



Ms Jorja Thomson
MJC Group
by email to: jorja@mjcgroup.com.au

10 November 2022

Dear Ms Thomson

Application No.	1-8333668329
Application date	5 July 2022
Applicant	Matthew James Clifton
Application for	Amendment – hotel (general bar) licence – new extended trading authorisation
Licence name	Donny's Bar
Proposed trading hours	<u>Consumption on premises: Indoor areas</u> Monday to Saturday 10:00 AM – 02:00 AM Sunday 10:00 AM – 12:00 Midnight <u>Consumption on premises: Alfresco outdoor dining area</u> Monday to Sunday 10:00 AM – 10:00 PM
Current trading hours	Consumption on premises Monday to Saturday 10:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM
Premises	7 Market Place, MANLY NSW 2095
Legislation	Sections 3, 11A, 12, 14, 15, 16, 40, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for an amendment – hotel (general bar) licence – new extended trading
authorisation – Donny's Bar**

The Independent Liquor & Gaming Authority considered the application above and decided on 13 October 2022 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Concise statement of reasons

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager, Leonie Jennings, at leonie.jennings@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Murray Smith', written in a cursive style.

Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Concise statement of reasons

Key facts

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Application date	5 July 2022
Decision	Approved under sections 45 of the <i>Liquor Act 2007</i>
Decision date	13 October 2022

Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application.
- Category B community impact statement.
- Premises plan setting out the proposed boundaries of the licensed premises and any applicable authorisations.
- Plan of management for the licensed business at the premises.
- Development consent for the premises.
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 14-16: Specific provisions in respect of a general hotel licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.
- Section 45: Criteria for granting a liquor licence.

- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 49: General provisions in respect of ETAs.
- Section 51: General provisions relating to licence-related authorisations.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Manly, and the broader community is the Local Government Area (LGA) of Northern Beaches.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of:

- a newly renovated venue proposing to offer a contemporary urban atmosphere specialising in live music, and the service of restaurant dining and beverages that will be attractive to local residents and tourists visiting the area;
- a venue that has the potential to support the local economy by hiring local live bands, as well as increasing employment opportunities for members of the local community, and
- a business aligned with local Council planning and night-time economy initiatives.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to:

- Police initially objecting to proposed Sunday trading hours until 02:00 AM;
- the proposed increase in trading hours at the venue by a total of 14 hours per week;
- the premises being located in a high-density crime hotspot across all categories the Authority normally considers;
- the higher incidence of alcohol-related non-domestic assault and alcohol-related disorderly conduct in Manly compared to NSW, and
- the higher rate of alcohol-attributable hospitalisations in the Northern Beaches LGA compared to NSW;

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- Police withdrew their objection once the applicant agreed to Sunday trading until 12 midnight;
- relatively small size of the area in which liquor will be sold or supplied;
- no objections from local council or compliance;
- no objections from members of the public;
- lower crime rate across all categories in the Northern Beaches LGA compared to NSW;
- lower crime rate of incidents relating to alcohol-related domestic assault and malicious damage to property in Manly compared to NSW;
- health data indicates an above average level of socio-economic advantage in Manly and the Northern Beaches LGA;

- the rate of alcohol-attributable deaths in the Northern Beaches LGA aligns with the NSW rate,
- the liquor plan of management outlining security measures including licensed security officer being on duty from 09:00 PM until close (Fridays and Saturday) and from 07:00 PM until close (Sundays where the next day is a public holiday), and
- the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitates the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.

Yours faithfully



Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Schedule 1 – Licence conditions to be imposed Donny’s Bar

1. Social Impact

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 this licence on 3 June 2010, and
- obtaining the extended trading authorisation on 13 October 2022.

2. CCTV

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 15 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 sub-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.

3. Plan of Management

The premises is to be operated at all times in accordance with the Plan of Management dated 19 August 2022 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. Extended Trading

Whole of the licensed premises excluding outdoor dining alfresco area.

5. Trial extended trading hours

If the local consent authority does not approve the continuation of the extended hours by way of a trial period in the development consent after 23/02/2023 (or as may be extended from time to time), the trading hours of the premises will revert to:

- 10:00 AM – 12:00 midnight (Monday to Sunday)

A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.

6. 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 and 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.
- 5) 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.

7. Incident Register

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the premises under section 77 of the Act,
 - (d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.