



Mr Brett Tobin
Hatzis Cusack Lawyers
bt@hatziscusack.com.au

4 October 2022

Dear Mr Tobin

Application No.	1-8235033301
Applicant	DUDLEY HOTEL BATHURST (NSW) PTY LTD
Application for	Extended trading authorisation
Licence name	Dudley Hotel
Current trading hours	<u>Consumption on premises and Take away sales:</u> Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Proposed trading hours	<u>Consumption on premises: Whole of the ground floor other than the bottle shop</u> Monday to Saturday 08:00 AM – 02:00 AM Sunday 10:00 AM – 12:00 midnight <u>Consumption on premises: All other areas of the licensed premises (bottle shop):</u> Monday to Saturday 08:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>Take away sales:</u> Monday to Saturday 08:00 AM – 12:00 midnight Sunday 10:00 AM – 11:00 PM
Premises	242-250 Stewart Street Bathurst NSW 2795
Legislation	Sections 3, 11A, 12, 14, 15, 15A, 17, 40, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application for an extended trading authorisation – Dudley Hotel

The Independent Liquor & Gaming Authority (“Authority”) considered the application for an extended trading authorisation for hotel liquor licence LIQH400108753, operating as the Dudley Hotel, at its meeting on 19 August 2022.

The application sought to extend the trading hours of the whole of the ground floor other than the bottle shop:

- from 05:00 AM – 12:00 midnight Mondays to Saturdays and 10:00 AM – 10:00 PM on Sundays, to
- 08:00 AM – 02:00 AM Mondays to Saturdays and 10:00 AM to 12:00 midnight on Sundays.

The application also sought to extend the trading hours for take away sales on Sundays from 10:00 AM – 10:00 PM to 10:00 AM – 11:00 PM.

The Authority decided to **approve** the application under section 49 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Approved manager or individual licensee

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

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, Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully



Murray Smith

Deputy Chairperson

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

Concise statement of reasons

Key facts

Application No.	1-8235033301
Applicant	DUDLEY HOTEL BATHURST (NSW) PTY LTD
Application for	Extended trading authorisation
Licence name	Dudley Hotel
Premises	242-250 Stewart Street Bathurst NSW 2795
Current trading hours	<u>Consumption on premises and Take away sales:</u> Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Proposed trading hours	<u>Consumption on premises: Whole of the ground floor other than the bottle shop</u> Monday to Saturday 08:00 AM – 02:00 AM Sunday 10:00 AM – 12:00 midnight <u>Consumption on premises: All other areas of the licensed premises (bottle shop):</u> Monday to Saturday 08:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <u>Take away sales:</u> Monday to Saturday 08:00 AM – 12:00 midnight Sunday 10:00 AM – 11:00 PM
Application date	22 March 2022
Decision	Approved under section 49 of the <i>Liquor Act 2007</i>
Decision date	19 August 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, 15, 15A and 17: Specific provisions in respect of a 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 Bathurst, and the broader community is the Local Government Area of Bathurst Regional.

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 increased convenience and choice, and provide further employment opportunities to staff in order for the premises to be open and maintained during the proposed additional trading hours.

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:

- three objections from members of the public
- the premises is in the vicinity of high-density hotspots for alcohol-related assault and non-domestic assault
- the premises is located in a medium-density crime hotspot for domestic assault and a low-density hotspot for malicious damage to property
- the crime statistics are significantly higher in all categories for Bathurst and are higher for all categories in Bathurst Regional LGA
- the five-year crime data trends show that Bathurst is significantly higher in all categories for every year compared to NSW
- the crime rates in Bathurst Regional LGA are higher compared to NSW over a five year period
- the higher proportion of vulnerable residents, including a higher-than-average proportion of Indigenous people in Bathurst and Bathurst Regional LGA
- the high saturation of hotel licences in Bathurst
- eight of the other 12 hotels operating in Bathurst can trade past 02:00 AM and nine of these hotels have extended trading authorisations

- the below average SEIFA ranking for socio-economic advantage and disadvantage for Bathurst
- the rate of alcohol-related deaths in Bathurst Regional LGA is higher than NSW
- the applicant was not prepared to outline the minimum security arrangements in the plan of management as recommended by NSW Police
- post-midnight liquor and gaming availability will increase by a total of 12 hours per week
- gaming intensity at the premises is higher compared to other premises in the Bathurst Regional LGA and SA2

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

- the absence of any agency objections
- the petition in support of the application, which received 149 signatures
- while the hours are extending post-midnight, the introduction of a 6-hour closure period will decrease the overall operating hours of the ground floor of the premises by four hours per week, and the total operating hours of the bottle shop will decrease by 18 hours per week
- takeaway hours will be reduced by 17 hours per week overall
- the rate of alcohol-related hospitalisations in Bathurst Regional LGA is lower than NSW
- the above average SEIFA ranking for socio-economic advantage and disadvantage for Bathurst Regional LGA
- the liquor plan of management indicates the entrance and exit to the premises will be limited to Stewart Street after midnight to reduce noise
- gaming intensity overall is average and is consistent with comparable venues.
- 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 facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 49 of the Act.



Murray Smith

Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed Dudley Hotel

6-hour closure

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 2:00 AM and 8:00 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.

Extended trading

2. Extended Trading Authorisation: Whole of the ground floor other than the bottle shop.

Liquor plan of management

3. The premises is to be operated at all times in accordance with the Plan of Management dated June 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.

Social impact

4. 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 authorisation on 19 August 2022.

Participation in the local liquor accord

5. The licensee or its representative must join and be an active participant in the local liquor accord.

CCTV

6. 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 ten (10) 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.

Crime scene preservation

7. 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.

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 (eg. crowd controller or bouncer) on or about the premises.

Requirement to maintain an incident register

8. 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 Liquor Act 2007,
 - 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 Liquor & Gaming NSW inspector:
 - a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - b. allow a police officer or Liquor & Gaming NSW 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.

Minors Area

9. Minors Area Authorisation: Public bar and Lounge bar on the ground floor.

Gaming Plan of Management

10. The premises is to be operated at all times in accordance with the gaming plan of management dated June 2022 as may be varied from time to time after consultation with the Independent Liquor & Gaming Authority. A copy of the gaming 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 & Gaming Authority.

Gambling Incident Register

11. 1. The licensee must keep and maintain a gambling incident register.
2. The gambling incident register must record:
 - a. any incident in which a patron of the venue displays or engages in problematic gambling behaviour of the kind specified in the 'Signs of risky and problem gambling behaviour: Know the signs and how to act' factsheet published on the L&GNSW website as amended from time to time.
 - b. the time, location and machine number(s) and brief description (or identity, if known) of any gaming machine player identified displaying or engaging in that behaviour
 - c. any proposed or implemented self or third-party exclusions of gaming machine players (specifying the player's name (where provided or known), membership number (if applicable) and duration of any exclusion) and the patron's response to the same.
 - d. Any breach or attempted breach of a self or third party exclusion
3. The gambling incident register must also record details of the action taken in response to the incidents, applications and other matters recorded in the register.
4. The licensee must review the gambling incident register at least on a monthly basis and must consider whether an exclusion order is appropriate for any person who has been asked to self-exclude but has declined to do so.

5. The information recorded in a gambling incident register must be retained for at least 3 years from when the record was made.
6. The licensee must, at the request of a police officer or L&GNSW inspector, make any gambling incident register available for inspection.

Responsible Gambling Officer (Gambling Contact Officer)

- 12.1. The Licensee shall ensure that one Responsible Gambling Officer (Gambling Contact Officer), being a dedicated staff member who holds a current RCG certificate, is on duty and monitoring the gaming machines of the venue whenever gaming machines are operating.
 2. The Responsible Gambling Officer (Gambling Contact Officer)'s primary duties are to:
 - (a) maintain the gambling incident register;
 - (b) make reasonable efforts to identify gaming machine players who display or engage in problematic gambling behaviour;
 - (c) if any gaming machine player displays or engages in multiple problematic gambling behaviour as outlined in the Authority's Guideline, during a single trading day, then the Responsible Gambling Officer/Gambling Contact Officer must (at least once during that trading day):
 - (i) request that the player take a break from gaming machine play until the close of trade on that day or night (noting that a player who complies with a request to take a break may remain on the premises and consume other goods and services);
 - (ii) provide information about the self-exclusion scheme offered at the premises (being the scheme available pursuant to s. 49 of the *Gaming Machines Act 2001*) and ask whether the player wishes to participate in that scheme;
 - (iii) provide information about and access to problem gambling counselling.
 3. This condition is not breached by:
 - (a) a Responsible Gambling Officer (Gambling Contact Officer) undertaking minor additional gaming duties, so long as such duties do not detract from the Responsible Gambling Officer (Gambling Contact Officer)'s primary duties; or
 - (b) the temporary absence of a Responsible Gambling Officer (Gambling Contact Officer) from the gaming machine areas, where such absence occurs in the ordinary course of their primary duties (for example, to engage with a gaming machine player in a private space) or is by way of a routine break from work (such as a meal break or a bathroom break).
 4. At all times, the Duty Manager or other senior manager responsible for gaming machine operations will assist the Responsible Gambling Officer (Gambling Contact Officer) in carrying out the duties described in this condition.
13. Whenever patronage exceeds 100 at 10:00 PM and the licensed premises operates beyond 12:00 midnight, from 10:00 PM until close, at least one uniformed licensed security officer is to be engaged. The officer is to patrol the vicinity of the licensed premise to ensure that patrons do not loiter or linger in the area or cause nuisance or annoyance to the neighbourhood.
 14.
 1. A complaints register is to be maintained at the premises at all times which records the following:
 - a. name and number of the complainant
 - b. the time and date on which the complaint was received
 - c. the nature of the complaint, and
 - d. the measures taken to resolve the complaint
 2. Details of complaints received, either in person or over the phone, must be:
 - a. recorded in the complaints register; and
 - b. reported to the duty manager.
 3. A mobile or dedicated contact number for the duty manager is to be published on the hotel's website, and on a sign to be posted at the premises entrance. If requested, the duty manager's contact details must be provided to complainants. A messaging service must be in place if the dedicated contact number is unattended.