

# NSW Independent Liquor & Gaming Authority

Our ref: DF24/014013

Mr Grant Cusack and Mr Darcy Plowman  
Hatzis Cusack Lawyers

18 July 2024

Dear Messrs Cusack and Plowman

Application No.	1-9007613729 (variation to an extended trading authorisation) 1-9007613734 (variation to a primary service authorisation)
Applicant	Mr Jianrui Wang
Application for	Variation to a primary service authorisation (PSA) and extended trading authorisation (ETA)
Application date	27 February 2024
Decision date	19 June 2024
Licence name	K Galaxy Castle Hill
Current trading hours	Monday to Sunday 12:00 noon – 12:00 midnight
Proposed trading hours	Monday to Sunday 12:00 noon – 02:00 AM
Premises	Units 9 & 10, 267 Old Northern Road Castle Hill NSW 2154
Legislation	Sections 3, 11A, 12, 24, 25, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

## Decision of the Independent Liquor & Gaming Authority Application for a variation to a primary service authorisation and extended trading authorisation – K Galaxy Castle Hill

We **refuse** the application above under section 24 and 49 of the *Liquor Act 2007*.

### Statement of reasons

Overall, we are concerned that the social impact of approving the application may be detrimental to the well-being of the local or broader community.

## **Our main findings**

### ***Procedural and trading hour requirements***

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness and the proposed trading hours for the premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods
- the Community Impact Statement (CIS) meets the relevant requirements.

### ***'Fit and proper person'***

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

### ***Responsible service of alcohol***

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

### ***Development consent requirements***

The necessary development consent is in force. The Hills Shire Council approved the development application 1473/2023/HA for the premises on 20 September 2023.

### ***Community impact***

#### *Local and broader communities*

The local community for the purposes of this decision is Castle Hill. The broader community is the Local Government Area (LGA) of The Hills Shire.

#### *Diversity and density of licensed outlets*

L&GNSW Liquor & Gaming Harm Minimisation and Community Impact Data Report for Castle Hill shows:

- there are 55 authorised liquor licenses. This includes 42 on-premises licences, 11 packaged liquor licences and 2 producer wholesale licences
- saturation of on-premises licences in Castle Hill is higher compared to The Hills Shire and lower than in NSW generally.

#### *Crime data (annual rate per 100,000 residents)*

BOCSAR data shows that, in the year to December 2023:

- the premises were located in hotspots for alcohol-related assault, domestic and non-domestic assault, or malicious damage to property
- alcohol-related non-domestic assault in Castle Hill was lower compared to The Hills Shire and lower than in NSW generally
- alcohol-related domestic assault, malicious damage to property, and alcohol-related disorderly conduct in Castle Hill was higher compared to The Hills Shire and lower than in NSW generally.

#### *Alcohol-related health data (per 100,000 residents)*

HealthStats NSW data showed that:

- alcohol-related deaths in LGA were lower compared to the NSW average
- alcohol-related hospitalisations in LGA were lower compared to the NSW average.

### *ABS Socio-Economic Index for Areas (SEIFA)*

Castle Hill and The Hills Shire were ranked as relatively advantaged in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

### ***Business model***

We note that the current business model permits the licensee to operate a stand-alone karaoke venue with several karaoke rooms where patrons can consume liquor on-premises, ancillary to the primary activity which is karaoke.

The application seeks to vary the ETA for the venue to operate until 2:00 AM every day and vary the PSA to permit liquor to be consumed on-premises without requiring it to be ancillary to the primary activity, karaoke.

### ***Benefits proposed by applicant***

The applicant proposes that there would be these benefits:

- Accord with Council's Hills Corridor Strategy (Castle Hill Precinct) and support Castle Hill's night-time economy and assist in re-enlivening that area of Castle Hill CBD in which the Licensed Premises are located.
- Provide a licensed premises with extended licence hours offering more than one business type and facilities to meet the needs, demands and expectations and aspirations of residents of the area and other persons attending the area. The Proposed Licensed Premises are located within the southern section of Castle Hill CBD
- Provide additional revenue to assist in ensuring the financial viability of the business.
- Accord with the NSW Government's 24-Hour Economy and Vibrancy Strategies released in September 2020 to reopen Sydney's Night-Time Economy and reshape the meaning of Sydney's night-time experience and create a 24-hour city that is well renowned for its vibrancy, diversity, safety and access to amenity right through the day and night.
- Promote/boost tourism.
- Result in an increase in employment.

We believe that these proposed benefits are limited by the lack of concrete evidence of community support for the application. However, we also note that there was no objection raised by members of the community.

### ***Stakeholder submissions***

We considered the submissions from:

- NSW Police Force, dated 8 April 2024, which objects to the application in relation to the late night trading safety risk to patrons and lack of proper natural surveillance at entry/exit point. They also note that even though the venue is advertised as currently trading, it is not and Police have yet to be able to monitor the venue and its operation for intoxication or patron egress issues.
- The Hills Shire Council, dated 15 January 2024 and 1 March 2024, which notes the application is in accordance with the approved hours of operation in development consent 1473/2023/HA.
- Transport for NSW, dated 2 February 2024, which encourages the applicant to view the measures around addressing alcohol related road trauma and preventing alcohol-related road crashes on the website, maintain awareness of any local alcohol-related issues impacting the community, become a member of the local liquor accord and

consider providing access to public education material within the premises such as drink driving prevention and alternate transport options available.

We also considered the applicant's submission in response to these submissions, which notes that:

- the extended hours are to align with those approved by council; at the time of the granting the development consent, police were consulted and had no objections subject to the applicant complying with requirements set out in condition 16 (licensing, surveillance, territorial reinforcement, and access control)
- there are other licensed premises in the suburb that operate with an ETA until 03:00 AM (with a condition restricting the sale/supply of liquor until 02:30 AM); police do not advise that they are experiencing any issues with existing licensed premises in Castle Hill including the nearby hotel or other venues trading after 12:00 AM
- crime rates in the suburb and LGA are below the NSW average
- the proposal generates employment opportunities and promotes the governments night-time economy strategies
- the premises will operate in line with development consent and the POM
- the venue is small and will be adequately staffed with CCTV surveillance in place
- public education material focused on drink drive and pedestrian-alcohol issues will be supported and where relevant displayed within the premises
- they do not object to the recommended conditions.

### **Findings of concern**

The licence was granted in December 2023, however the venue has not commenced trading. The Police have objected to the application as they were unable to assess the management of the business given the venue has not been operational.

Without 12 months of trading history and input from the Police to better inform our decision making, we consider that approval of the applications is not supported.

### *Negative social impacts*

The proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- additional trading hours (14 hours per week all post-midnight)
- venue's location in a high-density crime hotspot for non-domestic assault and malicious damage to property
- venue's location near a high-density crime hotspot for domestic assault
- venue's location in a low-density hotspot for alcohol-related assault.

These risks may be reduced by the:

- crime rates for all categories we considered being lower in the suburb and LGA than in NSW
- indication of an above-average level of relative socio-economic advantage and disadvantage in both the suburb and LGA compared to other communities in NSW
- rate of both alcohol-related hospitalisations and deaths being lower in the LGA compared to NSW.

However, on balance, we are concerned that the likelihood of adverse social impact from approving the application outweighs any benefit to the local or broader community and accordingly, approval of the application is not in the public interest.

### **The material we considered**

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a community impact statement (CIS)
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

We also considered Guideline 6 to assess the likely social impact to the local and broader community.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

### **If you have any questions**

Please contact the case manager, Leonie Jennings, at Liquor & Gaming NSW if you have any questions.

Yours sincerely



Caroline Lamb

### **Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**