

IN THE LIQUOR LICENSING DIVISION OF WESTERN AUSTRALIA

IN THE MATTER OF AN APPLICATION FOR VARIATION OF LICENCE CONDITION
PURSUANT TO SECTIONS 64 & 68 OF THE LIQUOR CONTROL ACT IN RELATION TO THE
COTTESLOE BEACH HOTEL

PUBLIC INTEREST ASSESSMENT SUBMISSIONS

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Filed on behalf of: The Applicant

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APPLICATION

1. Garrett Holdings 2010 Pty Ltd and Primary Securities Ltd ("Applicant") applies to vary a condition of hotel licence number 6010001396 ("Licence") attached to premises at 104 Marine Parade, Cottesloe ("Premises") known as the Cottesloe Beach Hotel ("Hotel") under sections 64 and 68 of the Liquor Control Act 1988 ("LCA").
2. The Applicant seeks to extend the currently applicable permitted trading hours in respect of the area of the Premises known "The Beach Club" (formerly known as the "beer garden") to allow for the following closing times:
 - a. 11pm on Sundays to Tuesdays (inclusive); and
 - b. Midnight on Wednesdays to Saturdays (inclusive)
3. Accordingly the variation sought is for the following condition ("Existing Condition") to be deleted:

"Liquor may not be sold or consumed in that part of the premises known as the beer garden after 10.00pm on any night, unless the beer garden is being used for a private function, arrangements for which have been made prior to that day."

and replaced with the following:

"Liquor may not be sold or consumed in that part of the premises known as the Beach Club after 11.00pm on Sundays, Mondays and Tuesdays unless the Beach Club is being used for a private function, arrangements for which have been made prior to that day."

APPLICANT

4. The persons behind the Applicant are experienced and successful participants in the Western Australian hospitality industry, currently operating a large number of licensed venues with significant social, economic and tourism significance in the Western Australia including:
 - (a) The Hotel;
 - (b) Hotel Rottneest;
 - (c) Pier 21, Fremantle;

- (d) Tradewinds Hotel, Fremantle;
- (e) Karratha International, Karratha; and
- (f) Mangrove Resort, Broome

LOCALITY

5. The figures cited below are for the suburb of Cottesloe sourced from the Australian Bureau of Statistics latest census data:
 - (a) The population is 7,398;
 - (b) The median age is 40 years;
 - (c) There are 1,823 families with a median of 1.9 children per family;
 - (d) All private dwellings numbered 3,400;
 - (e) The unemployment rate is 3.3%, compared to the State unemployment rate of 4.7%.
 - (f) Professionals comprised 43.6% of persons employed, significantly higher than the State figure of 19.9%.
 - (g) Median household weekly income in Cottesloe is \$2,494 compared with the State figure of \$1,415.
 - (h) A total of 8 persons of Aboriginal or Torres Straight Islander descent reside in Cottesloe of the total 69,664 residing in WA.
6. The Hotel is situated on the Cottesloe beachfront directly opposite Cottesloe Beach, one of Australia's most iconic beaches.
7. Cottesloe Beach precinct comprises a number of public and private hospitality and leisure facilities which add to the attractiveness and vibrancy of the area.
8. The beach itself is a popular meeting spot not only in daylight hours but at night on hot summer evenings, large groups of persons can be seen socialising on the grassed terraces adjacent to the beach, the beach car parks and on the beach itself. Many of these people drink alcohol and empty alcohol containers can often be seen on the beach early the next morning.
9. Licensed venues in the vicinity include the following:

- (a) The Hotel;
 - (b) The Indiana Teahouse: This venue holds large weddings and private functions on most weekend nights in summer trading until midnight;
 - (c) Il Lido restaurant and Blue Waters Café: These are popular licensed restaurants operating very close to the Hotel. Both restaurants are popular most nights of the week in summer and commonly trade until midnight on weekends;
 - (d) The Cottesloe Civic Centre: This is a popular venue for large weddings and large private functions in summer both inside the Civic Centre building and in the Civic Centre gardens. These functions cater for several hundred persons and generally finish at midnight. At the end of these functions, guests often walk down the suburban streets leading to the Hotel and wait to catch a taxi on Marine Parade in front of the Hotel.
10. There are also a number of unlicensed venues in the precinct including fast food outlets that trade late at night on weekends in summer.
 11. The attractiveness of the area particularly to visitors to Western Australia has led to the development of several short stay accommodation facilities in the precinct situated close to the Hotel.
 12. The combination of the beach and the numerous leisure facilities in the precinct attract large numbers of people to the area both day and night in summer. These comprise persons travelling from throughout the Perth metropolitan area and a significant number of tourists.
 13. In winter months the precinct is comparatively quiet.

RELEVANT HISTORY

14. The Hotel has operated continuously as a licensed hotel since 1905.
15. During the 1970's the licenced area of the hotel was extended to allow for the conversion of the rear car park of the Hotel into an open air licensed area known as the "beer garden" ("Beer Garden").
16. The Beer Garden traded continuously from the 1970's until its closure by the Applicant in 2010.

17. The physical nature of the Beer Garden can be summarised as follows:

- (a) It accommodated 1200 patrons;
- (b) It comprised one large open space;
- (c) It offered little by way of seating for patrons;
- (d) It offered little shade for patrons;
- (e) The area was generally utilised as a standing area with very few seats provided for the comfort of patrons;
- (f) Offered little seating for customers
- (g) The fit out was very basic and often poorly maintained. In the years immediately prior to its closure by the Applicant the area had degenerated into a poor condition.

18. The services provided and general manner of operation of the Beer Garden can be summarised as follows:

- (a) The dress code for the Beer Garden was lax, allowing patrons to attend in very casual and sometimes shabby attire including beach wear and thongs.
- (b) The supply of alcohol was the predominant focus;
- (c) There was little or no food service provided to patrons;
- (d) A limited range of beverage services were offered to patrons;
- (e) Little or no food service was offered to patrons.
- (f) Over several decades the Beer Garden developed an infamous reputation as one of Perth's liveliest licensed venues in summer months. It was extremely popular attracting large crowds during summer months, particularly on Sunday afternoons and evenings which was known as the "Cott Sunday session";

19. The Beer Garden catered for young men and women, predominantly aged in their late teens and twenties socialising in a fairly boisterous manner.

20. The typical scene at a 'Sunday session' at in the Beer Garden involved the venue operating at maximum capacity for most of the afternoon and evening with queues for entry, patrons inside packed shoulder to shoulder, mostly standing, and socialising in a lively and rowdy environment.
21. The environment was conducive to excessive alcohol consumption and drunkenness and associated anti-social and inappropriate behaviour was not uncommon.
22. It is a matter of record that over several decades the Beer Garden was the focus of complaints from local residents including several formal complaints lodged with the licensing authority pursuant to s.117 LCA.
23. Issues raised by residents in the years prior to the involvement of the Applicant included:
 - (a) Music and patron noise from the Beer Garden;
 - (b) Patrons supplied with alcohol at the Hotel to the point of drunkenness
 - (c) Problems with patron behaviour in queues;
 - (d) Problems associated with the behaviour of patrons exiting the Hotel and Beer Garden in the surrounding streets including urination, public fornication, vandalism, fighting, swearing, general noise and litter.
24. It was in these circumstances that the licensing authority imposed the Existing Condition on the Licence.
25. In mid 2010 the hotel licence was transferred to the Applicant.
26. The Applicant closed the Beer Garden for renovations and in December 2012 re-opened this area as the Beach Club (see below for further details).
27. In 2013 eight persons residing at six addresses in the vicinity of the Hotel filed a complaint under s.117 LCA in respect to the Hotel. The major issue raised by those residents was alleged disturbance from the sound of patron conversation emanating from the Beach Club.
28. The Applicant subsequently participated in a process of mediation and undertook additional acoustic attenuation works at the request of the complaints.

29. Nonetheless mediation proved to be unsuccessful in resolving the complaints which were determined by the Director at first instance and then considered afresh by the Liquor Commission upon application for review by four of the complainants. After considering all the evidence, both the Director and the Liquor Commission found that neither the Hotel generally nor the Beach Club in particular operated in a manner that caused undue disturbance to residents nor lessened the amenity of the locality. Accordingly all complaints were dismissed.
30. Since the time that those s.117 complaints were considered and determined, the Hotel and the Beach Club have continued to operate in an identical manner as at the time of the determination of the s.117 complaints and in harmony with the neighbourhood.

Operation of the Hotel by the Applicant

31. At the time of taking over the operation of the Hotel in 2010, the Applicant considered that the Hotel was an iconic and much loved Western Australian venue but that it had failed to evolve with the times.
32. Specifically the Applicant considered that the unsophisticated and rowdy environment associated with the Hotel up to that point in time (particularly the Beer Garden) was not in keeping with:
- (a) the social and leisure needs of contemporary Western Australians;
 - (b) the expectations of tourists visiting WA;
 - (c) the responsibility of the licensee to operate the Hotel in harmony with the surrounding neighbourhood; and
 - (d) contemporary standards relating to the responsible service of alcohol.
33. The Applicant's intention was to effect changes in the manner of operation of the Beer Garden so that it operated in a manner that was consistent with contemporary consumer requirements and standards of management for licensed premises.
34. The Applicant's vision for the Hotel included improving the standard of liquor and related services in the Beer Garden with the intention transforming this area into a chic and stylish open air licensed space catering to a stylish, casual mix of patrons of all ages including those in an older demographic.

35. Given that previous style of operation and patron profile of the Beer Garden had a history spanning several decades, the Applicant considered that a significant 'cultural shift' was required to achieve the desired changes. To succeed in this aim, the Applicant closed the Beer Garden almost immediately after taking over operation of the Hotel in 2010 to send a clear message to the general public that the "old Cott" was gone and that things were about to change significantly.
36. The Beer Garden was closed for a total of almost 2 ½ years from July 2012 to December 2012. The decision to close such a large and popular part of the Hotel was made at a significant financial cost to the Applicant which serves to demonstrate its level of responsibility and professionalism.
37. The Applicant developed renovation plans for the Beer Garden with a design brief to its architects to transform the area into a stylish, sophisticated and yet casual space for people of a broad range of ages to socialise together in a relaxed and friendly manner.
38. The Applicant's specific aim was to move away from the previous focus of the Beer garden in providing a young adult demographic with a 'high intensity' licensed environment and instead to create an ambiance that was relaxed, stylish, friendly and casual and that was suitable for a wide range of persons including family groups and older patrons. All design and operational decisions were made with these aims in mind.
39. The budget of renovation works was approximately \$5.8 mill.
40. After obtaining all relevant approvals, the Applicant commenced renovation works in the Beer Garden in early 2012.
41. The renovated area re-opened in December 2012 under the name, 'The Beach Club'.

THE BEACH CLUB

42. The Beach Club presents as a dramatically different space to the previous Beer Garden in physical terms:
 - (a) The fit out has been undertaken to the highest standards.

- (b) As part of a strong focus on dining services in the Beach Club, a sizable, fully equipped kitchen has been installed including a wood fired grill and rotisserie and pizza oven.
 - (c) The casual dining concept is enhanced by the inclusion of significant seating for the comfort of patrons including day lounges and semi-formal seating at tables and benches suitable for shared dining.
 - (d) The large open space has been separated into three separate smaller areas with different elevations and styles;
 - (e) These various improvements to the area have reduced the usable public space of the area and the beach Club now operates under a maximum capacity of 840 persons (a reduction of 30%).
 - (f) Several covered areas have been created providing much needed shade for patrons;
43. The Beach Club offers services and an operational style that is also starkly different to the previous Beer Garden:
- (a) The Beach Club has a significant emphasis on dining services and thus the design included a team of highly qualified chefs was assembled and developed dining menus with a focus on high quality casual dining.
 - (b) The Beach Club drinks menu offers wide range of premium, imported and craft beers, premium wines (including in excess of 30 wines offered by the glass) and quality cocktails.
 - (c) Entertainment is restricted to background music played via an in-house music system at a volume allowing normal conversation between patrons controlled by way of 'in-house' sound limiting equipment.
44. The changes to this part of the Hotel have resulted in desired change in patronage:
- (a) Beach Club attracts a good quality crowd both in terms of standard of dress and behaviour;

- (b) Beach Club patrons cover a broader range in age and type than the previous Beer Garden.
- (c) Patrons are predominantly range in age from their mid-twenties up to people in their 60's.
- (d) It is not uncommon to see three generations of friends and family socialising together.
- (e) In the afternoon and early evenings family groups can often be seen dining together in the Beach Club including accompanied juveniles of all ages.
- (f) Regular patrons include many 'locals' who live within a walking distance of the hotel.
- (g) Tourists comprise a significant proportion of patrons of the Beach Club including regional, interstate and international tourists.

45. The behaviour of patrons has also changed in the manner intended:

- (a) Excessive consumption with responsible consumption now the norm;
- (b) Anti-social or aggressive behaviour is almost non-existent.
- (c) At closing time patrons exit the venue in an orderly manner and leave the area quietly and promptly.
- (d) 'Street' problems of noise, litter and anti-social behaviour of patrons have been effectively eliminated.

46. The Applicant voluntarily applies a range of responsible management practices including the following:

- (a) No drink products are offered that catered specifically to young adults including 'ready to drink' products;
- (b) No drink products or practices are offered that would encourage the rapid or excessive consumption of alcohol. Specifically 'shooters' are prohibited.

- (c) Professional licensed security services are engaged to provide coverage of entry, exit internal areas of the Beach Club during key trading periods.
- (d) Entry screening is managed by a combination of security staff, managers and a door hostess monitoring the single entrance to the Beach Club on Warnham Road during key trading periods to assess persons to ensure compliance with the applicable dress code, age and sobriety requirements. Patrons leaving the venue are reminded to leave quietly and to respect neighbours.
- (e) Apart from the strict dress code, additional entry policies prevent the entry of the following:
 - (i) Bus tour groups;
 - (ii) Large groups of males;
 - (iii) 18th or 21st birthday groups;
 - (iv) Bucks or hens party groups.
- (f) A "smart casual" dress code is enforced with specific items of clothing not permitted including:
 - (i) Singlets or tank tops;
 - (ii) Board shorts or swimwear;
 - (iii) Ripped or soiled clothing;
 - (iv) Garments with offensive design/words;
 - (v) Manual work clothing or boots; and
 - (vi) Unclean or untidy footwear.
- (g) Beverage menus have been designed so that both the range and price of drink products are consistent with the quality of the fit out of the Premises and the target demographic.
- (h) Consistent with the Licensee's strong commitment to staff training in all of its venues, comprehensive training programmes are implemented for staff at all levels. Training at the Hotel involves a

strong emphasis on 'responsible service of alcohol' practices and procedures.

- (i) Closing procedures for the Beach Club have been designed and refined to minimise the risk of noise or disturbance being caused to local residents and to encourage the gradual and orderly egress of patrons.
- (j) Management and security conduct regular patrols of all areas of the Beach Club continuously during peak trading hours to observe and assess patrons to ensure 'best practice' in terms of the responsible service of alcohol.
- (k) No packaged liquor is sold from the Hotel at any time. This self-imposed restriction was implemented at the request of local police soon after the Applicant took over the Hotel due to police concerns relating to public drinking on the Cottesloe Beach and other public places in the beachfront area.
- (l) In sensitivity to the needs of its neighbours the Applicant ensures that all operational activities with a potential for causing noise are limited to the period between 9am and 7pm daily. Such activities include stock delivery, rubbish collection, the handling of furniture during cleaning, the movement of empty beer kegs and the handling of glass refuse.

47. In terms of general profile, the patrons of the Hotel now tend to be older, better dressed, more responsible in terms of alcohol consumption and better behaved both on the Hotel premises and in the vicinity of the Hotel.

APPLICATION

48. Unsurprisingly, the current permitted trading hours for the Beach Club cause regular dissatisfaction amongst many existing and potential patrons.

49. It is probably a notorious fact that members of the public have an expectation and a desire to socialise at hotel venues during the normal permitted trading hours a that apply to licenced premises of this kind i.e. until midnight.

50. The Applicant has received regular and consistent feedback from both existing and potential patrons of the Beach Club that the 10pm closing of this

area does not suit their leisure needs and causes considerable frustration and disappointment.

51. This feedback covers a broad range of persons in terms of age and situation including young and old, local and tourist.
52. Many of these persons seek to start their evening's socialising at the Beach Club relatively late in the evening, arriving after relaxing at home in the early evening or enjoying an evening meal at another unlicensed or licensed venue.
53. In the case of tourists, arrival at the Beach Club may well occur at the end of a long intrastate, interstate or international journey after booking in to short stay accommodation in the area.
54. All of these categories of persons seek the ability to socialise at the Beach Club for reasonable period of time and find that 10pm closing does not meet these leisure needs.
55. Further, the current closing time of the Beach Club does not cater to the consistent trend amongst many members to dine at non-traditional hours of the evening. Many members of the public seek considerable flexibility in dining opportunities to allow them the option of dining at a traditional meal time on some nights and to do so well after the traditional evening meal time on other occasions.
56. These diners can seek top order dinner as late 9pm and the Applicant has insufficient time to take their order, produce a full meal and allow them sufficient time to enjoy the meal within the framework of the current trading hours of the Beach Club.
57. For non-dining patrons of the Beach Club the inconvenience caused by the current 10pm closing is just as great. These persons wish to enjoy the convenience of remaining at the Venue to continue socialising during the additional hours sought and have little desire to suffer the inconvenience of travelling to an alternative licensed venue at 10pm.
58. Cottesloe is one of Western Australia's significant tourist attractions and is visited by large numbers of tourists every year. The Cottesloe beachfront area contains a significant number of tourist accommodation facilities to cater for these needs many of which are located within close proximity to the

Hotel. Tourists are often particularly perplexed and annoyed at the 10pm closing of the Beach Club. Whether they are regional, interstate or international visitors to Perth, they are generally used to being able to enjoy dining and beverage services in licensed venues at least until midnight and the complaints from this section of the public has been consistent and significant.

59. The recognition of these various issues has motivated the Applicant to make the present Application to allow the Beach Club to meet the reasonable needs of all of these various sections of the public.
60. The Application contemplates a relatively limited additional period during which it provides its existing liquor and related services in the beach Club. There is no intention to make any change to the services provided not the style of operation should the application be granted.
61. It is anticipated that there will be no change in the demographic profile of persons patronising the Beach Club during the additional trading hours sought by this application.

CONSUMER REQUIREMENTS

62. The Applicant has filed a number of detailed consumer statements in support of the Application constituting a representative sample of persons who would be inconvenienced by the grant of the Application.
63. These persons set out their leisure needs and expectations, their frustration at the current closing regime of the Beach Club and their desire for the closing time for this part of the Hotel to be extended as sought by the Applicant.
64. These witnesses provide a representative sample of the section of the public whose requirements would be satisfied by the grant of this application.
65. The Applicant intends to file additional consumer evidence in due course.

LEGAL SUBMISSIONS

General principles

66. Section 64 LCA provides the power for the licensing authority to impose, vary and cancel conditions of a liquor licence.

67. Section 64(1) provides:

Subject to this Act, in relation to any licence, or to any permit, the licensing authority may at its discretion impose conditions —

(a) *in addition to the conditions specifically imposed by this Act;*
or

(b) *in such a manner as to make more restrictive a condition specifically imposed by this Act,*

and may vary or cancel any condition previously imposed by the licensing authority, having regard to the tenor of the licence or permit and the circumstances in relation to which the licensing authority intends that it should operate.

68. Section 64(1a)(b) provides:

The licensing authority may impose, vary or cancel a condition under subsection (1) on the application of the licensee

69. Section 38(4) sets out the matters that the Licensing Authority may have regard to in determining whether the grant of an application is in the public interest, include:

- (a) the harm or ill health that might be caused to people, or any group of people due to the use of liquor;
- (b) the impact on the amenity of the locality in which the licensed premises or proposed licensed premises are, or are to be, situated;
- (c) whether offence, annoyance, disturbance or inconvenience may be caused to people who work or reside in the vicinity of the licensed premises or proposed licensed premises; and
- (d) any other prescribed matter.

70. Relevant to the question of the public interest are the objects of the Act.

71. Section 5(1) of the Act creates the primary objects of the Act:

- (a) To regulate the sale, supply and consumption of liquor;

- (b) To minimise harm or ill health caused to people or any group of people due to the use of liquor; and
- (c) To cater for the requirements of consumers for liquor related services with regard to the development of the liquor industry, the tourist industry and other hospitality industries in the State.

72. Section 5(2) of the Act creates the secondary objects of the Act:

- (a) to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State; and
- (b) to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
- (c) to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act

73. No particular primary object should be given precedence over any other primary object. Rather the licensing authority must undertake a balancing exercise, weighing up considerations relevant to each of the objects of the Act.

74. The mere fact that Section 5(1)(b) is a primary object does not necessarily mean that where harm or ill health may be caused to people by the use of liquor, restrictive conditions should be imposed: *Executive Director of Health v Lily Creek International Pty Limited & Ors* (2000) WASCA 25 at page 21.

75. Where there is a prospect of harm or ill health being caused by the grant of a license, and the ground would advance other objects, the resolution of the conflict that then arises will depend on the degree of importance that is to be attributed to each of the relevant factors in the particular circumstances: *Lily Creek (supra)* at page 45.

76. The Licensing Authority is required to consider whether the risk of increased harm is acceptable or unacceptable. It is not the position, however, that any increase is unacceptable. This is an assessment which must be made on a case by case basis: *Lily Creek (supra)* at page 59.

77. When considering whether the grant of an application will cause harm or ill health to people, or any group of people, due to the use of liquor, the approach to be adopted by the licensing authority is as follows:
- (a) Consider the existing harm or ill health occurring within the particular area within which the premises are located.
 - (b) Consider the increased harm or ill health due to the use of liquor that may result from the specified premises in question if the application was to be granted.
 - (c) Assess the increased harm identified (if any) against the existing levels of harm or ill health due to the use of liquor to determine the overall level of harm or ill health, which is likely to result if the application is granted.
 - (d) Consider whether the risk of increased harm is acceptable or unacceptable.
78. Section 33 of the Act provides the licensing authority with an absolute discretion to grant or refuse an application under this Act on any ground, or for any reason, that the licensing authority considers in the public interest.
79. In regards to the scope and purpose of the Liquor Licensing Act 1988, Malcolm CJ stated in *Jericho Nominees Pty Ltd v Dileum Pty Ltd* (1992) 6 WAR 380 at 400:

"The public interest...involves satisfying the reasonable requirements of the public to have liquor outlets consistent with good order and propriety in relation to the distribution and consumption of liquor..."

Consumer evidence

80. Evidence that the grant of the Application would cater for the needs of a section of the public is relevant to general public interest under the Act.
81. Public interest under the Act is determined by the objects set out in section 5. Those objects include:
- (a) The primary object *"to cater for the requirements of consumers for liquor and related services, with regard to the proper development of*

the liquor industry, the tourism industry and other hospitality industries in the State” : s.5(1)(c) of the Act.

- (b) The secondary object: *“to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State” : s.5(2)(a) of the Act.*

82. “Applicants must adduce sufficient evidence to demonstrate that positive aspects of their application, including that the proposed licence will cater for the requirements for consumers for liquor and related services. The Liquor Commission has determined that failing to do this means “...the granting of licences under the Act would become arbitrary and not in accordance with the objects of the Act.” (LC 32/2010; Element WA Pty Ltd)

83. It is well established that the requirements of the public for particular licensed facilities may be proved by inference from the evidence of a representative sample of the relevant section of the population in the locality: (Coles Myer Ltd v Liquorland (unrep. Supreme Court of WA, Library H267, 28 May 1990, per Rowland J at 8; per Nicholson J at 5; re David Jones Department Store; Aherms (Suburban) Pty Ltd v Woolworths Ltd and Anor [2001] WALLC 3, at pa 30).

84. It has long been accepted in this jurisdiction that an applicant for a liquor licence is not required to lodge evidence of consumer demand in any specific format. In (Hay Properties Pty Ltd and Anor v Rochel Pty Ltd, Appeal FUL 173 of 1997 per Malcolm CJ) it was held:

- (a) “What is a significant section of the public and what number of persons may be said to be representative is necessarily a question of fact and degree depending on the population of the affected area and a range of other circumstances”.
- (b) “While survey evidence may be extremely helpful in providing evidence of the subjective requirements of a significant section of the public, it is not possible to say that such evidence is essential”

(Cited with approval in Woolworths Ltd -v- Director of Liquor Licensing [2013] WASCA 227

85. In Hay Property (supra), the applicant led evidence at the hearing from a total of 18 persons (six witnesses who gave oral evidence and 11 persons who wrote letters of support). This was considered by the Judge to be sufficient to constitute a representative sample of the public. On appeal the Supreme Court declined to interfere in the Judge's conclusion.
86. In the present case the Applicant's Consumer Evidence constitutes evidence that grant of the application would satisfy the needs of a section of the public and it provides a solid evidentiary basis upon which the licensing authority can make the following findings of fact:
- (a) There is significant demand for the proposed additional trading hours;
 - (b) There is broad support for the specific mix of liquor and related services that the Applicant proposes to provide during additional trading hours;
 - (c) Patrons of the Venue are likely to cover a broad range of ages;
 - (d) Many patrons of the Venue are likely to have a 'local' connection in terms of living or working in the Locality or the surrounding areas.
 - (e) Tourists will comprise a significant proportion of patrons;
87. In the present case, the Applicant's consumer evidence is comprehensive, cogent and reliable and provides a compelling basis for concluding that grant of the application would satisfy the requirements of a section of the public.

Local Government Authority

88. For the purposes of Section 69 of the Act, the Town of Cottesloe is the local government authority which may lodge an intervention pursuant to the provisions of section 69(7) of the Act.

Amenity

89. Grant of the Application would serve to improve the amenity of the Locality by:
- (a) Providing an additional facility for licensed dining and beverage services for local residents.
 - (b) Making the area more attractive to consumers and thus contributing towards economic growth.

- (c) Offering additional services to visitors to Western Australia that visit the locality

90. Given the quality of management, the standard of the Premises, the low risk demographic attracted to the Hotel and the range of strong management controls in place, the licensing authority can be confident that allowing the beach Club to trade during the additional hours sought would not have a negative impact on the amenity of the area.

Section 38(4)(a) – Harm or Ill Health

At Risk Groups

91. As set out in the Public Interest Assessment Requirements and Application Procedures, identified under the document 'Drug and Alcohol Interagency Framework for Western Australia 2011 – 2015' released by the Government of Western Australia Drug and Alcohol Office under the Minister for Health, Helen Morton MLC:

"At risk groups" have been identified and may include; 'children & young people', 'aboriginal people and communities', 'people from regional, rural and remote communities', families, 'people in low socio-economic areas', 'mining communities', 'communities that experience high tourist numbers.'

92. The Hotel does not currently attract a significant proportion of patrons that fall within any recognised "at risk" category in terms of alcohol related harm and ill-health.

93. No specific feature of the Applicant's proposal would support an inference that the grant of the Application would be likely to result in any such "at risk" group being attracted to the Hotel.

94. In fact the following specific features of the Beach Club support the contrary view, namely, that grant of the Application would not be likely to attract any risk groups:

- (a) Quality of fit out;
- (b) Focus on quality dining services;
- (c) Quality beverage offer;

- (d) Comprehensive policies and procedures relating to the responsible service and consumption of alcohol;
- (e) Restriction on music volume;
- (f) Strict dress code; and
- (g) Provision of security.

Crime Prevention Through Environmental Design

95. The location and design of the premises comply with the guidelines and principles outlined in the "Designing Out Crime Planning Guidelines" as noted below:

96. The Hotel:

- (a) is located in an area designated for mixed use which incorporates commercial, retail, entertainment, and residential buildings. The Hotel is therefore compatible with neighbouring uses;
- (b) has specific one single entry/exit location for patrons allowing for efficient monitoring of persons seeking to enter the Premises by staff and security;
- (c) is located in a well-defined private space;
- (d) consists of well-defined areas with specific staff to be employed for the purpose of security and crowd control in each area, as required; and
- (e) is monitored by CCTV.

Crime

97. Crime statistics for Cottesloe for the period June 2014 to July 2015 obtained from the WA Police website are set out in the table below.

Crime Statistics for Cottesloe: June 2014 to July 2015								
Year	Month	Assault	Burglary (Dwelling)	Burglary (Other)	Graffiti	Robbery	Real Motor Vehicle	All
2015	Jul	2	2	1	0	0	1	6
2015	Jun	2	9	1	0	2	3	17
2015	May	1	11	1	0	0	3	16
2015	Apr	1	2	6	1	0	4	14
2015	Mar	2	3	1	0	0	1	7
2015	Feb	2	6	5	0	0	4	17
2015	Jan	6	5	1	0	0	2	14
2014	Dec	6	4	2	1	0	0	13
2014	Nov	3	2	1	0	0	1	7
2014	Oct	2	2	2	0	0	2	8
2014	Sep	1	4	0	0	0	3	8
2014	Aug	3	3	0	0	0	1	7
2014	Jul	1	10	1	0	0	0	12
2014	Jun	3	6	1	0	0	1	11
Totals		35	69	23	2	2	26	157

98. Crime statistics for Cottesloe for the period June 2015 to July 2016 obtained from the WA Police website are set out in the table below.

Crime Statistics for Cottesloe: June 2015 to July 2016								
Year	Month	Assault	Burglary (Dwelling)	Burglary (Other)	Graffiti	Robbery	Steal Motor Vehicle	All
2016	Jun	3	0	1	0	0	2	6
2016	May	2	0	5	0	0	1	8
2016	Apr	1	5	0	0	0	0	6
2016	Mar	2	6	2	0	0	1	11
2016	Feb	3	5	2	0	0	0	10
2016	Jan	3	3	2	0	0	2	10
2015	Dec	2	5	0	0	0	1	8
2015	Nov	5	2	0	0	0	0	7
2015	Oct	3	8	1	0	0	1	13
2015	Sep	3	6	3	0	0	1	13
2015	Aug	2	7	0	1	0	1	11
2015	Jul	2	2	1	0	0	1	6
2015	Jun	2	9	1	0	2	3	17
Totals		33	58	18	1	2	14	126

99. It can be noted that "All offences" listed reduced from year to year have reduced by approximately 20%. Reductions in both assault and burglary offences can be seen.

100. The statistics should be treated with some caution for the following reasons:

- (a) The statistics generally only refer to offences and not convictions i.e. these refer to unproven allegations which have not been tested in court. In the absence of statistics in relation to the rates of conviction, the relevance of these statistics to this specific Application is uncertain.
- (b) It is difficult to engage in a meaningful comparison of statistics relating to Cottesloe with number of licensed and unlicensed venues and facilities in the area and the large numbers of persons attracted to the area and other areas which do not share these characteristics.
- (c) The statistics do not disclose the location of the relevant offences within the locality and thus the relevance to this Application is uncertain;

- (d) The statistics do not disclose the circumstances surrounding the commission of the relevant offences and significantly the degree of contribution of liquor to the commission of offences.

101. In any event, whilst crime statistics are clearly relevant to provide context in terms of the level of alcohol related harm occurring in the locality, the relevance of this 'harm' data to the present Application is limited because the trading history of the Beach Club demonstrates the following facts:

- (a) It is well managed and controlled;
- (b) It attracts a low risk crowd in an older demographic;
- (c) It does not attract any significant number of patrons in "at risk" categories;
- (d) It has no history of any significant level of anti-social behaviour or aggression amongst patrons nor does the operation of the venue contribute to crime in the area;;
- (e) It is an upmarket venue with a high standard of fit out;
- (f) It has a significant food focus;
- (g) Effective harm minimisation and patron management systems are in place at all times
- (h) Entertainment is limited to background music played at a conversational level;
- (i) Comprehensive responsible service of alcohol policies and procedures are maintained.

102. The matters referred to above can provide the licensing authority with significant comfort that grant of the Application would be highly unlikely to cause an increase in the level of alcohol related crime in the locality.

103. It can also be noted that the Beach Club does not have any of the features which have been associated with alcohol-related anti-social behaviour and aggression in certain research papers:

- (a) Unattractive, poorly furnished, poorly maintained premises give a message to patrons that the managers anticipate physical violence and associated damage to furnishings (Graham, K, Larocque, L, Yetman, R, Ross, TF and Guistre, E, (1980) "*Aggression and Bar Room Environments*" Journal of Studies on Alcohol, 41 pp277-297. Aggression has been significantly correlated with poorly maintained, unclean and unattractive bar environments, Hommel, R and Clarke, J, 1994 "*The Prediction and Prevention of Violence in Pubs and Clubs*" (Crime Prevention Studies 3, 1-46).

- In the present case, the Beach Club is well-maintained and highly-finished.

- (b) Poor ventilation and smoky air, inconvenient bar access and inadequate seating, high noise levels and over-crowding (Grahame et al 1980, Hommel and Clarke et al). In the present case, the venue includes extensive seating and easily accessible bar areas.

- In the present case, the Beach Club is well is ventilated;

- (c) Graham et al (1980) found that aggression was more likely in bars where there was pool playing and a dance floor.

- In the present case, the Beach Club does not feature either a designated dance floor or pool playing area.

- (d) There is greater aggression when bar staff are very aggressive, and do not engage in responsible serving practices (Hommel and Clarke, 1994, etc. al) and/or little control is exercised over patrons' behaviour. Graham et al 1980. Aggression has been found to be more likely in bars where drunkenness is frequent (Graham et al 1980, Hommel and Clarke 1994) and where there are discounted drinks and other drink promotions.

- In the present case, the Applicant maintains comprehensive RSA practices.

- (e) The availability of food (especially full meals) has been associated with reduced risk of aggression in bars (Graham, K (1985) "Determinants of Heavy Drinking and Drinking Problems – the Contribution of the Bar Environment"; Single and T Storm (EDS) "Public Drinking and Public Policy, Toronto Addiction Research Foundation".

- In the present case, dining services are available at all times in Beach Club.

104. In all the circumstances, the risk of the grant of the Application causing an increase in the level of crime in the Locality is extremely low.

Health

105. Annexed and marked "A" is a copy of the Regional Profile for North Metro Health Services for Alcohol-related hospitalisations and deaths in Western Australia, dated November 2011.

106. For the reasons outlined above it is submitted that the grant of the Application will be unlikely to negatively impact upon the existing levels of harm within the Locality.

Section 38(4)(c) - Offence, annoyance, disturbance and inconvenience

107. It is submitted that the grant of the Application will not cause offence, annoyance, disturbance and inconvenience to residents, business owners or persons passing through the Locality.

108. The issue of the impact of the Hotel generally and the Beach Club specifically has been recently considered in considerable detail by both the Director and the Liquor Commission as part of the s.117 complaint referred to earlier in these submissions.

109. Both jurisdictions of the licensing authority independently came to the same conclusion, namely, that the operation of the Hotel generally and the Beach Club specifically caused no undue disturbance to residents nor any lessening of the amenity of the locality.

110. The current manner of operation and patron profile of the Beach Club has not changed since these factual findings were made by the licensing authority.

111. The Hotel has not been the subject of any further s.117 complaint since the determination of the previous complaint.
112. The statements filed in support of the Application provide strong and cogent evidence from persons residing in the vicinity of the Hotel that the Beach Club does not cause any neighbourhood problems at all including noise from the venue or patron behaviour outside the venue.
113. The evidence of these long term, local residents is significant because they provide a graphic picture of the impact the Hotel had on the neighbourhood at the time when the Existing Condition was imposed in stark contrast to the present operation of the Hotel which is seen as a positive contribution to the amenity of the area.
114. The evidence indicates that the Beach Club operates without causing undue disturbance now and has done since its renovation in late 2012.
115. The circumstances of the present application are significantly different to those that existed at the time that the Existing Condition was imposed. The factors that based that decision no longer apply to the Hotel and the Beach Club (formerly known as the Beer Garden).
116. In all the circumstances the licensing authority can be confident that the grant of the Application would be unlikely to any significant offence, annoyance, disturbance or inconvenience will be caused by the granting of the application.

APPLICATION OF LEGAL PRINCIPLES IN THE PRESENT CASE

Section 5: Objects of the Act

163. The Application falls squarely within all of the primary objects and several of the secondary objects of the Act.
164. Grant of the application would be consistent with the requirement for the licensing authority to "*ensure the proper regulation of the sale, supply and consumption of liquor*" under s.5(1)(a) because:
 - (a) the directors of the Applicant company are professional and experienced and the licensing authority can be confident that the

operation of the Beach Club during the additional hours sought will be conducted in a professional and responsible manner;

- (b) the proposal is associated with Premises of a high standard and those Premises and facilities will be maintained to a high standard; and
- (c) the liquor and related services provided at the Venue is of a high standard and constitutes a unique hospitality facility in the Locality.

165. Grant of the Application would be consistent with the object to *"minimise harm or ill-health caused to people, or any group of people, due to the use of liquor"* under s.5(1)(b) of the Act because:

- (a) The Applicant is a reputable and responsible hospitality operator with a strong track record of responsible and successful operation of large and popular licensed venues;
- (b) The patron profile for the Beach Club does not include "at risk" groups;
- (c) The Applicant demonstrates a strong commitment to the responsible service of alcohol through a comprehensive regime of policies and procedures relating to RSA;
- (d) The Applicant is committed to comprehensive induction and ongoing staff training to maintain a high standard of staff professionalism and responsibility at all times;
- (e) The Applicant is committed to providing dining services throughout all trading hours;
- (f) The Applicant is committed to providing a substantial range of seating for patrons at all times;
- (g) The Venue will not sell or supply alcohol for consumption off the licensed premises;
- (h) The Applicant's proposal involves comprehensive measures to prevent disturbance to its neighbours or lessening the amenity of the area.

166. Grant of the Application would “*cater for the requirements of consumers for liquor and related services*” consistent with s.5(1)(c) of the Act and “*facilitate the use and development of licensed facilities reflecting the diversity of the requirements of consumers in the State*” under s.5(2)(a) of the Act for the following reasons:

- (a) A significant section of the public has a requirement for the mix of liquor and related services proposed by the Applicant during the additional hours sought;
- (b) No other venue in the Locality does or is capable of providing a similar mix of liquor and related services;
- (c) The Venue is unique in the hospitality landscape of both in the Locality and throughout the suburbs of Perth in terms of its location, the standard of Premises and the range of services provided;

167. Grant of the application would contribute to “*the proper development of liquor industry*” under s.5(1)(c) of the Act by:

- (a) Catering to the evolving requirements of the public for liquor and related services;
- (b) Catering to the existing unmet needs of the section of the public for the liquor and related services proposed to be provided at the Venue during the additional hours sought;

168. Grant of the application would contribute to “*the proper development of tourism industry*” under s.5(1)(c) of the Act because the Beach Club:

- (a) is a tourist attraction in its own right;
- (b) enhances the range of liquor and related services available for the enjoyment of tourists;
- (c) is likely to be attractive to and patronised by tourists.

Section 38(4)(a) - Harm or Ill health

169. For the reasons set out in these submissions it is unlikely that any ‘at risk’ group would form a significant proportion of the Applicant’s patronage during the additional trading hours sought.

170. Grant of the application would be unlikely to contribute to the level of alcohol related harm or ill-health in the Locality given:

- (a) The quality and standard of fit out of the Premises;
- (b) The professionalism and responsibility of persons associated with the Applicant;
- (c) The low risk patron profile
- (d) The Applicant's manner of operation including:
 - (i) RSA policies and procedures;
 - (ii) Focus on staff training;
 - (iii) Dress code policy;
 - (iv) Entertainment policy;
 - (v) Focus on dining; and
 - (vi) Substantial seating provided

170. In any event, any risk of an increase in harm and ill-health would be outweighed by the positive aspects of the Application as set out in these submissions.

Section 38(4)(b) - Impact on amenity

171. The proposed Venue would be unlikely to negatively impact on the amenity of the neighbourhood.

172. In fact grant of the Application would be likely to positively contribute to the amenity of the Locality by:

- (a) Contributing to the activation of the streetscape
- (b) Adding to the vibrancy attractiveness and convenience of the Locality.
- (c) Helping to improve the identity of the Locality and supporting the continued development of hospitality and tourism services in the Locality;

- (d) Providing additional leisure services for persons residing in, working in and visiting to Locality who wish to enjoy liquor, dining, functions and entertainment services at the Premises;
- (e) Increasing the attractiveness of Cottesloe as a tourist destination.

Section 38(4)(c) - Offence, annoyance, disturbance and inconvenience

- 173. The licensing authority has found that since its renovation in 2012 until determination of the s.117 complaint referred to in these submissions that the Beach Club has operated without causing undue disturbance in the locality.
- 174. There has been no change in the operating circumstances of the Beach Club since that decision.
- 175. No further s.117 complaint has been filed by any resident since that time.
- 176. The Applicant has submitted evidence indicating that the current operation causes no problems on the local community and is rather a positive contribution to the locality.
- 177. The totality of the evidence supports a conclusion that grant of the Application is unlikely to cause offence, annoyance, disturbance and inconvenience to persons in the Locality.

Sections 33 and 38 the Act: Public interest

- 117. Grant of the Application would be in the public interest because it would:
 - (a) Cater for the reasonable requirements of a significant section of the public;
 - (b) Contribute positively to tourism by providing an attractive licensed hospitality facility for tourists during the hours that they wish to socialise and thereby assist in the development of the Western Australian tourism industry;
 - (c) Be unlikely to cause harm or ill-health to any persons or group of persons;
 - (d) Be unlikely to cause noise, disturbance, offence or inconvenience to any persons; and

- (e) Contribute positively to the amenity of the Locality.
- (f) Not result in harm or ill health due to the consumption of liquor;
- (g) Not cause any adverse impact upon the amenity of the Locality;

CONCLUSION

- 118. The Existing Condition has long outlived its useful life.
- 119. At the present time that Condition operates to remedy a problem that no longer exists.
- 120. Without any public benefit, that condition is impacting negatively upon the ability of the Hotel to satisfy the reasonable leisure needs of locals and tourists.
- 121. For the reasons set out in these submissions it is submitted that it would be in the public interest for the Application to be granted.

Tim Monaghan
DWYER DURACK LAWYERS
Solicitors for the Applicant

THE PROOF OF EVIDENCE

GLENN DAVIES

Glenn Davies of Cottesloe,
Businessman, states:

1. I have owned and managed short-term accommodation apartments in and around the Cottesloe Beach Hotel ("the H" since 1994.
2. I currently manage the following accommodation premises:
 - (a) 17 chalets at 6 - 8 John Street. The chalets are located directly adjacent to the eastern boundary of the outdoor area of the Hotel which now trades as the "Beach Club". The block containing these chalets runs from Warnham Road to John Street.
 - (b) 16 units at 94 Marine Parade. These units are situated to the south of the Hotel across John St. Many of the units have balconies directly facing the Beach Club.
 - (c) One executive apartment at 12 John Street. This unit is located about 50m from the Beach Club.
3. All of these accommodation units are situated within a 50m radius of the Beach Club and some are located directly on the boundary of the Beach Club.
4. All of our units and chalets cater to the short term accommodation market. Most book to

stay for a few days but some stay for several weeks and in rare cases, months.

5. We cater for up to 30,000 guests per year.
6. Unsurprisingly, demand for accommodation is strongest in the warmer months of the year but our occupancy is generally strong all year round.
7. The majority of our guests comprise one of the following two groups:
 - (a) Family groups: Our units cater for up to five persons and are thus popular with families. A large component of these customers are families travelling from regional areas of the State to visit their children boarding at schools nearby
 - (b) Corporate guests: These comprise persons visiting Perth for business that who don't want to stay in the Perth CBD.
8. I am a 'hands-on' owner/operator and attend the business regularly. When I am not able to be personally present I have full time staff that report regularly to me.
9. The success of my accommodation business depends on providing guests with an enjoyable and comfortable stay and a good night's sleep.
10. Any complaints from guests are thus treated seriously. All my employees are under strict instructions to report any guest complaints to me immediately.

Amenity and tourism

11. The majority of our guests fall within the official definition of “tourist”, having travelled to Perth from regional areas of Western Australia, from interstate or from overseas.
12. It is obvious to state that providing a range of quality hospitality facilities is an essential part of attracting tourists to any given area.
13. When tourists choose where to stay during their visit, an important feature is the ability to walk from their accommodation to places where they can get good coffee and breakfast, a lunchtime or evening meal and quality licensed venues with good service and a convivial atmosphere in the evenings.
14. My experience as a tourist accommodation operator in the Cottesloe beachfront area over many decades has shown that the mix of hospitality venues in the area is an essential part of the attraction of tourists both for day time visits and overnight stays in the area.
15. Fortunately the Cottesloe beachfront area boasts many quality venues including fast food outlets, cafes and licensed restaurants.
16. The Hotel itself is an iconic landmark venue in the area and provides accommodation, food beverage and entertainment services to locals and tourists.
17. The quality of service and the ambiance of the Hotel has varied over the years and whether it has been a positive or a negative factor in terms of tourism attraction depends on what era you are talking about.

The old hotel

18. In the decades prior to 2010 the Hotel was owned and operated by a number of different entities but the general style of operation and type of patron attracted to the venue was always pretty consistent.
19. Back then the Hotel traded as a typical suburban pub attracting a typical “pub” crowd.
20. The beer garden at the rear of the Hotel was distinctive in terms of the WA “pub” landscape being a large, open-air licensed space so close to the beach.
21. For many decades the “Cott beer garden” was infamous as one of the busiest and wildest Sunday sessions in town over the summer months.
22. The beer garden was very popular and regularly traded to capacity on Sundays with long queues for entry starting in the afternoon and continuing well after the sun went down.
23. Back then the facilities in the beer garden of the Hotel were very basic. It was basically a large open-air licensed space with lots of bars, few seats and no shade.
24. The focus in the beer garden was always very much on the service of alcohol and food services were basically non-existent.
25. The old beer garden attracted a young and rowdy crowd, generally people aged in their teens, 20’s and 30’s.
26. The dress standard was always very casual and sometime pretty shabby.

27. The noise from inside the beer garden on the weekends and especially Sundays was often very loud. The sounds of people shouting, screaming and cheering could routinely be heard.
28. It was generally heavy drinking crowd in those days. At closing time on any given Sunday evening in summer, people that were obviously very drunk could be seen walking out of the Hotel and wandering off into the neighbourhood in rowdy groups.
29. The behaviour of patrons in the streets surrounding the Hotel was a weekly problem back then for anyone living or running a business in the area.
30. Prior to the recent renovation of the Hotel, we would receive regular complaints from our guests of noise from the beer garden and/or the behaviour of Hotel patrons in the streets after closing.
31. Guests would regularly complain about the behaviour of Hotel patrons including:
 - (a) Witnessing people urinating on streets and laneways;
 - (b) Being woken up or disturbed at night after the Hotel closed by the sound of people shouting, arguing and swearing, glass smashing, car radios blaring etc.
 - (c) Hotel patrons sneaking into the guest pool area ;
 - (d) Vandalism and theft of property.

32. In those days there is no doubt that the operation of the Hotel had a negative impact on many of our guests.
33. I worked with the owners of the management at the time to deal with these issues and they did their best to assist but there is only so much you can do to control a young, alcohol affected crowd.
34. It got so bad that the previous licensee of the Hotel provided two security guards at its cost to be stationed at the entrance to our John Street chalets every Sunday evening throughout the summer months to prevent patrons entering our property and to discourage anti-social behaviour in the street nearby.

The New Hotel

35. I am happy to report that all of these problems are now “ancient history”.
36. Everything changed when the Hotel and particularly the beer garden reopened in 2012 after renovations by the current owners.
37. The change in style and quality of the Beach Club was immediately apparent with a high quality fit out, lots of seats, lots of shade and the addition of good quality casual dining.
38. As soon as the new ‘Beach Club’ opened I was pleased to see that it attracted none of the old beer garden crowd and instead attracted patrons that were well dressed, generally older, that drank sensibly and that behaved themselves both inside and outside the Hotel.

39. The 'Beach Club' is very popular. Like the old beer garden, it seems to trade at capacity on many sunny weekends in summer, especially on Sundays and queues of persons waiting for entry can often be seen.
40. However the atmosphere in and around the Hotel on the weekends, including Sundays, is now completely different to the old days.
41. I measure the impact of the Hotel on the neighbourhood by the feedback from our guests. The change in this regard has been dramatic.
42. Prior to the renovations of the Hotel we would receive an average of the guest complaints per week relating to either noise from the Hotel or the behaviour of Hotel patrons. Since the renovations we have not received one complaint relating to the Hotel.
43. Now the only guest feedback relating to the Hotel is positive. Since the renovations, the Hotel, particularly the Beach Club, has become one of the popular destinations for our guests for meals and/or drinks.

Beach Club trading hours

44. I understand that the current operators of the Hotel are applying to change the current 10pm closing time of the Beach Club to the following closing times:
 - a. 11pm on Sundays, Mondays and Tuesdays;

- b. Midnight on Wednesdays, Thursdays, Fridays and Saturdays.

- 45. I have received feedback from guests regarding the 10pm closing of the Beach Club. They generally express puzzlement at the closing time as it is much earlier than they expect and annoyance at having to leave the venue before they are ready to.
- 46. Extending the closing times of the Beach Club would alleviate this dissatisfaction amongst those persons and help provide a better experience for our guests during their stay.
- 47. It would also provide an option for our late arrivals. It is not uncommon for our guests to check in as late as 8.30/9.00pm. These persons will often ask our reception staff for suggestions where to get an evening meal at a licensed venue in the area. The current closing times of the Beach Club mean that this area is not suitable for these guests.
- 48. In terms of impact on the neighbourhood, I have no concerns at all at the proposed later closing times for the Beach Club. Over the past few years the current owners of the Hotel have demonstrated to the neighbourhood that they can manage this large and popular venue without causing problems in the area.
- 49. I support the proposed change to the closing times of the Beach Club.

50. Given the style of operation of the Beach Club and the type of patrons that it caters to, I don't see that allowing Beach Club patrons to enjoy themselves for an extra hour or two in the evenings will cause any problems for the neighbourhood at all.
51. I have made this statement at the request of solicitors acting for the Hotel.
52. I have no social or financial connection with the Hotel or any person associated with the Hotel.
53. This statement is true and correct to the best of my knowledge and belief.

DATED: / /

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GLENN DAVIES

THE PROOF OF EVIDENCE DR MICHAEL HAUCK

Dr Michael Hauck of
Cottesloe states:

1. I am 55 years of age.
2. I own and operate a business in the field of nuclear medicine providing radioactive isotopes to hospitals throughout Australia.
3. I have lived in at my current address for the past 7 years.
4. My residence is located about 600m from the Hotel.
5. My girlfriend lives in Overton Gardens about 300m from the Hotel and I spend a lot of time there in the evenings.

The old “Cott” hotel

6. Prior to the recent renovation of the Hotel I was never a patron. The standard of the premises, the way it was operated and the crowd that it attracted back then was not attractive to me at all.
7. I had plenty of opportunity to observe the operation of the Hotel and the behaviour of its patrons back then because I would regularly enjoy sunset drinks and evening meals whilst sitting at the outside tables of the Blue Waters Café (now Hola Café) which is located directly opposite the Hotel.

8. Anyone who has lived in the Cottesloe beachfront area for a long time knows what the old "Cott Hotel" was like.
9. The Hotel was a nightmare for residents back then, especially on Sundays. The old beer garden was the source of most of the trouble.
10. The Hotel attracted a rough and heavy drinking crowd back in those days. They were generally young, badly dressed and poorly behaved.
11. On weekends, especially on Sundays, patrons would drink in the local car parks before entering the Hotel and then emerge several hours later visibly drunk.
12. In summer, especially on Sundays at closing time of the Hotel, it was usually very noisy in the streets around the Hotel with drunk patrons shouting, screaming and causing problems.
13. The streets surrounding the Hotel on Monday mornings smelt of urine and empty alcohol containers could be seen everywhere.

The new Hotel

14. The changes made to the Hotel by the present owners have been nothing short of dramatic.
15. The Hotel has been transformed from a real negative part of life in the area into a great asset for locals.

16. The Hotel is now stylish and upmarket and attracts a totally different type of patrons.
17. Patrons of the Hotel now cover a broad range of ages including family groups and plenty of persons of similar age to myself.
18. Almost without exception, Hotel patrons are now well dressed, drink sensibly and are well behaved.
19. The Hotel is now a true 'local' venue attracting a lot of people that live close by such as my girlfriend and myself.
20. At closing time Hotel patrons leave the area in a well-ordered and quiet fashion. Since the recent renovations of the Hotel I have not observed any persons leaving Hotel showing signs of drunkenness.
21. Noise from the Hotel itself is now negligible. Noise from neither music nor the sound of patrons can be heard at my home.
22. I commonly sit on the balcony of my girlfriend's house on Friday, Saturday and Sunday evenings and there is no sound to be heard from the Hotel at all.
23. My experience is that since the new 'Beach Club' opened, the operations of the Hotel and the behaviour of its patrons have not caused any problems in the neighbourhood at all.

Patronage of the Hotel

24. Before the Hotel was renovated by the present owners, I had no interest in attending the venue.
25. Since the renovations my attitude to the new Hotel is completely different. I think it is now a fantastic venue and I have become a regular patron both mid week and on weekends.
26. I usually attend either the Beach Club or “Cott & Co” which is the dining area at the front of the venue.
27. I particularly like visiting the Beach Club for the following reasons:
 - (a) The crowd there is very nice including young people, old people and family groups all enjoying themselves in a civilised manner.
 - (b) There are a lot of regular patrons including many locals’ that live nearby and walk to the Hotel like me so that there is always someone friendly to talk to.
 - (c) The décor is very nice, there are lots of places to sit.
 - (d) The food is very good.
 - (e) It is a safe and calm atmosphere so that I can feel comfortable taking girlfriend for drinks there or my 17 year old niece for a pizza or fish and chips.

Trading hours of the Beach Club

28. The current 10pm closing time of the Beach Club is a problem for me and the people that I socialise with.
29. On summer evenings my friends and I will often be settled in at the Beach Club enjoying ourselves when at 9.45pm Hotel staff tell us that we soon need to leave.
30. This is very annoying as we are rarely ready to leave so soon. We want to be able to remain at the Beach Club to finish off the evening until about 11.00/11.30pm.
31. There are no alternative options available to us after the beach Club closes as the Hotel public bar does not have an atmosphere that suits, there is no other comparable venue in the area and it is too inconvenient to travel to a venue in another area.
32. I understand that the current operators of the Hotel are applying to change the current 10pm closing time of the Beach Club to the following closing times:
 - a. 11pm on Sundays, Mondays and Tuesdays;
 - b. Midnight on Wednesdays, Thursdays, Fridays and Saturdays.
33. I support these changes both as a local resident and a Hotel patron.

34. I have made this statement at the request of solicitors acting for the Hotel.
35. I have no social or financial connection with the Hotel or any person associated with the Hotel.
36. This statement is true and correct to the best of my knowledge and belief.

DATED: / /

.....
DR MICHAEL HAUCK

THE PROOF OF EVIDENCE

LAURIE SCANLAN

Laurie Scanlan of
states:

Cottesloe

1. I've lived in the Cottesloe beachfront area for the past 40 years.
2. I have lived at my current address since 1993.
3. I live with my wife and one of our children.
4. My house is located just a few doors up from the Cottesloe Beach Hotel ("the Hotel"),
5. I have thus lived in very close proximity to the Hotel for over two decades.
6. Over that time I have been in a good position to observe the Hotel, its style of operation, its type of patronage and its impact on the local community.

The old "Cott" hotel

7. Anyone who has lived in the Cottesloe beachfront area for a long time knows that the old "Cott Hotel" was a very different venue to today.
8. For many decades the Hotel operated as a fairly traditional local 'pub' and the Hotel beer garden was infamous throughout Perth for several generations as a place to party in summer when you are young.

9. The Hotel has always been very busy during the summer months (as the Cottesloe beachfront area is generally).
10. The Hotel beer garden has always been especially popular as it capitalises on Western Aurelia's love for socialising outdoors in the summer and of course its location next to one of Perth's most popular beaches.
11. The "Sunday session" at the Hotel beer garden was traditionally the busiest day of trade for the Hotel.
12. As I understand it, back in those days the Hotel beer garden catered over 1000 people.
13. The beer garden generally reached maximum capacity every Sunday in summer with queues forming in the late afternoon and continuing in to the evening and with the Hotel remaining busy right up until closing time at 10pm.
14. The atmosphere of the old 'Cott' beer garden was very lively and rowdy.
15. The crowd was generally young (i.e. people in their late teens up to their mid to late twenties).
16. The dress standard at the beer garden back in those days was extremely casual with people often wearing in bathers, shorts, T-shirts and thongs.

17. People used to drink fairly heavily and enjoyed themselves in a fairly boisterous fashion.
18. From the point of view of local residents such as myself, the Hotel caused a fair bit of trouble in the neighbourhood back then.
19. Hotel patrons could be seen arriving in their cars drinking alcohol and also walking along the streets drinking on their way to the Hotel.
20. Empty alcohol containers were littered onto street verges and into front gardens fairly regularly.
21. The atmosphere out on the streets after the Sunday session was very rowdy as a rule. After closing time I would regularly hear the sounds of rowdy patrons in the street including the sounds of people shouting, arguing and swearing.
22. Public urination in the street and laneways in the area was also fairly common back then.
23. Occasionally there were fights outside the Hotel or in the neighbouring streets.
24. Vandalism of property was not uncommon such as letter boxes being ripped out of the ground and damaged.

The new Hotel

25. The Hotel beer garden was closed down in 2010 and remained closed for about two years.

26. Obviously over the summer months that the beer garden was closed the area in the surrounding streets was a lot quieter.
27. In 2012 the new owners of the Hotel renovated the beer garden and re-opened it as the 'Beach Club' in December 2012.
28. The changes since the being renovations have been quite dramatic.
29. The crowd attracted to the new "Beach Club' is totally different to the old beer garden. Generally speaking they are much better dressed and well behaved.
30. The old beer garden attracted a crowd of young adults predominantly in their 20's and 30's. In contrast the Beach Club attracts a wide cross section of ages including people in their 40's, 50's and 60's.
31. It really is a vast improvement from what it was.
32. Antisocial behaviour of persons in the streets is now very rare and probably not associated with the Hotel. For example the last time I heard loud shouting in the street outside our house it occurred at about 4am, many hours after the last Hotel patrons have cleared the area.
33. My observation is that Hotel patrons generally leave the area in a well-ordered and relatively quiet fashion. Since the recent renovations of the Hotel I have not

observed any persons leaving Hotel showing signs of drunkenness.

34. We now have no problems of vandalism in the street to speak of.
35. We still occasionally hear people walking down the street talking at a normal volume, some of whom are probably Hotel patrons, but this is not disturbing to me.
36. Littering is not a problem any more other than the odd empty beer bottle seen in morning on street verges. I couldn't say whether or not any of this litter is associated with patrons of the Hotel but it is pretty rare occurrence
37. Noise from the Hotel itself is now negligible. From our house we cannot hear the sound of music from the Hotel at all and the sound of patrons is no more than a low murmur of people talking normally.
38. On occasional summer nights we can hear music from outside on but the source is not the Hotel but rather functions held at the Cottesloe Civic Centre (which is rented out for weddings and other large functions by the local council) or parties held at houses and apartments in the neighbourhood.
39. I consider myself and my family members to be fairly typical in terms of our lifestyle and our expectations of a peaceful home environment.
40. The fact is that since the new 'Beach Club' opened, the operations of the Hotel and the

behaviour of its patrons have not caused us any problems.

41. In fact the current level of noise and disturbance now is not very different to when the Hotel beer garden was closed.
42. In summary, there is a small amount of noise caused by the operation of the Hotel but I do not consider this to be disturbing. Rather I see it as the normal noise that you could expect living near to a hotel.

Patronage of the Hotel

43. In my view the renovation of the Hotel particularly the beach Club has turned the venue from a problem in the neighbourhood to an asset for residents.
44. The renovated Hotel is a place that I enjoy attending from time to time either for dinner with my wife and friends or for a few drinks on weekend evenings.
45. I generally like to patronise the Beach Club especially on warm evenings.
46. I attend the Beach Club about once per fortnight on average.
47. The current 10pm closing time of the Beach Club is a problem for me and the people I socialise with.
48. The current closing time means we need to leave the Beach Club before we are ready to do so. The alternative options are not appealing. The public bar of the Hotel remains open after 10pm but this does not

have the same stylish atmosphere and patron type as the Beach Club and does not suit us. Travelling to another licensed venue is too inconvenient. The result is that we are forced to finish the evening well before we are ready to do so.

49. Myself, my wife and our friends are not of an age that we want to stay out very late but 10pm is often way too early to finish the night.
50. The problem is particularly annoying if we have a late meal. If we go to a licensed restaurant or any other hotel or bar venue in the area we can stay until midnight if we choose to. It is frustrating to not be able to do so at the Beach Club.
51. As a long term resident of the area I am well aware of the reasons behind the early closing of the old beer garden. What I don't understand is why this restriction is still in place. The problems that the Hotel caused our community no longer exist and I see no reason for the Hotel to close earlier than normal.
52. I understand that the current operators of the Hotel are applying to change the current 10pm closing time of the Beach Club to the following closing times:
 - a. 11pm on Sundays, Mondays and Tuesdays;
 - b. Midnight on Wednesdays, Thursdays, Fridays and Saturdays.

53. I support these changes both as a long term resident in the area and as an occasional patron of the Hotel.
54. I have made this statement at the request of solicitors acting for the Hotel.
55. I have no social or financial connection with the Hotel or any person associated with the Hotel.
56. This statement is true and correct to the best of my knowledge and belief.

DATED: / /

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LAURIE SCANLAN

THE PROOF OF EVIDENCE

SHIRLEY LYNETTE SCANLAN

Shirley Lynette Scanlan of

Cottesloe states:

1. I am both a long term resident of the Cottesloe beach front area and a long term neighbour of the Cottesloe Beach Hotel (“the Hotel”) Hotel.
2. My husband and I first lived near the Hotel back in 1985 when we lived for about one year at which was situated directly opposite the beer garden of the Hotel.
3. In 1993 we bought our current house at and we have lived there ever since (except for the period from early 2005 to June 2006 when we moved out during renovations of our house).
4. I currently live with my husband and one of our adult children.

Cottesloe generally

5. It is obvious to say that the Cottesloe beach front area is a very busy every year during the summer months from October through to April.
6. People are attracted to the area in summer not only for the beautiful beach but also for the many venues, facilities and events in the area.

7. In summer, particularly on the weekends, the beachfront area and surrounding streets are busy with vehicle and foot traffic both day and night.
8. On hot nights the Cottesloe beach front area is generally very lively attracting lots of people to the beach and the surrounding shops, cafes, restaurants and the Hotel. The nights are weekend nights.
9. The activities in the beachfront area on summer evenings include the following:
 - (a) Most weekends there is a wedding or other function at the Indiana tea House;
 - (b) At the Cottesloe Civic Centre there are usually weddings and/or other functions held in both the Civic Centre building and the Civic Centre Gardens;
 - (c) Licensed restaurants such as Il Lido and Blue Waters Café are generally packed for dinner;
 - (d) Unlicensed fast food outlets are usually busy; and
 - (e) The Hotel is usually busy, particularly on the weekends;
10. On hot nights there are also many people on the beach itself or the grassed terraces adjoining the beach. It is not uncommon for people to stay on the beach late into the night (well after midnight) socialising, picnicking etc.

11. Many of these people drink alcohol on the beach as evidenced by the empty alcohol bottles and containers that can be seen on the beach and grassed terraces early the next morning before the Council cleans it up.
12. In summer the streets leading to Cottesloe Beach (especially Forrest Street, John Street and Warnham Road) are all busy with road and foot traffic, during the day and at night. Foot traffic includes people walking to and from the Cottesloe train station or their cars which on busy days and nights can be parked as far away as east of Broome Street.
13. There are quite a few short term accommodation venues close to the beach which are rented to tourists and other persons in summer. These can be a source of noise at times as holiday makers, some of them fairly young, have parties with loud music in their front yards or on their balconies.
14. In addition there are a number of popular public events every summer which attract additional crowds to the area such as surfing competitions, 'Sculptures by the Sea' and other concerts and events.

Previous experience of the Hotel

15. In the years prior to the temporary closure of the beer garden in 2010, it operated for as long as I can remember as a traditional pub beer garden.

16. The Hotel, especially the beer garden, has always been very popular over the summer months.
17. The "Sunday session" each weekend was traditionally busy with cars parked everywhere and crowds of people queuing for entry to the beer garden of the Hotel in the late afternoon and evenings on Sundays.
18. The beer garden of the Hotel back in those days was a pretty rowdy place. It attracted a young crowd, generally dressed very casually.
19. Unfortunately many of the Hotel patrons back then were not very respectful of residents in the area.
20. It was common for males to be seen urinating in our front garden or elsewhere in the streets around the Hotel.
21. On occasion people could be observed having sex late at night on driveways or laneways in the vicinity of the Hotel.
22. Yelling and screaming from both inside beer garden itself and from patrons walking up and down the streets at closing time was fairly common.
23. At times vomit could be seen in the streets the next morning after the busy nights of trade of the Hotel.
24. My observation was that patrons of the Hotel were often noticeably drunk as they

left the hotel and not surprisingly many were in a rowdy frame of mind.

Recent experience of the Hotel

25. Fortunately these problems are a thing of the past.
26. When the 'Beach Club' renovations started I could soon see that the current owners were clearly spending a lot of money on renovating the venue.
27. I visited the 'Beach Club' soon after it opened in December 2012 and was pleased to discover that fit out was very upmarket and the venue attracted a very different crowd to the old beer garden.
28. Firstly the patronage of the Beach Club are now covers a much broader age range than before including more mature age groups. Generally patrons of the Beach Club range from people in their mid 20's to people in their 60's and everything in between.
29. The patrons are now also very well-dressed. It seems that the stylish fit out of the venue has attracted a stylish crowd.
30. The patrons now behave in a mature and civilised manner and arrive and leave the Hotel and the area without showing disrespect to local residents.
31. These changes have made the Hotel generally and the Beach Club specifically much more attractive to me and I am now a reasonably regular patron.

32. The impact of the Hotel in terms of the general neighbourhood is also vastly different to the “bad old days”.
33. Our house is located only a few doors up from the Hotel and in summer, my husband and I enjoy sitting on our front deck at night.
34. On occasion we can hear the sound of people walking and talking out on the streets. Some of them are probably patrons of the Hotel and some not. Most of the time it is just people talking normally with the occasional shout goodbye but these incidents are fairly brief and do not disturb my husband and I at all.
35. There is no excessive noise associated with the current closing times of the Hotel (midnight) or the Beach Bar (10pm). My observation is that Hotel patrons generally leave the area in a well-ordered and relatively quiet fashion.
36. Since the recent renovations of the Hotel I have not observed any persons leaving Hotel showing signs of drunkenness.
37. From our house, the only sound that can be heard from the Hotel itself is very low murmur of patron conversation. We can only hear this when we sit outside on our deck and even then it is at low volume. We never hear music from the Hotel.
38. Generally the main sounds we hear from the neighbourhood at night is music from functions held at the Cottesloe Civic

Centre and occasionally from house parties in the area.

39. The owners and venue managers of the Hotel have been very consultative with us and have communicated well from the time the 'Beach Club' first opened to the present time.
40. From time to time we receive notices in our letterbox advising us what is happening with the Hotel and inviting us to contact managers if we experience any problems however I have never had cause to do so.
41. In my opinion the current owners have done a great job in improving the venue and for a large busy hotel in a residential area I think they do a very good job and keeping things under control and making sure that the Hotel doesn't cause problems for local residents.
42. Since the Hotel has been renovated by the new owners, life is so much better for us compared to previous decades and I consider the Hotel to be a 'good neighbour'.

Patronage of the Hotel

43. The renovated Hotel is a place that I consider pleasant to attend for an evening meal of drinks with my husband and/or friends.
44. I generally attend either "Cott & Co" which is a dining area facing the ocean or the Beach Club. In both areas I feel

comfortable and safe. The venue is very well managed and the staff members are friendly and professional.

45. I feel comfortable the Beach Club as the patrons there are well behaved and include people of all ages including people in my age bracket.
46. I attend the Hotel about once per fortnight on average.
47. The current 10pm closing time for the Beach Club seems unnecessary to me and can be very inconvenient.
48. Myself, my husband and the friends that we socialise with would like the ability to be able to stay at the Beach Club after 10pm. If we have settled in to an area in the Beach Club, perhaps following a late meal, we want the ability to continue to relax and socialise after 10pm without having to either move or leave the venue.
49. Moving to the public bar of the Hotel at 10pm is not convenient. The public bar is of a very different style and attracts a very different crowd to the Beach Club and it does not suit us. It is not convenient to travel to a different venue either.
50. The result is that when we visit the beach Club, we are required to finish our night out at 10pm which does not suit us.
51. I understand that the early closing of the old Hotel beer garden was imposed for good reason but those reasons no longer

apply as the Hotel is now a very different venue with a very different crowd.

52. I understand that the current operators of the Hotel are applying to change the current 10pm closing time of the Beach Club to the following closing times:
 - a. 11pm on Sundays, Mondays and Tuesdays;
 - b. Midnight on Wednesdays, Thursdays, Fridays and Saturdays.
53. I am supportive of these changes both as a patron and a resident of the Hotel.
54. I have made this statement at the request of solicitors acting for the Hotel.
55. I have no social or financial connection with the Hotel or any person associated with the Hotel.
56. This statement is true and correct to the best of my knowledge and belief.

DATED: / /

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SHIRLEY LYNETTE SCANLAN

THE PROOF OF EVIDENCE TREVOR SALEEBA

Trevor Saleeba of Cottesloe
states:

1. I have lived at my current address since 1995.
2. My house is located only a short distance from the Cottesloe Beach Hotel ("the Hotel").
3. I have thus had a good opportunity to observe the operation of the Hotel and its impact on local residents over almost the past two decades.
4. During the summer months the beachfront area of Cottesloe is always extremely busy both day and night.
5. People are attracted to the area not only for the beach itself but also the numerous venues in the area such as:
 - (a) Indiana Tea House which has regular weddings and other functions;
 - (b) Il Lido restaurant which is popular most nights of the week;
 - (c) Bluewater Café which is also popular and is open during the day and the evenings;
 - (d) The John Street Café (which does not trade late);

- (e) The Cottesloe Beach Hotel (“the Hotel”); and
 - (f) Cottesloe Civic Centre which holds large weddings and other functions on most weekends throughout summer.
6. The area is busy not only during daylight hours in summer but also at night time. In the evenings people are attracted not only to the licenced and unlicensed venues in the area but also to the beach itself which is often packed at night on the grassed terrace areas adjacent to the beach and on the beach itself.
 7. Foot traffic up and down John Street are is also fairly heavy during the summer months with people walking to and from the Cottesloe train station or from their parked cars both day and night.

Previous experiences

8. For the past two decades that I have lived in the area, the Hotel has been a very popular venue in summer, attracting large crowds especially on the weekends and public holidays.
9. The beer garden has always been the most popular part of the Hotel in summer.
10. The busiest day of trade for the beer garden in summer has always been Sundays with this area filling up in the afternoon and remaining busy until the 10pm close.

11. In the years before the recent renovations of the Hotel, the beer garden operated similar to many large traditional pubs of the day i.e. loud, crowded and fairly boozy.
12. I refer to those times as the “bad old days” of the Cottlesloe Sunday session.
13. Back then the dress standard in the beer garden was very casual.
14. The Hotel beer garden attracted a wide range of ages but I would say that the majority were aged from their late teens to their mid-twenties.
15. The atmosphere both on the Hotel premises and in the surrounding streets was fairly rowdy with lots of shouting and high spirits (which is not surprising given the mix of heavy drinking and large groups of young adults).
16. It was generally a fairly heavy drinking crowd judging by the state of many of them leaving the venue.
17. Back in those days the operation of the Hotel caused several problems for local residents including myself.
18. Those problems were generally limited to the summer months with most issues occurring on the weekend evenings.
19. The worst night was Sunday which was when the Hotel was at its busiest.
20. Back then it was not uncommon to see people urinating on out street and in other

in public places during Hotel trading hours and after closing.

21. After the Hotel closed on busy evenings, the streets could become quite rowdy with groups of patrons gathering outside the hotel and/or walking up our street shouting, laughing, arguing, swearing, turning on car radios loud, revving engines etc.
22. I recall several incidents of vandalism back then such:
 - (a) letterboxes being damaged,;
 - (b) people's car doors of being kicked;
 - (c) real estate signs being pulled out of the ground; and
 - (d) resident's rubbish bins being emptied out on to the street
23. I was fairly usual to see litter in the streets in the mornings after the Hotels' busy nights of trade including fast food wrappers and alcohol containers such as beer bottles.
24. I couldn't say with certainty that all of these incidents involved patrons of the Hotel but it is a safe bet to say that a large proportion of them did.

Recent experience

25. I am aware that the current owners took over the Hotel in 2010.

26. They closed the beer garden almost immediately and it remained closed for the next two years or so.
27. Over the summers of 201/2011 and 2011/2012 when the beer garden was closed, the streets were noticeably quieter on the weekends.
28. In 2012 renovations of the Hotel beer garden commenced and this area re-opened in December 2012 as the as the 'Beach Club'.
29. Soon after the new 'Beach Club' re-opened I went to have a look. I was impressed with the quality of the fit-out and design of the new outdoor area.
30. The 'beer garden' of old had been completely transformed from a fairly shabby outdoor space into a stylish and upmarket outdoor area.
31. The new 'Beach Club' was popular pretty much as soon as it opened.
32. Friday and Saturday nights appeared to be busy and on Sundays, queues formed outside in similar numbers to the old days.
33. However what was immediately apparent was that the type of people attracted to the new 'Beach Club' was very different to those that had traditionally visited the beer garden of old:
 - (a) The fancy fit out has seemed to have attracted more of a local crowd (i.e. from Cottesloe and the

‘Western suburbs’) rather than drawing people from all over the Perth metro area.

- (b) Patrons now get quite dressed up to go to the ‘Beach Club’ which is in stark contrast to the casual dress of the old beer garden crowd;
 - (c) The Hotel’s patrons (including those of the ‘Beach Club’) are also noticeably older than prior to renovations (now mainly late 20’s and older as far as I can tell).
34. The whole atmosphere in and around the ‘Beach Club’ is much more civilised than it used to be.
35. At closing time of the Hotel patrons generally leave the area quickly and without making excessive noise.
36. Anti-social behaviour is now a thing of the past. Specifically, since the ‘Beach Club’ opened I have not heard or seen myself nor observed any evidence of:
- (a) Vandalism
 - (b) Rowdy behaviour at closing time (shouting, swearing, arguing etc.)
 - (c) Fighting
 - (d) Vandalism
 - (e) Public urination
37. Sometimes the odd piece of litter can be seen on the John Street, some of which has

probably been left by Hotel patrons on their way to or from the Hotel, but this is not very common.

38. In terms of noise from the Hotel I am not disturbed at all. The 'Beach Club' despite being an open air area does not cause any noise that I can hear at my house.
39. As a resident who values his peace and quiet my attitude is that the present operators of the Hotel have done a great job in changing the old hotel and its previous customers.
40. They have created a venue that is stylish and up market and that attracts a well-dressed and well behaved crowd.
41. Basically, the situation has now is completely changed for the better and I can say that I am now not disturbed by the operations of the Hotel of the behaviour of its patrons at all.
42. As far as I'm concerned since the 'Beach Club' re-opened, the Hotel has caused no significant problems in the local community at all.

Patronage of the Hotel

43. The renovated Hotel is a place that I enjoy attending for dinner and/or drinks. I attend both midweek and on the weekends.
44. The Beach Club is the part of the Hotel that I patronise the most. It has a great atmosphere, the food is good and there is

always a good mix of persons there including persons of my vintage (I am 65 years of age).

45. I attend the Beach Club about one to two times per week on average.
46. My main issue with the Beach Club is its trading hours.
47. The current 10pm closing time of the Beach Club is a regular problem for me and the people I socialise with.
48. The people that I socialise with and I often are not ready to leave the venue at 10pm and want to be able to continue socialising the way we can at every other restaurant or hotel/bar venue in the area.
49. The current closing time of the Beach Club effectively forces an unwanted early end to the evening because there are no suitable alternatives.
50. The public bar of the Hotel remains open after 10pm but this has a very different atmosphere and crowd to the Beach Club and does not suit us. Travelling to a different venue is also an unappealing option as this is very inconvenient.
51. The problem is particularly annoying if we have a late meal. Because the Beach Club closes at 10pm, the kitchen generally closes at around 9pm. This is often very frustrating because my group and I will not uncommonly want to order a late meal

and relax in this part of the venue well after 10pm.

52. If we go to a licensed restaurant or any other hotel or bar venue in the area we socialise well after 10pm if we choose to. It is frustrating to not be able to do so at the Beach Club.
53. As a long term resident of the area I am well aware of the reasons behind the early closing of the old beer garden. What I don't understand is why this restriction is still in place. The problems that the Hotel caused in our community no longer exist and I see no reason for the Hotel to close earlier than normal.
54. I understand that the current operators of the Hotel are applying to change the current 10pm closing time of the Beach Club to the following closing times:
 - a. 11pm on Sundays, Mondays and Tuesdays;
 - b. Midnight on Wednesdays, Thursdays, Fridays and Saturdays.
55. I support these changes both as a long term resident in the area and as a Hotel patron.
56. I have made this statement at the request of solicitors acting for the Hotel.
57. I have no social or financial connection with the Hotel or any person associated with the Hotel.

58. This statement is true and correct to the best of my knowledge and belief.

DATED: / /

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TREVOR SALEEBA

THE PROOF OF EVIDENCE

MARCUS NEVILLE SPROULE

Marcus Neville Sproule of
Cottesloe, Real Estate Agent, states:

1. I am 42 years of age.
2. I live about 70 m from the Cottesloe Beach Hotel ("Hotel").
3. I have lived at my current address for the past 6 years. Prior to that I lived in Forrest St, Cottesloe.

Cottesloe generally

4. The Cottesloe beach front area is very popular and attracts big crowds in summer on most days and evenings of the week.
5. The area is particularly busy on the weekends with heavy vehicle and foot traffic.
6. There are several licensed and unlicensed hospitality venues in the area including cafes, fast food outlets, restaurants, the Indiana Teahouse, the Cottesloe Civic Centre and the Hotel itself.
7. The Hotel is a landmark beachside venue which has been popular with many generations of Western Australians.
8. I can remember attending the Hotel as a young man especially for the Sunday sessions at the infamous "Cott" beer garden.

9. Back then the venue was pretty rowdy and boozy. The Hotel attracted mainly young adults looking for a big afternoon/evening out.
10. The beer garden was always packed and noisy. People were dressed vey casually, some stepping into the venue straight off the beach. Heavy drinking was the norm and it was not uncommon to see anti-social behaviour and occasional fights.
11. At closing time crowds of people would mill around the Hotel and wander off into the surrounding streets.
12. The Hotel operated in this way right up until the current owners shut the beer garden in 2010.

Recent experience of the Hotel

13. The Hotel underwent renovations in 2011/2012 with major work done to the beer garden in particular.
14. When the beer garden re-opened in late 2012 as "The Beach Club" it was obvious that things had changed fairly dramatically.
15. The fit out of the Beach Club is very stylish and sophisticated and there are now plenty of seats for patrons. Unlike the old beer garden, you can now get a good meal there.
16. As soon as it opened the Beach Club attracted a very different crowd, namely,

people that were better dressed, better behaved and generally older.

Impact of the Hotel in the neighbourhood

17. Despite living very close to the Hotel I am not disturbed by either the operation Hotel or the behaviour of its patrons.
18. At my house I cannot hear the sound of either music or patron noise from the Hotel.
19. Hotel patrons don't cause any problems in the street either during the trading hours of the Hotel or after closing time.
20. Given that the Hotel is a large, popular venue, it is amazing how little it now impacts on the neighbourhood.

Patronage of the Hotel

21. The renovated Beach Club is a place that I consider pleasant to attend for an evening meal and drinks with family members and/or friends.
22. I would describe myself as a reasonably regular patron the Hotel, particularly the Beach Club.
23. The venue is safe and comfortable for people of all types and ages including older people and family groups.
24. My mother who is in her late 60's lives in
(about 200m from the Hotel).
She experienced many problems from patrons of the Hotel prior to its recent

renovations in the form of regular noise disturbance and vandalism.

25. She was in fact actively involved with other residents in formal complaints about the activities of the Hotel back in those days.
26. However following the changes to the Hotel and its patronage since its recent renovation, my mother has had a complete change of heart about the Hotel.
27. Not only is she not disturbed at all by the operation of the Hotel, she has in fact become a patron, enjoying visiting the Beach Club for evening meals and drinks.
28. I often take my nieces (aged 11 and 14 years) to the Beach Club for dinner. I am comfortable doing so as the atmosphere is appropriate for a family groups. The patrons of the Beach Club drink sensibly, are well behaved and I have never experienced any problems of aggressive or anti-social behaviour.

Trading hours of the Beach Club

29. My main problem with the Beach Club is the current 10pm closing time.
30. When I am socialising with friends at the Beach Club we are rarely ready to finish the evening at 10pm. The current closing is frustrating because we want to be able to socialise later in this area and not move elsewhere.

31. We don't want to move to the public bar of the Hotel (which stays open after 10pm) because this area has a different atmosphere and crowd type that doesn't suit us.
32. There is no venue within walking distance that is suitable to us and driving to a venue in another area is inconvenient.
33. The current closing time of the Beach Club forces us to finish the evening's socialising earlier than we want to which is annoying and frustrating.
34. I understand that the operators of the Hotel are applying to change the current 10pm closing time of the Beach Club to the following closing times:
 - a. 11pm on Sundays, Mondays and Tuesdays;
 - b. Midnight on Wednesdays, Thursdays, Fridays and Saturdays.
35. I support these changes to the trading hours of the Beach Club both as a Hotel patron and a local resident.
36. As I understand it, the early closing time for this part of the Hotel was put in place back in the days of the old "Cott" beer garden. I can understand that this may have made sense back then but I can't see any reason for continuing this restriction given the way that the Hotel currently

operates and the type of people that it attracts.

37. I have made this statement at the request of solicitors acting for the Hotel.
38. I have no social or financial connection with the Hotel or any person associated with the Hotel.
39. This statement is true and correct to the best of my knowledge and belief.

DATED:

5 / 8 / 16

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MARCUS NEVILLE SPROULE

LIQUOR (LICENSED PREMISES) POLICY

(1) BACKGROUND

The Town of Cottesloe is a very attractive location to relax and dine in. As a result population pressures are likely to increase the demand for licensed premises.

The potential nature and range of liquor outlets has increased with amendments made in 2007 to the *Liquor Control Act 1988* relating to restaurants serving alcohol without a meal and 'small bar' licences.

These changes may have significant impacts on Cottesloe's local amenity.

Whilst the Town is open to a number of interrelated strategies to maintain and enhance the lifestyle of residents and visitors alike, the Town recognises that the nature and number of licensed liquor outlets requires effective management in order to minimise adverse impacts on nearby residential areas and the environment.

The Town therefore has a responsibility to;

- ensure that licensed venues are operated in such a way so as to minimise the inconvenience or nuisance to residents, businesses and the general public, and
- ensure that a diversity of entertainment is encouraged in particular localities through a mix of appropriate uses including licensed premises.

(2) AIM

To properly manage the impacts of licensed premises on the Cottesloe residential and business community, and the environment.

(3) OBJECTIVES

- provide for facilities and services which are compatible with the aspirations of the Cottesloe residential and business community;
- provide a framework to assist Council with the assessment of liquor licence applications, including when issuing Section 39 and 40 certificates under the Liquor Control Act 1988;
- make liquor licence applicants aware of Council's considerations when dealing with liquor licence applications;
- assist Council in their consideration of applications for planning approval of development which may involve a liquor licence;
- foster an appropriate type and number of licensed premises that will enhance the activity and atmosphere of commercial localities and contribute to an integrated and positive sense of community;

TOWN OF COTTESLOE POLICY

- protect the character and amenity of adjacent residential localities;
- support the objectives of the Community Safety and Crime Prevention Committee.

(4) POLICY APPLICATION

Council will have regard to this policy when:

- (a) Assessing applications made to Council for:
- Section 39 and 40 certificates made under the *Liquor Control Act 1988*.
 - Planning approval made under the Town Planning Scheme for development which may involve a liquor licence.
 - Eating house licence applications made under Council's *Eating Houses* local law that may involve a liquor licence.
 - Alfresco dining applications made under Council's *Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law* that may involve a liquor licence.
- (b) Considering a request to intervene or raise objections to any licensed premises operating under the requirements of the *Liquor Control Act 1988*.

Note: The types of Liquor Licences and Extended Trading Permits issued by the Director of Liquor Licensing that Council shall be concerned with and to which this policy shall apply include:

Type of Licences:

Restaurant
Nightclub

Hotel
Hotel restricted
Tavern
Small bar
Club
Occasional
Special Facility

Extended Trading Permits:

Extended hours
Liquor without a meal
(restaurant)
Alfresco
Dining area
Permits for one-off events

(5) POLICY

(a) Liquor Licence and Development Applications

Council will have regard to the following matters when considering liquor licence and development applications. If the proposal is supported relevant conditions may be imposed accordingly.

(i) Number of premises within a locality and their distribution

A concentration of licensed premises has the potential to prejudice the amenity of a locality. It is intended to achieve a mix in the types

of premises to contribute to a vibrant atmosphere of the commercial localities whilst minimising the potential for anti-social behaviour in public spaces and impacts on any neighbouring residential properties.

(ii) Hours of operation

This is particularly relevant to hotel, tavern, nightclub and small bar licences, extended trading permits for on-going hours and liquor without a meal (restaurants or alfresco).

Late operating hours may contribute to irresponsible consumption of alcohol and lead to anti-social behaviour, particularly upon leaving licensed premises which in turn impacts on the amenity of others, including other patrons, residents and business operators and their customers.

When considering a proposal for premises which would be licensed or an extended trading permit, Council is unlikely to recommend support for those licensed premises which cause disturbance and inconvenience to residents or businesses located in the vicinity of licensed premises.

Council will consider opening and closing hours during the week and weekends having regard to the proximity of the licensed premises to residences and businesses and subject to consideration of the details and merits of each proposal.

(iii) Number of patrons

This is particularly relevant to hotel, tavern and nightclub licences, where, when combined with the long hours of operation, can cause the amenity of a locality to be detrimentally affected.

(iv) Floor area

The establishment of large venues will not be supported in proximity to residential properties. Such proposals must also demonstrate that the size of the facility will not detrimentally affect the amenity of the locality in general by virtue of its parking facilities, entertainment, number of patrons, and so on.

(v) Noise

To address certain types of noise impacts from licensed premises Council may require that an applicant submit an acoustic engineering report indicating sound attenuation measures to be undertaken.

(vi) Entertainment

Entertainment in licensed premises should contribute positively to and not detract from the amenity of the locality. Restaurants are expected to be operated and advertised as restaurants only.

Licensees are expected to use their best endeavours (including the closing of doors and windows) to ensure that any entertainment provided on the licensed premises does not produce excessive noise likely to disturb, annoy or inconvenience nearby residents, other business proprietors and other users of the locality.

(vii) Public safety

Where considered warranted, Council may request that additional crowd controllers, security personnel or security patrol services be provided for premises trading past midnight and/or have entertainment to patrol the external grounds and where appropriate the neighbouring streets or public spaces / recreational areas of the licensed premises and monitor the behaviour of persons arriving at and departing from the licensed premises.

(viii) Location

The location of premises generally and the location of outdoor areas and parking facilities will not be favoured in proximity to residential properties.

(ix) Parking

The number of parking bays required by the town planning scheme is required to be provided, however, Council may consider cash in-lieu of car parking bays in accordance with the provisions of the scheme and any policy.

The impact of vehicles parking either in car parking areas or surrounding streets will also be considered particularly in locations adjacent to residential properties. A spill-over into the surrounding area may occur if the capacity of premises is much greater than its car parking provision, resulting in considerable disturbance and inconvenience to residents, especially when patrons are departing from the area late at night or in the early hours of the morning.

Therefore, the hours of operation for premises may be based on the availability of parking and the likely impact on the surrounding residential area.

(b) Managing Complaints / Advocacy

Should complaints be received or Council otherwise become aware of issues, Council will undertake an assessment of the situation and determine if intervention is required. Intervention may include:

- Conducting discussions with the licensee;
- Referring the matter to the Western Accord; or
- Lodging an intervention or objection with the Director of Liquor Licensing.

(c) Management Plans

These are required under the Director of Liquor Licensing's *Harm Minimisation Policy*. Where considered warranted, Council may require the management plan to be submitted to Council for approval, particularly as part of a proposal for a hotel, tavern or nightclub or an extended trading permit. In addition to the Director's requirements, Council may require the plan to address issues such as:

- hours of operation,
- security on the site,
- lighting in and around the site,
- security of patrons on leaving the venue,
- sale of packaged alcohol,
- specific methods of patron control (including training and surveillance),
- a traffic and travel mode management plan, including assistance in departure from the venue (i.e. availability of a direct telephone link to a taxi service or courtesy bus)
- noise; and
- compliance and commitment to an Accord.

(d) Western Accord

The Town of Cottesloe is a member of the Western Accord, which comprises local licensed premises operators, the Western Australian Police Service, the Towns of Cambridge, Claremont, Cottesloe, Mosman Park, and Vincent, the Shire of Peppermint Grove, the Cities of Nedlands and Subiaco, the Department of Health, Western Australia, Liquor Licensing Division representatives, other relevant agencies and the community. It provides a code of conduct for licensed premises within the Western Accord and is a beneficial forum for the consideration of liquor license issues.

Such liquor accords are approved by the Director of Liquor Licensing and entered into by two or more local licensees in a local community, Council, licensing authority representative, and other stakeholders such as the police.

Accords are intended to develop a safe and well-managed local environment as part of an overall strategy aimed at fostering a responsible drinking culture, ensuring safety in the local community and promoting effective communication and problem solving between licensees and key stakeholders.

RESOLUTION NO: 11.1.4
ADOPTION: 17 March 2008
REVIEW: 17 March 2016



Town of Cottesloe

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Our Ref: PR/50734/13

12 December 2012

Director of Liquor Licensing
c/o Mr Richard Duncan
Customer Services Officer Team 2
Department of Racing, Gaming and Liquor
Level 1, 87 Adelaide Terrace
EAST PERTH WA 6004

Dear Sir

Cottesloe Beach Hotel – objection to Add/Vary/Cancel application

I write in reply to your email referral to the Town dated 28 November 2012 in this regard.

On behalf of Council I wish to register an objection to the proposed extension of trading hours beyond 10pm, for the reasons set out below.

Firstly, the application is unclear in relation to the current licenced hours. The application is to allow trading in the beer garden until midnight, presumably seven nights a week, whereas the licence stipulates:

Liquor may not be sold or consumed in that part of the premises known as the beer garden after 10pm on any night, unless the beer garden is being used for a private function, arrangements for which have been made prior to that day.

The Town previously understood the applicant to have in mind midnight closing Monday to Saturday, with 10pm closing on Sunday consistent with the hours for the balance of the hotel.

It is also noted that the application in 2(a) incorrectly states 'No', as the application relates directly to the license.

As the Department and the Director of Liquor Licensing are well aware, there is a long history of significant social impacts and specific regulatory responses associated with the premises. These management measures include the existing 10pm closing time restriction imposed by the Director in the public interest. That has been instrumental in assisting to ameliorate the effects of the combination of large crowds and alcohol consumption on the amenity of the locality and the degree of harm and overall disruption experienced by the community.

Whilst the redevelopment of the former beer garden is a welcome improvement to the hotel facility and the proponent's stated strategy is for a style of operation aimed at reducing undue impacts, both Council and concerned community members are firmly of the view that it is far too premature to seek to review any of the current licence conditions or restrictions, given that the new venue has only just opened and that the festive season/summer period is about to commence.

For all parties involved, the refurbished establishment needs to stabilise once the initial draw-card attraction has passed, in order to ascertain the implications of patron numbers, patterns and behavior, parking and taxi demands, noise control, social impacts and the range of operating aspects that contribute to the public interest success or otherwise of licenced premises.

Accordingly, Council considered this matter as urgent business at its meeting on 10 December 2012 and resolved as follows:

That Council:

- 1. Inform the Director of Liquor Licensing that no change in hours is warranted at this time;*
- 2. Notify the surrounding residents of the application being made and to alert Council of any incidents of antisocial behavior accordingly; and*
- 3. Monitor complaints emanating from the re-opened premises.*

As indicated above, Council is of the opinion that the current hours should remain unchanged at this early stage.

It is emphasised that the Town's earlier indication of potential for support from Council, as cited by the applicant, was qualified with the proviso that the matter must be reported to Council. The referral did not occur until late November and was considered at the final meeting in order to meet the objection deadline.

The Town is available to elaborate on and to discuss with the Department in the examination and determination of this matter. I also request to be advised of the next steps in the process for considering this application.

For initial queries and contact please liaise with Mr Andrew Jackson, Manager Development Services on (08) 9285 5000.

Yours sincerely

Carl Askew
Chief Executive Officer



Town of Cottesloe

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Our Ref: PR/50734/13

18 March 2013

Department of Racing, Gaming & Liquor
Level 1, 87 Adelaide Terrace
EAST PERTH WA 6004

Attn: Ms Mary Ioannidis

Dear Sir/Madam

COTTESLOE BEACH HOTEL – FURTHER SUBMISSION OF OBJECTION TO APPLICATION FOR EXTENSION OF TRADING HOURS FOR NEW BEER GARDEN

In reply to your letter of 5 February 2013 and email of 1 March 2013 the Town hereby submits further information and evidence in objection to this application.

Since the opening of the new beer garden in December 2012 and the Town's initial objection to the application at that time, the Town has monitored the operation and impact of the Hotel in relation to the matter.

The Town's objection has regard to the following provisions of the Act in considering whether the proposal is in the public interest:

- the harm or ill-health that might be caused to people or any group of people due to the use of liquor;
- the impact on the amenity of the locality in which the licensed premises are situated;
- whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises; and
- other relevant aspects.

The Town concludes that granting the application would:

- not be in the public interest;
- cause undue harm or ill-health to people or any group of people due to the use of liquor;
- cause undue offence, annoyance, disturbance and inconvenience to persons who reside or work in the vicinity; and
- cause the amenity, quiet and good order of the locality in which the premises are situated to be otherwise lessened.

The Town's grounds of objection and supporting reasons are as follows:

Overview

After the "soft" opening of the new beer garden in December 2012 the venue has become rapidly popular due to advertising, reviews and by word of mouth. It now attracts crowds not only on the weekends as before, but also during the week, Monday to Friday from noon to 10pm then Saturday and Sunday from 11am to 10pm.

It is apparent that the spread, concentration and duration of this patronage, which is fostered by the focus on food as well as beverages, creates significant impacts even though the maximum number of patrons permitted is less than previously – the Public Buildings certificate for the new beer garden layout and fit-out allows 840 patrons.

Subsequent to commencement of the reinvigorated venue the Town has received a continual stream of complaints from nearby residents, especially from both Warnham Road and John Street immediately adjacent, attesting first-hand to the nature, frequency and severity of these impacts, as echoed by the Town's statements herein.

Noise

Noise has again loomed as a major direct impact arising from the new beer garden, whereby it is apparent that the design, operation and patronage of the venue are all contributing to the problem.

Recent assessments by two separate acoustic consultants (attached) have found and verified that the venue is generating substantial noise impacts due to crowds, amplified recorded "background" music and house operations.

Indiscriminate noise from rubbish trucks, delivery vehicles and mechanical equipment has also been identified as impacting.

The noise regime that has eventuated is summarised as follows:

Upon the re-opening of the beer garden the Town has received several noise complaints from residents surrounding the Hotel in relation to:

- *a noisy kitchen exhaust canopy,*
- *noise from music and crowds,*
- *bins being collected early, and*
- *deliveries throughout the day.*

Several official complaints have been lodged concerning noise from music and patrons. One of the complainant's (Mr Dougal McLay of 6/4 Warnham Road) has provided an acoustic assessment by Lloyd George Acoustics. Several complainants have emphasised that previously noise and anti-social behaviour arose mainly on Sundays, but currently occurs constantly throughout the week from late to mid-morning onwards until after 10pm.

In response, the Town engaged Gabriels Environmental Design to conduct a second noise assessment.

Both noise assessments have found that the noise levels are well above the assigned levels of the Environmental Protection (Noise) Regulations 1997. The one by Gabriels contains a graph which demonstrates a steady increase in noise levels during operating hours and a sudden drop at 10pm; hence the noise is definitely due to patrons and music at the Hotel and new beer garden in particular. This is reinforced by audio recordings. The graph also reveals that the noise exceeds the assigned levels throughout the day.

The assessment is that crowd noise levels from the venue exceed the assigned levels by 22-27dB between 7pm and 10pm, plus that the same noise would exceed the assigned levels after 10pm by 27-32dB. This level of noise is significantly over the limit.

Therefore, were the trading hours extended, the Town is of the opinion that noise from the Hotel would cause undue offence, annoyance, disturbance and inconvenience to persons who reside or work in the vicinity, as well as cause the amenity, quiet and good order of the locality in which the premises are situated to be lessened.

The Town has required that the Hotel pursues various sound attenuation measures to ensure that noise from the premises is markedly reduced to an acceptable level and pattern. Given the degree of excess, the Town reserves the take a range of compliance action under the Environmental Protection Act 1986. The Town also raises the prospect that operating hours may need to be restricted.

It is important that the Town as the responsible authority for noise control monitoring, complaints-handling and enforcement has engaged with the Hotel and parties involved to explore noise mitigation measures. To date the Hotel has committed to implementing several physical and operational changes aimed at reducing and better managing noise. However, this remains to be approved and tested to ascertain whether or not the amount of improvement is acceptable and maintained, or if alternative measures are warranted in order to overcome noise which is the overriding impact.

Anti-social behaviour

Reports of anti-social behavior, some as witnessed by the Town's staff, include drinking in public places, urinating in public places or private properties, unruly and offensive behaviour, damage to vehicles and properties (eg gardens, letter boxes), and so on. All of such anti-social behavior is essentially disturbing the peace and adversely affecting the amenity of the locality on an ongoing basis.

This represents an unsavoury return to the previous ingrained problems experienced by the community within the vicinity and wider district, which led to the combined authorities taking serious steps to curtail the impacts of licenced premises affecting the locality. A specific step was the existing 10pm closing time limit placed on the beer garden.

Parking

Parking is in demand at the beachfront, especially during the summer season and events, yet is plentiful, close and readily available. Despite this, a pattern of parking chaos and misdemeanors has emerged directly associated with the Hotel and new beer garden patrons. This includes parking in no-parking areas, loading zones, disabled bays and so on, as well as parking poorly (eg across bays), on footpaths, verges and other areas causing disruption and obstruction affecting private properties, businesses and general public usage.

Public thoroughfares

The entrances and exits to the Hotel and new beer garden can create queues, while the dispersal of a very large number of patrons all at once at closing times disrupts the public domain thoroughfares, comprising footpaths, roads and open spaces.

Litter

Litter is another undesirable product of the Hotel and new beer garden in terms of bottles, cans, cigarette boxes and butts and refuse directly attributable to the venue and which is in addition to litter from other beachfront activities.

Conclusion

In conclusion, it is clear that the style and scale of operation of the revamped beer garden has produced an intensity and profile of impacts on the locality that perpetuates and exacerbates the previous issues caused by large and noisy crowds, albeit being an improved venue with better facilities and services.

The Town's position is that the design and operation of the venue as it stands is failing to meet the expected and regulated standards necessary for the new beer garden and Hotel to be a good neighbour to the numerous residents and businesses in the locality.

For the reasons described above as well as reflected in the submissions from the other objectors and the intervener, the Town reiterates its objection to the application for extension of the trading hours for the new beer garden beyond 10pm on any night.

Please do not hesitate to contact me for any additional material, clarification or explanation to assist your deliberations in this matter.

Yours sincerely

Andrew Jackson
Manager Development Services