



Ms Nicole Beath

JDK Legal

By email to: [n.beath@jdklegal.com.au](mailto:n.beath@jdklegal.com.au)

10 October 2023

Dear Ms Beath

<b>Application No.</b>	1-7895234576
<b>Applicant</b>	Edward Whitlam
<b>Application for</b>	Amendment – hotel - new ETA
<b>Licence name</b>	The Prince Kirrawee
<b>Trading hours</b>	<b>Consumption on premises: ground floor – public bar, TAB, Gaming lounge and lounge terrace</b> Monday to Saturday 10:00 AM – 03:00 AM Sunday 10:00 AM – 10:00 PM <b>Consumption on premises: ground floor – lounge bar and bistro</b> Monday to Wednesday 10:00 AM – 12:00 Midnight Thursday to Saturday 10:00 AM – 03:00 AM Sunday 10:00 AM – 10:00 PM <b>Consumption on premises: all other areas of the licensed premises</b> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM <b>Takeaway</b> Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
<b>Premises</b>	531-541 Princes Highway, Kirrawee NSW 2232
<b>Legislation</b>	Sections 3, 11, 12, 14, 15, 40, 44, 45, 48, 49 and 121 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority  
Application for a new extended trading authorisation (ETA) – The Prince Kirrawee**

On 19 January 2022 the Independent Liquor & Gaming Authority (Authority) approved the application under section 45 of the *Liquor Act 2007* with the conditions set out in Schedule 1.

We provided you with preliminary advice of this decision on 12 February 2022.

**Statement of reasons**

The statement of reasons will be published on the [Liquor & Gaming NSW website](#) under section 36C of the *Gaming and Liquor Administration Act 2007*.

**If you're not happy with this decision**

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

**If you have any questions**

Please contact the case manager, Glenn Barry, at [glenn.barry@liquorandgaming.nsw.gov.au](mailto:glenn.barry@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely

A handwritten signature in blue ink that reads "Sarah Dinning". The signature is written in a cursive style.

Sarah Dinning

**Deputy Chairperson**

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

# STATEMENT OF REASONS

## Our decision

We approve the application under section 49 of the *Liquor Act 2007* (NSW) (the Act).

We are satisfied that the social impact of approving the application will not be detrimental to the well-being of the local or broader community.

## Our findings

### Procedural and trading hour requirements

The application is valid and meets the Act's requirements for procedural fairness. The proposed trading hours and 6-hour closure periods meet the requirements under sections 11A, 12 and 14 of the Act.

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, 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. Sutherland Shire Council approved the modification of development consent DA20/0050 for the premises on 17 September 2021.

### Community impact

#### *Local and broader communities*

The 'local community' is the community in the suburb of Kirrawee, and the 'broader community' comprises the Local Government Area (LGA) of Sutherland Shire.

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

L&GNSW Liquor & Gaming LiveData Report for Kirrawee shows:

- there are 22 authorised liquor licenses, of which 5 premises are authorised to sell packaged liquor. This includes 3 packaged liquor licences, 1 registered club licence and 1 hotel licence.
- saturation of hotel licences in Kirrawee is higher compared to the Sutherland Shire LGA and lower compared to all of NSW.
- saturation of late-trading outlets in Kirrawee is lower compared to both the Sutherland Shire LGA and all of NSW.
- saturation of licences authorised to sell packaged liquor in Kirrawee is higher compared to both the Sutherland Shire LGA and all of NSW.
- saturation of outlets authorised to sell packaged liquor in Kirrawee is higher compared to Sutherland Shire LGA and lower compared to all of NSW.
- clustering of hotel licences in Kirrawee is the same as the Sutherland Shire LGA and lower compared to all of NSW.

- clustering of late-trading outlets in Kirrawee is lower compared to both the Sutherland Shire LGA and all of NSW.

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

BOCSAR data shows that in the year to September 2020:

- the venue is in a medium-density crime hotspot for malicious damage to property and in a low-density crime hotspot for alcohol-related offensive conduct
- alcohol-related domestic assault in Kirrawee was lower compared to both the Sutherland Shire LGA and all of NSW
- alcohol-related non-domestic assault in Kirrawee was lower compared to both the Sutherland Shire LGA and all of NSW
- late-night alcohol-related non-domestic assault in Kirrawee was lower compared to all of NSW.
- alcohol-related offensive conduct in Kirrawee was higher compared to both the Sutherland Shire LGA and all of NSW.
- malicious damage to property in Kirrawee was higher compared to the Sutherland Shire LGA and lower compared to all of NSW.

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

The most recent HealthStats NSW data available show that between 2017/18 to 2018/19:

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

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

Data as at 2016 shows that Kirrawee and the Sutherland Shire LGA were relatively advantaged in household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

#### **Business model**

The proposed business model involves:

- a new extended trading authorisation until 03:00 AM Monday to Saturday to dedicated areas of the premises
- an extension of take-away hours until midnight Monday to Saturday.

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

The Applicant has identified a number of benefits to support the granting of the Application:

- Increased hours of work for staff;
- The increased flow of donations and sponsorships into the Local Community;
- Increased choice of late-night trading venues;
- Increased convenience for patrons who will not be forced to migrate;
- Financial stability for the Hotel;
- Late-night offering for corporate, retail and hospitality workers; and
- Support for related industries.

## Stakeholder submissions

We considered the submissions from:

*NSW Police Force – 25 March 2021*

NSW Police raised no objections. They noted that there were incidents and assaults at the premises between March 2018 and February 2021 were low. However, they did note there was a high rate of alcohol-related hospitalisations in the Sutherland Shire LGA.

*Sutherland Shire Council – dated 24 September and 7 December 2021*

The council noted that there is an 18-month trial period for the extended hours and noted the reviewable conditions, including hours of operation and patron capacity. The council also noted that the venue must adhere to the May 2020 plan of management until it is modified.

*Transport for NSW – dated 23 July 2020*

Transport for NSW raised no objections. But it encourages the licensee to participate in the local Liquor Accord.

*NSW Health – dated 18 January 2021*

NSW Health noted the high rate of alcohol-domestic assault in the suburb in September 2020 and the high rate of alcohol-related hospitalisations.

## Public submissions

The three submissions received objected to the application. The common themes in those submissions were concerns about disorderly behaviour, noise and foot traffic late until late into night as well as more rubbish and cars in the residential streets.

## Applicant's submissions in response

The applicant's submission in response includes these points:

- There is no evidence that rates of alcohol-related assaults or hospitalisations are specific issues of concern for this application, and any concerns of alcohol-related crime are mitigated by operational procedures, conditions on the licence and the development consent
- Pedestrian upgrades will allow the most direct route to Kirrawee train station and avoid South Village apartments.
- Most patrons leaving during the extended trading period would do so by taxi or ride-share.
- They are unaware of any noise complaints along Bath Road or Dunbar Avenue, neither of which leads to public transport, and there is no evidence that rubbish along those streets is associated with the hotel.
- Pedestrian upgrades will allow patrons to walk on either side of the Princes Highway to seek public transport, allow the most direct route to Kirrawee train station and avoid South Village apartments.

## Findings of concern

There are some alcohol-related health and crime statistics associated with the venue's location: It is in a medium-density crime hotspot for malicious damage to property, alcohol-related

hospitalisations in the Sutherland Shire were higher compared to the NSW average and there is a higher-than-average saturation for packaged liquor in the suburb compared to the Sutherland Shire LGA and NSW.

Other factors that may be detrimental to the well-being of the local or broader community include a 2-hour increase in trading hours and the availability of post-midnight machine gaming from Monday to Saturday.

#### *Factors that may reduce this risk*

However, we are satisfied that the risk is reduced by these factors:

- The lower-than-average liquor licence density in the local community.
- The extension until 03:00 AM will be trialled for 18 months.
- During the extended hours trial period, patron capacity is limited to 150 on Monday to Wednesday and 600 on Thursday to Saturday. The plan of management notes that it will be capped at 400.
- Alcohol-related domestic and non-domestic assaults and malicious damage to property are lower in Kirrawee compared to both the Sutherland Shire LGA and all of NSW
- Alcohol-attributable deaths in the Sutherland Shire LGA are lower than NSW.

#### **The material we considered**

We considered all the material we received about the application, including:

##### [Application Material](#)

- Completed application dated 23 December 2020.
- Completed Category B Community Impact Statement (CIS) dated 23 December 2020.
- Completed certification of advertising dated 20 April 2021.
- Plan of Management documents for the premises, titled Liquor Plan of Management for the operation of the Prince Hotel dated November 2021 (revised).
- ASIC business records for the Applicant and associated companies.
- Floor plan for the premises, dated 23 January 2020, indicating the area to which the ETA will apply.

Under [Guideline 6](#), we have also considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and the Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

##### [Submissions](#)

- Submission from NSW Police Force – dated 25 March 2021
- Submission from Sutherland Shire Council – dated 22 January, 24 September and 7 December 2021
- Transport for NSW – dated 23 July 2020
- NSW Health – dated 18 January 2021
- Submission from Alan Holmes, resident – dated 17 July 2020
- Submission from Wendy Jarrett and Paul White residents – dated 22 July 2020
- Submission from D. Krogh, resident – dated 27 July 2020

#### Other relevant material

- Correspondence between L&GNSW staff and the applicant between 22 January 2021 and 25 March 2021 about the assessment of the Application.
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

#### The law that applies

These sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 apply to this application:

- Section 3: Statutory objects of the Act and other 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 about a hotel licence.
- Section 40: Minimum requirements to apply for a liquor licence.
- Section 44: Submissions about licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including making sure that it won't harm the local or wider community's well-being.
- Section 49: General provisions about Extended Trading Authorisations (ETAs).
- Section 121: Minors in hotels in the company of a responsible adult.

We also considered [Guideline 6](#) to assess the likely social impact on the local and broader community.

Yours sincerely



Sarah Dinning

**Deputy Chairperson**

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

## Schedule 1 – Licence conditions to be imposed

### The Prince Kirrawee

No.	Condition to be imposed	Description
1.	<b>Take away sales</b>	Good Friday Not permitted Christmas Day Not permitted December 31st Normal Trading
2.	<b>Extended Trading</b>	Extended Trading Authorisation: Public bar, TAB, gaming lounge, lounge terrace, lounge bar and bistro.
3.	<b>Plan of management</b>	The premises is to be operated at all times in accordance with the Plan of Management dated November 2021 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.	<b>Gaming Plan of Management</b>	The premises is to be operated at all times in accordance with the Gaming Plan of Management dated <b>November 2021</b> as may be varied from time to time after consultation with the Authority. 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.
5.	<b>No gaming past 2:00 AM</b>	The licensee will ensure that no gaming machines are operated after 2:00 AM.
6.	<b>CCTV</b>	<p>1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>(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),</li> <li>(b) recordings must be in digital format and at a minimum of <b>ten (10)</b> frames per second,</li> <li>(c) any recorded image must specify the time and date of the recorded image,</li> <li>(d) the system's cameras must cover the following areas: <ul style="list-style-type: none"> <li>i. all entry and exit points on the premises,</li> <li>ii. the footpath immediately adjacent to the premises, and</li> <li>iii. all publicly accessible areas (other than toilets) within the premises.</li> </ul> </li> </ul> <p>2) The licensee must also:</p> <ul style="list-style-type: none"> <li>(a) keep all recordings made by the CCTV system for at least 30 days,</li> <li>(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</li> <li>(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.</li> </ul>



7.	<b>Crime scene preservation</b>	<p>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:</p> <ol style="list-style-type: none"> <li>1) take all practical steps to preserve and keep intact the area where the act of violence occurred,</li> <li>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,</li> <li>3) make direct and personal contact with NSW Police to advise it of the incident, and</li> <li>4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</li> </ol> <p>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 (For example, crowd controller or bouncer) on or about the premises.</p>
8.	<b>Incident Register</b>	<ol style="list-style-type: none"> <li>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: <ol style="list-style-type: none"> <li>a) any incident involving violence or anti-social behaviour occurring on the premises,</li> <li>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,</li> <li>c) any incident that results in a person being turned out of the premises under section 77 of the Act,</li> <li>d) any incident that results in a patron of the premises requiring medical assistance.</li> </ol> </li> <li>2) The licensee must, if requested to do so by a police officer or inspector: <ol style="list-style-type: none"> <li>a) make any such incident register immediately available for inspection by a police officer or inspector, and</li> <li>b) allow a police officer or inspector to take copies of the register or to remove the register from the premises.</li> </ol> </li> <li>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.</li> </ol>
9.	<b>Trial extended trading hours</b>	<p>If the local consent authority does not approve the continuation of the trial period in the development consent after <b>16 March 2023</b> (or as may be extended from time to time), the trading hours of the premises will revert to those hours specified on this licence prior to the introduction of the trial period:</p> <p><b>10:00 AM - 12:00 AM midnight Monday to Saturday and 10:00 AM - 10:00 PM Sunday.</b></p> <p>A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a</p>

		police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.
10.	<b>Social impact</b>	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:  1) obtaining the licence on 24 April 2015  2) granting the extended trading authorisation on 19 January 2022
11.	<b>Security</b>	A minimum of three (3) uniformed security guards must be operating at the licensed premises from 7:00pm until close on Fridays, Saturdays, public holidays and during special events. A minimum of one (1) uniformed security guard must be operating at the licensed premises from 7:00pm until close on all other evenings.

### Conditions to be revoked - The Prince Kirrawee

<b>Condition to be revoked</b>	<b>Description</b>
<b>2010</b>  (replaced by imposition of condition 10)	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.
<b>3030</b>  (replaced by imposition of condition 3)	The licensee must conduct the licence in accordance with its Plan of Management dated April 2015.
<b>3040</b>  (replaced by imposition of condition 9)	The licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time.