



Mr Brett Tobin
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By email to: bt@hatziscusack.com.au

8 August 2022

Dear Mr Tobin

Application No.	APP-0009415012
Application date	9 December 2021
Applicant	COVECOM PTY LTD
Application for	Hotel licence with minors area authorisation
Licence name	Shell Cove Hotel and Apartments
Proposed trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
Premises	10 Waterfront Promenade Shell Cove NSW 2529
Legislation	Sections 3, 11A, 12, 14, 15, 15A, 17, 40, 44, 45, 48, 51 and 121 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a hotel licence with minors area authorisation – Shell Cove Hotel and
Apartments**

The Independent Liquor & Gaming Authority considered the application above, and decided on 18 May 2022 to **approve** the application under section 45 and 51 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Approved manager

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

Concise statement of reasons

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager Wendy Yeung at wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', is positioned above the typed name.

Philip Crawford
Chairperson

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

Concise statement of reasons

Key facts

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Material considered by the Authority

The Authority has considered the following material in determining the Application:

- Application material, including evidence of notification to specified stakeholders and the community about the Application.
- Category B community impact statement.
- Premises plan setting out the proposed boundaries of the licensed premises and any applicable authorisations.
- Plan of management for the licensed business at the Premises.
- Development consent for the Premises.
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities.
- Stakeholder submissions in relation to the Application, and the Applicant's response to those submissions.

Legislative requirements

The Authority has considered the Application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 14, 15, 15A and 17: Specific provisions in respect of a hotel licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.
- Section 45: Criteria for granting a liquor licence.

- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 51: General provisions relating to licence-related authorisations.
- Section 121: Minors in hotels in company of responsible adult.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Shell Cove, and the broader community is the Local Government Area of Shellharbour.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the Application, if approved, would likely benefit the local and broader communities through the provision of increased convenience and choice.

The Premises will be located adjacent to Shellharbour South Beach and the existing development of the Shell Harbour Marina Precinct. The hotel will be an 11-storey building providing motel and serviced apartment accommodation. The hotel will not sell packaged liquor and will operate within standard trading hours.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- large scale of the Premises;
- higher than average liquor licence density in the local and broader community;
- the rate of alcohol-related domestic assault is higher in the local community than the broader community;
- higher than average level of alcohol-attributable deaths in the broader community;
- one of the directors associated with the corporate licensee has received two penalty notices and four compliance notices over a three-year period for breaches as a previous licensee at a premises in Pyrmont from 2012-2013 and 2018, and
- the Premises is in a new development area promising to be a popular tourist hotspot which may contribute to an increase in alcohol-related crime rate in the future.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- relatively moderate licensed trading hours;
- lower than average liquor licence clustering in the local and broader community;
- absence of any objections from agency stakeholders or members of the community;
- lower level of alcohol-attributable hospitalisations in the broader community;
- the Premises is not located in a crime hotspot;

- the Application supports local tourism and the economy;
- the director is not the proposed approved manager and does not pose a risk to this application, and
- an approved manager will be appointed to the role before the licence can be exercised.

The Authority also notes the Applicant has lodged a gaming application, which will be determined soon.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the Applicant's proposal, the Authority is satisfied that the overall social impact of approving the Application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the Application have been met.

The Authority finds, having regard to the above, that approving the Application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the Application under section 45 and 51 of the Act.

Yours faithfully



Philip Crawford
Chairperson

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

Schedule 1 – Licence conditions to be imposed
Shell Cove Hotel and Apartments

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 4:00 AM and 10:00 AM 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.
2. Restricted trading & NYE (std)
Consumption on premises
Good Friday 12:00 noon – 10:00 PM
Christmas Day 12:00 noon – 10:00 PM (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 2:00 AM 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.
3. Take-Away sales – not permitted
Liquor cannot be sold for consumption away from the licensed premises
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 reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence on XX August 2022.
5. The premises is to be operated at all times in accordance with the Plan of Management dated April 2022 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
6. The licensee or its representative must join and be an active participant in the local liquor accord
7. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of ten (10) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
 - 2) The licensee must also:

- (a) keep all recordings made by the CCTV system for at least 30 days,
- (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
- (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

8. Minors Area Authorisation: whole of the licensed premises excluding the gaming room

9. Crime Scene preservation

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

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

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