



Our ref: DF22/020462

Mr Grant Cusack
Hatzis Cusack Lawyers
By email to: gc@hatziscusack.com.au

22 January 2024

Dear Mr Cusack

Application No.	APP-0010103226
Applicant	Pontiac Land (Australia) Pty Ltd
Application for	New hotel (full) licence with minor's area authorisation (MAA) and extended trading authorisation (ETA)
Decision Date	23 November 2022
Licence name	Capella Sydney
Proposed trading hours	Consumption on premises: 23-33 Bridge Street (Levels 2,3 & 4) and 35-39 Bridge Street (whole of ground floor excluding Brasserie 1938 Restaurant) Monday to Sunday 08:00 AM - 02:00 AM Consumption on premises: 23-33 Bridge Street (outdoor terrace areas) Monday to Sunday 08:00 AM - 12:00 midnight Consumption on premises: 35-39 Bridge Street (Brasserie 1938 Restaurant) Monday to Sunday 08:00 AM - 10:30 PM Consumption on premises: Level 5, 35-39 Bridge Street (pool & associated areas) Monday to Sunday 08:00 AM - 10:00 PM Takeaway Monday to Saturday 08:00 AM -12:00 midnight Sunday 10:00 AM - 10:00 PM
Premises	23-33 & 35-39 Bridge Street Sydney NSW 2000
Legislation	Sections 3, 11A, 12, 14, 15, 16, 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 hotel (full) licence with MAA and ETA – Capella Sydney**

We **approve** the application under section 45 of the *Liquor Act 2007* (the Act) with the conditions set out in Schedule 1. Preliminary advice of this decision was provided on 20 January 2023.

Statement of reasons

Overall, 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

We are satisfied that:

- the application is valid and meets the Liquor Act's requirements for procedural fairness and the proposed trading hours for the premises meet the requirements under sections 11A, 12 and 14 of the Liquor Act in respect of trading and 6-hour closure periods
- 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 to which the proposed licence relates.

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 Department of Planning, Industry and Environment approved the development application Ref: SSD 7484 for the premises on 22 February 2022.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Sydney and the relevant 'broader community' comprises the Local Government Area (LGA) of Sydney.

Diversity and density of licensed outlets

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

- there are 768 authorised liquor licenses, of which 699 are authorised to sell on premises liquor. This includes 19 club licences, 105 hotel (full) licences, 8 hotel (general bar) licences, 528 on-premises licences and 39 small bar licences
- saturation of club, hotel (full and general bar), on-premises and small bar licences in the Sydney CBD is higher compared to both the Sydney LGA and all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that in the year to June 2022:

- The premises were located in a high-density hotspot for alcohol-related assault, non-domestic assault and malicious damage to property and in a low-density hotspot for alcohol related domestic assault.
- Incident rates of all crime categories usually considered by us were higher in the suburb than in the Sydney LGA and all of NSW.

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

HealthStats NSW data showed that:

- alcohol-related deaths were slightly lower in the LGA compared to all of NSW
- alcohol-related hospitalisations were higher in the LGA compared to all of NSW

ABS Socio-Economic Index for Areas (SEIFA)

The suburb and LGA of Sydney were ranked as relatively advantaged in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

We note that the proposed business model involves a new full hotel licence with a MAA and ETA across 2 buildings in the Sydney CBD. The primary purpose will be the retail sale of liquor on the licensed premises for consumption on and away from the licensed premises.

Benefits proposed by applicant

The applicant proposes the following benefits:

- the premises will be transforming the heritage-listed former NSW Government Education Building and Lands Building in the Sandstone Precinct into a full-service world-class luxury hotel
- providing increased choice and convenience for the growing working and resident population in the northern section of the CBD
- the proposed premises will meet the needs, demands and expectations of visitors to Sydney City
- experienced operator of the premises that caters for a more affluent clientele and promotes and boosts tourism
- increased employment opportunities

Stakeholder submissions

We considered the submissions from:

- NSW Police Force dated 10 August 2022, which notes concerns about the high saturation of licensed premises in the area and the potential increase of alcohol-related harm; with a recommendation to impose additional conditions on the licence.
- Local Council, dated 13 July 2022, raised no objections
- L&GNSW Compliance dated 12 and 17 August 2022, which notes concerns about the proposed ETA and the increased risk of violence and alcohol-related harm, with a recommendation to impose additional conditions on the licence.
- Transport for NSW, dated 22 March 2022, requesting the applicant to ensure patrons have access to educational material on transport options, preventing drink-driving and pedestrian safety.
- Department of Communities and Justice, dated 13 July 2022, raised no objections
- Four members of the public and a petition with 52 signatures were received, objecting to proposal and raising concerns about the potential increase in noise disturbances, traffic and antisocial behaviour in the area.

We also considered the Applicant's submission in response, to these submissions, which notes the following:

- the applicant consented to the majority of recommended conditions with the exception of the 'no glass after midnight' condition
- the premises will be operated in accordance with a plan of management and several measures are in place to mitigate any potential noise disturbances
- extended trading would only apply to the ground floor area of the Education Building.

Findings of concern

The Suburb and LGA have a higher license density than the state average and the proposed premises will be located in a high-density crime hotspot for alcohol-related domestic and non-domestic assault and malicious damage to property. There is a risk that if the licence was granted,

liquor sold at the premises will contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.

We are satisfied that the risks are mitigated by the:

- fact that there are no gaming machines operated at the hotel
- Pontiac Land Group and affiliates being an experienced and well-established operator
- indication of an above average level of relative socio-economic advantage in the suburb and LGA.

The material we considered

We considered the material received about the application, including:

Application Material

- completed application dated 27 June 2022
- Category B Community Impact Statement (CIS)
- Completed certification of advertising 19 September 2022
- plan of management documents for the premises dated May 2022
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 29 June 2022, indicating the proposed licensed area and area to which the ETA will apply.

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

Other relevant material

- submissions received
- Correspondence between L&GNSW staff and the applicant between 19 July 2022 and 27 October 2022 in relation to the assessment of the Application.
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

This decision will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are 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, Leonie Jennings, leonie.jennings@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 with a large, stylized "S" and "D".

Sarah Dinning
Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed
Capella, Sydney

No.	Condition to be imposed	Description
1.	6-hour closure	Section 11A of the <i>Liquor Act 2007</i> 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.
2.	Restricted trading & NYE	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 31st: Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later 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: Normal trading
4.	Social impact	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.
5.	No Gaming	No gaming machines may be operated on the licensed premises
6.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
7.	Minor's Area	Minor's Area Authorisation: 23-33 Bridge Street (Level 2, 3 & 4) and 35-39 Bridge Street (part ground floor including Living Room, Palm Court Bar/Lounge, Function/Meeting/Event and associated areas).
8.	Extended Trading	Extended Trading Authorisation: 23-33 Bridge Street (Level 2, 3 & 4) and 35-39 Bridge Street (whole of ground floor).
9.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 11 May 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.
10.	Crime scene preservation	<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"> 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. <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 (e.g. crowd controller or bouncer) on or about the premises.</p>
11.	Incident register	<ol style="list-style-type: none"> 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"> 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 <i>Liquor Act 2007</i>, 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: <ol style="list-style-type: none"> 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.
12.	CCTV	<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"> 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: <ul style="list-style-type: none"> (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. <p>2) The licensee must also:</p> <ul style="list-style-type: none"> 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.