



Mr Ryan Watts
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25 September 2018

Dear Mr Watts

Application No.	1-6484941021, 1-6484941025
Applicant	Mr Craig Allan Coote
Application for	Extended trading authorisation Variation of the 6-hour closure period
Licence name	Gladstone Hotel
Licence number	LIQH400102518
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 – 10:00 PM Sunday 10:00 AM – 10:00 PM
Proposed trading hours	<u>Consumption on premises (sports bar)</u> Monday to Wednesday 9:00 AM – 12:00 midnight Thursday to Saturday 9:00 AM – 1:00 AM Sunday 10:00 AM – 12:00 midnight <u>Consumption on premises (all areas except the beer garden, bottle shop and sports bar)</u> Monday to Saturday 9:00 AM – 1:00 AM Sunday 10:00 AM – 12:00 midnight <u>Consumption away from premises (take away)</u> Monday to Saturday 9:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
Premises	572 Marrickville Road DULWICH HILL NSW 2203
Legislation	Sections 3, 11A, 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 and variation of 6-hour closure period
Gladstone Hotel

The Independent Liquor and Gaming Authority (“Authority”) considered, at its meeting on 16 May 2018, the application above for an extended trading authorisation (“Authorisation”) and variation of the 6-hour closure period.

Pursuant to sections 49 and 11A of the *Liquor Act 2007*, the Authority has decided to **grant** the Authorisation for hours as set out above, and grant the variation of the 6-hour closure period, 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 3:00 AM and 9:00 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. All liquor sales are to cease half an hour prior to the end of trade.
3. The premises is to be operated at all times in accordance with the Plan of Management dated March 2018 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 & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

4. No “shots”, “shooters”, “double” or any other alcoholic beverages that are designed to be consumed rapidly are to be sold or supplied after 11:30 PM on any day of trade.
5. The licensee must maintain an incident register in the form and manner approved by Liquor & Gaming NSW for all incidents. The incident register must be separate from the incident register maintained by the security contractor for their records. The incident register must be produced on request by a police officer or Liquor & Gaming NSW inspector.
6. All doors and windows to the licensed premises are to be kept in the closed position after 11:59 PM Mondays to Sundays.
7. The licensee or its representative must join and be an active participant in the local liquor accord.
8. At all times the licensee shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that adverse impacts to the surrounding area do not occur. The licensee will take all reasonable measures to ensure that the behaviour of staff and patrons when entering or leaving the premises does not detrimentally affect the amenity of the neighbourhood.
9. 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 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 hours on 16 May 2018.
10. A minimum of two (2) licensed security/crowd controllers are to patrol the premises from 9:00 PM to 30 minutes after close on Thursday, Friday and Saturday nights.
11. Signage is to be displayed at every entrance/exit to the premises so as to be clearly visible to patrons, advising patrons that they are to leave the area quickly and quietly and not to cause any disturbance to the neighbours.
12. 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.
13. 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 hotel liquor licence to which this application relates, and are imposed in addition to the existing licence conditions.

Exemption under clause 70AB of the Liquor Regulation 2008

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. However, 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 lucas.ho@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 2 November 2017, Mr Craig Coote (“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 hotel liquor licence (LIQH400102518) at 572 Marrickville Road, Dulwich Hill NSW (“Premises”), to extend the closing time:
 - i. for the sports bar area from 12 midnight to 1 AM, Thursday to Saturday,
 - ii. for areas other than the beer garden and sports bar from 12 midnight to 3 AM, Monday to Saturday,
 - iii. for the whole Premises from 10 PM to 12 midnight on Sundays, and
 - b) to vary the 6-hour closure period from between 4 AM and 10 AM to between 3 AM and 9 AM.
2. The Authority considered the Application at its board meeting on 16 May 2018 and, pursuant to sections 49 and 11A of the *Liquor Act 2007* (“Act”), decided to grant the Authorisation to allow extended trading to 1 AM rather than 3 AM, and to grant the variation of the 6-hour closure period.
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 (“Regulation”).
4. A preliminary advice letter was issued on 31 May 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.
13. Subsection 11(5) A of the Act also permits the Authority to impose a different 6-hour closure period than the standard period, on application by the licensee/

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

14. 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

15. 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.
16. 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

17. 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.
18. 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.
19. 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

20. Clause 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

21. 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

22. 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

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 Inner West Council on 9 June 2017 approving development application 200000673 in respect of the Premises.

Community impact statement

25. 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.

26. 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 Dulwich Hill, and
- b) the relevant "broader community" refers to the community within the Inner West Local Government Area ("LGA").

Gambling activities

27. Having regard to the information in the CIS and the Gaming Plan of Management provided by the Applicant, the Authority is satisfied that the Applicant has adequately addressed matters relating to gambling activities on the Premises during the proposed extended trading hours. The Authority also notes that no issues were raised by the stakeholders consulted in relation to this issue.

Positive social impacts

28. The Authority notes that the Premises has been trading since 1960 and is currently the only hotel in Dulwich Hill. The density of hotel licences in Dulwich Hill is significantly lower than the NSW state average, which contrasts with a high density of hotel licences in the Inner West LGA at 1.5 times the state average. The Authority also notes that more than half of the hotels in the Inner West LGA are authorised to trade after midnight.

29. The Authority accepts, on the available information, the Applicant's contention that granting the Authorisation would benefit local residents and visitors who wish to consume alcohol during later hours of the night while they socialise, watch sporting events and enjoy other entertainment at the Premises.

30. Noting that the Applicant's family has owned the Premises since 1979 and the Applicant has been the licensee for the Premises for 17 years, the Authority also accepts that the Applicant is an experienced hotel operator and familiar with local needs and issues.

31. However, the proposed benefits above are somewhat limited by the absence of any substantive evidence of community support for the Application.
32. 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

33. The relevant BOCSAR data before the Authority at the time of its decision indicates that:
 - a) for the year to June 2017, the Premises was located within a low density hotspot for alcohol-related assault, medium density hotspot for domestic and non-domestic assault, and high density hotspot for malicious damage to property,
 - b) for the two years to September 2017, the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in Dulwich Hill and the Inner West LGA were lower than the NSW state average, with the exception of alcohol-related domestic assault in the Inner West LGA for the year to September 2017, which was more than double the state average,
 - c) in 2016, a significant proportion of alcohol-related assault in the Inner West LGA, as represented by the former LGAs of Ashfield, Leichhardt and Marrickville prior to their merger in 2016, occurred between midnight and 6 AM on Saturday and Sunday.
34. The most recent HealthStats NSW data before the Authority indicates that the former LGA of Marrickville, in which the Premises is located, recorded a lower level of alcohol-attributable deaths and a higher level of alcohol-attributable hospitalisations compared to the NSW state benchmark.
35. A report produced by the L&GNSW Compliance Unit indicates that there had been a number of violent incidents, complaints and breaches recorded against the Premises in the 10 years to December 2017, but the Premises was never declared as a violent venue during this period.
36. NSW Police opposed the granting of the Authorisation, citing concerns over:
 - a) 'numerous incidents', such as glassing and illicit drug detections, at or in the vicinity of the Premises in the past two years requiring police intervention,
 - b) the proximity of the Premises to residential dwellings (the nearest of which located within 30 metres of the Premises), and
 - c) the limited availability of late night public transport options.
37. NSW Police submitted that granting the Authorisation would exacerbate the prevailing level of alcohol-related crime and anti-social behaviour in the local community, and pose significant risks to the amenity of the surrounding neighbourhood.
38. NSW Police requested the Authority to either refuse to grant the Authorisation, or limit the extended trading hours to 1 AM and impose a number of licence conditions to reduce the scope of harm arising from the hotel's late trading.
39. In response, the Applicant argued that most of the incidents cited by NSW Police were unrelated to the management of the Premises, there had been no objections from local residents, and public transport options including train services are conveniently accessible throughout the night.
40. The Authority accepts on the basis of the above that some aspects of the relevant statistics and local circumstances raise concerns about the potential social impact of granting the Authorisation, and there is a risk that granting the Authorisation may, over time, contribute to an increase in the level of alcohol-related crime, health and other social issues in the area.
41. The Authority has also taken into consideration relevant risk mitigating factors, including:

- a) the absence of any objections from local residents or other community stakeholders in relation the Application,
 - b) the acknowledgement by NSW Police that some of the incidents referred to in its submission were not attributable to the operation of the Premises,
 - c) the history of the Applicant's management of the Premises and the minor nature of most of the complaints and breaches recorded against the Premises by NSW Police and L&GNSW, and
 - d) the Applicant's adherence to the licence conditions and other harm minimisation measures, such as CCTV, drink restrictions and security guards, which were supported by NSW Police.
42. Having regard to the information before it, the social impact test under section 48 of the Act, and the statutory objects and considerations of the Act prescribed by section 3 of the Act, the Authority is not satisfied that granting the Authorisation to allow almost the entire Premises to trade until 3 AM would not be detrimental to the wellbeing of the local community.
43. Instead, the Authority considers it appropriate to grant the Authorisation to allow extended trading to 1 AM. The Authority considers that longer hours of late night trading, given the scale of the Premises, would likely escalate the risk of alcohol-related violence, disturbances and other adverse amenity impacts generated from the Premises. In forming this view the Authority has taken into account the lack of public transport other than night rail buses after 1 AM, and the past adverse incidents associated with the location of the Premises.

Overall social impact

44. The Authority has had regard to the 2011 ABS Socio-Economic Indexes for Areas ("SEIFA") data before it at the time of its decision, which indicates that Dulwich Hill and the Inner West LGA (as represented by the three former LGAs of Ashfield, Leichhardt and Marrickville) were relatively advantaged in NSW in terms of their socio-economic status. The Authority notes that this data is seven years old, and does not draw specific inferences from it other than to note that it does not raise any apparent concerns.
45. The Authority had in 2015 advised the Applicant that its then application for an Authorisation for the Premises was invalid as the application did not comply with the legislative procedural requirements. As that decision did not involve the consideration of the merits of the application, the Authority has not taken it into consideration in reaching the current decision.
46. 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 granting the Authorisation to allow extended trading until 1 AM would not be detrimental to the wellbeing of the local and broader communities.
47. The Authority also has no concerns in respect of the Applicant's request to vary the standard 6-hour closure period so the Premises can commence trading from 9 AM rather than 10 AM. The Authority notes that NSW Police also raised no issues with this proposed change.
48. Accordingly, the Authority has decided to grant the Authorisation under section 49 of the Act, and the variation of the 6-hour closure period under section 11A 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 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 indicating that, 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, Dulwich Hill ranked in the 7th decile, and the former LGAs of Ashfield, Leichhardt and Marrickville ranked in the 8th, 10th and 9th decile respectively.
2. HealthStats NSW data showing that former LGA of Marrickville recorded:
 - a. for the period 2012-13, a smoothed standardised mortality ration of 92.7 compared to the state benchmark of 100, and
 - b. for the period 2013-15, a smoothed standardised separation ratio of 141.2 compared to the state benchmark of 100.
3. NSW Recorded Crime Statistics 2016 setting out the proportion of incidents by offence type, day of week and time of day in the former LGAs of Ashfield, Leichhardt and Marrickville.
4. Letter from the Authority to the Applicant's legal representative, dated 6 January 2016, advising of the invalid status of the Applicant's then application for an Authorisation for the Premises.
5. BOCSAR Crime Hotspot Maps for the year to June 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.
6. L&GNSW liquor licensing records as at 13 September 2017 setting out the number and density (in terms of licences per 100,000 persons of the population) of all types of liquor licences in Dulwich Hill, the Inner West LGA and NSW. The density of hotel licences is 28.39 in NSW, 41.74 in the Inner West LGA, and 7.29 in Dulwich Hill.
7. Notice of determination issued by Inner West Council on 9 June 2017, approving the development application 200000673 in relation to the Premises.
8. NSW crime statistics published by BOCSAR indicating that:
 - a. for the year to September 2016, the rate of:
 - i. alcohol-related domestic assault in the Inner West LGA and Dulwich Hill were 80.0 and 83.6 respectively, compared to the NSW average of 115.4,
 - ii. alcohol-related non-domestic assault in the Inner West LGA and Dulwich Hill were 119.1 and 55.6 respectively, compared to the NSW average of 135.2,
 - iii. malicious damage to property in the Inner West LGA and Dulwich Hill were 719.6 and 681.9 respectively, compared to the NSW average of 818.7,
 - b. for the year to September 2017, the rate of:
 - i. alcohol-related domestic assault in the Inner West LGA and Dulwich Hill were 286.4 and 55.8 respectively, compared to the NSW average of 114.3,
 - ii. alcohol-related non-domestic assault in the Inner West LGA and Dulwich Hill were 110.9 and 62.5 respectively, compared to the NSW average of 131.9, and
 - iii. malicious damage to property in the Inner West LGA and Dulwich Hill were 705.6 and 465.6 respectively, compared to the NSW average of 793.2.
9. Completed Category B CIS form dated 2 November 2017 and its supporting attachments.
10. Completed application forms dated 2 November 2017 and the relevant notices of application attached to the forms.
11. L&GNSW liquor licensing records as at 30 November 2017, setting out the key liquor licence details for the Premises.
12. Google map images extracted from the Google website on 6 December 2017, showing the location and photos of the Premises in map view, earth view and street view.
13. L&GNSW compliance data dated 7 December 2017, listing all compliance incidents and activities at the Premises between 1 July 2008 and 7 December 2018.

14. Submission from NSW Police, dated 28 December 2017, in relation to the Application.
15. Completed certifications of advertising dated 22 January 2018.
16. Submission from the Applicant's legal representative, dated 9 March 2018, in response to the Authority's request for further information and the submission made by NSW Police.
17. Plan of Management titled "Gladstone Hotel Prevent of Intoxication and RSA Plan" dated March 2018, and Gaming Plan of Management.
18. Correspondence between L&GNSW staff and the Applicant's legal representative between 19 March and 20 April 2018 in relation to the assessment of the Application.
19. Undated premises plans for the Premises.