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7/12/2020

Dear Mr Caisley

Application No.	APP-0007400020
Applicant	UNITED DEVELOPMENT SYDNEY PTY LTD
Application for	Hotel Licence with an Extended Trading Authorisation and Minors Area Authorisation
Licence name	The Porter House Hotel Sydney - MGallery
Premises	Corner 116 Bathurst Street & 203 Castlereagh Street Sydney NSW 2000
Trading hours	<u>Consumption on premises</u> Monday to Saturday 9:00 AM – 3:00 AM Sunday 9:00 AM – 12 midnight <u>Take-away sales</u> Monday to Sunday 10:00 AM – 10:00 PM <u>Accommodation</u> Monday to Sunday 5:00 AM – 5:00 AM
Legislation	Sections 3, 11A, 12, 14-17, 40, 44, 45, 48, 49, 51 and 121 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a Hotel Licence with an Extended Trading Authorisation and
Minors Area Authorisation – The Porter House Hotel Sydney - MGallery**

The Independent Liquor & Gaming Authority considered the application above, and decided on 11 November 2020 to **approve** the application under sections 45, 49 and 121 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Approved manager or individual licensee

Please note that 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.

Take away liquor sales

Pursuant to section 12 of the *Liquor Act 2007*, the latest time to which the Authority can authorise takeaway liquor sales is 10:00 PM on all trading days.

By the operation of an exemption under clause 117 of the Liquor Regulation 2018, premises authorised to sell liquor for takeaway to 10:00 PM may continue to do so until:

- 12 midnight on any day (other than a Sunday that does not fall on 24 December or 31 December or a restricted trading day), and
- 11:00 PM on Sundays (other than a Sunday that falls on 24 or 31 December or a restricted trading day).

Concise statement of reasons

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

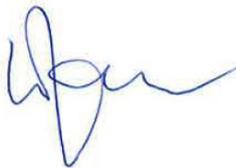
In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

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 at danielle.hatton@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

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

Concise statement of reasons

Key facts

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Application date	3 June 2020
Decision	Approved under sections 45, 49 and 121 of the <i>Liquor Act 2007</i>
Decision date	11 November 2020

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 14-17: 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 in respect of licence related authorisations.
- Section 121: Minors in hotels in company of responsible adult.

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 Sydney, and the broader community is the Local Government Area of City of Sydney.

Positive social impacts

The Authority notes that the premises will comprise of a five-star boutique hotel and will be partially housed within the heritage-listed Porter House building, which is historically significant due to its Victorian Classical design and association with the Dixson family. The Authority also notes that, if approved, the grant of a licence would assist in developing Sydney's tourism and night-time economy.

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 by way of increased access to liquor and other services and facilities at the hotel premises.

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:

- lengthy licensed trading hours,
- higher than average liquor licence density in the local and broader community,
- presence of crime hotspots in the local community,
- higher than average crime rates in the local and broader community, and
- higher than average level of alcohol-attributable deaths and hospitalisations in the broader community.

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

- absence of any objections from agency stakeholders or members of the community,
- experience of the applicant as an operator of multiple licensed premises with sound compliance records,
- absence of gaming machines, TAB and Keno facilities,
- the fact that, although crime rates and the packaged liquor licence density in the broader community are considerably higher than the state average, this community contains the state's tourism, business and entertainment hub attracting millions of visitors per year, with the large temporary population skewing licence density and crime statistics, and
- harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

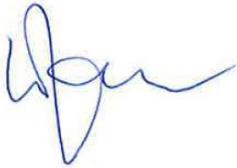
Overall social impacts and conclusion

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 sections 45, 49 and 121 of the Act.

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

Philip Crawford
Chairperson

Schedule 1 – Licence conditions to be imposed The Porter House Hotel Sydney - MGallery

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 6 hours between 3:00 AM and 9:00 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.

Restricted trading & NYE - Hotel

2. Restricted trading and NYE (std)
Consumption on premises

Good Friday	12:00 noon to 10:00 PM
Christmas Day	12:00 noon to 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

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. Restricted trading and NYE
Take away sales

Good Friday	Not permitted
Christmas Day	Not permitted
December 31 st	Normal Trading

Social Impact

4. 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.

Plan of management

5. The premises is to be operated at all times in accordance with the Plan of Management dated 3 August 2020 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.

Liquor Accord

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

CCTV

7. Closed-circuit television system
 - a. 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 to the premises,
 - (ii) the footpath immediately adjacent to the premises, and

- (iii) all publicly accessible areas (other than toilets) within the premises.
- b. 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.

Trial extended trading hours

8. Trial extended trading hours

If the local consent authority does not approve the continuation of the trial period in the development consent 12 months after the date of issue of the Occupation Certificate (or as may be extended from time to time), the trading hours of the 'Porter House' premises will revert to a 1:00 AM closing time Monday to Saturday, and 12:00 AM midnight Sunday.

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.

Minors area authorisation

- 9. Minors Area Authorisation: Whole of the licensed premises excluding ground floor.

Extended trading authorisation

- 10. Extended Trading Authorisation: Whole of the licensed 'Porter House' premises, lobby, level 1 and 2 'walk-over' corridors to accommodation, and lifts no. 4, 5 and 6.

No gaming, TAB or Keno facilities

- 11. No gaming machine, TAB or Keno facilities may be operated on the licensed premises.

Incident Register

12. 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.

Crime scene preservation

13. 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 & 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.

Cessation of service

14. Cessation of service

Sale and service of liquor is to cease 15 minutes prior to closing.