

Mr Jon Martin
JDK Legal
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3 November 2020

Dear Mr Martin

Application No.	1-7622166381
Applicant	Paul Schulte
Application for	Extended trading authorisation
Licence number	LIQO660032481
Licence name	Prince of York
Premises	18 – 20 York Street Sydney NSW 2000
Previous trading hours	<u>Consumption on premises and primary service authorisation</u> Monday to Saturday: 12 noon to 12 midnight Sunday: 12 noon to 10:00 pm
New trading hours	<u>Consumption on premises and primary service authorisation</u> Monday to Saturday: 8:00 am to 2:00 am Sunday: 10:00 am to 10:00 pm
Legislation	Sections 3, 11A, 12, 22, 45, 48, 49, 51, 53 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for an extended trading authorisation – Prince of York**

The Independent Liquor & Gaming Authority considered the application above, and decided on 13 October 2020 to **approve** the application under section 49 of the *Liquor Act 2007* ('Act'), subject to the following licence 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 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. The premises is to be operated at all times in accordance with the Plan of Management dated October 2018 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 & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
3. 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.
4. The primary service authorisation may only be exercised while the restaurant is open and actually serving the full menu available in the restaurant.
5. The basement area will not include a dancefloor nor operate in the mode of a nightclub.

In addition, pursuant to section 53(2)(b) of the Act, the Authority has decided to revoke existing conditions 50, 3020, 3040, and 3050 from the licence.

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, Mr Lucas Ho, at lucas.ho@liquorandgaming.nsw.gov.au.

Yours faithfully



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

Concise statement of reasons

Key facts

Application No.	1-7622166381
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Previous trading hours	Monday to Saturday: 12 noon to 12 midnight Sunday: 12 noon to 10:00 pm
New trading hours	Monday to Saturday: 8:00 am to 2:00 am Sunday: 10:00 am to 10:00 pm
Application date	8 November 2019
Decision	Approved under section 49 of the <i>Liquor Act 2007</i>
Decision date	13 October 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
- stakeholder submissions in relation to the application, and the applicant's response to those submissions
- submissions from the applicant and L&GNSW Compliance in relation to the primary purpose of the premises.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007* ('Act'), and the associated clauses of the Liquor Regulation 2018:

- section 3: Statutory objects of the Act and relevant considerations
- section 11A: The mandatory 6-hour period during which liquor cannot be sold
- section 12: The standard trading period for certain licensed premises
- section 22: the primary purpose of the business or activity carried out on the premises is the sale or supply of liquor.
- 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 relating to licence-related authorisations
- section 53: The Authority's power to impose, vary or revoke conditions on application or on its own initiative

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 Sydney.

Business model and primary purpose test

The primary purpose test in section 22 of the Act requires that, for on-premises licences, the primary purpose of the business or activity carried out on the licensed premises at any time must not be the sale or supply of liquor.

The Authority notes from the material before it that the premises is split into several areas, each with a separate purpose, including a restaurant, cellar lounge, and a lounge bar. In considering whether the prevailing business model satisfies the primary purpose test of an on-premises restaurant, the Authority sought and considered submissions and further information from L&GNSW Compliance and the applicant.

To ensure that the premises is being operated according to its licenced business type of an on-premises restaurant, the Authority resolved to approve the application subject to conditions that the primary service authorisation may only be exercised while the restaurant is open and actually serving the full menu available in the restaurant, and the basement area will not include a dancefloor nor operate in the mode of a nightclub.

Positive social impacts

The Authority notes that Prince of York situated in the Sydney CBD entertainment precinct, and considers that approving the application will contribute to Sydney's night-time economy and tourism industry, and will benefit locals and tourists through the provision of increased liquor access, choice and convenience.

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:

- higher than average liquor licence density in the local and broader communities
- presence of crime hotspots in the local community
- higher than average crime rates in the local and broader communities
- higher than average level of alcohol-attributable deaths and hospitalisations in the broader community

The Authority notes, however, that Sydney is a popular commercial, hospitality, entertainment and tourist precinct, with a large influx of visitors, which may skew density and crime figures.

Furthermore, the Authority considers that these risk factors are sufficiently mitigated by the following:

- the absence of any objections from agency stakeholders or members of the community

- relative socio-economic advantage in the local and broader communities
- the sound compliance history of the premises
- harm minimisation measures set out in the Plan of Management and licence conditions.

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 section 49 of the Act.



Philip Crawford
Chairperson