over the front of his trousers. A short time later, M6 was suddenly no longer able to support his head against the wall and face planted the mirror. M6 then staggered to his earlier seated position. CO Newman returned to SCO Enks and recounted his observations of M6 urinating on himself. M6 then left the premises with some of his friends.

At around 3:15am, SCO Enks and CO Newman re-entered the Lounge bar. The room was still very busy with approximately 100 patrons sitting on lounges, standing near the furniture and dancing on or near the dancefloor. Two female security staff were in the room observing the patrons. However, there was no interaction or engagement with patrons. Inspectors moved through the crowd to the rear of the lounge where it was quite dark. Inspectors observed a male patron (M7) sitting on a side table near a lounge. M7 was slumped against the wall and was slowly blinking. After a few minutes of observing M7, he fell asleep.

After a few minutes of observing M7 sleeping, inspectors observed a female security guard approach M7 and nudge him awake. The guard and patron had a conversation and inspectors observed the female security guard indicate with her hand that M7 would have 5 minutes before she would come back and check on him again. When the security guard left, M7 got up and moved 5 metres to the dancefloor, where he appeared to join his friends. Inspectors did not observe security interact with M7 again whilst they were in the Lounge bar.

After around 20 minutes of observations, SCO Enks and CO Newman left the Lounge bar and returned to the Spice Cellar. Inspectors walked around the mezzanine level and stationed themselves behind the bar. At around 3:35am, a tall, slim male, with brown short-cropped curls (M8) approached the bar with a friend. M8 swayed, looked up at the ceiling, then blinked his eyes heavily, apparently to try and focus, then pinched the sides of his nose near his eyes and grimaced. He was standing in full view of the bar whilst doing this. M8 and his friend ordered a round of drinks. Bar staff did not apparently engage M8. M8 was then observed to walk to the end of the bar to a water station and rapidly consume a glass of water.

At approximately 3:45am, CO Newman observed a male patron with a goatee style beard, wearing a dark jacket and blue T-shirt (M9) standing at the Spice Cellar bar, approached by a security guard and told not to consume any more. Security allowed the patron to remain on the Premises. M9 was later observed consuming water.

At the same time, SCO Enks was approached by a patron who stated his name as "Gus" (M10). M10 started talking about a "wok being too hot", spoke another few phrases that made no sense, then apologised for talking "jibber jabber" and walked off.

At around 3:50am, CO Newman observed another male near the Spice bar (M11) approached by a security guard. The security guard gave the male a signal of crossing hands that CO Newman interpreted as "cut off" from service. The male acknowledged the security guard's instruction and shook his hand. The security guard has allowed M11 to remain on the Premises and did not ask him to leave.

A short time later, CO Newman observed the RSA Marshal engage with an Asian male wearing a white T-shirt and brown jacket slung over the patron's shoulder. She was then observed to hand the patron a bottle of water.

A slim male with dark hair (M12) then sat down next to SCO Enks at the back of Spice Cellar. Security immediately came up and asked M12 to leave. It was not apparent as to why M12 was asked to leave.

At approximately 4:00am, SCO Enks and CO Newman went back upstairs and observed that the Lounge bar was closed. Inspectors then walked into the front bar. There were only about 20 to 30 patrons remaining in the front bar. Patrons were displaying noticeable signs of affectation – some were loud and boisterous, some were over-friendly, whilst others were drowsy and uncoordinated. No engagement and assessment by security, staff or RSA Marshal.

Inspectors returned to the Spice Cellar where only 30 to 40 patrons remained. Most appeared to be well on their way to intoxication, a few were observed to be chewing on their cheeks or gums. One male was observed to approach the DJ stage and to lick the speakers twice. A female patron who appeared to be the DJ's girlfriend was observed to stumble and fall backwards into her friends whilst dancing and consuming a drink. No engagement by security, staff or RSA Marshal.

At approximately 4:50am, SCO Enks and CO Newman observed new patrons enter the Spice Cellar that had not been previously observed elsewhere in the Premises. The new patrons approached the bar and ordered, then consumed liquor.

Inspectors then returned to the front bar at around 5:00am. M4 had gone home. However, inspectors observed another male, slim build, dark hair and average height (M13), who had been in the Premises consuming liquor since at least 2:15am. M13 was observed to consume what appeared to be a spirit and cola in a midi vessel. M13 was swaying and leaning on a statue in front of him. Inspectors engaged Field Commander, Paul Drohan, and Police; however M13 left the Premises before the inspectors were able to identify themselves and indicate M13's intoxication to staff.

Last drinks were called at around 5:10am. SCO Enks and CO Newman left the Premises at 5:15am.

59. Between 5:15am and 5:30am on Sunday, 19 July 2015, the following observations in a location outside the Premises were made in the OLGR File Note:

Inspectors observed security directing taxis through the adjacent Budget petrol station. One guard was also observed patrolling 50 metres down Erskineville Road towards Erskineville train station. Security were observed moving some patrons on. The area in the vicinity of the Premises was generally quiet and fairly orderly.

At approximately 5:30am, CO Newman called the Field Commander and Newtown LAC to advise that the operation was finished.

Five (5) Full Text COPS Reports (18-19 July 2015)

60. The Short Term Application is accompanied by five very recent Events linked by the Applicant to the Premises.

[The Authority notes that these Events are recorded on the NSW Police Computerised Operational Policing System. They usually comprise contemporaneous reports that have been entered into the COPS database by individual Police officers, providing a narrative of observations made by Police while engaging the person or persons who are the subject of the Event in question and may also record reports of the incident provided to

Police by the victim of an alleged offence or witnesses to that Event. COPS Reports may vary in length and detail and will usually indicate the time and date when the Event occurred, when the Report was created and (if the Event is alcohol related) the extent to which the person(s) engaged with by Police were affected by alcohol.]

61. The following information is provided by the five COPS Reports provided with the Short Term Application:
62. **E58623846** reports that on 19 July 2015 at 5.39am a patron was removed from the Premises (the report does not disclose whether by Police or by venue security) due to the patron displaying signs of intoxication and for being argumentative. After initially leaving the 50 metre vicinity the patrons moved back within the vicinity and argued with Police who took his details to issue an infringement notice. The patron is reported by Police as being "well affected" by alcohol.
63. **E58194305** reports that on 19 July 2015 at 1.10 am a patron observed to be "well affected" by alcohol was escorted from the Premises. Security and Police explained why he had to leave but when Police completed their inspection the Patron was still outside the venue. The patron refused to leave and was issued with an infringement notice by Police.
64. **E58096017** reports that on 19 July 2015 at 2.30 am a patron was observed to be "well affected" by alcohol and was directed by Police to move-on from the venue.
65. **E58557076** reports that on 19 July 2015 at 1.50am. Police carrying out a business inspection observed only four guards posted on the exterior of the hotel. No guards were in position on the boundary of the 50 metre point or in place for movement of taxis. Police observed that security did not appear to be proactive until they noticed Police were present. Police observed a number of taxis and Uber vehicles collecting patrons with some taxis illegally turning into Union Street. Police spoke to the manager who informed them there were 620 patrons on the Premises with 250 in the Spice nightclub. Police observed a large amount of patrons and empty glasses on the tables in the two main bars. Police entered the Spice nightclub and observed four males being removed by venue security for intoxication during this inspection. Police spoke to three males outside the Premises who were refusing to leave and they were directed to move on. Two females were directed to move on due to their intoxicated behaviour. Police conducted a further inspection with Council inspectors and noticed a large amount of empty glasses on a barrel at the top of the stairs near the top bar and another beer glass left on the stairs as a staff member walked past without acting on it. Police noted that groups of people at the side of the hotel that they had noticed earlier had still not been moved on by security staff. Police then had to direct several people to leave and requested that the music be turned down by reason that it could be heard outside the hotel. During the inspection the licensee made remarks regarding Police attending the hotel and causing patrons not to come to the hotel. Police issued a total of four infringement notices for persons refusing to quit licensed premises, three traffic infringements for taxis disobeying street signs and 2 move on directions. The report observes that venue security were seen to be most active while Police were actually inspecting the Premises. Police were informed by security that the venue's drug dog had made nine drug detections on patrons.
66. **E58971328** reports that on 18 July 2015 at 2.25am a patron who had left the Premises to smoke was refused re-entry by a security staff member due to intoxication. The patron then argued with venue security and Police which resulted in the patron being placed in handcuffs before being issued with an infringement notice and being directed to move-on.

27 Indexed COPS Reports (26 June 2015 -12 July 2015)

- 67. As noted above, on 21 July 2015, OLGR provided the Authority with 27 full text COPS Reports dating from 26 June 2015 to 12 July 2015.
- 68. Notably, all of the Events recorded in these reports post-date the period in which the hotel was closed pursuant to the Previous Short Term Closure Order issued by the Authority on 19 June 2015.
- 69. This is material that was requested by the Authority and prompted by the provision of some full text reports and some summaries of Events that had accompanied the Long Term Application.
- 70. The 27 Indexed COPS Reports are now evidence or material before the Authority in respect of both the Long Term and Short Term Applications. The information provided is reproduced in the following table:

Date	Police Ref Number	Summary
26/06/2015 11:50pm	E58500759	<p>About 11:50pm on Friday 26 June 2015, Police attached to Newtown Proactive Crime Team and Newtown Detectives conducted a covert walkthrough of the Imperial Hotel, located on the corner of Erskineville Road and Union Road, Erskineville.</p> <p>Whilst Police were approaching the licensed premises through the Budget petrol station, Police observed about 20 to 30 patrons loitering around in small groups talking loudly. Police further observed several glass alcohol bottles scattered along the footpath as well as in the service station area.</p> <p>Police began to line up to enter the Premises. Whilst in the line, there were approximately 50 to 60 patrons lining up as well to enter the Premises. Police observed the patrons to be loud and yelling. Patrons in the immediate area of Police could be heard to say, "I'm munted", "I feel fucked". Police began to observe the patrons in the line and saw that the majority of their pupils were dilated and glassy and their jaw movements were extremely erratic and also had saliva built up on the corners of their mouths. Due to the words that Police heard and their behaviour, Police suspected that they were under the influence of illicit drugs. Whilst Police were still in the line, with the line now finishing about 10 metres south down Union Street, Police did not observe security to conduct checks on patrons.</p> <p>About 12:10am, security and management informed the patrons within the line that the Premises was at capacity and to return later on. Police approached security and displayed their Police identification and entered the Premises. Police conducted a walkthrough on the ground level and observed about 60 to 100 patrons located within this area. Police remained in this area for a short time before attending the rear seating area on the ground level. Police observed there to be about 30 patrons located in this area.</p> <p>Police entered the lower basement area where the majority of the patrons were located. Police observed the dance floor bar and the bar away from the dance floor to be operational and extremely busy. Whilst Police conducted observation of patrons, they observed that the majority of them had erratic mouth movements and saliva built up on the corners of their mouths and their pupils to be dilated. Police also heard patrons to say, "I need some pingers".</p>

Date	Police Ref Number	Summary
		<p>Police remained in the lower dance floor area for about 30 to 40 minutes. Upon Police attempting to exit the Premises, Police observed there to be about 30 people attempting to enter the stairway that leads to the smoking area. Due to the smoking area being at capacity and security not allowing patrons up the stairs, this caused a large build-up of patrons and impeded the free flow of movement to leave the Premises.</p>
<p>27/06/2015 12:20am</p>	<p>E58988563</p>	<p>About 12:20am on Saturday, 27 June 2015, Police responded to a noise complaint at the Imperial Hotel, Erskineville – 50 persons on the street (patrons of the Imperial Hotel) were causing noise and disruption and the informant could not see security. Whilst there, Police conducted a business inspection.</p> <p>Manager spoken to: Michael LENEHAN</p> <p>Security present: 17</p> <p>Meals: Frozen meals and noodles</p> <p>Entertainment: 2 x DJs</p> <p>Patrons: 700 to 750</p> <p>Poker machines: 10 (3 not working)</p> <p>CCTV: 58 cameras in working order.</p> <p>On approach to the Premises, Police observed about 20 people outside the Hotel, queueing to get in. Police noticed small groups of about four to five people across the road to the Premises.</p> <p>Police did not observe any persons drinking outside.</p>
<p>27/06/2015 12:04am; 2:30am</p>	<p>E58171204</p>	<p>Whilst Police were at the location, Police observed a male to be intoxicated yelling in the petrol station car park. Police spoke with this male, who was aggressive and was continuously using profanity towards Police. Police conducted a check on the POI which revealed he has an extensive history of drug related incidents. His behaviour toward Police also suggested he was under the influence of a prohibited drug. The location is a well-known drug activity location. Police searched the POI and removed him from the vicinity to Newtown railway station. The POI was issued with a move on direction from the area.</p> <p>Security: PRIME Security. 17 guards present, not including master licensee and team leader – in total there were 20 guards present performing security duties.</p> <p>RSA Marshals: 2 – one on ground level and one within the Spice Cellar</p> <p>Alpha – drug dog handler; Candy – dog (independent from PRIME)</p> <p>Licensee present: Michael LENEHAN</p> <p>Manager/owner present: Michael McGRATH</p> <p>CCTV enquiries were made. Two technicians were present at the time of the first Police attendance. 12 cameras were not functioning due to water damage within the Spice Cellar stage area. Whilst Police were present, four cameras were fixed.</p> <p>Alcohol Policy Sign – Present at each bar was an A4 sign, stating: TAP WATER ALWAYS AVAILABLE AT END OF BAR JUICE/SOFT DRINK AVAILABLE LIGHT BEER AVAILABLE FOOD ALWAYS AVAILABLE AT BAR – NO MORE THAN 4 DRINKS</p>

Date	Police Ref Number	Summary
		<p>NO VODKA REDBULLS/JAGER BOMBS AT ANY TIME NO RTDs NO SHOTS AFTER MIDNIGHT</p> <p>Also visible at the bar was a menu with food from the kebab store on Erskineville Road.</p> <p>About 12:04am, Police attended the location and upon arrival, observed taxis to be stopped travelling the opposite direction on Union Street, letting patrons out of the taxis. There were around three taxis stopped in the driveways of the Budget petrol station.</p> <p>Police observed a line of around 30 people standing along the wall closest to Union Street. The patrons were all speaking to each other at variable noise levels. There were no instructions being made by security to keep the noise down or to have respect for neighbours. Security were speaking to patrons in a loud voice stating, "Can everyone have their ID ready for inspection". This was spoken loudly to the entire group as a collective instruction. Security had to be reminded of their duty on three occasions in conjunction with their current DA/Plan of Management to "encourage patrons to leave quietly". Groups were not being advised of this on Erskineville Road. Licensing Police brought this issue to the attention of the licensee and security.</p> <p>There were two groups observed to be standing on the corner of Union Street, the first group (two females and three males) was yelling and laughing loudly. Police observed this group and were able to hear clearly the conversations from the front entrance of the Premises. Police did not see security approach this group, despite the loud noises. Police heard a girl yell out a loud screech, scream, and then the group all laughed. Police approached the group and spoke with them. Two of the males were smoking and they appeared to be around 20 to 25 years of age. The group stated that they were waiting for a taxi. Police advised them that they needed to move down to Rochford Street or up to King Street. Police explained the noise issues, which the group respectfully acknowledged and moved on.</p> <p>Police approached the second group of people who were standing a further 4 metres on the opposite side of Union Street.</p>
<p>27/06/2015 3.15am</p>	<p>E57104960</p>	<p>About 3:15am on Saturday, 27 June 2015, the witness, William SALABOGI was working as a security officer at the Premises. He was standing on a raised platform in the basement area of the Premises as this platform allows him to look down over the main bar service area. He has then noticed the POI standing at the far end of the bar.</p> <p>A short time later he has noticed the POI start to wedge himself between a speaker and a pillar at the end of the bar, allowing him to be able to reach around the back of the bar. He has then waited there for a few seconds while watching the bar staff and waited until they were not looking his way. He has then quickly reached around and pulled out a full bottle of vodka from behind the bar. The POI has then attempted to leave the bar area with the bottle of vodka and leave the Premises.</p> <p>The witness has approached the POI and confronted him about the incident and told him that he was taking him to his supervisor Omar FAYED (PR). The PR was handed the bottle by the POI which was then taken back downstairs. The PR asked for the POI's driver's licence and informed him that he would receive a six month ban for the incident.</p>

Date	Police Ref Number	Summary
		<p>Police arrived a short time later in relation to a separate incident and were approached by the PR who informed Police about the matter. He told Police that upon seeing Police arrive, the POI has run from the scene, leaving his driver's licence and his black jacket in the PR's possession. These items were then handed to Police and details of staff and their versions were obtained.</p> <p>The PR stated at the scene that the hotel did not want any formal action taken as they had retrieved the bottle of vodka and handed out a six month ban to the POI. Staff were unwilling to provide statements as they feel as though the banning notice is a sufficient course of action.</p> <p>Due to the lack of evidence to satisfy the elements of larceny and the hotel stating they did not want any action taken in relation to this event, Police cannot take any further action.</p> <p>Police returned to Newtown police station and booked the POI's property into EFIMS as miscellaneous property and attempts will be made to contact the POI by phone and mail in order to organise collection.</p>
<p>27/06/2015 10:10pm</p>	<p>E885345590</p>	<p>About 10:10pm on Saturday, 27 June 2015 the accused attended the Premises.</p> <p>At this time, the accused was refused entry to the licensed premises by the security supervisor Omar FAYED as an onsite drug detection dog (part of the Premises' security team) had indicated that the accused has or had an illicit drug in or around his airspace. FAYED advised the accused he cannot enter the Premises due to the drug dog indicating an illicit substance on the accused. After the accused heard the refusal he became argumentative with FAYED and offered to take his clothes off. The accused said, "I know the law, you can search me". FAYED advised the accused that he does not have the power to search him and that he needs to move on from the area for a period of 24 hours.</p> <p>The accused continued to argue with FAYED and stated that he had just spent \$30 on a taxi fare to attend the Premises. The accused began to scream at FAYED and said, "You are a fucking cunt". FAYED informed the accused that due to his becoming aggressive and not leaving the area, Police would be called. The accused said, "Fuck you, and call the Police, I'm not moving". FAYED showed the accused a fail to quit card which informs patrons that it is an offence to remain in the immediate vicinity of a licensed premises. FAYED again informed the accused to move on from the Premises and that he is calling Police.</p> <p>About 10:10pm, FAYED called Newtown police station and advised them that the accused is failing to quit the Premises. Whilst FAYED was on the phone to Police, the accused said, "You are a fucking dog". The accused walked off from the immediate area of the licensed premises. Whilst he was walking away, he showed his middle finger to FAYED and also clenched his right fist and began to punch it into his open left palm. Police arrived a short time later; however the accused had left the area.</p> <p>About 1:30am on Sunday, 28 June 2015, the accused returned to the entrance of the Premises. FAYED recognised the accused and informed him that he could not get in as he has been previously refused entry. The accused said, "You dog, why you wanna wreck my night". At this time FAYED observed an unmarked Police car on Union Street approaching Erskineville Road. FAYED approached the Police car and informed Police that the accused was failing to</p>

Date	Police Ref Number	Summary
		<p>quit.</p> <p>Police approached the accused a few minutes later and observed him to be standing a short distance to the entrance to the licensed premises. Police approached the accused, introduced themselves and displayed their Police identification, in doing so complying with the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i>. Police informed the accused that he has been stopped as he was failing to leave licensed premises. Due to Police being near the entrance to the Premises, Police escorted the accused across Union Street on the corner of Erskineville Road near the Budget fuel service station. Police again identified themselves to the accused and informed him that he has been stopped as he is failing to leave licensed premises. Police obtained identification from the accused and conducted checks, which revealed certain information.</p> <p>Whilst Police were speaking with the accused, they observed his eyes to be glassy, he was dishevelled and had a moderate smell of intoxicating liquor coming from him. Police did not observe his speech to be slurred, however he was rambling at times and jumping from topic to topic and had trouble trying to focus on what was being asked by Police. Police believed the accused was under the influence of alcohol and illicit drugs.</p> <p>Police placed the accused under arrest and cautioned him in relation to failing to quit licensed premises. At this time, the accused stood up and informed Police he was free to go; however Police informed the accused he was not as he was under arrest as he had committed an offence. This occurred several times. Whilst Police were waiting for a field identification unit and a criminal infringement notice, the accused stood up and sprinted in a southerly direction down Union Street.</p> <p>Police pursued the accused on foot and announced their office numerous times and told the accused to stop; however the accused continued to run, turning left onto Munni Street, then through a laneway onto George Street, then turning left onto Prospect Street. About halfway along Prospect Street, the accused was running along the eastern footpath. Again Police announced their office and informed the accused to stop, however he ignored the Police request and continued to run. At no time did Police lose sight of the accused.</p> <p>Constable SINGH caught up to the accused and placed his right hand on the accused's right shoulder in an attempt to stop him, however the accused immediately stopped and turned around and swung his right arm around in an attempt to strike Constable SINGH to release his grip.</p> <p>Constable SINGH took a step back, then grabbed the accused's shoulders again. The accused lashed out by swinging his arms erratically towards Constable SINGH and the accused landed on the bonnets of two parked cars. At this time, Constable WATSON grabbed hold of the accused with Constable SINGH, by which time the incident had moved to the western footpath of Prospect Street. Whilst Constable SINGH and WATSON had hold of the accused, he continued to resist Police in the execution of their duties. Police informed the accused numerous times that he is under arrest and to stop resisting arrest. After a short struggle with the accused, Constable SINGH and WATSON were able to handcuff the accused while he was on the ground. Whilst Police were restraining the accused, they continued to inform the accused to stop resisting as he continued to struggle with Police.</p>

Date	Police Ref Number	Summary
		<p>A short time later, several Police attended the location and the accused was searched. Police sat the accused in an upright position; however the accused began to vomit. The accused was placed in the recovery position and paramedics were notified.</p> <p>Police conveyed the accused to Newtown police station. Due to the accused being extremely intoxicated and vomiting, the accused was placed in an ambulance for medical reasons. Due to the accused needing to be conveyed to hospital, Police confirmed the accused's identification and place of abode. Police discontinued the arrest of the accused with the accused being conveyed to Royal Prince Alfred Hospital.</p> <p>Police assert that the fail to quit incident has been captured on CCTV footage. The accused has subsequently been charged, with the matter now before the Court.</p>
28/06/2015 2:00am	E58794877	<p>About 2:00am on Sunday, 28 June 2015, Police attached to Operation ODIN attended the Premises.</p> <p>Police attended this location to conduct a business inspection/walk through. Upon arrival, Police were prompted by the POI who said to Police, "Be quiet when you are here, shhhh".</p> <p>Police immediately asked the POI who he was and why he thought he could tell Police to be quiet. The POI claimed to be the licensed venue's manager and the reason he said "Be quiet" was to try and lower volume around the venue.</p> <p>Police asked for the POI's identification to conduct a business inspection as he had claimed to be the manger. Straight after the POI handed over his identification and was speaking to Police, it was clear that the POI was very well affected by alcohol.</p> <p>The smell of strong liquor was on his person and breath, the POI had trouble speaking clearly and was unsteady on his feet.</p> <p>Once Police noticed the POI was highly intoxicated, he was prompted about it and the POI stated he had had a few drinks earlier. Police pressed him on the issues that related to his being an on duty manager whilst under the influence of alcohol.</p> <p>Once any licensing conflicts were raised, the POI started backpedalling and then stated that he was not the manager.</p> <p>Police informed the POI that Newtown Licensing Police would be informed and that he was being given a move on direction for being too intoxicated in a public place.</p>
28/06/2015 4:40am	E58100822	<p>About 4:40am on Sunday, 28 June 2015 whilst security was conducting a patrol of the level 1 smoking area, a small clear resealable bag containing white powder was located on the ground unattended. At the time, there were approximately 16 people in the area.</p> <p>The drug was obtained by security staff Omar FAYED who informed the licensee Michael LENEHAN. The drug was placed into a secure lockbox which is contained in the manager's office and details were recorded in the incident register.</p> <p>About 6:30am that day, the manager Michelle MANCINI contained Newtown Police to have the drug seized. Police attended the location to obtain details and seize the drug.</p> <p>At the time of attending, the Premises was closed and its main doors were locked. Very minimal persons were loitering around the outside or in the vicinity (petrol station) and no noise was being</p>

Date	Police Ref Number	Summary
		<p>made.</p> <p>Inside the Premises, there were no patrons inside apart from staff members cleaning. No music was playing.</p> <p>The drug was weighed (approximately 0.50 grams) and photographed before being sealed in drug bag number 765400/exhibit X0000890641.</p> <p>Due to not knowing who or when the drug was left or dropped on the floor, Police are unable to clarify a time to review CCTV footage and no POIs can be identified and charged. The drug is to be destroyed.</p>
<p>28/06/2015 10:15pm</p>	<p>E58112723</p>	<p>About 10:15pm, Police attended the Premises in relation to a male patron failing to quit. Police were advised the POI was on the roof, however Police were then informed that the POI had entered backyards of houses on Rochford Street, Erskineville and was on the roofs of houses.</p> <p>Police canvassed the area and backyards of Rochford Street, Erskineville; however Police were unable to locate the POI.</p> <p>About 10:25pm, Police attended 11 Rochford Street, Erskineville to ask permission of the resident for Police to canvass the backyard. The victim permitted Police entry and informed Police that an unknown person had been on her roof within the past 10 minutes.</p> <p>Police canvassed the victim's backyard, but were unable to locate the POI. The victim informed Police that part of her roof had been damaged by the unknown person. Police observed damage to an external roof in the backyard, which is a fibreglass sheet.</p> <p>Police obtained photos of the damage and obtained the victim's details. Police handed the victim a contact card.</p>
<p>4/07/2015 12:50am</p>	<p>E58168023</p>	<p>About 12:50am on Saturday, 4 July 2015, Police attended the Premises as part of Operation ODIN.</p> <p>As Police arrived at the location, they observed a large group of people standing in the corner opposite the Premises in front of the service station. Police observed them to appear to be under the influence of alcohol and talking loudly.</p> <p>Police approached the Premises and were approached by the on duty manager, Michael LENEHAN. Police spoke to LENEHAN who stated that the venue currently had 17 security on, 2 RSA Marshals and 1 drug dog and handler.</p> <p>The venue had approximately 360 patrons inside the Premises, spread out over three levels. Whilst speaking with LENEHAN, Police removed one unknown male, whilst security removed a female for intoxication levels.</p> <p>Police observed the venue to have a line outside the venue's doors along the footpath as IDs were checked. Police spoke with LENEHAN for approximately 5 minutes. Upon finishing, Police observed the group of patrons on the corner still talking loudly with no security interaction.</p> <p>Police took a photo of the group, which LENEHAN saw before he walked over to the group and asked them to move on.</p> <p>After speaking with LENEHAN, Police continued to complete a walkthrough of the location.</p> <p>Police walked through the location and observed a large crowd consisting mainly of people aged between 20 and 30 years old.</p>

Date	Police Ref Number	Summary
		<p>Whilst inside the downstairs area known as "Spice", Police observed a male from above. The male started to rip up paper and throw it behind the bar, on the floor and at others. Police observed this action at least four times.</p> <p>Police approached the male and introduced themselves. Police observed the male to be unsteady on his feet, have watery bloodshot eyes, large dilated pupils, was sweating profusely and appeared unsteady on his feet. Police formed the opinion that the accused may be under the influence of not only alcohol but illicit drugs, due to the high prevalence of the latter at the location.</p> <p>Police removed the male from the venue and requested ID. The male produced a driver's licence with the name (redacted). Police subjected the male to a search with nil items of interest located. The male stated that he had been drinking inside the Premises.</p> <p>Due to his intoxication, Police issued him a move on direction from the area for a period of 6 hours, which he complied with and left the location.</p> <p>As Police went to leave the area, they observed a large number of taxis with their available lights on to be queuing inside the service station. Police had to activate their warning lights to move the taxis on as Police could not move their vehicle.</p>
<p>4/07/2015 12:55am</p>	<p>E58439757</p>	<p>At about 12:55am on Saturday, 4 July 2015, Police attended the Premises. On arrival at the Premises, Police observed 20 to 30 people in scattered groups in the immediate vicinity of the hotel including the service station, Erskineville Road, Union Street and the Council car park. Police observed the security to be very static and doing little to approach or disperse these groups.</p> <p>Police spoke to the hotel employed drug dog handler, who stated that she had made 9 detections resulting in refusal, but was also finding a lot of disposed empty bags and had observed a large number of people turn and walk away from the Hotel on spotting the drug detection dog.</p> <p>Once in the hotel, Police immediately raised concerns with a security officer in the main bar area as to the level of intoxication of a particular group seated in a corner. Security seemed to be taking only limited interest in assessing for intoxication.</p> <p>Police moved to the cellar bar area, taking an observation point above the bar. Police remained in place for 10 to 15 minutes without seeing any security walk past the Police location or walk through the dancefloor area, which given the reduction in numbers from previous nights, was very manageable. From this vantage point, Police observed several people whose level of intoxication, while not at the point of intoxication, should have been removed from the venue. Police were eventually approached by Michael McGRATH, the operations manager, who despite raising security via radio could not seem to get any to attend to a moderately to well-intoxicated female whom Police had pointed out. After several minutes of no show by security, McGRATH attended to this female before directing her to Police for an explanation.</p> <p>Inspections of the toilets resulted in several empty drug baggies being located.</p> <p>At the time of the inspection, there were 550 people with 15 security, 1 drug dog and 2 RSA Marshals. There were 7 refusals at the door due to intoxication and a further 12 ATL (another 4 by Police).</p>

Date	Police Ref Number	Summary
		<p>Multiple people were seen being picked up and dropped off by taxis in the no stopping zones, taxis were turning down Union Street. Security was less active than previous visits in discouraging this behaviour.</p>
<p>4/07/2015 1:10am</p>	<p>E58834777</p>	<p>About 1:10am on Saturday, 4 July 2015, Police were conducting a business inspection of the Premises. This area has of late come under notice to Police, along with other liquor licensing agencies, for a number of breaches of the liquor legislation.</p> <p>As a result of this, Police conduct a number of business inspections throughout the Premises' trading hours.</p> <p>About 1:15am, whilst assisting members of the public with an unrelated matter, Police attention was drawn to the main entry/exit point of the Premises where Police observed the accused being physically restrained and walking up the road in a westbound direction away from the Premises. The accused was then let go by security staff. Again the accused has screamed, saying, "Fuck this, I'm not going anywhere!!"</p> <p>The accused has run towards another door which does not allow persons entry into the Premises. The accused has continued to yell and scream, "I'm not going anywhere". Security staff at the Premises have called upon Police assistance at this stage. Police have spoken with the security guard prior to interacting with the accused. As a result of this conversation, Police have learnt that the accused had failed to leave the Premises after being asked to leave due to his level of intoxication. The accused refused on numerous occasions, resulting in the accused being physically removed by Police.</p> <p>Police have approached the accused, who at this time was still within an alcove area near the main entry/exit point of the Premises. Police have introduced themselves in accordance with LEPR, to which the accused replied, "You're not cops, go fuck yourself, I'm going back". Upon initial observation, the accused appeared heavily intoxicated by an intoxicating liquor/prohibited drug or a combination of both. His pupils were dilated, he was sweating profusely and had a considerable amount of saliva congealed around the creases of his mouth.</p> <p>Again Police have directed the accused to walk away from the alcove area and away from the Premises, or reasonable force would be used to restrain him and move him away from the Premises. The accused replied, "Fuck off, you're not cops". The accused was restrained by Police for a short time and was escorted up the road in a westbound direction. The accused has resisted only momentarily by stiffening his upper body and attempting to use his body weight to drop to the ground and attempt to bring Police down with him. The accused was placed on the ground a short time later. Police have then tried explaining to the accused the reason for his being stopped by Police. The accused has continued to argue with Police, saying, "You're all weak cunts, go fuck yourself". Based on the accused's actions, Police have been more than reasonable with the accused and have taken his current details in their official Police notebook. The accused was issued with an official Move On direction which he initially refused, stating, "Go fuck yourself, I'm not going home". Police explained to the accused that if he did not comply, he would be arrested and charged. The accused stated, "Okay, mad cunt, I'll go". The accused has left of his own accord.</p> <p>Police have returned to normal duties. No less than 2 minutes later,</p>

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		<p>Police could audibly hear a male voice yelling, "I told you I'm not going anywhere". Police have looked to the direction from which the voice was heard. Police have immediately observed the accused running back down Erskineville Road toward the licensed premises from which he had been ejected.</p> <p>The accused was stopped by Police again. Upon being placed on the ground, the accused has violently thrashed out, striking Senior Constable BAHIN on the lower left leg area. Senior Constable BAHIN deflected this kick to the best of his ability; however the strike has connected with his shin area, causing him to momentarily lose his footing. The accused was restrained accordingly.</p> <p>The accused was handcuffed and conveyed to Newtown police station to prevent the continuation of the offence as it was evident to Police that the accused was not going to comply with Police directions.</p> <p>The accused was later issued CIN 4030675890 at Newtown police station and was free to leave of his own accord. The accused appeared very remorseful for his actions, stating, "Fuck, I'm sorry".</p>
4/07/2015 1:15am	E59280839	<p>At about 1:15am on Saturday, 4 July 2015, Police attended the Premises for a business inspection. The Imperial Hotel has been subject to numerous licensing breaches in the past few weeks and has subsequently been forced to upgrade their security and RSA protocols. One of these self-imposed conditions was the hiring of a private drug detection dog and handler, which scans persons prior to entering the Premises for prohibited drugs.</p> <p>Police were notified of the POI, when the drug detection dog had indicated and sat by the POI's side. Police approached and introduced themselves and asked a number of questions in relation to drug possession. The POI stated to Police that he had been in the presence of people using prohibited drugs prior to attending the Premises, whereby people smoked cannabis and ingested ecstasy tablets. The POI stated that he had taken 2 ecstasy tablets during the course of the night. Due to this information, the POI was cautioned and searched.</p> <p>No drugs were located. The POI was issued a move along direction due to possibly being in the area to buy/sell drugs.</p>
4/07/2015 1:35am	E60382185	<p>At about 1:35am on Saturday, 4 July 2015, Police attended the Premises for a business inspection. The Imperial Hotel has been subject to numerous licensing breaches in the past few weeks and has subsequently been forced to upgrade their security and RSA protocols. One of these self-imposed conditions was the hiring of a private drug detection dog and handler, which scans persons prior to entering the Premises for prohibited drugs.</p> <p>Police were notified of the POI, when the drug detection dog had indicated and sat by the POI's side. Police approached and introduced themselves and asked a number of questions in relation to drug possession. The POI stated to Police that he had "smoked a couple of joints" before going to the Premises. Police searched the POI.</p> <p>No drugs were located. The POI was issued a move along direction due to possibly being in the area to buy/sell drugs.</p>
4/07/2015 1:39am	E58898479	<p>At about 1:39am on Saturday, 4 July 2015, Police were conducting patrols around the Imperial Hotel as the area has recently had a high number of problems with drug use and possession along with other alcohol related incidents. The Premises had employed a</p>

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		<p>privately owned drug detection dog and was using this to screen patrons entering the venue. This dog gave an indication on the POI (redacted). The POI was refused entry to the Premises by security staff. Police introduced themselves to the POI and advised him that the dog was a drug detection dog. The POI stated that he had been in contact with cannabis. Due to the time, location, admissions made and drug dog indication, Police formed the opinion that the POI was in possession of an illegal drug. Police conducted a search of the POI, with nil located.</p>
<p>4/07/2015 3:30am</p>	<p>E58561859</p>	<p>At 3:30am on Saturday, 4 July 2015, Police attended the Premises in relation to an intoxicated male arguing with staff and refusing to leave the vicinity of the Premises.</p> <p>Police arrived and spoke with staff, who informed Police that the male had been ejected due to his level of intoxication. The male was then arguing the fact with staff, who called Police.</p> <p>Police introduced themselves to the male and informed him that he had been ejected from the licensed premises and he was to move 50 metres away. Police observed the male to be showing signs of being intoxicated; his speech was slurred and his movements were sluggish and off balance.</p> <p>Police deemed the male to be intoxicated and explained to him that he had been ejected from the Premises due to his level of intoxication and he has to move away from the area. Police issued him with an official move on direction.</p> <p>All LEPRAs safeguards were adhered to.</p>
<p>4/07/2015 11:55pm</p>	<p>E61056381</p>	<p>On Friday, 3 July 2015, drug dog warrant number 2015/56 was granted by Newtown Local Court.</p> <p>At approximately 11:55pm on Saturday, 4 July 2015, Police attended the Premises as part of Drug Dog Warrant number 2015/56. Police have entered the Premises via the front entrance door, with drug dog "Buster". The accused, upon sighting Police and the drug dog, has immediately run through the entrance door of "The Spice Cellar" and down a stairwell which leads onto the bottom level dance floor.</p> <p>Police have called out to the accused, "Stop, Police"; however the accused continued to run. The accused has approached a corner of the dance floor and thrown her black handbag onto the floor. Police have approached the accused, seized her handbag, and escorted her out of the Premises. Why asked why she ran from Police, the accused said, "I just thought, fuck, my sister". When asked why she had concerns for her sister, the accused could not provide a response.</p> <p>Police showed the accused the black handbag located on the dance floor. The accused denied any ownership of the bag, nor any knowledge of who it belonged to. When asked if she had consumed any prohibited drugs, the accused replied, "A pill". Due to the accused's reaction to the drug dog, her admissions to consuming prohibited drugs, and the location being well known for drug related activity, Police formed the suspicion that she may be in possession of prohibited drugs. Police conducted a search of the black handbag located on the bottom level dance floor and located a small brown leather bag. Inside the brown leather bag, Police located a New South Wales driver's licence, number (redacted) in the name of (redacted). Police observed the person depicted in the photograph to resemble the accused.</p> <p>Inside the brown leather bag, Police located a clear plastic</p>

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		<p>resealable sandwich bag containing three (3) clear plastic capsules containing white granules. The accused was placed under arrest and cautioned. The accused participated in a notebook interview in Official Police Notebook number F583946, pages 96 to 99. Police again asked who the black handbag and brown leather bag belonged to, to which the accused responded, "Me". When asked why it had been located on the floor, the accused said, "Because I dropped it...because I knew it had MDMA in it". When asked what the white granules inside the plastic capsules were, the accused replied, "MDMA", or 3,4-Methylenedioxymethylamphetamine, which is a prohibited drug under Schedule 1 of the <i>Drug Misuse and Trafficking Act 1985</i>.</p> <p>The accused was offered an opportunity to read Official Police Notebook entry F583946 pages 96 to 99, which she declined. The capsules were weighed in the presence of the accused, returning a reading of 2.6 grams.</p> <p>The accused is now charged with the matter before the Courts.</p>
5/07/2015 12:30am	E58764973	<p>About 12:30am on Sunday, 5 July 2015, security staff from the Imperial Hotel located a small clear resealable bag containing three small clear capsules believed to be MDMA in an alcove outside the front of the Hotel. Staff secured the bag in an office area of the Hotel and contacted Police.</p> <p>About 1:00am, Police attended the location and seized the small clear resealable bag containing three small clear capsules of MDMA. The drugs were taken back to Newtown police station and weighed. A weight of 0.8 grams was recorded.</p> <p>The venue had been running a private drug detection dog outside the venue. There is no CCTV of the area where the drugs were located and no one was observed to leave the drugs in the location they were found.</p>
5/07/2015 1:10am	E58013835	<p>About 1:10am on Sunday, 5 July 2015, Police conducting a business inspection of the Imperial Hotel observed the accused (redacted), seated within the main bar area of the Premises. Police have watched the accused stand from the couch and sway on her feet. The accused has then appeared to lose her balance and fall over a table in front of her. The accused has stood back up, swayed on her feet and spoken to a male who was standing next to her. Police were within a metre of this behaviour and could hear the accused slurring her words and swaying on her feet; and she had very glazed and bloodshot eyes. Police approached the accused and had a conversation with her. As a result of this conversation, Police formed the opinion that the accused was well affected by intoxicating liquor. Police have introduced themselves, complying with LEPR, and directed the accused to leave the Premises due to intoxication.</p> <p>The accused has stated, "Okay, no problems" and left where Police were standing. Police watched the accused walk toward the exits, but she has diverted and walked upstairs toward the toilets and smoking deck. Police have followed the accused and located her within the female toilets. As the accused has left the cubicle, another intoxicated female has fallen out of a cubicle. Police have again directed the accused to leave the Premises. Police have also directed this other female to leave. The accused has become argumentative with Police, stating, "I've got nothing to do with what she's done". Police have again informed the accused that she had been directed to leave downstairs after falling over the table. The accused stated, "What are you on about, I've got nothing to do with</p>

Date	Police Ref Number	Summary
		<p>her". Police have again directed the accused to leave the hotel due to her intoxication or she would be arrested for failing to quit licensed premises. The accused stated, "I'm not leaving, I've got nothing to do with her". The accused attempted to walk back into the bathroom, away from Police.</p> <p>Due to the accused's continued refusal to leave the licensed premises when directed, Police placed the accused under arrest and began to escort her from the Premises. As Police were escorting her from the Hotel, she began to argue and stated, "You're kidding me, you can't make me leave the hotel, I've done nothing wrong". The accused attempted to break free from Police hold. As a result, Police placed the accused in handcuffs to prevent any injury to Police or others in the surrounding area. The accused was escorted out of the hotel and across the street. While there, the accused continually stated, "You can't arrest people for doing nothing wrong. Why don't you arrest a rapist or murderer". The accused also stated that she was a "surveillance officer" and was recording Police. The accused was searched and conveyed to Newtown custody due to her intoxication and to prevent any repetition of the offence.</p> <p>The accused was introduced to the Custody Manager who declared her an intoxicated person and informed her that she would be held until a responsible person could be located or until she was sober enough to take care of herself. Police issued infringement notice number 4931470904 for the offence of "Excluded person fail to leave premises when required".</p>
5/07/2015 1:00pm	E58505746	<p>About 1:00pm on Sunday, 5 July 2015, the accused (redacted) approached security of the Imperial Hotel in an attempt to gain entry to the hotel. Police who were inside the Premises for an unrelated incident were approached by security at the front door and informed that the male was refusing to leave the vicinity of the hotel.</p> <p>Security pointed out the accused to Police; he was arguing with a manager outside hotel. Police approached the accused, who could be overheard yelling, "This is a fucking Police state". As soon as Police came in the vicinity of the accused, he immediately became hostile toward them, demanding to know the age of the officer.</p> <p>Police informed the accused that because he was intoxicated and had been refused entry to the venue, he must move 50 metres from the Premises. The accused replied, "I know my rights, I don't have to go anywhere". Police then gave the accused a move on direction from the location, warning him that failing to do so would be committing an offence.</p> <p>The accused then began swearing at Police, saying, "I know my rights, I don't have to fucking go anywhere, you can't tell me to do that". Police then informed the accused that they have such powers under the LEPRA and issued the accused another move on direction, warning him again that failing to do so would be committing an offence.</p> <p>The accused continued to swear at Police, saying, "I know my fucking rights, I know my fucking rights" and refused to move. Police issued the accused a third move on direction; however the accused still stood in the same position outside the hotel, refusing to leave.</p> <p>Police then informed the accused that he was going to get a ticket for failing to leave the vicinity of the Premises and asked the accused to tell them his name. The accused stated, "I don't have to tell you" and then stepped onto Erskineville Road in front of an</p>

Date	Police Ref Number	Summary
		<p>approaching taxi which had to brake in order to avoid colliding with the accused.</p> <p>Police then had to push the accused, who was resisting moving, to the northern side of Erskineville to prevent him being hit by oncoming vehicles. Once on the northern side of the road, Police again informed the accused that he was required to provide Police with his details; however the accused continued his belligerent behaviour, yelling, "I know my fuckin' rights, I don't have to fuckin' give you that, what am I under arrest for, I ain't fuckin' done nothing, I'm fuckin' walking home".</p> <p>Police placed the accused under arrest for failing to leave the vicinity of the licensed premises and failing to comply with the move on direction and cautioned him for the offences. While this was occurring, the accused attempted to walk off from Police and had to be physically stopped by standing in his way and pushing him backwards as he tried to push past using his chest and body weight to push against Police.</p> <p>Additional Police then arrived on the scene and the accused was informed that he was going to be searched. As Police attempted to search the accused, he continued yelling, "I know my fuckin' rights, I ain't fuckin' done nothing, I'm fuckin' walking home". The accused then pushed backwards against Police, trying to push away from Police who had to physically restrain him as he continued to wrestle with Police in an apparent attempt to free himself.</p> <p>The accused was conveyed to Newtown police station where he was entered into custody. The matter is now before the Court.</p>
<p>5/07/2015 11:50pm</p>	<p>E60398485</p>	<p>About 11:50pm on Sunday, 5 July 2015, Police were conducting a drug dog operation at the Imperial Hotel in Newtown. Upon entering the main bar area of the Premises, the POI has seen the Police dog, immediately got up from his chair and made a hurried walk towards the bathroom. Given the POI's actions on seeing the dog, and the venue being well known for drug use, Police stopped the POI before he managed to lock the toilet cubicle. Police asked the POI about his actions, to which he stated that he just needed to go to the toilet, but could understand why his actions aroused suspicion. Police searched the POI, with nil suspicious items located.</p>
<p>11/07/2015 12:40am</p>	<p>E58295433</p>	<p>On the evening of Friday, 10 July 2015, the accused and friends of the accused were at the Imperial Hotel.</p> <p>About 12:40am on Saturday, 11 July 2015, the accused was ejected by security staff at the Premises after being overheard talking about the purchase of drugs. The accused and his friends left the Premises and attended Budget Petrol service station next to the Imperial Hotel on Erskineville Road where they waited within their vehicle whilst it was being filled with petrol.</p> <p>About this time, security contacted Police to report the accused's behaviour. Security provided Police with a description of the accused as wearing a blue cap, blue three quarter pants and standing approximately 6 feet tall.</p> <p>About 12:45am, Police attended the Budget Petrol service station, where they located the accused sitting in a red Toyota CAMRY, registration (redacted), with two other males.</p> <p>Police approached the accused and the occupants of the vehicle and introduced themselves by name, rank and station. Police had a conversation with the accused, informing him that he had been stopped due to the reports of drug related behaviour. Police also</p>

Date	Police Ref Number	Summary
		<p>noticed the accused to have dilated pupils and appeared extremely nervous.</p> <p>Due to these factors, the time of morning and the location being known for drug activity, the vehicle and the occupants of the vehicle, including the accused, were submitted to a search whilst complying with Part 15 of the LEPR 2002.</p> <p>During this search, at 12:55am, Police located a clear small plastic bag containing 4 white tablets of methylenedioxymethamphetamine (MDMA) with "Hello Kitty" imprints on them in the accused's wallet. Police informed the accused that he was now under arrest and cautioned the accused.</p> <p>Police questioned him with regard to the tablets found in his wallet. When asked what the pills were, he stated, "Just pingers. Like, MDMA". The accused further stated that he intended to use them later that night.</p> <p>Police then seized the drugs and issued the accused with a Field Court Attendance Number 1108435 to appear at Newtown Local Court on 30 July 2015.</p> <p>Police have submitted a request for the exhibit to be presumptively tested. Upon successful conviction, Police request that the drugs be destroyed.</p> <p>The matter is now before the Courts.</p>
<p>11/07/2015 1:53am; 4:00am</p>	<p>E58213432</p>	<p>About 1:53am on Saturday, 11 July 2015, a drug detector dog and handler, employed by the Imperial Hotel, located a small clear resealable bag containing white powder unattended on the footpath outside the front of the hotel. Staff secured the bag in an office area of the hotel and contacted Police.</p> <p>About 4:00am, Police attended the Premises and seized a small clear resealable bag containing white powder believed to be cocaine. The drugs were taken back to Newtown police station and weighed. A weight of 0.6 grams was recorded.</p> <p>The Imperial Hotel had been running a private drug detection dog outside the venue. There is CCTV of the area where the drugs were located; however no timeframe is known to identify any POIs.</p> <p>The drug has been entered into EFIMS X0000890645 and report submitted to be destroyed.</p> <p>At the time of attending, Police conducted a business inspection.</p> <p>Manager: Michelle MANCINI Time: 04:00 No. of patrons: 40 patrons Entertainment: DJ Security: Yes. 4 outside venue. Number of security throughout Premises Meals: Noodle boxes Poker machines: 7 – turned off CCTV cameras: 60 – all operational Are they queuing to get in? No queueing. Are they drinking and describe their intoxication levels? The intoxication level was quite moderate. Is there any signs of pre-loading the service station? Taxis queued in service station which was closed. No taxis stopped on roadway. No patrons in service station. Are they hanging out in the service station? No. Ask them if they have been inside the hotel or are they planning on entering? N/A</p>

Date	Police Ref Number	Summary
		<p>Describe the noise they are making (yelling, talking, screaming, running around)? There were no patrons out of the front of the Premises.</p> <p>Direction of travel and use of the taxi rank further down the road? Nil</p> <p>Basic demographics – age range, gender? Early 20s to mid-30s, mostly male.</p> <p>Can you hear any noise coming from inside the hotel? No.</p> <p>Are the doors to the hotel open? Main glass doors closed</p> <p>What is security doing when you arrive, and most importantly do they start telling people to leave quietly once you get there? Security were out the front of the Premises. No patrons were out the front.</p> <p>Of note: Police conducted a patrol of "Spice" bar (lower underground level). At the time, the area was closing and the remaining patrons were being moved upstairs. Police sighted a number of empty small clear resealable bags left on the dance floor. Police obtained photos and uploaded them to ViewIMS.</p>
<p>11/07/2015 11:30pm</p>	<p>E59295316</p>	<p>Covert licensing Police were deployed at the Imperial Hotel, Erskineville to ensure compliance with the current liquor licence conditions.</p> <p>Police attended the front of the Premises where they observed a male in a brown jacket holding a radio, directing pedestrians and traffic with a traffic wand. It was not known what his duties actually were. Police did not sight a security licence on his person.</p> <p>When Police approached the line, a female dog handling security guard was walking up the line with what is believed to be a cocker spaniel dog. Police asked if they were required to line up single file, to which the dog handler stated that all patrons were required to line up single file. The male in the brown jacket stated that he had already checked the first half of the line and that the female dog handler only had to check the last half. After everyone lined up single file, the dog handler walked the dog up and down the line, however the dog made no indications on any person in line.</p> <p>After patrons were checked by the dog, they moved down the line to the next security guard who was scanning with a handheld metal detector and checking ID. Police observed that the security guard was not checking the ID of any male patron, but checking all female patrons. Similarly, the security guard was only scanning males with the metal detector and not scanning females. While scanning the males, the security guard only scanned the pockets and not the whole bodily area.</p> <p>Police entered and moved into the Cabaret Bar, which was located at the rear of the Premises, behind a double swinging door. The lighting in this area was low and dim and there was a low amount of patrons (around 40 to 50). Most were seated in the lounge area. The intoxication levels at this time were moderate. Police approached the bar and ordered 2 Jack Daniel's and Cokes and 1 glass of wine. The drinks were served in glass containers; however the licence does not have any conditions of No Glass, nor is the Premises subject to the CBD restrictions.</p> <p>Police observed a "glassie" to continuously remove empty vessels from tables, and there was free water stationed at the side of the bar with full access to patrons with signage advertising the free water. Staff and security appeared to continuously move through the crowds assessing patrons. The DJ was playing soft music; however at one point the DJ's equipment malfunctioned. The DJ</p>

Date	Police Ref Number	Summary
		<p>said to the crowd, "Just talk amongst yourselves. I'll have this fixed in a minute". The crowd began to yell and boo at the DJ, and staff and security made no action or attempt to cease this behaviour.</p> <p>At about 11:30pm, Police entered the male toilets. Once inside, Police observed vomit all over one cubicle; however there was no one inside. The cleanliness of the toilets was mediocre, as there was paper on the floors and scraps in the sinks. It appeared that it had not been cleaned in some time.</p> <p>At the entrance to the "Spice Cellar" (underground nightclub), Police observed only one security guard standing at the entrance with no assistance from any other staff member. Police attempted to enter the Spice Cellar carrying drinks in glass vessels; however the security guard stated that tickets were required. The security guard observed Police carrying the glasses and told them to go to the outside stairwell to buy the tickets. As Police walked outside to the stairwell with the glasses, another security guard approached Police and told them they could not take the glasses inside. It appears there is a communication issue between security personnel when it comes to this matter.</p> <p>In order to get to the ticket counter, Police had to walk upstairs, down a long empty corridor, out a side exit onto the balcony. Police observed about 10 to 20 patrons in this area smoking as this was the designated smoking area of the venue. Police then walked across the balcony, back into another door and the tickets were bought from a counter. The point of sale was manned by two female staff members and there was no security assisting them. Entry was in the form of a stamp on the inside of the right arm. After purchasing, Police had to walk down another long empty corridor, only to end up where they began. The manner to purchase entry was confusing, poorly monitored and remote from the rest of the venue.</p> <p>Police gained entry to the Spice Cellar, which is the basement level of the venue. The Spice Cellar has a dance floor in the middle of the room, with a raised mezzanine around the outside. The DJ box was up on a raised area at the north end of the room and a bar was located on the west side. On the raised area to the south, there was a second bar hidden around the rear corner. The female toilets were adjacent to the rear bar and the male toilets were behind the DJ box. Police observed only one security guard on duty with no RSA Marshall visible at this time. The lighting was very dark except for a number of LED disco lights and projectors. The DJ box had three large LED displays which projected a "Light Show" style display. There appeared to be only about 100 people in this room at this time.</p> <p>Police approached the south bar and bought 3 Cokes. The drinks were served in plastic cups that were red in colour, with the inside of the cup being white. Police positioned themselves on the west side of the mezzanine area and began to observe staff and patrons.</p> <p>At about 11:45pm, Police observed a male with a blue T-shirt with black sleeves approach the bar. He was unsteady on his feet and appeared to have spilt liquid all over the front of his shirt. It was the Police opinion that this male was moderate affected by intoxicating liquor. He approached the bar and ordered a drink. The bartender, who appeared to be an Asian female, served him another drink which appeared to be a mixed spirit with cola. At no time did the bartender assess the patron for his intoxication level.</p> <p>At 12:05am the next morning, Police moved to the seating area</p>

Date	Police Ref Number	Summary
		<p>near the south bar. Police observed two patrons approach the bar, which was manned by two bar staff. Police overheard one patron ask for a shot; however the bar staff refused, stating no shots after midnight. The bar staff pointed to a sign on the wall for the patron to read. The patron ordered two drinks for himself and the other patrons and moved on without further issues.</p> <p>At 12:37am, a Caucasian male of muscular build wearing white pants was seen to be dancing with no shirt on amidst a number of female patrons. The RSA Marshal and security observed this behaviour; however no action was taken by either. The RSA Marshal was seen to watch the male, and began to laugh at him. The RSA Marshal then walked away, taking no action.</p> <p>At 12:40am, Police returned to the west side of the mezzanine area. Police observed a Caucasian female with long blonde hair and a black dress approach the bar. She had a blank look on her face and was swaying from side to side. She was playing with her hair and when the bar staff asked her for her order, it took her a number of seconds to respond and place her order. She was served a drink which appeared to be a mixed spirit with cola. The bartender was a Caucasian male with white spotted pants and a black shirt and he served the patron without assessing her intoxication levels.</p> <p>At about 12:45am, Police observed the RSA Marshal, a female who was wearing an orange hi-vis vest, conducting her duties. The vest only had "RSA Marshal" written in a black texta on the front of the vest, so in the low light, it was very difficult to see the writing. The RSA Marshal stopped to talk to patrons from time to time, sometimes for 10 to 15 minutes at a time. Police formed the opinion she was speaking to patrons too long to be assessing sobriety and was talking socially. Police overheard one conversation she was having with a patron, where the male patron and the RSA Marshal were discussing the previous employment of the patron. The RSA Marshal predominantly spoke to male patrons and was laughing and joking with a majority of the male patrons.</p> <p>Police observed a low patron count at the bar, however a large number of patrons appeared to be nearing moderately intoxicated. With the low alcohol sales, Police formed the opinion that patrons were either pre-loading or were under the influence of a different substance. The dance floor was reaching capacity and only one security guard was on duty. This security guard was static at the base of the stairs on the south side of the dance floor.</p> <p>At 12:49am, Police observed what could have been a possible drug deal. Police observed a male with a black T-shirt and red hair in a topknot take a small bag from an unknown person (low light conditions) and place it in his pocket. The male appeared to be already moderately affected at this time.</p> <p>Police moved to the north west corner of the mezzanine level where the possible drug deal was made. There was a set of stairs leading up to the mezzanine from the dance floor, with a platform off to the side next to the DJ box. The platform allowed entry into the DJ box and 20 patrons were located on this platform.</p> <p>At about 12:59am, Police observed a Caucasian female of thin build with shoulder length dark hair in a white shirt with black spots and a black skirt (female POI) hand an unknown item to another Caucasian female with long dark hair who was wearing a black dress. The second female put something in her mouth and had a drink immediately after. Throughout the night, Police observed this female to be sweating profusely and to be swaying on her feet.</p>

Date	Police Ref Number	Summary
		<p>At about 1:03am, a Caucasian female with short blonde hair wearing white pants and a black top was seen to do a handstand against a wall on the west side of the mezzanine area. Once upside down against the wall, she began to "twerk" for a short period of time.</p> <p>Police left the area for a short time and went into the male toilets behind the DJ box. Police observed a male in a blue button-up shirt leaning against the wall and he appeared to be asleep. By the time the Police officer removed his mobile in an attempt to take a photo, a friend of this male had put one of his arms under the intoxicated male's arms and carried him out of the toilet. The male being carried required assistance to walk as he was unable to remain upright by himself. By the time Police were able to exit the toilet and follow him, they were lost in the crowd.</p> <p>Police continued observations of patrons and observed a male wearing a brown and white flannelette style (checked) shirt (male POI) to be standing with the female with the white and black spotted shirt. A number of other patrons were pointing to these two people throughout the night and were being swarmed by different people who only stayed for about 20 to 30 seconds and then left. The photographer of the venue was seen to be interacting with this male POI, at one time allowing the male POI to use the camera and take photos of his friends and other patrons. A Caucasian female with a black and white striped jacket, who appeared to be working in and out of the DJ box, was also speaking to the male POI throughout the night.</p> <p>When patrons approached the male POI, he would remove a small purse with money and a container of white powder from the front left pants pocket of his jeans. A short time later, Police observed the male POI, the female POI and a number of other patrons to start scrambling around the platform area. It appeared that they had lost something, and were using phones as a light source to search the area. They were seen to search their jackets, bags and the immediate area to locate what had been lost. It is unknown if they found the item at this time.</p> <p>At about 1:35am, Police observed a female approach the male POI and speak to him. The male POI took what appeared to be a small spoon off his necklace, dipped it into a container which was removed from his front pants pocket and removed a small amount of white powder. He held this up to face height to the female who then inhaled it through her nose. She then handed the male POI what appeared to be a rolled up note of AUS currency. The male POI replaced the money and the container into his front left pants pocket and the female then left the area.</p> <p>At about 1:40am, uniformed Police entered the Premises. They approached the male and female POIs who appeared to be placed under arrest. Uniformed Police searched the POIs and their belongings, and were then subsequently led out of the nightclub.</p> <p>At about 1:50am, Police observed the photographer of the Premises to be walking around with a schooner of beer in his hand. He was drinking this beer whilst taking photographs of the patrons.</p> <p>At 2:33am, Police observed a Caucasian female with long blonde hair approach the bar. This female was the same female mentioned previously who appeared to be intoxicated. The Asian bartender served the female; however withheld the beverage and made mention to the female of being too intoxicated. At this point, the female's partner, a Caucasian male, slim build with a black shirt and</p>

Date	Police Ref Number	Summary
		<p>black pants, approached the bartender and began to swear at her for not providing the female with her order. The Asian bartender eventually handed the beverage over to the female and accepted payment.</p> <p>At about 2:38am, a Caucasian male with short dark hair, about 180cm tall, slim build, wearing a grey jumper, spilt a drink on the floor. The male then bent down and started to lick the spilt drink off the floor; all the while, the RSA Marshal was watching. Again, the RSA Marshal failed to take any action, and again laughed at the actions of the male.</p> <p>At about 2:50am, Police observed a female walk into the female toilets where she was followed by the female covert officer. The female was walking in a staggered manner, with her balance well affected. Whilst walking toward the toilet, she was dry retching whilst bent over at the hip. When she got into the toilet, she began to vomit in a cubicle. She exited the bar and returned to the dancefloor. The female was on the floor for some time after this. Plainclothes Police approached the female and assessed her for intoxication. When spoken to, the female said to Plainclothes Police, "It's not the food. I'm drunk". It was ascertained that the female had consumed a full bottle of Rosé wine prior to attending the venue. At no time whilst at the Premises did the female consume any alcohol or any other drink sold at the venue.</p> <p>At 2:55am, a Caucasian male of slim build and tattoos on the rear of his neck was seen to be slouched against a wall. Police overheard the male speak to his friend, where it could be heard that his speech was slurred. When the male stood up to walk away, he was severely unbalanced and required assistance from his friends to walk from the area.</p>
<p>12/07/2015 12:40am</p>	<p>E58149244</p>	<p>About 12:40am on Sunday, 12 July 2015, Imperial Hotel employee Michael LENEHAN located a small resealable plastic bag containing an unknown white powder believed to be prohibited drugs outside the front of the Premises, closest to Erskineville Road. LENEHAN does not know who the resealable bag belongs to or who may have dropped it.</p> <p>Believing the bag contained a prohibited drug, LENEHAN picked up the bag and telephoned Police to collect.</p> <p>Police arrived a short time later, seized the bag and obtained details from LENEHAN.</p> <p>Police sealed the small resealable plastic bag in NSW Drug Bag 772488 and booked into EFIMS X0000890650. Request for drugs to be destroyed submitted.</p>
<p>12/07/2015 1:00am</p>	<p>H58440526</p>	<p>This document is a NSW Police Prosecution Facts Sheet arising from the incident described in COPS Event number E59295316 – specifically with regard to the "male POI" identified in that COPS Report on the Premises at 1:03am on 12 July 2015 and following.</p> <p>It states:</p> <p>ANTECEDENT The accused is currently working full time in an unknown employment. He is earning \$800 per week, he has no dependants or children.</p> <p>FULL FACTS The accused in this matter is [name redacted].</p>

Date	Police Ref Number	Summary
		<p>About 1:00am on 12 July 2015, the accused was observed to be within the Imperial Hotel, Erskineville. The venue is a multilevel venue which holds an hotelier's licence. The venue is made up of three bar areas, the main bar, the Cabaret Bar and the Spice Cellar. The Spice Cellar is located in the basement area of the licensed premises and holds a capacity of 500 patrons, including the Priscilla bar which is also located within this basement area. This patronage number has been specified in Development Modification Approval by Sydney City Council D/2008/1350/C. This number includes all staff, entertainment and patrons.</p> <p>On 11 July 2015, Police were conducting a covert operation from within the Spice Cellar of the Imperial Hotel, Erskineville. The operation was targeting licensing related issues and illegal drug activity from within the Spice Cellar area. Three covert officers were deployed to make observations on the Spice Cellar.</p> <p>The accused is described as wearing a red coloured flannelette shirt, brown hair, thin build, wearing a number of necklaces around his neck. The accused was standing within the Spice Cellar to the right of the Disc Jockey booth. The DJ booth is close to a set of stairs which lead to a mezzanine elevated area. There were three covert Police officers within the Spice Cellar making observations and documenting actions of the accused.</p> <p>About 1:26am, the accused was approached by a number of people including a female dressed in all black and a female wearing a black and white polka dot shirt with an arm tattoo. The accused has used a small plastic cylinder full of a white powder; he used the spoon attached to the necklace around his neck to scoop the powder out of the cylinder.</p> <p>The white powder is placed onto a silver spoon and served to patrons. The female wearing all black has snorted the powder from the spoon and given the male a rolled up note. The accused has placed the money into a small Zip dark coloured wallet. The accused continued to complete similar transactions a multiple number of times. During the covert Police officers' observations, the Police officer saw a number of people pointing in the direction of the accused and approaching him making transactions of a similar nature.</p> <p>The Police officers attached to the covert operation contacted the Newtown Police Licensing Unit. Newtown Police were informed of the description of the accused and given a photograph of accused. The licensing officers were given a description of what occurred and the description of where exactly the accused had placed the drugs and the item. Police were briefed prior to entering the Hotel of the exact location of where the accused was positioned and were receiving updates from the covert officers whilst within the venue. Police entered the Imperial Hotel, Erskineville and walked into the Spice Cellar.</p> <p>Police approached the DJ area and observed the accused to be standing dancing with a number of females. The area appeared to have jackets and property placed on the edge of the dance floor. Police approached the accused and introduced themselves complying with the <i>Law Enforcement (Powers and Responsibilities) Act 2002</i>. Police placed the accused under arrest and escorted him to the outside of the venue. The accused was again cautioned by Police and placed under arrest. Police informed the accused that he would be searched by Police. Police confirmed the accused's identification by his driver's licence.</p>

Date	Police Ref Number	Summary
		<p>Police located in his right pants pocket one clear resealable bag containing one capsule of MDMA. Police continued to search the accused, identifying a small dark green zip pouch with "Woolworths" written on the front of it. Inside the pouch was one clear resealable bag containing 0.30 grams of white powder. Police located in the accused's wallet \$440.00 in Australian currency, this was including 2x \$20 and 8 x \$50 notes. There were no receipts within the accused's wallet which suggested the money was withdrawn or otherwise obtained by a lawful transaction. Police seized the money as proceeds of crime and the money was booked as an exhibit X0001986745. Police seized a silver necklace that was worn around the accused's neck. The silver necklace is silver in colour and had a small spoon as a pendant attached to the chain. The spoon had white powder residue on the scoop of the spoon.</p> <p>The Imperial Hotel provided police with an 8GB TDK flash drive containing CCTV footage of the location in which these transactions occurred. There is a camera which is directly above the DJ area which captured the accused at the location.</p> <p>The accused was conveyed back to Newtown Police Custody where he was introduced to the Custody Manager and read and given a copy of the caution and summary of Part 9 of the LEPRA 2002. The accused participated in an Electronically Recorded Interview, making comment that he was within the Spice Cellar.</p> <p>The accused is now charged with the offences of Supply Prohibited Drug x 2; Posses Prohibited Drug and Dealing with Proceeds of Crime. It is respectfully requested that upon conviction, the drugs are destroyed by a Court order.</p>
12/07/2015 2:00am	E58803662	<p>About 2:10am on Sunday, 12 July 2015, the POI found out his friend had been refused entry into the hotel and exited the hotel. The POI tried to locate his friend, was not able to and tried to re-enter the hotel. The security guard, Omar FAYED refused entry to the POI from the Premises. The POI refused to leave the Premises.</p> <p>About 2:15am, Police were patrolling Erskineville Road, Erskineville when they were flagged down by the security guard out the front of the Imperial Hotel.</p> <p>The security guard advised Police the POI (redacted) was failing to leave the vicinity of the Premises. Police stopped the POI and introduced themselves. Police observed the POI to be highly intoxicated and he was slurring his words, stumbling on his feet and Police could smell alcohol on his breath and clothes. Police told the POI he had to leave the vicinity of the hotel immediately, otherwise he would be issued with a \$550 fine for failing to quit. The POI became argumentative and abusive toward Police.</p> <p>Police arrested the POI and conveyed him back to Newtown Police custody where he was introduced to the Custody Manager. The POI was issued with an Infringement Notice number 4933708111 for remaining in the vicinity of a licensed premises when asked to leave.</p>
12/07/2015 2:15am	E212156996	<p>About 2:15am on Sunday, 12 July 2015, Police attended the Premises for an unrelated matter. Upon arrival, they were approached by security guard Omar FAYED regarding two small clear plastic resealable bags containing white powder which had been located on the footpath outside the hotel.</p> <p>The first item was located at approximately 2:00am by security guard Chantelle LUNARDON (in company with private drug detection dog) on the footpath on the intersection of Union and</p>

Date	Police Ref Number	Summary
		<p>Erskineville Road. This was seized by the General Manager Michael LENEHAN and later handed to Police. The item has been photographed, weighed (0.30 gram) and sealed in Drug Bag 772489, EFIMS number X0000890652.</p> <p>The second item was located at approximately 2:15am by security guard Omar FAYED on the footpath outside and near the main entrance on Erskineville Road. This item was "in situ" and was seized by Police and later photographed, weighted (0.50 gram) and sealed in Drug Bag 772490, EFIMS number X0000890651.</p> <p>Both incidents were recorded in the Premises' Incident book which was signed by Police as acknowledgment of having seized the suspected drugs.</p> <p>Police had earlier attended the Imperial Hotel a number of times regarding Fail to Quit and drug possession matters. It is suspected that the items, believed to be cocaine, may have been discarded by patrons upon noticing a Police presence.</p> <p>CCTV security cameras are operating and may assist.</p>

The OLGR Historical Report (April 2014- April 2015)

71. This report provides regulatory information pertaining to operation of the hotel on the Premises for the 12 months preceding 17 April 2015.
72. As noted above, OLGR advise that they have engaged with the venue on three separate occasions during this period and that no regulatory breaches were identified.
73. The OLGR Historical Report also furnishes 14 full text COPS Reports provided to OLGR by Newtown Police pertaining to assaults, drugs and other alleged offences detected on the Premises during the relevant time period.
74. Brief summaries of those COPS Reports are provided in the following table:

Event	Time/Date	Place	Incident	Outcome
E54818307	2:35am 17/05/2014	Imperial Hotel Front entrance	ASSAULT: Female and male asked to leave the Premises. Upon leaving the venue, an argument occurred between the patron and the security guard. The female patron has lunged forward at the guard with a closed fist, causing the guard to fall backwards. Police contacted.	Legal process
E54236530	2:00am 22/06/2015	Imperial Hotel Smoking deck	DRUGS: Police conducting HVP business inspection. Police able to smell cannabis coming from smoking deck. Police approach five males who were searched and cannabis was located on one of the males.	Legal process – cannabis caution
E55176854	2:40am 29/06/2015	Imperial Hotel Main bar area	ASSAULT: Four POIs playing pool, turned into a physical assault. No person provided	Insufficient evidence to

Event	Time/ Date	Place	Incident	Outcome
			Police with a statement. Security have separated all parties and contacted Police.	proceed
E55974351	2:43am 03/08/2014	Imperial Hotel Main bar area	ASSAULT: Security asked male to leave venue, and a physical altercation has occurred outside of the venue.	Insufficient evidence to proceed
E55936758	3:05am 23/08/2014	Imperial Hotel Male toilet area	DRUGS: Police observed a male fiddling with a clear small bag. Police looked over the accused's shoulder and observed a clear capsule with brown granules inside which appeared to be MDMA.	CAN (court attendance notice) – possess prohibited drug
E55812134	3:00am 14/09/2014	Imperial Hotel	ASSAULT: Three patrons drinking within the venue consumed seven alcoholic beverages. All of the patrons left the venue and felt sick. Three patrons claimed to have been "spiked". Investigated by Police; however, no person to be identified as an offender and there is not enough evidence to prove a drink spiking.	Insufficient evidence to proceed
E56088926	3:00am 19/10/2014	Imperial Hotel Main bar area	ASSAULT: Victim and POI began to have a verbal argument. The argument escalated into a physical altercation, resulting in the victims having a black eye.	Insufficient evidence to proceed
E56367364	1:45am 26/10/2014	Imperial Hotel	ASSAULT: The POI was refused service by the bar manager. The POI has then walked behind the bar and held on to the bar manger by the shoulders and pulled her back out of the bar area. The manager was then slapped and kicked in the legs.	CAN – common assault
E55924752	2:00am 31/10/2014	Imperial Hotel	OFFENCE BY LICENSEE: Liquor is prohibited from being taken into and consumed within the outdoor smoking terrace located upon the first floor. Patrons sitting on the stairs. Police observed about 15 to 20 patrons impeding/obstructing the fire doors.	1 x Breach of Licence Condition 1 x Impede paths of travel to fire exits
E57249748	2:00am 14/02/2015	Imperial Hotel Main bar area	ASSAULT: Security requested POI to leave the Premises. POI became aggressive and physically assaulted two security guards.	Charged with common assault/fail to quit

Event	Time/ Date	Place	Incident	Outcome
E57144934	2:00am 14/02/2015	Imperial Hotel Smoking deck	OFFENCE BY LICENSEE: Liquor is prohibited from being taken into and consumed within the outdoor smoking terrace located upon the first floor.	Compliance Notice 1 x Breach of Licence Condition
E56014910	1:30am 22/02/2015	Imperial Hotel Male toilet cubicle	DRUGS: Police observed two males to leave one cubicle; they appeared to be drug affected. The males were searched. One male, in his right pocket using his right hand, produced a small clear plastic pouch containing a small quantity of white powder. Police conducted a strip search of the accused in the back of a caged Police vehicle and immediately located a small metal tin containing 16 capsules of MDMA and a small zip bag containing 12 small clear resealable bags containing a white powdery substance (cocaine). Police immediately cautioned and arrested the accused for the possession of the 16 capsules of MDMA and a small zip bag containing 12 small clear resealable bags containing a white powdery substance (cocaine).	CHARGE – supply prohibited drugs/possess prohibited drug
E57813529	7:30pm 08/03/2015	Imperial Hotel	ASSAULT: The two persons involved are known to each other. They have had a verbal altercation, which has then caused the POI to slap the victim across the face. The victim did not want any action taken and did not want to provide Police with a statement. A Banning Notice was issued by the venue.	Nil action taken
E58979155	1:20am 11/04/2015	Imperial Hotel	DRUGS: Police were conducting a business inspection. A male has begun to yell out, "Fuck the pigs". Police have removed this male from the venue and he was searched. Police located 2 capsules of MDMA.	CAN – possess prohibited drugs

Business Owner Submissions in response to the Short Term Application

75. On the evening of 23 July 2015 the Business Owner provided the following submissions in response to the Short Term Closure Application:
- 23 page submission letter from JDK Legal (including Annexure) dated 23 July 2015

- Letter from Mr Kevin H Du-Val, chiropractor, certifying that Mr Murat Kilic attended Mr Du-Val's clinic on 22 and 24 April 2015 for treatment of severe ongoing lower back issues
- Minutes of meeting between Hotel staff, Police and OLGR dated 30 June 2015
- Minutes of meeting between Hotel staff, Police and OLGR dated 7 July 2015
- Minutes of meeting between Hotel staff, Police and OLGR dated 14 July 2015
- Copy of the Imperial Hotel *Drug Policy*
- Copy of the Imperial Hotel *Security Management Plan*, prepared by Prime Protection and dated 2014.

76. JDK Legal make the following submissions and contentions:

Introduction

We act for Murat Kilic, the former licensee of the Imperial and sole director of the business owner, Atesh Pty Limited.

We refer to the Director's application for a second short term closure order made to the Authority on 22 July 2015, notice of which was given to us by the Authority that afternoon while at a directions hearing for the long term closure order which the Director applied for on 17 July 2015.

We note that our client has been afforded until 5pm on 23 July 2015, to make submissions opposing the short term closure order; and until 5pm on 28 July 2015, to make submissions in opposing the long term closure order.

We also note by way of further context, we indicated to the Director on 21 July, that in relation to his proposal to impose 10 conditions on the Imperial's licence, we were instructed, subject to the consent of the lessor, to agree to 8 of those (all but the first and third conditions referred to in the Director's letter of 3 July 2015). We note the Director's submission in reply to the Authority, on 21 July, that he is no longer convinced that the proposed conditions will remedy the situation.

That context to this application, and the first application, is important, because the main bases for the first short term closure order was the presence of the supply of drugs on the premises, and the involvement of some of the Imperial's staff in that action.

The wording used by the Director in the Statutory Declaration to his first application of 18 June 2015 was (emphasis added in bold):

"I have reasonable grounds for believing that a number of serious offences under the Act have occurred and that there is a [sic] threat to public health or safety and a risk of serious offences (having a maximum penalty of note [sic] less than 2 years imprisonment) being committed ..."

In other words, a number of "serious offences" were alleged to have occurred.

The current application is focused on the allegation that, on 18 July 2015, the new licensee, Ms Mancini, permitted intoxication on the premises.

The wording used by the Director in the Statutory Declaration to his second application is rather (emphasis added in bold):

"I have reasonable grounds for believing there is a risk of serious offences under the Act have occurred and that there is a threat to public health or safety; a risk of substantial damage to property; a significant threat to the environment; and a risk of serious offences (having a maximum penalty of not less than 2 years imprisonment) being committed ..."

It is clear from the wording that there is no actual allegation of a serious offence having occurred – just an allegation that there is a risk of a serious offence having occurred – whatever that may mean.

The inclusion of sub-paragraphs (b) and (c) of s.82(3) in the wording used by the Director, without there actually being anything reasonably capable of amounting to them in the supporting COPS material, appears to be an "everything but the garden sink" approach taken by the Director to maintain some heightened sense of urgency of threat to the public interest when, in reality, there is no such threat.

By looking at the relevant incidents referred to in the current short term closure application, it is clear that the current concern is of a risk of less seriousness than the former concern.

That is because now, the former concern has, in large part, been addressed since the first short term closure order - the Imperial has taken measures that have been effective in reducing the risk of

further drug-related offences taking place at the Imperial. Chief of these has been the use of a sniffer dog which has proved a prodigious success.

The Authority may only make a short term closure order:

"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."

The Director must, therefore, convince the Authority of two things:

- 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.

In relation to the first limb, the "serious breach" must be one that occurred (or is likely to occur), subsequent to the first short-term closure order.

We take it from the second paragraph of Page 2 of the Director's letter of 21 July 2015 that the "serious breach" alleged is that on the night of 18 July 2015, the "licensee permitted intoxication on the premises": in breach of section 73(1)(a) of the Liquor Act.

In relation to the second limb, the reference to "a significant threat or risk to the public interest" is a reference to something more serious than "a serious breach of this Act" in the first limb. [Otherwise, a single breach for permitting intoxication on premises would found an application for a short-term closure order].

Even if the Authority were to accept that a serious breach of the Act occurred last weekend, it does not follow that a similar breach is likely to occur this weekend, or, more importantly, that it would amount to a "significant threat or risk to the public interest" that mandates the closure of the premises.

Further, we consider that a balanced assessment of events since the short term closure order will demonstrate that significant improvements have been made at the Imperial, such that:

1. a further short term closure is not "necessary to prevent or reduce a significant threat or risk to the public interest" within the meaning of s.82(2);
2. a long term closure is not warranted under s.84, including for the reason that a short term closure order is not "necessary to prevent or reduce a significant threat or risk to the public interest" within the meaning of s.82(2).

We will address the first now.

Further Short Term Closure not necessary

We note that there are no drug or violence related incidents relied upon by the Director in his letter of 21 July 2015 seeking a further short term closure order. This demonstrates significant progress since the first closure order in relation to those risk factors.

The current issues revolve around intoxication.

Our client accepts that, having regard to all of the material, a number of the conditions proposed by the Director in his letter of 3 July 2015 under s.54 appear appropriate, at least in the short term, to give immediate redress to the concerns identified by him in relation to intoxication.

In effect, as indicated earlier, our client raises no objection to the imposition of 8 of the 10 conditions proposed by the Director in his 3 July letter.

Putting the events of the last 2 weeks in their proper historical context

It is important, in our view, for matters of fairness, to see the events since April this year in their proper context.

By that we mean, a more informed and considered decision can be reached by having regard to:

- a. our client's history of compliant business practices while licensee of the Barrio Cellar, (a Mexican bar/restaurant located in the Sydney CBD Entertainment Precinct, where "Spice Cellar" previously operated without incident or adverse comment from either OLGR, police or council);
- b. the history of the Imperial prior to our client taking over as licensee in April 2015; and
- c. steps taken by our client since the first short-term closure order to address concerns raised by the Director.

Our client's history of compliant business practices while licensee of the Barrio Cellar

As stated, our client is relatively new to the Imperial (having been appointed licensee on 26 April 2015). He has, however, a long history of compliance at Barrio Cellar, a Mexican bar/restaurant where "Spice Cellar" previously operated. It operated as a nightclub from 12 September 2011 to 14 April 2015; our client was licensee of that venue for the whole of that period.

The Spice Cellar ceased trading at that venue, and commenced at the Imperial Hotel, Erskineville on 18 April 2015.

Our client comes from a music background, having produced music and DJ'd professionally for 20 years. Prior to that he worked in institutional equity markets as an investment analyst for 10 years.

When located at Barrio Cellar on Elizabeth St, "the Spice Cellar" evolved into one of the most successful and well known European style nightclubs in Sydney, attracting an educated, discerning, polite and respectful crowd.

It had a very successful late-night, trouble-free business model that was thriving until lockouts were introduced in Feb 2014. After the introduction of lockout laws, the business could not survive in that location under the new trading conditions.

In our client's three and a half years as licensee of this late trading nightclub, he did not experience any issues with OLGR the police or the Sydney City Council. In fact, our client's relationship with the Rocks police was productive and positive because the police recognized from an early stage that Spice Cellars patrons were not troublemakers – neither in the sense of perpetrating alcohol fuelled violence or illicit drug taking.

In abbreviated terms, in those 3.5 years, there were:

- no violent incidents;
- no serious breaches of the Liquor Act;
- no drug offences;
- no recurring problematic intoxication; and
- no licensee issues.

It is not expected that the Authority would rely solely on this submission as proof of our client's previous outstanding record. However, substantiation of this submission could undoubtedly be found in the records of OLGR or by consultation with the Rocks police.

Both "the Spice Cellar", now located within the Imperial, and our client as a DJ / music ambassador are recognised globally in the electronic music community, and enjoy a positive reputation.

What we ask the Authority to take from the above is that our client's exemplary record over a period of 3 1/2 years immediately preceding his tenure at the Imperial, demonstrates that there is nothing inherently wrong with his business model or philosophy which would cause incidents of the type or frequency in question from April to June 2015 at the Imperial.

While the Authority is only expected to focus on, and give consideration, to the present premises, the failure of the Director to put this material before the Authority contributes to a distorted picture being formed of our client's bona fides, and his record of compliance.

Courts place weight on previous good behaviour as a determinant in considering the appropriate penalty for a defendant and we submit that the Authority also should have regard to our client's previously unblemished record of operating a similar business.

The history of the hotel prior to our client taking over as licensee in April 2015

As we indicated to the Authority on 21 July 2015, prior to or about the time of taking over the Imperial, management met with local police, who indicated that the Imperial did not enjoy a good reputation and had a history of unsavoury incidents.

Summary of incidents occurred

It had 3 rooms and 4 bars:

1. The Public Bar - which was open 7 days, capacity 198
2. The Cabaret Room - which was used as a dance club room, capacity 288
3. The Basement Cellar - used as a dance club and band room, capacity 500 The venue was operating regular club nights Friday & Saturday nights till 6am

We sought a direction from the Authority on 21 July 2015 that, by 5pm on 22 July 2015, the Director would provide the police records in relation to the hotel for the 12 months prior to our client commencing at licensee, so that this material could be put before the Authority.

On 22 July, we received this information. It discloses that in this period of 12 months, of the recorded incidents, 64% were assault related, and 29% were drug related incidents.

This is the aggressive, drug-related and, most likely, also alcohol-related culture that our client inherited in taking over as licensee in April 2015.

A culture of this type takes time to change and our client has accepted the responsibility to do so. Moreover, he is confident of being successful if given a reasonable opportunity to implement his style and culture.

As indicated above, this style and culture operated successfully and compliantly for 3 ½ years immediately before the move to the Imperial.

Again, the failure of the Director to detail to the Authority a full history of incidents at the Imperial (at least for the last 12 months) under the tenure of the previous business owner, in both the first short term closure application, and now in the second short term closure application and the long term closure application, leads to the unfair inference being drawn that our client is the causal link between the complained of culture at the Imperial, when he is not so.

Observations on our client's first two months at the Imperial

On taking over the Imperial our client changed the Cabaret Room into a cocktail bar with lounges and live entertainment varying from performance art, drag shows and bands till 11pm, after which Djs were booked. Our client kept the clubbing events in the Basement Cellar on Friday & Saturdays and introduced a gay social event on Sundays in the public bar from 4 - 10pm.

The Cellar retained its Friday club operation which is a younger demographic. Our client had intentions of removing this event and replacing it with an older demographic gay event this coming Spring.

Our client relocated Spice Cellar to The Basement Cellar on Saturday which is an older demographic that is influenced by underground house music and has a dedicated music following.

The alcohol sales in the basement immediately increased due to the increase of people coming as well as the fact that they are older and more of a drinking crowd.

Our client introduced a vast arrange of premium beverage offerings and removed all premixed ready-to-drink packaged beverages targeted at young adults.

It is acknowledged, with the benefit of hindsight that the management initiatives employed in attempting to migrate the business model successfully from the Sydney CBD to its current location in Erskineville fell short of the measures required.

But the reality of the situation is that our client, in taking over the business, inherited a location and patron demographic that was already problematic, with an ingrained culture of drugs and aggression, the extent of which he had not adequately foreseen, nor made adequate provision for, in deciding upon moving the business to this location.

It was the nature of the Director's application before the Authority that many of the incidents relied upon were ones noted by Police in covert operations where no notice of these matters was given to the licensee or staff at the time of these incidents. Hence, the lack of knowledge on behalf of our client and his staff of the magnitude of the problems considered by police at an earlier time. [More recently, the events of 18 July 2015 were not disclosed to our client that night for the same reason – it was a covert operation.]

We submit that this is a reasonable explanation to the Director's inherent criticism of the apparent delay in responding to some of these issues.

Even the police in weekly meetings with our client were encouraging, indicating that while there were still problems, there had been good improvement in the Imperial's operation and performance due to initiatives introduced by our client. Please see attached notes of meetings with the police on 30 June, 7 July and 14 July.

It is one thing to be critical of certain incidents occurring at the premises. It is entirely another thing to assert that our client had been put "repeatedly on notice of these incidents as they were occurring, and that he chose not to take any remedial action".

It appears that the Director and his investigators have asserted the latter, perhaps influenced by a belief that is unsubstantiated, that our client himself engaged, or engages, in taking drugs and hence, would condone that type of conduct at the Imperial.

Our client has previously denied being under the influence of drugs on his first day as licensee of the Imperial.

On the night in question, it was not even suggested to him that he was affected by drugs, and subsequently he has not been charged with any offence in relation to that allegation. There is a simple

explanation, which, if the allegation had been put to our client on the night, would likely have resolved the issue. We attach a letter from our client's chiropractor indicating that he was treating our client for a chronic back injury, and our client was on medication for the pain.

Simply put, our client does not consume illicit drugs nor does he condone their consumption by staff or patrons.

Indeed, it doesn't make commercial sense for our client to have any other view, because patrons who take illicit drugs tend not to purchase alcohol but consume largely water, which is available free at the Imperial.

Taking or condoning drug use is wholly inconsistent with our client's outstanding record of compliance and co-operation with the police as a licensee of Barrio Cellars. As is the suggestion that he would, despite "repeated and intensive regulatory engagement (including weekly meeting with police), fail to implement basic controls".

Steps taken by our client since the short-term closure order to address concerns raised by the Director

A short term closure order was made by the Authority on 19 June 2015 for a period of 72 hours from 7 PM on 19 June 2015.

On 3 July 2015, before the business had an opportunity to have weekend trading after the short-term closure order, the Director proposed to vary the licence by imposing 10 conditions.

At that time, it was presumably thought that those 10 conditions would be appropriate to address the Director's concerns which at that stage, were concerns of alleged serious drug-related activity being allowed to take place at the venue.

On 17 July, the Director applied to the Authority for a long-term closure order, relying essentially on events that took place on the two weekends subsequent to the short-term closure order.

On 21 July, the Director made a second application to the Authority for a short-term closure order, relying essentially on events that have taken place on the three weekends subsequent to the short-term closure order, notwithstanding the pendency of the proposal to impose further conditions on the licence of 3 July and the long-term closure application which was expected to be determined by the Authority in the week commencing 27 July.

The thrust of the Director's second short-term closure application (and indeed the long-term closure application) is that the premises are deteriorating and that the business owner is unconcerned about it.

The above invites a comparison of the events leading up to the short-term closure order, and the events since, to see whether, at the current time, leading up to this weekend, there remains a relevant risk, and whether the business owner is acting appropriately.

That essentially calls for an analysis of the events of the following weekends:

- The first weekend since the short-term closure order: 3 to 5 July*
- The second weekend since the short-term closure order: 10 to 12 July*
- The third weekend since the short-term closure order: 17 to 19 July*

The Authority has been provided with a copy of all relevant documents for the above by the Director.

Prior to each of those weekends trading, there were relevant meetings between the licensee/business owner or management and local police and OLGR representatives taking place as follows:

- Meeting on 30 June 15*
- Meeting on 7 July 15*
- Meeting on 14 July 15*

An objective analysis of the minutes of those meetings demonstrates a quantum improvement in the business in terms of reduction of alcohol and drug incidents, and concrete steps being taken to comply with the objectives of the Liquor Act.

The major remaining concerns are to do with intoxication levels, and training of guards and RSA marshals to be more interactive with patrons, and more mobile.

They do not demonstrate a lack of concern by our client in complying with the objectives of the Liquor Act.

As is evident, the minutes paint a picture of significant improvements at the venue, and of deliberate actions taken by our client and the current licensee to achieve those improvements.

They are at odds with the tone of the second application that does not acknowledge the significant operational improvement at the Imperial and overstates considerably the concerns of front-line police evidenced by the records of our client's meetings with the police.

And they are at odds with the wording of the declarations to each application, which we assume was deliberate by the Director, as the making of those declarations was a solemn and serious act on his behalf, no doubt taken with the benefit of prior legal advice.

It is our contention that the Authority would not be satisfied that there is a risk requiring it to order a short-term closure for the coming weekend and further, that the matter can be addressed in more detail and more fully in the context of the hearing of the long-term closure application. There is even less justification for a long term closure, as will be submitted in due course.

Further, the business owner invites the Director to consider the withdrawal of both the short- term closure application, and the long-term closure application, upon agreement being reached as to imposition of further conditions (subject to the approval of the lessor of the premises) on the Imperial's licence, under section 53 of the Liquor Act.

To that end, our client is not opposed to all but conditions 1 and 3 proposed by letter from the Director of 3 July 2015. In the Appendix, we set out the conditions proposed by the Director under s.54 in his letter of 3 July 2013, along with our client's responses.

Since the short term closure, actions taken by our client include the following:

- Full time manager now employed;*
- Revised, more detailed, drug policy. Attached.*
- Independent security officer with qualified sniffer dog being retained for Friday and Saturday nights. (As noted, this has had a marked impact on the reduction of drug issues at the Imperial).*
- Updated security management plan provided by new security operator, Prime Security, who were employed the week after the first short term closure. Attached.*
- Formalised induction process for new staff addressing the intoxication, drug, departing patron disturbance, and crime reporting/surveillance issues.*
- Using 3 Cheers Training for specialist advanced RSA training for bar staff.*
- Planning for all security contractors and RSA Marshalls to do advanced RSA training by the end of next week.*
- Using the services of Adam Purcell of A & M Consultants Pty Limited (a former senior specialist liquor licensing police officer) for advice as to ways to improve compliance at the venue.*

Further Measures Adopted for This Weekend

Notwithstanding, to give the Authority comfort that the concerns of the Director in respect of intoxication can be adequately addressed, our client has decided to roster 2 additional RSA marshals for this coming Friday and Saturday night. This initiative will have the effect of reducing the risk of a serious breach of the Act occurring this weekend, and, axiomatically, reduce any "significant threat or risk to the public interest".

Furthermore, as a sign of our client's bona fides, until further notice to the Director, the basement area will be closed on Friday and Saturday nights forthwith. The basement area will be available to be booked for private functions, but will not be used for clubbing. The Authority should understand that the effect of this measure will be that the premises capacity will be reduced by approximately 50%. This should ensure a reduction in the risk profile of the venue on all accounts.

Steps to Obtain new licensee

Our client offered the position of general manager licensee to Michael Lenehan, only to have him ultimately, on 30 June decide that he did not wish to be licensee given the steps taken by the Director.

The background to this was that on 15 May he was offered the position and accepted it, with a proposed to start date of 29 May. His father passed away on 30 May which made it impossible for him to start as anticipated and that he would not be able to start for a further two weeks. He then informally commenced on 14 June which was a mere five days before the short-term closure order was issued and then, on 30 June he indicated to our client that he did not wish to be licensee.

In those circumstances, on 2 July, given that our perceived that the Director was unhappy with him being a licensee, decided to appoint the current licensee on a provisional basis.

As the Director is critical of the current licensee, our client is now attempting to find a new licensee who will be more acceptable to the Director. That appointment is pending the outcome of the applications.

Conclusion

The above demonstrates that effective steps have been and are being taken by the business owner and a licensee to address the risk factors identified by the Authority in its reasons for granting the first short-term closure order on 19 June 2015.

Those steps demonstrate that there is not sufficient risk to support the making of a second short-term closure order for this weekend.

Rather, the parties should meet with a view to coming to an agreement as to the way forward. Our client would welcome candid discussions with the Director.

New Licence Conditions Consented By Business Owner

77. In an Appendix to the JDK Legal submission the Business Owner refers to the new licence conditions that a delegate of the Secretary was contemplating imposing upon the licence, pursuant to section 54 of the Act as notified in a letter to the licensee dated 3 July 2015.
78. As discussed at the Directions Meeting convened by the Authority on 21 July 2015, the Delegate is now of the view that events have been overtaken by the incidents that gave rise to the making of the Long Term Application and the Short Term Application and the Delegate is not contemplating taking action under section 54 of the Act at this time.
79. Nevertheless, the Business Owner indicates *subject to consent of the Premises Owner* its position with regard to the licence conditions proposed by the Delegate is as follows:
 - i. The Business Owner does not agree to a lockout between 1:30am and 7:00am
 - ii. The Business Owner agrees to restrictions on the sale of certain types of drinks after midnight – no shots, no drink with more than 50% liquor by volume, no ready to drink (mixed) beverage with alcohol content by volume of more than 5%, no drink prepared on premises with more than one 30ml nip of spirits or liqueur, no more than 2 drinks or one bottle of wine may be sold to a person at any one time
 - iii. The Business Owner does not agree to cessation of alcohol sales at 4:00am
 - iv. The Business Owner agrees to a requirement for minimum of two (2) RSA Marshals on Friday and Saturday night or any time the Spice Cellar is in operation from 9:00pm to 4:00am
 - v. The Business Owner agrees that whenever the Licensee is not present the Premises must be under the control of a supervisor with at least two (2) years prior experience managing a late trading licensed premises
 - vi. The Business Owner agrees that on Friday and Saturday and any day when the Spice Cellar is operating between 9:00pm and closing time at least three (3) licensed security officers will patrol the vicinity of the hotel until 30 minutes after closing to ensure patrons do not loiter or linger or cause nuisance disturbance or annoyance to the neighbourhood. One security officer will continually manage any queue exceeding 30 persons. Two (2) officers will be deployed at the entry point to check identification and intoxication levels before entering. One (1) officer for every 75 patrons shall patrol the inside of the Premises
 - vii. The Business Owner agrees to the Delegate's proposed condition regarding minimum requirements for CCTV coverage on the Premises including specification of the system, coverage, operation, 30 day retention and production of footage within 24 hours of any request by any Police officer or licensing inspector
 - viii. The Business Owner agrees with a requirement that the licensee or staff take all practical steps to preserve a crime scene in the event of an act of violence causing injury to a person on the Premises including observance of NSW Police Crime

Scene Preservation Guidelines, contact with the Local Area Command and compliance with Police directions

- ix. The Business Owner agrees with a requirement that the licensee maintain an incident register in the form specified by section 56 of the Act at all times when the venue is operating and record incidents of violence or anti-social conduct on the premises, or by persons refused admission, or ejection from the Premises under section 77 of the Act, or a patron requiring medical assistance, or a person being refused service. The register will be made available for inspection immediately upon request by Police or an inspector and retained for three (3) years.
- x. The Business Owner agrees with a requirement that a Plan of Management be developed in consultation with Newtown Local Area Command of NSW Police dealing with probity, drugs, licensing compliance, RSA, minimising neighbourhood disturbance, management of security staff and responses to concerns raised by Police or residents. The Premises must operate in accordance with the Plan, make it available to staff, train them and make it available for inspection by Police or a licensing inspector.

DECISION AND REASONS

- 80. The Authority notes the Business Owner's submission that it should meet with OLGR with a view to resolving the Delegate's various regulatory concerns with regard to the Premises.
- 81. That is a course that remains open to those parties, noting in particular that the Long Term Application, seeking closure of the Premises for up to six months unless certain conditions are satisfied, is yet to be determined.
- 82. The Authority does not expect to determine the Long Term Application until next week but in the absence of any indication from the Applicant that the Short Term Application has been withdrawn, the Authority must now determine this pressing matter on the material before it.
- 83. The Authority notes the concerns raised by JDK Legal as to the drafting of the Short Term Application. The drafting of that document may well have benefited from further specificity or clarity. This may be a consequence of the relatively urgent nature of the Application, but any further clarity is of assistance to the Authority and respondents, particularly in light of the compressed time frames in which applications of this kind will usually be determined.
- 84. Plainly enough, the three page Short Term Application letter dated 21 July 2015 not only makes allegations of breaches or likely breaches of the Act identified in that letter but also incorporates by reference the serious breaches identified in the Previous Short Term Closure Order and the Long Term Application now before the Authority.
- 85. As previously indicated to the parties, the Authority is not only considering the material accompanying the Short Term Application but also the material provided in connection to the Long Term Application – particularly the 27 Indexed COPS Reports – when considering the Short Term Application.
- 86. In the Short Term Application letter the Applicant contends that the licensee has permitted intoxication on the Premises contrary to section 73(1)(a) of the Act.
- 87. The Applicant refers in particular to the OLGR File Note which records detailed observations made by OLGR inspectors on 18-19 July 2015 including intoxicated

persons who were observed to be able to remain on the Premises for some time while visibly intoxicated.

88. The Applicant refers to and incorporates by reference the Long Term Application letter which in turn notes the matters found by the Authority in the Previous Short Term Closure Order dated 19 June 2015 which closed the hotel for 72 hours on the evening of 19 June 2015.
89. The Applicant contends in the Long Term Application letter that the following further serious breaches of the Act have been detected over the three weekends since the venue recommenced trade:
- Licensee permit premises to be used for the sale of prohibited drugs contrary to section 74(1)(b)
 - Licensee permit possession or use of a prohibited drug contrary to section 74(2)
 - Employee or agent (of the licensee) permit possession or use of a prohibited drug contrary to section 74(4)
 - Licensee permit intoxication – section 73(1)(a)
 - Licensee/employee/agent sell or supply liquor to an intoxicated person – section 73(2).
90. While the offences referred to above by the Applicant in the Long Term Application are noted in shorthand form, the actual offence provisions provided by sections 73 and 74 are as follows:

73 *Prevention of excessive consumption of alcohol on licensed premises*

- (1) *A licensee must not permit:*
- (a) *intoxication, or*
 - (b) *any indecent, violent or quarrelsome conduct, on the licensed premises.*
- Maximum penalty: 100 penalty units.
- (2) *A licensee or an employee or agent of a licensee must not, on the licensed premises, sell or supply liquor to an intoxicated person.*
- Maximum penalty: 100 penalty units.
- (3) *A person (other than a licensee or an employee or agent of a licensee) must not, on licensed premises, supply liquor to an intoxicated person.*
- Maximum penalty: 10 penalty units.
- (4) *If an intoxicated person is on licensed premises, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves:*
- (a) *that the licensee, and the licensee's employees or agents, took the steps set out in subsection (5), or*
 - (a1) *that the licensee, and the licensee's employees or agents, took the steps set out in the guidelines under subsection (5A) to prevent intoxication on the licensed premises, or*
 - (b) *that the intoxicated person did not consume alcohol on the licensed premises.*
- (5) *For the purposes of subsection (4) (a), the following are the relevant steps:*
- (a) *asked the intoxicated person to leave the premises,*
 - (b) *contacted, or attempted to contact, a police officer for assistance in removing the person from the premises,*
 - (c) *refused to serve the person any alcohol after becoming aware that the person was intoxicated.*
- (5A) *The Secretary is to issue guidelines relating to the prevention of intoxication on licensed premises. Such guidelines are to be made publicly available in such manner as the Secretary considers appropriate.*
- (6) *In the application of this section to an on-premises licence that relates to a catering service, a reference to licensed premises does not include private domestic premises except for the purposes of subsection (2).*

- 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.*

91. The Authority's power to issue a Short Term Closure Order is provided by section 82 of the Act which states:

- 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.*

92. When exercising its power under section 82 of the Act, the Authority is guided by the statutory objects of the Act provided by section 3(1) and the statutory considerations to which it must turn its mind under section 3(2) of the Act:

- 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.*

REASONS FOR SHORT TERM CLOSURE ORDER

93. The Authority is satisfied, on the material before it, that a serious breach of the Act has occurred, or is likely to occur on the Premises - being an offence against section 73(1)(a) of the Act, which requires that a licensee must not permit intoxication on licensed premises.
94. This finding is established, on the balance of probabilities, on the basis of the following evidence or other material:
- i. COPS Report E58096017
 - ii. COPS Report E58557076
 - iii. COPS Report E58971328
 - iv. COPS Report E58794877
 - v. COPS Report E58168023
 - vi. COPS Report E58439757
 - vii. COPS Report E58013835
 - viii. COPS Report E59295316
 - ix. OLGR File Note of 21 July 2015 regarding the observations made by OLGR inspectors on the Premises on the evening of 18-19 July 2015.
95. The detailed and contemporaneous OLGR File Note for the last weekend of 18 and 19 July 2015 is of particular utility in satisfying the Authority that intoxicated persons were visible and unattended on the Premises for a reasonable amount of time, satisfying the Authority that whatever measures were in place for managing intoxication, they were so lax that it is at least likely that intoxicated persons will be permitted to remain on the Premises on the weekend commencing the evening of Friday 24 July 2015.
96. While the above finding is enough to issue the Order, the Authority is also satisfied, on the material before it, that another type of serious breach of the Act has occurred, or is likely to occur - being an offence against section 73(2) of the Act. This subsection requires that a licensee or an employee or agent of a licensee must not, on licensed premises, sell or supply liquor to an intoxicated person. The Authority is satisfied that the sale or supply of liquor to intoxicated persons is likely to occur on the Premises over the weekend commencing the evening of Friday 24 July 2015.
97. This finding is established, on the balance of probabilities, on the basis of the following evidence or material:
- i. COPS Report E59295316
 - ii. OLGR File Note dated 21 July 2015 regarding observations on the Premises on 18-19 July 2015.

98. Moreover, the Authority is satisfied, on the material before it, that another type of serious breach of the Act has occurred, or is likely to occur on the Premises- being an offence against section 73(3) of the Act. This subsection requires that a person (other than a licensee or an employee or agent of a licensee) must not, on licensed premises, supply liquor to an intoxicated person.
99. This finding is established, on the balance of probabilities, on the basis of the following evidence or material:
 - i. COPS Report E59295316
 - ii. OLGR File Note dated 21 July 2015 regarding observations on the Premises on 18-19 July 2015.
100. In light of the above findings the Authority does not need to make any further findings, for the purposes of the Short Term Application, as to whether serious breaches of the Act have occurred or are likely to occur involving permission by the licensee, staff or agents of the licensee of possession, use, sale or supply of substances suspected to be prohibited drugs on licensed premises contrary to section 74.
101. These are matters that remain before the Authority when it considers the Long Term Application. This letter does not serve to record findings in respect of the Long Term Application, noting that the Business Owner and Premises Owner have until 5:00pm on Tuesday 28 July 2015 to provide any submissions or evidence in response to that application.
102. For the avoidance of doubt, all of the allegations and supporting evidence or material provided to the Authority in relation to both the Long Term Application *and* the Short Term Application will be considered by the Authority when it determines the Long Term Application.
103. The Authority notes the new licence conditions, referred to in the Appendix to the Business Owner's legal submissions dated 23 July 2015, that the Business Owner has indicated it is willing to consent to.
104. However, those measures are expressed to be subject to the consent of the Premises Owner and in the absence of any such consent the Authority is unable to rely upon those measures for the purpose of considering whether they would be of any utility in reducing the threat or risk to the public interest for the purposes of the Short Term Application.
105. The Authority has also considered the additional measures that the Business Owner has indicated, in the JDK Legal submission of 23 July 2015, that it is willing to implement for the weekend of 25 and 26 July 2015 in order to reduce any risk or threat to the public interest should the Premises be able to trade that weekend and no Short Term Closure Order issued. They included a proposal that the "Spice Cellar" basement nightclub area of the Premises be closed for that weekend and two (2) additional RSA marshals be on duty on Friday and Saturday evening. The Business Owner contends that this should reduce the patron capacity of the Premises by 50 per cent.
106. These measures are not sufficient to assuage the demonstrated pattern of conduct indicating laxity in the management of intoxication on the Premises to displace the necessity of closing the Premises for the relevant weekend. First, the Authority notes that the Business Owner's proposal to close the Spice Cellar nightclub on Friday and Saturday evenings does not involve an absolute closure of the area, in that the level may still be used for "private functions", which may potentially involve extensive patron use of the area, with live entertainment.

107. Second, it is not clear how the proposed closure of the nightclub level on 24, 25 and 26 July 2015 would necessarily reduce or minimise the demonstrated recent failure by the licensee and/or staff to monitor and manage intoxication on the Premises or the risk of supply of liquor by staff to intoxicated persons on the Premises.
108. There may well be fewer patrons to supervise in this basement area if it is only used for private functions, but those bar and security staff who were not adequately monitoring or managing intoxication in this area may also fail to do so in the main bar areas of the Premises as well.
109. Third, the Authority notes, on the basis of COPS Report E58557076 (which records Police observations during an overt inspection of the Premises on 19 July 2015 at 1.50am) that venue security staff did not appear to be proactive until they noticed that Police were present. The Authority is satisfied, on the basis of that report, that Police spoke to the manager on duty who informed them there were 620 patrons on the Premises with 250 in the Spice nightclub - which calls into question whether closing the basement area would necessarily result in a 50 per cent reduction in patron capacity as the Business Owner contends.
110. Moreover, the Authority considers it likely that closing this basement level only of the Premises, at short notice, at this apparently popular venue, will result in more patrons cramming into those main bar areas of the Premises that would remain operating over the relevant weekend, creating further challenges with regard to the management of intoxication by the licensee and/or employees or agents of the business who have recently demonstrated failings in this regard.
111. In conclusion, the Authority is satisfied, on the material before it and on the balance of probabilities, that serious breaches of the Act have occurred, or are likely to occur - being offences against section 73(1)(a), 73(2) and 73(3) of the Act and that the closure of the Premises for 72 hours from 7pm on 24 July 2015 is necessary to prevent or reduce a significant threat or risk to the public interest, being a threat to public health or safety arising from the permission of intoxicated persons on the Premises and/or the sale or supply of liquor to intoxicated persons on the Premises.
112. In making this decision the Authority has had regard to relevant provisions of the Act including all of the objects and considerations provided by section 3 of the Act, but has given weight to section 3(2)(a) - the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour).

POST SCRIPT

113. On the morning of 27 July 2015 solicitors for the Premises Owner, Wonarla Pty Limited notified the Authority that the Premises Owner had taken possession of the Premises to the exclusion of its tenant, the Business Owner Atesh Pty Limited.
114. The Premises Owner has sought a deferral of the Authority's consideration of the Long Term Application for a period of at least two weeks on the basis that the Premises Owner intends to close the Premises for at least two (2) weeks to address the concerns raised in the Short Term Application and Long Term Application. The Premises Owner proposes to use that time to consult with relevant stakeholders, including OLGR, Police and local residents.
115. The Premises Owner has offered an undertaking, if required, to give the Authority at least seven (7) days notice before re-opening the venue.

116. The request for deferral of the timetable for the Long Term Application is under consideration by the Authority at the time of publishing this Decision Letter.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'M Brodie', with a stylized flourish at the end.

Micheil Brodie
Chief Executive

27 JUL 2015