



Mr Warwick Caisley
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12 June 2018

Dear Mr Caisley

Application No.	1-6663466050
Applicant	Bakehouse Cellars Pty Ltd
Application for	Extended trading authorisation
Licence name	Cookie's Lounge Bar
Licence number	LIQH440010058
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
Granted trading hours	<u>Consumption on premises</u> Monday to Saturday 11:00 AM – 2:00 AM Sunday 11:00 AM – 10:00 PM <u>Consumption away from premises (take away)</u> Monday to Sunday 11:00 AM – 10:00 PM
Premises	1-11 George Street NORTH STRATHFIELD NSW 2137
Issue	Whether to grant an extended trading authorisation
Legislation	Sections 3, 11A, 12, 40, 45, 48, 49, 51 and 53 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor and Gaming Authority Cookie's Lounge Bar

At its meeting on 16 May 2018 the Independent Liquor and Gaming Authority ("Authority") decided, pursuant to section 49(2) of the *Liquor Act 2007* ("Act"), to grant an application for an extended trading authorisation for Cookie's Lounge Bar, 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 04:00 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 business authorised by this licence must not operate with a greater overall level of social impact on the well-being 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 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. 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 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.

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 & 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. Live entertainment must not be provided after 11:00 PM on any nights.

For the purpose of section 49(6) of the Act, the extended trading hours during which the licensee is authorised to sell or supply liquor for consumption on the Premises are between 12:00 midnight and 2:00 am Monday to Saturday and cover the whole of the licensed area.

Pursuant to sections 12, 29 and 49 of the Act, the licensed trading period for takeaway liquor sales may not be fixed beyond 10:00 pm on any evening. The cessation of licensed trading recorded on the licence has been varied, of the Authority's initiative, to reflect the current legislative position.

Nevertheless, clause 70AB of the *Liquor Regulation 2008* permits takeaway sales from certain 10:00 pm licensed premises to continue until 11:00 pm, other than on Sundays and restricted trading days.

The licensed opening hours have also been varied, of the Authority's initiative, pursuant to section 53 of the Act, to conform with the requirements of development consent DA2017/0240 that is in force with respect to the premises and does not permit any trading prior to 11:00 am.

If you have any questions about this letter, please contact the case manager via helen.jacques@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin black rectangular border.

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

Statement of reasons

Decision

1. On 1 February 2018 the Independent Liquor and Gaming Authority (“Authority”) received from Bakehouse Cellars Pty Ltd (“Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application (“Application”) for an extended trading authorisation (“ETA”). The Application concerns Cookie’s Lounge Bar, licensed premises with a full hotel liquor licence number LIQH440010058 that was granted on 26 November 2010 and is located at 1-11 George Street, North Strathfield NSW 2137 (“Premises”).
2. Pursuant to section 49(2) of the *Liquor Act 2007* (“Act”), the Authority has decided to grant the Application.
3. For the purpose of section 49(6) of the Act, the extended trading hours during which the licensee is now authorised to sell or supply liquor for consumption on the Premises are between 12:00 midnight and 2:00 am Monday through Saturday and this applies to the whole of the licensed area.
4. In reaching this decision and when taking related administrative action, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 40, 45, 48, 49, 51 and 53 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“Regulation”).

Material considered by the Authority

5. The Authority has considered the Application and 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. As foreshadowed in the Authority’s *Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by LGNSW staff from publicly available sources.
8. The material considered by the Authority is listed in the Schedule and briefly described, where appropriate.

Legislative framework

9. The Authority has considered the Application in accordance with the following legislative provisions.

Objects of the Act

10. The objects of the Act, as set out in section 3(1), are 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, to facilitate the balanced development, in the public interest, of the liquor industry, and to contribute to the responsible development

of related industries such as the live music, entertainment, tourism and hospitality industries.

11. In pursuit of these objectives, section 3(2) requires the Authority to have due regard to the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Trading hours and 6-hour closure period

12. Section 12 of the Act sets out the standard trading period for liquor licences. Additionally, section 11A imposes a condition on certain licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

Provisions specific to an ETA

13. The legal requirements for making a valid application for an extended trading authorisation are provided by section 51 of the Act and the Regulation. The power to grant an ETA is provided by section 49(2) of the Act.
14. Section 49(8) of the Act provides that the Authority must not grant an extended trading authorisation in respect of licensed premises unless the Authority is satisfied that:
 - 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
 - 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.

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

15. Section 51(3) of the Act provides that, in determining an application for a licence related 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 notes that the Authority may only grant a licence application if satisfied, under section 45(3) of the Act, that:
 - (a) the applicant is a fit and proper person to carry on the proposed business,
 - (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

16. 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 requirements specified by the Act and Regulation.
17. Section 48(5) provides that the Authority may only grant a licence, authorisation or approval to which section 48 applies if 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 the Authority becomes aware of during the application process.

Provisions specific to a hotel licence

18. The substantive requirements pertaining to a hotel licensed premises are specified in sections 14 to 17 of the Act and in the Regulation.

Gambling activities in hotels

19. Clause 10A of the Regulation requires, in the case of an application for an ETA in relation to a hotel, that the CIS document address matters relating to gambling activities that will be conducted 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 the relevant legislative requirements, the Authority makes the following findings on the Application.

Validity, procedural and trading requirements

21. The Authority finds that:
 - (a) The Application has been validly made and meets the minimum procedural requirements under section 51 and 40 of the Act. This finding is made on the basis of the Application and CIS material before the Authority and the Certificate of Advertising signed by the Applicant's legal representative Mr W Caisley dated 19 March 2018 and a director of the Applicant company, Mr C Montgomery dated 16 March 2018.
 - (b) The Authority is also satisfied, on the basis of the Application and CIS material that the proposed additional late trading hours fall within the specified periods for which the Authority may grant an extended trading authorisation under section 49(2) of the Act.

Trading hours, 6-hour closure period and the Authority's discretion to impose and vary condition

22. The Authority is satisfied that the extended hours sought fall within the requirements of sections 11A and 12 of the Act. The Onegov liquor licence record as at 6 April 2018 records that the licence is subject to a daily six-hour liquor cessation period under section 11A of the Act between 4:00 am and 10:00 am.
23. The cessation of licensed takeaway trading hours as specified on the record have been updated, of the Authority's initiative, to conform with the current legislative position specified by sections 12, 29 and 49 of the Act, whereby licensed trading hours

for takeaway sales may not be fixed beyond 10:00 pm on any evening. However, clause 70AB of the Regulation permits takeaway sales for certain 10:00 pm licensed premises to continue between 10:00 pm and 11:00 pm, other than on Sundays and restricted trading days.

24. Pursuant to section 53 of the Act the Authority on its own initiative has also varied the licensed *opening* hours on the record to conform with the requirements of development consent DA2017/0240 that is in force with respect to the Premises and does not permit any trading prior to 11:00 am

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

25. Pursuant to section 45 of the Act, the Authority is satisfied that:
- (a) for the purposes of section 45(3)(a), the Applicant company is a fit and proper person to carry on the proposed business or activity to which the licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with law enforcement agencies including NSW Police (“Police”) and LGNSW,
 - (b) for the purposes of section 45(3)(b) (and section 49(8)(a) of the Act), practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's Plan of Management dated June 2017, and
 - (c) for the purposes of section 45(3)(c), the requisite development consent permitting use of the Premises as a hotel licensed business with the extended trading hours proposed is in force. This finding is made on the basis of a determination of City of Canada Bay Council dated 19 October 2017 number DA2017/0240 permitting a “pub, ancillary bottle shop and gaming”.
26. Clause 10A of the Regulation requires that a CIS accompanying an application for an extended trading authorisation for a hotel or club deal with any gambling activities to be conducted during the extended trading period. Noting that this venue is situated in a lower social impact Band 1 local government area, the Authority is satisfied that the Applicant has provided sufficient information addressing the social impact of the proposed 24 gaming machines and TAB services, including discussion of its Gambling Policy dated January 2018 and patron exclusion program, to meet the minimum requirements of this clause. There is no adverse submission from law enforcement or other parties with respect to the venue’s gaming history.

Further restrictions on granting an extended trading authorisation

27. For the purposes of section 49(8)(b) of the Act, the Authority is satisfied on the basis of the Plan of Management dated June 2017 and conditions consented to by the Applicant in the submission received by licensing staff on 26 March 2018 that 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. The Authority further notes the absence of evidence of significant disturbance events or complaints from law enforcement agencies or the community.

Community Impact Statement

28. The Authority has taken into account the CIS and the following additional information in making the findings set out below on the social impact of granting the authorisation for the Premises on the local and broader communities.
29. For the purposes of this decision and consistent with its position in *Guideline 6* and longstanding practice, the Authority is satisfied that the relevant “local community” is the community within the State suburb of North Strathfield, and the “broader community” comprises the relevant local government area (“LGA”), which at the time of this decision is the Canada Bay Council (“Canada Bay LGA”).

Positive social impacts

30. The Authority accepts the information provided in the CIS that the venue is currently subject to evening demand from persons visiting the Bakehouse Quarter (a mixed commercial and entertainment precinct comprising renovated former industrial buildings) and accepts that granting the Application will provide increased choice and convenience for those in the local and broader community who patronise this precinct. It will also provide convenience and choice benefits for those attending other restaurants and entertainment businesses in the precinct. These benefits are increased for the local community in circumstances when the venue is the only hotel in North Strathfield, with no clubs providing liquor and gaming services within the suburb.
31. Noting that no adverse submissions were made from any public agencies or members of the public who were notified of the Application, the Authority finds that granting the ETA will be consistent with the “expectations, needs and aspirations of the community” in respect of the local and broader community, being an object of section 3(1)(a) of the Act.
32. The Authority is satisfied, on the information provided in the CIS, that during the proposed late trading hours the hotel will provide additional liquor, gaming and hospitality services (noting the food menu in evidence) from a modern bar environment in a heritage building.
33. Granting the Application will facilitate the balanced development, in the public interest, the liquor industry that serves the local and broader communities, for the purposes of section 3(1)(b) of the Act, particularly those in the local community who wish to stay at this venue rather than seek alternative late night entertainment in other suburbs.

Negative social impacts

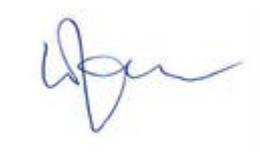
34. Ordinarily, the extension of licensed trading into higher risk times of the evening or the week would increase the capacity of this medium scale hotel to contribute to levels of alcohol related crime impacting the local or broader communities, or amenity in the local community.
35. However, the scope for negative social impacts has been reduced in a practical sense by the location of this hotel, within a commercial precinct, somewhat removed from residential areas in North Strathfield.

36. Notably, neither Police, Council nor LGNSW Compliance (agencies with law a law enforcement capacity) have identified any regulatory or operational concerns with respect to the venue, notwithstanding that the Onegov licence record indicates that the hotel has been licensed since 26 November 2010.
37. With respect to prevailing liquor licence density, LGNSW licensed premises information as of 5 April 2018 indicates that there are 8 hotels in the Canada Bay LGA, 6 of which have extended trading hours, with only one hotel (the subject of this Application) located in the suburb of North Strathfield.
38. Both the LGA and the suburb have lower rates of hotel and club licences per 100,000 persons of population compared to NSW as a whole. Prevailing hotel licence density, calculated on the basis of LGNSW licensed premises and ABS 2016 Census population data, indicates that the suburb has a rate of **20.98** hotels per 100,000 persons, while Canada Bay LGA has a rate of **9.09** per 100,000 persons and the State-wide rate is **28.37** per 100,000 persons. As for the availability of registered clubs (the only other licensed premises authorised to provide both liquor and gaming) there are zero clubs in the suburb, a rate of **12.50** licences per 100,000 persons for Canada Bay LGA and **17.46** for New South Wales as a whole.
39. BOCSAR crime data sourced by the Authority Secretariat for the calendar year 2017 establishes the following:
 - North Strathfield recorded a rate of **0.0** incidents of alcohol related domestic assault per 100,000 persons compared to **36.8** per 100,000 persons for Canada Bay LGA and **114.4** per 100,000 persons for New South Wales.
 - North Strathfield recorded a rate of **39.9** incidents of alcohol related non-domestic assault per 100,000 persons compared to **37.9** for Canada Bay LGA and **130.7** per 100,000 persons for New South Wales.
 - North Strathfield recorded a rate of **378.8** incidents of malicious damage to property per 100,000 persons compared to **397.3** per 100,000 persons for Canada Bay and **788.7** for New South Wales.
40. Although BOCSAR crime mapping data 2017 indicates hotspots for domestic violence in neighbouring areas within the broader community, there is little evidence of the concentration of domestic or non-domestic assault events in the neighbourhood. The Premises is situated within a low-density concentration of malicious damage events. However, these hotspots occur within the context of considerably lower rates of alcohol related crime or malicious damage by comparison to New South Wales averages.
41. ABS Socio-Economic Indexes For Areas data derived from the 2016 Census ranks the suburb of North Strathfield in the 9th decile and the Canada Bay LGA in the 10th decile on the Index of Relative Socio Economic Advantage and Disadvantage by comparison to other suburbs and local government areas in the State. Socio-economic disadvantage is not a compounding factor when assessing the scope for adverse liquor related social impacts to occur in these communities.
42. NSW Department of Health data records that alcohol attributable hospitalisations are close to New South Wales rates in the Canada Bay LGA, which recorded a smoothed estimate of standardised separation ratio of 99.6 between 2013 to 2015. Alcohol

related deaths in the LGA were significantly below State wide rates, with a smoothed estimate of standardised mortality ratio of 82.3 between 2012 and 2013.

Overall social impact

43. Having considered the positive and negative impacts that are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting the ETA would not be detrimental to the well being of the local and broader communities.
44. The Application is granted pursuant to section 49 of the Act.



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 in the liquor and gaming website <http://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. Licence density calculations for NSW, the LGA and the suburb, performed by licensing staff on the basis of the population sourced from the Australian Bureau of Statistics (“ABS”) QuickStats 2016 Census data and the Liquor and Gaming NSW (“LGNSW”) list of licensed premises as at 28 August 2017.
2. Extended Trading Authorisation Application Form signed by the Directors of Bakehouse Cellars PTY Ltd (“the Applicant”) and dated 24 January 2018 accompanied by copies of notices of the Application to the local consent authority, site notice, notice to Police and notice to neighbouring premises and other stakeholders (“Application”).
3. Community Impact Statement Category B document (CIS) signed and dated 24 January 2018, accompanied by a Google geographical map depicting the 100-metre radius in which notification of the Application was distributed; a list of organisations providing gambling-related counselling or treatment services who were notified of the Application and a four-page document providing additional information under Part 7 of the CIS. The following material was attached:
 - Development consent determination DA2017/0240 dated 19 October 2017 issued by City of Canada Bay Council (“Council”) for “Extension of existing Cookies Lounge Bar into adjoining tenancy previously used as a newsagent”.
 - Six photographs of the inside of the premises at 1-11 George Street, North Strathfield (“Premises”).
 - The Plan of Management dated 9 June 2017 prepared by Urbis consultants on behalf of the Applicant and approved by Council.
 - House and Gambling Policy dated January 2018.
 - A table providing demographic data for the Canada Bay Local Government Area (“LGA”), the suburb of North Strathfield and the State of NSW sourced from ABS 2016 Census.
 - Crime data (apparently sourced from Bureau of Crime Statistics and Research (“BOCSAR”)) for October 2016 to September 2017 for North Strathfield, the LGA and the State of NSW.
 - The food and drinks menu for the hotel.
 - A list of the licensed premises available in North Strathfield.
4. Plan/diagram of the Premises highlighting the minors authorisation area and licensed boundary areas arising from a related change of boundaries application that was approved on 5 February 2018.
5. A two-page email received on 26 March 2018 from the Applicant’s representative Mr W Caisley providing additional information with Certificates of Advertising signed by Mr W Caisley (the Applicant’s representative) dated 19 March 2018 and Mr C Montgomery (a director of the Applicant company) dated 16 March 2018.
6. LGNSW list of licensed premises in the LGA as at 5 April 2018.
7. Onegov key liquor licence record details as at 6 April 2018 regarding licence number LIQH440010058 for the Premises.
8. LGNSW Compliance Section Report for Cookie’s Lounge Bar for the period from 1 July 2008 to 6 April 2018, as sourced by staff on 6 April 2018.

9. BOCSAR hotspot maps for the local community from January 2017 to December 2017 outlining any concentrations for incidents of *alcohol related assault, domestic assault, non-domestic assault* and *malicious damage to property*, sourced by licensing staff on 6 April 2018.
10. Google geographical maps depicting the location of the Premises, sourced by licensing staff on 6 April 2018.
11. Google Street View photographs of the location of the Premises and surrounds sourced by licensing staff on 6 April 2018.
12. BOCSAR crime data for NSW, the suburb and the LGA for January 2016 to December 2017 for incidents of *alcohol related domestic assault, alcohol related non-domestic assault* and *malicious damage to property*, sourced by licensing staff on 6 April 2018.
13. BOCSAR data for Canada Bay LGA 2016 on the proportion of crime incidents by offence type, day of week and time of day sourced by licensing staff on 6 April 2018.
14. NSW Department of Health *HealthStats* alcohol attributable deaths (2001-2013) and alcohol attributable hospitalisations (2001-2015) data for the Canada Bay LGA.
15. Two pages containing screenshots of the venues website, sourced by licensing staff around 6 April 2018.
16. Socio-Economic Indexes for Areas (SEIFA) data for the suburb and LGA based on the 2016 Census data, sourced by licensing staff on 3 May 2018.
17. Plan/diagram of the Premises illustrating the licensed area and proposed extended trading hours and minors authorisation area the subject of applications 1-6556193543 and 1-6563968466.