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4 May 2018

Dear Mr Tobin

Application No.	1-6260767244
Application for	New extended trading authorisation for an existing full hotel licence
Current trading hours	<u>Consumption on premises: whole of ground floor</u> Monday to Saturday 10:00 am to 12:00 midnight Sunday 10:00 am to 10:00 pm <u>Consumption on premises: first floor</u> Monday to Saturday 5:00 pm to 12:00 midnight Sunday 5:00 pm to 10:00 pm <u>Consumption on premises: first floor balcony</u> Monday to Sunday 5:00 pm to 10:00 pm <u>Takeaway</u> Monday to Sunday 10:00 am to 10:00 pm
Proposed trading hours	<u>Consumption on premises: whole of ground floor</u> Monday to Saturday 10:00 am to 2:00 am Sunday 10:00 am to 10:00 pm <u>Consumption on premises: first floor</u> Monday to Saturday 5:00 pm to 12:00 midnight Sunday 5:00 pm to 10:00 pm <u>Consumption on premises: first floor balcony</u> Monday to Sunday 5:00 pm to 10:00 pm <u>Takeaway</u> Monday to Sunday 10:00 am to 10:00 pm
Licence name	Marrickville Ritz Hotel
Applicant	Mr Luke Robert Anderson
Premises	252-254 Illawarra Road Marrickville NSW 2204
Issue	Whether to grant an extended trading authorisation
Legislation	Sections 3, 11A, 12, 48, 49 and 51 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor and Gaming Authority – Application for an extended trading authorisation – Marrickville Ritz Hotel

The Independent Liquor and Gaming Authority (“Authority”) has considered application number 1-6260767244 for an extended trading authorisation (“Application”) and pursuant to section 49(2) of the *Liquor Act 2007* (“Act”) has decided to **grant** the authorisation subject to the following conditions:

1. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the extended trading authorisation.
2. The premises is to be operated at all times in accordance with the Plan of Management dated June 2017 as may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
3. No alcoholic drinks are to be sold or supplied after 12.00 midnight Monday to Saturday inclusive.
4. No entertainment other than background music will be provided after 12.00 midnight.
5. No “Shots” or alcohol beverages that are designed to be consumed rapidly are to be sold or supplied after 11.30 pm on any day of trade.
6. At all times, the licensee shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that adverse impacts to the surrounding area do not occur. The licensee will take all reasonable measures to ensure that the behaviour of staff and patrons when entering or leaving the premises does not detrimentally affect the amenity of the neighbourhood.

7. **Crime Scene Preservation**

Immediately after the person in charge of the licensed premises becomes aware of any incident involving an act of violence causing an injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- a) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- b) retain all material and implements associated with the act of violence in accordance with the crime scene prevention guidelines issued by NSW Police, as published from time to time on the Liquor & Gaming NSW website; and
- c) make direct and personal contact with the NSW Police Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident; and
- d) comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition, ‘staff member’ means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. Crowd controller or bouncer) on or about the premises.

8. All doors and windows to the licensed premise are to be kept in the closed position after 11.59 pm Mondays to Sundays. The doors to the first floor balcony must be closed and locked at 10:00pm.

9. Closed-circuit television (CCTV) system

- (1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
- (2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

For the purpose of section 49(6) of the Act, the extended trading hours during which the licensee is authorised to sell or supply liquor for consumption on the Premises are between 12:00 midnight and 2:00 am on Monday through Saturday evenings, on the ground floor area of the hotel only.

If you have any questions about this letter, please contact the case manager via email to trudy.tafea@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Statement of reasons

Decision

1. On 18 July 2017 the Independent Liquor and Gaming Authority (“Authority”) received from Mr Luke Robert Anderson (“Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application (“Application”) for an extended trading authorisation (“ETA”) in relation to the licence of the Marrickville Ritz Hotel. The Marrickville Ritz Hotel currently has the benefit of a full hotel liquor licence LIQH400102968 which was granted on 19 June 1957 and is located at 252-254 Illawarra Road Marrickville NSW 2204 (“Premises”).
2. Pursuant to section 49(2) of the *Liquor Act 2007* (“Act”), the Authority has decided to grant the Application.
3. For the purpose of section 49(6) of the Act, the extended trading hours during which the licensee is authorised to sell or supply liquor are between 12:00 midnight and 2:00 am Monday through Saturday, in respect of the ground floor of the Premises only.
4. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 48, 49 and 51 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“Regulation”).

Material considered by the Authority

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

Legislative framework

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

Objects of the Act

10. The objects of the Act, as set out in section 3(1), are 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, to facilitate the balanced development, in the public interest, of the liquor industry, and to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.

11. In pursuit of these objectives, section 3(2) requires the Authority to have due regard to the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Provisions specific to an ETA

12. The legal requirements for making a valid application for an ETA are provided by section 51 of the Act and the Regulation. The legal requirements for making a valid licence application are contained in section 40 of the Act. The power to grant an ETA is provided by section 49(2) of the Act.
13. Section 49(8) of the Act provides that the Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:
- Practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
 - The extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

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

14. Section 51(3) of the Act provides that, in determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority notes that the Authority may only grant an application if satisfied, under section 45(3) of the Act, that:
- (a) the applicant is a fit and proper person to carry on the proposed business,
 - (b) practices will be in place to ensure the responsible service of alcohol, and to prevent intoxication on the premises, and
 - (c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

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

Provisions specific to a hotel licence

17. The substantive requirements pertaining to a hotel licensed premises are specified in sections 14 to 17 of the Act and in the Regulation.

Gambling activities in hotels

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

Key findings

19. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings on the Application.

Validity, procedural and trading requirements

20. The Authority finds that:
 - (a) The Application has been validly made and meets the minimum procedural requirements under section 51 and 40 of the Act. This finding is made on the basis of the Application and CIS material before the Authority and the Certificate of Advertising signed by the Applicant dated 18 September 2017 and by the Applicant's legal representative, Mr Brett Tobin of Hatzis Cusack Lawyers dated 25 September 2017.
 - (b) The Authority is also satisfied, on the basis of the Application and CIS material that the proposed additional hours of trade fall within the specified periods for which the Authority can grant an authorisation under section 49(2) of the Act.

Trading hours, 6-hour closure period and the Authority's discretion to impose and vary condition

21. The Authority is satisfied that the approved hours meet the requirements of sections 11A and 12 of the Act. The Onegov liquor licence record as at 22 November 2017 records that the the licence is already subject to a daily six-hour liquor cessation period under section 11A of the Act between 4:00 am and 10:00 am.
22. In its letter dated 29 November 2017, the Applicant advises that it seeks licensed trading hours for "all other areas", of the Premises (that do not fall within the extended trading authorisation area) to run from 5:00 pm and 12:00 midnight Monday through Saturday and between 5:00 pm and 10:00 pm on Sunday. However, since the development consent requires closure of the First Floor Balcony area at 10:00 pm, the Applicant has clarified that it seeks no change to that area of the hotel. The Authority confirms that the non-ETA areas of the Premises will be licensed between 5:00 pm and 12:00 midnight Monday through Saturday and between 5:00 pm and 10:00 pm on Sunday, save for the first-floor balcony that will be licensed between 5:00 pm and 10:00 pm Monday through Sunday. This represents no change.

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

23. Pursuant to section 45 of the Act, the Authority is satisfied that:
- (a) for the purposes of section 45(3)(a), the Applicant is a fit and proper person to carry on the proposed business or activity to which the licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with law enforcement agencies including NSW Police (“Police”) and LGNSW,
 - (b) for the purposes of section 45(3)(b) (and section 49(8)(a) of the Act), practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's Plan of Management dated June 2017, and
 - (c) for the purposes of section 45(3)(c), the requisite development consent for use of the Premises as a hotel licensed business with extended trading is in force. This finding is made on the basis of the Consolidated Conditions of Consent approved by the New South Wales Land and Environment Court for proceedings No. 10966 of 2010 in the matter of *WWL Consulting Pty Ltd v Marrickville Council* [2011] NSWLEC 1161 (24 June 2011) and on the basis of the two-page document submitted by the Applicant through Hatzis Cusack Lawyers dated 23 February 2018 which enclosed a copy of the Consolidated Conditions of Consent approved by the Land and Environment Court for proceedings no. 10016 of 2014 in the matter of *Yattawich Pty Limited and Marrickville Council*. [Copies of these judgements have not been provided by the Applicant, only the conditions of consent]. The Authority notes that Condition 27(iii)(a) approved by the Court in respect of Yattawich Pty Limited and Marrickville Council permits a 12-months trial period for use of the ground floor of the Premises (including the ground floor terraces) between the hours of 12:00 midnight and 2:00 am Mondays to Saturdays. The Authority is further satisfied, on the basis of an email from Inner West Council to LGNSW dated 28 July 2017, enclosing an amended copy of the notice to local consent authority, that development consent is required for the proposed use of the Premises that is the subject of this Application and such consent is in place.

Further restrictions on granting an extended trading authorisation

24. For the purposes of section 49(8)(b) of the Act, the Authority is satisfied on the basis of the plan of management dated June 2017 and the conditions consented to by the Applicant in the submission dated 29 November 2017, that the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed Premises.

Gambling activities in hotels

25. The Authority is satisfied that the CIS has sufficiently addressed matters relating to gambling activities on the Premises during the period in which the ETA is proposed to be in force, as required by clause 10A of the Regulation. This finding is made on the basis of the Additional Information document provided with the CIS, the 18-page letter

from the Applicant through Hatzis Cusack Lawyers to LGNSW dated 29 November 2017 and an 8-page letter from the Applicant via Hatzis Cusack Lawyers to LGNSW dated 12 January 2018.

Community Impact Statement

26. The Authority has taken into account the CIS and the following additional information in making the findings set out below on the social impact of granting the authorisation for the Premises on the local and broader communities.
27. For the purposes of this decision and consistent with its position in *Guideline 6* and longstanding practice, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Marrickville, and the “broader community” comprises the relevant local government area (“LGA”), which at the time of this decision is the Inner West Council (“Inner West LGA”).
28. The Authority notes that on 12 May 2016 the Minister for Local Government, the Hon Mr Paul Toole MP, announced the newly formed Inner West Council, which merged the former Ashfield, Leichhardt and Marrickville LGAs.

Positive social impacts

29. The Authority notes the Applicant’s contention, in a submission dated 29 November 2017, that the ETA is sought to meet the needs and demands of people who wish to continue to enjoy the hotel’s licensed entertainment facilities after 12:00 midnight on Monday through Saturday evenings.
30. Notwithstanding the objections received from Marrickville Local Area Command of NSW Police, Dr Ngo (a local owner and representative of a medical centre and residential building on Illawarra Road Marrickville) and local resident Mr D Friend (discussed in greater detail below), the Authority is satisfied that the Applicant has provided significant evidence of community support for the Application. This comprises a petition signed by approximately 378 people (noting that some petitioners live outside the suburb and the LGA but a large portion are residents of Marrickville) and two letters of support from residents of Henson Street, Marrickville and Pheasant Street, Canterbury.
31. The Authority is satisfied that granting the ETA will be consistent with the “expectations, needs and aspirations of the community” in respect of the local and broader community, being an object of section 3(1)(a) of the Act, albeit that support for the Application is not unequivocal.
32. In a submission dated 29 November 2017, the Applicant contends that granting the ETA will cater to the local community demands and expectations for access to quality late-night facilities within a newly fitted out hotel. The Applicant also contends that granting the Application will facilitate the balanced development of the liquor industry at a local level by enabling the hotel to compete on a more even footing with its competitors and by providing a greater level of choice to members of the local community.
33. The Authority has had regard to the number of licensed premises within the local community that trade after 12:00 midnight (19 licensed premises trade after midnight

according to the LGNSW licensed premises list as at 28 November 2017, including 7 club licences, 3 hotels and 9 on-premises licences) and notes that the licence will be subject to a condition that liquor shall not be sold or supplied after midnight.

34. Nevertheless, the Authority is satisfied that granting this Application for extended trading will provide some significant additional degree of choice of venue and convenience for those in the communities who seek the (non-liquor) hospitality services and gambling services provided by this venue advancing community expectations needs and aspirations in this respect for the purposes of section 3(1)(a) of the Act.
35. The Authority is also satisfied that granting the ETA, subject to a condition that liquor service will cease at midnight, will facilitate the balanced development, in the public interest, the liquor industry that serves the local and broader communities, for the purposes of section 3(1)(b) of the Act.
36. In the Additional Information document attached to the CIS, the Authority accepts the Applicant's contention that during the hours covered by the ETA, patrons will mainly be utilising the hotel's gaming services, with food to be available at all times. The Authority accepts the Applicant's information that during these additional late trading hours patrons will be able to enjoy services and facilities that include gaming machines, food and soft drinks, coffee and TAB operations.
37. Noting, in the additional information document attached to the CIS, that the Applicant has consented to conditions that prevent liquor from being sold after 12:00 midnight and that no entertainment other than background music will be provided after 12:00 midnight, the Authority is satisfied that the Premises will contribute, albeit to a smaller extent during the extended trading hours, to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries per the object in section 3(1)(c) of the Act.

Negative social impacts

38. The Authority notes that this ETA is sought with respect to a "full" hotel licensed premises and that the authorisation will extend to the whole of the ground floor. According to the Additional Information document that accompanies the CIS, the ground floor includes a sports bar, bistro/café, outdoor dining terrace, outdoor terrace, gaming area, sanitary facilities and a kitchen.
39. On the basis of the information provided by the Applicant in the additional information document attached to the CIS, the Authority is satisfied that there are a total of 6 hotel licences in the suburb of Marrickville. The Authority notes, on the basis of LGNSW licensed premises information sourced by licensing staff on 28 November 2017, that within Marrickville there are already 3 hotel licences (half of the total hotel licences within the suburb), 7 club licences and 9 on-premises licences that are permitted to trade past 12:00 midnight. This equates to **71.5** venues per 100,000 persons of population within the local community that are licensed to trade beyond midnight, above the NSW rate of **41.9** per 100,000 persons of population. By comparison, the Inner West LGA has a rate of **47.2** per 100,000 persons of population for late trading licences. These rates are calculated by licensing staff on the basis of ABS 2016

Census QuickStats data for the population of the communities and LGNSW licensed premises information as at 28 November 2017. There is some cause for concern as to the prevailing density of late trading licensed venues within the local community of Marrickville and the potential for another late trading hotel to contribute to adverse amenity impacts.

40. BOCSAR crime data (sourced by the Authority Secretariat) for the year ending September 2017 indicates the following:
 - NSW recorded a rate per 100,000 persons of population of **261.4** for incidents of *alcohol related assault* compared to **217.7** for the Inner West LGA and **239.4** for the suburb of Marrickville.
 - NSW recorded a rate per 100,000 persons of population of **114.3** for incidents of *alcohol related domestic assault* compared to **86.4** for the Inner West LGA and **121.5** for the suburb of Marrickville.
 - NSW recorded a rate per 100,000 persons of population of **131.9** for incidents of *alcohol related non-domestic assault* compared to **110.9** for the Inner West LGA and **85.8** for the suburb of Marrickville.
 - NSW recorded a rate per 100,000 persons of population of **793.2** for incidents of *malicious damage to property* compared to **705.6** for the Inner West LGA and **782.6** for the suburb of Marrickville.
41. The Authority is satisfied that the prevailing alcohol related crime rates in the local and broader communities are generally not at troubling levels when compared to the State of NSW. Alcohol related domestic violence rates in Marrickville are moderately higher than State wide rates.
42. There is some further cause for concern in relation to the concentration of crime within close proximity to the Premises. The BOCSAR hotspot maps between July 2016 and June 2017 indicate that the Premises is located within:
 - a low-density hotspot for incidents of *alcohol related assault*;
 - a high-density hotspot for incidents of *domestic assault*;
 - a medium density hotspot for incidents of *non-domestic assault*;
 - a high-density hotspot for incidents of *malicious damage to property*.
43. Ordinarily, the extension of licensed trading into higher risk times of the evening or the week would increase the capacity of a hotel to contribute to levels of alcohol related crime impacting the local or broader communities, or amenity in the local community.
44. However, the condition preventing the sale or supply of alcohol after midnight will reduce this risk, albeit that patrons migrating to or from the venue during later hours will still have the capacity to adversely impact local amenity. On the basis of the Google maps of the area surrounding the Premises provided by licensing staff, it is apparent the location of the Premises, within a commercial part of the Marrickville CBD, further reduces the scope for adverse late-night amenity impacts upon the local community, although residential areas are in walking distance.

45. The ABS Socio-Economic Indexes For Areas (“SEIFA”) data sourced from the 2011 Census ranks the suburb of Marrickville in the 5th decile and the former Marrickville LGA in the 9th decile on the Index of Relative Socio-Economic Advantage and Disadvantage compared to other suburbs and LGAs within the State. With the 10th decile being the most advantaged, the Authority is satisfied that both the local and broader communities are somewhat advantaged indicating that socio-economic disadvantage is not a compounding factor of concern in either community.
46. Alcohol attributable hospitalisations are troubling in the former Marrickville LGA with the HealthStats data recording a smoothed estimate of standardised separation ratio of **141.2** between 2013 to 2015 compared to the NSW average of 100. Alcohol related deaths were recorded as a smoothed estimate of standardised mortality ratio of **92.7** between 2012 and 2013. The Authority finds some reassurance with respect to the adverse hospitalisation data that granting this ETA will be subject to a restriction on the supply of liquor after midnight.
47. The Authority has taken into consideration this HealthStats data alongside the submission from Sydney Local Health District (“SLHD”) dated 20 July 2017 in which SLHD raised some concerns about the application form (i.e. that the extended trading hours for Sunday had not been completed [note that the Applicant does not seek extended trading on a Sunday] and that the 6-hour closure period was to commence at 4:00 am when the hotel is proposing to cease trade at 2:00 am) and questioned whether liquor will be sold during the extended hours. The Authority notes however, that SLHD does not raise any issues of concern in relation to the prevailing health data nor do they explicitly object to the Application. Notably, to the extent that SLHD’s submission focusses on the supply of liquor, no liquor will be sold during the proposed extended licensed hours.
48. In reaching this decision, the Authority has also taken into consideration the concerns expressed by Police in their four-page submission dated 8 September 2017. Without repeating the submission, Police objected to the Application on the basis that the Premises is located within a designated Alcohol-Free Zone which, according to Police, was implemented in an attempt to control the ongoing problems of alcohol-related crime, street offences, anti-social behaviour and the consumption of alcohol. Police were also concerned with what they contend is the “saturation” of late trading premises and the proximity of the Premises to “numerous” late night trading premises including Lazy Bones Lounge Bar, The Royal Exchange Hotel, The Marrickville Tavern as well as “numerous” other clubs, bars and licensed restaurants.
49. Police further note that the Premises is in the vicinity of Marrickville Railway Station and are concerned that alcohol related crime already “often” occurs at the station. Police are also concerned about the pressure these additional trading hours will place on local transport options with the train services not running during the late-night trading hours. Police contend that “resulting from these causal factors, alcohol-related crime, street offences and anti-social behaviour not only occurs during the extended trading period but also during the standard trading period within this area”.
50. Police note that the venue will cease the service of liquor at midnight but are concerned that patrons will still be in the vicinity for a time after leaving, resulting in the venue

becoming “high risk in terms of contributing to alcohol-related crime, street offences and anti-social behaviour”. Police contend that granting the ETA will increase alcohol related crime and anti-social behaviour within the Marrickville Local Area Command, contribute to “undue noise” and “disrupt” the wellbeing of the general neighbourhood and community in the LGA.

51. In the alternative, Police propose that a number of conditions be imposed upon the licence should the Application be granted (mandating that liquor is not to be served outside the hours of 10:00 am to 11:59 pm Monday to Saturday and 10:00 am to 10:00 pm Sunday, mandating operation of the premises in accordance with the plan of management, prohibiting stockpiling of drinks, prohibiting the service of shots of spirits after 11:30 pm, mandating use of an incident register, requiring closure of doors and windows after 11:59 pm, requiring the cleaning of all rubbish within a 20 metres radius of the Premises, requiring the licensee to take reasonable measures to consider the amenity of the neighbours of the Premises when staff and patrons are entering or leaving the Premises, maintaining a CCTV system in accordance with minimum coverage and specifications and requiring observance of NSW Police crime scene preservation procedures in the event of an act of violence on the Premises).
52. The Authority has considered the concerns raised by Police in light of the submissions provide by the Applicant in their submission letter dated 29 November 2017.
53. Although Police have raised concerns about the extended trading hours contributing to the existing levels of alcohol related crime, street offences and anti-social behaviour, Police have not provided any localised data or evidence that illustrates the nature and extent of those problems in the relevant communities.
54. While the Authority does not rule out that amenity impacts may occur from patrons arriving or departing during late night hours, the Authority accepts that the prohibition on late night liquor service will reduce the potential for the hotel’s extended trading to generate liquor related crime or anti-social conduct.
55. While the Authority accepts that the venue is situated within an Alcohol-Free Zone, the sale of liquor for consumption away from the Premises must cease, pursuant to relevant provisions of the Act and Regulation, at 11:00 pm Monday through Saturday and at 10:00 pm on Sunday. Granting this Application will not impact the sale or supply of packaged liquor.
56. The Authority has also considered the Police concerns in relation to the number and proximity of other licensed premises with late trading and accepts on the basis of licensed premises information that within Marrickville there are 3 hotel licences that are permitted to trade beyond midnight. This factor diminishes the Applicants case that extending its hours will provide additional convenience, although the non-liquor services on offer will increase choice in that regard for those in the communities who patronise this venue. In terms of convenience, the Authority notes, on the basis of the information provided in the Applicant’s submission dated 29 November 2017 and the Additional Information document attached to the CIS, that the Marrickville Tavern is approximately 130 metres from the Premises, the Royal Exchange is approximately

250 metres from the Premises and the Victoria on the Park Hotel is approximately 1.7 kilometres from the Premises. The venues are not closely clustered together.

57. The Authority has considered the two objections received comprising a one-paragraph submission from Dr Ngo (the owner and representative of a building on Illawarra Road Marrickville within 50 metres of the Premises – comprising a small medical centre on the ground floor and a residential unit on the first floor) dated 11 August 2017 and a one-paragraph submission from Mr Friend (a local resident who has not provided an address but advised that he received notification of the Application) dated 5 June 2017. The main concerns are noise generated from inside the Premises and noise generated from intoxicated patrons leaving the Premises at 2:00 am when the hotel closes.
58. The Authority is satisfied, on the basis of the Applicant's submission dated 29 November 2017, that as a result of Dr Ngo's complaint the Applicant undertook a preliminary acoustic compliance test and has placed an order for equipment to be installed on the Premises that will ensure that the hotel is to comply with the after-midnight acoustic criteria.
59. The Authority notes that the licence is already subject to a condition mandating compliance with the LA10 noise restriction. In its submission dated 29 November 2017, the Applicant has consented to a number of further conditions which will reduce the scope for late night noise impacts including a prohibition on live entertainment and use of only background music after midnight and requirements that all doors and windows be kept closed after 11:59 pm Monday to Sunday.
60. The Authority accepts that a hotel with extended trading may make some contribution to patron migration and amenity impacts upon the community. A certain amount of adverse impact upon local amenity is to be expected from the operation of licensed and non-licensed businesses during the evening with that impact becoming less acceptable the later in the evening that it occurs. However, this potential impact will be somewhat mitigated by the cessation of liquor supply at midnight and the noise amelioration requirements noted above. The licensee will also be required by a condition to take all reasonable measures to ensure that adverse impacts to the surrounding area do not occur and that the behaviour of staff and patrons when entering or leaving the Premises does not detrimentally affect the amenity of the neighbourhood.
61. The Authority has taken into account the Applicant's Plan of Management dated June 2017, which will work towards managing the impact of the licensed business during the extended trading hours. The Applicant has consented, in the submission dated 29 November 2017, to a licence condition mandating compliance with this Plan alongside a number of other harm minimisation conditions.
62. Finally, the Authority has given some weight to the LGNSW Compliance Report for the Premises between 1 July 2008 and 4 December 2017 which establishes that the hotel has, during its current midnight licensed trading configuration, established a positive compliance history over a prolonged period of time with no evidence of noise complaints or other significant regulatory concerns. During 2014 there was a suspected

irresponsible liquor promotion noted, but with no regulatory action taken. The Authority is further reassured that neither Police nor LGNSW have identified any regulatory concerns in relation to the Applicant or the business, notwithstanding Police opposition to the extended hours on social impact grounds. This positive trading history provides some confidence that the Applicant will be able to manage the elevated risk of trading later into the evening.

Overall social impact

63. Having considered the positive and negative impacts that are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting the ETA would not be detrimental to the well being of the local and broader communities.
64. The Application is granted pursuant to section 49 of the Act.



Philip Crawford
Chairperson

Important Information:

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

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

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

Schedule

Material before the Authority

1. SEIFA data based on the 2011 Census for the suburb of Marrickville and the former Marrickville LGA.
2. NSW Department of Health HealthStats data for the former Marrickville LGA outlining the smoothed estimate of standardised mortality ratio for 2012 to 2013 and the smoothed estimate of standardised separation ratio for 2013 to 2015.
3. LGNSW Compliance report for the Marrickville Ritz Hotel between 1 July 2008 and 4 December 2017.
4. BOCSAR crime data for October 2015 to September 2017 comparing the rate per 100,000 persons of population for incidents of *alcohol related assault*, *alcohol related domestic assault*, *alcohol related non-domestic assault* and *malicious damage to property* in NSW, the Inner West LGA and the suburb of Marrickville.
5. BOCSAR NSW Recorded Crime Statistics for 2016 providing data on the proportion of incidents by offence type, day of week and time of day in NSW and the former Marrickville LGA.
6. BOCSAR hotspot maps on the concentration of reported offences in Marrickville and the area surrounding the Premises between July 2016 to June 2017 in respect of *alcohol related assault*, *domestic assault*, *non-domestic assault* and *malicious damage to property*.
7. Applicant's Plan of Management for the hotel dated June 2017.
8. Letter from the Applicant's solicitor, Mr Brett Tobin of Hatzis Cusack Lawyers, to the Director of the Drug and Alcohol Population and Community Programs, Centre for Population Health, NSW Ministry of Health dated 1 June 2017 enclosing a copy of the notice of intention to apply for the ETA.
9. Applicant's notice of intention to apply for a liquor licence or a licence authorisation dated 5 June 2017 on the official LGNSW form.
10. Email from Mr D Friend (address not specified, but apparently a local resident who advises that he received notification of the Application) to Hatzis Cusack Lawyers (comprising one paragraph) dated 5 June 2017 raising concerns about noise generated from patron migration at 2:00 am.
11. Letter from Roads and Maritime Services ("RMS") to Hatzis Cusack Lawyers dated 8 June 2017 (comprising two pages) advising that within the [former] Marrickville LGA during 2015 there were 8 alcohol related crashes resulting in 2 casualties. RMS makes various recommendations to prevent and decrease the likelihood of alcohol involvement in road crashes in the Marrickville area.
12. Letter from Family & Community Services ("FACS") to Hatzis Cusack Lawyers dated 8 June 2017 (comprising one page) advising that FACS do not have a response and will not be providing input.

13. Email from Aboriginal Affairs to Hatzis Cusack Lawyers dated 10 July 2017 (comprising one page) advising no objection provided the New South Wales Aboriginal Land Council and the Local Aboriginal Land Council have been notified of the Application.
14. ETA Application Form, signed by the Applicant and dated 14 July 2017. This document is accompanied by the notice to local consent authority, notice to police and site notice and notice to neighbouring premises and other stakeholders all signed and dated 14 July 2017.
15. CIS Form and attachments signed (by what appears to be the Applicant's signature) and dated 14 July 2017. This document is accompanied by a map depicting the area in which neighbouring premises were notified of the Application, a list of stakeholders and special interest groups that were notified of the Application and an 11-page "Additional Information" document providing information and submissions on the Application.
16. Letter from the Applicant to Sydney Local Health District ("SLHD") via Hatzis Cusack Lawyers dated 18 July 2017 enclosing a copy of the site notice and notice to neighbouring premises and other stakeholders signed and dated 14 July 2017.
17. One-page email submission from SLHD to LGNSW dated 20 July 2017.
18. Email from Inner West Council to the Office of Liquor Gaming and Racing (now LGNSW) dated 28 July 2017 attaching an amended copy of the notice to local consent authority.
19. One-paragraph submission (lodged online via the LGNSW official online submission form) dated 11 August 2017 from Dr Q Ngo, property owner and representative of the occupants of a building on Illawarra Road, Marrickville located adjacent to and within 50 metres of the Premises (the ground floor comprising a small medical centre with the first floor containing a residential unit). Dr Ngo objects to the Application on the ground of current audible noise from the venue.
20. Four-page submission letter from Sergeant Mark Bazevski and Detective A/Superintendent Michele Ledden, Marrickville Local Area Command of NSW Police to LGNSW dated 8 September 2017 in which Police object to the Application and/or request a number of conditions be imposed should the authorisation be granted.
21. Onegov record of key liquor licence details for the Marrickville Ritz Hotel LIQH400102968 as at 22 November 2017.
22. LGNSW list of licensed premises (including club, hotel, on-premises, packaged liquor and small bar licences) within the Inner West LGA and suburb of Marrickville sourced by licensing staff as at 28 November 2017.
23. Licence density calculations performed by licensing staff comparing the rate per 100,000 persons of the population for NSW, Inner West LGA and the suburb of Marrickville for relevant licence types (club, hotel, on-premises, packaged liquor and small bar licences combined) and the number of late trading licences as at 28 November 2017. These calculations are performed using the ABS QuickStats

population figures from the 2016 Census and the number of current licences as at 28 November 2017.

24. An 18-page letter from the Applicant via Hatzis Cusack Lawyers to LGNSW dated 29 November 2017 in which the Applicant makes submissions *inter alia* on the matters raised by licensing staff, further controls at the hotel, background to the Application, responses received during the application stage, compliance issues, special interest groups and stakeholder interests, the wider merits of the present application for extended trading hours, minimising harm associated with the misuse and abuse of liquor, harm minimisation and responsible service of alcohol (including measures in place during the ETA pursuant to section 49(8)(a) of the Act), the requirements of section 49(8)(b) of the Act (relating to the quiet and good order of the neighbourhood), the requirements of clause 10A of the Regulation (gambling activities during the ETA), community expectations, needs and aspirations, the Authority's previous refusal of an ETA during 2015, contended benefits that will flow to the local community and the balancing of the statutory objects and considerations in section 3 of the Act.
25. The following material is attached to the Applicant's 29 November 2017 submission:
 - (a) Certificate of Advertising for the Application signed by the Applicant and dated 18 September 2017 and signed by the Applicant's legal representative Mr Brett Tobin of Hatzis Cusack Lawyers and dated 25 September 2017.
 - (b) A petition in support of the Application signed by approximately 378 people with signatures from residents of not only Marrickville but a large number of other suburbs including Canterbury, Annandale, Darlinghurst, Hurlstone Park, Belmore, Dulwich Hill, Sydneyham, Lewisham, Ashfield, St Peters, Kingsgrove, Redfern, Leichhardt, Earlwood, Pyrmont, Rozelle, Springwood, Rhodes, Stanmore, Brighton-Le-Sands, Maroubra, Blacktown, Pymble, Erskineville, Chippendale, Botany, Five Dock, Tempe, Ashbury, Newtown, St Leonards, Croydon Park, Bowraville, Yarrowarrh, Cabramatta, Burwood, Campsie, Mascot, Liverpool, Yagoona, Summer Hill, Young, North Wollongong, Coogee, Mossy Point, Waterloo, Chatswood, Lakemba, Balmain, Glebe, Bexley North and Baulkham Hills.
 - (c) Letter from Mr R Tate, local resident of Henson Street, Marrickville, dated 16 September 2017 (comprising six paragraphs) in support of the Application.
 - (d) Letter of support (comprising one page) from Mr R Danne of Pheasant Street, Canterbury (undated).
 - (e) The Authority's statement of reasons dated 18 September 2015 in relation to a previous application seeking an ETA at the Marrickville Ritz Hotel between the hours of 10:00 am to 2:00 am Monday through Saturday in relation to the whole of the ground floor of the hotel.
26. Google maps depicting the location of the Premises extracted by licensing staff on 30 November 2017.
27. Google street view photographs depicting the view of the Premises from the street, extracted by licensing staff on 30 November 2017.

28. Email from the Applicant via Hatzis Cusack Lawyers to licensing staff dated 12 January 2018 submitting a response to the gaming issues raised by the Authority.
29. An 8-page letter from the Applicant via Hatzis Cusack Lawyers to LGNSW dated 12 January 2018 in which the Applicant discusses *inter alia* matters relating to poker machine gaming, prevalence of problem gambling in the communities, gambling data for the venue and LGA, counselling services available for players from the hotel and whether there have been any referrals or self-exclusion, steps taken to assess the impact of local community and actions to address any concerns, benefits that will flow to the community, patron profile, other demographic, social and economic data in the LGA and an assessment of positive and negative impacts on the application. The following material is attached:
 - (a) A copy of the data relied on by the Authority to establish the banding of all LGAs throughout NSW.
 - (b) An extract of 7.1 “Problem Gambling Prevalence, by regional Coordination Program Regions” and Table 12 “PGSI categories by Regional Coordination Program Regions” from the Ogilvy Illumination Strategic communications research titled “Prevalence of Gambling and Problem Gambling in New South Wales” submitted to then NSW Office of Liquor, Gaming and Racing (now LGNSW) dated April 2012.
 - (c) The gaming tax Notices of Assessment for the period 1 January 2014 to 30 September 2017 in relation to the Marrickville Ritz Hotel.
 - (d) ABS 2016 Census QuickStats demographic data for the suburb of Marrickville.
 - (e) ABS 2016 Census QuickStats demographic data for the Inner West LGA.
30. Email from the Applicant via Hatzis Cusack Lawyers to licensing staff dated 22 January 2018 regarding the signed petition.
31. Email from the Applicant via Hatzis Cusack Lawyers to licensing staff dated 23 February 2018 attaching a two-page document prepared by Mr Brett Tobin on the issue of development consent for use of the Premises. This document encloses the Consolidated Conditions of Consent approved by the Land and Environment Court in proceedings No. 10016 of 2014 in the matter of *Yattawich Pty Limited and Marrickville Council*.
32. Conditions of Consent approved by the Land and Environment Court for proceedings no. 10966 of 2010 in the matter of *WWL Consulting Pty Ltd v Marrickville Council* [2011] NSWLEC 1161 (24 June 2011).
33. Applicant’s diagram of the Premises highlighting in yellow the boundary of the licensed premises and highlighting in pink the proposed boundary of the ETA.
34. Email from the Applicant’s solicitor to licensing staff dated 1 May 2018 consenting to 10:00pm licensed closing for the first-floor balcony area of the Premises.