



Mr Brett Tobin
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5 November 2021

Dear Mr Tobin

Application No.	1-7849180663
Applicant	Taphouse Investments Pty Limited
Application for	Extended trading authorisation
Licence number	LIQH400118775
Licence name	New Victoria Tavern
Premises	51-119 Newton Rd Wetherill Park NSW 2164
Current trading hours	<u>Consumption on premises</u> Monday to Saturday 5:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>Take away sales</u> Monday to Saturday 5:00 AM – 11:00 PM Sunday 10:00 AM – 10:00 PM
Proposed trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 AM – 4:00 AM Sunday 10:00 AM – 12:00 midnight <u>Take away sales</u> Monday to Saturday 5:00 AM – 11:00 PM Sunday 10:00 AM – 10:00 PM
Legislation	Sections 3, 11A, 12, 44, 48, 49 and 51 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for an extended trading authorisation – New Victoria Tavern**

The Independent Liquor & Gaming Authority considered the application above, and decided on 12 May 2021 to **refuse** the application pursuant to section 49(2) of the *Liquor Act 2007*.

Statement of reasons

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

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

Yours faithfully

Philip Crawford
Chairperson

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

STATEMENT OF REASONS

DECISION

1. On 9 November 2020, Taphouse Investments Pty Limited (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for an extended trading authorisation (“ETA”) for the licensed premises at 51-119 Newton Rd, Wetherill Park NSW (“Premises”), trading as the New Victoria Tavern.
2. The Authority considered the Application at its meeting on 12 May 2021 and decided to refuse to grant the ETA under section 49(2) of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.

MATERIAL CONSIDERED BY THE AUTHORITY

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with its *Guideline 6*, the Authority has had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. In accordance with its *Guideline 16*, the Authority has also had regard to relevant domestic and international research regarding gambling participation, problem gambling prevalence, and demographic indicia that are linked to a population’s relatively higher or lower vulnerability to gambling-related harm; as well as Liquor & Gaming NSW (“L&GNSW”) gaming machine profit data for the venue and comparative ranking data (by SA2 and LGA) for hotels and clubs.
8. A list of the material considered by the Authority is set out in Schedule 1.

LEGISLATIVE FRAMEWORK

9. The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018 (“Regulation”):
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Section 44: Submissions to Authority in relation to licence applications.
 - d) Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
 - e) Section 49: General provisions in respect of ETAs.
 - f) Section 51: General provisions relating to licence-related authorisations.
10. An extract of these sections is set out in Schedule 2.

KEY FINDINGS

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

Validity, procedural and trading hour requirements

12. The Authority is satisfied on the material before it that:

- a) the Application has been validly made and meets the procedural requirements under section 51 of the Act and clauses 20 to 29 of the Regulation,
- b) the Application meets the trading period requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods, and
- c) the extended trading periods sought by the Applicant are within the periods which the Authority has the power to grant under section 49(2) of the Act.

13. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

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

14. Pursuant to section 45 of the Act, the Authority is also satisfied that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
- c) the requisite development consent permitting the operation of a hotel business with the proposed extended trading period is in force, based on the development approval no. 487.1/2019 in respect of the Premises, issued by Fairfield City Council on 5 August 2020.

Community impact

Local and broader communities

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

Licence density

16. The Authority noted that, compared to the NSW state average:

- a) Wetherill Park and Fairfield LGA have a **lower** saturation of hotel licences.
- b) Wetherill Park and Fairfield LGA have a **lower** saturation of late-trading outlets.
- c) Wetherill Park has a **higher** saturation of licensed premises.
- d) Wetherill Park and Fairfield LGA have a **lower** clustering of hotel licences and late-trading outlets.
- e) Wetherill Park has a **lower** clustering of licensed premises.

Crime data

17. The relevant BOCSAR data indicates that, for the year to December 2020:

- a) There was a medium-density hotspot for incidents of alcohol-related domestic assault and for incidents of malicious damage to property in the suburb of Wetherill Park.
- b) The Premises was not located within hotspots for incidents of alcohol-related assault (domestic or non-domestic), alcohol-related disorderly conduct or malicious damage to property.
- c) Wetherill Park recorded **lower** rates of alcohol-related assault (domestic and non-domestic) and alcohol-related disorderly conduct, and a **higher** rate of malicious damage to property, compared to the NSW state average.

- d) Fairfield LGA recorded **lower** rates of alcohol-related assault (domestic and non-domestic), alcohol-related disorderly conduct and malicious damage to property, compared to the NSW state average.

Alcohol-related health data

18. The most recent NSW HealthStats data available at the time of the Authority's decision indicates that Fairfield LGA recorded a **lower** than average level of alcohol-attributable deaths for the period 2017-2018, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2017-2019.

SEIFA

19. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Wetherill Park was relatively **disadvantaged**, and that Fairfield LGA was highly **disadvantaged**, compared to other suburbs and LGAs in NSW.

Business model at the Premises

20. The Authority notes that the Premises currently operates under the full hotel licence LIQH400118775, with trading hours for consumption on-premises from 5:00 AM to 12 midnight Monday to Saturday and from 10:00 AM to 10:00 PM on Sunday. The Premises comprises a single storey structure providing a bar area, TAB area, outdoor seating area, gaming room, lounge area, bottle shop, sanitary facilities and back of house areas.
21. The Authority notes the Application is for an ETA for the whole of the Premises excluding the external deck area, and that grant would result in revised trading hours from 10:00 AM to 4:00 AM Monday to Friday and from 10:00 AM to 12 midnight on Sunday. Takeaway liquor will not be sold during the extended hours proposed.

Gambling activities at the Premises

22. The Authority notes that the CIS meets the minimum content requirements of clause 28 of the Regulation in that it addresses matters relating to the proposed gambling activities to be conducted on the Premises during the period in which the ETA would be in force if granted.
23. The Authority further notes that:
- a) The Application is for a new ETA for the existing hotel licence to permit the premises to trade until 4:00 AM Monday to Saturday and until midnight on Sunday. This represents an additional 24 hours of post-midnight gaming (including 12 hours of post-2:00 AM gaming) per week from Monday to Saturday, along with two additional hours of late-night gaming on Sundays.
 - b) The Premises currently operates 19 gaming machines, with a gaming machine shut down period under section 40 of the *Gaming Machines Act 2001* in force between 4:00 AM to 10:00 AM Monday to Sunday and Public Holidays. The Premises also operates TAB facilities.
 - c) The Premises is situated in a Band 2 SA2 for the purposes of section 33 of the *Gaming Machines Act 2001*, in close proximity to a problematic Band 3 SA2 in the same LGA. As explained in the L&GNSW fact sheet *Local Impact Assessment scheme overview* published on the L&GNSW website, each SA2 area in the State is classified into Band 1 (low risk), Band 2 (medium risk) and Band 3 (high risk) depending on the gaming machine density, gaming machine expenditure and prevailing levels of relative socio-economic disadvantage within the SA2.
 - d) The Premises is situated within Fairfield LGA, which was specifically nominated as a vulnerable area for the purposes of gaming harm during the 2018 changes to the *Gaming Machines Act 2001*.

- e) The Premises is located in the South Western Sydney Local Health District which, according to the *NSW Gambling Survey 2019* had higher rates of at-risk gaming compared to the NSW state average.
- f) The average profit per gaming machine at the Premises was more than three times that of the average for comparable metropolitan hotels.
- g) Based on revenue figures provided by the applicant, income derived from gaming machines comprised 84% of the revenue for the Premises.

Purported benefits

24. The Authority has had regard to the Applicant's submission that:

- a) The Premises is the only hotel in the suburb and provides a variety of services and facilities to its patrons including the provision of liquor, meals, entertainment and gaming.
- b) The Premises is located within an industrial precinct that operates on a 24 hour per day basis, and that grant of the ETA would provide some public amenity benefit in terms of convenience and choice by permitting the New Victoria Tavern provide the above-mentioned services to patrons from the local community and shift workers from the surrounding area during the late-trading period.

Stakeholder submissions

25. The Authority has had regard to submissions from:

- a) **NSW Police Force** ("Police") which objects to the Application, and raises the following concerns:
 - i. As the primary business activities of the New Victoria Tavern are gaming and the sale of alcohol, Police state that due to the limited options and availability of public transport (especially after 1:00 AM), patrons who leave the venue under the influence of alcohol will be faced with the lack of convenient transport and therefore be tempted to drive home in their own vehicles.
 - ii. During the period 2017-2019 there were 12 recorded incidents of patrons leaving the New Victoria Tavern and driving their vehicle while under the influence of alcohol. Police submit that the grant of late-night extended trading hours would result in an increase in such offences which will increase the risk to the community.
 - iii. The need for stringent harm minimisation in respect to gambling in the vulnerable Fairfield LGA; and concerns that granting the ETA would only serve to increase the hours of availability and access to gaming machines at the hotel during the late-trading period, exacerbating the serious and harmful effects gaming machines have already caused in the area.
 - iv. The potential increase in risk of crime, such as armed robberies, faced by the venue during the late-trading period.
- b) **South Western Sydney Local Health District** ("SWSLHD") which objects to the application and raises the following concerns:
 - i. Ongoing concerns relating to alcohol consumption in the area and alcohol-related harm, including social harms such as alcohol-related assault rates.
 - ii. Outlet saturation for liquor licences in Wetherill Park is higher than comparable averages for the state of NSW and major cities in NSW and has increased from September 2018 to 2020.

- iii. Granting the ETA would further increase alcohol availability and thus exacerbate existing alcohol consumption problems in the region and negative alcohol-related health outcomes in the community.
 - iv. Granting the ETA would increase the availability of gambling at the Premises. SWSLHD contends that Liquor & Gaming NSW (L&GNSW) data indicates that gaming machine profit at the New Victoria Tavern is relatively high compared to other licensed hotels with gaming machines.
 - v. The extended trading hours would thus contribute to further gambling-related harm in the area, which may include financial harm; relationship disruption, conflict or breakdown; emotional or psychological distress; cultural harm; reduced performance at work or study; criminal activity; and life course or inter-generational harm.
 - vi. Hazardous alcohol use and problem gambling consistently feature as a problem for services providing social support for local residents. A high proportion of anticipated revenue increase arising from extended trading hours will likely be from residents whose lives (and the lives of their families) are already damaged by their level of alcohol consumption and/or by their own or another person's gambling behaviour.
 - vii. The relationship between gambling and alcohol consumption is increasingly evident. Grant of the ETA has the potential to adversely affect the social, mental and physical health of families and local communities. In particular, SWSLHD is concerned the ETA is likely to increase alcohol-related harm and problem gambling in the community.
- c) **L&GNSW Compliance** which did not identify any adverse holdings regarding the Application, but noted that an increased risk of alcohol-related harm occurring at any venue arises when trading hours are increased, particularly so when the trading hours encompass the late trading period.
- d) **Transport for NSW**, which requested the Applicant maintain awareness of specific local alcohol-related issues impacting the community, recommended the Applicant participate in the local Liquor Accord and provide access to local public transport information and taxi services.
26. The Authority has had regard to a petition provided by the Applicant which contains 103 signatures from persons in support of extending the Premises' trading hours; including extending the hours of operation of the gaming machines. The petition states the signatories support the Application due to the absence of other venues that are open during the trading hours sought in the vicinity of the Hotel.
27. The Authority has had regard to the Applicant's CIS and submissions in response which note that:
- a) A range of alcohol-related harm mitigation measures and controls will be implemented to address potential issues arising during the proposed late-trading period; as reflected in the licence conditions consented to and the venue's plan of management. This includes conditions removing access to higher risk drinks and placing limits on the numbers of drinks sold during the extended trading period.
 - b) Public transport in the form of bus services is available in close proximity to the Premises during the proposed late-trading period; as are Uber and other ride share services. The applicant also provides a courtesy bus for use by patrons.
 - c) Indicators of alcohol consumption in the LGA and the SWLHD were relatively low. This was evidenced by NSW Health data indicating the rates of alcohol-attributed deaths and hospitalisations in Fairfield LGA were lower than NSW state averages; and that dangerous consumption levels of alcohol in the SWLHD were lower than the NSW state average.

- d) Liquor licence density in Wetherill Park and Fairfield LGA was not excessive (especially in relation to hotel licences) and that granting the ETA would not result in any increase in licence density.
- e) Rates of alcohol-related crime in Wetherill Park and Fairfield LGA were relatively low when compared to the NSW state average.
- f) Gaming harm minimisation measures have been carefully considered and incorporated into the proposed Gaming Plan of Management, which enhance the existing gaming harm minimisation measures already in place.
- g) The profile of patrons at the Premises, comprised predominately of shift workers and other workers from the surrounding industrial area, suggests that the population serviced by this Premises is not one that is particularly vulnerable to gambling-related harms.

Overall social impact

28. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that:
- a) the rates of alcohol-related crime in the Wetherill Park and Fairfield are generally below NSW averages; and NSW Health data indicates rates of alcohol-attributed deaths and hospitalisations are also lower than NSW averages,
 - b) the local community is relatively socio-economically disadvantaged and the broader community is highly disadvantaged,
 - c) the Premises is located in a Band 2 SA2, in close proximity to a problematic Band 3 SA2 in Fairfield LGA,
 - d) gaming at the Premises is more intense compared to the average for NSW metropolitan hotels with similar numbers of gaming machines and is a financially dominant part of this Hotel's operations, generating 84% of its revenue, and
 - e) the proposal is for an ETA that would result in an additional 24 hours of post-midnight gaming per week Monday to Saturday (which includes 12 hours of post-2:00 AM gaming); and for two additional hours of late-night gaming on Sundays.
29. The Authority finds credible the prospect that the Premises will have the capacity to attract late-night patrons, not only from within the suburb but also from nearby suburbs in the broader community; and considers that these factors increase the scope for adverse social impacts generated by late trading at the venue.
30. The Authority notes that both Police and SWSLHD raised concerns in their submissions regarding the impact that the proposed late-trading hours will have upon problem gamblers and other issues.
31. The Authority notes that section 3(1)(c) of the Act provides that a statutory object of the Act is to contribute to the responsible development of related industries. The gaming machines industry constitutes one such "related" industry, whose operation on hotel licensed premises is regulated by the *Gaming Machines Act 2001* and the *Liquor Act 2007*.
32. The Authority notes research evidence that:
- a) 1% of the NSW population are problem gamblers and that, based on self-reported gambling spend, problem gamblers account for 36.7% of gambling expenditure while moderate-risk gamblers and low-risk accounting for an additional 14.5% and 19.5% respectively (Browne et al, *NSW Gambling Survey 2019*, revised March 2020, pp.ii-iii).

- b) Moderate-risk and problem gambling was higher among unemployed gamblers (19.5% compared with 7.2% overall) and gamblers who spoke a language other than English at home (14%), compared with gamblers who spoke only English (6.5%) (Browne et al, *NSW Gambling Survey 2019*, revised March 2020, p.iii).
 - c) Use of Electronic Gaming Machines stands out as the form of gambling that is of greatest concern, being the second most prevalent form (after lotteries) and with participation predictive of the highest risk of problem gambling, having 3.6 times the odds of being a moderate-risk or problem gambler (Browne et al, *NSW Gambling Survey 2019*, revised March 2020, p.iii-iv).
 - d) Higher-risk gamblers are significantly more likely than any other group to be gambling after midnight and to be playing for longer periods overall, with late-night play often occurring in an environment where the atmosphere is more intense compared to other times of day (Smith et al *Shutdown periods for electronic gaming machines* November 2019, p.5).
 - e) Higher risk gamblers present a much greater share of those people playing at night. At that time gamblers are more likely to be playing under the influence of alcohol, thus potentially reducing the capacity for informed participation in a potentially very costly activity where impulsivity and faulty cognitions are already widespread (Productivity Commission Inquiry Report *Gambling*, No. 50, 26 February 2010, pp.30-31).
33. As noted above, the New Victoria Tavern is the only hotel in this suburb, with no other venues in this local community to which gaming machine players may conveniently resort once the machines at this Premises shutdown for the night.
34. When considering which course of action best serves the responsible development of the gaming machines industry, the Authority is not merely focused on “problem” gamblers, but other “at risk” gamblers as well. Research suggests this group comprises some 36% of NSW electronic gaming machine players (Browne et al, *NSW Gambling Survey 2019*, revised March 2020, p.iii-iv). The Authority remains particularly concerned that extending the trading hours of the Premises into the late-night period may have an adverse social impact on “problem” or “at risk” gamblers in the local and broader communities, especially those that are socio-economically disadvantaged. Approval would allow such persons to engage in gambling activities for longer periods of time, especially during the higher-risk post 2:00 AM periods.
35. The Authority notes these risks are somewhat mitigated by the Applicant’s Gaming Plan of Management (which includes multiple intermediate and advanced level harm minimisation strategies from the Office of Responsible Gambling’s Above and Beyond Fact sheet), and the Applicant’s consent to a Gaming Plan of Management licence condition.
36. Notwithstanding the level of support from patrons and the Applicant’s efforts towards controlling the risk of gaming-relates harms, taking into account the significantly elevated risk factors in the local and broader communities and those associated with the extensive additional late-night trading hours sought, the Authority on balance is not satisfied that the existing and proposed harm minimisation measures will sufficiently mitigate the risk of gambling harm to the community to warrant a grant.
37. Given the number of gambling risk factors and the overall economic vulnerability of the local community and especially the financially constrained broader community to sustain gambling losses, the Authority is satisfied that maintaining the status quo is the more responsible approach to the development of the gaming machines industry. This will ensure a longer effective shutdown of machines across the course of the week in this local community, giving “at risk” or “problem” gamblers a meaningful opportunity to stop gambling for the night.

CONCLUSION

38. Having considered the positive and negative social impacts that are likely to flow from granting the ETA, the Authority is not satisfied that the overall social impact of granting the ETA would not be detrimental to the well-being of the local and broader communities.

39. Accordingly, the Authority has decided to refuse the Application under section 49 of the Act.



Philip Crawford

Chairperson

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

Important Information:

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

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

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

Schedule 1 – Material considered by the Authority New Victoria Tavern

Application material

1. Completed application dated 19 October 2020.
2. Completed Category B Community Impact Statement dated 19 October 2020.
3. Completed Certifications of Advertising dated 29 October 2020 and 2 December 2020.
4. Venue Plan of Management documents for the Premises, titled “New Victoria Tavern Venue Management Plan (amended for trial period)” and dated March 2021.
5. Gaming Plan of Management documents for the Premises, titled “New Victoria Tavern Gambling Plan of Management” and dated April 2021.
6. Floor plan for the Premises, dated 5 May 2020, indicating the proposed ETA area.

Development consent

7. Notice of determination issued by Fairfield City Council on 5 August 2020, approving the development application no. 487.1/2019 for the Premises.

L&GNSW records

8. L&GNSW liquor licensing records as at 25 April 2021 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Wetherill Park, Fairfield LGA and NSW. The density of full hotel licences is 28.4 in NSW, 10.1 in Fairfield LGA, and 16.3 in Wetherill Park.
9. L&GNSW liquor licensing records as at 24 April 2021 listing all hotel licences, club licences, packaged liquor licences and on-premises licences in Wetherill Park.
10. L&GNSW gaming machine profit data for the venue by quarter for the calendar year 2019; and comparative ranking data for other hotels in the SA2 and LGA and for other hotels in the metropolitan region operating similar numbers of gaming machines.

Crime data

11. Crime hotspot maps for the year to December 2020, indicating the location of the Premises relative to hotspots for alcohol-related assault, domestic assault, non-domestic assault, and malicious damage to property.
12. NSW crime statistics published by BOCSAR indicating that for the year to December 2020, the rates of:
 - a) alcohol-related domestic assault in Fairfield LGA and Wetherill Park were 69.4 and 78.7 respectively, compared to the NSW average of 112.7,
 - b) alcohol-related non-domestic assault in Fairfield LGA and Wetherill Park were 35.4 and 15.7 respectively, compared to the NSW average of 91.3,
 - c) malicious damage to property in Fairfield LGA and Wetherill Park were 442.3 and 771.1 respectively, compared to the NSW average of 657.6, and
 - d) alcohol-related offensive conduct in Fairfield LGA and Wetherill Park were 5.7 and 0.0 respectively, compared to the NSW average of 23.6.

Health data

13. HealthStats NSW data showing that Fairfield LGA recorded a spatially adjusted rate of:
 - a. 19.9 for alcohol-attributable deaths per 100,000 of population, compared to the corresponding NSW figure of 20.0, in the period 2017-18; and
 - b. 281.8 for alcohol-attributable hospitalisation per 100,000 of population, compared to the corresponding NSW figure of 542.1, in the period 2017-19.

Socio-economic data

14. ABS SEIFA data based on the 2016 Census indicating that households in Wetherill Park and Fairfield LGA are socio-economically disadvantaged, and fall within the bottom 36 percent and bottom 6 percent respectively of NSW households, in terms of household income and residents in skilled occupations.

Stakeholder submissions

15. Submission from Transport for NSW on 11 September 2020 in relation to the Application.
16. Submission from NSW Health – South Western Sydney Local Health District on 24 September 2020 in relation to the Application.
17. Petition in relation to the extended trading authorisation, supplied as an annexure to the Community Impact Statement dated 19 October 2020.
18. Submission from Liquor & Gaming NSW Compliance on 20 April 2021 in relation to the Application.
19. Submission from NSW Police Force on 22 April 2021 in relation to the Application.

Other relevant information

20. Correspondence between L&GNSW staff and the Applicant between 27 November 2020 and 28 April 2021 in relation to the assessment of the Application.
21. The licence document for LIQH400118775 New Victoria Tavern.
22. Gaming revenue statements for the Premises.

Schedule 2 – Relevant extracts from the *Liquor Act 2007*

New Victoria Tavern

3 Objects of Act

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

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

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

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the Registered Clubs Act 1976.
- (3) An application for a licence may not be made by:

- (a) an individual who is under the age of 18 years, or
- (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
- (c) an individual who is a controlled member of a declared organisation within the meaning of the Crimes (Criminal Organisations Control) Act 2012.

Note. Controlled members are prohibited from applying for licences—see section 27 of the Crimes (Criminal Organisations Control) Act 2012.

(4) An application for a licence must:

- (a) be in the form and manner approved by the Authority, and
- (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
- (c) be advertised in accordance with the regulations, and
- (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

Note. See also section 48 which requires a community impact statement to be provided with certain licence applications.

(5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

44 Submissions to Authority in relation to licence applications

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

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
 - (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.

(2) In this section:

relevant application means any of the following:

- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
- (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
- (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
- (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
- (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
- (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
- (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).

(3) A relevant application must be accompanied by a community impact statement.

(3A) However, a small bar application is not required to be accompanied by a community impact statement if:

- (a) development consent is required under the Environmental Planning and Assessment Act 1979 to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
- (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.

(3B) For the purposes of subsection (3A), a **small bar application** means any of the following:

- (a) an application for a small bar licence,
- (b) an application for approval to remove a small bar licence to other premises,

- (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:
- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the Environmental Planning and Assessment Act 1979 to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the Registered Clubs Act 1976.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

49 Extended trading authorisation—general provisions

- (1) **Application of section** This section applies in relation to the following types of licences (referred to in this section as **a relevant licence**)—
- (a) a hotel licence,
 - (b) a club licence,
 - (c) an on-premises licence (other than an on-premises licence that relates to a vessel),
 - (d) a packaged liquor licence,
 - (e) a producer/wholesaler licence.
- (2) **Extended trading authorisation for consumption on premises** In the case of a relevant licence (other than a packaged liquor licence) that authorises the sale or supply of liquor for consumption on the licensed premises, the Authority may, on application by the licensee, authorise the licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods—
- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
 - (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
 - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
 - (d) in any case—a specified period between 10 pm and midnight on a Sunday.

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

Note—

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

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

51 General provisions relating to licence-related authorisations

- (1) This section applies to the following authorisations granted by the Authority under this Act—
- (a) an extended trading authorisation,
 - (b) a drink on-premises authorisation,
 - (c) any other authorisation that may be granted by the Authority under Part 3 (other than a licence),
 - (d) a minors area authorisation,

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