



Mr Tim Calvert  
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31 May 2018

Dear Mr Calvert

**Application No.** 1-6293554849  
**Applicant** Mr Michael Graham Caddey  
**Application for** Full hotel liquor licence  
Extended trading authorisation  
Minors area authorisation  
**Licence name** Four Points by Sheraton Sydney Central Park  
**Trading hours** Consumption on premises – indoor areas  
Monday to Sunday 10:00 am – 3:00 am  
Consumption on premises – external terrace areas  
Monday to Sunday 10:00 am – 12:00 midnight  
Takeaway sales  
Monday to Sunday 10:00 am – 10:00 pm  
**Premises** Block 4N, 88 Broadway  
CHIPPENDALE NSW 2008  
**Issue** Whether to grant a full hotel liquor licence with an extended trading  
authorisation and a minors area authorisation  
**Legislation** Sections 3, 11A, 12, 14, 15, 15A, 17, 40, 45, 48, 49, 51 and 121 of the  
*Liquor Act 2007*

**Decision of the Independent Liquor and Gaming Authority  
Application for a full hotel liquor licence with an extended trading authorisation and a  
minors area authorisation – Four Points by Sheraton Sydney Central Park**

The Independent Liquor and Gaming Authority (“Authority”) considered, at its meeting on 11 April 2018, the Applicant’s application above for a full hotel liquor licence with an extended trading authorisation and a minors area authorisation. Pursuant to sections 45, 49 and 121 of the *Liquor Act 2007*, the Authority has decided to **grant** the application subject to the following conditions:

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 4:00 AM and 10:00 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.
2. Consumption on premises  
Good Friday 12:00 noon – 10:00 PM  
Christmas Day 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)  
December 31<sup>st</sup> Normal opening time until normal closing time or 2:00 AM on New Year’s Day, whichever is the later  
Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.
3. Take away sales  
Good Friday Not permitted  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading

4. The premises is to be operated at all times in accordance with the Plan of Management dated March 2018 as may be varied from time to time after consultation with NSW Police. A copy 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. 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 six (6) 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 to 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.
6. 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 & 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.

7. The licensee must join and be an active participant in the local liquor accord.
8. Minors Area Authorisation: outdoor seating area at ground level, function rooms on Level 1 & 2, and outdoor terrace on Level 2.
9. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 7:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between 12:00 midnight and 7:00 am.

Interior noise levels which, although restricted in accordance with the above, still exceed safe hearing levels, are in no way supported or condoned by the Authority.

10. 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 obtaining this licence.
11. Entertainment must cease at 2:00 am.

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

### **Readiness to trade and approved manager**

Please note that the licence cannot be exercised unless and until:

- Liquor & Gaming NSW has been provided with evidence that the premises is complete and ready to trade, and
- NSW Police and Liquor & Gaming NSW have been notified of the appointment of an approved manager to the licence, or the licence has been transferred to a suitably qualified person.

### **Trading between 10 pm and 11 pm, Monday to Saturday**

Pursuant to section 12 of the *Liquor Act 2007*, the standard trading period during which liquor can be sold for consumption away from the licensed premises must end at 10 pm on all trading days. Nevertheless, the exemption provision under section 70AB of the *Liquor Regulation 2008* permits takeaway liquor sales between 10 pm and 11 pm on days other than Sundays and restricted trading days.

If you have any questions, please contact the case manager at [beatrice.pitpaiaac@liquorandgaming.nsw.gov.au](mailto:beatrice.pitpaiaac@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor and Gaming Authority

## Statement of reasons

### Decision

1. On 21 August 2017, Mr Michael Graham Caddey (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought a hotel liquor licence (“Licence”) with an extended trading authorisation (“ETA”) and a minors area authorisation (“MAA”) for the premises at Block 4N, 88 Broadway, Chippendale NSW (“Premises”).
2. The Authority considered the Application at its meeting on 11 April 2018 and decided to approve the Application.
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 14, 15, 15A, 17, 40, 45, 48, 49, 51 and 121 of the *Liquor Act 2007* (“Act”), and the relevant provisions of the Liquor Regulation 2008 (“Regulation”).

### Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in the Schedule.

### Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions.

### Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations, needs and aspirations of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in exercising its powers under the Act, have due regard to the need to minimise harm associated with misuse and abuse of liquor, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

### Standard trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

### Minimum procedural requirements for a licence application

12. Section 40 of the Act prescribes the minimum procedural requirements for an application for a liquor licence to be validly made to the Authority.

### Fit and proper person, responsible service of alcohol, and development consent

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
- a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
  - b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - c) the applicable development consent required for use of the premises for the proposed business is in force.

### Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a Licence and an application for an ETA in relation to a Licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter before it.

### Provisions specific to hotel liquor licence

16. Further legislative provisions specific to a Licence are set out in sections 14 to 17 of the Act and in the Regulation.

### Provisions specific to ETA and MAA

17. Section 51 of the Act prescribes the minimum procedural requirements for a licensee to make a valid application for a licence related authorisation. The section also provides that when determining an application for a licence related authorisation, the Authority has the same powers in relation to the application as it has in relation to an application for a licence.
18. Section 49 of the Act provides the Authority with the power to grant an ETA to a licensee to permit the sale or supply of liquor for consumption in the licensed premises during a specified period outside the standard trading hours.
19. Subsection 49(8) provides that the Authority may only grant the ETA if it is satisfied that:
- a) practices are and will remain in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - b) the extended trading period will not result in undue disturbance of the quiet and good order of the neighbourhood of the premises.
20. Section 10A of the Regulation requires the CIS for an ETA in relation to a hotel licence to address matters relating to gambling activities on the licensed premises during the period that the Authorisation is proposed to be in force.
21. Section 121 of the Act provides that the Authority may grant an MAA to a hotel licensee to permit minors to use part of the hotel while in the company of a responsible adult.

### **Key findings**

22. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

### Validity, procedural and trading hour requirements

23. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural requirements under sections 40 and 51 of the Act, and

- b) 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.

#### Fit and proper person, responsible service of alcohol, and development consent

24. Pursuant to sections 45 and 49 of the Act, the Authority is also satisfied that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- b) practices would be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication on the premises, having regard to the Plan of Management dated March 2018 for the Premises and the licence conditions to be imposed, and
- c) the requisite development consent is in force, based on the development consent dated 20 August 2015, and modification of development consent dated 24 June 2016, issued by a delegate of the Minister for Planning in relation to the Premises.

#### Community impact statement

25. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.

26. The Authority notes the Applicant's contention that no gambling facilities will be provided on the Premises, and accepts on this basis that the CIS has addressed matters relating to gambling activities on the Premises during the period to which the ETA sought would apply. Having regard to the proposed business model of the Premises as a 4.5-star hotel, the Authority does not consider it necessary in the circumstances to impose licence conditions to enforce the Applicant's stated intention in respect of gambling activities on the Premises.

27. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Chippendale, and the relevant "broader community" comprises Sydney Local Government Area ("the LGA").

28. Notwithstanding the location of the Premises within the LGA, the Authority notes that the Premises is not located in the Sydney CBD Entertainment precinct, and is therefore not subject to the temporary freeze on granting new licences under part 4, division 1A of the Act.

#### Positive social impacts

29. The Authority notes that the Premises forms part of a major urban development at Central Park, and will operate as a 4.5-star hotel with a restaurant and two bars in addition to 297 rooms and other facilities.

30. The Authority accepts, on the information available, the Applicant's contention that the Premises will mainly cater to the needs of business and academic visitors who attend functions and events at the nearby International Convention Centre Sydney and three universities. The Authority also notes that the Premises expects to generate a significant part of its trade from its own function and convention facilities.

31. The Authority is satisfied that approving the Application would enable the Premises to provide liquor services to its guests through to later hours of the night, and host a wide range of functions and events, including those that are family friendly, in line with its proposed business model as a higher end hotel.

32. The Authority accepts that approving the Application would benefit members of the community who attend functions and events at the Premises or patronise its restaurant and bars, and contribute to tourist attraction, the local economy and local employment.

33. The Authority also accepts that the proposed management of the Premises by Starwood Hotels & Resorts, which according to the Applicant is the world's largest hotel company, would help to ensure the responsible service of alcohol and maintain the good order of the neighbourhood.
34. Accordingly, the Authority is satisfied that approving the Application would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry and related industries such as the hospitality and tourism industries.

#### Negative social impact

35. The Authority notes that the density of hotel licences in Chippendale and the LGA is considerably higher than the NSW state average.
36. The relevant BOCSAR data indicates that, for the year to December 2017:
- a) the Premises was located within a high density hotspot for incidents of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property,
  - b) Chippendale and the LGA recorded higher than average rates of alcohol related assault (domestic and non-domestic), and
  - c) the rate of malicious damage to property is lower in Chippendale but higher in the LGA in comparison with the corresponding NSW figures.
37. The most recent HealthStats NSW data available at the time of the Authority's consideration of the Application indicates that the LGA recorded the same level of alcohol attributable deaths as the NSW state average, and a higher than average level of alcohol attributable hospitalisations.
38. The Authority notes that the Premises was initially proposed to trade to 4 AM, which was not supported by NSW Police and L&GNSW Compliance Unit in their submissions. The Authority also noted that one public submission was received opposing the granting of the ETA, stating that the proposed late night trading would expose the local community, especially international students, to higher levels of alcohol related harm.
39. In response to the submissions received, the Applicant proposed to reduce the trading hours of the Premises to 3 AM for the indoor area and 12 midnight for the outdoor area, with all entertainment to cease by 2 AM.
40. The Authority finds the statistics and available information to indicate that the local and broader communities are experiencing no shortage of hotel licences, and a concerning level of harm associated with the misuse and abuse of alcohol.
41. The Authority accepts that if the Application is approved, there may be a risk that liquor sold or supplied at the Premises, over time, would contribute to an increase in alcohol related crime, health and other social issues in the community.
42. The Authority is nevertheless satisfied that this risk would be adequately mitigated by the following:
- a) The Premises' proposed business model as a 4.5-star hotel and proposed management by an experienced international company distinguish it from other hotel licences in the area, and support the Applicant's contention that the Premises would less likely appeal to those wishing to consume liquor in a large quantity or for a prolonged period of time into early hours of the morning.
  - b) The Applicant has taken steps to address a large part of the concerns raised in the submissions received in respect of the proposed late night trading hours. These include reducing the proposed trading hours and consenting to licence conditions regarding entertainment and noise control.

- c) Apart from the public submission opposing the granting of the ETA, no objection was received from the community or any of the stakeholders consulted, such as NSW Police and NSW Health, in relation to the Application.
- d) As there will not be gaming facilities on the Premises, granting the Licence would not result in any negative social impact associated with gambling activities.
- e) The Applicant has set out in the Plan of Management document detailed procedures and practices in respect of the responsible service of alcohol and prevention of intoxication. These measures are reinforced and complemented by the proposed licence conditions.

#### Overall social impact

43. The Authority has had regard to the ABS data available at the time of its decision that as at 2011, Chippendale was among the more advantaged suburbs, and the LGA among the most advantaged Local Government Areas, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is seven years old and does not draw any specific inferences from it, other than to note that it does not raise any apparent concerns.
44. Having considered the positive and negative social impacts that are likely to flow from approving the Application, the Authority is satisfied that the overall social impact of granting the Licence, the ETA and the MAA would not be detrimental to the well-being of the local and broader communities.
45. The Authority is also satisfied that a decision to approve the Application would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.
46. Accordingly, the Authority has decided to approve the Application and grant:
- a) the Licence under section 45 of the Act,
  - b) the ETA under section 49 of the Act, and
  - c) the MAA under section 121 of the Act.



Philip Crawford  
Chairperson

#### **Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

## Schedule

### Material considered by the Authority

1. ABS SEIFA data based on the 2011 Census for Chippendale and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol-attributable deaths in the LGA for the period 2012-13 and alcohol-attributable hospitalisations in the LGA for the period 2013-15.
3. Development consent dated 20 August 2015, and modification of development consent dated 24 June 2016, issued by a delegate of the Minister for Planning in relation to the Premises.
4. Media article dated 30 July 2016 in relation to the Premises.
5. NSW Recorded Crime Statistics 2017 outlining the proportion of offences in the LGA by day of week and time of day.
6. Submission from NSW Transport Roads & Maritime Services on 17 March 2017 in relation to the Application.
7. Submission from NSW Family & Community Services on 20 March 2017 in relation to the Application.
8. Completed application forms for the Licence, ETA and MAA, and copies of notices of the applications, signed and dated 1 August 2017.
9. Completed Category B CIS dated 1 August 2017 and its attachments.
10. National police certificate issued on 16 August 2017 in relation to the Applicant, and other supporting documents in respect of the Applicant's identity, personal information and relevant qualification.
11. Submissions from City of Sydney Counsel dated 15 March and 23 August 2017 in relation to the Application.
12. Public submission dated 6 September 2017 in relation to the Application.
13. Submission from NSW Police dated 26 September 2017 in relation to the Application.
14. Submissions from NSW Education Aboriginal Affairs on 27 March and 9 October 2017 in relation to the Application.
15. BOCSAR crime maps for the year to December 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
16. NSW crime statistics for the two years to December 2017, published by BOCSAR, showing the counts, rates and trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Chippendale, the LGA and NSW.
17. Submission from L&GNSW Compliance Unit on 2 February 2018 in relation to the Application.
18. Certification of Advertising signed and dated 12 February 2018.
19. Application to cease to trade signed by the Applicant and dated 12 February 2018 in relation to an existing licence of which the Applicant is a licensee.
20. L&GNSW liquor licensing records as at 3 March 2018, outlining the density of hotel liquor licences in Chippendale, the LGA and NSW, and listing all hotel licences in Chippendale and the LGA.
21. Google map images extracted from the Google website on 22 March 2018, showing the location and photos of the Premises in map view, earth view and street view.

22. Renderings of the proposed hotel at the Premises, extracted from [www.starwoodhotels.com](http://www.starwoodhotels.com) on 22 March 2018.
23. Report generated by L&GNSW on 22 March 2018 on licensing and compliance activities relating to the Applicant.
24. Correspondence between L&GNSW staff and the Applicant between 12 January and 23 March 2018 in respect of the assessment of the Application.
25. Plan of Management for the Premises dated March 2018.
26. Undated premises plan for the Premises.