



Mr Timothy Calvert  
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30 October 2018

Dear Mr Calvert,

<b>Application File No</b>	0004374342
<b>Applicant</b>	Mr Paul Romanella
<b>Application for</b>	New on-premises (restaurant) licence New extended trading authorisation New primary service authorisation
<b>Licence name</b>	Salon Dining
<b>Trading hours</b>	<u>Consumption on premises</u> 8:00 am to 2:00 am Monday to Sunday
<b>Premises</b>	Shop 48, Level 1 Queen Victoria Building 455 George Street SYDNEY NSW 2000
<b>Issues</b>	Whether to grant a new on-premises licence (restaurant) with extended trading hours and a primary service authorisation
<b>Legislation</b>	Sections 3, 11A, 12, 21-28, 40, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i>

**Decisions of the Independent Liquor and Gaming Authority on  
Application for a new on-premises licence (restaurant) with an extended trading  
authorisation and primary service authorisation  
Salon Dining - Sydney**

At its meeting on 12 September 2018 the Independent Liquor and Gaming Authority (“Authority”) considered an application for a new on-premises (restaurant) licence (“Licence Application”) with associated applications for an extended trading authorisation (“ETA Application”) and an authorisation pursuant to section 24(3) known as a primary service authorisation (“PSA Application”).

The Authority has decided to **grant** the Licence Application pursuant to section 45 and of the *Liquor Act 2007* (“Act”), authorise the extended trading hours pursuant to section 49(2) of the Act and endorse the licence with the primary service authorisation pursuant to section 24(3) of the Act. The licence will be 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 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. **Consumption on premises**

Good Friday	12:00 noon – 10:00 pm (liquor can only be served with or ancillary to a meal in a dining area)
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 at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

3. 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 this licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated February 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 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 on 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. **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.

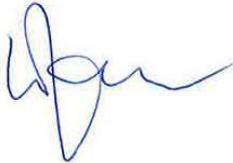
7. In the event that Sydney City Council does not extend the 12 months trial permission granted in development consent D/2018/139 to trade between 1:00 am and 2:00am, the licensed trading hours shall revert to 1:00 am at the conclusion of the 12 months trial period.
8. The licensee must join and be an active participant in the local liquor accord.

9. The licensed premises is not to be themed or operated as a nightclub and there is to be no DJ styled booth.
10. A full copy of all current development consents (including approved plans) for the operation of the premises, any required Registers and Plans of Management must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or Liquor and Gaming NSW inspectors.
11. The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor seating areas.

For the purposes of section 49(6) of the Act, the Authority specifies that the extended trading hours will apply to the whole of the licensed area and permit trading between 12:00 midnight and 2:00 am Monday to Saturday, between 8:00 am and 10:00 am Sunday and between 10:00 pm and 2:00 am Sunday.

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

## Statement of reasons

### Decision

1. On 8 June 2018 the Independent Liquor & Gaming Authority (“the Authority”) received from Mr Paul Romanella (“Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application for a new on-premises (restaurant) licence (“Licence Application”) with extended trading hours (“ETA Application”) and an application for a primary service authorisation (“PSA”) that would permit liquor to be sold with or without the service of a meal (“PSA Application”) in respect of premises situated at Shop 48, Level 1, Queen Victoria Building (“QVB”) 455 George Street Sydney NSW 2000 (“Premises”) to be known as “Salon Dining” (“the Applications”).
2. Pursuant to section 45 of the *Liquor Act 2007* (NSW) (“Act”), the Authority has decided to grant the Licence Application. Pursuant to section 49(2) of the Act, the Authority has decided to grant the ETA Application. Pursuant to section 24(3) of the Act, the Authority has decided to endorse the licence with the PSA.
3. For the purposes of section 49(6) of the Act, the Authority specifies that the extended trading authorisation (“ETA”) will apply to the whole of the licensed area and permits the sale or supply of liquor for consumption on the Premises between 12:00 midnight and 2:00 am Monday to Saturday, between 8:00 am and 10:00 am Sunday and between 10:00 pm and 2:00 am Sunday.
4. The PSA also applies to the whole of the licensed area and extends across the licensed trading hours granted by the Authority in this decision.
5. Preliminary notification of this decision was sent to the Applicant on 26 September 2018, together with the licence document and a diagram of the licensed area of the Premises specifying the PSA and ETA areas.
6. This document provides reasons for the decision to grant the licence with the ETA and PSA. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements of sections 3, 11A, 12, 21-28, 40, 45, 48, 49 and 51 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

### Material considered by the Authority

7. The Authority has considered the Applications, the Community Impact Statement (“CIS”) and all submissions received in relation to the Applications.
8. 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 were provided with a reasonable opportunity to make submissions.
9. In accordance with the Authority’s *Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, NSW Department of Health data and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by LGNSW staff from publicly available sources.
10. The material considered by the Authority when determining the Applications is listed in Schedule 1 and briefly described, where appropriate.

## **Legislative framework**

11. The Authority has considered the Applications in accordance with the legislative provisions briefly described in Schedule 2.

## **Key findings**

12. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings on the Applications.

### Validity, procedural and other requirements

13. The Authority is satisfied that the Applications and accompanying CIS were validly made in that they meet the minimum content and consultation requirements of sections 40 and 51 of the Act and clauses 20 through 26 of the Regulation.
14. This finding is made on the basis of the information provided in the official LGNSW form for the Applications (noting that the one online form was provided covering all three applications), the CIS form and a Certificate of Advertising signed and dated 25 July 2018.
15. The Authority notes that the proposed licensed trading hours, including the extended hours, meet the requirements specified by sections 11A, 12, 25 and 49 of the Act in respect of trading, extended trading and the 6-hour closure periods.
16. The proposed use of the Premises as a restaurant satisfies the requirements under section 23 of the Act. This finding is made on the basis of the Applications and CIS material provided by the Applicant. The Authority further notes information provided in the CIS that the business may operate as a restaurant between 7:00 am and 8:00 am Monday through Saturday without the supply of liquor, meaning that it will observe its primary purpose as a restaurant during that time of the morning.

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

17. The Authority is satisfied that:
  - (a) For the purpose of section 45(3)(a) of the Act, the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with relevant law enforcement agencies including NSW Police ("Police") and the Compliance section of LGNSW.
  - (b) For the purpose of section 45(3)(b) and section 49(8)(a) of the Act, practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, on the basis of the Applicant's Plan of Management dated February 2018.
  - (c) For the purpose of section 45(3)(c) of the Act, the requisite development consent for the conduct of the business or activity to which the licence relates (an on-premises (restaurant) licensed business with extended trading hours and a PSA) is in force with respect to the Premises. This finding is made on the basis of a determination by City of Sydney Council ("Council") dated 9 May 2018 in respect of development approval application D/2018/139 ("DA") permitting "Change of use of Shop 48 on Level 1 of the QVB for a new licensed restaurant and bar and associated internal alterations". The Authority notes that condition 2(a) of the DA restricts trading to between 7:00 am and 1:00 am Monday to Sunday, while condition 2(b) permits a 1-year trial period from the date of issue of the occupation certificate of trading hours

between 1:00 am and 2:00 am. Condition 6(a) restricts the patron capacity to a maximum of 140 persons.

#### Further restrictions on granting an ETA

18. For the purpose of section 49(8)(b) of the Act, the Authority is satisfied that approving the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed Premises. The Authority is satisfied on the basis of the Plan of Management dated February 2018 and the conditions consented to by the Applicant in an email dated 25 July 2018 (where the Applicant has agreed *inter alia* to conditions relating to CCTV, crime scene preservation, operating the Premises in accordance with the Plan of Management and not operating the business with a greater level of social impact) and submission dated 17 August 2018 (where the Applicant agreed to a condition that the Premises not be themed or operated as a nightclub with no DJ styled booth).

#### Community impact statement

19. The Applicant is required to submit a CIS by reason that the ETA Application will result in trading between midnight and 5:00 am for an on-premises licence, which is prescribed as a “relevant application” under section 48(2) of the Act. The Authority has taken into account the CIS material and all additional information when making the findings set out below on the overall social impact of granting the on-premises licence with extended trading on the local and broader communities.
20. Consistent with Authority *Guideline 6* the Authority considers that the relevant “local community” is the community within the State suburb of Sydney, and the “broader community” comprises the community in the relevant local government area (“LGA”), Sydney LGA.

#### **On Premises Licence with ETA Application**

##### Positive social impacts from granting the ETA Application

21. The Authority notes, on the basis of the CIS material, that this on-premises licence with an ETA and PSA is to be located within an upmarket heritage building, the QVB, which is a major location for shopping and cafes attended by many City workers and local, interstate and international visitors to the City of Sydney. The Authority accepts the information specified in the CIS that the licensed restaurant will undergo an expensive fitout, estimated to cost around \$674,300.00 in a French salon style.
22. This restaurant will open early in the morning and be licensed from 8:00 am in order to offer a licensed champagne breakfast option in the CBD for city residents and tourists and will extend late into the evening offering some late-night live entertainment. The Authority further accepts the information provided in the CIS that the business will be owned and operated by Trippas White Group Pty Ltd which is an experienced operator of licensed restaurants and will offer a European Yum Cha menu that is paired with Champagne, wine and a signature cocktail list.
23. On this basis, the Authority is satisfied that granting the Applications will provide positive benefits (including increased licensed dining choice and convenience) to members of the local and broader communities as well as visitors from intrastate, interstate and overseas who seek an upscale licensed restaurant within the Sydney CBD at this prominent tourist destination (the QVB).

24. The Authority has considered a submission from NSW Police objecting to the Applications and discussing the social impact of licensed premises in the CBD and a submission from St Andrew's Cathedral School who are concerned about the number of licensed venues in close proximity to the school, which are discussed below. Notwithstanding the high density of venues and persons who will have been on notice of the Applications, there is limited opposition to the proposal from local residents or business operators in respect of the prospect of alcohol related adverse social impact. On this basis, and noting the type of licensed business on offer (a bona fide licensed restaurant) the Authority is satisfied that granting the Applications will be broadly consistent with the "expectations needs and aspirations of the community" in respect of the sale, supply and consumption of liquor in the local and broader communities, in furtherance of the statutory object in section 3(1)(a) of the Act.
25. The Authority is also satisfied, on the information provided in the CIS, that licensing this late trading restaurant within a popular tourist building will facilitate the *balanced* development, in the public interest, of the liquor industry serving the relevant communities advancing the statutory object in section 3(1)(b) of the Act and will contribute to the responsible development of related local industries such as the live music, entertainment, tourism and hospitality industries, in furtherance of the statutory object in section 3(1)(c) of the Act.

#### Negative social impacts from granting the ETA Application

26. The Authority notes that the licence *type* in question is an on-premises licensed venue with the designated primary purpose of a restaurant, which on the information provided in the CIS, will have a fit out consistent with restaurant dining and will be operated by an experienced licensed restaurant operator. The Authority accepts that the business will be a bona fide restaurant oriented towards late night dining, providing meals prepared on the Premises throughout the licensed hours. The Authority is also satisfied that the PSA will enable liquor service that is ancillary to the primary restaurant function.
27. The licensed hours are very extensive across the course of the week (permitting alcohol to be sold/supplied between 8:00 am and 2:00 am Monday to Sunday). The late-night trading hours warrant careful scrutiny by reason of the prevailing alcohol related crime and licence density in the CBD.
28. The Authority notes that there is no shortage of licensed venues within the local and broader communities. LGNSW licensed premises information sourced by licensing staff on 1 August 2018 indicates that there are 523 on-premises licences in the suburb of Sydney and 1,560 on-premises licences in the LGA. Liquor licence density is high across the Sydney CBD. Licence density calculations performed by licensing staff on the basis of LGNSW records as at 1 August 2018 and population data from the 2016 ABS Census indicate that:
- The rate of on-premises licences in the suburb is **3,031.53** per 100,000 persons, compared to a rate of **748.65** for the LGA and a rate of **109.37** for NSW.
  - The rate of full hotel licences in the suburb is **724.55** per 100,000 persons, compared to a rate of **141.57** for the LGA and a rate of **26.90** for NSW.  
The rate of hotel (general bar) licences in the suburb is **63.76** per 100,000 persons, compared to a rate of **22.56** for the LGA and a rate of **1.32** for NSW.
29. Although licence density is high, this reflects the large number of hotels, bars and on-premises venues serving the great many city residents, workers and visitors that are serviced by the liquor industry in the Sydney LGA.

30. The BOCSAR crime maps for the local community from April 2017 to March 2018 indicate that there are high concentrations of crime surrounding the location of the Premises. The Premises is located within high-density hotspots for *alcohol related assault, domestic assault, non-domestic assault* and *malicious damage to property*.
31. The BOCSAR data for the local and broader communities for the year to March 2018 is also troubling in that the LGA and suburb has recorded the following:
- A rate of **530.1** per 100,000 persons for *alcohol related domestic assault* for the suburb, with a rate of **197.1** for the LGA and **114.4** for NSW.
  - A rate of **2,677.2** per 100,000 persons for *alcohol related non-domestic assault* for the suburb, compared to **679.3** for the LGA and **130.4** for NSW.
  - A rate of **1,982.7** per 100,000 persons for *malicious damage to property* for the suburb, compared to **1,110.1** for the LGA and **779.5** for NSW.
  - A rate of **848.2** per 100,000 persons for *alcohol related disorderly conduct (offensive conduct)* for the suburb, compared to **281.9** for the LGA and **41.2** for NSW.
32. The licence type, style of venue and location are factors that reduce the scope for late night patrons to create disturbance at or near the site, and for noise generated from music or patrons to affect the neighbourhood. The location of the restaurant within the QVB, without direct street access, the moderate scale of the venue are mitigating factors when considering the capacity for patrons to adversely impact local amenity. The close proximity of the QVB to major transport links will assist the dispersal of patrons leaving the venue throughout its licensed hours.
33. The local and broader community are ranked in the second highest decile (being the 9<sup>th</sup> decile) on the index of relative socio-economic advantage and disadvantage compared to other suburbs and LGAs within the State, according to the 2016 socio-economic indexes for areas data. That is, local socioeconomic disadvantage is not a compounding risk factor.
34. Some further cause for concern arises from NSW Department of Health *HealthStats* data on alcohol attributable hospitalisations. The Sydney LGA recorded a higher smoothed estimate of standardised separation ratio of **130.1** compared to the NSW average of 100 between 2013 and 2015. By contrast, the smoothed estimate of standardised mortality ratio (alcohol attributable deaths) was **101.8**, which is on par with the NSW average for the period between 2012 to 2013.
35. The Authority has considered the Police opposition to the Applications on the basis of patron capacity, trading past the standard restaurant trading hours with no trading history, the offering of live DJs and other live acts, the business not being operated as a restaurant, the saturation of licensed premises in the Sydney CBD and surrounding areas, the effect of lockouts and last drinks laws, the high volume of crime being experienced by licensed premises in the area and that late trading licensed premises may contribute to the level of violence currently being experienced within the area. Police provide data indicating that, from October 2016 to September 2017, 50% of all assaults and 36% of all domestic violence incidents were alcohol related within the Sydney City Local Area Command ("LAC") and that peak times for alcohol related assaults are between 11:00 pm and 3:00 am on Friday and between 9:00 pm and 3:00 am on Saturday. Police contend that the association between alcohol outlet density and assaults in and around licensed premises is an issue for the Sydney City LAC.
36. The Authority has considered the Applicant's response dated 17 August 2018 to the Police objection and is satisfied, in light of the mitigating factors noted above, and the imposition of most of the conditions sought by Police (noting that a number of Police proposals were

covered by the Authority's standard conditions), that the scope for adverse late night social impact will be meaningfully reduced.

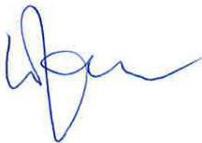
37. The Authority has also considered the submission from St Andrew's Cathedral School, which raised concerns about the number of licensed venues in close proximity to the school but did not object to the Applications. Responses were also received from Aboriginal Affairs, Family & Community Services and Roads and Maritime Services, although no specific objections were raised in these submissions.
38. The Authority did not impose the Police conditions relating to restricting the sale and supply of certain types of drinks at the Premises, as the Authority considered the risk of social harm associated with the Premises to be mitigated by its licence type, the style of venue, conditions preventing the venue from operating in the mode of a nightclub and the additional harm reduction measures specified in the Premises Plan of Management which will become enforceable through the operation of a licence condition.

### **Overall social impact**

39. Having considered the positive benefits established on the material before the Authority and the factors reducing the scope for negative impacts that may otherwise arise from a late licensed venue in the Sydney CBD, on balance the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting the Licence Application with the ETA Application would not be detrimental to the well-being of the local or broader communities. The Licence Application is granted pursuant to section 45 of the Act and the ETA Application is granted pursuant to section 49(2) of the Act.

### **PSA Application**

40. The social impact test does not apply with respect to the PSA Application, but the Authority has taken into consideration the proposal that the PSA will apply across the licensed trading period when assessing the overall social impact of granting the licence with the extended trading hours. The Authority is satisfied that on the information provided that the sale or supply of liquor will be ancillary to the operation of a restaurant, with meals available at all relevant times. The PSA Application is granted pursuant to section 24(3) of the Act.
41. When considering all of the Applications before it, the Authority has had regard to all of the statutory objects and considerations that are specified in section 3 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 1

## Material before the Authority

1. Email from City of Sydney Council (“Council”) dated 24 May 2018 attaching a letter from Council (comprising two paragraphs) dated 23 May 2018 advising that Council raises no matters of concern, that D/2018/139 (“DA”) was approved on 9 May 2018 for use of the Premises as a licensed restaurant and bar, and specifying that the permitted hours of operation for planning purposes (including the 1 year trial period of hours between 1:00 am and 2:00 am).
2. Liquor and Gaming New South Wales (“LGNSW”) online application form for a new on-premises (restaurant) licence (“Licence Application”) with extended trading hours (“ETA Application”) and a primary service authorisation (“PSA Application”) lodged by Mr Paul Romanella (“Applicant”) on 8 June 2018 (“collectively referred to as the Applications”). This document is accompanied by the following documents:
  - (a) A LGNSW form titled *Declaration: liquor licence application by proposed licensee* signed by the Applicant and dated 8 June 2018.
  - (b) A Local Consent Authority Notice and a Public Consultation Site Notice dated 8 June 2018.
  - (c) Identification documents for the Applicant including a copy of his NSW Drivers Licence, Australian Passport and Westpac debit card.
  - (d) Australian Securities and Investments Commission (“ASIC”) current company extract for Trippas White Catering Pty Limited (the business owner) as at 29 May 2018.
  - (e) ASIC current company extract for Vicinity Custodian Pty Ltd (the premises owner) as at 6 June 2018.
  - (f) ASIC current company extract for Ipoh Property Pty Limited (the premises owner) as at 29 May 2018.
3. Category B Community Impact Statement (“CIS”) form lodged by the Applicant on 8 June 2017 and signed by the Applicant on 7 June 2018. This document is accompanied by a list of stakeholders that were notified and a 40-page document prepared by JDK Legal on behalf of the Applicant providing additional information on the community impact assessment. This submission is accompanied by the following documents:
  - (a) A plan/diagram of the premises (“Premises”) highlighting the licensed area in red and the area to which the extended trading authorisation (“ETA”) will apply in blue.
  - (b) Concept plans prepared by Guru Hospitality Projects on behalf of the Applicant.
  - (c) Council’s strategic and action plans including: *OPEN Sydney Future Directions for Sydney at Night Strategy and Action Plan 2013-2030*; *Creative City Cultural Policy and Action Plan 2014-2024* dated August 2014; *Live Music Matters Planning for Live Music and Performance in Sydney 2013 Live Music and Performance Action Plan*; *An Open and Creative City: Planning for Culture and the Night Time Economy Discussion Paper* dated October 2017.
  - (d) Security and Plan of Management (incorporating the House Policy) prepared by Trippas White Group on behalf of the Applicant undated. This is accompanied by a checklist for the City of Sydney late night trading premises development control plan 2007, prepared by the Applicant to assist Council in determining that there has been compliance with the minimum requirements for the preparation of a Plan of Management.
  - (e) Pages including “Who Are We”, “Our Venues” and “News” extracted from the Trippas White Group webpage on 22 May 2018.
  - (f) A document outlining the hospitality experience of the Applicant, Mr Paul Romanella.
  - (g) Extract from the NSW Office of Environment & Heritage listing the Queen Victoria Building (“QVB”) as a heritage building, extracted on 22 May 2018.
  - (h) A list of the then Office of Liquor, Gaming and Racing (now LGNSW) statutory licence conditions and requirements for on-premises licence that relates to a restaurant.
  - (i) Notice of intention to apply for liquor licence or a licence authorisation dated 20 March 2018.
  - (j) Email from the Human Resources Advisor of Camilla HQ (comprising two-sentences) dated 20 March 2018 wondering why they were issued with the notice of intention. The Authority notes that no social impact submissions were made in this submission.

- (k) Email from Aboriginal Affairs (comprising four paragraphs) dated 22 March 2018 advising no objection provided the NSW Aboriginal Land Council and the Local Aboriginal Land Council have been notified of the proposal and objection process.
  - (l) Letter from Council (comprising three paragraphs) dated 21 March 2018 advising that they do not support the Applications as Council is currently assessing D/2018/139, with Council considering the liquor licence Applications as “premature”.
  - (m) Letter from Council (comprising two paragraphs) dated 23 May 2018 advising that they have no matters of concern, that D/2018/139 was approved on 9 May 2018 for use as a new licensed restaurant and bar, and outlining the hours of operation (including the 1-year trial period of hours between 1:00 am and 2:00 am).
  - (n) Letter from Family and Community Services (“FACS”) (comprising two paragraphs) dated 23 March 2018 advising that FACS do not have a response and will not be providing input.
  - (o) Letter from Roads and Maritime Services (“RMS”) (comprising seven paragraphs) dated 4 April 2018 advising that during 2016 there were 17 alcohol-related crashes resulting in 18 casualties in the City of Sydney local government area (“Sydney LGA”). RMS makes recommendations relating to the installation of physical barriers, improved lighting, attendance at the LGA’s liquor accord and the licensee providing access to local public transport information and taxi services.
  - (p) Letter from St Andrew’s Cathedral School (comprising two paragraphs) dated 6 April 2018 advising no objection but noting that the school has a student community of some 1,300 members and that the school remains concerned as to the number of licensed venues in close proximity of the school.
  - (q) Proposed menu.
4. Letter from Council dated 17 May 2018 enclosing a copy of D/2018/139 issued by Council on 9 May 2018 for “Change of use of Shop 48 on Level 1 of the QVB for a new licensed restaurant and bar and associated internal alterations”.
  5. Email from Council dated 18 June 2018 attaching a letter from Council (comprising two paragraphs) dated 13 June 2018 advising that Council has no matters of concern, that D/2018/139 was approved on 9 May 2018 for use as a new licensed restaurant and bar, and outlining the hours of operation (including the 1-year trial period of hours between 1:00 am and 2:00 am).
  6. Email correspondence between licensing staff and Council between 4 July 2018 and 10 July 2018 in which Council clarifies that the permitted patron capacity is 140 with an additional 26 staff – totalling 166 persons. Attached is a copy of the Security and Plan of Management (incorporating the House Policy) prepared by Back Schwartz Vaughan dated 19 February 2018.
  7. Email from the Applicant dated 25 July 2018, responding to an email from licensing staff dated 13 July 2018 in which the Applicant consents to a number of proposed conditions and attaches the following documents:
    - (a) Certificate of advertising for the on-premises liquor licence with an ETA and primary service authorisation (“PSA”) signed by the Applicant and dated 25 July 2018.
    - (b) Updated Security and Plan of Management (incorporating the House Policy).
    - (c) Plan/diagram of the Premises highlighting the licensed area in red, the area to be covered by the ETA in blue and the area covered by the PSA in green.
  8. Email from the Applicant to licensing staff dated 31 July 2018 attaching a copy of National Police Certificate No. NCHRC-2018-63377 issued by NSW Police on 25 July 2018 indicating that the Applicant has no disclosable court outcomes or outstanding matters.
  9. An 8-page letter from Leading Senior Constable Mick Stepanian of the Sydney City Police Area Command of NSW Police (“Police”) dated 1 August 2018, sent via email to LGNSW on 3 August 2018. After discussing the Application, the location of the Premises, saturation of licensed premises, crime data and the association between alcohol outlet density and

assaults on and around licensed premises, Police object to the Applications but request that if the Applications are approved, that conditions be imposed relating to: CCTV; membership of the liquor accord; crime scene preservation; operating the business in accordance with a plan of management; the Premises not being themed or operated as a nightclub; keeping on the Premises and making available development consents, registers and plan of management; ceasing the sale/supply of liquor 15 minutes prior to the cessation of the respective hours of operation of the specified indoor seating areas; and not selling/supplying at any time shots or shooters, drinks containing more than 50% spirits or liqueur, doubles (more than 30mls of spirits or liqueur) and drinks greater than 1.6 standard drinks.

10. Licence density calculations performed by licensing staff on the basis of LGNSW licensed premises information as at 1 August 2018 and population data from the Australian Bureau of Statistics (“ABS”) 2016 Census.
11. LGNSW licensed premises records for the suburb of Sydney, sourced by licensing staff on 1 August 2018.
12. Email from the Applicant dated 17 August 2018, responding to an email from licensing staff dated 3 August 2018, and attaching a six-page letter dated 17 August 2018 responding to the Police submission and providing an extract from the *City of Sydney Late-night Trading DCP Review: Community Engagement Summary Report*.
13. Email from the Applicant dated 27 August 2018, responding to an email from licensing staff dated 24 August 2018, and attaching an amended Security and Plan of Management (incorporating the House Policy) prepared by Trippas White Group on behalf of the Applicant and dated February 2018. This document also includes a copy of the Checklist for the City of Sydney late night trading premises Development Control Plan 2007, to assist Council in determining compliance with the Plan of Management requirements.
14. Bureau of Crime Statistics and Research (“BOCSAR”) crime hotspot maps for the suburb of Sydney between April 2017 and March 2018 recording concentrations of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property events, sourced by licensing staff on 21 August 2018.
15. Google geographical maps depicting the location of the Premises, sourced by licensing staff on 21 August 2018 and Google street images depicting the street view of the QVB building, sourced by licensing staff on 21 August 2018.
16. BOCSAR crime data for the year to March 2018 for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) in Sydney, Sydney LGA and NSW.
17. BOCSAR crime data for calendar year 2017 for the proportion of incidents by offence type, day of week and time of day for Sydney LGA and NSW, sourced by licensing staff on 21 August 2018. BOCSAR 2017 crime data for Sydney and NSW for the number and proportion of selected offences flagged as alcohol related by NSW Police, sourced by licensing staff on 21 August 2018.
18. Socio-Economic Indexes For Areas data on the basis of the 2016 ABS Census data for the suburb of Sydney and the Sydney LGA, sourced by licensing staff on 21 August 2018.
19. NSW Department of Health *HealthStats* data for the Sydney LGA for alcohol attributable deaths (between 2012 and 2013) and hospitalisations (between 2013 and 2015).

## Schedule 2

### Legislative provisions

#### Objects of the Act

1. The objects of the *Liquor Act 2007* (NSW) (“Act”), as set out in section 3(1) of the Act, are 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; to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimum formality and technicality; and to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
2. In the pursuit of these objectives, section 3(2) of the Act requires the Independent Liquor and Gaming Authority (“Authority”) to have due regard to the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour); the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor; and the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

#### Trading hours and 6-hour closure period

3. Section 12 of the Act prescribes the standard trading period for liquor licences. Additionally, section 11A imposes a condition upon licences that fall within the scope of that section, 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

4. Section 40 of the Act and relevant provisions in the Regulation prescribe the minimum procedural requirements for making a valid application for a liquor licence.
5. Section 51 of the Act and relevant provisions in the Regulation prescribe the minimum procedural requirements for making a valid application for a licence-related authorisation.

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

6. Section 51(3) of the Act provides that, in determining an application for an authorisation, the Authority has the same powers in relation to the application as it has in relation to an application for a licence.
7. Section 45(3) 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 or activity 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.
8. Pursuant to section 49(8) of the Act, the Authority must not grant an extended trading authorisation (“ETA”) in respect of licensed premises unless the Authority is satisfied that:
  - (a) practices are in place, and will remain in place, at the licensed premises that ensure as far as reasonably practicable that liquor is sold, supplied or served responsibly on

- the premises and that all reasonable steps are taken to prevent intoxication on the premises, and
- (b) the extended trading period will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the licensed premises.

#### Community impact statement

9. Sections 48(2) and (3) of the Act require that a “relevant application” (which includes an application for an ETA in relation to an on-premises licence that results in trading between midnight and 5:00 am) must be accompanied by a community impact statement (“CIS”) that is prepared in accordance with the relevant requirements specified in the Act and *Liquor Regulation 2018* (NSW) (“Regulation”).
10. Section 48(5) of the Act provides that the Authority may only grant an application to which section 48 applies 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 the Authority becomes aware of during the application process.

#### Provisions specific to an ETA and PSA

11. The power to grant an ETA is provided by section 49(2) of the Act, by which the Authority may authorise a licensee to sell or supply liquor, for consumption on the licensed premises only, during any of the following periods:
- (a) in the case of a hotel licence—a specified period between midnight (other than midnight on a Sunday) and 5 am on any day of the week (other than a Monday),
  - (b) in the case of a relevant licence other than a hotel licence—a specified period between midnight and 5 am on any day of the week,
  - (c) in any case—a specified period between 5 am and 10 am on a Sunday,
  - (d) in any case—a specified period between 10 pm and midnight on a Sunday.
12. The power to grant a primary service authorisation is provided in section 24(3) of the Act, which permits the Authority to endorse a licence with an authorisation that allows liquor to be sold or supplied for consumption on the licensed premises otherwise than with, or ancillary to, the other product or service referred to in that subsection. In the case of a licensed restaurant, this would enable the sale or supply of liquor to individual patrons with or without a meal, subject to other legislative requirements with respect to observance of the primary purpose of the business.

#### Provisions specific to an on-premises licence

13. Further legislative provisions that are specific to an on-premises licence type are set out in sections 21 to 28 of the Act and in the Regulation.