



Mr Justin Sammut
LAS Lawyers

by email to: j.sammut@laslawyers.com.au

20 January 2023

Dear Mr Sammut

Application No.	1-8161038221
Application for	Removal - hotel
Application No.	1-8180277085
Application for	Minors area authorisation
Applicant name	Yang Li
Licence name	The New Commercial Hotel
Liquor licence No.	LIQH400101384
Proposed trading hours	<u>Retail / Consumption on premises and Take Away</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
Current trading hours	<u>Consumption on premises / Lounge, Saloon bar</u> Monday 05:00 AM – 12:00 AM Tuesday to Saturday 05:00 AM – 05:00 AM Sunday 10:00 AM – 12:00 AM <u>Consumption on premises / Other areas within licensed premises</u> Monday to Saturday 05:00 AM – 12:00 Midnight Sunday 10:00 AM – 12:00 Midnight <u>Take Away</u> Monday to Wednesday 05:00 AM – 10:00 PM Thursday to Sunday 10:00 AM – 10:00 PM Sunday 10:00 AM to 10:00 PM
Proposed premises	2000 Camden Valley Way Edmondson Park NSW 2174
Current premises	Bigge & Scott Sts Liverpool NSW 2170
Legislation	Sections 3, 11A, 12, 14, 15, 17, 40, 44, 45, 48, 51, 59 and 121 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority
Application for a removal – hotel with minors area authorisation – The New Commercial Hotel

The Independent Liquor & Gaming Authority considered the application above and decided on 13 October 2022 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to amending the Hotel's opening hours so that the sale and supply of liquor at the premises cannot commence before 10:00 AM and imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 AM.

Concise statement of reasons

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

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

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

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

If you have any questions, please contact the case manager Antony Vescio at anthony.vescio@liquorandgaming.nsw.gov.au

Yours faithfully



Murray Smith

Deputy 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](#) 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](#).

Concise statement of reasons

Key facts

Application No.	1-8161038221
Application for	Removal - hotel
Application No.	1-8180277085
Application for	Minors area authorisation
Applicant	Yang Li
Licence name	The New Commercial Hotel
Proposed premises	2000 Camden Valley Way Edmondson Park NSW 2174
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Application date	13 January 2022
Decision date	13 October 2022

Material considered by the Authority

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

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

- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

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

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 14, 15 and 17: Specific provisions in respect of a hotel licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 51: General provisions relating to licence-related authorisations.
- Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.
- Section 121: Minors in hotels in company of responsible adult.

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

Key findings

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

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of increased convenience and choice from the proposed new hotel, noting a series of serviced apartments will be located at the same premises, enabling the venue to service local residents, business owners and visitors to the area.

Negative social impacts

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

- the large scale of the proposed premises;
- the proposed premises being located in a high-density crime hotspot for malicious damage;

- the higher crime rates for all categories the Authority usually considers in Edmondson Park and the Liverpool LGA compared to NSW;
- health data indicating an average level of socio-economic advantage and disadvantage in the LGA.

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

- the absence of any objections from agency stakeholders or members of the community;
- the licence will be removed from a Band 3 SA2 and relocated in a Band 2 SA2;
- the application will result in a significant reduction in trading hours;
- the proposed trading hours cease at midnight on six days per week (10:00PM on Sunday);
- this will be the only hotel licence currently in Edmondson Park;
- the suburb exhibits below average incidence of alcohol-related domestic assault and non-domestic assault when compared to both the Liverpool LGA and NSW;
- the applicant is an experienced operator of multiple licensed premises with sound compliance records, and
- the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

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

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

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

Accordingly, the Authority approves the application under section 45 of the Act.

Yours faithfully



Murray Smith

Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed The New Commercial Hotel

1. Social impact

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 removing this licence to the premises at 2000 Camden Valley Way, Edmondson Park NSW 2174.

2. Plan of management

The premises is to be operated at all times in accordance with the Plan of Management dated August 2020 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.

3. CCTV

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of ten (10) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.
- 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings

4. Incident register

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,

- (c) any incident that results in a person being turned out of the premises under section 77 of the *Liquor Act 2007*,
- (d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - (b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

5. **Crime scene preservation**

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

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

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

6. **Liquor Accord**

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

7. **Gaming plan of management**

The premises is to be operated at all times in accordance with the Gaming Plan of Management dated April 2022 as may be varied from time to time after consultation with the Independent Liquor & Gaming 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 & Gaming Authority.

8. **OMCG**

- 1) The licensee must not permit any person to enter the premises, or to remain on the premises, if the person is wearing or carrying any clothing, jewellery or accessory displaying:
 - (a) the name of any of the following motorcycle-related and similar organisations: Bandidos, Black Uhlands, Coffin Cheaters, Comanchero, Finks, Fourth Reich,

Gladiators, Gypsy Jokers, Highway 61, Life & Death, Lone Wolf, Mobsitters, Nomads, Odins Warriors, Outcasts, Outlaws, Phoenix, Rebels, Hells Angels, Scorpions, Mongols, Notorious, Muslim Brotherhood Movement; or any “declared organisation” within the meaning of the *Crimes (Criminal Organisation Control) Act 2009*.

- (b) the colours, club patch, insignia or logo of any such organisation, or
 - (c) the “1%” or “1%er” symbol, or
 - (d) any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, any of the organisations specified in point 1 (a).
- 2) Any incident where a person is refused entry or removed from the premises in relation to this condition must be recorded in the incident register.

9. LA10 noise

The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence.

The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00am at the boundary of any affected residence.

*Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00am.

10. GME lease

Four (4) GMEs leased from LIQH400120508. Lease start date: 11/12/2019. Lease expiry: 10/12/2024.

11. Minors area authorisation

Area: whole of venue excluding the gaming room.

12. Reporting drug related activity

If the licensee, a staff member or security locate any drugs within the licensed premise, Police are to be immediately contacted and arrangements made to surrender the drugs and provide all information in relation to the finding of the drugs and any person suspected of being involved.

- (ii) When contact is made with Police, the licensee, staff member or security are required to record the details of the Officer spoken to in the hotel incident register.

Conditions to be revoked

Condition 200 Noise restrictions

Condition 3030 Minors area authorisation

Condition 3040 Plan of management

Condition 61010 Gaming machine threshold increase