



Mr Brett Tobin  
Hatzis Cusack Lawyers  
bt@hatziscusack.com.au

20 June 2022

Dear Mr Tobin

<b>Application No.</b>	1-7766096950
<b>Applicant</b>	Mr Timothy Michael Ireson
<b>Application for</b>	Extended Trading Authorisation
<b>Licence number</b>	LIQH400118473
<b>Licence name</b>	Ophir Hotel
<b>Current trading hours</b>	<u>Consumption on premises</u> Monday to Saturday 5:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM  <u>Take away sales</u> Monday to Saturday 5:00 AM – 11:00 PM Sunday 10:00 AM – 10:00 PM
<b>New trading hours</b>	<u>Consumption on premises – Gaming Room, TAB, Sports Bar and Sanitary Facilities</u> Monday to Wednesday 10:00 AM – 12:00 midnight Thursday to Saturday 10:00 AM – 2:00 AM Sunday 10:00 AM – 11:00 PM  <u>Consumption on premises – Other areas of the premises</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM  <u>Take away sales</u> Monday to Saturday 10:00 AM – 11:00 PM Sunday 10:00 AM – 10:00 PM
<b>Premises</b>	84 Glenroi Ave Orange, NSW 2800
<b>Legislation</b>	Sections 3, 11A, 12, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority  
Application for an extended trading authorisation – Ophir Hotel**

The Independent Liquor & Gaming Authority considered the application above at its meeting on 16 June 2021.

The application sought to extend the trading hours of the gaming room, TAB, sports bar and sanitary facilities from 12:00 AM (midnight) to 3:00 AM, Monday to Saturday, and from 10:00 PM to 12:00 AM (midnight), Sunday. The trading hours for the other areas of the premises are to remain unchanged.

The Authority decided to approve the application in part under section 49 of the *Liquor Act 2007*, subject to:

- authorising the sale and supply of liquor for consumption on the licensed premises in the gaming room, TAB, sports bar and sanitary facilities during a shorter extended trading period as follows: 12 midnight to 2:00 AM on Thursday to Saturday only, and 10:00 PM until 11:00 PM on Sunday, with the trading hours for Monday to Wednesday to remain unchanged

- amending the Hotel's opening hours so that the sale and supply of liquor at the premises cannot commence before 10:00 AM
- imposing conditions as set out in Schedule 1.

**Statement of reasons**

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

If you have any questions, please contact the case manager, Charles Rivers, at [charles.rivers@liquorandgaming.nsw.gov.au](mailto:charles.rivers@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**

## STATEMENT OF REASONS

### DECISION

1. On 17 June 2020, Mr Timothy Ireson (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for an Extended Trading Application (“ETA”) for LIQH400118473 Ophir Hotel, located at 84 Glenroi Ave, Orange NSW (“Premises”).
2. The Authority considered the Application at its meeting on 16 June 2021 and decided to approve the application for an ETA in part under section 49 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.
4. A preliminary notification of this decision was sent to the Applicant on 12 July 2021, together with the licence document for the Premises.

### MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
7. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
8. A list of the material considered by the Authority is set out in Schedule 2.

### LEGISLATIVE FRAMEWORK

9. 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:
  - a) Section 3: Statutory objects of the Act and relevant considerations.
  - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
  - c) Section 44: Submissions to Authority in relation to licence applications.
  - d) 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.
  - e) Section 49: General provisions in respect of ETAs.
  - f) Section 51: General provisions relating to licence-related authorisations.
10. An extract of these sections is set out in Schedule 3.
11. 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

12. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

### Validity, procedural and trading hour requirements

13. The Authority is satisfied on the material before it that the Application has been validly made and meets the procedural requirements under sections 51 of the Act, and
14. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

### **Fit and proper person, responsible service of alcohol, and development consent requirements**

15. Pursuant to section 45 of the Act, the Authority is also satisfied that:
  - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
  - b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
  - c) the requisite development consent is in force, based on the development approval DA 367/2018(1) in respect of the Premises, issued by Orange City Council on 15 January 2019.

### **Community impact**

#### ***Local and broader communities***

16. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Orange, and the relevant "broader community" comprises the Local Government Area ("LGA") of Orange.

#### ***Licence density***

17. The Authority notes that, compared to the NSW state average:
  - a) Orange suburb and LGA have a **higher** saturation of hotel licences
  - b) Orange suburb and LGA have a **lower** saturation of late-trading outlets
  - c) Orange suburb and LGA have a **lower** clustering of hotel licences
  - a) Orange suburb and LGA have a **lower** clustering of late-trading outlets.

#### ***Crime data***

18. The relevant BOCSAR data indicates that, in the year to December 2020:
  - a) the Premises was located within hotspots for incidents of malicious damage to property and alcohol-related domestic assault.
  - b) The suburb of Orange recorded **higher** rates of alcohol-related assault (domestic and non-domestic), late- night alcohol-related non-domestic assault, alcohol-related non-domestic serious assault, alcohol-related offensive conduct and malicious damage to property compared to the NSW state average.
  - c) Orange LGA recorded **higher** rates of alcohol-related assault (domestic and non-domestic), late- night alcohol-related non-domestic assault, alcohol-related non-domestic serious assault, alcohol-related offensive conduct and malicious damage to property compared to the NSW state average.

#### ***Alcohol-related health data***

19. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Orange LGA recorded a **higher** than average level of alcohol-attributable deaths

for the period 2017-2018, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2017-2019.

### **SEIFA**

20. The Authority notes that ABS Socio-Economic Index for Areas (“SEIFA”) data as at 2016 indicates that suburb of Orange and Orange LGA were relatively disadvantaged and advantaged respectively compared to other suburbs and LGAs in NSW.

### **Business model**

21. The Authority notes that the Ophir Hotel has been operating as a licensed hotel at the Premises in Orange since 24 October 1960. The Premises offers a variety of facilities including the provision of liquor, meals, entertainment and gaming.
22. The Authority notes that the partial grant of the Application will permit late trading for the TAB sports bar, gaming room and lounge area facilities within the hotel from midnight to 2:00 AM on Thursday to Saturday, and from 10:00 PM to 11:00 PM on Sunday. The patron capacity of these areas will be limited to 150 persons during any trading period after midnight. Entertainment provided after midnight will be limited to background music only. All outdoor areas of the hotel will be closed and vacated prior to midnight.

### **Gambling activities at the Premises**

23. The Authority notes that the CIS meets the minimum content requirements of clause 28 of the Regulation in that it addresses matters relating to the proposed gambling activities to be conducted on the Premises during the period in which the ETA would be in force if granted.
24. The Authority further notes that:
- a) the Application is for a new ETA for the existing hotel licence to permit the premises to trade until 3:00 AM Monday to Saturday and until midnight on Sunday. This represents an additional 18 hours of post-midnight gaming (including six hours of post-2:00 AM gaming) per week from Monday to Saturday, along with two additional hours of late-night gaming on Sundays
  - b) the Authority decided to approve the application in part, authorising the sale and supply of liquor for consumption on the licensed premises in the gaming room, TAB, sports bar and sanitary facilities during a shorter extended trading period as follows: 12 midnight to 2:00 AM on Thursday to Saturday only, and 10:00 PM until 11:00 PM on Sunday, with the trading hours for Monday to Wednesday to remain unchanged
  - c) the Premises currently operates 29 gaming machines, with a gaming machine shut down period under section 40 of the *Gaming Machines Act 2001* in force between 4:00 AM to 10:00 AM Monday to Sunday and Public Holidays. The Premises also operates TAB facilities
  - d) the Premises is situated in a Band 3 SA2 for the purposes of section 33 of the *Gaming Machines Act 2001*. As explained in the L&GNSW fact sheet *Local Impact Assessment scheme overview* published on the L&GNSW website, each SA2 area in the State is classified into Band 1 (low risk), Band 2 (medium risk) and Band 3 (high risk) depending on the gaming machine density, gaming machine expenditure and prevailing levels of relative socio-economic disadvantage within the SA2
  - e) the Premises is located in the Western NSW Local Health District which, according to the *NSW Gambling Survey 2019* had higher rates of gambling participation compared to the NSW state average. Local rates of at-risk gamblers are broadly similar to NSW averages (19.4% compared to 19.5%), although local problem gambling rates are elevated in comparison with the NSW average (2.4% compared to 1.9%)
  - f) gaming intensity at the venue has been assessed as high for a venue in this locality, but is otherwise of typical intensity for a rural venue of this size. The average profit per gaming

machine at the Premises for 2019 was 1.8 times that of the average when compared to local hotels in the SA2 and LGA. The average profit per gaming machine at the Premises was within the average range for comparable regional hotels (1.08 times the average)

- g) the Applicant has submitted a Gaming Plan of Management (GPOM), setting out a number of gaming harm minimisation measures or strategies to be implemented at the Premises. Of these, the Authority considers five foundational, two intermediate and two advanced measures (as identified in the Office of Responsible Gambling fact sheet titled "Going above and beyond. Responsible conduct of gambling for venues"), to be fully implemented, and acknowledges the Applicant proposes to partially implement a number of other harm mitigation initiatives.

### ***Purported benefits***

25. The Authority has had regard to the Applicant's purported benefits, including that:

- a) Extended trading hours will permit patrons to continue to use the facilities of the hotel after midnight between Thursday to Saturday, and for a later period on Sunday evening; which will be more convenient for patrons currently required to travel to other hotels should they seek such facilities after midnight.
- b) The Premises will cater for an older demographic than other late trading venues in the suburb, which are predominately entertainment driven and/or nightclub premises catering to a younger target market, and will thus provide members of the public with increased choice of late-trading venues in the suburb of Orange.

### ***Stakeholder submissions***

26. The Authority has had regard to the submissions from:

- a) **NSW Police Force (two submissions)**, neither of which raise any objections to the Application, but did seek the imposition of licence conditions in order to mitigate the potential harms arising from the grant of the ETA and to ensure parity with other late-trading hotels in Orange.
- b) **L&GNSW Compliance**, which notes that although a search of compliance records did not identify any adverse findings relevant to the application, there is an increased risk of alcohol-related harm occurring at any venue where trading hours are increased; and that this is particularly so during the late-trading period.
- c) **Local council (two submissions)**, both of which note Council's concerns regarding permitting extended trading until 3:00 AM at the Premises, due to:
  - i. likely noise impacts from the operation of the Premises on nearby residential dwellings, in particular from the period after 10:00 PM
  - ii. the potentially adverse impact that 150 patrons departing the premises during the late trading period may have on the amenity of the neighbourhood, and concerns regarding the potentially adverse impact of the proposed car parking arrangements
  - iii. high levels of alcohol-related violence, malicious damage and offensive behaviour within the suburb of Orange compared with the NSW average and the

potential for the increase in late-trading hours at the Premises to result in an increase in alcohol-related crime within the local community.

- d) **Transport for NSW**, which notes that the agency does not object to the Application; and recommends the licensee display information within the Premises for customers detailing safe practices relating to responsible consume of alcohol.
- e) **Eight submissions from seven members of the public** objecting to the Application, due to:
  - i. the likely noise and light pollution impacts from the operation of the Premises on nearby residential dwellings in the period after midnight on late-trading days
  - ii. the likely adverse impact on the amenity of the local neighbourhood from patrons departing the Premises during the extended trading period, including noise from patrons as pedestrians and then from vehicles, which will impact on the sleep patterns of local residents and of shift workers staying in the adjacent motel
  - iii. concerns that extended trading may lead to an increase in existing levels of drunkenness, anti-social behaviour/brawls, malicious damage within the neighbourhood and loss of amenity due to increased rubbish in the vicinity of the Premises
  - iv. concerns the extended hours sought from Monday to Saturday are excessive given the premises is surrounded by residential areas; unlike comparable premises in the Orange CBD
  - v. the likely adverse impact on the socio-economically disadvantaged Glenroi community arising from increased access to TAB and gaming machine play at the Premises, especially into the early hours of each morning.
- f) **Seven submissions from members of the public and a 60 signature petition** in support of the Application, on the basis that:
  - i. the current owners of the hotel have upgraded the facility, including a large investment in the kitchen and dining areas, and have improved the amenity and security in the area around the Premises by installing new fences, lighting and CCTV. The hotel is well run, and the designated extended trade areas are all at the front of the hotel adjacent to fast food restaurants and service stations
  - ii. the owner's active management practices within the hotel will mean that the licensee will be able to operate the venue in a safe manner after midnight. This will provide shift workers from the Cadia mine and the hospital, as well as other adults, with a safe venue to attend after midnight
  - iii. a late-trading venue outside of the CBD would provide the neighbourhood with the opportunity to socialise with family and friends at a venue closer to home, in a meeting spot that caters to a diverse range of customers
  - iv. the Premises will offer an option for the "older crowd"; unlike other late-trading venues in Orange.

27. The Authority has also had regard to the Applicant's submission in response, which notes that:

- a) no objections to the application were raised by the NSW Police Force or L&GNSW Compliance
- b) the Hotel's licensee seeks to cater for the growth in demand for the services of the Premises; which primarily serves the local suburb of Glenroi and the rural districts east of Orange and caters to a mature-aged demographic

- c) the Applicant has addressed the requirements of Authority Guideline 16, and has committed to implementing a detailed Gaming Plan of Management for the responsible conduct of gambling at the Premises, which sets out gaming harm minimisation measures above and beyond those required by legislation
- d) the Premises is located in a primarily commercial precinct, and management practices will be implemented to ensure that noise from the operation of the Hotel after midnight is limited, as captured in the Plan of Management for the Premises. Outdoor areas will not be operated during the extended trading period
- e) the conditions of the development consents granted by local council and applicable to the hotel will be complied with, which includes noise restrictions. No entertainment (other than background music) will be provided after midnight
- f) the hotel carpark will be locked from 12:15 AM, which means patrons to the Hotel will need to use the red Rooster/McDonalds carpark fronting the highway; and well away from residential areas near the Premises
- g) the compliance history of the Premises shows the operation of the Hotel has not been problematic. The management practices to be adopted, together with the licence conditions consented to, will help minimise the potential for intoxication and/or anti-social behaviour by patrons and the potential for criminal incidents during the extended trading period.

### **Overall social impact**

28. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that Orange suburb and LGA had a density of full hotel licences that is above the state average; were subject to relatively high levels of alcohol-related non-domestic assault, late night alcohol-related non-domestic assault, alcohol-related non-domestic serious assault, alcohol-related domestic assault, alcohol-related offensive conduct and malicious damage to property offences; and that there were some alcohol-related health issues in the broader community. The Authority considers that there is a risk that the liquor sold at the Premises may contribute to the existing alcohol-related problems in the community and, over time, to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.
29. The Authority notes that section 3(1)(c) of the Act provides that a statutory object of the Act is to contribute to the responsible development of related industries. The gaming machines industry constitutes one such "related" industry, whose operation on hotel licensed premises is regulated by the *Gaming Machines Act 2001* and the *Liquor Act 2007*.
30. The Authority will from time to time inform itself of relevant domestic and international research on problem gambling, and that information may inform the Authority's assessment of an application where consideration of the responsible development of the gaming machines



industry is required. While each application is assessed on its merits, the Authority notes the growing evidence base<sup>1</sup> that shows:

- a) there is a significantly higher risk of harm associated with the use of Electronic Gaming Machines (“EGM”) compared to other types of gambling;
- b) problem gamblers may be over-represented among EGM players between 12:00 midnight and 4:00 am, and particularly after 2:00 am;
- c) there is a range of risks specific to late-night EGM play, including that gamblers are more likely to chase losses and take greater risks as the night wears on;
- d) a late-night gaming machine shutdown period is more likely to impact problem gamblers than moderate or low-risk gamblers. More than half of problem gamblers would choose to go home following EGMs shutting down at a venue, rather than migrate to another venue;
- e) minimum legal requirements, reliant upon informed choice and voluntary self-exclusion, may be of limited utility in managing the risk posed to problem and at-risk gamblers.

31. The *NSW Gambling Survey 2019*<sup>2</sup> found that 1% of the NSW population are problem gamblers. The report also showed that (in the previous 12 months) 16% of the population of NSW played EGMs. Within this gambling segment, there is a significantly higher prevalence of moderate risk and problem gambling. Specifically:

- a) problem gamblers account for 36.7% of gambling expenditure while moderate-risk gamblers and low-risk gamblers account for an additional 14.5% and 19.5% respectively
- b) among EGM players there is a significantly higher prevalence of problem gambling at 5.4% compared to 0.4% of gamblers who do not play EGMs
- c) EGM players have a 3.58 times greater chance of being a moderate-risk or problem gambler than gamblers who are not EGM players
- d) 36% of EGM players indicate some degree of gambling problems (i.e., low-risk, moderate-risk or problem gambling combined) compared to 19% of the gambler population as a whole.

32. The Authority notes additional research evidence that:

- a) higher-risk gamblers are significantly more likely than any other group to be gambling after midnight and to be playing for longer periods overall, with late-night play often occurring in an environment where the atmosphere is more intense compared to other times of day<sup>3</sup>
- b) higher risk gamblers present a much greater share of those people playing at night. At that time gamblers are more likely to be playing under the influence of alcohol, thus

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<sup>1</sup> Hing, N., Russell, A. & Rawat, V. (2020). *Responsible Conduct of Gambling*. [Central Queensland University]. Commissioned by New South Wales Responsible Gambling Fund, Sydney.

Smith, C., Wolstenholme, A. & Duffy, C. (2019). *Shutdown periods for electronic gaming machines*. [Snapcracker Research + Strategy]. Commissioned by New South Wales Responsible Gambling Fund, Sydney.

Central Queensland University. (2019). *NSW Gambling Survey, 2019*. Commissioned by New South Wales Responsible Gambling Fund, Sydney.

Tuffin, A., & Parr, V. (2008). *Evaluation of the 6-hour shutdown of electronic gaming machines in NSW*. Report prepared for the NSW Office of Liquor, Gaming and Racing by Bluemoon Research.

<sup>2</sup> Central Queensland University. (2019). *NSW Gambling Survey, 2019*. Commissioned by New South Wales Responsible Gambling Fund, Sydney.

<sup>3</sup> Smith et al. *Shutdown periods for electronic gaming machines*. November 2019

potentially reducing the capacity for informed participation in a potentially very costly activity where impulsivity and faulty cognitions are already widespread<sup>4</sup>. (Productivity Commission Inquiry Report *Gambling*, No. 50, 26 February 2010, pp.30-31).

33. The Authority further notes that:

- a) the partial grant will result in increased availability of gaming machines after midnight, in a venue located in a Band 3 SA2 for the purposes of section 33 of the *Gaming Machine Act 2001*, noting that Parliament has specifically identified Band 3 SA2 as areas where any increase in gaming machine availability should be treated with caution
- b) gaming at the Premises is more intense compared to the average for other hotels in Orange SA2 and LGA, while being on a par with NSW regional hotels of a similar size
- c) the proposal is for an ETA that would result in an additional 18 hours of post-midnight gaming per week Monday to Saturday (which includes 6 hours of post-2:00 AM gaming); and for two additional hours of late-night gaming on Sundays.

34. The Authority finds credible the prospect that the Premises will have the capacity to attract late-night patrons, not only from within the suburb but also from nearby suburbs and rural areas in the broader community; and considers that these factors increase the scope for adverse social impacts generated by late trading at the venue.

35. When considering which course of action best serves the responsible development of the gaming machines industry, the Authority is not merely focused on “problem” gamblers, but other “at risk” gamblers as well. Research suggests this group comprises some 36% of NSW electronic gaming machine players (Browne et al, *NSW Gambling Survey 2019*, revised March 2020, p.iii-iv). The Authority remains particularly concerned that granting the full period of extended trading hours sought by the Applicant into the late-night period may have an adverse social impact on “problem” or “at risk” gamblers in the local and broader communities, especially those that are socio-economically disadvantaged. Full approval would allow such persons to engage in gambling activities for longer periods of time seven days a week, including during the higher-risk post 2:00 AM periods.

36. Notwithstanding the level of support from patrons and the Applicant’s efforts towards controlling the risk of gaming-related harms, taking into account the elevated risk factors in the local and broader communities and those associated with the extensive additional late-night trading hours sought, the Authority on balance is not satisfied that the existing and proposed harm minimisation measures will sufficiently mitigate the risk of gambling harm to the community to warrant a full grant.

37. Given the number of gambling risk factors and the overall economic vulnerability of the local community, and especially the financially constrained elements of the community to sustain gambling losses, the Authority is satisfied that a partial grant of the Application is the more responsible approach to the development of the gaming machine industry.

### ***Mitigating factors***

38. The Authority is nevertheless satisfied that the risks associated with a partial grant of the Application are sufficiently mitigated by the following:

- a) the Applicant’s Gaming Plan of Management (which includes multiple intermediate and advanced level harm minimisation strategies from the Office of Responsible Gambling’s

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<sup>4</sup> Productivity Commission Inquiry Report *Gambling*, No. 50, 26 February 2010

Above and Beyond Fact sheet), and the Applicant's consent to a Gaming Plan of Management licence condition

- b) lower than average density of late trading hotels in the local community
- c) the experience of the applicant as an operator of the licensed premises with a sound compliance record
- d) the harm minimisation measures set out in the venue's Liquor Plan of Management and licence conditions as set out in Schedule 1.

## CONCLUSION

39. On balance, having considered the objects of the Act and the positive and negative social impacts that are likely to flow from granting the ETA, the Authority is satisfied that the overall social impact of a partial grant of the Application would not be detrimental to the well-being of the local and broader communities.
40. The Authority is also satisfied that the other legislative criteria for the granting of the ETA application have been met.
41. Accordingly, the Authority has decided to approve the application in part under section 49 of the Act.



Philip Crawford

**Chairperson**

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

### 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 & Gaming NSW website <https://www.liquorandgaming.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 1 – Licence conditions to be imposed Ophir Hotel**

### **6-hour closure**

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.

### **Restricted trading & NYE**

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 31<sup>st</sup>        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. Restricted trading & NYE

Take away sales

Good Friday                            Not permitted

Christmas Day                        Not permitted

December 31<sup>st</sup>                        Normal trading

### **CCTV**

4. 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 sub-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.

### **Social impact**

5. 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 extended trading authorisation on 16 June 2021.

### **Plan of management**

6. The premises is to be operated at all times in accordance with the Plan of Management dated May 2021 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.

#### **Gaming plan of management**

7. The premises is to be operated at all times in accordance with the Gaming Plan of Management dated March 2021 as may be varied from time to time after consultation with Authority. 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.

#### **Liquor Accord**

8. The licensee or its representative must join and be an active participant in the local liquor accord.

#### **Incident register**

9. Incident register
  - 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
    - a. any incident involving violence or anti-social behaviour occurring on the premises,
    - b. any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
    - c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
    - d. any incident that results in a patron of the premises requiring medical assistance.
  - 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
    - a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
    - b. allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
  - 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

#### **Crime scene preservation**

10. 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 (eg. crowd controller or bouncer) on or about the premises.

#### **Hotel entry**

11. Entry/exit to the hotel will be limited to the main entry via Glenroi Avenue and the northern doorway adjacent to the McDonalds Restaurant.

#### **Patron limits**

12. No more than 150 patrons permitted on the premises after midnight.

**Drink restrictions**

13. No more than two (2) alcoholic drinks to be served per patron after 12:00 midnight

**Security**

14. Security

On any day that the premises trades past midnight the licensee is to employ at least one (1) licenced uniformed security guard. This guard is to be employed until the premises has closed and patrons have dispersed from Glenora Avenue, Garden Street and the carpark shared with McDonalds and Red Rooster.

During this time the Security Guard is to patrol both within and outside the premises including the above outlined areas to ensure that patrons do not loiter or linger in the area or cause nuisance or annoyance to the neighbourhood.

An additional licenced uniformed security guard is to be employed with the same duties on any Saturday, Sunday or day proceeding a Public Holiday where the venue trades past midnight

**Hotel carpark**

15. The Hotel carpark entrances will be closed and locked at 12:15 AM each night and not re-opened until 7:00 AM the following morning.

**Minors area authorisation**

16. Minors area Authorisation: whole of the licenced premises excluding the bar area, gaming room and deck, public bar and TAB.

**Extended trading authorisation**

17. Extended Trading Authorisation: Public Bar, Lounge Bar, Gaming Room, TAB and Deck.

## Schedule 2 – Material considered by the Authority Ophir Hotel

### Application material

1. Floor plan for the Premises, dated 22 November 2018, indicating the proposed area to which the ETA will apply.
2. Completed application dated 12 June 2020.
3. Completed Category B Community Impact Statement dated 12 June 2020.
4. Completed certifications of advertising dated 14 July 2020 and 11 August 2020.
5. Gaming Plan of Management documents for the Premises, titled “GAMING PLAN OF MANAGEMENT” and dated March 2021.
6. Plan of Management documents for the Premises, titled “Ophir Hotel VENUE MANAGEMENT PLAN, 84 Glenroi Avenue Orange NSW 2800, Hotel Liquor Licence No. LIQH400118473” and dated May 2021.

### Development consent

7. Notice of determination issued by Orange City Council on 15 January 2019, approving the development application DA 367/2018(1) for the Premises.

### Liquor & Gaming LiveData Report

8. L&GNSW Liquor & Gaming LiveData Report for the suburb of Orange, generated on 21 April 2021, which sets out that:

#### Outlet diversification

- a. there are **101** authorised liquor licenses in the suburb of Orange. This includes 13 full hotel licences, one general bar hotel licence, eight registered club licences, 13 packaged liquor licences, two small bar licences, five producer/wholesaler licences and 59 on-premises licences

#### Outlet density (annual rate per 100,000 residents)

- b. the saturation of full hotel licences in the suburb of Orange (**36.7**) and Orange LGA (**39.7**), is **lower** compared to Inner Regional NSW (**43.0**) and is **higher** compared to NSW (**28.4**)
- c. the saturation of late-trading outlets in the suburb of Orange (**34.1**) and Orange LGA (**32.2**), is **lower** compared to Inner Regional NSW (**36.0**) and is **lower** compared to NSW (**34.6**)
- d. clustering of full hotel licences in the suburb of Orange (**9.3**) and Orange LGA (**8.1**), is **higher** compared to Inner Regional NSW (**2.6**) and is **lower** compared to NSW (**15.5**)
- e. clustering of late-trading outlets in the suburb of Orange (**14.2**) and Orange LGA (**14.2**), is **higher** compared to Inner Regional NSW (**6.3**) and is **lower** compared to NSW (**72.9**).

#### Offence data (annual rate per 100,000 residents)

In the year to December 2020:

- f. the rates of alcohol-related domestic assault in the suburb of Orange (**169.6**) and Orange LGA (**162.5**), were **lower** compared to Inner Regional NSW (**169.8**) and **higher** compared to all NSW (**112.7**)
- g. the rates of alcohol-related non-domestic assault in the suburb of Orange (**184.5**) and Orange LGA (**174.3**), were **higher** compared to Inner Regional NSW (**142.2**) and **higher** compared to all NSW (**91.3**)
- h. the rates of late-night alcohol-related non-domestic assault in the suburb of Orange (**62.3**) and Orange LGA (**58.9**), were **higher** compared to Inner Regional NSW (**38.2**) and **higher** compared to all NSW (**26.1**)

- i. the rates of alcohol-related non-domestic serious assault in in the suburb of Orange (**82.3**) and Orange LGA (**77.7**), were **higher** compared to Inner Regional NSW (**55.3**) and **higher** compared to all NSW (**33.6**)
- j. the rates of alcohol-related offensive conduct in the suburb of Orange (**47.4**) and Orange LGA (**44.8**), were **higher** compared to Inner Regional NSW (**34.7**) and **higher** compared to all NSW (**23.6**)
- k. the rates of malicious damage to property in the suburb of Orange (**1216.8**) and Orange LGA (**1166.1**), were **higher** compared to Inner Regional NSW (**949.3**) and **higher** compared to all NSW (**657.6**)

#### Alcohol-attributable hospitalisations & deaths (per 100,000 residents)

- l. In the period 2017-2018 the alcohol-attributable death rate in Orange LGA (**23.7**) was **higher** compared to the average across all of NSW (**20.0**)
- m. In the period 2017-2019 the alcohol-attributable hospitalisation rate in Orange LGA (**246.8**) was **lower** compared to the NSW average (**542.1**).

#### SEIFA

- n. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in the suburb of Orange and Orange LGA are socio-economically disadvantaged and advantaged respectively (**bottom 31%** and **top 42%** of NSW households, in terms of household income and residents in skilled occupations).

### **Stakeholder submissions**

- 9. Submission from a member of the public, dated 02 May 2020.
- 10. Submissions from the NSW Police Force, dated 05 May 2020 and 10 July 2020.
- 11. Submissions from Orange City Council, dated 12 August 2020 and 13 August 2020.
- 12. Submission from L&GNSW Compliance, dated 22 April 2021.
- 13. Submission from a member of the public, dated 18 May 2020.
- 14. Submission from a member of the public, dated 18 May 2020.
- 15. Submission from a member of the public, dated 22 May 2020.
- 16. Submission from Transport for NSW, dated 26 May 2020.
- 17. Submission from a member of the public, dated 30 June 2020.
- 18. Submission from a member of the public, dated 02 July 2020.
- 19. Submission from a member of the public, dated 04 July 2020.
- 20. Submission from a member of the public, dated 06 July 2020.
- 21. Submission from a member of the public, dated 31 July 2020
- 22. Submission from a member of the public, dated 06 August 2020.
- 23. Submission from a member of the public, dated 11 September 2020.
- 24. Submission from a member of the public, dated 11 September 2020.
- 25. Submission from a member of the public, undated.
- 26. Submission from a member of the public, undated.
- 27. Submission from a member of the public, undated.
- 28. Submission from the Applicant in the form of a petition of support containing 60 signatures, signed by members of the public.

### **Other relevant information**

- 29. Correspondence between L&GNSW staff and the Applicant between 07 August 2020 and 12 May 2021 in relation to the assessment of the Application.
- 30. Google map images extracted from the Google website on 12 May 2021, showing the location and photos of the Premises in map view and street view.



31. Licence document for LIQH400118473 Ophir Hotel as at 07 August 2020.
32. *Guideline 16* assessment of the Ophir Hotel Gaming Plan of Management.

## Schedule 3 – Relevant extracts from the *Liquor Act 2007*

### Ophir Hotel

#### 3 Objects of Act

- (1) The objects of this Act are as follows:
  - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
  - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
  - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
  - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
  - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
  - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

#### 11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
  - (a) any licence granted on or after 30 October 2008, and
  - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
  - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the Liquor Legislation Amendment Act 2008) commenced, or
  - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
  - (a) the period as last approved by the Authority, or
  - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
  - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
  - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

#### 12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the **standard trading period** means—
  - (a) for any day of the week other than a Sunday—
    - (i) the period from 5 am to midnight, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
  - (b) for a Sunday—
    - (i) the period from 10 am to 10 pm, or
    - (ii) if the regulations prescribe a shorter period—the period as so prescribed.

- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from noon to midnight on any day of the week.

**Note—**

Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1)(b), the **standard trading period** for premises to which this subsection applies ends at midnight on a Sunday that falls on 24 or 31 December.
- (1C) Subsection (1B) applies to the following premises or part of premises—
- (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
  - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
  - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may—
- (a) apply to a specified class of licensed premises, and
  - (b) apply in relation to a specified day or days, and
  - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2)(a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

#### 44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

#### 48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
- (a) the views of the local community, and
  - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:
- relevant application** means any of the following:
- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
  - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
  - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
  - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
  - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
  - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
  - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:

- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
  - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
  - (b) an application for approval to remove a small bar licence to other premises,
  - (c) an application for an extended trading authorisation for a small bar,
  - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
  - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
  - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
  - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
  - (a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, and
  - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
  - (b) the matters to be addressed by a community impact statement,
  - (c) the information to be provided in a community impact statement,
  - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
  - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

#### **49 Extended trading authorisation—general provisions**

- (1) **Application of section** This section applies in relation to the following types of licences (referred to in this section as **a relevant licence**)—
- (a) a hotel licence,
  - (b) a club licence,
  - (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
  - (d) a packaged liquor licence,
  - (e) a producer/wholesaler licence.
- (2) **Extended trading authorisation for consumption on premises** In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the

Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods—

- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
  - (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
  - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
  - (d) in any case—a specified period between 10 pm and midnight on a Sunday.
- (2A) Without limiting subsection (2), the Authority may, in the case of an on-premises licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during any of the following periods—
- (a) a specified period between 5 am and noon on a restricted trading day,
  - (b) a specified period between 10 pm and midnight on a restricted trading day.

**Note—**

The sale of liquor at these times is subject to the requirement that a meal is also served—see section 25(3).

- (3) Despite subsection (2)(a), the Authority may, in the case of a hotel—
- (a) situated in the area constituting the City of Sydney (as at 1 July 1994), or
  - (b) situated in the Kings Cross precinct, or
  - (b1) situated in the area including and bounded by the parts of streets specified in Schedule 3 (Oxford Street–Darlinghurst precinct) or that fronts or backs onto, or abuts, any such specified part, or
  - (c) situated in the Kosciuszko National Park, authorise the licensee, on application by the licensee, to sell or supply liquor, for consumption on the licensed premises only, during a specified period between midnight on a Sunday and 5 am on a Monday.
- (4) **Extended trading authorisation for take-away sales on Sundays** In the case of a relevant licence (including a packaged liquor licence) that authorises the sale or supply of liquor for consumption away from the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption away from the licensed premises only, during either or both of the following—
- (a) a specified period between 5 am and 10 am on a Sunday,
  - (b) a specified period between 10 pm and 11 pm on a Sunday.
- (5) **Nature of extended trading authorisation** An extended trading authorisation operates to authorise the sale or supply of liquor on the licensed premises—
- (a) on a regular basis (until such time as the authorisation is varied or revoked by the Authority), or
  - (b) if the authorisation so provides—on a special occasion that takes place on a specified date, or
  - (c) if the authorisation so provides—on up to 12 separate occasions in any period of 12 months.
- (5A) Despite subsection (2)(a), the Authority may, in the case of a hotel licence, authorise the licensee, on application by the licensee, to sell or supply liquor for consumption on the licensed premises during a specified period between midnight on a Sunday and 5 am on a Monday, but only on or in connection with a special occasion that takes place on a specified date.
- (6) **Extended trading period to be specified** In granting an extended trading authorisation, the Authority is to specify—
- (a) the extended trading hours during which the licensee is authorised to sell or supply liquor, and
  - (b) the part or parts of the licensed premises to which the authorisation applies.
- (7) **Extended trading not permitted on or in relation to restricted trading days—hotels and licensed public entertainment venues** Despite any other provision of this section, an extended trading authorisation cannot, in the case of a hotel licence or an on-premises licence that relates to a public entertainment venue (other than a cinema or a theatre), be granted to authorise the sale or supply of liquor for consumption on the licensed premises during any of the following periods—
- (a) between 5 am and noon on a restricted trading day,
  - (b) between 10 pm and midnight on a restricted trading day,
  - (c) between midnight and 5 am on any day immediately following a restricted trading day.
- (8) **Restrictions on granting extended trading authorisation** The Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that—
- (a) practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
  - (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

- (9) For the purposes of this section, a **special occasion** means the occasion of a unique or infrequent event of local, State or national significance that persons independent of the licensee (and of the owner or occupier of the premises) desire to celebrate or mark on the licensed premises concerned.

## **51 General provisions relating to licence-related authorisations**

- (1) This section applies to the following authorisations granted by the Authority under this Act—
- (a) an extended trading authorisation,
  - (b) a drink on-premises authorisation,
  - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
  - (d) a minors area authorisation,
  - (e) a minors functions authorisation,
  - (f) a minors authorisation.
- (2) An application for an authorisation to which this section applies must—
- (a) be in the form and manner approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary), and
  - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
  - (c) if required by the regulations to be advertised—be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority (or, in the case of an application for an extended trading authorisation for a small bar, by the Secretary) or prescribed by the regulations.
- (3) In determining an application for an authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (4) If, before an application for an authorisation is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including information provided under this subsection), the applicant must immediately notify the Authority of the particulars of the change.
- (5) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for an authorisation.
- (6) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the authorisation.
- (7) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of an authorisation. If any such fee is prescribed or determined, the authorisation does not take effect unless the fee has been paid.
- (8) The Authority may, in granting an authorisation, specify requirements that are to be complied with before the authorisation takes effect. The authorisation does not take effect until such time as any such requirements have been complied with.
- (9) An authorisation—
- (a) is subject to such conditions—
    - (i) as are imposed by the Authority (whether at the time the authorisation is granted or at a later time), or
    - (ii) as are imposed by or under this Act or as are prescribed by the regulations, and
  - (b) may be varied or revoked by the Authority on the Authority's own initiative or on application by the licensee, the Secretary or the Commissioner of Police.
- (10) Any such application by a licensee to vary or revoke an authorisation (including any conditions to which the authorisation is subject that have been imposed by the Authority) must be accompanied by the fee prescribed by the regulations.
- (11) For the purposes of this Act, any condition to which an authorisation is subject is taken to be a condition of the licence to which the authorisation relates.
- (12) An authorisation has effect only while all the conditions to which it is subject are being complied with.
- (13) The Authority must not impose a condition on an authorisation, or revoke or vary an authorisation, other than a variation made on application by a licensee, unless the Authority has—
- (a) given the licensee to whom the authorisation relates a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken any such submissions into consideration before making the decision.
- (14) This section does not authorise the revocation or variation of a condition to which an authorisation is subject if the condition is imposed by this Act or is prescribed by the regulations.