



Mr Justin Sammut
LAS Lawyers & Consultants
PO Box K1077
Haymarket NSW 1240
8 December 2016

Dear Mr Sammut

APPLICATION NO: 1-4086701574
APPLICATION FOR: Extended Trading Authorisation (ETA)

PROPOSED TRADING HOURS: Consumption on premises
Monday to Saturday 05:00AM – 05:00AM
Sunday 10:00AM – 10:00PM
Takeaway
Monday to Saturday 05:00 AM to 10:00PM
Sunday 10:00Am to 10:00PM

CURRENT TRADING HOURS: Consumption on premises
Monday to Saturday 05:00AM – 12:00AM
Sunday 10:00AM – 10:00PM
Takeaway
Monday to Saturday 05:00 AM to 10:00PM
Sunday 10:00Am to 10:00PM

APPLICANT: Mr Francisco Grez

LICENCED PREMISES NAME: Lakemba Hotel

PREMISES LOCATION: 146 Haldon Street, Lakemba, NSW 2195
(Premises)

ISSUE: Whether to grant or refuse an application for an extended trading authorisation.

LEGISLATION Sections 3, 11A, 45, 48, 49, 51 *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR
EXTENDED TRADING AUTHORISATION – LAKEMBA HOTEL**

The Independent Liquor and Gaming Authority considered application number 1-4086701574 at its meeting on 16 November 2016 and, pursuant to section 49(2) of the *Liquor Act 2007* (Act), decided to **grant** the application subject to the following conditions:

1. Trading Hours

Consumption on premises

Monday to Saturday 05:00AM – 05:00AM

Sunday 10:00AM – 10:00PM

Takeaway

Monday to Saturday 05:00AM – 10:00PM
Sunday 10:00AM – 10:00PM

2. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licenced premises for a continuous period of 6 hours between 4:00AM and 10:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

3. Consumption on premises

Good Friday 12:00 noon – 10:00PM

Christmas Day 12:00 noon – 10:00PM (liquor can only be served with or ancillary to a meal in a dining area)

December 31st Normal opening time until normal closing time or 2:00AM on New Year's Day, whichever is the later

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

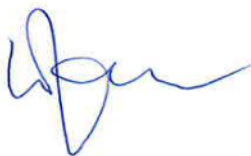
4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the community impact statement, application and other information submitted in the process of obtaining the extended trading authorisation.
5. The premises are to be operated at all times in accordance with the Plan of Management dated September 2016 as may be varied from time to time after consultation with the Local Area Commander of NSW Police.
6. The licensee or its representative must join and be an active participant in the local liquor accord.

In making this decision the Authority has decided under section 53(2)(b) of the Act to vary, for greater clarity, the current condition numbered "260" on the licence record for licence number LIQH400103344 so that it shall instead read (additional words in italics):

"That not less than one (1) properly attired *and* qualified member of staff will be engaged to patrol the area in the vicinity of the premises adjacent to the hotel *and the hotel carpark* on those nights that extended hours are exercised, to ensure that patrons do not loiter or linger in the area or cause nuisance or annoyance to the neighbourhood. The patrols will commence at 11:30 pm and continue until the last patrons have left the vicinity of the premises."

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

Yours faithfully



Philip Crawford
Chairperson

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

APP-1-4086701574 – Extended Trading Authorisation - Section 49(2) Decision

STATEMENT OF REASONS

Material before the Authority

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 for an extended trading authorisation (ETA) filed on 19 February 2016 (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. 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.

Summary of Further Submissions

3. Submission from Ms Anna Iordanidis, a local resident, dated 8 March 2016. In this eleven-page submission (LGNSW Submission form), the writer opposes the Application contending that there are intoxicated people leaving the hotel, persons of “disrepute” are around the hotel, parking is congested, drugs are being negotiated in the car park, loud music emanates from the car park and that rubbish and delivery of liquor & food is a health hazard to her.
4. Submission from Ms Sue Helou, local resident, dated 16 March 2016. In this five page submission (LGNSW Submission form) the writer opposes the Application contending that 24-hour trading will increase violence in the area, promotes intoxication, noise pollution, problems with gambling and family disharmony, loud music, increase in disreputable persons in the area, use of drugs and risk of property damage.
5. Submission from Ms Prabtibha Salunke, local resident, dated 16 March 2016. In these eight pages, the writer opposes the Application contending that changes to the hotel’s trading hours will promote intoxication and bad behaviour, loud music, property damage, social implications, school kids will be influenced by drunks who deal with drugs, “burnouts” in the car park, and the safety and unity of families will be affected.
6. Report dated 4 August 2016 from Compliance Branch of the Office of Liquor and Gaming NSW (LGNSW) advising that a review of the compliance history for Lakemba Hotel did not reveal any adverse information regarding the venue.
7. Submission from Constable George Constantinou, Campsie Local Area Command (Police) dated 1 September 2016. This submission notes a previous Police submission lodged by Senior Constable Michael Kynezos on 7 April 2016. Constable Constantinou advised that in that previous submission Police were notified by Mrs Anna Iordanidis on 22 December 2015 of the application to extend trading hours. Mrs Iordanidis advised Police that she and several other residents

were objecting to the Application due to the history of problems experienced with the venue. She also advised Police that in 2003 she had attended as a witness for Police before the then Licensing Court of New South Wales in relation to problems she was experiencing at that time.

8. On 27 January 2016, Police received an email from Mrs Iordanidis in relation to the use of the hotel veranda. However, in their submission of 7 April 2016, Police advised that there had been *no patterns of alcohol related violence, as the premises had closed as early as 21:00 for a number of years.*
9. Submission from the Applicant's solicitor, Dion Manca of LAS Lawyers and Consultants, dated 14 September 2016. In this submission, the Applicant contends that an application was made in 1992 to the former Licensing Court for extended trading hours, from 5:00am to 5:00am the next day.
10. In response to that 1992 application Canterbury Council, by letter dated 8 February 1993, did not object to the proposed extended trading hours but imposed a number of conditions, including that "extended hours relate only to the saloon bar which is the only room where the devices are to be placed". This application to vary the trading hours was approved by the Court on 23 March 1993 and the extended licensed hours "remained continuously in place until 24 February 2015" when the former licensee of the Hotel completed and signed a surrender of the extended trading authorisation and forwarded it to the Authority under the "mistaken belief" that he was "only giving up the right of the hotel to trade past midnight for the year in respect of which the Surrender ETA for was completed".
11. The Applicant's solicitor notes that nine adverse submissions have been received by the Applicant during the CIS consultation process. The Applicant submits that there is "no evidentiary basis" for the otherwise "legitimate" safety concerns held by these residents with respect to the proposed reinstatement of the hotel's previous trading hours. The Applicant contends that there have been "no official complaints" received by the hotel with respect to its operation and that the residents' concerns regarding conduct of persons in a nearby car park is not supported by any evidence and there is no corresponding record of any complaint made to Police or Council. The Applicant submits that granting this extended trading authorisation will actually assist with regard to the passive and active surveillance of the car park and adjoining areas and this will create a benefit to local residents.
12. The Applicant's detailed *Plan of Management*, dated September 2016, was included with the submission, together with acceptance of conditions proposed by LGNSW to be imposed on the licence, including that liquor must not be sold by retail on the licenced premises for a continuous period of 6 hours between 4:00AM and 10:00AM during each consecutive period of 24 hours.
13. Copy of LGNSW extract of key liquor licence details recorded as at 15 September 2016 for Licence number LIQH400103344 in the trading name of Lakemba Hotel.
14. Statutory Declaration by the Applicant, Mr Franciso Javier Grez, declared 11 October 2016, declaring that he was the licensee of the Premises between November 2015 and October 2016. He states that on 15 February 2016 he lodged an application for an extended trading authorisation, that the current licensed boundaries of the Premises are depicted within the area marked red on the Plan submitted with the Application (annexed to the declaration). He believes that this is

the relevant licensed area of the Premises by reason that this is the manner in which the Premises has traded since he became licensee.

15. The copy of the Plan annexed to this declaration includes a diagram entitled GROUND FLOOR & SITE PLAN. This diagram is marked in red, depicting what the declarant contends are the “Existing Licensed Boundaries” of the Premises and marked in green is an area depicting “Proposed Extended Trading Authorisation”. The Plan indicates that the ETA would only operate in the gaming room, the adjacent bar area and lounge area and the sanitary facilities, on the ground floor only. The ETA will not extend to the balcony area of the hotel that is depicted in red which otherwise falls within the licensed area.

Legislative Framework

16. The legal requirements for the making of a valid application for an extended trading authorisation are provided by section 51 of the *Liquor Act 2007* and the *Liquor Regulation 2008* (Liquor Regulations). The power to grant an application for an extended trading authorisation is provided by section 49(2) of the Act.
17. 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.*
18. 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.
19. An application for an extended trading authorisation in respect of a hotel is a “relevant application” within the meaning of section 48(2) of the Act for which a Category B CIS is required.
20. Section 48(5) of the Act requires 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”.

21. 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 Lakemba.
22. The Authority notes that on 12 May 2016, the new City of Canterbury-Bankstown Council was proclaimed, replacing the former Canterbury and Bankstown Councils. This proclamation occurred after notices of intention to apply for a liquor licence were issued (21 December 2015) to the former Canterbury City Council and local licensing Police and before the CIS and Application were lodged with the Authority (19 February 2016). The Authority is satisfied that at the time of this decision, the broader community comprises the relevant local government area, which is the community within the City of Canterbury-Bankstown.

Analysis of Relevant Facts

23. The Authority is satisfied, based on the Application and CIS material before it, that for the purposes of Section 51(2) of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
24. The Authority notes section 51(3) of the Act, which provides that when determining an application for a licence related authorisation, the Authority has the same powers in relation to the Application as the Authority has in relation to an application for a licence.
25. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a licenced venue of the kind proposed in the Application. The Authority notes that no probity issues were raised regarding the Applicant following consultation with law enforcement agencies, including Police and LGNSW.
26. The Authority is satisfied, for the purposes of section 49(8) of the Act, that responsible service of alcohol practices are in place and will remain in place and that the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the Premises. This finding is made on the basis of the *Plan of Management* dated September 2016 provided by the Applicant.
27. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is already in place and extended trading hours of 5:00am to 5:00am the next succeeding day, Monday to Saturday inclusive, was approved by Canterbury Council on 23 March 1993.

Social Impact – Positive Benefits

28. The Authority is satisfied, based on the CIS and additional submissions from the Applicant, that the Applicant has demonstrated that granting the extended trading authorisation will provide some additional benefit, by way of convenience to members of the local and broader community who wish to enjoy the facilities of the hotel beyond the current closing time of midnight.
29. When considering whether granting the Application is consistent with the “expectations, needs and aspirations of the community” being an object of section

3(1)(a) the evidence and submissions present a mixed picture. There is some evidence of local community residents and a community welfare group who have made submissions in opposition to the proposal.

30. However, the Authority is satisfied, based on the Application material and CIS, that the Applicant distributed notices to the 100 metres radius required with regard to a category B CIS and that stakeholders required to be consulted on this type of application were consulted. There has been no adverse submission from any of the public agencies consulted with a total of twelve adverse submissions made by members of the local community. Notably, no adverse position was taken by Police, LGNSW or Council, all of whom have law enforcement capacities.
31. The Authority is satisfied, based on LGNSW licence density data, that there are only two hotel trading premises within the suburb of Lakemba and that granting the ETA will, to a moderate extent, diversify the range of late trading licensed entertainment options available within the local community, noting that there are other hotels and clubs in the broader community. On this basis, the Authority is satisfied that granting the Application will reasonably develop, in the public interest, the liquor industry in respect of the local community in furtherance of the statutory object in section 3(1)(b) of the Act.
32. The Applicant contends that the proposed hours sought in this Application seeks a mere reinstatement of the previous hours. The Authority accepts that this is the case and has given weight to this submission. It has assessed this Application in that context.
33. The Authority accepts, on the basis of the Applicant's legal submissions that extended trading hours were first granted for the Premises by the former New South Wales Licensing Court on 23 March 1993, enabling the Hotel to sell or supply liquor for consumption on the Premises from 5:00am to 5:00am Monday to Saturday inclusive.
34. The Authority is accepts, on the basis of the Applicant's legal submissions, that the licence has had the continuous benefit of extended trading from March 1993 until 24 February 2015, when the former licensee, Mr Christopher Bourke, erroneously surrendered the ETA while attending to the annual licence fee for the Premises - mistakenly believing that he was only surrendering the ETA for one year.
35. The Authority then determined on 9 March 2015 to accept the surrender and revoked the ETA under section 51(9) of the Act on 9 March 2015.
36. The former premises owners of the hotel, Ms Noeline and Neville Duffy, sought judicial review of the Authority's cancellation of the ETA, but on 5 August 2016 Justice Davies of the New South Wales Supreme Court found that the Authority's decision to accept the surrender of the extended trading authorisation and revoke it pursuant to section 51(9) of the Act was validly exercised and the Authority was not required to revisit that decision. The proceedings were dismissed (*Duffy v Independent Liquor and Gaming Authority* [2016] NSWSC 1062).
37. In these unusual circumstances, the Authority is satisfied that the reasonable development of the liquor industry, an object of section 3(1)(b) of the Act, is served by restoring the longstanding extended licensed trading hours to which the Premises were previously entitled to exercise.

Social Impact – Negative Impacts

38. The Authority notes that twelve local community objection submissions were made against this Application and a petition against the Application with 34 signatures. The objecting submissions were from local community residents and from the Islamic Women's Welfare Association (IWWA). Concerns as to negative social impact primarily concerned the potential for the increased consumption of alcohol, disturbance to the amenity in the area surrounding the hotel and alcohol and gambling contrary to the Islamic faith practiced by many residents in Lakemba. The submitters were also concerned that the availability of alcohol on the Premises at "all hours" will increase alcohol abuse leading to undesirable and violent acts.
39. The Authority finds it generally credible for these local residents to assert that they are exposed from time to time to incidents of nuisance in the form of conduct in a nearby carpark and from alcohol related litter and/or alcohol related conduct and that they fear an increase in such conduct should the Application be granted. The Authority accepts that such conduct, when it occurs, adversely impacts local amenity.
40. The Authority has also had regard to the cultural objections raised by the IWWA and accepts that many members of the local community may have a cultural objection to the consumption of alcohol. That submission is not supported by any substantial evidence or analysis indicating the extent to which members of the local or broader actually object to this Application, and there is no evidence that the location of the hotel will adversely impact those community members ability to observe their religion. The IWWA submission also raises concerns that extended trading carries with it the increased risk of alcohol related violence, including domestic violence.
41. While the extent of opposition from local residents and the IWWA are relevant to an assessment of how the Application serves the statutory object in section 3(1)(a) and the statutory consideration in section 3(2)(a), these submissions are not supported by sufficiently persuasive supporting evidence, information or analysis to warrant refusal of the Application, noting that the Authority must consider and balance all of the statutory objects and considerations in the Act. The submissions raise generally credible concerns, but the Authority is not provided with sufficient information to get a sense of the nature and extent of these impacts in the local community or how granting this Application may contribute to those problems.
42. There is no evidence from Council, LGNSW or Police (all of whom have enforcement capacities) of any recent complaints having been made to those agencies. This is likely a function of the fact that, as reported by Constable George Constantinou, the hotel under its previous ownership was not actually exercising post-midnight licensed trading hours, despite having the legal entitlement to do so. As a result, some of the claims raised by local residents date back to the operation of the hotel during the early 1990s. The Authority cannot give those concerns any significant weight.
43. As for the more current community concerns, the Authority is satisfied, on the basis of the information provided by the Applicant, that claims of misconduct in a nearby carpark are credible but concern a *Council owned* carpark that adjoins the hotel's carpark. The Applicant submits that reinstatement of extended trading hours will assist with the passive and active surveillance of the hotel carpark *and adjoining*

areas which will likely create a benefit to residents who may have previously experienced problems arising from the general public using the carpark areas. The Authority accepts that some additional surveillance of these neighbouring areas will be facilitated by the Applicant's proposal, but the hotel may also attract persons to the site during late hours. However, the risks associated with attracting new patrons has been substantially ameliorated by the Applicant's *Plan of Management*, discussed below.

44. The Authority accepts as generally credible the residents concern that very late trading may potentially impact local amenity in a number of ways that may or may not rise to the level of criminality. Examples of this may include groups of patrons migrating to or from the licensed premises, affected by alcohol to varying degrees, who may disturb local amenity by talking loudly, laughing, arguing, getting into public or private transport loitering near the Premises or engaging in a range of anti-social behaviour, including littering. Such conduct may be accepted as an ordinary incident of modern life when it occurs earlier in the evening, but the later it occurs, the greater the impact on local amenity.
45. Notwithstanding the genuine and (as conceded by the Applicant) legitimate concerns of the local submitters, there is insufficient evidence or material detailing the nature and extent of any recent localised alcohol related anti-social conduct or adverse amenity impact caused by the operation of the hotel (or other local licensed premises) to move the Authority to refuse the ETA.
46. The Authority notes that it would be open to nearby residents, to make a complaint to the Secretary under section 79 of the Act alleging undue disturbance to the quiet and good order of the neighbourhood should patron misconduct drive adverse amenity impacts should that occur once late trading is restored. Alternatively, they may make a submission to the Secretary of the Department of Justice through LGNSW seeking the imposition of conditions managing the licence under section 54 of the Act, should they be in a position to provide more specific evidence or information regarding nature of patron or business conduct that is contrary to the public interest in respect of the liquor legislation.
47. The Authority notes, based on LGNSW liquor licensing records, that the suburb of Lakemba currently has 3 packaged liquor licences, 4 registered club licences and 2 full hotel licences. In terms of licence density, granting this Application will restore extended trading to a venue that has until very recently had the option to exercise it.
48. The Authority acknowledges that there is a risk that any full hotel licensed premises, whose primary purpose is the sale of liquor, when operating during extended trading hours may cause adverse social impacts upon the community over time, including amenity impacts upon the neighbourhood and local community.
49. The Authority notes that the proposed extended trading hours are very extensive and that there is some cause for concern arising from the BOCSAR Crime Maps for the period from July 2015 to June 2016 which indicate medium and high concentrations of offences within the local community of Lakemba.
50. However, the Authority derives considerable comfort from the BOCSAR Report on NSW Recorded Crime Statistics July 2010 – June 2015 which records that both the Canterbury and Bankstown local government recorded rates of alcohol related

assault police and assault (domestic and non-domestic) that were *well below* those for New South Wales as a whole. That is, any concentration of crime evident from the crime maps was derived from comparatively low crime rates for the former Bankstown local government area.

51. Moreover, Council, Police and LGNSW did not object to the Application and have not identified any localised or site specific alcohol related disturbance issues arising occurring during extended licensed trading hours in the local and broader community noting Council's control of the carpark that is the subject of some resident complaints.
52. Importantly, the elevated risks posed by late trading have been substantially ameliorated in this case by the Applicant's Plan of Management which provides that no live entertainment will not be provided during the extended trading hours. Notably, *no person will be permitted to enter or re-enter the licensed premises after midnight*. The Authority has given substantial weight to this additional harm minimisation measure, which will not simply be an internal business plan but a measure that is enforceable through a licence condition mandating compliance with the Plan.
53. This measure will address the prospect that the Hotel will attract patron migration to the site well after midnight and avoid the build-up of patrons on the Premises during late hours. The Authority further notes that security personnel will be required to ensure patrons leaving the Premises do so in a quiet and orderly manner, and that staff will assist patrons if requested in arranging safe transport from the hotel.
54. A condition on the licence already requires the Hotel to engage security staff to patrol nearby areas. While it may have been implicit from the current wording of the condition, the Authority has decided, for the avoidance of doubt, that the condition should expressly refer to the hotel car park. This minor and technical amendment has been made under section 53(2)(b) of the Act.
55. Furthermore, the *Plan of Management* for the Premises, which will be enforceable by means of a licence condition, provides that any drink commonly referred to as a "shot", "shooter" or a "bomb", or any drink containing more than 30ml of spirits will not be sold or supplied after midnight. Moreover, a minimum of one security person per 100 patrons or part thereof will be deployed and a digital CCTV system will provide coverage of all public areas including the hotel car park.
56. The Authority notes that the plan/diagram of the Premises provided by the Applicant indicates that the Premises is of a reasonably large scale. However, the statutory declaration made by the Applicant declared 11 October 2016, indicates that the ETA will only operate on part of the Premises, in the gaming room, sanitary facilities and the bar and lounge areas adjacent to the gaming room on the ground floor.
57. The Authority has had regard to the reasonably detailed harm minimisation measures set out in the Plan of *Management* dated September 2016, the licence conditions to which the Applicant has consented, and the additional harm minimisation measures such as CCTV and the deployment of security persons in and about the hotel.

58. The Applicant has provided very brief statements and submissions with regard to the proposed gambling activities, including gaming machines and TAB facilities, to be conducted on the Premises during the extended trading period. The Authority is satisfied that the minimum requirements of clause 10A of the *Liquor Regulation 2008* were observed by addressing matters relating to gambling activities on the licensed Premises during the period that the authorisation is proposed to be in force.
59. The Canterbury-Bankstown LGA has been designated by the Authority as a “Band 3” LGA under section 33 of the *Gaming Machines Act 2001*. The Authority accepts that, as a Band 3 Area, the broader community of the Canterbury-Bankstown LGA has been assessed as having relatively higher exposure to gaming machine social impacts. This is an adverse factor that requires careful consideration of any gambling related impacts that may arise during late trading. However, there is no venue specific adverse evidence or information before it as to problem gambling at this hotel, notwithstanding the community consultation conducted by the Applicant for the purposes of the CIS with all relevant agencies and notwithstanding that the hotel has 20 gaming machine entitlements which it has been able to exercise for some time. No submissions were made by any local submitters, community organisations, Council, LGNSW or Police as to whether this venue is known for problem gambling or gambling related crime.
60. In those circumstances and on the material before the Authority the adverse factor of the Band 3 LGA is not sufficiently supported by evidence or material to warrant refusal of this Application on the basis of gambling related social impacts.
61. The Authority notes, on the basis of the ABS SEIFA data, that the Lakemba suburb ranked in the 1st decile on the Index of Relative Socio-Economic Advantage and Disadvantage while the City of Canterbury ranked in the 4th decile. The Authority further notes, for the sake of completeness that the City of Bankstown ranked in the 5th decile (with a decile ranking of 10 being the most advantaged). There is socio economic disadvantage in the local community, but not the broader community.
62. Finally, while granting this Application will restore extended trading to the licence, a factor limiting the scope for adverse liquor and gambling related social impacts arises from the operation of section 11A of the Act. The licence must be subject to a mandatory 6-hour daily closure period, which the Act prescribes as between the hours of 4:00AM and 10:00AM, unless varied by the Authority to a different closure period. That is, the licensee will *not* be able to exercise 24-hour trading.

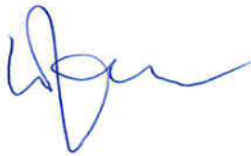
Conclusion

63. 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. The interested parties include NSW Police, the Applicant, Council, RMS, neighbouring occupiers, NSW Health and Department of Community Services and all other parties required to be consulted under the legislation.
64. Having considered together the positive benefits and negative impacts that the Authority is satisfied are likely to flow from granting the Application, the Authority is

satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.

65. The Application is granted pursuant to section 49(2) of the Act. For the purposes of section 49(6) the extended licensed hours granted pursuant to this decision extend from midnight to 5:00 am Monday through Saturday. These extended trading hours apply to the gaming room, the adjacent bar area and lounge area and the sanitary facilities, on the ground floor of the Premises only.
66. Pursuant to section 11A of the Act, the Authority imposes a six-hour daily closure period from 4:00AM to 10:00AM daily. The ETA is subject to this closure period.
67. 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: 16 November 2016



Philip Crawford
Chairperson

Important Information:

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

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

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

SCHEDULE

Material before the Authority

1. Submission from Ms Anna Iordanidis, local resident, dated 21 December 2015 during the CIS process. The writer's concerns include late night noise, drugs and sex in the car park, drunken behaviour, vandalism, carbon monoxide fumes from cars, and health and safety of her children.
2. Joint submission from five residents, dated 24 December 2015, during the CIS process. The writers' concerns include increased violence in the area, promotion of intoxicated people and gambling, loud music in cars, traffic congestion, use of drugs in car park and early morning noise in car park.
3. Submission from a "concerned resident" dated 28 December 2015 during the CIS consultation process. The writer's concerns include cars left in the hotel car park, drunk men yelling foul language loudly during sleeping hours, "burnouts" in the car park and inadequate CCTV in the area.
4. Submission from "Croydon Street Resident" dated 3 January 2016 during the CIS process. The writer's concerns include intoxicated clients whose conduct affects the quality of life of local residents, noise from patrons, burnouts, drugs, sex and "abnormal behaviour" that have impinged on local residents.
5. Submission from "Joy" dated 4 January 2016 during the CIS process. The writer's concerns include abusive behaviour, damage to cars and yelling and talking loudly during hours which should be for sleeping.
6. Submission from "Resident of Croydon Street" dated 4 January 2016 during the CIS process. The writer's concerns include the prospect of drunken behaviour, fighting/violence, loud music blaring from cars in the car park, and the safety of women and children will be affected.
7. Submission from a person (whose signature is illegible) dated 4 January 2016 during the CIS process. The writer's concerns include abusive behaviour including fighting and abuse to women from drunkards, damage to property and excess noise at wrong hours of the day.
8. Submission from Roads and Maritime Services (RMS), dated 4 January 2016 during the CIS consultation process, advising that there were 15 alcohol related crashes in the Canterbury Local Government Area (LGA) during 2014 resulting in two casualties. RMS recommend that the licensee or its representative join and be an active member of the local Liquor Accord and that the licensee display public education material focused on drink drive and pedestrian-alcohol issues on the premises.
9. Three-page petition titled "No 24 Hour PUB" with 34 signatures, dated between 13 and 16 January 2016 during the CIS process.
10. Submission from the Islamic Women's Welfare Association (IWWA) dated 19 January 2016, during the CIS process. IWWA contend that the hotel will attract clientele from around Sydney who may indulge in alcohol and poker machines which would negatively impact on Lakemba as a safe family orientated area, that

the message portrayed would be that alcohol consumption at all hours is acceptable, the availability of alcohol at all hours will increase alcohol abuse leading to undesirable and violent acts.

11. Application Form lodged on 19 February 2016.
12. CIS dated 13 February 2016, lodged 19 February 2016. The Applicant details the history of extended trading on the Premises and the circumstances surrounding its approval and recent surrender, the location of the Premises, manner of operation and facilities to be provided during the ETA, responsible service of liquor, access to liquor by minors, matters relating to gambling activities, contended positive benefits of granting the Application, proposed conditions to be imposed on the licence, the location of nearby community buildings, facilities and places, notification of stakeholders and issues raised during consultation. The Applicant also responds to community submissions opposing the ETA, asserting there is no evidentiary basis for the otherwise "legitimate" safety concerns with respect to reinstatement of the hotel's previous trading hours, that there have been no official complaints received by the hotel with respect to its operation, residents concerns regarding conduct of persons in then car park is not supported by any evidence and there is no corresponding record of complaint to police or council, and that reinstatement of an extended trading authorisation will assist with passive and active surveillance of the car park and adjoining areas which will likely create a benefit to residents.
13. The Applicant also discusses (by apparent reference to the social impact factors identified in Authority *Guideline 6*) the hours of the Premises, licence density, SEIFA data, and measures to be implemented to reduce the potential for alcohol related harms and submits that there will be no adverse impact to the area.
14. Submissions from local residents Ms Anna Iordanidis dated 8 March 2016 Ms Sue Helou dated 16 March 2016 and Ms Prabhitha Salunke dated 16 March 2016.
15. Email from LGNSW staff to the Applicant dated, 28 July 2016.
16. Report to the Authority dated 4 August 2016 from the Compliance Branch of the Office of LGNSW.
17. Submission from Constable George Constantinou, Campsie Local Area Command (Police) dated 1 September 2016.
18. Submission from the Applicant's solicitor, dated 14 September 2016.
19. Applicant's detailed *Plan of Management*, dated September 2016.
20. Statutory Declaration by the Applicant, Francisco Javier Grez, declared 11 October 2016.
21. BOCSAR Crime Maps based upon data from July 2015 to June 2016 detailing hotspots for the concentration of offences near the location indicating that the Premises:
 - (a) is located within a *medium-density hotspot* for incidents of *domestic assault*
 - (b) is located within a *high-density hotspot* for incidents of non-domestic assault
 - (c) is located within a *high-density hotspot* for incidents of *malicious damage to property*.

22. Liquor licensing records from LGNSW indicating that the suburb of Lakemba has 4 registered club licences, 2 full hotel licences and 3 packaged liquor licences.
23. Liquor licence density data from LGNSW indicating that the Canterbury LGA recorded:
- (a) A rate of **9.46 packaged liquor licences** per 100,000 persons, which is substantially below the NSW state wide rate of **32.85**.
 - (b) A rate of **3.64 registered club licences** per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **7.28 full hotel licences** per 100,000 persons, which is substantially below the NSW state wide rate of **30.36**.
24. Report on *NSW Recorded Crime Statistics July 2010 – June 2015* obtained from published BOCSAR sources, for July 2014 – June 2015. This data indicates that:
- (a) the rate of alcohol related *assault Police* incidents recorded by NSW Police recorded across the Canterbury LGA was **6.6** per 100,000 persons, substantially below the State-wide rate of **18.2** per 100,000 persons.
 - (b) the rate of alcohol related *non-domestic violence related assault* incidents recorded across the Canterbury LGA was **33.2** per 100,000 persons, well below the State-wide rate of **144** per 100,000 persons;
 - (c) the rate of alcohol related *domestic violence related assault* incidents recorded across the Canterbury LGA was **65.7** per 100,000 persons, substantially below the New South Wales rate of **122.6** per 100,000 persons;
 - (d) the rate of alcohol related *offensive behaviour* offences recorded across the Canterbury LGA was **4.6** per 100,000 persons, well below the State-wide rate of **88.2** per 100,000 persons.
25. Report on *NSW Recorded Crime Statistics July 2010 – June 2015* obtained from published BOCSAR sources, for July 2014 – June 2015. This data indicates that:
- (a) the rate of *assault Police* incidents recorded by NSW Police as alcohol related across the Bankstown LGA was **7** per 100,000 persons, well below the State-wide rate of **18.2** per 100,000 persons.
 - (b) the rate of *non-domestic violence related assault* incidents recorded by NSW Police as alcohol related across the Bankstown LGA was **57.4** per 100,000 persons, substantially below the State-wide rate of **144** per 100,000 persons;
 - (c) the rate of *domestic violence related assault* incidents recorded by NSW Police as alcohol related across the Bankstown LGA was **79.4** per 100,000 persons, well below the New South Wales rate of **122.6** per 100,000 persons;
 - (d) the rate of *offensive behaviour* offences recorded by NSW Police as alcohol related across the Bankstown LGA was **8** per 100,000 persons, substantially below the State-wide rate of **88.2** per 100,000 persons.
26. ABS SEIFA data based on the 2011 Census indicating that the State suburb of Lakemba ranked in the 1st decile and the Canterbury LGA ranked in the 4th 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).