



Mr David Rippingill and Mr Dean Lidis  
Design Collaborative Pty Ltd

by email to:



1 May 2023

Dear Mr Rippingill and Mr Lipis

<b>Application No.</b>	1-8190919781 1-8190919789
<b>Applicant</b>	Ms Alysse Taylah Read
<b>Application for</b>	Variation to extended trading authorisation ("ETA") and change to 6-hour closure period
<b>Licence name</b>	Mullane's
<b>Licence number</b>	LIQH440018995
<b>Approved Trading Hours</b>	<u>Consumption on premises: Internal portion of the lower ground floor (bar)</u> Monday to Wednesday 07:00 AM – 01:00 AM Thursday to Saturday 07:00 AM – 03:00 AM Sunday 07:00 AM – 12:00 midnight <u>Consumption on premises: External portion of the lower ground floor</u> Monday to Sunday 07:00 AM – 10:00 PM <u>Consumption on premises: Ground Floor &amp; First Floor</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>Take away</u> Monday to Sunday 10:00 AM – 10:00 PM
<b>Current Trading hours</b>	<u>Consumption on premises: All other areas</u> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>Consumption on premises: External portion of lower ground floor café area</u> Monday to Sunday 07:00 AM – 10:00 PM <u>Consumption on premises: Internal portion of lower ground floor café area</u> Monday to Sunday 07:00 AM – 12:00 midnight <u>Take away</u> Monday to Sunday 10:00 AM – 10:00 PM
<b>Premises</b>	Units 12 & 13, 34-36 Brookhollow Avenue, Baulkham Hills NSW 2153
<b>Legislation</b>	Sections 3, 11A, 12, 14, 15, 15A, 17, 40, 44, 45, 48, 49, 51, 53 and 121 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority**  
**Application for variation to extended trading authorisation (ETA) and change to 6-hour closure period – Mullane's**

The Independent Liquor & Gaming Authority (Authority) considered the application above and decided on 15 July 2022 to **approve** the application in part under sections 11A, 49 and 53 of the *Liquor Act 2007* with the conditions set out in Schedule 1.

The application sought a variation to the extended trading authorisation (ETA) to enable the licensed premises trading as Mullane's (Hotel) to increase post-midnight trade (and gaming availability) by a total of 18 hours per week from 12:00 midnight - 03:00 AM Monday to Saturday. The application also sought to amend the 6-hour closure period from 01:00 AM – 07:00 AM to 03:00 AM – 09:00 AM (which would result in the proposed operating hours overlapping the 6-hour closure period on the lower ground floor internal area only by two hours each day).

The Authority decided to grant the variation of the ETA in part, authorising the Hotel to enable only the lower ground floor internal area to trade during a shorter extended trading period as follows:

- Monday to Wednesday 7:00 AM to 1:00 AM
- Thursday to Saturday 7:00 AM to 3:00 AM
- Sunday 7:00 AM to midnight

The Authority's approval of the variation is for a trial period of 12 months, from the date that council is provided with a copy of the application approval for this application and subject to acoustic attenuation works (required under conditions 54 and 55) being completed.

The Authority also decided to approve the amendment to the 6-hour closure period, to allow the Hotel to open for breakfast service prior to liquor being permitted to be sold or supplied at the venue (under section 15A of the *Liquor Act 2007*). With the gaming machine shut down hours at the Hotel being between 04:00 AM – 10:00 AM, gaming is also not available until 10:00 AM or during the hours the Hotel is open for breakfast service.

### **Statement of reasons**

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

### **If you're not happy with this decision**

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

### **If you have any questions**

Please contact the case manager, Leonie Jennings, at [Leonie.Jennings@liquorandgaming.nsw.gov.au](mailto:Leonie.Jennings@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely



Caroline Lamb

**Chairperson**

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

# STATEMENT OF REASONS

## Our decision

We approve the application **in part** under sections 11A, 49 and 53 of the *Liquor Act 2007* (NSW) (the Act).

Overall, we are satisfied that the social impact of approving the application to vary the extended trading authorisation and 6-hour closure period will not be detrimental to the well-being of the local or broader community.

A preliminary notification of this decision was sent to the Applicant on 22 August 2022, together with the licence document for the premises.

## Our findings

### Procedural and trading hour requirements

The application is valid and meets the Act's requirements for procedural fairness and the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods.

The Community Impact Statement (CIS) meets the relevant requirements.

### 'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

### Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

### Development consent requirements

The necessary development consent is in force. The Hills Shire Council approved the development application 1028/2017/HA for the premises on 13 June 2017.

### Community impact

#### *Local and broader communities*

The relevant 'local community' is the community in the suburb of Baulkham Hills, and the relevant 'broader community' comprises the Local Government Area of The Hills Shire.

#### *Diversity and density of licensed outlets*

L&GNSW Liquor & Gaming LiveData Report generated on 20 June 2022 shows

- Outlet diversification: there are **47** authorised liquor licenses in Baulkham Hills. Of these, **20** are authorised to sell packaged liquor. This includes **12** packaged liquor licences, **3** registered club licences, **2** hotel licences and **3** producer wholesaler licences
- Outlet density (annual rate per 100,000 residents): saturation of Hotel (full) licences in Baulkham Hills (**32.39**) is **lower** compared to both The Hills Shire LGA (**34.8**), and the NSW state average (**41.35**).

#### *Crime data (annual rate per 100,000 residents)*

BOCSAR data shows that, in the year to March 2021:

- the Premises was not located within any hotspots for incidents of alcohol related assault, domestic and non-domestic assault or malicious damage to property
- alcohol-related domestic assault in Baulkham Hills (**41.9**) was **higher** compared to The Hills Shire LGA (**34.8**), and **lower** compared to all NSW (**112.6**)

- alcohol-related non-domestic assault in Baulkham Hills (**24.6**) was **lower** compared to The Hills Shire LGA (**25.6**), and **lower** compared to all NSW (**85.7**)
- alcohol-related offensive conduct in Baulkham Hills (**0**) was **lower** compared to The Hills Shire LGA (**2.2**), and **lower** compared to all NSW (**44.0**)
- malicious damage to property in Baulkham Hills (**187.2**) was **lower** compared to The Hills Shire LGA (**236.1**), and **lower** compared to all NSW (**590.8**).

#### *Alcohol-related health data (per 100,000 residents)*

The most recent HealthStats NSW data available show that between 2018-2020

- alcohol-related deaths in The Hills Shire LGA (**13.9**), were **lower** compared to the NSW average (**19.7**)
- alcohol-related hospitalisations in The Hills Shire LGA (**488.0**) were **lower** compared to the NSW average (**513.2**).

#### *SEIFA*

ABS Socio-Economic Index for Areas (SEIFA) data as at 2016 indicates that Baulkham Hills and The Hills LGA were relatively advantaged (top **10%** of NSW households, in terms of household income and residents in skilled occupations) compared to other suburbs and LGAs in NSW.

#### *Business model*

We note that the proposed business model involves the primary purpose of a hotel licence (with associated extended minors' area and extended trading authorisations) and the retail sale of liquor on the licensed premises for consumption on and away from the licensed premises. The licence type remains appropriate to the existing business model.

#### *Proposed benefits*

The applicant proposes that there would be these benefits:

- the café area will be utilised (as it has been since the licence was approved in 2018) for breakfast service from 07:00 AM
- the application has been approved for a 12 month period with council approval
- longer operating hours would benefit shift workers and contribute to the broader community and patrons who enjoy socialising during these hours
- increased hours for facilities such as food and beverage will provide current and potential patrons with additional access to hospitality facilities between 12:00 AM – 03:00 AM
- the importance of late-night trading within the community, offering the availability to provide respite, protection and amusement that would otherwise not be available.

We believe that these proposed benefits are limited by the lack of concrete evidence of community support for the application. However, we also note that there was no objection raised by members of the community.

#### *Stakeholder submissions*

We considered the submissions from:

- **NSW Police Force**, which notes that The Hills Shire Police Area Command, as at 29 March 2022, have no adverse issues with the Hotel. NSW Police highlighted that the Hotel may pose a risk during late night and early morning trade and requested three conditions be imposed:
  - (i) Cease service of alcohol by 02:30 AM.
  - (ii) Maintain staff numbers after 12:00 midnight (No skeleton staff after 12:00 midnight), and
  - (iii) When trading after 12:00 midnight, a minimum of 1 Security guard must be rostered on until close.

- **L&GNSW Compliance**, which notes that a review of L&GNSW's compliance records did not identify any adverse findings regarding the Application, however noted that in granting an ETA this may increase the risk of alcohol-related harm occurring at any venue, simply by virtue of the fact that liquor is to be sold or supplied for a longer period. This is particularly so when the trading hours encompass the late trading period. L&GNSW recommended that the Hotel ensure the venue POM include strategies and controls to ensure that the extended trading contributes to and does not detract from the amenity of community life.
- **Two members of the public**, noting concerns around noise.

We also considered the Applicant's submission in response to submissions by NSW Police to impose the 3 conditions on the licence. The Applicant:

- proposed to amend condition 1 to instead read *'Service of liquor shall cease no later than 2:45 AM any night the Hotel trades after midnight'*
- does not agree with imposing condition 2, stating, *'It is unreasonable, unclear and will result in unnecessary costs to the Hotel'*
- contends that the plan of management already outlines that 2 security staff will be present on Friday and Saturday nights from 8:00 PM to 12 midnight and 1 guard from 12 midnight until the closure of the Hotel, and that having further security employed is unreasonable and that the ETA trial period will serve to determine whether proposed staffing and security are sufficient.

In response to concerns raised by two members of the public, the Applicant noted that hotel operation after 12:00 midnight is scaled down, limiting patron capacity to 45 persons and the plan of management includes measures for patron supervision.

## Findings of concern

The Authority notes that there may be a risk that if the Licence were to be granted, liquor sold at the premises will, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, and in other areas of the State.

### *Factors that may reduce this risk*

However, we are satisfied that the risk is sufficiently reduced by the following:

- no agency objections were received in respect of the application
- the premises is not located within high-density hotspots for incidents of alcohol related assault, domestic and non-domestic assault or malicious damage to property
- significantly low crime rates in both Baulkham Hills and The Hills Shire LGA compared to NSW
- low saturation rate of hotels in Baulkham Hills and The Hills Shire LGA compared to NSW
- affluent local and broader communities; SEIFA indicates an above-average level of socio-economic advantage/disadvantage in both Baulkham Hills and The Hills Shire
- lower alcohol-attributable hospitalisation and death rates in The Hills Shire LGA compared to NSW
- extended hours are permitted on a 12-month trial basis by local council
- the premises is located within Band 1 SA2 which is considered low risk
- gaming intensity at the venue is significantly lower on average compared to other metropolitan venues of a similar size in The Hills Shire LGA
- community harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

## The material we considered

We considered all the material we received about the application, including:

- floor plan for the Premises, dated 16 April 2019, indicating the proposed area to which the ETA will apply
- plan of management documents for the premises, titled Plan of Management for Mullane's and dated September 2021
- completed Category B Community Impact Statement dated 14 January 2022
- completed application dated 19 January 2022
- completed certification of advertising dated 20 May 2022
- ASIC business records in relation to the Applicant and associated companies
- notice of determination issued by The Hills Shire Council on 20 October 2021, approving the modification of development consent 1028/2017/HA/D for the Premises
- data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS)
- relevant L&GNSW liquor licensing records.

Submissions from:

- Hills Shire Council dated 1 March 2022
- NSW Police dated 29 March 2022
- member of the Public, dated 9 November 2021
- member of the Public, dated 9 November 2021
- L&GNSW Compliance dated 11 April 2022
- L&GNSW Gaming dated 21 June 2022

Other relevant information

- correspondence between L&GNSW staff and the Applicant between 19 January 2021 and 29 June 2022 in relation to the assessment of the Application
- Mullane's full menu as requested by L&GNSW, provided on 20 May 2022
- Google map images extracted from the Google website on 21 June 2022, showing the location and photos of the Premises in map view
- breakfast menu for Mullane's provided on 29 June 2022.

## The law that applies

These sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 apply to this application:

- Section 3: Statutory objects of the Act and relevant considerations
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold
- Sections 14, 15, 15A and 17: Specific provisions in respect of a hotel licence
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made
- Section 44: Submissions to Authority in relation to licence applications
- Section 45: Criteria for granting a liquor licence
- Section 48: Requirements in respect of a Community Impact Statement (CIS), including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community
- Section 49: General provisions in respect of extended trading authorisations

- Section 51: General provisions relating to licence-related authorisations
- Section 53: Authority may impose, vary, or revoke licence conditions
- Section 121: Minors in hotels in company of responsible adult.

We also considered Guideline 6 to assess the likely social impact to the local and broader community if we approved the application.

Yours sincerely



Caroline Lamb

**Chairperson**

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

## Schedule 1 – Licence conditions to be imposed Mullane's

No.	Condition to be imposed	Description
1.	<b>6-hour closure</b>	Section 11A of the <i>Liquor Act 2007</i> applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 3:00 AM and 9:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2.	<b>Social impact</b>	<p>The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of:</p> <ol style="list-style-type: none"> <li>1) obtaining an extended trading authorisation on 20 November 2018, and</li> <li>2) varying the extended trading authorisation on 22 August 2022.</li> </ol>
3.	<b>CCTV</b>	<ol style="list-style-type: none"> <li>1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements: <ol style="list-style-type: none"> <li>(a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),</li> <li>(b) recordings must be in digital format and at a minimum of ten (10) frames per second,</li> <li>(c) any recorded image must specify the time and date of the recorded image,</li> <li>(d) the system's cameras must cover the following areas: <ol style="list-style-type: none"> <li>(i) all entry and exit points on the premises,</li> <li>(ii) the footpath immediately adjacent to the premises, and</li> <li>(iii) all publicly accessible areas (other than toilets) within the premises.</li> </ol> </li> </ol> </li> <li>2) The licensee must also: <ol style="list-style-type: none"> <li>(a) keep all recordings made by the CCTV system for at least 30 days,</li> <li>(b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and</li> <li>(c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.</li> </ol> </li> </ol>
4.	<b>Liquor plan of management</b>	The premises is to be operated at all times in accordance with the Plan of Management dated <b>September 2021</b> as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.



5.	<b>Gaming plan of management</b>	The premises is to be operated at all times in accordance with the Gaming Plan of Management dated <b>April 2022</b> as may be varied from time to time after consultation with the Authority. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
6.	<b>Minors area authorisation</b>	Minors area authorisation: Entire licensed premises excluding the indoor gaming room and outdoor gaming room.
7.	<b>Extended trading authorisation</b>	Extended trading Authorisation: Lower Ground Floor Internal Areas only.
8.	<b>Liquor Accord</b>	The licensee or its representative must join and be an active participant in the local liquor accord.
9.	<b>Incident register</b>	<ol style="list-style-type: none"> <li>1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident: <ol style="list-style-type: none"> <li>(a) any incident involving violence or anti-social behaviour occurring on the premises,</li> <li>(b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,</li> <li>(c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,</li> <li>(d) any incident that results in a patron of the premises requiring medical assistance.</li> </ol> </li> <li>2) The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector: <ol style="list-style-type: none"> <li>(a) make any such incident register immediately available for inspection by a police officer or Liquor &amp; Gaming NSW inspector, and</li> <li>(b) allow a police officer or Liquor &amp; Gaming NSW inspector to take copies of the register or to remove the register from the premises.</li> </ol> </li> <li>3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.</li> </ol>
10.	<b>Trial period for extended hours – Lower ground floor</b>	<p>If the local consent authority does not approve the continuation of the following hours under a trial period in the development consent 12 months from the date Council is provided with a copy of approval from Liquor and Gaming NSW for the following trading hours, and subject to the acoustic attenuation works required by conditions 54 and 55 (within DA1028/2017/HA/D) being completed:</p> <ul style="list-style-type: none"> <li>• Lower Ground Floor Internal (pub) between 12:00 midnight – 03:00 AM (Monday to Saturday) and until 12:00 midnight (on Sundays)</li> <li>• Lower Ground Floor External 07:00 AM – 10:00 PM (Monday to Sunday)</li> </ul> <p>The trading hours will revert back to the following:</p> <ul style="list-style-type: none"> <li>• Lower Ground Floor Internal (pub) 07:00 AM - 12:00 midnight (Monday to Sunday)</li> <li>• Lower Ground Floor External 07:00 AM - 10:00 PM (Monday to Sunday)</li> </ul>

		A copy of the relevant development consent is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.
11.	<b>Patron capacity</b>	Patron capacity of only 45 patrons is permitted after 12:00 midnight within the extended trading authorisation area.
12.	<b>Gambling incident register</b>	<ol style="list-style-type: none"> <li>1) The licensee must keep and maintain a gambling incident register.</li> <li>2) The gambling incident register must record: <ol style="list-style-type: none"> <li>(a) any incident in which a patron of the venue displays or engages in problematic gambling behaviour of the kind specified in the 'Signs of risky and problem gambling behaviour: Know the signs and how to act' factsheet published on the L&amp;GNSW website as amended from time to time;</li> <li>(b) the time, location and machine number(s) and brief description (or identity, if known) of any gaming machine player identified displaying or engaging in that behaviour;</li> <li>(c) any proposed or implemented self or third-party exclusions of gaming machine players (specifying the player's name (where provided or known), membership number (if applicable) and duration of any exclusion) and the patron's response to the same;</li> <li>(d) any breach or attempted breach of a self or third party exclusion.</li> </ol> </li> <li>3) The gambling incident register must also record details of the action taken in response to the incidents, applications and other matters recorded in the register.</li> <li>4) The licensee must review the gambling incident register at least on a monthly basis and must consider whether an exclusion order is appropriate for any person who has been asked to self-exclude but has declined to do so.</li> <li>5) The information recorded in a gambling incident register must be retained for at least 3 years from when the record was made.</li> <li>6) The licensee must, at the request of a police officer or L&amp;GNSW inspector, make any gambling incident register available for inspection.</li> </ol>
13.	<b>Responsible Gambling Officer (Gambling Contact Officer)</b>	<ol style="list-style-type: none"> <li>1) The Licensee shall ensure that one Responsible Gambling Officer (Gambling Contact Officer), being a dedicated staff member who holds a current RCG certificate, is on duty and monitoring the gaming machines of the venue whenever gaming machines are operating.</li> <li>2) The Responsible Gambling Officer (Gambling Contact Officer)'s primary duties are to: <ol style="list-style-type: none"> <li>(a) maintain the gambling incident register;</li> <li>(b) make reasonable efforts to identify gaming machine players who display or engage in problematic gambling behaviour;</li> <li>(c) if any gaming machine player displays or engages in multiple problematic gambling behaviour as outlined in the Authority's Guideline, during a single trading day, then the Responsible Gambling Officer/Gambling Contact Officer must (at least once during that trading day): <ol style="list-style-type: none"> <li>(i) request that the player take a break from gaming machine play until the close of trade on that day or night (noting that a player who complies with a request to take a break may remain on the premises and consume other goods and services);</li> <li>(ii) provide information about the self exclusion scheme offered at the premises (being the scheme available pursuant to s. 49 of the <i>Gaming Machines Act 2001</i>) and ask whether the player wishes to participate in that scheme;</li> </ol> </li> </ol> </li> </ol>

		<p>(iii) provide information about and access to problem gambling counselling.</p> <p>3) This condition is not breached by:</p> <p>(a) a Responsible Gambling Officer (Gambling Contact Officer) undertaking minor additional gaming duties, so long as such duties do not detract from the Responsible Gambling Officer (Gambling Contact Officer)'s primary duties; or</p> <p>(b) the temporary absence of a Responsible Gambling Officer (Gambling Contact Officer) from the gaming machine areas, where such absence occurs in the ordinary course of their primary duties (for example, to engage with a gaming machine player in a private space) or is by way of a routine break from work (such as a meal break or a bathroom break).</p> <p>4) At all times, the Duty Manager or other senior manager responsible for gaming machine operations will assist the Responsible Gambling Officer (Gambling Contact Officer) in carrying out the duties described in this condition.</p>
14.	<b>No gaming facilities during shutdown</b>	No gaming facilities (Keno, etc.) are to be open during the liquor and gaming shutdown periods.