



Mr Brett Tobin
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19 March 2018

Dear Mr Tobin

Application No.	1-6363705766
Applicant	Mr Mark Thomas Malloy
Application for	Extended trading authorisation
Licence name	Panania Hotel
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>Consumption away from premises (take away)</u> Monday to Saturday 5:00 am – 11:00 pm Sunday 10:00 am – 10:00 pm
Proposed trading hours	<u>Consumption on premises (all areas except gaming room)</u> Monday to Saturday 10:00 am – 12:00 midnight Sunday 10:00 am – 12:00 midnight <u>Consumption on premises (gaming room)</u> Monday to Saturday 10:00 am – 2:00 am Sunday 10:00 am – 12:00 midnight <u>Consumption away from premises (take away)</u> Monday to Saturday 10:00 am – 10:00 pm Sunday 10:00 am – 10:00 pm
Premises	63 Anderson St PANANIA NSW 2213
Issue	Whether to grant an extended trading authorisation
Legislation	Sections 3, 48, 49 and 51 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for an extended trading authorisation – Panania Hotel**

The Independent Liquor and Gaming Authority (“Authority”) considered, at its meeting on 14 February 2018, the Applicant’s application for an extended trading authorisation (“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 six (6) hours between 4:00 am 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 premises is to be operated at all times in accordance with the Plan of Management dated 9 December 2016 as may be varied from time to time after consultation with NSW Police. A copy 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. No alcoholic drinks are to be sold or supplied after 12:00 midnight.
4. Closed-circuit television system
- 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 six (6) 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 to 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.

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 robert.hanns@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 15 September 2017, Mr Mark Thomas Malloy (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought an extended trading authorisation (“Authorisation”) in relation to the Applicant’s hotel liquor licence at 63 Anderson Street, Panania NSW (“Premises”).
2. Specifically, the Applicant sought the Authorisation to extend the closing time for:
 - a) the gaming room within the Premises from 12:00 midnight to 2:00 am, Monday to Saturday, and
 - b) the Premises from 10:00 pm to 12:00 midnight on Sundays.
3. The Applicant also proposed to change the opening time for the Premises from 5:00 am to 10:00 am, Monday to Saturday.
4. The Authority considered the Application at its board meeting on 14 February 2018 and, pursuant to section 49 of the *Liquor Act 2007* (“Act”), decided to grant the Application. A preliminary advice letter was issued on 21 February 2018 advising the Applicant of this decision.
5. 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

6. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
7. 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.
8. In accordance with the Authority’s *Guideline 6*, the Authority has also 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”).
9. A list of the material considered by the Authority is set out in the Schedule.

Legislative framework

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

Objects of the Act

11. The key objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations, needs and aspirations of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
12. In the pursuit of these objectives, section 3 requires the Authority to, in exercising its powers, have due regard to the need to minimise harm associated with misuse and abuse of liquor, 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

13. Section 51 of the Act provides that, in determining an application for a licence related 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 licensed premises, and
 - c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

14. Section 48 of the Act requires certain applications, including an application for an Authorisation in relation to a hotel licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
15. 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

16. Section 49 of the Act provides the Authority with the power to grant an 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.
17. 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.
18. Section 51 of the Act prescribes the minimum procedural requirements for a licensee to make a valid application for an Authorisation.

Gambling activities in hotels

19. Section 10A of the Regulation requires the CIS for an 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

20. 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

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

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

23. Pursuant to sections 45(3)(b) and 49(8) of the Act, and having regard to the Applicant's plan of management, 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.
24. 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 12 July 2017.

Community impact statement

25. 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.
26. 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 Panania, 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

27. 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

28. The Authority notes that the Premises is the only hotel in Panania, and that the density of hotel liquor licences and all other types of liquor licences in Panania and the LGA is considerably lower than the NSW state average.
29. The Applicant contended that granting the Authorisation would cater to the demands of those members of the local community who wish to access the hotel's services and facilities during later hours of the night. In support of this contention, the Applicant provided five letters of support from the community and a petition containing 57 signatures.
30. The Authority also notes that there have been no submissions from the community in opposition to the grant of the Authorisation.
31. On the basis of the available information, the Authority is satisfied that granting the Authorisation would benefit members of the local and broader communities, and therefore be in line with their expectations, needs and aspirations, by allowing them to attend and stay at the Premises during later hours of the night and enjoy a variety of recreational pursuits.
32. The Authority nevertheless notes that the proposed extended hours are permitted for a period of 12 months from 12 July 2017 under the relevant development consent issued by Canterbury-Bankstown Council for the Premises, and that the Applicant will be required to seek further approval from Council for late night trading beyond that 12 month period.

Negative social impacts

33. The Authority notes from the BOCSAR data that:
- a) for the year to September 2017, the Premises is located within or on the edge of a low density hotspot for incidents of alcohol related assault and malicious damage to property, and not within any hotspots for incidents of domestic assault and non-domestic assault,
 - b) for the two years to September 2017, the rate of alcohol related assault (both domestic and non-domestic) and malicious damage to property in Panania and the LGA were considerably lower than the NSW state average, and
 - c) for the year 2016, only a small percentage of recorded incidents of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property occurred between 12 midnight and 6 am, with the largest proportion of these offences occurring between 6 pm and 12 midnight.
34. The Authority also notes from the most recent HealthStats NSW data available at the time of its consideration that the former Local Government Areas of Bankstown and Canterbury both recorded lower levels of alcohol attributable deaths and hospitalisations compared to the corresponding NSW figures.
35. The relevant L&GNSW compliance records indicate that no notices or findings of breach were issued against the Premises since 2008, and that for the year to 30 June 2017 the Premises was graded a level 3 declared premises, based on eight reported incidents of alcohol related violence.
36. No objection was received in relation to the Application. The Authority notes that NSW Police requested the imposition of certain licence conditions which the applicant consented to, and NSW Department of Family and Community Services expressed its general concerns about the increasing number of liquor outlets and hours of licensed operation in South Western Sydney and the impact this may have on the community.
37. While the relevant statistics do not raise immediate concerns, the Authority accepts that there may be a risk that granting the Authorisation will, over time, contribute to an increase in the level of alcohol related crime, health and other social issues in the community.
38. The Authority nevertheless considers that any such risk will be limited, as the only time liquor will be sold or supplied at the Premises during the extended hours sought will be between 10 pm and 12 midnight on Sundays, and no liquor will be sold or supplied after midnight on any day.
39. The Authority also considers that the potential risk of alcohol related harm arising from granting the Authorisation is adequately mitigated by the comprehensive practices and procedures in the Applicant's Plan of Management and the proposed licence conditions in respect of the responsible service of alcohol and prevention of intoxication.

Overall social impact

40. The Authority has had regard to the ABS Socio-Economic Indexes for Areas ("SEIFA") data indicating that as at 2011, Panania ranked slightly above the NSW state average, and the former Local Government Areas of Bankstown and Canterbury ranked at the same level of or slightly below average, on the Index of Relative Socio-economic Advantages and Disadvantages. The Authority notes that this data is seven years old and does not draw any specific inferences from it, other than to note that it does not raise any immediate concerns.
41. Having considered the positive and negative social impacts that are likely to flow from granting the Authorisation, the Authority is satisfied that the overall social impact of approving the Application would not be detrimental to the well-being of the local and broader communities.

42. The Authority is also satisfied that a decision to approve the Application would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.

43. Accordingly, the Authority has decided to grant the 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 considered by the Authority

1. ABS SEIFA data based on the 2011 Census ranking Panania and the LGA (comprising the former Local Government Areas of Bankstown and Canterbury) on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths in the LGA (comprising the former Local Government Areas of Bankstown and Canterbury) for the period 2012-13 and alcohol attributable hospitalisations in the LGA for the period 2013-15.
3. Plan of Management for the Premises dated 9 December 2016.
4. NSW Recorded Crime Statistics 2016 setting out the proportion of incidents by offence type, day of week and time of day in the LGA (comprising the former Local Government Areas of Bankstown and Canterbury).
5. Notice of Determination issued by Canterbury-Bankstown City Council on 12 July 2017 approving development application DA-1471/2015/1 in relation to the Premises.
6. Email from NSW Education Aboriginal Affairs, dated 4 August 2017, in relation to the Application.
7. Submission from NSW Transport Roads & Maritime Services, dated 11 August 2017, in relation to the Application.
8. Submission from NSW Department of Family and Community Services, dated 17 August 2017, in relation to the Application.
9. Completed application dated 12 September 2017 and supporting submission.
10. Completed Category B CIS form dated 12 September 2017 and additional supporting information.
11. BOCSAR Crime Hotspot Maps for the year to September 2017, indicating the location of the Premises relative to hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
12. NSW crime statistics for the two years to September 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Panania and the LGA.
13. Submission from NSW Police, dated 12 October 2017, in relation to the Application.
14. Completed certifications of advertising dated 30 October 2017.
15. L&GNSW liquor licensing records as at 28 November 2017, outlining the density of all types of liquor licences in Panania, the LGA and NSW, and listing all hotel liquor licences in Panania and the LGA.
16. L&GNSW liquor licensing records as at 1 December 2017, setting out the key liquor licence details for the Premises.
17. L&GNSW compliance data dated 1 December 2017, listing all compliance incidents and activities at the Premises between 1 July 2008 and 1 December 2017.
18. Google map images extracted from the Google website on 11 December 2017, showing the location and photos of the Premises in map view, earth view and street view.
19. Submission from Hatzis Cusack Lawyers on behalf of the Applicant, dated 25 January 2018, in relation to the Application.
20. Undated premises plan for the Premises.