



Mr Brandon Lynch
C/o Koutzoumis Lawyers
518 King Georges Road
Beverly Hills NSW 2209

By email:

gary@koutzoumislawyers.com.au
joy@koutzoumislawyers.com.au
tschwartz@bsv.com.au

12 October 2016

1-3746229621

Dear Mr Kinsey

APPLICATION NO: 1-3746229621

APPLICATION FOR: Removal of Full Hotel Licence

APPLICANT: Mr Brandon Bernard Lynch

LICENSED PREMISES NAME: Town & Country Hotel

CURRENT PREMISES LOCATION: 2 Unwins Bridge Road
St Peters NSW 2044 (Premises)

PROPOSED PREMISES LOCATION: 220 Marrickville Road
Marrickville NSW 2204 (Proposed Premises)

ISSUE: Whether to grant or refuse an application to
remove the licence for the Premises.

LEGISLATION: Sections 3, 15, 40, 45, 59, 60, 61 *Liquor Act
2007*.

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION –
APPLICATION FOR REMOVAL OF LICENCE TO OTHER PREMISES –
TOWN & COUNTRY HOTEL, ST PETERS**

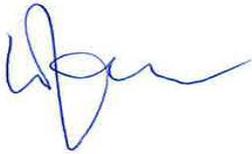
On 16 November 2015 the Applicant lodged an application (Application) with the Independent Liquor and Gaming Authority (Authority) to remove the existing full hotel licence number LIQH400106076 currently attaching to the Premises at 2 Unwins Bridge Road, St Peters to the Proposed Premises at 220 Marrickville Road, Marrickville.

The Authority considered the Application at its board meeting on 17 August 2016 and decided to **refuse** the Application pursuant to section 59 of the Act.

While informal advice on the outcome of the Application was provided by licensing staff on 7 September 2016, this letter provides a formal record of the decision and encloses a statement of reasons.

If you have any enquiries about this letter please contact the case manager, Mr Mike Freeman, via email to Mike.Freeman@ilga.nsw.gov.au.

Yours faithfully

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

Philip Crawford

Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**

STATEMENT OF REASONS

Introduction

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the application made by Mr Brandon Lynch to the Authority on 16 November 2015 (Application) seeking removal of a hotel licence from premises at 2 Unwins Bridge Road, St Peters (Premises) to new premises located at 220 Marrickville Road, Marrickville (Proposed Premises) and all submissions received in relation to the Application.
3. As foreshadowed in Authority *Guideline 6*, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-demographic data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and in some cases briefly summarised in the Schedule.
4. The Authority notes, by way of background, that the Applicant sold the freehold to hotel land and building on the Premises to the Two Unwins Pty Ltd (Two Unwins) the current owner of the Premises (Premises Owner) on 3 July 2015. Following that sale the Applicant occupied the Premises and operated the hotel business pursuant to a commercial lease granted to him by the Premises Owner dated 18 June 2015. The lease was for a term of six months, running on a month to month basis thereafter.
5. The Application was filed on 16 November 2015. The Premises Owner filed an objection to the Application on 30 November 2015, submitting that the Applicant has no grounds to apply for removal of the hotel licence and the Premises Owner does not consent to the removal.
6. On 26 February 2016 the Premises Owner issued the Applicant with a Notice to Vacate dated 26 February 2016, giving the Applicant until 31 March 2016 to leave the Premises. The Applicant duly vacated the Premises. The hotel ceased to operate shortly thereafter and was not operating time of this determination.
7. On 7 April 2016 a separate application was filed with the Authority by the Premises Owner, seeking transfer of the licence to Two Unwins Pty Ltd as an owner in possession (Transfer Application).
8. The Authority is yet to determine the Transfer Application and at the time of this letter is restrained from taking further action in relation to that matter pursuant to urgent interim orders issued by the Supreme Court in *Brandon Bernard Lynch v Independent Liquor & Gaming Authority and Anor*, proceedings that were commenced by the Applicant on 27 September 2016.

Summary of Further Submissions

9. Submission in response to a development application in respect of the Proposed Premises to Marrickville Council (Council) from Constable Alyssa Heath, Crime Prevention Officer at Marrickville Police Station dated 29 October 2015. In this brief 2-page submission, Constable Heath advises that Police have no objection to the use of the Proposed Premises as a “pub” with dining and live entertainment. However, in order to reduce the

risk of violence, alcohol-related crime and anti-social behaviour, Police recommend that the hotel comply with a number of additional conditions should development consent be granted. These include, *inter alia*, a requirement to implement a 1:00am lockout to combat loitering and anti-social behaviour; additional measures to manage crowd control, patron management and noise emissions; requirements to assist patrons suffering from any mental health, alcohol and gambling addictions; and the implementation and maintenance of an adequate CCTV system.

10. Submission from Mr Benjamin Harkham, the company director of the Premises Owner dated 30 November 2015. In this brief submission to the Authority, Mr Harkham states that he is the director and authorised person of Two Unwins Pty Ltd, the registered proprietor of the land and hotel operating on the Premises.
11. Mr Harkham submits that as owner of the land and the hotel, Two Unwins has “ownership” of the hotel licence attaching to the hotel. Two Unwins has not given permission to the Applicant to remove the hotel licence to the Proposed Premises.
12. Mr Harkham submits that the Applicant is a former tenant of the Premises Owner and not the owner of the Premises nor the licence attaching to the Premises. He submits that the Applicant “has no interest in the land, except as a tenant whose lease expires in December 2015”.
13. Mr Harkham further submits that the liquor licence “remains with the physical real property” and that it “does not go to the vacating tenant”. Mr Harkham contends that the Premises Owner will “suffer great losses” if the licence is removed from the Premises, which has been trading as a licensed hotel for over 59 years.
14. Submission from Sergeant Carol Ray, Licensing Supervisor of Marrickville Local Area Command of NSW Police (Police) dated 25 January 2016. In this 9-page submission, Police contend that the Applicant does not acknowledge, in the CIS document, that within a 1-kilometre radius of the Proposed Premises is the Marrickville Health Centre, which is known for providing a needle and syringe exchange, drug and alcohol referrals, and support for homeless and mental health patients. Police further contend that within this 1-kilometre radius are three local pharmacists who participate in a Methadone Treatment Program. Police also express concern that the Applicant did not notify three other nearby hotel licensed premises of this Application.
15. Police note that during the development application process, they raised a number of concerns regarding the Application (noted above). Police are concerned that the Applicant has not supplied a *Plan of Management* indicating how these concerns will be addressed should the Application be granted.
16. Police contend that the Applicant has received a number of submissions from nearby residents expressing concerns including potential patron noise, disturbance to the neighbourhood, smoke pollution and parking congestion. Police note that while the Applicant states in Part 5.1 of the CIS that “many” stakeholders were consulted yielding “positive results”, those stakeholders are not specified within the CIS.
17. Police note that the Applicant, Mr Lynch has been the licensee of the Town & Country Hotel since 17 May 2005. During this time, the Applicant was the subject of regulatory action in the form of one Penalty Notice, one Compliance Notice and two verbal warnings in respect of four separate licensing offences detected by Police.
18. Police contend, on the basis of an extract of Computerised Operational Policing System (COPS) Report number E58710704, provided with this submission, that the Applicant permitted a group of approximately 40 to 50 members of the *Bandidos* outlaw motorcycle

gang (OMCG), wearing gang colours, to attend the Premises at about 2:00pm on 29 August 2015. Police submit that it is “unacceptable” that a licensee would allow any person wearing gang colours into a licensed venue, as the presence of gang members may intimidate people and cause fear within the community. Police submit that this conduct was in contravention of the Marrickville Liquor Accord.

19. Police also submit, on the basis of BOCSAR crime data from 2015, that the Marrickville local government area (LGA) is classified by Police as a “medium to high risk area” for incidents of non-domestic assault. Police believe that there is a real risk of alcohol related crime being displaced into the Marrickville community if more hotels are established along Marrickville Road. Police contend that Police resources would need to be redirected to the new hotel on the Proposed Premises to assist in maintaining a safe environment, if this Application is granted.
20. With regard to the overall social impact of granting the Application Police contend that a new “full” hotel operating at the Proposed Premises will result in increased alcohol availability in an area where alcohol related crime, street offences, anti-social behaviour and public drinking are already a significant issue; that the site is in close proximity to medical facilities frequented by vulnerable persons; that the incident on 29 August 2015 suggests that gang members will be permitted to attend the new hotel wearing gang colours, causing fear to the Marrickville community and that there are currently sufficient existing liquor outlets to meet the needs of the relevant community.
21. In the alternative, Police submit that should the Application be granted, a number of conditions should be imposed upon the liquor licence to minimise potential harm to the community. They include reduced trading hours (proposing 9:00am to 11:30pm on Monday to Wednesday, 9:00am to 1:30am on Thursday to Saturday and 10:00am to 9:30pm on Sunday); restrictions of types of drinks available; a 1:00am lockout; noise emission controls; the presence of security guards; the implementation of a CCTV system and a requirement that the licensee adopt a Self-Exclusion Scheme for liquor and gaming services and participate in the local liquor accord.
22. In a submission from the Applicant dated 1 March 2016 in response to the Police submission by Sergeant Ray dated 25 January 2016, the Applicant notes that this Police submission contradicts an earlier submission made by Police dated 29 October 2015 advising no objection to the Application.
23. Briefly, the Applicant contends that only one of the three nearby chemists actually participates in a Methadone Treatment Program and that this submission by Police is “irrelevant as well as incorrect”. The Applicant submits that the three nearby hotels that were not notified of the Application would otherwise have had “ample opportunity” to make submissions, contending that they would have been on notice from other sources of information including Marrickville Council, the local newspaper, a site notice of the Application attached to the front window of the Proposed Premises and conversations taking place on the Facebook page for “Marrickville 2044”.
24. The Applicant consents to the Police proposed 1:00am lockout condition and submits that it has already addressed many of the Police concerns with regard to patron noise and music noise emissions. The Applicant submits that he has been the licensee of the (Town and Country) hotel for almost 11 years and that during this time, there has only been “one” infringement notice actually issued against him.
25. The Applicant contends that he consulted a number of local businesses, cafés, restaurants, the newsagent, the real estate agent and various other businesses about the Application, and that no one consulted objected to the proposal. The Applicant does not

believe that there is any requirement for him to supply written evidence of these conversations in the Application or CIS.

26. With regard to the *Bandidos* outlaw motorcycle gang incident on 29 August 2015, the Applicant contends that this was a “family event” celebrating a 32-year reunion of members from Victoria, NSW and Queensland. The Applicant contends that no adverse incidents occurred and none of the OMCG members tested positive for intoxication. In response to Sergeant Ray’s submission on the Marrickville Liquor Accord, the Applicant submits that he is not a member of that Accord but a member of the Newtown Liquor Accord.
27. In response to Sergeant Ray’s submission that Police resources would need to be redirected to the new hotel trading on the Proposed Premises, the Applicant submits that on the basis of his “proven record” at the Premises that this new hotel would be “of little inconvenience” to Marrickville Police. The Applicant submits that no licensing offences were detected on the Premises during 2014 and 2015.
28. The Applicant contends that the proposed new hotel would result in “significant benefits” for the local community and that all of the required information was provided to LGNSW. The Applicant submits that it would be “unconstitutional” [*sic*] to refuse any legal business from opening in the area due to [the Police] opinion” and contends that three other licensed premises have opened up in the immediate vicinity of the Proposed Premises during the last 6 months. The Applicant contends that the proposed new hotel “adds to the social fabric of our community” and that management will bear the responsibility for operating the business in compliance with all relevant guidelines.
29. Further submission from the Applicant dated 1 March 2016 in response to the submission from the Premises Owner dated 30 November 2015. Briefly, the Applicant contends that he purchased the Premises and the hotel business (including the hotel and gaming licences) separately pursuant to two distinct contracts in 2004, and that Mr Harkham and his associates were advised “on many different occasions” while inspecting the property that the hotel licence was not included in the proposed sale of the Premises.
30. The Applicant submits that Two Unwins was also in the process of applying for a new hotel licence for the Premises in its own right, which suggests that the Premises Owner was aware that the hotel licence number LIQH400106076 would not be included as part of the sale of the property. Further, the Applicant submits that Two Unwins’ current advertising of the availability of a lease for the Premises makes no mention of the hotel licence as comprising part of the property.
31. The Applicant attaches a number of annexures to this submission, which he contends establish that the Application is “legal” and “proves beyond doubt” that Brandon and Helen Lynch are the “true and rightful owners” of the licence and that the Premises Owner does not have any right to interfere with the Application.
32. Submission on behalf of the Applicant dated 25 February 2016 from Mr Graham Kinsey of *Koutzoumis Lawyers*. In response to the submission from Two Unwins dated 30 November 2015, Mr Kinsey submits that while the Premises Owner is the owner of the land upon which the Premises is situated, it is not the owner of the hotel licence and that this licence was never included as part of the sale of the real estate.
33. Mr Kinsey submits that when this property was originally listed for sale in 2004, two separate contracts were prepared - one for the sale of the land and one for the sale of the hotel business [the Authority notes that this is an apparent reference to the purchase of the hotel by Mr Lynch from GE Commercial Finance Australia Pty Ltd on 25 November 2004].

34. Mr Kinsey submits, by contrast that the contracts exchanged in March 2015 (on the sale of the Hotel from the Applicant to the Premises Owner) concerned the sale of the land only, and there was no contract for the sale of the hotel *business*. Mr Kinsey contends that the hotel property was not marketed as the sale of a hotel *business*, but rather as suiting a “multitude of uses ranging from retail/hospitality/accommodation (subject to council approval)”.
35. Mr Kinsey submits that while the transfer of the liquor licence was “not specifically mentioned as an exclusion” in the contract of sale between Lynch and Two Unwins, all references to the transfer of the liquor licence had been omitted from the contract. He submits that for this reason there is “no doubt” that both the (current) Premises Owner and its solicitors were aware, at the date of exchange of contracts, that the licence was excluded from this sale and that *only* the real estate was being purchased.
36. Mr Kinsey submits that the issue of control of the licence was first raised during October 2015. Since that time, there has been a dispute between the parties, which remains unresolved. Mr Kinsey submits that the Applicant’s intention was to exercise a short term lease of the Premises until such time as the fitout of the Proposed Premises at Marrickville was completed and a removal application approved. Mr Kinsey contends that the Premises Owner had advised the Applicant that the Premises was to be converted into either residential accommodation or a restaurant and that it did not require a hotel licence.
37. Mr Kinsey submits that the Premises Owner “has no interest” in the licence. The Applicant has an interest in the land upon which the Premises is located pursuant to a lease granted to him by the premises owner and the licence remains in the Applicant’s name.
38. Mr Kinsey submits that the Premises Owner may apply for a new liquor licence in its own right at any time and contends that the Applicant has already assisted the Premises Owner with this process. Furthermore, Mr Kinsey submits that the Applicant is “licensed” to keep 15 gaming machines on the Premises [the Authority notes that this is an apparent reference to gaming machine entitlements]. He submits that if the licence is not “transferred” [*sic*] to the Proposed Premises, the Applicant will lose five gaming machine entitlements worth approximately \$950,000.

Legislative Framework

39. The legal requirements for making a valid application for the removal of a licence to other premises are provided by section 59 of the *Liquor Act 2007* and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for the removal of a licence to other premises is also provided by section 59 of the Act.
40. Section 60 and 61 of the Act contain provisions with regard to the transfer of liquor licences between parties. Section 61 concerns the control of a licence in certain circumstances, including, relevantly, upon a licensee losing possession of a licensed premises.
41. Section 61(3) provides that the owner of the licensed premises who comes into, or is entitled to, possession of the premises, or the business owner (as the case requires), is taken to be the licensee of the premises until (a) the day that is 28 days after this section becomes applicable, or (b) the day on which an application is made under section 61(2).
42. Section 61(4) provides that if an application is made under section 61(2) not later than 28 days after this section becomes applicable, the applicant is, until the application is determined by the Authority, taken to be the licensee under the licence to which the application relates.

43. The Authority notes that any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act, which states:
- (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.*
44. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
45. An application for the removal of a licence to other premises is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
46. Section 48(5) of the Act provides that the Authority must not grant an application unless satisfied 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”.
47. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Marrickville; while the “broader community” comprises the responsible local government area, the Marrickville LGA.

Analysis of Relevant Facts

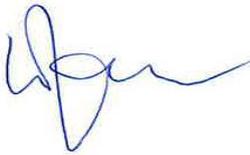
48. On the basis of the Notice to Vacate dated 26 February 2016 requiring vacation of the Premises by 31 March 2016 and in the absence of any indication to the contrary, the Authority is satisfied that the Applicant vacated the Premises on 31 March 2016 and that, since that date, the Premises Owner has been the owner in possession of the Premises.
49. Licensing records confirm that the Transfer Application was made by the Premises Owner on 1 April 2016, within 28 days of the Premises Owner coming into possession of the Premises. The effect of filing this Transfer Application within this 28-day period is that the Premises Owner is taken to be the licensee until such time as the Transfer Application is determined, by virtue of section 61(4) of the Act.
50. As a consequence, the Authority is satisfied on the Application material and the submissions from the Applicant and the Premises Owner, and noting the operation of sections 61(3) and 61(4) of the Act, that the Applicant, Mr Brandon Lynch, is no longer the licensee of the Premises at the time of determining this Application.

51. In circumstances where the Applicant no longer holds the license that is the subject of the Application, the Application is refused under section 59 of the Act, as it cannot proceed.

Conclusion

52. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision.
53. In making this decision, the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (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; and (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.

Decision Date: 17 August 2016



Philip Crawford
Chairperson

SCHEDULE

Material before the Authority

1. Application Form lodged on 16 November 2015.
2. CIS document submitted in support of the Application lodged on 16 November 2015. In this document, the Applicant contends that the Application to remove the hotel licence number LIQH400106076 to a new location in Marrickville will “add significantly to the local community” by providing opportunities for employment and growth in the immediate area, live entertainment, a space for local artists to display their work and a “well rounded venue” that will benefit the community.
3. The Applicant further contends that any “negative connotations” arising from the operation of a licensed venue (including alcohol abuse, alcohol fuelled violence, gaming addictions and noise disturbances) have been addressed in the Applicant’s *Plan of Management* and discussed with the local Council and Police.
4. Social Impact Assessment (SIA) prepared by Sarah George Consulting in support of the Application lodged on 16 November 2015.
5. Attachment 1 to SIA: Letter dated 11 June 2015 sent to local residents and nearby retail and commercial premises advising of the Application and inviting comments and/or submissions on potential social impact.
6. Attachment 2 to SIA: Map showing the distribution area of Notices of the Application sent to residential, retail and commercial premises in the Marrickville area.
7. Attachment 3 to SIA: List of Properties and Stakeholders notified of the Application via letter dated 11 June 2015.
8. Development Consent No. DA201500516 issued by Marrickville Council on 13 April 2016 to carry out, subject to a number of conditions, “internal alterations and additions to the premises to use as a pub with dining and live entertainment, operating between the hours of 8:00am to 2:00am the following day Mondays to Saturdays and 10:00am to 12:00 midnight on Sundays relating to property situated at 220 Marrickville Road, Marrickville”.
9. Plans of the Premises depicting the existing boundary of the licensed areas.
10. *OneGov* licence record for the current hotel licence as at 4 August 2016.
11. *Plan of Management* dated 1 March 2016 provided by the Applicant.
12. Commercial Lease Agreement between the Applicant and the premises owner, Two Unwins Pty Ltd (Two Unwins) in respect of the pub area and the ground floor of the Premises dated 4 June 2015, to remain in effect for a term of 6 months commencing on 18 June 2015.
13. Notice to Vacate the Premises issued by Two Unwins to the Applicant on 26 February 2016, stipulating that the Applicant’s “last effective date” is to be Thursday, 31 March 2016.
14. Contract for the sale of land in respect of the sale of the freehold in the Premises from the Applicant to Two Unwins Pty Ltd, dated 20 March 2015.

15. Submission dated 11 June 2015 from Mr John Hancock, the leaseholder of residential premises near the Proposed Premises, objecting to the Application and raising concerns regarding noise, the inadequacy of the parking and delivery area on the site, and the number of currently existing hotels on Marrickville Road. Further, Mr Hancock contends that “many” people visit the loan business on the ground floor of the Proposed Premises seeking loans “as a result of addiction to either drugs, alcohol or gambling or all the above”.
16. Submission dated 29 June 2015 from Mr Graham Burgess, Deputy Director and Senior Environmental Health Officer of the Sydney Local Health District Public Health Unit, acknowledging receipt of notification of the Application.
17. Submission dated 5 July 2015 from Ms Natacha Baldwin, a local resident of the Proposed Premises, raising concerns with patron noise, disturbance, smoke pollution at the rear door onto Marrickville Lane, excess noise and questioning the need for a new hotel situated in the Marrickville Town Centre. Attached to this submission is a response from Sarah George Consulting advising that there will be no patron access to the rear of the site and that an acoustic impact assessment is being undertaken by a specialist acoustic engineer.
18. Submission dated 29 October 2015 from Constable Alyssa Heath, Crime Prevention Officer at Marrickville Police Station.
19. Submission dated 30 November 2015 from Mr Benjamin Harkham, the director of the corporate premises owner Two Unwins Pty Ltd, objecting to the Application.
20. Submission dated 25 January 2016 from Sergeant Carol Ray, Licensing Supervisor of Marrickville Local Area Command of NSW Police.
21. Email correspondence between the Applicant and the premises owner’s representative, Mr Simon Stern, between October 2015 and February 2016 concerning information requests in relation to a new application to replace the existing hotel licence number LIQH400106076 with a new hotel licence.
22. Submission dated 25 February 2016 from Mr Graham Kinsey of *Koutzoumis Lawyers* in response to the submission from the Premises Owner dated 30 November 2015 (Kinsey Submission).
23. Attachment 1 to the Kinsey Submission: Extracts of the Business Sale Agreement dated 25 November 2004 for the sale of the hotel Premises from GE Commercial Finance Australia Pty Ltd to the Applicant.
24. Attachment 2 to the Kinsey Submission: Email correspondence dated 6 March 2015 between the Applicant’s agent and Two Unwins’ agent regarding the sale of the freehold in the Premises from the Applicant to Two Unwins Pty Ltd, stating that the terms included “1,800,000.00 for the freehold property (hotel licence and gaming licence not included)”.
25. Attachment 3 to the Kinsey Submission: Sales Advice issued by Metro Commercial on 6 March 2015.
26. Attachment 4 to the Kinsey Submission: Copy of the advertising notice affixed to the site by the premises owner, Two Unwins, in relation to the sale of the Premises in March 2015.
27. Attachment 5 to the Kinsey Submission: Copy of the front page and special conditions of the original contract proposed for the sale of the Premises.

28. Attachment 6 to the Kinsey Submission: Copy of file note dated 13 March 2015 recorded by the Applicant's legal representative regarding the impending sale of the freehold in the Premises, and raising a question as to whether or not the hotel licence is included in the sale of the Premises.
29. Attachment 7 to the Kinsey Submission: Commercial Lease Agreement between the Applicant and Two Unwins in respect of the pub area and the ground floor of the Premises dated 4 June 2015, to remain in effect for a term of 6 months commencing on 18 June 2015.
30. Attachment 8 to the Kinsey Submission: Letter from the Applicant's solicitor, Mr Graham Kinsey of *Koutzoumis Lawyers*, dated 3 December 2015. Briefly, Mr Kinsey states that sales advice received from Metro Commercial dated 6 March 2015 indicates that the Premises was to be sold for use as a boarding house. Contracts for the sale of the Premises were exchanged on 20 March 2015. Mr Kinsey submits that the contract did not provide for the transfer of the liquor licence and that the Applicant is the holder of the licence and that he continues to occupy the Premises subject to a commercial lease. Mr Kinsey reiterates that the sale of the liquor licence was never part of the negotiations between the Applicant and Two Unwins and advises that the Applicant will commence Supreme Court proceedings unless Two Unwins removes its objection to the Application for removal of the licence.
31. Attachment 9 to the Kinsey Submission: Letter from Two Unwins' solicitor, Ms Ellen Louie of *Louie Legal*, dated 4 December 2015. Briefly, Ms Louie states that Two Unwins purchased the hotel on the assumption that the hotel liquor licence remained with the property and was unaware that the hotel licence needed to be transferred separately. Ms Louie further submits that the express exclusion of the hotel licence was omitted from the contracts exchanged on 20 March 2015 and that the fitout of the property which was included in the consideration paid by Two Unwins "will be of no value" if Two Unwins is not able to operate a licensed business on the Premises.
32. Submission from the Applicant dated 1 March 2016 in response to the Police submission from Sergeant Ray dated 25 January 2016.
33. Further Submission from the Applicant dated 1 March 2016 in response to the submission from Two Unwins dated 30 November 2015.
34. Email from the Applicant to LGNSW staff dated 18 April 2016 attaching the complete Business Sale Agreement dated 25 November 2004 and associated documents for the sale of the Premises from GE Commercial Finance Australia Pty Ltd to the Applicant, which the Applicant submits "clearly demonstrates" that the hotel licence was purchased pursuant to a separate contract and that the hotel licence is not attached to the Premises. The Applicant submits that he has never entered into any arrangement to sell the hotel licence.
35. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location of the proposed new premises in Marrickville. This data, which is publicly available on the BOCSAR website, indicates that the proposed new premises:
 - (a) Is located *within a high density hotspot* for incidents of *domestic assault*
 - (b) Is located *within a medium density hotspot* for incidents of *non-domestic assault*
 - (c) Is located *within a high density hotspot* for incidents of *malicious damage to property*
 - (d) Is located within a *low density hotspot* for incidents of *alcohol related assault*.

36. Liquor licensing records from LGNSW indicating that the suburb of Marrickville already has **31** on-premises licences, **5** packaged liquor licences, **6** club licences and **4** full hotel licences.
37. Liquor licence density data from LGNSW from August 2016 indicating that the Marrickville LGA as a whole recorded:
- (a) A rate of **14.39** *on-premises licences* per 100,000 persons, which is significantly lower than the NSW state wide rate of **121.31**.
 - (b) A rate of **17.01** *packaged liquor licences* per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
 - (c) A rate of **6.54** *registered club licences* per 100,000 persons, which is below the NSW state wide rate of **20.48**.
 - (d) A rate of **13.08** *full hotel licences* per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
38. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:
- (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Marrickville LGA was **161** per 100,000 persons, slightly higher than the New South Wales rate of **145** per 100,000 persons.
 - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Marrickville LGA for 2013 was **195**, similar to the NSW state wide rate of **191**.
 - (c) The rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across the Marrickville LGA was **61** per 100,000 persons, slightly lower than the NSW state wide rate of **83**.
 - (d) The rate of *assault police* incidents flagged by reporting Police as *alcohol related* across the Marrickville LGA was **37** per 100,000 persons, slightly higher than the NSW state wide rate of **24**.
 - (e) The rate of *malicious damage to property* incidents flagged by reporting Police as *alcohol related* across the Marrickville LGA was **101** per 100,000 persons, slightly lower than the rate of **122** per 100,000 for New South Wales as a whole.
39. ABS SEIFA data prepared on the basis of the 2011 Census indicating that the Marrickville LGA ranked in the 9th decile and the suburb of Marrickville ranked in the 5th decile, compared to other local government areas and state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).