



Mr Bobby Stefanovski
Liquor Advisory Services
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24 August 2018

Dear Mr Stefanovski

Application No.	1-6652742753, 1-6652742765
Applicant	VIP Karaoke Pty Ltd
Application for	Extended trading authorisation Variation of existing licence conditions
Licence name	VIP Karaoke Pty Ltd
Licence number	LIQO660032126
Current trading hours	<u>Consumption on premises</u> Monday to Saturday 3:00 PM – 12:00 midnight Sunday 6:00 PM – 10:00 PM
Proposed trading hours	<u>Consumption on premises</u> Monday to Wednesday 3:00 PM – 1:00 AM Thursday to Saturday 3:00 PM – 2:00 AM Sunday 6:00 PM – 12:00 midnight
Premises	L1 236 Macquarie Street LIVERPOOL NSW 2170
Legislation	Sections 3, 48, 49, 51 and 53 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for an extended trading authorisation and variation of conditions
VIP Karaoke Pty Ltd**

The Independent Liquor and Gaming Authority (“Authority”) has considered the application above for an extended trading authorisation (“Authorisation”) in relation to the Applicant’s on-premises licence, and to vary existing licence conditions.

Pursuant to sections 49 and 53 of the *Liquor Act 2007*, the Authority has decided to **grant** the Authorisation and the variation of conditions, subject to the following conditions:

1. 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 obtaining the Extended Trading Authorisation.
2. The following restriction will apply upon the sale of alcohol after 12:00 midnight:
 - a. No shots
 - b. No mixed drinks with more than 30mls of alcohol
 - c. No RTDs with an alcohol by volume content greater than 5%.
3. The premises is to be operated at all times in accordance with the Plan of Management dated April 2018 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 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.
5. 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.

To avoid doubt, the above conditions are taken to be conditions of the on-premises liquor licence to which the Authorisation relates, and are imposed in addition to the existing licence conditions.

The Authority also decided to revoke the following conditions of the licence pursuant to section 53 of the Act:

Condition 3070

The following restriction will apply upon the sale of alcohol after 10pm:

- no shots
- no mixed drinks with more than 30mls of alcohol
- no RTDs with an alcohol by volume content greater than 5%

Condition 3110

A copy of the Plan of Management and any updates adopted from time to time shall be maintained in a register at the premises and shall be available for inspection at any time by members of the NSW Police Force or inspectors of the Office of Liquor, Gaming and Racing

Condition 3140

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

- a) Take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police; and

- b) Make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident; and
- c) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

If you have any questions, please contact the case manager at ash.maurya@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 22 January 2018, VIP Karaoke Pty Ltd (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought:
 - a) an extended trading authorisation (“Authorisation”) in relation to the Applicant’s on-premises liquor licence (LIQO660032126) at L1 236 Macquarie Street, Liverpool NSW (“Premises”), to extend the closing time:
 - i. from 12 midnight Monday to Saturday to 1 AM Monday to Wednesday and 2 AM Thursday to Saturday,
 - ii. from 10 PM to 12 midnight on Sundays,
 - b) to vary licence condition 3070 so that the restrictions imposed by the condition on the sale of alcohol take effect from 12 midnight instead of 10 PM, and
 - c) to vary licence condition 3130 in respect of the Plan of Management (“POM”) to align with the wording of the Authority’s most recent standard condition in respect of POM.
2. The Authority first considered the Application at its board meeting on 11 April 2018 and, following subsequent consideration of further information obtained from the Applicant, decided to approve the Application on 19 April 2018 pursuant to sections 49 and 53 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under the Act, and relevant provisions of the Liquor Regulation 2008.
4. A preliminary advice letter was issued on 27 April 2018 advising the Applicant of this decision.

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 liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
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 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.
11. 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.

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 all 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.

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.

Variation of licence conditions

19. Subsection 53(2) of the Act allows the Authority to vary or revoke a licence condition at any time on application by the licensee or on its own initiative. Subsection 53(3) sets out the procedural requirements for an application under subsection 53(2) to vary or revoke a licence condition.

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, procedural and trading hour requirements

21. The Authority is satisfied that the Application has been validly made and meets the procedural and trading period requirements under section 11A, 12, 49, 51 and 53 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, 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 letter issued by Liverpool City Council on 5 September 2017 granting the modification of development consent DA-263/2014 in respect of the Premises.

Community impact statement

24. The Authority is satisfied that the CIS was prepared in accordance with the requirements of section 48 of the Act, and has taken the CIS into consideration in making the findings below about the social impact of granting the Authorisation 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:

- a) the relevant "local community" is the community within the suburb of Liverpool, and
- b) the relevant "broader community" refers to the community within the Liverpool Local Government Area ("LGA").

Positive social impacts

26. The Authority notes that the density of on-premises licences in the suburb of Liverpool and the Liverpool LGA, based on the 2016 Census data, is either substantially the same as or lower than the NSW state average. The Authority also notes that the Premises is the only licensed karaoke venue in the LGA.

27. The Authority accepts that granting the Authorisation would contribute to the development of the late night economy in the Liverpool CBD, and cater to the needs of those members of the local and broader communities of Liverpool who wish to consume alcohol while enjoying karaoke entertainment during later hours of the night.

28. The Authority also accepts that relaxing the restrictions on the service of alcohol after 10 PM under condition 3070 would be consistent with the granting of the Authorisation, and the proposed changes to the POM requirement under condition 3130 would align with the Authority's current standard practice.

29. The Authority nevertheless notes that the proposed benefits above are somewhat limited by the lack of any substantive evidence of community support for the Application.

30. On balance of the available information, the Authority is satisfied that granting the Authorisation would be in line with the expectations, needs and aspirations of the local and broader communities, and contribute to the development of the liquor industry and the associated entertainment industry.

Negative social impacts

31. The relevant BOCSAR data before the Authority indicates that:
- a) for the year to December 2017:
 - i. the Premises was located within high density hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property,
 - ii. the suburb of Liverpool recorded higher than average rates of alcohol related assault (domestic and non-domestic) and malicious damage to property, while Liverpool LGA recorded lower than average rates for these offences, and
 - b) in 2016, a small percentage of recorded incidents of domestic assault, non-domestic assault and malicious damage to property occurred between 12 midnight and 6 am, but a significant proportion of alcohol related assault occurred during this period, especially during the weekend.
32. The most recent HealthStats NSW data before the Authority indicates that Liverpool LGA recorded lower levels of alcohol attributable deaths and hospitalisations compared to the corresponding NSW figures.
33. The most recent ABS Socio-Economic Indexes for Areas ("SEIFA") data before the Authority at the time of its decision, based on the 2011 Census, indicates that the suburb of Liverpool ranked among the most disadvantaged suburbs in NSW, and Liverpool LGA among the middle range of LGAs, on the Index of Socio-economic Advantage and Disadvantage.
34. Having regard to the statistics above, the Authority accepts that the prevailing level of alcohol related crime and socio-economic disadvantages in the local community of Liverpool raise concerns. The Authority also accepts that there may be a risk that granting the Authorisation and the variation of the conditions as sought by the Applicant will, over time, contribute to an increase in the level of alcohol related crime, health and other social and amenity issues in the community.
35. The Authority notes that the Applicant's previous application in 2014 for the Authorisation, which accompanied the Applicant's application for the current on-premises licence, was refused by the Authority as it was not satisfied that granting the Authorisation would not be detrimental to the wellbeing of the local or broader community.
36. The Authority is nevertheless satisfied on the current occasion that the risk of negative social impact associated with granting the Authorisation and variation of the conditions is sufficiently mitigated by the following:
- a) No objections were received from NSW Police, NSW Health, or any other community stakeholders required to be notified of the Application.
 - b) Only one objection was received from the public during the Applicant's consultation with the community. The Authority gives little weight to the objection as it did not contain sufficient information, was not supported by evidence, and the objector declined to be identified or contacted in respect of their concerns.
 - c) The relevant L&GNSW Compliance report indicates that there have been no recorded compliance incidents or breaches against the Premises since the licensed karaoke business commenced in 2014, and that the only complaint received during this period was not established.
 - d) The Applicant has committed to implementing and maintaining the measures imposed by the licence conditions, including the condition requiring ongoing compliance with a detailed Plan of Management, in respect of the responsible service of alcohol and minimisation of alcohol related harm.

Overall social impact

37. Having considered the positive and negative social impacts that are likely to flow from granting the Authorisation and the variation of conditions, 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.
38. 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.
39. In addition to the licence conditions sought by the Applicant to be varied, the Authority also considers appropriate to replace the existing condition in respect of crime scene preservation (condition 3140) with wording which align with the Authority's current standard practice. The Authority notes that the Applicant is aware of, and consents to, this change.
40. Accordingly, the Authority has decided to approve the Application.



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. HealthStats NSW data showing that Liverpool LGA recorded:
 - a. for the period 2012-13, a smoothed standardised mortality ration of 96.4 compared to the state benchmark of 100, and
 - b. for the period 2013-15, a smoothed standardised separation ratio of 85.0 compared to the state benchmark of 100.
2. NSW Recorded Crime Statistics 2016 setting out the proportion of incidents by offence type, day of week and time of day in Liverpool LGA.
3. ASIC company records dated 20 January 2014 in respect of the Applicant.
4. Statement of reasons dated 13 February 2015 for the Authority's previous decision to refuse the Applicant's application for an Authorisation.
5. ABS SEIFA data based on the 2016 Census, indicating that the suburb of Liverpool and Liverpool LGA ranked in the 1st and 7st decile respectively on the Index of Relative Socio-economic Advantage and Disadvantage on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged.
6. L&GNSW liquor licensing records as at 28 August 2017 setting the number of licences, and density figures in terms of licences per 100,000 persons of the population, for all types of liquor licences in the suburb of Liverpool, Liverpool LGA and NSW. The density of on-premises liquor licences is 111.20 in NSW, 30.34 in Liverpool LGA, and 110.77 in the suburb of Liverpool.
7. Letter issued by Liverpool City Council on 5 September 2017, approving the modification to development consent DA-263/2014 in relation to the Premises.
8. BOCSAR Crime Hotspot Maps for the year to December 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.
9. NSW crime statistics published by BOCSAR indicating that:
 - a. for the year to December 2016, the rate of:
 - i. alcohol-related domestic assault in Liverpool LGA and the suburb of Liverpool were 83.4 and 111.9 respectively, compared to the NSW average of 113.9,
 - ii. alcohol-related non-domestic assault in Liverpool LGA and the suburb of Liverpool were 60.3 and 223.9 respectively, compared to the NSW average of 133.7,
 - iii. malicious damage to property in Liverpool LGA and the suburb of Liverpool were 635.2 and 1161.2 respectively, compared to the NSW average of 811.6,
 - b. for the year to September 2017, the rate of:
 - i. alcohol-related domestic assault in Liverpool LGA and the suburb of Liverpool were 73.0 and 160.9 respectively, compared to the NSW average of 114.4,
 - ii. alcohol-related non-domestic assault in Liverpool LGA and the suburb of Liverpool were 55.6 and 164.4 respectively, compared to the NSW average of 130.7, and
 - iii. malicious damage to property in Liverpool LGA and the suburb of Liverpool were 657.3 and 1346.6 respectively, compared to the NSW average of 788.7.
10. Submission from NSW Department of Family & Community Services, dated 15 November 2017, in relation to the Application.
11. Submission from NSW Transport Roads & Maritime Services, dated 20 November 2017, in relation to the Application.
12. Completed Category B CIS form dated 19 December 2017 and its supporting attachments.
13. Completed application forms dated 19 January 2018 and the relevant notices of application attached to the forms.

14. L&GNSW compliance data dated 15 February 2018, listing all compliance incidents and activities at the Premises between 1 July 2008 and 15 February 2018.
15. L&GNSW liquor licensing records as at 15 February 2018, setting out the key liquor licence details for the Premises.
16. Completed certifications of advertising dated 19 February 2018.
17. Correspondence between L&GNSW staff and the Applicant's legal representative between 15 and 20 Feb
18. Google map images extracted from the Google website on 22 February 2018, showing the location and photos of the Premises in map view, earth view and street view.
19. Submission forms completed by NSW Police on 7 and 8 March 2018 in relation to the Application.
20. Plan of Management dated April 2018.
21. Pages extracted from the website for the karaoke business at the Premises.
22. Premises plan for the Premises.