



Ms Fiona Myatt
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26 May 2022

Dear Ms Myatt

Application No.	1-8148943213
Applicant	SHADY PINES SALOON PTY LTD
Application for	Extended trading authorisation
Licence name	Shady Pines Saloon
Licence number	LIQH440010019
Current trading hours	<u>Consumption on premises</u> Monday to Sunday 12:00 PM – 12:00 AM
New trading hours	<u>Consumption on premises</u> Sunday to Thursday 12:00 PM – 12:00 AM Friday to Saturday 12:00 PM – 01:30 AM
Premises	Shop 4, 256 Crown Street DARLINGHURST NSW 2010
Legislation	Sections 3, 11A, 12, 14 - 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 – Shady Pines Saloon**

The Independent Liquor & Gaming Authority considered the application above at its meeting on 13 April 2022 and decided to approve the application under sections 45 and 51 of the *Liquor Act 2007*, subject to imposing and revoking the licence conditions set out in Schedule 1.

Concise statement of reasons

A preliminary notification of this decision was sent to the Applicant on 6 May 2022, together with the licence document for the Premises. 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, Jason Owston, at jason.owston@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P Crawford', is enclosed in a light blue rectangular box.

Philip Crawford

Chairperson

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

Concise statement of reasons

Key facts

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New trading hours	<u>Consumption on premises</u> Sunday to Thursday 12:00 PM – 12:00 AM Friday to Saturday 12:00 PM – 01:30 AM
Application date	9 December 2021
Premises	Shop 4, 256 Crown Street DARLINGHURST NSW 2010
Legislation	Sections 3, 11A, 12, 14 - 17, 40, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

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, 16 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, and
- Section 51: General provisions relating to licence-related authorisations

The Authority has also had regard to its Guideline 6 and Guideline 18 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 Darlinghurst, and the broader community is the Local Government Area of Sydney (LGA).

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 access to the venue for the extra three hours each week. The Authority also noted that:

- the premises has been operating in Darlinghurst since 2009 with no records on non-compliance or adverse compliance findings at the venue.
- NSW Police and Sydney City Council have raised no matters of concern in relation to the grant of the liquor licence.
- the applicant has consented to a standard suit of conditions imposed to mitigate potential risks.

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 the:

- location in a cumulative impact area in accordance with Guideline 18.
- higher rates of saturation and clustering in the broader community compared to the state.
- fact that the premises is located in a high-density hotspot in the suburb for malicious damage.
- higher crime rates for alcohol-related non-domestic assault and alcohol-related offensive conduct in the suburb compared to the state, and
- higher rates of alcohol-attributable hospitalisations in the LGA compared to New South Wales.

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

- absence of any agency or public objections:
- households in Darlinghurst and Sydney LGA are socio-economically advantaged.
- lower rates of alcohol-related domestic assault and alcohol-related non-domestic assault in the broader community.
- the relatively modest extension of an extra three trading hours per week.
- The applicant has successfully managed the current hotel licence since 2009 without any significant adverse compliance findings being reported.
- the business model and harm minimisation measures set out in the plan of management and licence conditions imposed and revoked 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 sections 45 and 51 of the Act.

Philip Crawford

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Chairperson

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

**Schedule 1 – Licence conditions to be imposed
Shady Pines Saloon**

1. Trial period for extended hours (default trial period condition)

If the local consent authority does not approve the continuation of the trial period in the development consent (as may be extended from time to time), the trading hours of the premises will revert to 12pm to 12am 7 days per week.

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.

2. Extended Trading Authorisation: whole of the licensed premises.

3. 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:

- 1) obtaining the licence on 30 July 2009
- 2) obtaining the extended trading authorisation on 13 April 2022 (application number 1-8148943213)

4. 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 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 Crime scene preservation

5. 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.

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

6. Requirement to maintain an 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.

7. Liquor Plan of Management

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

The Authority decided to **revoke** the following conditions:

8. Condition 0002010 - 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 be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
9. Condition 0003030 - The licensee must include the following requirements in its security and management plan and operate in accordance with this plan: (1) An in venue CCTV system must operate in accordance with the Policies and Standards approved by the Director of Liquor and Gaming. In addition, the system is to capture images of: (a) all main entrances and exits; and (b) all publicly accessible areas whether indoors or outdoors, excluding toilets in the venue. (2) immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must: (a) take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police; and (b) make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident; and (c) comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
10. Condition 11000- Plan of Management:
 1. The licensee must develop a plan of management by 31 January 2014 and maintain the plan from that date.
 2. The plan of management must include information on the venue's authorised trading hours and pre-closure procedures.
 3. The licensee must ensure all staff are provided with a copy of the plan of management.
 4. A copy of the extract of the plan of management relating to trading hours must be placed within the serving area/s of the venue so that it is visible to staff.
 5. A copy of the current plan of management must be maintained at the licensed premises and made available for immediate inspection by members of the NSW Police Force or Inspectors from the Office of Liquor, Gaming and Racing.
 6. The venue must operate in accordance with the plan of management at all times when selling or supplying liquor.