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Dear Mr Hatzis,

**Application Gaming Machine Threshold Increase and Removal of Hotel Licence  
The Station House Hotel, Campsie**

I am writing to you about an application made by your client, Mr Neville Buckley, to the Independent Liquor and Gaming Authority on 15 September 2015, for a Gaming Machine Threshold Increase in respect of proposed premises at 203 Beamish Street, Campsie to be known as "The Station House Hotel" (**GMT Application**).

The Authority notes that the GMT Application is associated with an application received by the Authority on 23 February 2016, made by your client, Mr Neville Buckley, seeking the removal of a hotel licence. The licence is currently located at 590-602 New Canterbury Road, Hurlstone Park trading as the Vegas Hotel and is proposed to be removed to new premises at 203 Beamish Street, Campsie for the purpose of a licensed business to be known as "The Station House Hotel" (**Removal Application**).

The GMT Application was considered by the Authority at its meeting on 16 December 2015. After careful consideration of the GMT Application and further submissions provided in relation to the GMT Application, the Authority decided pursuant to section 34 of the Gaming Machines Act 2001 (**GM Act**) to *refuse* the Application to increase the gaming machine threshold at the proposed new premises.

By reason of your advice dated 7 October 2015 to the effect that your client did not wish to proceed with the Removal Application if the GMT Application was not granted, the Authority did not proceed to consider the merits of the Removal Application but deemed the Removal Application to be withdrawn pursuant to section 45(2) of the Act. The decisions were informally notified in a short email from Authority staff dated 17 December 2015.

Under section 36C of the *Gaming and Liquor Administration Act 2007*, the Authority is required to publish statements of reasons with respect to those types of decisions prescribed by clause 6 of the *Gaming and Liquor Administration Regulation 2008*. This letter attaches the statement of reasons for the Authority's decision to *refuse* the GMT Application and the Removal Application. It has been prepared in the context of a high volume liquor jurisdiction that requires the publication of statements of reasons as soon as practicable.

Please contact case manager [santina.causa@ilga.nsw.gov.au](mailto:santina.causa@ilga.nsw.gov.au) if you have any enquires about this letter.

Yours faithfully

Micheil Brodie  
Chief Executive

10 MAR 2016

On Behalf of the Independent Liquor and Gaming Authority

## STATEMENT OF REASONS

### INTRODUCTION

1. On 23 February 2015, the Independent Liquor and Gaming Authority (**Authority**) received an application under section 59 of the *Liquor Act 2007* (**Removal Application**).
2. The Removal Application was lodged by Mr Tony Hatzis c/o Hatzis Cusack Lawyers on behalf of Mr Neville Buckley (**Applicant**) the licensee of a hotel trading as “Vegas Hotel Hurlstone Park” at 590-602 New Canterbury Road, Hurlstone Park (**Current Premises**). The Removal Application seeks to remove the licence to premises at 203 Beamish Street, Campsie (**Proposed Premises**). Once removed, the licensed business will be known as “The Station House Hotel”.
3. The Removal Application is accompanied by an application for an extended trading authorisation (**ETA Application**) pursuant to section 49(2) of the Liquor Act and a minors area authorisation (**MAA Application**) pursuant to section 102 of the Liquor Act in respect of the Proposed Premises.
4. On 15 September 2015, the Authority also received an application under section 34 of the *Gaming Machines Act 2001* (**GMT Application**). The GMT Application seeks to increase the gaming machine threshold at the Proposed Premises following removal of a licence. By reason that the removal of the licence was proposed to occur within the same local government area (**LGA**), the GMT Application did not require the Applicant to furnish a local impact assessment.
5. By reason that a removal application is treated as though it is an application for a new licence (per section 59(3) of the Liquor Act), and a new licence, once removed to new premises, has a GMT threshold automatically fixed at zero (per section 32(4) of the Gaming Machines Act), the GMT Application seeks to increase the gaming machine threshold for the Proposed Premises from zero to 27. The Authority notes that 27 is the number of gaming machine entitlements held in respect of the hotel licence on the Current Premises.

### MATERIAL BEFORE THE AUTHORITY

#### The Gaming Machine Threshold Application

6. **Submission from Mr Tony Schwartz c/o Back Schwartz Vaughan Lawyers, solicitor for two commercial competitors - Oasis on Beamish (located 155 metres from the Proposed Premises) and Campsie Hotel (located 366 metres from the Proposed Premises) dated 29 April 2015:** This submission is made in

response to the Removal Application, the ETA Application and MAA Application in respect of the Proposed Premises.

7. Without purporting to repeat all the submissions and contentions made in this 52-page the key points may be summarised as follows:
- (a) pursuant to section 59(3) of the *Liquor Act 2007* (**Liquor Act**) the Removal Application will be treated as if it were a new Hotel Licence
  - (b) pursuant to section 45(3) of the *Liquor Act*, the Applicant's practices to prevent intoxication "are likely to fail to properly deal with 200 patrons" as there is a "gap" in the Applicant's proposed practices
  - (c) as of the lodgement date of this submission "there is no Development Consent" although it has been applied for
  - (d) if the Proposed Premises is located within a "retail shopping centre" as defined in the *Gaming Machines Act 2001* (**GM Act**) the gaming machine threshold "must be set at zero" meaning that no gambling activities will be permitted at the Proposed Premises
  - (e) pursuant to section 48(7) of the *Liquor Act* and clause 10A of the *Liquor Regulation 2008* (**Liquor Regulation**) the Applicant must address gambling activities at the Proposed Premises during the proposed Extended Trading Authorisation period.
  - (f) part of the test in section 48(5) of the *Liquor Act* relates to the Authority taking into account the type, trading hours and location of the Proposed Premises as well as whether any specific measures over and above those required by legislation will be implemented
  - (g) the Proposed Premises is an "unrestricted" hotel licenced premises seeking permission to trade to 2.00am the following day, 6 days a week and until 12 midnight on a Sunday
  - (h) the business to be conducted on the Proposed Premises foreshadows 27 gaming machines, but it could for example increase that to 30 (see s.11 of the *GM Act*) and the use and corresponding impact on the community of those machines is a "relevant consideration in the overall approval process of the Applications"
  - (i) pursuant to clause 11(4) of the *Liquor Regulation*, the Applicant must consult with any organisation in the broader community that receives funding from the Responsible Gambling Fund for gambling related counselling or treatment services
  - (j) the social impact at the existing Hurlstone Park location of the hotel is also a "relevant consideration" as part of the section 48(5) test under the *Liquor Act*
  - (k) the Authority should equally consider and balance the gambling activities and the objects of section 3 of the *Liquor Act* as part of the overall social impact test to be applied under section 48(5).
8. Mr Schwartz acknowledges that this submission is made by commercial competitors but argues that "their concerns are not primarily based on commercial self-interest"

and that they are “entitled to make this submission and inform the Authority of the matters that the Applicant failed to bring to its attention despite the material Mr Buckley has lodged with the Applications”.

9. Mr Schwartz submits that based on the “actual information” in the Applicant’s Community Impact Statement (CIS) and the information that this submission now provides, the Applicant has not satisfied the requirement in section 48(5) that the overall social impact of granting the Application will not be detrimental to the well being of the local and broader communities.
10. Mr Schwartz submits that the CIS fails to properly consider:
  - (a) the potential adverse impact of additional gaming activities on the social fabric of the community
  - (b) the adverse social impact of removing the only hotel licence from Hurlstone Park
  - (c) the proximity of the proposed new business to the public transport hubs, schools and churches and the associated community amenity impacts that are more likely than not to occur
  - (d) the potential adverse impact of the proposed business on alcohol-related crime/anti-social behaviour in Campsie
  - (e) the impact of the proposal on nearby residential, commercial and retail use premises which will likely include “increased parking demand generated by the change in land use” and “increased noise, disturbance and anti-social activity”
  - (f) the social risk to “relevant at-risk groups” due to their “particular socioeconomic and demographic characteristics”.
11. Mr Schwartz contends that the relevant “local community” to be considered for the purposes of the Removal Application is “likely to extend beyond Campsie”, due to the “convenient access” to the Campsie Railway Station and local bus services.
12. In support of this submission, Mr Schwartz refers to 2011 Australian Bureau of Statistics (ABS) travel to work Quickstats data for the population of Campsie, the broader community comprising Canterbury LGA and New South Wales. Mr Schwartz contends that “residents of Campsie are comfortable and familiar with catching a local train, and therefore it is reasonable to expect that the same people are also comfortable with and use the rail system for social, shopping or recreational purposes as well”.
13. Mr Schwartz contends that “this is clearly a situation where residents are more likely than not to *suburb hop* due to the ease of public transport in this local and broader community” and that the Proposed Premises is “less than 50 metres from the entrance to the Campsie Station”.

14. Mr Schwartz contends that the Applicant “acknowledged” that its local community is “incorrectly defined”. Mr Schwartz notes that at page 12 of the CIS the Applicant defines the local community as the suburb of Campsie but then goes on at 4.7 of the additional information document provided by the Applicant and states that the majority of patrons of the Proposed Premises will be residents of Campsie and surrounding suburbs”.
15. Mr Schwartz submits that the proposed business “clearly captures residents in surrounding suburbs” because “individuals within those suburbs have easy access” to the proposed business through the use of a “very convenient train system”.
16. Mr Schwartz submits that in circumstances where the local community is incorrectly defined, the test of section 48(5) of the Liquor Act “cannot be satisfied” as “no consideration has been given to the actual” local community.
17. [The Authority notes that clause 39(6) of the *Gaming Machines Regulation 2010* provides a definition of “local community” in the case of a Class 2 Local Impact Assessment provisions of the gaming machines legislation. The clause states:

**39 Class 2 LIA – information to be provided**

- (6) *For the purpose of subclause (5), the local community comprises the following:*
  - (a) *the people in the area (or in the group) from which the persons using the services and facilities of the venue concerned are likely to be drawn,*
  - (b) *the people in the area (or in the group):*
    - i. *that is to derive, or that the Authority considers is likely to derive, social or economic benefit if the threshold increase application is approved, or*
    - ii. *that is to suffer, or that the Authority considers is likely to suffer, social or economic detriment if the threshold increase application is approved.*
18. By contrast, the *Liquor Act 2007* provides no statutory definition of what “local community” means for the purposes of applying the overall social impact test in section 48(5) of that Act. It is the Authority’s longstanding policy and practice, as noted in Authority Guideline 6, that the local community will be assessed by reference to the state suburb or town in which the proposed licensed premises is situated].
19. Mr Schwartz then discusses the services and facilities offered at the proposed new hotel business. Mr Schwartz acknowledges the Applicants emphasis on the proposed business being “family friendly” and providing a “unique dining offering” but submits that the following aspects of the proposed hotel are “clearly open to valid criticism”:
  - (a) the “very small” dining area that is “approximately 77.43sqm”
  - (b) the “48 seats” available in the dining area
  - (c) the plan, which “confirms that the provision of food cannot be a significant part of the overall business operations as it shows the dining area is located in the most inconvenient and inaccessible location”
  - (d) there is “no evidence” depicting the proposed business as a “gastro pub” as is contended by the Applicant

(e) the location of the dining area which Mr Schwartz submits is “problematic for staff to monitor and properly service”.

20. Mr Schwartz contends that the “gaming room is the main focus” of the proposed new business as it is “approximately 68.81sqm”, located in the centre of the Proposed Premises and is “easily accessible from all public areas of the venue”.
21. Mr Schwartz then discusses the Applicant’s details provided for the restaurant menu and contends that the Applicant “has not provided” any evidence to demonstrate that the proposed business will offer something different or better than what is already available in Campsie in this respect.
22. Mr Schwartz submits that “there is nothing small or intimate about a hotel having a patron capacity of 200 persons”, contends that entertainment will be provided that is “likely to attract a younger and therefore more lively crowd” resulting in a “higher potential for alcohol related anti-social behaviour to occur” and submits that the Applicant “has failed to provide any evidence” as to how this proposed business will be “family friendly”.
23. Mr Schwartz further submits that the CIS “does not say anything about the social impact” the Removal Application will have on the residents, workers and visitors to Hurlstone Park (the local community of the Current Premises).
24. Mr Schwartz contends that if the Removal Application is granted, the local residents of Hurlstone Park will “no longer” have a local hotel and this “may have an adverse impact on others”.
25. Mr Schwartz then turns to the ETA Application and contends *inter alia* that:
  - no information or evidence was provided to confirm there is a demand or need to sell liquor in this location from 8.00am, 7 days a week
  - the Applicant will “increase the availability of liquor from 8.00am in this location where it is currently unavailable”
  - if there is a demand for a general breakfast service at the hotel that demand is “already met by the numerous cafes and take-away outlets that exist”
  - the ETA for the Proposed Premises must be considered on its own merits and “without any consideration” of the hours at the Current Premises, which is located some 2.7 kms (straight line distance) away or 4.1kms away by road;
  - that the ETA sought for the proposed business provides a service that “is already available in this location”
  - “documented research” confirms that “any extended trading” has a “greater potential to cause an adverse impact on community amenity” which has been “reinforced by the comments of the Authority in its past decisions”. [The Authority notes that the documented research is discussed later in the document under the heading Research.]

26. Mr Schwartz then responds to the Applicant's submission, made in the CIS document (for the Removal Application) that no neighbouring occupier or special interest group has raised concerns as to the proposed hotel or its trading hours. In an apparent reference to the *development application* process with respect to use of the Proposed Premises, Mr Schwartz submits that the local school and the Salvation Army have lodged a submission with the Council opposing the Applications and that a petition was lodged with the Council.
27. Mr Schwartz also contends that Police have informed these submitters (with regard to the Applications now before the Authority) that "Police do have concerns with the Applications and will be lodging a submission with the Authority opposing them".
28. Mr Schwartz then discusses the proposed gambling activities to be conducted on the Proposed Premises and makes reference to the following legislation and case law:
- (a) section 37B of the GM Act - which provides certain restrictions with regard to decisions on gaming machine thresholds for venues located in retail shopping centres
  - (b) section 4 of the GM Act – which defines a "retail shopping centre"
  - (c) section 33 of the *Interpretation Act 1987* – which Mr Schwartz submits assists in interpreting section 4 of the GM Act which defines retail shopping centre
  - (d) section 3 of the GM Act – which Mr Schwartz submits that the meaning of retail shopping centre should be drawn from the GM Act to promote the purpose of its section 3 objects
  - (e) clauses 154, 155, 156 and 44 of the GM Regulation- which provide exemptions to the definition of "retail shopping centre" in certain circumstances. Mr Schwartz submits that "there are no exemptions in the GM Regulation that apply to this location"
  - (f) the previous definition of "retail shopping centre" under the former legislation (namely section 60 of the GM Act) before it was amended
  - (g) the definition of "retail shopping centre" provided in the *Retail Leases Act 1994*
  - (h) the decision of the NSW Administrative Decisions Tribunal in *Goodlink Pty Limited v. Singh and Ors* [1999] NSW ADT71
  - (i) *Project Blue Sky Inc v. Australian Broadcasting Authority* 1998 194 CLR 355
  - (j) *Kingston v. Keprose Pty Ltd* (1987) 11 NSWLR 404
  - (k) *Alcon (NT) Alumina Pty Ltd v. the Commission of Territory Revenue* [2009] HCA 41
  - (l) *Certain Lloyds Underwriters v. Cross* (2012) 248 CLR 378
  - (m) *Solomon v. Licensing Court of New South Wales* [2000] NSW SC 974
29. At this juncture the Authority notes that section 37B of the GM Act states:

**37B Restriction on gaming machine thresholds for venues in retail shopping centres**

- (1) *The gaming machine threshold for a hotel or premises of a club cannot be increased if the hotel or premises are part of a retail shopping centre or proposed retail shopping centre.*
- (2) *If a hotel licence or club licence is granted under the [Liquor Act 2007](#) for premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.*
- (3) *If an application is granted under the [Liquor Act 2007](#) that results in the removal of a hotel licence, or the extension of a hotel, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.*
- (4) *If an application is granted under the [Liquor Act 2007](#) that results in the removal of a club licence, or the extension of the premises of a club, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.*
- (5) *However, subsection (4) does not apply if:*
  - (a) *the retail shopping centre comprises or will comprise less than such number of shops as may be prescribed by the regulations, and*
  - (b) *patrons will not be able to gain access to the club's premises directly from the retail shopping centre, and*
  - (c) *in the case where the club licence is being removed to other premises—the other premises are situated in the same suburb or town as the previous premises, and*
  - (d) *in the case where the club's premises are being extended—the club's premises remain predominantly where they were before the extension, and*
  - (e) *the gaming machine threshold for the club's premises is no more than the gaming machine threshold for the club's premises immediately before the club licence was removed or the premises were extended, and*
  - (f) *such other requirements as may be prescribed by the regulations have been complied with.*
- (6) *For the purposes of this section, a hotel or the premises of a club are taken to be part of a retail shopping centre if the hotel or club premises are located within the retail shopping centre or physically adjoin any part of the retail shopping centre.*
- (7) *This section has effect despite any other provision of this Division.*

**30.** After discussing the concept of what a “retail shopping centre” means arising from the case law, Mr Schwartz contends that the Proposed Premises “is to be located at the Campsie Shopping Centre in Beamish Street Campsie”. He submits that if the licence is removed the new hotel will form part of a “*retail shopping centre*” within the meaning of section 37B of the GM Act.

**31.** Mr Schwartz submits that neither the Proposed Premises, nor any of the shops along Beamish Street “are required to be physically located under the same roof nor within the one building complex” to form part of a “retail shopping centre”.

**32.** Mr Schwartz submits that if the Authority agrees with the submission that the Proposed Premises is within a retail shopping centre, then section 37B(3) of the GM Act *prohibits* the exercise of gaming machines at the Proposed Premises by way of the statutory threshold of zero.

**33.** Mr Schwartz submits that there is “nothing in the Applicant’s CIS” that addresses the *impact* of gambling activities of the hotel that will operate on the Proposed Premises. Mr Schwartz submits that “while the Applicant “proposes some 27 machines and



proposes to provide a large area to house those facilities, little else is said about the gambling activities”.

34. Mr Schwartz notes the requirements of clause 11(4) of the Liquor Regulation and contends that the following service providers were not consulted on the GMT Application:
- (a) Gambling help on-line
  - (b) G-Line (Australia Help Line)
  - (c) Arabic Council Australia
  - (d) Maria-Lujza Ghyczy (Edwards), the manager of Multicultural Problem Gambling Service for NSW
  - (e) Wesley Community Legal.
35. Mr Schwartz then refers to a report by Ms Rose Saltman of RM Planning dated April 2015. This consultant was engaged by Mr Schwartz on behalf of the two commercial competitors making this submission, the Oasis on Beamish and the Campsie Hotel in response to the Removal Application. Mr Schwartz submits that this report “confirms substantial negative impacts of introducing 27 additional Gaming Machines to Campsie” and that this means there is “substantial risk of harm associated with the gambling activities proposed at the New Hotel”.
36. Mr Schwartz then discusses the concept of “immediate vicinity” (of a school, hospital or place of worship) for the purposes of section 36(2) of the GM Regulation.
37. [The Authority notes that clause 36 of the Gaming Machines Regulation states:

**36 Threshold increase applications – general requirements**

- (1) *A threshold increase application must:*
  - (a) *specify the internal floor space (in square metres) of the venue, and*
  - (b) *in the case of an application made by or in relation to a new hotel or new club— provide a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue.*
- (2) *The gaming machine threshold for a new hotel or the premises of a new club cannot be increased if the hotel or club premises are situated in the immediate vicinity of a school, place of public worship or hospital.*
- (3) *In the case of a threshold increase application by a registered club, the application must, if the club is proposing to increase the gaming machine threshold for the venue to a number above 450 and the application is not required to be accompanied by a local impact assessment because of section 35 (2) of the Act, demonstrate the following to the satisfaction of the Authority:*
  - (a) *that consideration has been given to assessing the impact of the additional gaming machines on the amenity of the local area and the action that will be taken to manage any negative impact,*
  - (b) *that appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) are in place at the venue,*
  - (c) *that the proposed increase will result in additional benefits to club members or the community.*

38. Mr Schwartz refers to the Authority's *Fact Sheet* for a Class 1 or 2 LIA that states "unless there are compelling reasons to do otherwise in the circumstances of a particular case, the Authority will generally proceed on the basis that only those schools, places of public worship or hospitals that are within 200 metres of the venue are in the immediate vicinity".
39. Mr Schwartz contends that the Proposed Premises "is clearly within the *immediate vicinity* of schools and churches".
40. Mr Schwartz then goes on to consider what the superior courts in NSW have held with respect to the meaning of the words "immediate vicinity" under the previous provisions of the GM Act. He refers to the following decisions:
- (a) *Hinton and Anor v. Lane* [2009] NSWSC 37
  - (b) *Dean v Lewitz* (1958) 76 WN (NSW) 349; 33 ALJR 222
  - (c) *Re Curtin* 1893 19 VLR 12
  - (d) *Hadrill v. Strode* SC NSW 9 August 1982 (unreported)
  - (e) *Kelsall v. Brooks* SC NSW 149 3 1985 4/2/1987
41. Mr Schwartz contends that "there will be pupils, parents or carers, as well as staff of the schools who use the public buses, the train station and the retail shopping centre who will, on a daily basis, walk past that New Hotel, going to and from school in the mornings and afternoons".
42. Mr Schwartz contends that the operation of the hotel on the Proposed Premises has potential to:
- offend those people who would prefer that a hotel is not located where school children have to pass on a daily basis
  - cause *nuisance* to children, their parents, carers and teachers, in circumstances where there will be a potential conflict with their movements and customers of the New Hotel commencing from 8.00am
  - cause noise and interference to others by reason of its location "on a route that must be used by persons who use the trains, buses and retail shops in Campsie".
43. Mr Schwartz further contends that although the gaming machine operations of the hotel on the Proposed Premises "cannot be seen" from the schools and churches, there is "no doubt" that the operation of the new business "will interfere with their activities, even if not by noise but by the potential for nuisance to be caused". This is by reason that the new venue is "on the most direct walking route between the schools and Campsie Train Station, and also a busy bus stop regularly used by school children is located directly outside the Hotel".

44. Mr Schwartz submits that should the Authority determine that the Proposed Premises is located within the vicinity of a school, place of worship or hospital that any increase in the gaming machine threshold associated with the licence is prohibited by the GM Act, thereby preventing the operation of the gaming machine entitlements that are proposed to be utilised at the Proposed Premises.
45. Mr Schwartz then makes submissions on the impact of the Iris Group (the Freehold/Business owners of the Proposed Premises) acquiring another hotel licence within the Canterbury LGA with respect to other premises currently known as Napoleon's Hotel Riverwood (which has a gaming machine threshold of 30 with 25 gaming machine entitlements and 5 gaming machine permits). Mr Schwartz discusses the ability of the Iris Group to transfer any of its gaming machine entitlements and permits to the Proposed Premises.
46. Mr Schwartz then discusses the issue of licensed premises density and submits that the Applicant "provides no actual evidence" to support its view that the suburb of Campsie has undergone significant population growth in recent years, and continues to grow.
47. Mr Schwartz refers to the publication *New South Wales in the future: Preliminary 2013 population projections* report, issued by NSW Planning and Infrastructure which he submits confirms that the average annual change in population from 2011 – 2031 with respect to the broader community of Canterbury LGA "only anticipated to be 1%, less than the average of all Sydney LGA's at 1.5%". The Authority notes that this report is not provided.
48. Mr Schwartz submits that for the Applicant to suggest that there is a *public benefit* in removing the licence from its current location in Hurlstone Park (which he contends is an advantaged area) to a location in Campsie where there is already ample liquor service, where gambling activities and higher levels of disadvantaged persons "completely contradicts" the documented research undertaken in this country.
49. [The Authority notes that the Applicant does not cite this research at this point of the submission but refers the Authority to the section of the submission entitled "Research" and to paragraphs 145 to 147 of this submission which discusses the work of Michael Livingston, Tanya Chikritzhs & Robin Room – *Changing the density of alcohol outlets to reduce alcohol-related problems* (2007 paper). Mr Schwartz also refers to "the writer's own observations, supported by the documented view of the NSW Bureau of Crime Statistics and Research" when releasing alcohol related crime statistics in the past together with research completed by others in the area of alcohol related matters].
50. Mr Schwartz contends that the Proposed Premises is located "near existing late night trading venues" and as a result "has the potential to increase patron migration in the Campsie CBD".

51. Mr Schwartz contends that migrating late night alcohol affected patrons from the Proposed Premises, along with patrons from other late night venues in the Campsie CBD are “more than likely to adversely impact amenities and the quiet and good order of the neighbourhood”.
52. Mr Schwartz submits that it is “very clear from other alcohol related research” that there is a “very high potential for there to be a significantly greater concentration of people congregating where there are numerous licensed premises, especially late night trading venues such as hotels and entertainment venues”. [The Authority notes that Mr Schwartz has not immediately cited this research].
53. Mr Schwartz contends that if the applications now before the Authority are approved this “would result in a higher probability of assaults in this location in the future”.
54. Mr Schwartz then provides a table listing the following “potentially sensitive facilities” that are identified by the Applicant, adding their respective distances from the Proposed Premises:

#### **Medical**

- (a) North Parade Family Practice, 36 North Parade, Campsie – 83 metres
- (b) Campsie Medical & Dental Centre, 17/19-21 Anglo Road, Campsie – 121 metres
- (c) Seoul Family Medicine Clinic Campsie, 48 South Parade, Campsie – 6 metres
- (d) Campsie MedHealth Centre, 261 Beamish Lane, Campsie – 145 metres
- (e) Anglo Medical Centre, 20-22 Anglo Road, Campsie – 94 metres
- (f) Campsie Medical & Dental, 17 Anglo Road, Campsie – 93 metres
- (g) Dr L Adalberto, 227 Beamish Street, Campsie – 52 metres

#### **Place of Worship**

- (a) Church of the Living Water, Assembly of God Campsie, 34 North Parade, Campsie – 94 metres
- (b) Church of Christ Scientist & Christian Science Reading Room Campsie, 45 South Parade, Campsie – 31 metres (the building housing this church has now been demolished)

#### **Schools**

- (a) Campsie Public School, Evaline Street, Campsie – Mr Schwartz contends that “the school grounds are within 50 metres of the New Hotel (by straight line distance), 200 metres walking distance (via South Parade and Harold Street) to its public entrance”, that the school “caters to children from kindergarten to year 6” and that “there are approximately 770 students enrolled at the School”.

Mr Schwartz contends that the report of RM Planning dated April 2015 “confirms” that “about 70 children are in after school care and a bit less than that number are in before school care”; that “hours are Monday to Friday 7 am to 6.30pm”; that “about 25% of pupils are estimated to pass the New Hotel on their way to or from school” and that this activity is “concentrated between 8 am and 9 am, and between 3 pm and 6.30pm on school days”.

### **Parks**

- (a) Harold Street Reserve, Anglo Road Campsie – 109 metres. Mr Schwartz contends that “this is not the only park near the” Proposed Premises, for example “Anzac Park is located 136 metres from the New Hotel”.

### **Alcohol Free Zones**

- (a) Full length of Anglo Road, Carrington Square, Anzac Park and Anglo Mall between Loch Street and Beamish Street, Campsie – Mr Schwartz states that the Proposed Premises is “located very near to existing zones”.

### **Other**

- (a) Christian Youth Hostel, 40 South Parade, Campsie – 124 metres.

- 55. Mr Schwartz submits that the CIS has not included the Campsie Railway Station is a potentially sensitive facility but merely notes that it is “very near” the Proposed Premises.
- 56. Mr Schwartz then provides a table of the following potentially sensitive facilities that he submits are “missing” from the CIS:

### **Place of Worship**

- (a) St Phillip’s Uniting Church, 36 Evaline Street, Campsie – 245 metres
- (b) St Mel’s Church, 7 Evaline Street, Campsie – 194 metres. Mr Schwartz contends that the Proposed Premises is “about 250 metres to the entrance to the church”.
- (c) St John the Evangelist Church, 26 Anglo Road – 137 metres. Mr Schwartz contends that the Proposed Premises is about “150 metres to the entrance to the church”.

### **Schools**

- (a) St Mel’s Primary School – Mr Schwartz contends that the “school grounds are within 150 metres” of the Proposed Premises (straight line distance) and “200 metres walking distance via South Parade and Harold Street to its public

entrance”, that the school “caters to children from kindergarten to year 6” and that “there are approximately 315 students enrolled at the School”. Mr Schwartz contends that the report of RM Planning dated April 2015 “confirms” that “about 50% of students would walk past the New Hotel on their way to and from school” and that this activity is “concentrated between 7 am and 8.35 am, and between 3 pm and 6 pm on school days”. Mr Schwartz also contends that “the school offers after school care until 6pm” and that “up to 30 students use this service”.

### **Other Public Facilities**

- (a) Campsie Train Station – Less than 50 metres to the public entrance.

### **Other**

- (a) Community Welfare Centre (Salvation Army), 23 Anglo Road Campsie – 156 metres.

**57. Mr Schwartz further contends that:**

- “many” parents and students of the local schools use Beamish Lane as a pedestrian thoroughfare from South Parade to drop off and collect their children
- “directly in front of the Hotel” is a busy bus stop, where children “often” sit or stand while waiting to catch their bus
- the Proposed Premises “is on a direct pedestrian route from the schools to Campsie Train Station”
- granting the Application so close to the railway station, bus stops, schools and church “will potentially have an undesirable impact on the rail commuters, students, parents and church attendees using South Parade to access their respective locations”
- the proposed licensed hours and the proximity of the hotel on the Proposed Premises in relation to two schools, the train and bus stops could be “unsafe for children and adults” who use these services with “possible patrons behaving in an anti-social manner being removed from the New Hotel, turned away or loitering in the vicinity of the hotel and the surrounding footpaths and street furniture”
- many children will be required to navigate around the pedestrian footpath directly outside the proposed hotel on their “direct walking route between the schools and either public buses or the Campsie railway Station”.

**58. Mr Schwartz then contends that at a Liquor Accord meeting held on 26 March 2016 it was “confirmed” by a representative of the office of The Hon Lynda Burney (who the Authority notes is the State Member for the electorate of Canterbury) that “Beamish Lane has a lot of reported issues, especially at night”. Mr Schwartz contends that**

“bringing a new licensed venue that has a capacity of an additional 200 persons to be in the Campsie CBD can only make the position worse”.

59. Mr Schwartz then raises concerns regarding the “back of house” facilities at the proposed new hotel including issues with deliveries blocking the whole laneway and impeding pedestrian movement.
60. Mr Schwartz refers to the *Smoke-free Environment Act 2000* and contends that “while patrons will be forced into the street to smoke, they cannot legally do so on the footpath to the front of the New Hotel” and instead will be “forced to leave that footpath area and will move about Campsie while smoking” potentially causing “further conflict with other pedestrian movements, including the high volume of children in this location’.
61. Mr Schwartz also raises concerns about security staff at the hotel not commencing duty until 8:00pm in the evening whereas the proposed new business “will be the only licensed venue selling liquor from 8.00am in the morning”. Mr Schwartz submits that this will not assist in “ensuring that the new hotel operates in a safe and controlled manner”, taking into account its location alongside the bus stop.
62. Mr Schwartz then conducts an analysis of the ABS Socio-Economic Index for Areas (SEIFA) data for the communities and contends that the Applicant “intends to move the Licence from a location (Hurlstone Park) that is advantaged to another (Campsie) that is significantly disadvantaged being in the bottom 20%, by having a decile ranking of 2”.
63. After addressing each of the four public interest benefits contended by the Applicant (that the Proposed Premises, being a heritage building, will be restored and refurbished for the enjoyment of residents of Campsie and surrounding areas; that the Removal Application will meet an expectation for hotel facilities as no new hotels have been established in the suburb of Campsie for several decades despite the suburbs significant population growth; that the proposed business will provide a high-class, intimate, modern hotel venue featuring a sophisticated dining offer, sports bar, boutique short-term accommodation and ancillary gaming and that the suburb of Campsie has a higher than average proportion of families with children meaning that the family-friendly character of the proposed business will meet the needs of the suburb’s specific demographic makeup), Mr Schwartz submits that “there are no public interest benefits in approving the Applications”.
64. Mr Schwartz discusses the proposed product range and pricing of services and submits that the CIS “says nothing about the product range or the price structure proposed, nor the likely social impact of another venue where the sale of packaged liquor occurs in Campsie”.

65. With regard to potential negative social impacts Mr Schwartz submits that the CIS “does not identify any over-represented at-risk groups in Campsie” and refers to ABS Quickstat data from 2011 which respectively deals with the number of persons in the 20-24 age group, the rates of unemployment, number of labourers, median household weekly income, number of one parent families, number of persons in rental accommodation and median weekly rent.
66. With regard to harm minimisation issues, Mr Schwartz makes reference to a previous Authority decision refusing a new hotel licence at Ropes Crossing (which the Authority notes is in Western Sydney) dated 21 April 2011. He contends that “despite the best efforts of the Applicant (as was the case in Ropes Crossing), what is likely to occur is beyond his actual control”.
67. Mr Schwartz then discusses the current levels of patron migration in the communities and contends that “it is completely unreasonable for the Hotel to only accept responsibility for what might occur on the footpath outside the Hotel, where patrons are likely to cause disturbance to the entire neighbourhood”.
68. Mr Schwartz notes the Authority’s past concerns with patron migration as discussed in an application for a hotel (general bar) licence in respect of premises known as The Wild Rover, Surry Hills dated 17 May 2013. He contends that migrating late night alcohol affected patrons from the proposed business along with patrons from the other late night venues “is more than likely to have an adverse impact on the community amenity and the quiet and good order of the neighbourhood”.
69. With regard to the potential adverse social impacts from the business Mr Schwartz further submits or contends that:
- the security measures proposed in the Applicant’s Plan of Management “are seriously inadequate”
  - that the harm minimisation measures proposed “may have little to no impact whatsoever on what will inevitably occur in this location”
  - the harm minimisation measures are “very broad general statements that are unsupported by any detail” and therefore will “do very little to prevent anti-social behaviour from occurring”
  - diversion of police hours “towards supervising a new, large scale hotel or responding to the conduct of its patrons after they depart” must “inevitably detract from the general capacity of police”.
70. Mr Schwartz then discusses the impact of granting the Applications on neighbourhood amenity. He contends that:
- (a) the nearest residential properties are located in Harold Street “approximately 60 metres away”



- (b) a comprehensive acoustic assessment had not been provided with the Applications despite the proposed hours of operation
- (c) there has been no assessment of the impacts of patrons leaving the Proposed premises or the likely impacts of noise and on-street parking
- (d) the proposed business will “unreasonably borrow from the public domain and adjoining private properties through overflow parking” and consequently adverse amenity impacts will result from this
- (e) the proposed new hotel business “would increase the risk of adverse social impact on the surrounding area from the availability of alcohol and gambling in addition to the adverse impacts from noise and anti-social behaviour”
- (f) the proposed new hotel “could also have an adverse impact on the safety of patrons”.

71. Mr Schwartz then addresses NSW Bureau of Crime Statistics and Research (BOCSAR) published crime maps based upon data from October 2013 to September 2014.
72. Mr Schwartz submits that this data confirms that the Proposed Premises “is located in an existing hot-spot for domestic violence and non-domestic violence assaults” and that the Current Premises “are not located in any hot-spot location”.
73. Mr Schwartz submits that the Removal Application proposes that the licence be removed to an area where “there is clearly greater potential for assaults to occur”.
74. Mr Schwartz then provides a detailed discussion of what he describes as “an extensive body of literature” on the association between licensed premises and certain forms of crime, including the following published research:
- (a) Briscoe, S and Donnelly, N (2001) *Assaults on Licensed Premises in Inner-Urban Areas*
  - (b) Briscoe, S and Donnelly, N (2001) *Temporal and Regional Aspects of Alcohol-related Violence and Disorder*
  - (c) *The impact on Alcohol sales on violent crime, property destruction and public disorder* (1996) Author: Richard J Stevenson
  - (d) Jochelson, R (1997) “*Crime and Place: An analysis of assaults and robberies in inner Sydney*”
  - (e) Devery, C (1992) “*Mapping crime in LGA: Assaults and Break and Enter in Waverly NSW*”
  - (f) Homel R (1999) “*Preventing violence: A review of the literature on violence and violence prevention*”, Report prepared for the Crime Prevention Division of the NSW Attorneys General’s Department.
  - (g) *The Prevention of Substance Use, Risk and Harm in Australia: a review of the evidence*. National Drug Research Centre and Centre for Adolescent Health for the Ministerial Council on Drug Strategy, Commonwealth of Australia, Canberra

- (h) Preventing aggression in the licensed environment: Bureau of Crime Statistics and Research Seminar October 2009 by Ross Homel
- (i) World Health Organization Regional Office for Europe “Evidence for the effectiveness and cost-effectiveness of interventions to reduce alcohol-related harm”
- (j) *Epidemiology And Policy, Hours and Days of Sale and Density of Alcohol Outlets: Impacts on Alcohol Consumption and Damage: A Systematic Review*, Svetlana Popova, Norman Giesbrecht, Dennis Bekmuradov and Jayadeep Patra, *Alcohol & Alcoholism* Vol. 44, No. 5, pp. 500-516, 2009
- (k) National Drug Research Institute (2007). *Restrictions on the Sale and Supply of Alcohol: Evidence and Outcomes*. Perth: National Drug Research Institute, Curtin University of Technology

75. Mr Schwartz then discusses how the Applications before the Authority relate to a number of previous liquor applications refused by the Authority. Mr Schwartz discusses the Authority’s reasoning in these various decisions.

76. Mr Schwartz then discusses the objects of the Liquor Act and contends that the CIS “does not give any meaningful consideration to the objects of the Act”. Mr Schwartz makes reference to what he submits are the similarities in the previous Authority decision for Ropes Crossing before concluding that if that balancing exercise was carried out in this case the CIS “would fail the tests provided by section 48(5) of the Liquor Act” and the Applications would be refused.

77. Mr Schwartz submits that the following factors support the refusal of the Applications:

- (a) the CIS “fails to satisfy the intent of the legislation” in that it “does not properly address the potential for adverse social impact by operating a hotel of this type and nature” in this location
- (b) the report provided by Schwartz on behalf of two commercial competitors making this submission, the Oasis on Beamish and the Campsie Hotel in response to the Removal Application. The report from Ms Rose Saltman of RM Planning dated April 2015 “confirms the real likelihood that additional gambling activities will adversely impact on the social fabric” of the local community and that there is “no doubt that two schools and churches are in the immediate vicinity of the New Hotel” which will cause “noise and nuisance to pupils, parents or carers, teachers and the public at large”
- (c) the proposed new hotel business will “have an emphasis on a drinking, entertainment and a complete gaming and gambling environment, with less focus on dining”
- (d) the CIS “fails to consider the adverse impact of removing the only hotel licence from Hurlstone Park”
- (e) based on the research discussed in this document it is “highly likely” that this proposal will “increase the frequency in which alcohol related crime occurs in Campsie” and the presence of “at-risk groups and disadvantaged persons” in

conjunction with the location of the nearby Campsie Train Station and bus stops “clearly increases that potential”

- (f) there are “potentially sensitive facilities nearby” the Proposed Premises and the Applicant has “failed to assess the risk to those facilities or persons who use those facilities”
- (g) the proposed business is so close to the railway station, bus stops, schools and the church that the hotel “will potentially have an undesirable impact on rail commuters, students, parents and church attendees using South Parade to access their respective destinations”
- (h) the potential for alcohol-related crime and anti-social behaviour arising from the use of the hotel “could also have negative impacts on the safety of pedestrians and the amenity of Campsie Shopping Precinct as a whole”
- (i) the CIS “fails to consider the impact of the proposal on nearby residential, commercial and retail use premises” with likely community impacts including “increased noise, disturbance, parking demands, nuisance, public drunkenness and other anti-social activity”
- (j) the reduction of licensed trading hours and the freeze on the number of licensed venues and small bars in the Kings Cross, Oxford Street and Sydney City areas “has shown positive signs of reducing alcohol related violence”. Increasing the number of venues in Campsie “is more likely than not to have the opposite effect whilst also stretching resources in the community”
- (k) the Applicant has not made a reasonable assessment of the impact of the sale of packaged liquor from the new hotel and it is “reasonable for the public to understand these matters in the CIS to allow a response to each matter”. In this respect the transparency of the Applications to stakeholders “has been compromised”
- (l) the harm minimisation measures proposed by the Applicant “may have little to no impact whatsoever on what inevitably will occur in this location as a substantial number of new persons are attracted to the location”. Numerous statements were made by the Applicant in the CIS however “evidence to substantiate these claims has not been provided” and these statements will “do little” to prevent anti-social behaviour from occurring in this location in the future.
- (m) there are “no benefits” from this proposal
- (n) the Report from RM Planning “cannot be ignored” as it “confirms substantial negative impacts of introducing 27 additional Gaming Machines to Campsie”
- (o) the Applicant fails to meet the requirements of the section 3 objects of the Liquor Act.

**78.** Mr Schwartz concludes with the submission that “the proposal in its current form would have a significant adverse impact on the surrounding area” and “should be refused”.

**Attachments to the Back Schwartz Vaughan Submission**

79. Attached to this submission are the following documents which Mr Schwartz has referred:

**(a) Aerial Maps**

- i. This document contains three aerial maps. The first map depicts the approximate 200-metre radius from the Proposed Premises in which notification was distributed and the 19 stakeholders that were also specifically notified.
- ii. The second map depicts the location of the Proposed Premises in proximity to the train station, churches, schools, medical facilities, hotels and clubs and the Salvation Army.
- iii. The third map depicts the boundaries of the Proposed Premises, the entrance to Campsie Train station, the uniting church, St Mel's Primary School and Campsie Public School. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(b) Photographic evidence**

- i. The photographic evidence is broken up into three parts. The first part contains three photographs that depict the outside street view of the Proposed Premises.
- ii. The second part contains thirty photographs that depict the location of the area immediately surrounding the Proposed Premises, including *inter alia* bus stops, pedestrian thoroughfares, Beamish Lane, the entrance to Campsie train station, Campsie retail shopping area and children and families walking in the area.
- iii. The third part contains two photographs depicting the street view of the location of the submitter's premises, the *Oasis on Beamish Hotel* and the *Campsie hotel*. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(c) Interactive Google map:**

- i. This map shows the location of the proposed Premises in relation to other licensed premises in the suburb of Campsie. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(d) Report by Rose Saltman, RM Planning, *assessment of gaming machine impacts*, dated April 2015, furnished by Mr Schwartz on behalf of two commercial competitors making this submission, the *Oasis on Beamish* and the *Campsie Hotel* in response to the Removal Application [Annexed**

to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*]:

- i. RM Planning describe this report as addressing “the potential social impact of gaming that may arise from operating 27 electronic gaming machines” at the Proposed Premises.
- ii. RM Planning contend that this report has “identified significant risks of harm surrounding the proposal” one of which is the “close proximity to potentially sensitive facilities including the Campsie Railway Station, major bus stops on South Parade, Campsie Public School, St Mel’s Catholic Primary School, St Mel’s Catholic Church, Church of the Living Water, St Phillip’s Uniting Church and St John Evangelist Church”.
- iii. RM Planning contend that the “matters identified by this Report are matters that cannot be overcome by the Applicant” by reason that they “raise serious on-going concerns for the public in this location as well as future patrons”.
- iv. RM Planning discuss the “background” to the proposal, “the local area and site context” in which RM Planning contend that the site of the Proposed Premises is “in the heart of the Campsie Shopping Centre”. They observe that the Proposed Premises:
  - is less than 50 metres from Campsie Public Schools playground at the rear of the school
  - is “about 200 metres” to Campsie Public Schools entrance in Evaline Street
  - is “about 200 metres from the entrance” to St Mel’s Catholic Primary School and about “150 metres to the closest point of the school grounds”
  - is “194 metres” straight line distance from the lot boundary of St Mel’s Church
  - is “99 metres” straight line distance to the Church of the Living Water
  - is “247 metres” straight line distance to the entrance of St Phillip’s Uniting Church
  - is “197 metres in a straight line to the entrance of” St John the Evangelist Church
  - has a major bus stop directly in front of it that is used by adults and “unaccompanied school students”.
- v. This report discusses details of the Applicant’s proposal for the hotel, provisions of the Liquor Act 2007, provisions of the Liquor Regulation 2008, an “assessment of gaming machine impact”, the consultant’s assessment of the “local community of the new hotel” (which the consultant identifies as “primarily the suburb of Campsie”) socio-demographic indicators (comparing the suburb of Hurlstone Park, the identified local community of Campsie, the wider community of the Canterbury LGA and the Sydney metropolitan area), the “gaming

machine player profile” established from surveys conducted at the Oasis on Beamish Hotel and the Campsie Hotel and “gaming machine information”. Under the topic, Gaming Machine information, this report discussed Annual Reports for clubs and Hotels by LGA for the year ending 2009 (outlining the number of premises in Canterbury LGA, the number of authorised gaming devices in Canterbury LGA and the profit per gaming machine in premises in Canterbury LGA) and a review of gaming machine ranking history of other hotels operated by the Iris Group (the Freehold/Business owners).

- vi. This Report also discusses RM Planning’s consultation with various stakeholders for this report. RM Planning outline statistics of enrolment at the Campsie Public School, the percentage of students estimated to walk past the Proposed Premises and the out of hours activities on site for Campsie Public School. This report states that the acting principal of Campsie Public School raised the following concerns in response to consultation with RM Planning as part of this report, that:
- the gaming room opens to the street and it is a concern that the “gaming room could be seen by children walking past”
  - parking is a “huge issue”
  - the proposed hours of operation are a “concern” to the school because the 8am opening time “creates the possibility of children being exposed to the comings and goings of patrons at that time” which “doubles the exposure”
  - the bus stop outside the Proposed Premises “means that children would sit for a period of time waiting for a bus” and that this is “more than just a momentary walking past the site
  - if the gaming room looks onto the school grounds, privacy for students will be an issue
  - the proposed accommodation at the hotel may turn into “boarding house type accommodation”.
- vii. RM Planning also provide statistics of enrolment, the percentage of students estimated to walk past the Proposed Premises and number of after school care students using the service for St Mel’s Catholic Primary School. The consultant reports that concerns were raised by Mr S Borthwick, the Principal of St Mel’s Catholic Primary School in response to consultation by RM Planning in preparing this report, about “students leaving the school in the afternoons as a large number would walk past the premises, and the gaming room, on the way home, to the library, to the bus stop outside the site and to Campsie train station” and that “many of these students walk unattended”. The Report contends that concern was also raised about the fact that the DA was lodged at a time when the school was closed” and that it was brought to the school’s attention by neighbours and local residents.

- viii. This Report also discusses the main services, support services and activities that are offered and operate at St Mel's Catholic Church in Campsie. The report states that it was submitted by Ms T Maresso, Parish Council Member and Chairperson of St Mel's Catholic Church Campsie, in response to consultation by RM Planning in preparing this report, that the Proposed Premises would have the following implications for church operations and activities:
- it would "discourage volunteers" from meeting after dark as most arrive and leave on foot
  - it would "affect" Friday night youth meetings for 15 to 18 year olds as "most walk" to the meetings
  - it would "increase the issues that Campsie, in particular, is already experiencing".
- ix. This Report also discusses the main services and support services offered at St Philip's Uniting Church. This report states that it was submitted by Mrs A Tolhurst, the Parish secretary and a parish council member, Ms N Yallop, in response to consultation by RM Planning in preparing this report, that the Proposed Premises is of concern to St Phillip's Uniting Church as there are "two schools nearby and a bus stop across the road" and that "there are so many kids who pass the site to go to school".
- x. This report also discussed crime statistics for NSW as a whole, Canterbury LGA, the suburb of Campsie and the suburb of Hurlstone Park on NSW BOCSAR data for alcohol related crime (non-domestic violence related assault, domestic violence related assault, assault police, liquor offences, disorderly conduct) and non-alcohol related crime (fraud and drug offences) between September 2009 to September 2014.
- xi. This report also discusses "assessment of gaming machine impact" which deals with compliance with the regulatory environment, socio-demographic profile of the local and wider community, characteristics of electronic gaming machine players, gaming machine environment, stakeholder views, crime, location of the New Hotel, provision of smoking areas and overall social impact.
- xii. Attached to this consultant report was the:
- Curriculum vitae for Ms Rose Saltman (the author of the report)
  - a copy of the Survey of Gaming Room patrons conducted by the consultant on patrons of the gaming rooms at the Oasis on Beamish between 23 March and 1 April 2015 and at the Campsie Hotel between 16 and 26 March 2015
  - a list of stakeholders approached by the Consultant
  - correspondence sent to the stakeholders along with a survey questionnaire
  - survey questionnaire completed by Mr S Borthwick, Principal of St Mel's Catholic primary School

- survey questionnaire completed by Ms T Maresso, Parish Council Member and Chairperson of St Mel's Catholic Church Campsie
- survey questionnaire completed by Ms A Tolhurst, Parish Secretary of St Philip's Uniting Church
- survey questionnaire completed by Ms N Yallop, Parish Council Member of St Philip's Uniting Church
- survey questionnaire completed by Ms K Lawson, Gambling and Financial Counsellor, Mission Australia Gambling Counselling and Supportive Services, servicing the geographic area of Campsie, Ashfield, Burwood and Riverwood
- survey questionnaire filled in by Ms M Basile, manager of Sydney Women's Counselling Centre.

**(e) Details of the services and facilities at the *Oasis on Beamish***

- This six-page document discusses the features, trading hours, facilities, access, trading conditions, voluntary business practices, refurbishment, senior staff, the general manager, the licensee, the security/duty manager, marketing, communication, security and staff for one of the licensed premises instructing Back Schwartz Vaughan, *Oasis on Beamish*. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(f) Details of the services and facilities at the *Campsie Hotel***

- This seven-page document discusses trading hours, staff, facilities, the players lounge, the public bar, the bistro, hotel operations, environment, future works and the menu for one of the licensed premises instructing Back Schwartz Vaughan, the *Campsie Hotel*. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(g) An analysis of dining behaviour in Campsie**

- This five-page document lists the local restaurants in the suburb of Campsie, their cuisine type and average price. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(h) Extract of Tables 1 and 2 from Epidemiology And Policy, *Hours and Days of Sale and Density of Alcohol Outlets: Impacts on Alcohol Consumption and Damage: A Systematic Review*, Svetlana Popova, Norman**



**Giesbrecht, Dennis Bekmuradov and Jayadeep Patra, *Alcohol & Alcoholism* Vol. 44, No. 5, pp. 500-516, 2009**

- i. Providing a summary of international research. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]
- (i) BOCSAR hot-spot maps relevant to the suburbs surrounding Campsie between October 2013 to September 2014 for incidents of domestic and non-domestic assault.** [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]
- (j) Details of the services and facilities at the Campsie RSL Sub-Branch**
  - i. This five-page document discusses trading hours, features of the club and dining facilities. Included in this document are four photographs of the Campsie RSL Club and a copy of their menu. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]
- (k) Report of KR Nash and Associates, planning consultants engaged by Back Schwartz Vaughan Lawyers on DA 620/2014 addressed to Canterbury City Council dated 17 February 2015**
  - i. In this nine-page document addressed to Canterbury City Council, KR Nash object to the development application number DA 620/2014 in respect of the Proposed Premises and discuss “proximity of proposed hotel to public transport hub, schools and churches”, “potential impact of new licensed premises on alcohol-related crime/anti-social behaviour”, “impact of additional gaming venue on social fabric of local community”, “parking demand generated by proposed land uses”, “proposed residential use”, “inadequate information”, “noise impacts” and “public interest”.
  - ii. In this six-page document, KR Nash contends that the Proposed Premises is “directly adjacent to the Church of Christ Scientist & Christian Science”; that Campsie Public School is located “within 50 metres” of the Proposed Premises by straight line and within “170 metres” walking distance; that St Mel’s Primary School is located “within 120 metres” straight line distance from the Proposed Premises and within “170 metres walking distance”; that “many parents and students of Campsie Public School use Beamish Lane as a pedestrian thoroughfare” and that the Proposed Premises “will potentially have an undesirable impact on rail commuters, students, parents and church attendees”. [Annexed to the submission from Back Schwartz Vaughan

lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(l) Evidence applicable to Napoleon's Hotel, Riverwood, Licence Number LIQH400103921**

- i. This nine-page document contains information from the Liquor Administration Board of NSW licence history records prepared at 10 March 2015 at 3:07pm for Napoleon's Hotel, Riverwood.
- iii. The Authority Onegov licence record as at 10 March 2015 for Napoleon's Hotel is also attached to this document. [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(m) Australian Hotels Association NSW Factsheet for Licensees detailing new smoking bans from July 2015.** [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

**(n) Bus Timetable and Train Information for services to Campsie** [Annexed to the submission from Back Schwartz Vaughan lawyers on behalf of the two commercial competitors *Oasis on Beamish* and the *Campsie Hotel*.]

- 80. Application Form for Gaming Machine Threshold Increase - Removal of Licence within a Local Government Area (LGA) and no LIA required - filed with the Authority on 15 September 2015:** In this GMT Application form, the Applicant has identified (by marking a selection box) that the Proposed Premises is located "within 200 metres" of a school, place of worship or hospital and has also selected a box indicating that the Proposed Premises is not part of a retail shopping centre as defined in section 4 of the GM Act. The Applicant has identified the proposed increase in gaming machine threshold for the Proposed Premises as "27" (from 0 to 27).
- 81. Application Form for Gaming Machine Entitlement Transfer, Hotel - filed with the Authority on 15 September 2015:** In this application form, the Applicant has identified (by marking a selection box) that the Proposed Premises is not part of a retail shopping centre as defined in section 4 of the GM Act and that the Proposed Premises is within a Metropolitan area. The Applicant has identified the number of Poker Machine Entitlements to be transferred to the Proposed Premises as 27.
- 82. Letter from Mr Tony Hatzis c/o Hatzis Cusack Lawyers, solicitor for the Applicant, sent to Authority gaming licensing staff dated 15 September 2015:** In this letter, Mr Hatzis informs Authority staff of the Removal Application applied for by the Applicant, due to be considered by the Authority at its next meeting on 2 October 2015.

83. Mr Hatzis submits that the Current Premises presently operates 27 gaming machines pursuant to 27 gaming machine entitlements attaching to the hotel licence and that it is proposed to transfer these gaming machine entitlements to the Proposed Premises and to increase the threshold of the Proposed Premises from 0 to 27.
84. Mr Hatzis notes that the Removal Application has been the subject of “submissions from trade competitors” and that these competitors have “advanced submissions that the gaming machine threshold of the proposed new premises must remain at zero”.
85. Mr Hatzis submits that these trade competitors argue that “the whole of the Campsie CBD” comprises a “retail shopping centre” so that a threshold increase application “cannot be granted for any new hotel relocated to the Campsie CBD”.
86. Mr Hatzis advises that it was not previously proposed to lodge the GMT Application and Poker Machine Entitlement Transfer until after the Removal Application had been dealt with, but by reason of the issues raised by these objectors it is “prudent” that the GMT Application be lodged and, if possible, dealt with by the Authority at the same time as the Removal Application.
87. **Email from Ms Philippa Teeling c/o Hatzis Cusack Lawyers, to Authority Manager Gaming Systems Ms Olgica Lenger and the former Office of Liquor Gaming and Racing (now Liquor and Gaming NSW) (LGNSW) dated 15 September at 5:35pm: attaching the GMT Application.**
88. **Letter from Mr Tony Hatzis, Hatzis Cusack Lawyers via email to Authority gaming licensing staff at 2:32 pm on 2 October 2015:** In this letter, Mr Hatzis encloses two plans numbered 140476/G and 140476/D, that show the location of the Proposed Premises (edged in red on both plans) in relation to the location of “other facilities including places of worship and schools”. Mr Hatzis states that these plans were “included with the gaming applications filed with Mr Freeman on 15 September 2015”.
89. On the question of whether the Proposed Premises are in the “immediate vicinity” of a place of worship, school or hospital, Mr Hatzis submits that this issue “has been extensively canvassed in the submissions made to the Authority in the liquor application”.
90. Mr Hatzis acknowledges the submission made by trade competitors represented by Back Schwartz Vaughan Solicitors arguing that the Proposed Premises will be in the “immediate vicinity” of a nearby church (Church of the Living Water) and the Campsie Public School.

91. Mr Hatzis submits that “of critical importance, in our submission, is the fact that there will be no line-of-sight” between the Proposed Premises and either the school or the church.
92. In addition to paragraphs 111 and 121 of the Applicant’s submissions dated 15 September 2015 and the Report of Mr G W Smith of Design Collaborative Pty Limited (a consultant engaged by the Applicant whose report accompanied the Applicant’s submission), Mr Hatzis discusses *Hinton v Lane* [2009] NSWSC 37.
93. Mr Hatzis submits that the former New South Wales Liquor Administration Board determined, in this “recent case”, that premises located at 661 George Street “were not in the immediate vicinity of a place of worship, namely St. Peter Julian’s Catholic Church, located on the same side of George Street some 36 metres from 661 George street”.
94. Mr Hatzis submits that the New South Wales Supreme Court held in *Hinton v Lane* “that it was open for the Board to find as it did”. Mr Hatzis submits that the Supreme Court “emphasized” in its judgment that what is within the “immediate vicinity” of a site will “vary according to context” and that the Board, as a specialist tribunal, “must take into account the neighbourhood as a whole”.
95. Mr Hatzis submits that in this case the nearest part of the boundary of the Campsie Public School “is some 80 metres from the (unlicensed) rear loading dock” of the Proposed Premises and that there is “no line of sight” between the two premises.
96. Mr Hatzis states that “we are instructed that the floor area calculation of 446 square metres was undertaken by Mr Smith and scaled off the plan of the proposed licensed premises as lodged with the application”.
97. Mr Hatzis contends that Mr Smith was asked to “check the calculations and to do so in conjunction with the architects who prepared the plans”. Mr Hatzis states that he is instructed as follows in relation to those calculations:
  - (a) if one includes the whole of the area, the figure is 446 square metres
  - (b) if one excludes the porches outside the 3 doorways, the fire stair down to Beamish Street and the lift shaft, the total is 428.8 square metres
  - (c) if one were to further exclude the unroofed “void” area between the gaming room louvres and the wall fronting South Parade, the total floor area becomes 412.3 square metres.
98. Attached to this submission and referred to by Mr Hatzis are the following further documents:
  - (a) Plan 140476G depicting the relationships between the Proposed Premises and Campsie Public School

(b) An extract of paragraphs 111 through to 124 of the Applicant's previous submissions to the Authority dated 15 September 2015 in which the Applicant discusses relevant case law on the concept of "immediate vicinity".

- i. In this extract the Applicant contends that "pupils of the school would not be affected in their school attendance nor would worshippers at the church be affected in the conduct of their worship, by reason of the proximity of the hotel" and that the "fact that children of the school may pass by the hotel, or may catch buses at the bus stop outside the hotel, does not put" the proposed business in the "immediate vicinity" of the Campsie Public School or of the Church.
- ii. The Applicant further contends in this previous submission that the concept of immediate vicinity "connotes a relationship of physical proximity between two places" where it is such that "students or worshippers in the course of their study and/or worship would be affected by the operation of the hotel". The Applicant submits that "such physical proximity does not become closer merely because some students or worshippers may pass by the hotel on the way to or from their school or place of worship".

(c) An extract of an assessment prepared by Design Collaborative, a planning consultant (**Consultant**) engaged by the Applicant, on the proximity of the Proposed Premises to schools and churches in Campsie dated September 2015.

- i. In this document the consultant states that the "nearest doorway of the public areas" of the Proposed Premises on South Terrace to the closest corner of the Campsie Public School's grounds "would be over 70 metres" and that there is "no line of sight between that doorway" or any part of the public areas of the Proposed Premises and the School. The Consultant contends that the "closest gateway to the school used by pupils is in Harold Street and it is about 150 metres from the rear" of the Proposed Premises.
- ii. The Consultant then proceeds to discuss St Mel's Catholic Primary School which in a straight line "is some 120 metres between the rear" of the Proposed Premises and St Mel's. The consultant contends that there is "no line of sight" between St Mel's and the Proposed Premises and on foot the rear entry to St Mel's is the nearest to the Proposed Premises and is about 190 metres.
- iii. The Consultant discusses the following churches and their respective distances and contends that the Church of Living Water is "about 100 metres away in a straight line but 170 metres by foot"; that the Salvation Army Citadel is "about 150 metres away"; that the Uniting Church is "some 240 metres" from the Proposed Premises; that St Mel's Catholic Church "is some 340 metres away"; that the Anglican

Church is “about 190 metres” from the Proposed Premises and that Campsie Baptist Union Church is “some 70 metres” from the Campsie Hotel.

- iv. The Consultant acknowledges that the Campsie town centre “accommodates a large number of medical practitioners and the closest of these has rooms on South Parade on the opposite side of Beamish Lane from the House.
- v. The Consultant submits that the “Canterbury Memorial Hospital lies about a kilometre southwest” of the Proposed Premises.

(d) Copy of the judgment of the Supreme Court of New South Wales in *Ex parte Paton* (1929) 30 SR (NSW) 67, a case concerning the *Liquor Act 1912*

(e) Copy of the judgment of the Supreme Court of New South Wales in *Hinton and Anor v Lane & Ors* [2009] NSWSC 37, a case concerning the *Liquor Act 1982*

(f) Plan of the Proposed Premises:

- i. The first page of this Plan depicts the internal layout of the Proposed Premises whilst the second page identifies public areas of the Proposed Premises.

**99.** Mr Hatzis’ submission also refers to a further attached Plan 140476/D. However, this document is not attached to the submission, which instead attaches two copies of Plan 140476/G. However, a document described as Plan 140476/D does appear behind Mr Hatzis’ 15 September 2015 submission.

**100. Email from Mr Tony Hatzis, Hatzis Cusack Lawyers to Mr Charles Rivers, Authority gaming licensing staff dated 7 October 2015 at 1:06pm:** In this email Mr Hatzis states the following

*“In response to your question, I confirm that the applicant only wishes to proceed with the removal application if the gaming applications are also granted. I am instructed that it is not economically feasible to construct, fit-out and operate the proposed new premises without the continued cash flow generated from the 27 gaming machines presently attaching to the licence”.*

**101. Email from Mr Tony Hatzis, Hatzis Cusack Lawyers to Ms Olgica Lenger, Authority Manager Gaming Systems dated 7 October 2015 at 1:14pm:** copying the email of 7 October 2015 at 1:06pm sent from Mr Hatzis to Mr Rivers in which Mr Hatzis advises that the Applicant only wishes to proceed with the Removal Application if the GMT Application is approved.

## The Licence Removal Application

- 102. Submission from NSW Roads and Maritime Services (RMS) addressed to Mr Tony Hatzis, Hatzis Cusack Lawyers during the consultation phase for the CIS dated 6 January 2015:** This letter presents statistics for the Canterbury LGA indicating that during 2013 there were “4 alcohol-related crashes, resulting in 5 casualties”. RMS suggest that during the approval process, measures preventing the “likelihood of alcohol involvement in road crashes in the Leichhardt area should be discussed”. RMS recommend “physical barriers such as pedestrian fencing” and “improved lighting” should be considered and installed.
- 103.** RMS recommend if the Removal Application is approved that the licensee must “maintain awareness” of “specific local alcohol-related issues” and that the Applicant also attend the Liquor Accord in this LGA.
- 104.** RMS further request that if the Removal Application is approved that the licensee implement the following initiatives on the Proposed Premises:
- (a) provide access to local public transport information and taxi services
  - (b) display public education material, focusing on “drink drive and pedestrian-alcohol issues”
  - (c) install an Australian Standards Approved breath testing device, enabling patrons to check their blood alcohol content levels.
- 105. Submission from NSW Family and Community Services (FACS) dated 9 January 2015 addressed to Mr Tony Hatzis, Hatzis Cusack Lawyers in response to the Removal Application during the consultation phase for the CIS:** simply advising that FACS “do not have a response” in relation to the Removal Application and “will not be providing input into the submission”.
- 106. OneGov licence database record of the hotel liquor licence number LIQH400103077:** in respect of the Current Premises for the Vegas Hotel Hurlstone Park as at 14 October 2015.
- 107. Plan of the Proposed Premises:** This one-page plan depicts the internal layout of the Proposed Premises whilst also indicating the proposed licensed area in pink, the proposed area to which the MAA will apply in green and the proposed area to which the ETA will apply in red.
- 108. Removal Application CIS Form filed with the Authority on 23 February 2015:** In this Form the Applicant submits that a letter was received from the Department of Community Services which advised that the Department does “not have a response in relation to the Application”.

- 109.** The Applicant further advises that RMS provided a letter that requested that if approved, the licensee “must maintain awareness of any specific local alcohol-related issues to impact the community by attending the LGA’s Local Accord and that this be manifested in any approval” and that requested that the licensee implement certain initiatives (as specified in the summary of the RMS submission provided above).
- 110.** The Applicant contends in the CIS that the hotel licence at the Current Premises “presently operates as an older-style, late trading, large suburban hotel”. The Applicant contends that the Removal Application “proposes an adaptive re-use of the existing heritage building” by turning it into “a high-class, intimate, modern hotel with sophisticated dining offer, sports bar, boutique short term accommodation and ancillary gaming”.
- 111.** The Applicant contends that the Proposed Premises “is ideally located within the retail and commercial centre of Campsie” and is “serviced by adjacent bus transportation, with services to many Sydney suburbs”. The Applicant contends that the Proposed Premises is also “very near to Campsie railway station”.
- 112.** The Applicant contends that the suburb of Campsie has “undergone significant population growth in recent years, and continues to grow, but no new bar/hotel has been provided in Campsie for several decades”.
- 113.** The Applicant contends that the proposed new hotel business on the Proposed Premises will be “fitted out and furnished as an upmarket hotel facility” and is “not expected to cater for more than 200 patrons at any one time, giving it a more intimate atmosphere than existing large-scale pubs”.
- 114.** The Applicant contends that the proposed hotel will be operated in the manner of a “gastro pub” that offers a “diverse range of cuisines at reasonable prices, to cater for the increasingly sophisticated tastes of local residents, shoppers and business owners”.
- 115.** The Applicant also contends that “children and families will be catered for by way of a comprehensive kids’ menu” and that children accompanied by their parents “will be welcome in most parts of the Hotel”.
- 116.** The Applicant further contends that the proposed business will provide from time to time “lower key entertainment”.
- 117.** The Applicant states that the proposed licensed trading hours for the new hotel are between:

Monday to Saturday	8:00am to 2:00am
Sunday	8:00am to 12:00 midnight



118. The Applicant submits that the Current Premises is licensed to trade from “5.00 am each day until 5.00 am the next day on Friday and Saturday nights and until midnight on other nights of the week”.
119. The Applicant submits that the proposed trading hours at the Proposed Premises would represent a *net reduction* in the “permitted trading hours of this licence”.
120. The Applicant contends that the removal of the licence into the commercial/retail centre of Campsie will be “more convenient to many more members of the public of the City of Canterbury”.
121. The Applicant contends that the proposed new hotel business “will be operated in accordance with a detailed Plan of Management”, that “various practices will be implemented to ensure that liquor is consumed responsibly and to prevent intoxication” and that “all staff involved in the sale and supply of liquor will complete the required Responsible Service of Alcohol training course”.
122. The Applicant describes its intention as to “provide a welcoming place” in a building which “respects local heritage but offers high levels of presentation/amenity” and where the operator “offers quality facilities expected from a modern hospitality venue”.
123. The Applicant submits that “numerous neighbourhood occupiers and other stakeholders were notified” during the consultation period.
124. The Applicant submits that the Authority can be satisfied that “the overall social impact in granting the application will not be detrimental to the well-being of the local community or broader community”.
125. **Applicant legal submission from Hatzis Cusack on overall social impact of granting the Removal Application - section 48(5) of the Liquor Act:** This 9-page document provides the Applicant’s submissions on the overall social impact of granting the Removal Application. It outlines the analysis performed by the Applicant that support the Applicant’s conclusion that the overall social impact in granting the application will not be detrimental to the wellbeing of the local community and broader community and that the Removal Application meets all of the other requirements of the Liquor Act.
126. Without purporting to reproduce this submission the Applicant makes the following contentions about the overall social impact of granting the Removal Application (and associated ETA Application and MAA Application):
- gaming facilities will be ancillary to the other services on offer at the Hotel

- licence density figures “suggest that Campsie is a more favourable location for the hotel licence when compared to the hotel’s current location in Hurlstone Park”
- that after looking at BOCSAR crime data for the year ending September 2014 in respect of NSW and Campsie “there is no evidence to suggest that residents of Campsie have any particular tendency to engage in anti-social behaviour as a result of alcohol consumption”
- “adequate practices will be in place to ensure that liquor is sold, supplied and served responsibly”
- there are “no residential premises located within the immediate vicinity of the proposed licensed premises”;
- granting the Removal Application “will not result in any frequent undue disturbance to the quiet and good order of the neighbourhood” of the Proposed Premises
- no neighbouring occupier or other special interest group has “raised any concern in respect of the proposal or in respect of the trading hours”.

**127.** The Applicant notes that submissions received from the community include:

- a letter from RMS requesting the licensee maintain awareness of local alcohol-related issues by attending the LGA’s Liquor Accord and requesting that the licensee provide access to local public transport information and taxi services, display public education material focused on drink drive and pedestrian-alcohol issues and install an Australian Standards Approved Breath testing device
- a letter from FACS explaining that the Department does not have a response in relation to the Removal Application and will not be providing input
- an email from Police, after a meeting by the proposed operators with Police at Campsie Police Station on 2 February 2015, advising that Police will not be making any submissions against the Removal Application at this time.

**128.** The Applicant states that Pastor Callaghan of the Baptist Church at Campsie telephoned the Applicant’s solicitor enquiring as to why he was sent a second Notice of Intention to Apply for a Liquor Licence during the consultation phase. The Applicant advises that this second notice was addressed to the Church of the 4-Square Gospel.

**129.** The Applicant states that Pastor Callaghan explained to the Applicant’s solicitor during the telephone conversation that this group ceased to worship at the Baptist Church some years previously. The Applicant contends that Pastor Callaghan was invited to address any concerns or feedback by email and that “no further communication” was received from him.

**130.** Applicant legal submission on proposed daily 6-hour closure period for the Proposed Premises under section 11A of the Liquor Act: In this 4-page document

the Applicant proposes that a 6-hour closure period fixed, for the purposes of section 11A of the Act at between 2:00am to 8:00am Monday through Sunday. The Authority notes that the usual closure period is fixed between 4:00 am and 10:00 am but the Authority has a discretion to vary this time.

**131.** The Applicant submits that this alternative closure period is sought to “enable the Hotel to be open for business prior to 10.00 am in order that it can offer a breakfast service”. The Applicant states that “it is not sought to serve alcohol before 10:00am”.

**132.** In this submission the Applicant discusses the following matters:

- (a) the proposed 6-hour closure period
- (b) the proposed mode of operation of the proposed business
- (c) the need to minimise harm associated with misuse and abuse of liquor
- (d) the demonstrated or likely needs of patrons, the interests of the local community towards the proposal
- (e) the need to encourage responsible attitudes and practices towards the promotion, supply, service and consumption of liquor
- (f) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life
- (g) the position of the local Police.

**133.** The Applicant then makes further submissions that:

- the hotel seeks to open early “to enable it to offer a breakfast and brunch services to its patrons”
- adequate practices will be in place to ensure that liquor is consumed responsibly and to prevent intoxication
- that the ability to open from 8.00 am is “required to meet the needs, demands and expectations of patrons” as the residents of Campsie and surrounding suburbs who “expect convenient access” to the “types of facilities and services typically associated with a modern, upmarket hotel licence, including the provision of breakfast and brunch meals”.

**134. Plan of Management dated December 2014 for the proposed use of the Proposed Premises prepared by the Applicant’s consultant Design Collaborative:** This 17-page business planning document states that its purpose is to “establish performance criteria for the various aspects of the operation” of the proposed new hotel.

**135.** The Plan states that “all staff” involved with the sale and supply of liquor or the provision of security “shall be made familiar with this Plan” and that the management team shall meet with the “Licensing unit of the Campsie Local Area Command” to review management procedures and this plan and to “address any on-going matters as they arise”.

**136.** The Plan further details aspects of the proposed operation of the business on the Proposed Premises including:

- the relationship of the business with police and the community
- the hours of trade
- patron capacity
- general amenity issues
- responsible service of alcohol
- conduct of the gaming room
- management of complaints and use of an incident register
- use of signage
- waste management and deliveries
- noise control criteria
- use of security staff
- other security measures
- closed circuit television (CCTV)
- hotel entry procedures
- controlling patron capacity
- notification to police of certain incidents
- observance of NSW Police crime scene preservation guidelines
- management of the use of drugs and drink spiking
- fire safety and essential services and
- further amendment of this Plan.

**137. House Policy for the responsible service of alcohol on the Proposed Premises:**

This one-page internal business document sets out the practices to be adopted at the Proposed Premises to ensure the responsible service of alcohol. The document states that it is the policy of the hotel to:

- (a) prevent underage drinking by requiring that proof of age be provided”
- (b) minimise the likelihood of intoxication by “recognising the signs of intoxication”, “refusing service to patrons who reach this point” and denying entry to “already intoxicated” persons
- (c) ensure no promotions are conducted “which could result in binge drinking or excessive consumption”
- (d) prevent “disruptive and/or anti-social behaviour”
- (e) minimise “the likelihood of drink driving by arranging safe transport options such as contacting taxi companies to collect patrons”
- (f) educate staff in responsible service of alcohol and this Policy.

**138. Submission from Ms J May, local resident of Woodside Avenue, Hurlstone Park dated 20 March 2015 in response to the Removal Application - addressed to Hatzis Cusack Lawyers during the community consultation phase: In this one-**

page submission on an official Authority submission form Ms May contends that on 20 March 2015 there was “no signposting of the intended licence removal” at the Current Premises.

139. Ms May discusses what she describes as the “host of community uses” that the hotel on the Current Premises provides and contends that the CIS “doesn’t illustrate the impact the licence removal would have on the patrons, staff and local residents, as well as the wider Hurlstone Park community”.

140. Ms May contends with regard to the suburb of Hurlstone Park that:

- Hurlstone Park only has one pub, while Campsie has “many other venues”;
- the population figures stated in the CIS are “already out of date”
- removal of this licence is a “blatant attempt to demolish the hotel and build high rise units” and
- the removal is not apparent to the “workers, patrons or local residents” with “no adequate consultation or signposting provided by the current owner” of the Current Premises.

141. Ms May contends that the Iris Group has “started promoting a property development on the site, before a DA has even been” issued by Canterbury Council and submits that the Removal Application “must not be allowed”.

142. **Submission from Mr P Harvey, local resident of Dunstaffenage Street, Hurlstone Park dated 23 March 2015 in response to the Removal Application addressed to Hatzis Cusack Lawyers during the community consultation phase:** In this eight paragraph submission on an official Authority form, Mr Harvey states that his position is to “strongly oppose and object” to the Removal Application.

143. Mr Harvey contends that the hotel on the Current Premises “remains the only pub serving the community and is an essential and intrinsic part of building and maintaining a sense of community and friendship that are characteristics of the neighbourhood”. Mr Harvey contends that it is the only pub serving the “community of Hurlstone Park and adjacent areas of Dulwich Hill”.

144. Mr Harvey states that the hotel on the Current Premises “formed a large part” of the decision to make Hurlstone Park the location of his home. Mr Harvey discusses the growth in residential building near the Current Premises and contends that during this time the “hotel remained a focus for creating a sense of community”.

145. Mr Harvey then discusses the change of ownership of the Current Premises and submits that the impact statements prepared by the Applicant’s representatives “neglect intentionally” to mention that the Removal Application “would deny the residents of Hurlstone Park” the very same benefits that the Applicant proposes the Removal Application will provide to the residents in Campsie.

146. After discussing the other licensed premises in Hurlstone Park, Mr Harvey contends that the Current Premises “is a meeting place” and that “no other facility exists in Hurlstone Park” that offers a “viable alternative to gather in a congenial, intimate and family-friendly atmosphere”.
147. **Submission from Ms K Wratten, local resident of Cobar Street, Dulwich Hill dated 23 March 2015 in response to the Removal Application addressed to Hatzis Cusack Lawyers during the community consultation phase:** In this one page submission attached to an official Authority form Ms Wratten objects to the Removal Application and submits that the Applicant in the CIS does not deal with the impact on the Hurlstone Park community who she contends “will be severely affected should the transfer be granted”.
148. In this submission Ms Wratten discusses the trading hours of the hotel on the Current Premises and the hotel to be conducted on the Proposed Premises, comparing the convenience of the two hotels already existing in Campsie compared to the one hotel located in Hurlstone Park (the Current Premises). Ms Wratten submits that the hotel on the Current Premises has been a “welcoming place” for “over 8 decades” and discusses growth near Hurlstone Park and the proposed facilities. Ms Wratten urges the Authority to “dismiss” the Removal Application.
149. **Submission from Ms A Dalton, local resident of Garnet Street, Hurlstone Park dated 24 March 2015 in response to the Removal Application addressed to the Hatzis Cusack Lawyers during the community consultation phase:** In this one-page submission made on the official Authority form Ms Dalton expresses “support” for the adaptive reuse of the historic site at Campsie but that this should not come “at the expense” of the hotel on the Current Premises.
150. Ms Dalton discusses how local residents use the hotel on the Current Premises and contends that it is “a vital part of our suburb’s social fabric”.
151. Ms Dalton argues that the CIS “fails to represent the impact” that granting the Removal Application will have on “patrons, staff, businesses and the community of Hurlstone Park”.
152. Ms Dalton discusses the comments made by the Applicant in the CIS with regard to licence density and population and discusses the new “high-density residential development on New Canterbury Road”. Ms Dalton contends that as a result of these developments the population figures relied upon by the Applicant will be “inaccurate very soon”.
153. Ms Dalton contends that the hotel on the Current Premises is “not signposted” and contends that during a visit to the Current Premises on 20 March 2015 staff were “unaware of the licence removal – and many patrons are also unaware”.

- 154. Submission to the Authority from Senior Constable Michael Kynezos at Campsie LAC of the NSW Police, dated 25 March 2015:** In a letter attached to an official Authority form Police submit that on 16<sup>th</sup> February 2015 Campsie Licensing Police received the Removal Application and the ETA Application and MAA Application in respect of the Proposed Premises.
- 155.** After noting the proposed licensed trading hours and the CIS statement prepared by the Applicant, Police submit that that located “within the vicinity of the Hotel there is Campsie Railway Station and bus stops which is utilised by school student, during school hours” and that “almost directly behind the premises is Campsie Public School”.
- 156.** Police submit that by reason of the number of “students being in the vicinity of the premises, during school days (Monday to Friday)” Police seek the imposition of the following conditions upon the licence should the Removal Application be granted:
- (a) that during a normal school day opening hours for the venue commence at 10:00am. This is said to deter students from being exposed to persons consuming alcohol at the venue
  - (b) that no person(s) are permitted to take glasses or open containers outside the premises at any time.
- 157.** Police acknowledge the “extensive” Plan of Management provided by the Applicant. With a view to ensuring compliance with that Plan Police seek the imposition of the following additional conditions upon the licence should the Removal Application be granted:
- (a) A copy of the plan of management “must be maintained” at the Proposed Premises and “made available for immediate inspection by members of the NSW Police Force” or inspectors from OLGR [which the Authority notes is now referred to as Liquor and Gaming New South Wales (LGNSW).]
  - (b) The venue is to “operate in accordance with the Plan of Management at all times when selling or supplying liquor.”
- 158.** Police further submit that should the ETA Application be granted for the Proposed Premises a further condition be imposed upon the licence requiring that “no live entertainment to be provided after midnight”.
- 159. Submission from Back Schwartz Vaughan Lawyers, solicitor for two commercial competitors Oasis on Beamish (located 155 metres from the Proposed Premises) and Campsie Hotel (located 366 metres from the Proposed Premises) dated 29 April 2015:** this submissions is made in respect of the Removal Application, an extended trading authorisation (ETA) for the Proposed Premises and

a minors area authorisation (MAA) for the Proposed Premises and is a copy of the Back Schwartz Vaughan submission of 29 April 2015 summarised above in relation to the GMT Application.

- 160. Report to Authority dated 12 May 2015 from a delegate of the (then) Secretary of the Department of Justice via the Compliance Branch of the (then) Office of Liquor Gaming and Racing, now known as NSW Liquor and Gaming (LGNSW) on the Removal Application, sent via email on 19 May 2015:** In this document, LGNSW reports that the Director of Compliance does not object to the Removal Application “based upon the proposed business model and location factors, if the required DA Consent is acquired from Canterbury City Council”.
- 161.** LGNSW observe that “it would appear that the local and broader community strongly oppose this application which may ultimately impact upon the Authority’s final determination”.
- 162.** LGNSW acknowledge the extended licensed trading hours and the minors area authorisation sought for the Proposed Premises. LGNSW submit that “although the proposed location of the hotel has been assessed as of “low risk” there has been “a significant amount of concern and / or objection raised by local residents and stakeholders”. LGNSW submit that the concerns raised “were of a reasonable nature” and it would not be prudent to disregard them.
- 163.** LGNSW note that the primary purpose of the new hotel business subject to the Removal Application is the “sale and supply of liquor for consumption on or away from the licensed premises” and that the hotel will cater for “up to 200 persons”.
- 164.** After noting that 27 gaming machines are planned for the gaming room and that live entertainment will also be provided, LGNSW assess the proposed business model is a “high risk operation”.
- 165.** LGNSW make the following contentions about prevailing licence density and crime rates:
  - (a) the existing radial density of liquor licensed premises in Campsie is “well above the State average”
  - (b) BOCSAR show that the Proposed Premises is “located in a combined low and medium density crime hotspots in relation to alcohol related assaults”
  - (c) BOCSAR crime data shows that from January 2014 to December 2014:
    - i. the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb or town of Campsie was **115** (per 100,000 population) compared to the whole of NSW which had a rate of **311** per 100,000 population



- ii. the rate of alcohol-related disorderly conduct offences in the suburb or town of Campsie for the same period was **8** (per 100,000 population) compared to **100** (per 100,000 population) for the whole of NSW.

**166.** LGNSW submit on the basis of these statistics that “Campsie does not appear to have a significant concentration of alcohol-related anti-social behaviour”.

**167.** LGNSW notes the “extensive” Plan of Management provided with the Removal Application.

**168.** LGNSW note the submission from Senior Constable Michael Kynezos of Campsie Local Area Command (LAC) in which Police have requested the imposition of conditions upon the licence. LGNSW comment that the Police submission “does not indicate if NSW Police support or oppose the granting of the application”

**169.** LGNSW observe that “there did not appear to be a submission on behalf of Canterbury City Council” and for this reason Council’s position “is not known” but note that the Applicant’s advice that evidence of the development consent for the Proposed Premises would be provided when it is issued.

**170.** LGNSW acknowledge the submissions received from concerned residents who state that they oppose the removal of the licence on the basis that Hurlstone Park would be left without a hotel in the local area.

**171.** LGNSW further acknowledge the “extensive” submission prepared by Mr Tony Schwartz c/o Back Schwartz Vaughan Lawyers on behalf of two current trading hotels.

**172.** LGNSW advise that a review of Compliance Branch records did not disclose any adverse information regarding the Applicant or the hotel on the Current Premises.

**173.** **Submission from Mr M Johnson, local resident of Floss Street, Hurlstone Park (date not apparent) in response to the Removal Application addressed Hatzis Cusack Lawyers and apparently sent during the community consultation process:** In this one-page submission on an official Authority form, Mr Johnson writes to “contest” the Removal Application on the grounds that “Hurlstone Park does not have any other similar venues in the vicinity” and removing the hotel “will create an absence to the area”.

**174.** Mr Johnson notes that there are other clubs nearby that require membership to access them and contends that the Current Premises provides “a clean, safe and hospitable venue” during the “six years” that Mr Johnson has been a local resident.

**175.** Mr Johnson submits that “it would be a great shame to see this icon of the area go”.

- 176. Submission from Ms K Guest, local resident of Fairfowl Street, Dulwich Hill (date not apparent) in response to the Removal Application addressed to Hatzis Cusack Lawyers during the community consultation phase:** In this five sentence submission on an official Authority submission form Ms Guest contends that “there are so many reasons to keep the hotel open”, that new units being built nearby “will bring new business in droves” to the Current Premises and that “local patrons are heartbroken”. Ms Guest also questions where the elderly people who live above the Current Premises will go.
- 177. Decision on Development Application (DA) 620/2014 dated 11 June 2015 issued by Canterbury City Council (Council):** recording that development consent is granted with respect to the Proposed Premises for “alterations to commercial premises and change of use to hotel with hotel/motel accommodation”. Consent is granted subject to conditions *inter alia* that:
- (a) the hours of operation shall be confined to between “10.00am and 2.00am the following day, Monday to Friday, between 8.00am Saturday and 2.00am the following day, and between 8.00am and Midnight, Sundays and Public Holidays”
  - (b) opening hours of operation “from 10am Monday to Friday to ensure children/families walking to and from the train station and/or bus stops towards local schools avoid the opening of the Hotel/Pub”
  - (c) a “designated smoking area is to be designed into the plans prior to the issue of a Construction Certificate” in order to “prevent disturbances to residents an/or other people using that area”
  - (d) the “gaming room/area shall be screened in such a way that it cannot be seen outside the premises”
  - (e) “extensive” CCTV coverage “is required”
  - (f) “roaming security staff should be utilised to patrol the external areas of the building during non-standard trading hours”
  - (g) consideration “should be given to the use of plastic glasses for the serving of all drinks after 10pm”
- 178. Email from Mr Tony Hatzis c/o Hatzis Cusack Lawyers to Authority liquor licensing staff Mr Mike Freeman dated 15 September 2015 at 11:08am:** Attached to this email are the Applicant’s response to submissions from LGNSW, NSW Police, local residents and the trade competitors represented by Back Schwartz Vaughan.
- 179.** Mr Hatzis advises in the email that the Applicant “consents to the imposition of the conditions proposed in your email of 10 August 2015, save with respect to CCTV coverage and the proposed “no glass” condition”.
- 180.** Mr Hatzis draws Mr Freeman’s attention to the Plan of Management that “makes detailed provision for CCTV systems to be installed” and argues that “there is no cogent reason why a different condition should be imposed to that which has been

specifically negotiated with local Police and tailored to suit the risk assessment made by local Police”.

181. In response to the proposed “no glass” condition Mr Hatzis submits that “there is no evidence to suggest that such a restriction is warranted” and that there is “no need” to impose the condition on the licence.
182. **Applicant’s response to submissions received from LGNSW, Police, local residents and trade competitors attached to the email from the Applicant’s solicitor Mr Tony Hatzis c/o Hatzis Cusack Lawyers to Authority liquor licensing staff Mr Mike Freeman dated 14 September 2015 sent in an email dated 15 September 2015:** In Part 1 of this document the Applicant discusses such matters as the consultation process on the Removal Application, the proposal for the new hotel, the local and broader community, the facilities to be provided on the Proposed Premises, the conditions consented to should the licence be removed, the positive benefits for the community of granting the Removal Application, the potential negative impacts of granting the Removal Application, the factors identified by the Authority on social impact in Authority Guideline 6, issues regarding removal of the licence from Hurlstone Park, gaming machine considerations, and the social impact of enabling gambling on the Proposed Premises from midnight until 2:00am.
183. In response to the trade competitors submissions that the Proposed Premises is located within the “immediate vicinity” of the Campsie Public School, the Applicant submits that “the case law shows that it is highly material to determine whether a proposed hotel is within sight or hearing of a school”, that the Campsie Public School is “not within sight or hearing” of the Proposed Premises and that the “nearest part of the school grounds is a fenced section which is located approximately 30 metres from the edge of the rear loading dock of the proposed hotel on Beamish Lane”.
184. The Applicant submits that “the fact that there is no line-of-sight or hearing between the hotel and school must be conclusive of the issue” that the Proposed Premises is not in the “immediate vicinity” of the school, applying the relevant case law.
185. The Applicant argues that the trade competitors seek to impermissibly extend the concept of “immediate vicinity” by referring to the prospect of pupils passing by the hotel premises in the course of their travels after school.
186. In response to this the Applicant submits that:
  - (a) the fact pupils or worshippers from churches might pass the Proposed Premises “does not thereby place the relevant school or church” in the immediate vicinity of the Proposed Premises
  - (b) the argument that worshippers or pupils will be adversely affected in passing the Proposed Premises “lacks foundation”
  - (c) “no concerns” have been expressed by the Campsie Public School.

- 187.** In Part 2 of this document, the Applicant responds to submissions from LGNSW and submits that the section of this submission that notes that the local and broader community strongly opposes the Removal Application “requires correction”.
- 188.** The Applicant submits that “apart from two trade competitors, no local community members, stakeholders or special interest groups have objected to the Campsie end of the proposal”.
- 189.** In Part 2 of this document the Applicant responds to the submissions made by Police and the six Hurlstone Park residents.
- 190.** In Part 3 of this document the Applicant responds to the submission from the trade competitors represented by Back Schwartz Vaughan. The Applicant provides submissions addressing the development consent for the Proposed Premises, the definition of local community, the services and facilities to be provided by the new hotel, issues arising from removal of the hotel from Hurlstone Park, the extended trading hours sought, the conduct of gambling activities on the Proposed Premises, recent legislative amendments, the relevance of gaming machine activities to the overall social impact test, the requirements of clause 10A of the Liquor Regulation 2008, the primary purpose of the hotel, the social impact of gambling on the Proposed Premises after midnight, the concept of “immediate vicinity”, the LIA process, the issue of prevailing licensed outlet density, public expectations, needs and aspirations within the meaning of section 3(1)(a) of the Act, the availability of nearby facilities in the community, the use of public transport by school pupils, SEFA data for the communities, the product range and pricing of products on the Proposed Premises, the demographic profile of the communities, claims as to patron migration impacts, harm minimisation measures to be implemented on the Proposed Premise, claims as to impacts on neighbourhood amenity, crime data and research on crime and licensed outlet density.
- 191.** On the issue of what constitutes the “immediate vicinity” of a licensed premises, the Applicant discusses the following case law:
- (a) *Dean v. Lewitz* (1958) WN (NSW) 349
  - (b) *Kelsall v. Brooks* NSWSC Unreported (4 February 1987)
- 192.** The Applicant contends that the Proposed Premises “cannot be seen, nor heard from, any of the schools or places of Worship in Campsie”. The Applicant submits that the fact that children may pass by the school, or catch the bus at the bus stop outside the Proposed Premises “does not” put the Proposed Premises within the “immediate vicinity” of a school.
- 193.** The Applicant submits that the concept of immediate vicinity “connotes a relationship of physical proximity between two places” where it is such that “students or

worshippers in the course of their study and/or worship would be affected by the operation of the hotel” and that “such physical proximity does not become closer merely because some students or worshippers may pass by the hotel on the way to or from their school or place of worship”.

194. In response to the concerns raised by St Mel’s Catholic School, the Applicant contends that school is not a “neighbouring occupier” within the meaning of clause 11(3) of the Liquor Regulation and for that reason no separate notification was given to that school.
195. The Applicant contends that some pupils from Campsie Public School and St Mel’s Catholic School “presently walk past the Oasis Hotel and Campsie Hotel”. The Applicant submits that there is “no evidence that this causes any difficulties for those pupils or exposes them to anti-social conduct” and that it is “commonplace for hotels to be located on the high streets of the suburbs of Sydney and country town throughout New South Wales”.
196. **Petition and further submissions in support of the Removal Application provided by the Applicant:** This document includes a petition signed by 46 people and the 39 letters of support.
197. **Google map:** depicting the location of the Proposed Premises and the surrounding area.
198. **BOCSAR Crime Maps based upon data from July 2014 to June 2015 detailing hotspots for offences in relation to the location of the Proposed Premises:** This data obtained by Authority staff from published BOCSAR sources shows the immediate location surrounding the Proposed Premises at 203 Beamish Street, Campsie, is:
  - (a) within a high density hotspot for incidents of *domestic assault*;
  - (b) within a high density hotspot for incidents of *non-domestic assault*;
  - (c) within a high density hotspot for incidents of *malicious damage to property*;
  - and
  - (d) on the boarder of a medium and high density hotspot for incidents of *alcohol related assault*.
199. **Authority licensing records:** recording the addresses of other liquor licenced premises within the suburbs of Campsie, Belmore and Canterbury.
200. Licencing records indicate that within the State suburb or town of Campsie there are:
  - (a) 1 club licence
  - (b) 2 full hotel licences
  - (c) 26 on premises licences

- (d) **2** packaged liquor licences
- (e) **2** producer wholesaler licences

**201. Authority liquor licensing density data:** This data, obtained by Authority staff from licensing records indicates that the Canterbury LGA as a whole records:

- (a) a rate of **7.28** *full hotel licences* per 100,000 persons, which is below the NSW state wide rate of **30.36**.
- (b) a rate of **3.64** *club licences* per 100,000 persons, which is below the NSW state wide rate of **20.48**.
- (c) a rate of **5.82** *limited licences* per 100,000 persons, which is below the NSW state wide rate of **21.30**.
- (d) a rate of **8.01** *on-premises licences* per 100,000 persons, significantly less than the NSW state wide rate of **121.31**.
- (e) a rate of **9.46** *packaged liquor licences* per 100,000 persons which is below the NSW state wide rate of **32.85**.
- (f) a rate of **14.56** *producer wholesaler licences* per 100,000 persons, which is below the NSW state wide rate of **28.76**.

**202.** This data, obtained by Authority staff from licensing records indicates that the postcode 2194, which only covers the state suburb of Campsie, as a whole records:

- (a) a rate of **37.67** *full hotel licences* per 100,000 persons, which is above the NSW state wide rate of **30.36**.
- (b) a rate of **14.12** *club licences* per 100,000 persons, which is below the NSW state wide rate of **20.48**.
- (c) a rate of **0.00** *limited licences* per 100,000 persons, which is below the NSW state wide rate of **21.30**.
- (d) a rate of **122.42** *on-premises licences* per 100,000 persons, which is slightly above the NSW state wide rate of **121.31**.
- (e) a rate of **18.83** *packaged liquor licences* per 100,000 persons which is below the NSW state wide rate of **32.85**.
- (f) a rate of **18.83** *producer wholesaler licences* per 100,000 persons, which is below the NSW state wide rate of **28.76**.

**203. Data on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:**

- the rate of *domestic violence related assault* incidents that were also recorded by reporting Police as *alcohol related* and occurring across the Canterbury LGA, was **65** per 100,000 persons, below the New South Wales rate of **145** per 100,000 persons.
- the rate of *non-domestic violence related assault* incidents flagged by reporting Police, as *alcohol related* in the Canterbury LGA for 2013 was **53**, well below the State wide rate of **191**.
- the rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across this LGA only **3** per 100,000 persons, well below the State wide rate of **83**.
- the rate of *assault police* incidents flagged by reporting Police as alcohol related across the Canterbury LGA was **4**, below the **24** per 100,000 persons rate for New South Wales as a whole.
- the rate of alcohol related *malicious damage to property* across the Canterbury LGA is **28**, below the State wide rate of **122**.

**204. Socio Economic Index for Areas (SEIFA) data published by the Australian Bureau of Statistics (ABS):** ABS data, prepared on the basis of the 2011 census, indicates that Canterbury LGA ranked in the 4<sup>th</sup> decile, while the suburb of Campsie ranked in the 2<sup>nd</sup> decile across the State of NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).

**205.** This data also indicates that postcode 2194 (which includes the suburb of Campsie only) ranked in the 2<sup>nd</sup> decile across the State of NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.

## **LEGISLATION**

### Gaming Machines Legislation

**206.** An application seeking to increase the gaming machine threshold as a result of a removal of licence within a LGA is made under section 34(4) of the *Gaming Machines Act 2001*.

**207.** Section 34 of the *Gaming Machines Act 2001* states:

#### **34 Application to increase gaming machine threshold**

- (1) *A hotelier or club may apply to the Authority to increase the gaming machine threshold for the hotel or the premises of the club (a threshold increase application).*
- (2) *The hotel or club premises to which a threshold increase application relates is referred to in this Division as the relevant venue.*
- (3) *A threshold increase application must comply with the requirements of this Division and the regulations.*
- (4) *The Authority may approve a threshold increase application only if the Authority is satisfied that the requirements of this Division and the regulations have been complied with in relation to the application.*
- (5) *If the application is approved, the Authority may increase the gaming machine threshold for the relevant venue in accordance with the Authority's approval.*
- (6) *Nothing in this Division requires the Authority, if it approves a threshold increase application, to increase the relevant venue's gaming machine threshold by the number to which the application relates.*
- (7) *Without limiting subsection (1), a threshold increase application may be made by a person in relation to premises that are the subject of an application for a licence under the Liquor Act 2007 that has not yet been granted.*

**208.** Section 35 of the *Gaming Machines Act 2001* sets out specific requirements relating to an application to increase the threshold and states:

**35 Requirements relating to threshold increase applications**

- (1) *Except as provided by this section, a threshold increase application must be accompanied by a local impact assessment (LIA). A LIA, if required, is to be a class 1 LIA or a class 2 LIA as determined by this section.*
- (2) *When LIA is not required*  
*A threshold increase application is not required to be accompanied by a LIA if the application is made together with a transfer application and either or both of the following apply:*
  - (a) *the relevant venue is situated in a Band 1 LGA and the threshold increase application, if approved, would not result in the gaming machine threshold for the venue being increased, over any period of 12 months, by a number that is more than the number corresponding to a low-range increase for the venue,*
  - (b) *the relevant venue and the hotel or the club premises from which the gaming machine entitlements or permits are proposed to be transferred by the transfer application are situated in the same local government area.*
- (2A) *For the purposes of subsection (2), a transfer application means either or both of the following:*
  - (a) *an application under section 19 for the Authority's approval of the transfer of gaming machine entitlements to the relevant venue,*
  - (b) *an application under and in accordance with the arrangements referred to in section 26 for the acquisition by the relevant venue of permits.*
- (3) *When class 1 LIA is required*  
*A threshold increase application must, unless subsection (2) applies in relation to the application, be accompanied by a class 1 LIA if the relevant venue:*
  - (a) *is situated in a Band 1 LGA and the application is for a mid-range increase in the gaming machine threshold for the venue, or*
  - (b) *is situated in a Band 2 LGA and the application is for a low-range increase in the gaming machine threshold for the venue.*
- (4) *When class 2 LIA is required*  
*A threshold increase application must, unless subsection (2) applies in relation to the application, be accompanied by a class 2 LIA if the relevant venue:*



- (a) *is situated in a Band 1 LGA and the application is for a high-range increase in the gaming machine threshold for the venue, or*
- (b) *is situated in a Band 2 LGA and the application is for a mid-range or high-range increase in the gaming machine threshold for the venue, or*
- (c) *is situated in a Band 3 LGA.*
- (5) *For the purposes of this section, a low-range increase, a mid-range increase or a high-range increase in a gaming machine threshold for a venue is to be determined in accordance with the regulations.*
- (6) *The regulations may make provision for or with respect to the following:*
  - (a) *the information to be provided by a LIA,*
  - (b) *the requirements that must be complied with in relation to a LIA,*
  - (c) *the matters to be assessed or addressed by a LIA,*
  - (d) *the advertising of LIAs,*
  - (e) *the making of submissions in relation to LIAs.*
- (7) *The regulations may also create exceptions to this section and provide for the conditions to which any such exception is subject.*
- (8) *Except to the extent to which the regulations make provision, a LIA is to be provided in the form and manner approved by the Authority.*

**209.** Section 36 of the *Gaming Machines Act 2001* states:

**36 Approval of LIA by Authority**

- (1) *If a LIA is required to be provided with a threshold increase application, the application cannot be approved unless the Authority approves the LIA.*
- (2) *The applicant is liable to meet any costs incurred by the Authority in connection with its determination of the LIA. The Authority may refuse to determine the LIA until any such costs are paid or provision, satisfactory to the Authority, has been made for their payment.*
- (3) *The Authority may approve a LIA only if it is satisfied that:*
  - (a) *the LIA complies with the requirements of this Division and the regulations in relation to the LIA, and*
  - (b) *the LIA has demonstrated that gambling activities in the relevant venue will be conducted in a responsible manner, and*
  - (c) *in the case of a class 1 LIA:*
    - (i) *the proposed increase in the gaming machine threshold for the relevant venue will provide a positive contribution towards the local community where the venue is situated, and*
    - (ii) *the relevant venue is not, if the venue is a new hotel or comprises new club premises, situated in the immediate vicinity of a school, hospital or place of public worship, and*
    - (iii) *the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations, and*
  - (d) *in the case of a class 2 LIA:*
    - (i) *the proposed increase in the gaming machine threshold for the relevant venue will have an overall positive impact on the local community where the venue is situated, and*
    - (ii) *the relevant venue is not, if the venue is a new hotel or comprises new club premises, situated in the immediate vicinity of a school, hospital or place of public worship, and*
    - (iii) *the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations.*

- (4) *The regulations may specify other grounds on which the Authority may refuse to approve a LIA.*
- (5) *If any submissions are made in relation to a LIA in accordance with the regulations, the Authority must take those submissions into consideration in deciding whether to approve the LIA.*
- (6) *The Authority may, in any case it considers appropriate, partly approve a LIA, in which case the Authority may increase the relevant venue's gaming machine threshold by a number that is less than the number to which the threshold increase application relates.*
- (7) *Without limiting any other provision of this Division, the approval of a LIA is subject to such conditions as may be specified by the Authority. The LIA has no effect if any such conditions are not complied with.*

**210.** Clause 36 of the *Gaming Machines regulation 2010* sets out the following general requirements:

**36 Threshold increase applications – general requirements**

- (1) *A threshold increase application must:*
  - (a) *specify the internal floor space (in square metres) of the venue, and*
  - (b) *in the case of an application made by or in relation to a new hotel or new club— provide a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue.*
- (2) *The gaming machine threshold for a new hotel or the premises of a new club cannot be increased if the hotel or club premises are situated in the immediate vicinity of a school, place of public worship or hospital.*
- (3) *In the case of a threshold increase application by a registered club, the application must, if the club is proposing to increase the gaming machine threshold for the venue to a number above 450 and the application is not required to be accompanied by a local impact assessment because of section 35 (2) of the Act, demonstrate the following to the satisfaction of the Authority:*
  - (a) *that consideration has been given to assessing the impact of the additional gaming machines on the amenity of the local area and the action that will be taken to manage any negative impact,*
  - (b) *that appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) are in place at the venue,*
  - (c) *that the proposed increase will result in additional benefits to club members or the community.*

**211.** In determining the GMT Application, the Authority has also consider relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

**3 Objects of Act**

- (1) *The objects of this Act are as follows:*
  - (a) *to minimise harm associated with the misuse and abuse of gambling activities,*
  - (b) *to foster responsible conduct in relation to gambling,*
  - (c) *to facilitate the balanced development, in the public interest, of the gaming industry,*
  - (d) *to ensure the integrity of the gaming industry,*
  - (e) *to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable gaming machine entitlement scheme.*

- (2) *The Authority, the Minister, the Director-General, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for gambling harm minimisation and the fostering of responsible conduct in relation to gambling when exercising functions under this Act.*
- (3) *In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.*

## Liquor Legislation

212. An application for the removal of an existing hotel licence from its current location to another location is made under section 59 of the Act.
213. Pursuant to section 59(3) of the Act, an application for approval to remove a licence to another premises, is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises.
214. Accordingly, the provisions of Division 1 of the Act, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence. Section 59 of the Act states:

### **59 Removal of licence to other premises**

- (1) *A licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.*
- (2) *An application for approval to remove a licence to other premises must:*
  - (a) *be in the form and manner approved by the Authority, and*
  - (b) *be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and*
  - (c) *be advertised in accordance with the regulations, and*
  - (d) *comply with such other requirements as may be approved by the Authority or prescribed by the regulations.*
- (3) *An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.*
- (4) *The Authority may refuse an application for approval to remove a hotel licence if the Authority is satisfied that the removal of the licence would adversely affect the interest of the owner or a lessee or mortgagee of the premises from which it is proposed to remove the hotel licence, or a sublessee from a lessee or sublessee of those premises.*
- (5) *The Authority must refuse an application for approval to remove a licence unless the Authority is satisfied that:*
  - (a) *practices will, as soon as the removal of the licence takes effect, be in place at the premises to which the licence is proposed to be removed that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on those premises and that all reasonable steps are taken to prevent intoxication on those premises, and*
  - (b) *those practices will remain in place.*
- (6) *The regulations may provide additional mandatory or discretionary grounds for refusing to approve the removal of a licence.*
- (7) *The approval to remove a licence to other premises takes effect:*

- (a) on payment to the Authority of the fee prescribed by the regulations, and
- (b) when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.

**215.** By the operation of section 59(3), the removal of a hotel licence is to be treated in the same manner as an application to grant a new hotel licence. The power to grant a new liquor licence is provided by section 45 of the Act, which states, relevantly:

**45 Decision of Authority in relation to licence applications**

- (1) *The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.*
- (2) ...
- (3) *The Authority must not grant a licence unless the Authority is satisfied that:*
  - (d) *the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and*
  - (e) *practices will be in place at the licensed premises as soon as the licence is granted 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 that those practices will remain in place, and*
  - (f) *if development consent is required under the Environmental Planning and Assessment Act 1979 (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.*
- (4) ...
- (5) ...
- (5A) *Without limiting subsection (3)(a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:*
  - (a) *is of good repute, having regard to character, honesty and integrity, and*
  - (b) *is competent to carry on that business or activity.*

**216.** Under section 48(5) of the Act, the Authority *must not* grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regard to the CIS and any other matter the Authority is made aware of during the Application process, that the overall social impact of the licence, authorisation or approval in question being granted *will not be detrimental* to the local or broader community.

**217.** Section 48(5) of the Act states:

**48 Community impact**

- (5) *The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:*

- (a) *the community impact statement provided with the application, and*
- (b) *any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),*

*that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.*

**218.** An application for the removal of a hotel licence is a type of licence prescribed by section 48(2)(b).

**219.** In determining the Removal Application, the Authority has also considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which states:

### **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**

### **The GMT Application – Immediate Vicinity Test**

**220.** The Authority convened to consider the GMT Application and the Removal Application at its ordinary monthly meeting of 16 December 2015.

**221.** The Authority has determined that the Proposed Premises located at 203 Beamish St Campsie are situated within the “immediate vicinity” of the Campsie Public School within the meaning of clause 36(2) of the GM Regulation.

**222.** Accordingly, pursuant to section 34 of the GM Act, the Authority has refused the Application for gaming machine threshold increase in respect of the Proposed Premises.

- 223.** This conclusion has been reached primarily on the basis of the close physical proximity of the Proposed Premises to the Campsie Public School. This is evident from the Google Map of the site and the submission provided by the consultant, RM Planning indicating that the Proposed Premises is located less than 50 metres away from the playground of the Campsie Public School. The Authority also gives weight to the local knowledge of Police who have advised that “almost directly behind the [Proposed Premises] is Campsie Public School”.
- 224.** While there is no binding superior court authority on the interpretation of section 36(2) of the GM Regulation, there have been a number of past cases that have considered the words “immediate vicinity” arising under other licensing legislation in New South Wales and other jurisdictions.
- 225.** In *Hinton v Lane* [2009] NSWSC 37, a case arising from a decision of the former Liquor Administration Board arising from a similarly worded provision in the *Liquor Act 1982*, Hoeben J held at [33] that:

“What is within the immediate vicinity will vary according to the context. What might be regarded by the [Liquor Administration] Board as the “immediate vicinity” in a sparsely populated country town will be different when considering a densely populated area of the CBD dominated by tall buildings. The Board as a specialist tribunal must take into account the neighbourhood as a whole. In this case a matter which the Board may have taken into account was the fact that the plaintiff’s competing licensed premises physically adjoined the church in question”.

- 226.** In *Dean v Lewitz* (1958) 76 WN (NSW) 349, a case involving the *NSW Liquor Act 1912*, Ferguson J held at [350] that the decision as to whether a licensed premises is in the immediate vicinity of another relevant premises is a question of fact for the primary decision maker:

“...there is no dispute that the question is one of fact for the determination of the Licensing Court. That Court held as a matter of fact that the proposed hotel would not be in the immediate vicinity of the Methodist Church. It seems to me that that finding can be upset only if on the established facts it must necessarily be held as a matter of law that the hotel when built will be in the immediate vicinity of the Church, or if the Court, in determining that it would not be, applied some wrong principle.”

- 227.** Similar observations were made in *Ex parte Godkin; Re Fitzmaurice* (1969) 90 WN (NSW) 159 another case arising under the *Liquor Act 1912* Walsh JA held at [163-164] that:

“Having thus decided on the facts what was the place of public worship, the next step was to decide whether or not this was in ‘the immediate vicinity’ of the proposed licensed area. This was a question of fact. It cannot be laid down as a matter of law that some particular distance may be specified as that which is described by the expression ‘the immediate vicinity’. No error of law was involved in declining to treat the fact that the respective properties – that is, the blocks of land – adjoin at one point as decisive of the question.”

**228.** In another case arising under the *Liquor Act 1912 Ex parte Paton* (1929) 30 SR (NSW) 67 at 70, Ferguson ACJ observed at [1922] and [1923]:

“As to the second of these grounds [that the premises were in the immediate vicinity of a place of public worship], the matter is clearly one for determination by the [Metropolitan Licensing] Court below. It appears that the premises are about eighty yards from St Stephen’s Church on the other side of the road. I think it is impossible to say as a matter of law that a place at that distance must be held to be in the immediate vicinity of the church. I can conceive of cases where any other finding would be obviously unreasonable; I can conceive of other cases where I think it would be equally unreasonable to hold that it was in the immediate vicinity. A place eighty yards from a church, in another street for example, might be practically so far removed that no single worshipper would ever be aware of its existence. The question is one of fact which the Licensing Court must have jurisdiction to decide.” –

**229.** In *Mullens v Norton* [1938] VLR 292 at 295 Lowe J of the Supreme Court of Victoria has made the following observations on the plain English meaning of “immediate vicinity” for the purposes of the former *Licensing Act 1928 (Vic)*:

“An examination of the [Licensing] Act [1928 (Vic)] fails to reveal any clear indication of the purpose sought to be achieved by these words [‘immediate vicinity’] and we are, therefore, thrown back upon their meaning simply as English words in the context used. Etymologically ‘immediate’ means ‘not mediate’ and indicates that there is nothing ‘intermediate’ between the objects to which the adjective relates. But the notion of several vicinities one of which is immediate to an object and the other or others not immediate, *i.e.*, severed from the object by one or more intermediate vicinities, much in the way that the various rings surround the centre of a target, is a highly artificial one, and one which it is difficult to attribute to the Legislature. There is, on the other hand, a perfectly well-known use of the word ‘immediate’, in relation to place, to indicate ‘something of little importance’. The Oxford English Dictionary gives ‘Immediate... 3... In reference to place often used loosely of a distance which is treated as of no account’. In my judgment that is the meaning to be attached to the word in sec. 98 of the Licensing Act. ‘In the immediate vicinity’ therefore simply means ‘very near’. The determination of the question is consequently one of fact in every case. If there is evidence upon which reasonable men might come to the conclusion challenged and the [Licensing] Court has not misdirected itself that conclusion will not be disturbed by this Court.”

**230.** In a matter arising under New Zealand licensing law, the Supreme Court of New Zealand held in *MacPherson v Invercargill Licensing Trust* [1944] NZLR 692 at 694 per Kennedy J that:

“The proposed site is not within 300 yards of the nearest point of the grounds of the Southland Girls’ High School. It is not in the immediate vicinity of a school.

A large number of persons expressed the opinion that it was undesirable for the pupils of the Intermediate School and later of the Southland Girls’ High School to pass, as they would, the Rugby Park site. This objection is not one which can be considered as a distinct objection as it is not within the terms of the statute. The relevant objections are that the proposed site is in the immediate vicinity of a school, and that the proposed

hotel will disturb the quiet of the neighbourhood and that it is not there required, and this particular objection must be considered only in so far as it throws light upon the statutory grounds of objection.” -

**231.** Finally, in *R v Minister for Health; Ex parte Tillys Pty Ltd* [1967] WAR 60 at [63] Neville J made the following observations on the concept and the role of the primary decision maker:

“[T]he question whether one place is in the immediate vicinity of another is a matter of fact in all the circumstances in which the question arises and a matter of opinion on which in many circumstances different minds may reasonably reach different conclusions. It is at the most a question of mixed fact and law, and a matter on which no court should interfere with the decision of the authority in which is vested the duty of first determining the matter if the authority acted in good faith and the decision was one which could reasonably have followed from the proved or admitted facts.” –

**232.** In conclusion, while the above cases all involved different factual circumstances, the following principles may be distilled from them, as applicable to the *Gaming Machines Act 2001*:

**233.** First, the meaning of “immediate vicinity” is a question of fact for the Authority to determine in all the circumstances of the individual case.

**234.** Second, the words should be interpreted having regard to their ordinary English meaning and in the context in which they appear.

**235.** Third, the decision is a matter for the Authority to reasonably determine, on the evidence or material before it. There is no fixed maximum distance.

**236.** The Authority notes that the GM Act and GM Regulation do not include any particular requirement as to the visibility or otherwise of gaming machines with respect to any school, place of worship or hospital when assessing whether or not a licensed premises is in the immediate vicinity of such facilities.

**237.** Some of the liquor licensing cases noted above indicate that primary decision makers may have regard to such factors as the visibility of the premises, or whether students or worshippers must walk past the relevant venue in reaching a conclusion on immediate vicinity in a particular factual context.

**238.** For example, the Court in *Ex parte Paton* considered that the awareness of worshippers as to the existence of the licensed venue was a matter that could be taken into account by the decision maker.

**239.** In *Dean v Lewitz*, the New South Wales Licensing Court did not err when considering whether the licensed premises could be seen from a church, and whether the church’s activities could be interfered with by noise or nuisance.



**240.** Similarly, the precise distance between licensed premises and a school, place of worship or hospital will not in itself be determinative. For example, in *Godkin*, the mere fact that the licensed premises and the place of worship adjoined one another at one point was held *not* to preclude the decision maker from determining that the two premises were *not* in the immediate vicinity of one another.

**241.** The Applicant has emphasised in submissions that the hotel on the Proposed Premises will not be visible from within the Campsie School and that the gaming machine operations will not be visible or audible from the Campsie School.

**242.** In this regard, the Authority accepts on the basis of Report of Mr G W Smith of Design Collaborative Pty Limited (a consultant engaged by the Applicant whose report accompanied the Applicant's submission) that the hotel's gaming machine operations will not be visible or audible to pupils in the school.

**243.** The Authority has also had regard to the condition of the DA requiring that the gaming area of the hotel be screened so as to be not visible from the street. The Authority accepts that this will be the case and this requirement is, in any event, similar to the requirement in clause 8(e) of the GM Regulation.

**244.** However, the Authority notes that the GM Act and the GM Regulation approach gaming machine operations of any licensed hotel or club on the basis that they are highly unlikely to be visible from outside, by reason of other restrictions in the gaming machines legislation (such as sections 43, 44, 44A and 68 of the GM Act, and clause 8 of the GM Regulation, subject to exceptions such as clause 46 of the GM Regulation).

**245.** That being the case, the visibility of a licensed venue from a school, place or worship or hospital is less likely to be decisive in the interpretation of "immediate vicinity" in the context of the GM Act and GM Regulation than it is in the context of interpreting liquor licensing legislation more broadly.

**246.** The Applicant has argued that it is not open to the objectors to refer to school children having to walk past the Proposed Premises or when frequenting a bus stop located across the road from the Proposed Premises when assessing immediate vicinity.

**247.** However, the case law referred to above indicates that on occasion primary decision makers *have* permissibly had regard to considerations such as the fact that students or worshippers must walk past the licensed venue in reaching a conclusion on "immediate vicinity".

**248.** The Authority accepts the assessment made by RM Planning that "approximately 350 children walk directly past the New Hotel both in the morning and again in the afternoon on their way to and from school "and that the "busy major bus stop"

directly outside the Proposed Premises “means that persons including children would sit for a period of time waiting for a bus, which is more than just the momentary exercise of walking past the New Hotel”.

**249.** Those observations may include reference to children from the Campsie Public and St Mel’s Catholic school, but these credible expert observations reinforce, in a practical sense, the close proximity of the Proposed Premises to the Campsie Public School which, as observed by Police, is located at the back of the hotel.

**250.** The Authority has considered an assessment prepared by Design Collaborative, a planning consultant engaged by the Applicant dated September 2015 which states that the “nearest doorway” of the “public areas” of the Proposed Premises on the South Terrace to the “closest corner” of the Campsie Public School’s grounds “would be over 70 metres” and that there is “no line of sight between that doorway” or any part of the public areas of the Proposed Premises and the School.

**251.** While the Authority also accepts this assessment as a credible, expert assessment, that analysis seems somewhat artificial when the fact is that the school yard, a part of the Campsie Public School that is likely to be routinely occupied, is only 50 metres away, behind the hotel.

**252.** In the context of this suburban setting, which is neither a high density inner city location nor a country town, the Authority is satisfied that a distance of between 50 and 70 metres between the two premises is, on the evidence and material before the Authority, sufficiently close to find that the Proposed Premises is within the “immediate vicinity” of the Campsie Public School, particularly when considered in the context of the foot traffic referred to above.

## **Removal Application**

**253.** The Authority notes that section 59(3) of the Liquor Act states:

### **59 Removal of licence to other premises**

*(3) An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.*

**254.** In light of the Applicant’s request to the Authority in an email from the Applicant’s solicitor dated 7 October 2015 that it does not wish to proceed with the Removal Application if the GMT Application is not granted, the Authority has deemed the Removal Application to be withdrawn pursuant to section 45(2) of the Liquor Act.

**255.** By reason of this decision, the Authority has not proceeded to assess the overall social impact of granting the Removal Application for the purposes of section 48(5) of the Liquor Act.



Micheil Brodie  
**Chief Executive**  
**On Behalf of the Independent Liquor and Gaming Authority**

**DATED** 10 March 2016.