

Mr James Lidis  
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23 February 2017

Dear Mr Lidis

<b>Application No.</b>	1-6263742323
<b>Applicant</b>	Roberto De La Cruz
<b>Licence name</b>	Padstow Park Hotel
<b>Application for</b>	Extended trading authorisation
<b>Current trading hours</b>	<u>Consumption on premises (whole of premises)</u> Monday to Saturday 5:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Consumption away from premises (take away)</u> Monday to Saturday 5:00 am – 11:00 pm Sunday 10:00 am – 10:00 pm
<b>Proposed trading hours</b>	<u>Consumption on premises (gaming room and adjoining TAB/bar)</u> Monday to Saturday 10:00 am – 2:00 am Sunday 10:00 am – 10:00 pm <u>Consumption on premises (bistro terrace)</u> Monday to Sunday 10:00 am – 10:00pm <u>Consumption on premises (other areas in the hotel)</u> Monday to Saturday 10:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Consumption away from premises (take away)</u> Monday to Saturday 10:00 am – 10:00 pm Sunday 10:00 am – 10:00 pm
<b>Premises</b>	31 Howard Rd, PADSTOW NSW 2211
<b>Issue</b>	Whether to grant an extended trading authorisation
<b>Legislation</b>	Sections 3, 48, 49 and 51 of <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority  
Application for an extending trading authorisation – Padstow Park Hotel**

The Independent Liquor and Gaming Authority has considered the Applicant's application for an extended trading authorisation in relation to the Applicant's hotel licence. Pursuant to section 49 of the *Liquor Act 2007*, the Authority has decided to **grant** the authorisation subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00AM and 10:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.

2. 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 be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining the extended trading authorisation.
3. The premises is to be operated at all times in accordance with the Plan of Management dated June 2017 as may be varied from time to time after consultation with the 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.
4. The licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time.

To avoid doubt, the above conditions to which the authorisation is subject are taken to be conditions of the hotel licence to which the authorisation relates, and are imposed in addition to the existing licence conditions.

#### **Trading between 10 pm and 11 pm, Monday to Saturday**

Please note that pursuant to section 12 of the *Liquor Act 2007*, the standard trading period during which liquor can be sold for consumption away from the licensed premises must end at 10 pm on all trading days. Nevertheless, the exemption provision under section 70AB of the *Liquor Regulation 2008* permits takeaway liquor sales between 10 pm and 11 pm on days other than Sundays and restricted trading days.

If you have any questions, please contact the case manager at [mike.freeman@liquorandgaming.nsw.gov.au](mailto:mike.freeman@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor and Gaming Authority

## Statement of reasons

### Decision

1. On 20 July 2017 the Independent Liquor and Gaming Authority (“Authority”) received from Mr Roberto De La Cruz (“Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for an extended trading authorisation in relation to the Applicant’s hotel licence (“Application”) at 31 Howard Road, Padstow NSW (“Premises”).
2. Specifically, the Applicant sought authorisation to extend the closing time for the gaming room and adjoining TAB/bar area located in the Premises from 12:00 midnight to 2:00 am on days between Monday and Saturday.
3. Pursuant to section 49 of the *Liquor Act 2007* (“the Act”), the Authority has decided to grant the authorisation.
4. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 48, 49 and 51 of the Act, and relevant provisions of the *Liquor Act Regulation 2008* (“Regulation”).

### Material considered by the Authority

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
7. In accordance with the Authority’s *Guideline 6*, the Authority has also had regard to relevant L&GNSW records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, HealthStats NSW data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by L&GNSW staff from publicly available sources.
8. A list of the material considered by the Authority is set out in the Schedule.

### Legislative framework

9. The Authority has considered the Application in the context of the following legislative provisions.

### Objects of the Act

10. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
11. In the pursuit of these objectives, section 3 requires the Authority to, in determining an application for an authorisation, have due regard to the need to minimise alcohol related harm, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

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

12. Section 51 of the Act provides that, in determining an application for an authorisation, the Authority has the same powers as it does in relation to an application for a licence. Such powers includes the Authority’s obligation under subsection 45(3) of the Act to only grant a licence if it is satisfied that:
  - a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,

- b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- c) the applicable development consent required for use of the premises for the proposed business is in force.

#### Community impact statement

- 13. Section 48 of the Act requires certain applications, including an application for an extended trading authorisation in relation to a hotel licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
- 14. Subsection 48(5) provides that the Authority may only grant the authorisation if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter before it.

#### Provisions specific to an extended trading authorisation

- 15. Section 49 of the Act provides the Authority with the power to grant an extended trading authorisation to a licensee to permit the sale or supply of liquor for consumption in the licensed premises during a specified period outside the standard trading hours.
- 16. Subsection 49(8) provides that the Authority may only grant the authorisation if it is satisfied that:
  - a) practices are and will remain in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - b) the extended trading period will not result in undue disturbance of the quiet and good order of the neighbourhood of the premises.
- 17. Section 51 of the Act prescribes the minimum procedural requirements for a licensee to make a valid application for an extended trading authorisation.

#### Gambling activities in hotels

- 18. Section 10A of the Regulation requires the CIS for an extended trading authorisation in relation to a hotel to address matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

#### **Key findings**

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

#### Validity and procedural requirements

- 20. The Authority is satisfied that the Application has been validly made and meets the procedural requirements under section 51 of the Act.
- 21. The Authority is also satisfied that the proposed additional hours of trade fall within the specified period for which the Authority can grant an authorisation under section 49 of the Act.

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

- 22. Pursuant to sections 45(3)(b) and 49(8) of the Act, and having regard to the Applicant's plan of management and the existing and proposed conditions, the Authority is satisfied that practices are and will remain in place to:
  - a) ensure the responsible service of alcohol on the premises,
  - b) prevent intoxication on the premises, and
  - c) minimise undue disturbance in the neighbourhood.
- 23. The Authority is also satisfied, for the purposes of sections 45(3)(a) and 45(3)(c) of the Act, that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed authorisation relates, given the absence of any information indicating otherwise following consultation with relevant law enforcement agencies, and
- b) the requisite development consent is in force, based on the notice of determination issued by Canterbury-Bankstown Council on 17 March 2017.

#### Community impact statement

24. 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. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
25. 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 Padstow, and the relevant “broader community” comprises Canterbury-Bankstown Local Government Area (“the LGA”) which was formed in 2016 following the amalgamation of the former Local Government Areas of Canterbury and Bankstown.

#### Gambling activities

26. The Authority accepts that the CIS has addressed matters relating to gambling activities on the Premises during the additional trading hours sought, and that no issues were raised by the parties notified and consulted in relation to the Application.

#### Positive social impacts

27. The Authority accepts the Applicant's claim that the granting of the extended trading authorisation will benefit those members of the local community, such as shift workers, who wish to access the hotel's facilities after midnight. The Authority notes however that this benefit is somewhat limited given that the extension is restricted in the gaming room and adjoining TAB/bar room, and no liquor will be sold during the extended trading hours.
28. L&GNSW's liquor licence records indicate that as at 24 November 2017 there are no other hotel licenses in Padstow and the density of hotel licences in the LGA is 9.24 per 100,000 persons which is considerably lower than the NSW figure of 28.38.
29. The Authority accepts on the information available that the proposed trading hours are within the hours authorised by Canterbury-Bankstown Council in its development consent for the Premises.
30. The Authority also notes that there have been no objections from members of the public or other key stakeholders including NSW Police, Council, NSW Health, or any other relevant agencies and bodies following notification of the Application.
31. On the basis of the above, the Authority is satisfied that granting the authorisation will benefit members of the local and broader communities by providing them with a longer period of time during which they may attend the Premises and enjoy a variety of recreational pursuits.

#### Negative social impacts

32. The Authority notes that the alcohol-related data of the local and broader communities has limited relevance to the Application given that no liquor will be sold or supplied at the Premises during the extended hours sought.
33. Notwithstanding the above, the Authority notes from the BOCSAR data that alcohol-related offences are occurring at lower than average rates in Padstow and the LGA, noting for the year ending September 2017:

- a) the rates of alcohol-related domestic assault incidents for Padstow and the LGA were 65.5 and 63.6 per 100,000 persons, which were lower than the NSW rate of 114.3 per 100,000 persons;
  - b) the rates of alcohol-related non-domestic assault incidents for Padstow and the LGA were 21.8 and 49.2 per 100,000 persons, which were lower than the NSW rate of 131.9 per 100,000 persons;
  - c) the rates of malicious damage to property for Padstow and the LGA were 502.2 and 533.3 per 100,000 persons, which were lower than the NSW rate of 793.2 per 100,000 persons.
34. The Authority is satisfied, based on the BOCSAR Crime Maps for the year ending September 2017, that the Premises was:
- a) not located in any hotspots for incidents of alcohol-related and non-domestic assault;
  - b) located in medium density hotspots for incidents of domestic assault and malicious damage to property.
35. The Authority notes that the HealthStats NSW data for the LGA is unavailable as it was formed in 2016. However, based on the relevant data in respect of the former Local Government Areas of Canterbury and Bankstown, residents of the LGA were dying and being hospitalised from alcohol-related health issues at a similar rate to the NSW average.
36. The Authority further notes from the L&GNSW compliance data that the level of reportable incidents at the Premises for the year to November 2017 was “below threshold”.
37. On the basis of the above, the Authority considers that the prevailing level of alcohol related crime and health issues in Padstow and the LGA does not raise any immediate concerns, or indicate that granting the authorisation would exacerbate any existing social problems attributable to alcohol, given the restriction of the sale and supply of alcohol after midnight.
38. The Authority has had regard to the ABS Socio- Economic Indexes For Areas (“SEIFA”) data which indicates that, as at 2011, Padstow and the former Local Government Areas of Canterbury and Bankstown were neither particularly advantaged nor disadvantaged in comparison with other suburbs and Local Government Areas in NSW on the Index of Relative Socio-economic Advantage and Disadvantage, ranking in the 6th, 4th and 5th decile respectively.
39. The Authority notes that this data is seven years old and that the local and broader communities may have experienced significant changes to their demographics in recent years. Nevertheless, SEIFA data does not indicate that socio-economic disadvantage is a compounding factor of concern at the level of either community.
40. The Authority is satisfied with the practices and procedures set out in the plan of management to ensure the responsible service of alcohol at the Premises, and the measures proposed by the Applicant to prohibit the sale and supply of liquor during the extended trading period sought.
41. Having regard to the above, the Authority is satisfied that the Applicant has taken and will continue to take adequate steps to minimise any potential risks associated with the extended trading hours of the Premises, and to protect the amenity of the neighbourhood.

#### Overall social impact

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

43. The Authority is also satisfied that a decision to grant the authorisation would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development consistent with community expectations and needs.

44. Accordingly, the Authority has decided to grant the extended trading authorisation.



Philip Crawford  
Chairperson

**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 and gaming 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

### Material before the Authority

1. ABS SEIFA data based on the 2011 Census, ranking the former Local Government Areas of Canterbury and Bankstown on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data relating to alcohol attributable deaths by local government area, 2001-2002 to 2012-2013 and alcohol attributable hospitalisations by local government area 2001-2003 to 2013-2015.
3. NSW Recorded Crime Statistics 2016, published by BOCSAR, showing the proportion of incidents by offence type, day of week and time of day in the former Local Government Areas of Bankstown and Canterbury.
4. Notice of determination of development application issued by Canterbury-Bankstown Council on 17 March 2017, approving the Applicant's development application DA-738/2016.
5. Submission from Roads & Maritime Services NSW in relation to the Application, dated 9 May 2017.
6. Submission from Family & Community Services NSW in relation to the Application, dated 24 May 2017.
7. Document titled "Plan of Management for the Operation of Padstow Park Hotel" dated June 2017.
8. BOCSAR crime maps for the year to June 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
9. Completed application form signed and dated 20 July 2017.
10. Completed Category B CIS form signed and dated 20 July 2017, and additional information provided by the Applicant in support of the CIS.
11. Submission from Family & Community Services NSW in relation to the Application, dated 4 September 2017.
12. NSW crime statistics for the years to September 2017, published by BOCSAR, showing the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in the LGA.
13. L&GNSW liquor licensing records as at 1 November 2017, listing liquor licences in the LGA.
14. Google maps dated 24 November 2017 showing the location of the Premises.
15. L&GNSW liquor licensing records as at 27 November 2017, setting out the key liquor licence details for the Premises.
16. L&GNSW compliance data dated 27 November 2017, listing all compliance incidents and activities at the Premises between 1 July 2008 and 27 November 2017.
17. Signed Certification of Advertising Application dated 29 November 2017.
18. Floor plan for the Premises indicating the area to which the proposed extended trading authorisation applies.