

NSW Department of Customer Service

Liquor & Gaming NSW

Application number:	1-7878944139	
Application for:	Extended trading authorisation	
Current trading hours: Restaurant: Consumption on premises	Monday to Saturday Sunday	05:00 AM to 12:00 AM (midnight) 10:00 AM to 10:00 PM
Trading hours: Consumption on premises – Indoor	Monday to Saturday Sunday	11:00 AM to 02:00 AM 11:00 AM to 12:00 AM (midnight)
Trading hours: Consumption on premises - Outdoor	Monday to Saturday Sunday	11:00 AM to 01:00 AM 11:00 AM to 12:00 AM (midnight)
Applicant:	DEXUS FUNDS MANAGEMENT LIMITED	
Licence name:	Cafe Courtyard	
Licence number:	LIQO624008405	
Premises address:	MLC Centre Shop 15 L 7 Martin PI SYDNEY NSW 2000	
Issue:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an extended trading authorisation	
Legislation:	Sections 3, 11A, 48, 49, 51 and 53 of the Liquor Act 2007	



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**ILGA DELEGATED DECISION – APPLICATION FOR
Extended trading authorisation
Courtyard Cafe**

Under delegation issued by the Independent Liquor and Gaming Authority under section 13 of the Gaming and Liquor Administration Act 2007, a designated Public Service employee or other Public Service employee of Liquor & Gaming NSW in the Department of Customer Services, has decided to approve the application for an extended trading authorisation - application number 1-7878944139.

On 19 January 2021 and after careful consideration of the application and other material, the delegate decided to approve the application, subject to conditions listed in table 1.

Decision Date: 19 January 2021

A handwritten signature in black ink that reads 'P Wicks'.

Peter Wicks

**Manager, Licensing
Liquor & Gaming NSW
Delegate of the Independent Liquor & Gaming Authority**

STATEMENT OF REASONS

Analysis of Submissions and statutory requirements

- (1) No submission received.
- (2) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (3) A Plan of Management was provided.
- (4) Having reviewed all the material, I am satisfied that approving the application for an extended trading authorisation will not be detrimental to the local or broader community.

Overall social impact

(1) Positive benefits

The approval of the application will provide patrons with increased choice to socialise, including to enjoy a meal and/or a social drink and other entertainment consistent with the licence within the suburb of Sydney CBD.

(2) Mitigation of potential negative impacts

I am satisfied that the conditions imposed, and any other information contained in the application will provide that the lawful operation of the premises will not be detrimental to the local or broader community.

In particular, the Plan of Management and licence conditions will serve to mitigate any potential negative impacts.

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Conditions considered by the ILGA delegate DF20/017498

All requests to impose conditions on the licence are reviewed on a case by case basis and a merit-based assessment is conducted.

In considering whether a proposed condition has merit, delegates consider: (a) whether the need for the condition has been adequately established (b) whether the benefits of imposing the condition are likely to outweigh the costs and (c) whether the proposed condition is proportionate to the potential harm identified.

The table below sets out the conditions which I have decided to impose on the licence.

TABLE 1 - Proposed conditions imposed on the licence:	
1.	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 6 hours between 2:00 AM and 08:00 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.	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 obtaining the extended trading authorisation.

Materials considered by the ILGA delegate

TABLE 2: Submissions analysis	
Stakeholder submissions	
1.	NSW Police <ul style="list-style-type: none"> • Did not submit
2.	Local consent authority <ul style="list-style-type: none"> • No Objection
3.	Public <ul style="list-style-type: none"> • Did Not Submit

TABLE 3: Document analysis		
Details		Dated received/comment
1.	Application form	18/12/2020
2.	Plan of proposed licensed area	21/12/2020

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3.	Plan of management	05/01/2021
4.	Development consent	18/01/2021
5.	Correspondence from 18/01/2021	

Conclusion

- (1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether to approve the application. All of those required to be notified of the application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The decision was made by the delegate having reviewed the application statement, business model and risk analysis, stakeholder submissions and other relevant material.
- (2) In making this decision under delegation from of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to approve the extended trading authorisation application with conditions.

TABLE 4: Objects of the Liquor Act 2007

Legislative framework, statutory objects and considerations

In determining the application, the delegate has considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which state:

3 Objects of Act

1. The objects of this Act are as follows:
 - a. to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - b. to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - c. to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
2. In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:

- a. the need to minimise harm associated with misuse and abuse of liquor (including the harm arising from violence and other anti-social behaviour),
- b. the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
- c. the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

TABLE 5: Community impact test

1. Under section 48(5) of the Liquor Act 2007, the delegate must not grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regards to the Community Impact Statement, where required, and any other matter the delegate is made aware of during the Application process, that the overall impact of the licence, authorisation or approval in question being granted will not be detrimental to the local or broader community.
2. The test applying under section 48(5) relates to delegated decisions in relation to:
 - a. the grant or removal of a small bar licence (where required),
 - b. a packaged liquor licence (limited to telephone/internet sales), an application for extended trading hours to permit the sale of liquor after midnight in relation to a small bar (where required), an on premises relating to a restaurant that includes an application for a primary service authorisation, an on-premises licence relating to a karaoke bar, a catering service or a vessel, and an application for a producer/wholesaler licence that includes an application for a drink on premises authorisation.

The Community Impact Statement provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and places of worship.

TABLE 6: Important Information:

In accordance with Clause 5 of the Gaming and Liquor Administration Regulation 2008, this decision is reviewable by ILGA.

The licence applicant and persons who were required to be notified of the application and who made a submission can apply for an application for review. An application for a review must be lodged with ILGA within 28 days of the date of the publication of this decision. An application fee applies. For original applicants, the review application fee is the same as the initial application fee. For non-original applicants, the application fee is \$100.

For ILGA reviews of delegated decisions, make an application for review via the Liquor and Gaming Application Noticeboard at: <https://www.liquorandgaming.nsw.gov.au/Pages/public-consultation/online-application-noticeboard/online-application-noticeboard.aspx>. The Review Application form can be accessed online via the Application Number hyperlink.

Further information can be obtained from the Reviews page on the Liquor & Gaming website at: <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>