



M J Finnegan's Hotel

21 – 23 Darby Street, Newcastle NSW 2300

Phone: (02) 4926 4777

Email: mail@finneganshotel.com.au

ABN: 23 592 381 581

To: Mr. Jonathan Horton QC

Re: Review of licence conditions for 14 Newcastle CBD venues

By email: newcastle.review@ilga.nsw.gov.au

We refer to the NSW Independent Liquor & Gaming Authority's review of licence conditions for 14 Newcastle CBD venues. We propose that the following modest changes would be appropriate.

Background

M J Finnegan's Hotel was one of the 14 Newcastle CBD venues that had several conditions imposed on the venues' liquor licence in 2007. The Hotel currently has a 1 am lockout and 2:30 am end of trade (which was 3 am prior to the Section 104 complaint). It is also one of the three venues that did not see a 30 minute relaxation to the lockout or trading hours in 2008.

In June 2011, the Hotel was listed for the first time as declared premises in Round 4 of the Schedule 4 scheme (reported assaults from 01 January 2010 to 31 December 2010). The venue remained a declared premises up until and including Round 8 (reported assaults from 01 July 2011 to 30 July 2012).

In August 2011, the Hotel began trialling ID scanners, using the Melbourne based company Scannet. The ID scanners allow the venue to identify troublesome patrons and place them on a barred patron list. The next time the patron attempts to visit the venue, the ID scanner alerts the door staff that the patron is barred and will be refused entry to the venue.

In July 2012, the Hotel, along with four other CBD venues, formed the Newcastle Entertainment Precinct (NEP). Licensees of the NEP venues are able to share information relating to problem patrons, through a linked ID scanning system, and prevent those patrons from entering any of the NEP venues if they are subject to a multi-venue barring.

In June 2013, the Hotel was removed from the list during Round 9 (reported assaults from 01 January 2012 to 31 December 2012) of the scheme. To date, the venue has not appeared on the declared premises list in subsequent rounds of the scheme.

In March 2017, the Hotel moved away from the tradition paper based incident reports to a newly approved Electronic Incident Register (EIR), created by AusComply. The EIR allows for round-the-clock reporting, and also gives management the ability to analyse the incident data.

Condition 2 - The 3 monthly audit requirement

Existing Condition:

Licensees must ensure that at least every three months a compliance audit of the premises is carried out by a person who is not employed or in an ongoing financial arrangement with the hotel so as to ensure continuous compliance with the Plan of Management.

We propose that this condition be revoked. Each licensee has a responsibility to ensure they're compliant with their licence conditions and maintaining compliance with their Plan of Management is no different. This condition just adds to a Licensee's administrative tasks with no real-world benefit.

Condition 4 - Restricted service of alcohol from 10 pm

Existing Condition:

The following restrictions and conditions were applied upon the sale of alcohol after 10pm:

- a. No shots*
- b. No mixed drinks with more than 30mls of alcohol*
- c. No RTD drinks with an alcohol by volume greater than 5%*
- d. Not more than four drinks may be served to any patron at the one time.*

We propose that this condition be amended to reflect the Step 3(d) of the Liquor & Gaming NSW's (L&GNSW) Guidelinesⁱ, which would allow venues to serve patrons genuine cocktails and bottles of wine at all times.

Furthermore, we propose that this condition be amended to commence the restricted service period from midnight, as recommended in the L&GNSW's Guidelines and to bring Newcastle CBD to parity with the current restricted service period imposed in the Sydney CBDⁱⁱ.

Proposed condition:

1. The following drinks must not be sold or supplied on the premises after midnight:

- a. any drink (commonly referred to as a shot, shooter, slammer or bomb) that is designed to be consumed rapidly.*
- b. any ready to drink (RTD) beverage with an alcohol by volume content of more than 5%, and*
- c. any drink prepared on the premises that contains more than 30ml of spirits or liqueur other than a cocktail that contains spirits or liqueur (or both) mixed with other ingredients and that is not designed to be consumed rapidly.*

2. After midnight, no more than:

- a. four (4) alcoholic drinks, whether or not of the same kind, or*
- b. the contents of one (1) bottle of wine*

may be sold or supplied on the premises to the same person at any one time.

Condition 7 - Prohibition against stockpiling drinks

Existing Condition:

Licensees must ensure, by adequate supervision methods throughout the premises, that no patron is stockpiling drinks. Stockpiling refers to any one patron having more than two unconsumed drinks at a time (a patron may buy up to four drinks at a time).

We propose this condition be revoked. In March 2015, changes to the Liquor Act 2007 (Act) amended the licensee's defences to the charge "permitting intoxication". The amendments removed the "all other reasonable steps" defence, replacing it with Section 73(4)(a1), which requires the licensee to follow each of the steps set out in the L&GNSW's Guidelines.

The condition prohibiting stockpiling, which generally serves to deter patrons from the irresponsible, rapid or excessive consumption of liquor, is now addressed by Steps 2(b) and 2(c) of the Guidelines. Licensees that allow stockpiling to occur and fail to comply with the Guidelines, risk permitting intoxication and prosecution under the Act.

As it is in the licensees' best interest to carry out the minimum steps set out in the Guidelines, we consider the condition prohibiting stockpiling to be redundant.

Condition 6 - Service of alcohol to cease 30 minutes before closing time

Existing Condition:

Sale and supply of alcohol must cease 30 minutes prior to closing time.

We propose that this condition be revoked. Section 104 of the Act provides for a 30-minute period at the cessation of trade to allow patrons to vacate the venue.

Furthermore, this condition is imposed on any venue listed as a declared premises under Schedule 4 of the Act. Revoking this condition provides further incentive to licensees to prevent anti-social behaviour or risk being listed as a declared premises and effectively losing half an hour of trade.

Condition 8 - Shared radio network

Existing Condition:

Within three months the licensee must have entered into an agreement with each of the other licensees subject to these conditions an arrangement for the sharing of a radio network to be used by management and security for communicating with the other premises.

We propose that this condition be revoked. The venues in Newcastle CBD work well together and use several methods to communicate in real time. These methods include mobile phones, Facebook groups and linked ID Scanners. With this progress in technology, we consider the radio network redundant.

Lockout from 1am or 1:30am

Existing Condition:

No persons are to be admitted to the premises after 01:00 am (or 01:30 am).

We propose that this condition be either amended or revoked. Presently, three venues have a 1am lockout whereas the remaining venues are 1:30 am. Of these three venues, we are the only one that currently trades past the 1 am lockout time (Hotel CBD closes at midnight and The Lucky closes at 1 am).

The disparity in the lockout times continuously results confusion among prospective patrons, who arrive at the venue after 1 am, only to be refused entry. This confusion can lead to potential conflicts as patrons genuinely believe our lockout to be 1:30 am. We propose parity for the 14 venues at 1:30 am or later would be more appropriate.

We also note that research completed by Kypri, McElduff and Miller (2015)ⁱⁱⁱ showed lockouts were not an effective measure in reducing harm. Based on this research it may be appropriate to revoke this condition altogether.

Conclusion

Newcastle CBD has matured considerably since the introduction of these conditions. The use of ID scanning and a zero-tolerance approach to anti-social behaviour adopted by venues and local Police^{iv} has helped facilitate change in patron behaviour.

We believe the proposed changes would allow the CBD venues to offer a better experience to locals and visitors, without resulting in an increase in alcohol-related violence.

Thank you for the opportunity to submit our views.

Yours faithfully,

Paul Hunter

mail@finneganshotel.com.au

ⁱ GL4002 'Prevention of intoxication on licensed premises guidelines'

ⁱⁱ NSW Liquor Regulation 2008 - Regulation 53F(5)

ⁱⁱⁱ Kypri et al. (2015) 'Night-time assaults in Newcastle 6–7 years after trading hour restrictions'

^{iv} <http://www.abc.net.au/news/2013-12-19/zero-tolerance-policing-key-to-changing-newcastle27s-drinking-/5166410>