



Mr Grant Cusack  
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09 February 2017

Dear Mr Cusack,

**APPLICATION NO:** 1-4981530197

**APPLICATION FOR:** New Hotel Licence – General Bar  
(Application) with a Minors Area  
Authorisation (MAA Application) and an  
Extended Trading Authorisation (ETA  
Application)

**PROPOSED TRADING HOURS:** Internal Area: Monday to Saturday  
09:00AM – 01:00AM, Sunday 09:00AM –  
12:00AM  
External Area: Monday to Sunday 09:00AM  
– 10:00PM

**APPLICANT:** DIXON HOTELS OPERATIONS PTY LTD

**PROPOSED LICENSED PREMISES  
NAME:** 12-Micron

**PREMISES LOCATION:** Tower T1 15, 100 Barangaroo Avenue,  
BARANGAROO SOUTH, NSW 2000  
(Premises)

**ISSUE:** Whether to grant an application for a new  
hotel licence (general bar subcategory) with  
a minors area authorisation and an  
extended trading authorisation

**LEGISLATION** Sections 3, 11A, 14, 15, 16, 40, 45, 48, 49,  
121 of the *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION  
FOR NEW HOTEL LICENCE (GENERAL BAR) WITH MINORS AREA  
AUTHORISATION AND EXTENDED TRADING AUTHORISATION – 12-MICRON**

The Independent Liquor and Gaming Authority considered application number 1-4981530197 (Application) at its meeting on 25 January 2017 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application for a new hotel (general bar) licence, subject to the following conditions:

## TRADING HOURS

1. Trading Hours:
  - Consumption on premises - indoors**
    - Monday to Saturday 09:00AM – 01:00AM
    - Sunday 09:00AM – 12:00AM
  - Consumption on premises - outdoors**
    - Monday to Sunday 09:00AM – 10:00PM
3. 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 4:00 AM and 10:00 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.
4. **Consumption on premises**
  - Good Friday 12:00 noon – 10:00PM
  - Christmas Day 12:00 noon – 10:00PM (liquor can only be served with or ancillary to a meal in 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 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.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. 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, the application and other information submitted in the process of obtaining this licence.
7. Minors area authorisation: whole of premises.
8. The premises are only permitted to trade the hours approved by the local consent authority for the trial period whilst it remains in force.
9. The premises must at all times be operated in accordance with the Plan of Management dated September 2016, as may be varied from time to time after consultation with the Local Area Commander of NSW Police.
10. No drinks commonly referred to as shots, shooters, slammers, and/or bombs are to be sold or supplied after 10:00 PM.
11. A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on

the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or LGNSW Officers.

12. There is to be no sale or supply of liquor prior to 10:00 AM on any day.

**CCTV footage on premises:**

13. The Licensee shall maintain a CCTV system that meets the following minimum requirements:
- (i) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
    - a. the person represents not less than 100% of the screen height, and
    - b. there is an unobstructed view of the person's face.
  - (ii) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
    - a. all other public entrances and exits, whether or not in use at the time,
    - b. staircases,
    - c. all portions of the floor area accessible to the public where entertainment is provided,
    - d. toilet external entrances,
    - e. all public accessible areas within the premise excluding toilets and accommodation rooms,
    - f. the footpath area directly adjacent to the premises, and
    - g. courtyard and smoking areas.
  - (iii) The CCTV recordings of the cameras referred to in sub condition (ii) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
    - a. the person represents not less than 50% of screen height, and
    - b. there is an unobstructed view of the person's face.
  - (iv) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
  - (v) Camera recordings must meet the standards set in sub condition (i) and (iii) at all times, either by way of camera positioning, camera shades or other environmental factors.
  - (vi) Recordings must:
    - a. be in digital format,
    - b. record at a minimum of ten (10) frames per second, and

c. commence one hour prior to opening, and operate continuously until at least one hour after closing.

- (vii) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
- (viii) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.
- (ix) When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
- (x) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, LGNSW Officers or other regulatory officers upon request.
- (xi) The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, LGNSW Officers or other regulatory officers.
- (xii) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander of NSW Police or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

### **Signage**

14. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principal entry to the premises; in such a manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

*“Please leave quickly and quietly and have regard to our neighbours”*

### **Neighbourhood Amenity**

15. The management of the licensed business on the premises:
- (i) Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such a manner that pedestrian movement is obstructed or hindered.
  - (ii) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by City of Sydney Council, management is to employ private security staff to ensure that this condition is complied with.
  - (iii) Shall record in a register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.

- (iv) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the register.
- (v) An adequate queuing system for patrons must be implemented at the main entrance of the licensed restaurant so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.

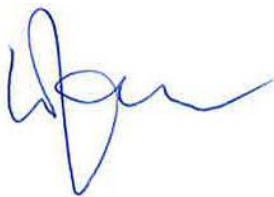
### **Crime Scene Preservation**

16. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
- (i) Take all practical steps to preserve and keep intact the area where the act of violence occurred
  - (ii) Retain all materials and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police
  - (iii) Make direct and personal contact with the Local Area Commander of NSW Police or his/her delegate and advise the Commander or delegate of the incident and
  - (iv) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

The Authority has also decided pursuant to section 49(2) of the Act, to approve a related application for an extended trading authorisation and to also approve, pursuant to section 121 of the Act, a minors area authorisation that extends to the entirety of the Premises.

Enclosed is a statement of reasons for the grant of the Application and the extended trading authorisation. If you have any enquires about this letter, please contact the case manager via email to [Santina.causa@justice.nsw.gov.au](mailto:Santina.causa@justice.nsw.gov.au)

Yours faithfully



Philip Crawford

**Chairperson**

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

## **STATEMENT OF REASONS**

## **Material Before The Authority**

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high-volume jurisdiction.
2. In making this decision, the Authority has considered the application for a new hotel licence – general bar (Application) which was accompanied by an application for a Minors Area Authorisation (MAA Application), an application for an Extended Trading Authorisation (ETA Application), a community impact statement (CIS) provided in respect of the Application and ETA Application and all submissions received in relation to the applications before the Authority. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-economic data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

## **Summary of Further Submissions**

3. Report to the Authority dated 15 December 2016 from the Compliance Branch of LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment of the Application.
4. Submission from the Applicant's solicitor Mr Grant Cusack of Hatzis Cusack Lawyers dated 19 December 2016. This includes a Certificate of Advertising dated 19 December 2016, contact details for the Applicant Dixon Hotels Operations Pty Ltd, the Applicant's amended Plan of Management for the proposed licensed business dated December 2016, a submission from Aboriginal Affairs dated 7 September 2016 advising no objection to the applications, a submission from Family and Community Services (FACS) dated 8 September 2016 advising that the agency does not propose to make a submission on the Application and a submission from City of Sydney Council (Council) dated 9 September 2016 advising that Council raises no matters of concern.
5. Mr Cusack advises that the Applicant consented to the conditions proposed by LGNSW other than the condition which provides that no drinks commonly referred to as shots, shooters, slammers and/or bombs are to be sold or supplied at any time. The Plan of Management has been amended to provide that no shots, shooters, slammers and/or bombs are to provided from 10:00pm each day.
6. Mr Cusack also provides comment on the proposal, location of the proposed licensed premises, an overview of Barangaroo, on the operator - Dixon Hospitality, and about the facilities and manner of operation, the proposed trading hours and 6-

hour closure period, the positive benefits granting the application will result in, together with the licence density and SEIFA and demographic characteristics.

7. Mr Cusack notes that New South Wales Police (Police) did not object to the granting of the Application, that Police considered the Plan of Management adequate for the business and that Police found no adverse incidents recorded against the corporate applicant. While most of the conditions proposed by police were consented to, Mr Cusack objects to a condition proposed by Police requiring signage indicating patron capacity and another condition that would require patrons to be seated while consuming liquor. Mr Cusack proposes a different wording to a further Police condition that would require that the Premises be operated at all times in accordance with the Plan of Management filed with the Application and opposes another condition preventing the service of shots, shooters, doubles, or any drinks containing more than 50% spirit or liqueur. The Applicant also opposes a condition that the sale or supply of liquor cease 15 minutes before the close of trading.

### **Legislative Framework**

8. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the Act and the *Liquor Regulation 2008* (Liquor Regulation). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
9. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
  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 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.*
10. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence,

authorisation or approval being considered will not be detrimental to the local or broader community.

11. An application for a new hotel licence (general bar) and an application for an extended trading authorisation are “relevant applications” within the meaning of section 48(2) of the Act for which a CIS is required.
12. Section 48(5) of the Act requires that the Authority must not grant the Application (or the ETA Application) unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
13. In the absence of a statutory definition of “local community” and for the sake of regulatory certainty and consistency with the Authority’s long established practice, the Authority finds the relevant local community to comprise the State suburb in which the actual premises is situated. This approach is preferable to a purported local community submitted by the Applicant that would incorporate [which suburbs or area did the Applicant propose?]that would, in the Authority’s view, tend to lose any genuinely “local” focus when assessing overall social impact.
14. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Barangaroo while the “broader community” comprises the responsible local government area (LGA) - the City of Sydney.

### **Analysis of Relevant Facts**

15. The Authority is satisfied, on the basis of the Application material and CIS before the Authority, that for the purposes of section 40 of the Act the Application has been validly made and minimum procedural requirements with regard to the Application, ETA Application, CIS and community consultation have been satisfied.
16. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a late trading hotel licence-general bar venue of the kind proposed in the Application material. The Authority makes this finding on the basis that no issues of concern were raised regarding the probity of the Application following consultation with relevant enforcement agencies, including Police and LGNSW.
17. The Authority is further satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the comprehensive *Plan of Management* dated September 2016, provided by the Applicant.
18. The Authority is also satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in force to permit use of the Premises as a



hotel-general bar, on the basis of Development Application (DA) D/2016/741 issued by Council dated 30 August 2016.

### **Social Impact – Positive Benefits**

19. The Authority is satisfied that the Applicant has demonstrated a substantial positive case for a new hotel licence-general bar premises located within the emerging commercial precinct of Barangaroo. This finding is made on the basis of the information provided about the proposal in the Application and ETA Application forms, the CIS and additional submissions made by the Applicant.
20. The Authority is satisfied, on the basis of this material, that granting the Application with the ETA Application will provide substantial benefits to the local and broader community who wish to participate in licensed entertainment and hospitality services at a new and modern venue. Given that the local community is part of a new development area, the Authority is satisfied that granting the Application will provide residents of this new community with a range of services that would otherwise not be available within the suburb.
21. The Authority is satisfied, on the basis of the information provided in the CIS and further submissions by the Applicant, that the new late trading hotel general bar will provide some measure of convenience to residents of the suburb of Barangaroo by providing an avenue for residents to purchase liquor and to utilise an indoor/outdoor dining facility.
22. The Authority is satisfied, on the basis of the information before it and noting an absence of any objection from local residents, businesses or law enforcement, that the new enterprise may be said to serve the “expectations, needs and aspirations” of the communities, which is a statutory object of section 3(1)(a) of the Act.
23. The Applicant has specified that part of the attraction of the Premises will be quality meals inspired by the Australian elements. The restaurant will showcase the very best of Australia’s earth, ocean, land and air providing a refined yet accessible modern cuisine.
24. The location of the venue in a high-profile harbour side development satisfies the Authority that this new general bar will likely service many visitors to the Sydney CBD in addition to city workers and residents in this new harbour-side commercial and residential precinct.
25. The Authority is satisfied, based on the CIS and additional submissions from the Applicant, that the Applicant has demonstrated that granting the extended trading authorisation will provide some additional benefit, by way of convenience to members of the local and broader community who wish to enjoy the facilities of the general bar and restaurant beyond the current closing time of midnight.
26. While the Authority is satisfied, based on LGNSW licence density data, that there are some 142 hotel licences trading within the nearby State suburb of Sydney, the Authority is nevertheless satisfied, on the basis of the Application and CIS that

granting the Application and ETA Application will, to a significant extent, diversify the range of late trading licensed entertainment options available within the local community.

27. The Authority is satisfied that granting the Application will reasonably develop, in the public interest, the liquor industry in respect of the local community in furtherance of the statutory object in section 3(1)(b) of the Act. It will also advance the responsible development of related industries of tourism and hospitality in the local and broader community for the purposes of section 3(1)(c) of the Act.
28. The Authority notes the Premises is situated within the CBD Sydney Entertainment Precinct but is exempt from the licence application freeze pursuant to clause 79(2) of the Liquor Regulation, which provides that Division 1A of Part 4 of the Act does not apply to or in respect of CBD subject premises that are tourist accommodation establishments (other than a club) or a licensed restaurant.

### **Social Impact – Negative Impacts**

29. The Application proposes a new hotel licensed venue with a maximum patron capacity of 480 persons. In relative terms, it is a medium scale licensed business. While its primary purpose as a hotel is the sale or supply of liquor by retail, making it a relatively higher impact licence type, the Applicant contends, and the Authority accepts, on the information provided in the Application and submissions, that there will be an emphasis on the provision of quality meals throughout the trading hours. The restaurant will provide a refined yet accessible modern cuisine and also a speciality dessert kitchen.
30. The Authority is further satisfied, on the information provided in the Application and CIS that Barangaroo is a newly developed area within the Sydney LGA. On the basis of available LGNSW licence records, the Authority is satisfied that there are few hotel and other liquor licences at the local community level. While there are many licensed premises in the Sydney LGA, that broader community still has higher licence density rates (per 100,000 persons of population) than New South Wales as a whole for *full hotel licences, packaged liquor licences and registered club licences*.
31. LGNSW licensing records indicate that liquor licence density *per se* is not a particular concern for the local community. The low (albeit increasing) number of licensed premises in the local community, combined with the approved trading hours, is a factor that reduces the scope that may otherwise exist for this new licence to encourage patron migration among venues within the local community, although migration from elsewhere in the Sydney CBD remains a likely prospect for a late trading venue in this location.
32. When considering adverse impacts there is cause for concern arising from the BOCSAR crime data for 2014-2015 which indicates that the Sydney LGA has significantly higher rates per 100,000 persons than NSW as a whole for incidents of *domestic violence related assault, non-domestic violence related assault, offensive*

*behaviour and assault police.* There is further cause for concern arising from the information provided by the Sydney Central Local Area Command of NSW Police, accepted by the Authority, that between September 2015 and August 2016 49% of all assaults recorded within this Command area were noted as “alcohol related”. This is a function of the great many licensed premises servicing many residents, visitors and City workers alike, but the data necessitates careful consideration of overall social impact and requires, in the Authority’s view enforceable harm mitigation measures that go above and beyond the minimum requirements of the Act to adapt to the increased environmental risk.

33. Nevertheless, the likely contribution made by this new business to the broader community will likely be more diffuse at the level of the Sydney City LGA as a whole by reason of the high density and variety of other licensed venues across the Sydney LGA. The Authority considers it more likely that this venue will directly impact the local community of Barangaroo, for which very limited data is available given the recent development of this new precinct.
34. Notably, the prevailing challenging crime data for the Sydney LGA has not translated into such concern from the local authorities as to warrant objection to the licence. Police have sought the imposition of substantial licence conditions to manage the risks of another hotel licensed venue operating in this part of the Sydney LGA. Several enforceable licence conditions, including an enforceable Plan of Management, have been accepted by the Applicant and will be imposed upon the licence. These measures go above and beyond the minimum requirements of the legislation and have been given some weight.
35. On the basis of the ABS Socio-Economic Indexes For Areas (SEIFA) data, the broader community in the Sydney LGA ranked in the 9<sup>th</sup> decile on the Index of Relative Socio-Economic Advantage and Disadvantage (IRSAD), compared with other local government areas in the State (with a decile ranking of 10 being the most advantaged). The local community in Barangaroo is at present assessed as very disadvantaged, ranking in the 1<sup>st</sup> decile on the IRSAD compared to other State suburbs in NSW (with a decile ranking of 10 being the most advantaged). However, the Authority notes that the population count for Barangaroo at the time of the 2011 Census was 109, a very low figure. The Authority is satisfied that this socio demographic data is unlikely to reflect the reality of the post-development local community in Barangaroo given the SEIFA data for the neighbouring State suburb of Sydney and the City of Sydney LGA and for this reason has been given little weight.
36. The Authority has also had regard to the various operational measures detailed in the *Plan of Management* dated September 2016, as amended December 2016, which form part of the Application. The Authority is satisfied, on the basis of this document, that the Applicant has implemented comprehensive and well-developed harm minimisation measures to ensure that alcohol will be served responsibly at the Premises. In this case, the *Plan of Management* will not only serve as a

business planning resource, but will be enforceable as a condition on the liquor licence and increase the regulatory burden upon the licensee to ensure that the business observes these harm minimisation measures.

37. In assessing the scope for negative social impact, the Authority has given weight to the numerous enforceable conditions to which this licence will be subject, including substantial harm reduction measures regarding liquor service, security, residential amenity and the mode of business that go well beyond the minimum requirements of the legislation. The Authority is satisfied that these measures are likely to reduce the impact that a late trading business of this licence type may otherwise have upon the local and broader community.

### **Conclusion**

38. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application and the associated applications for the ETA and MAA were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and FACS and all other parties required to be consulted under the legislation.
39. Having considered together the substantial positive benefits and negative impacts that the Authority are satisfied are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
40. The Authority is also satisfied, on the basis of the rationale for the MAA Application stated in the Application and CIS (noting the likelihood of the premises servicing tourism, the proposed dining facilities and the legislative restrictions on gambling in general bar hotel premises) that granting the MAA with respect to the entire Premises is in the public interest.
41. The Application is granted pursuant to section 45 of the Act. The ETA Application is granted pursuant to section 49(2) of the Act and the MAA is granted pursuant to section 121 of the Act.
42. In making these decisions decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including 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.

Decision Date: 25 January 2017



Philip Crawford

**Chairperson**

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

**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 in the liquor and gaming website <https://www.liquorandgaming.justice.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

### Material Before The Authority

1. Submission from RMS dated 10 June 2016 advising that during 2014 there were 24 alcohol-related crashes resulting in 13 casualties within the City of Sydney LGA. RMS do not object to the Application but recommend that the licensee maintain awareness of alcohol-related issues by attending the liquor accord and that public education material be supported.
2. Submission from the Department of Community Services dated 16 June 2016 advising the department would not be providing input on the Application.
3. Submission from Aboriginal Affairs dated 23 June 2016 advising the department would not be providing input on the Application.
4. Submission from the Applicant's solicitor Mr Grant Cusack of Hatzis Cusack Lawyers dated 5 September 2016.
5. Submission from Mr Christopher Carpenter, Council, dated 9 September 2016, advising that Council raises no matters of concern with the Application. Development application D/2016/741 was approved on 30 August 2016 permitting the fit out of a new commercial premise to operate as a pub and licensed restaurant. The hours are restricted, for planning purposes, to between 9.00am and 11.00pm from Monday to Sunday indoors and between 9.00am and 8.00pm from Monday to Sunday outdoors, save for that the Applicant may operate indoors between 9:00am and 1:00am and between 9:00am and 10:00pm outdoors for a trial period of 1 year from the date of Occupation Certificate.
6. CIS dated 2 September 2016 with supporting material, lodged with the Application on 5 October 2016. Briefly, the Applicant makes the following contentions on the overall social impact of granting the Application:
  - (a) The local community will have available to them a stylish contemporary bar and restaurant with dessert kitchen.
  - (b) The local community will have available a venue providing a range of meals and other food not currently provided at any other premises in the area.
  - (c) The 6-hour closure period sought is the standard period between 4:00am and 10:00am each day. The hotel general bar will be open for trade from 9:00am each day of the week.
  - (d) Granting the Application will provide the following public interest benefits:
    - i) The local community will have available to them a unique licensed facility offering a range of hospitality services including a bar and dining facilities providing a menu and style of operation that the Applicant contends is presently not available within Barangaroo or the local community.
    - ii) The proposed facility will meet the needs, demands and expectations of employees and visitors of Barangaroo.

- iii) The granting of the Application will mean that residents of Barangaroo and other persons will not need to make a special trip outside of Barangaroo to attend a venue of this calibre operating in a similar manner to that proposed.
7. Submission from Sergeant Maryanne Stanford, Sydney City Local Area Command (LAC) of Police dated 20 September 2016. Police advise that they do not do not object to the Application and that their Computerised Operational Policing System (COPS) database discloses no serious adverse incidents involving the Applicant contact, Rachael CHECINSKI, in the past 10 years.
8. Police note that there is a high density of licensed premises in this area of the City such as at King Street Wharf and Cockle Bay Wharf. Police note that the Premises is not located within the Sydney CBD Entertainment Precinct as defined by Schedule 1A of the *Liquor Regulation 2008* but in “close proximity” to that precinct. Police provide alcohol related crime maps for the Sydney LGA for July 2015 to June 2016, noting a higher rate of assaults occurring in the nearby suburb of The Rocks. Police submit that data from the Alcohol Related Crime Information Exchange (ARCIE) database for the Sydney Central Local Area Command indicates that during the period from September 2015 to August 2016, 49% of all recorded assaults and 36% of all recorded domestic assaults in this area were recorded as alcohol related. Police also provide a summary of a 2011 BOCSAR study “The Association Between Outlet Density and Assaults On and Around Licensed Premises” which found that assaults in the Sydney LGA were more likely to occur around licensed premises than elsewhere in that local government area. Finally, submit a list of conditions proposed by Police to be imposed upon the licence should the Application be granted.
9. Hotel Licence Application Form lodged on 5 October 2016 together with MAA Application Form and an ETA Application Form. Material accompanying the applications included a Plan of Management dated September 2016 (an amended Plan was subsequently submitted dated December 2016); diagram of the Premises; Australian Securities and Investments Commission (ASIC) Organisation Extract for Dixon Hotels Operations Pty Ltd as at 21 June 2016; ASIC Business Name Summary for 12-MICRON as at 2 September 2016; DA number D/2016/741 dated 30 August 2016; CIS dated 2 September 2016 and Additional Information – Application and Community Impact Statement.
10. Submission from the Applicant’s solicitor Mr Grant Cusack of Hatzis Cusack Lawyers dated 19 December 2016 containing additional information relating to the Application and objecting to the imposition of certain conditions on the Licence as proposed by Police.
11. BOCSAR Crime Maps based upon data from October 2015 to September 2016 detailing hotspots for the concentration of offences near the location of the Premises which is publically available on the BOCSAR website. These maps

identify the boundaries of the Barangaroo Precinct. This data indicates that the Barangaroo Precinct contains:

- (a) *Low and medium density hotspots* for incidents of *domestic assault*
  - (b) *Low, medium and high density hotspots* for incidents of *non-domestic assault*
  - (c) *Low, medium and high density hotspots* for incidents of *malicious damage to property*.
12. Liquor licence density data provided by LGNSW (as at 1 November 2016) indicates that there are currently:
- (a) 3 hotel licences in Barangaroo.
  - (b) 142 hotel licences in Sydney (suburb).
  - (c) 346 hotel licences in Sydney LGA.
  - (d) 2133 hotel licences in NSW.
13. Based on 2011 Census data and LGNSW data as of 5 January 2017, the density of liquor licences per 100,000 of population is as follows:
- |                   |        |
|-------------------|--------|
| (a) NSW           | 30.83  |
| (b) Sydney Suburb | 992.45 |
| (c) Sydney LGA    | 204.12 |
14. Report on *NSW Recorded Crime Statistics July 2010 – June 2015* obtained from published BOCSAR sources, for July 2014 – June 2015. This data indicates that:
- (a) the rate of *alcohol related domestic violence related assault* incidents across the Sydney LGA was **213.3** per 100,000 persons, well above the New South Wales rate of **122.6** per 100,000 persons;
  - (b) the rate of *alcohol related non-domestic violence related assault* incidents across the Sydney LGA was **796.6** per 100,000 persons, significantly above the State-wide rate of **144** per 100,000 persons;
  - (c) the rate of *alcohol related offensive behaviour* offences recorded across the Sydney LGA was **525.4** per 100,000 persons, significantly above the State-wide rate of **88.2** per 100,000 persons;
  - (d) the rate of *alcohol related assault Police* incidents recorded across the Sydney LGA was **85.2** per 100,000 persons, well above the State-wide rate of **18.2** per 100,000 persons.
15. ABS SEIFA data sourced from the 2011 Census for the state suburb of Barangaroo and the Sydney LGA.