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14 October 2016

Dear Mr Schwartz

**APPLICATION NO:** 1-4271576405  
1-4271576122  
1-4019615898  
1-4271576178

**APPLICATION FOR:** Extended Trading Authorisation  
Change Liquor Licence Condition  
Change Business Type  
Change Boundaries of Licensed Premises

**PROPOSED TRADING HOURS:** Monday to Sunday 8:00AM – 2:00AM

**APPLICANT:** Ms Lynell Denese Peck

**LICENSED PREMISES NAME:** International Convention Centre, Sydney  
(formerly Sydney Convention and Exhibition Centre)

**PREMISES LOCATION:** Darling Drive  
Sydney NSW 2000 (Premises)

**ISSUE:** Whether to grant or refuse the following four applications: extended trading authorisation, change boundaries of licensed premises, change licence condition and change business type.

**LEGISLATION** Sections 3, 21, 22, 23, 24, 25, 26, 27, 28, 45, 48, 49, 51, 94 *Liquor Act 2007*.

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR EXTENDED TRADING AUTHORISATION, CHANGE BOUNDARIES OF LICENSED PREMISES, CHANGE BUSINESS TYPE AND CHANGE LICENCE CONDITION – INTERNATIONAL CONVENTION CENTRE, SYDNEY**

On 6 April 2016 the Applicant lodged several applications with the Independent Liquor and Gaming Authority in respect of an existing on-premises licence number LIQO624001487, which was granted prior to the *Liquor Act 2007* (Act) and remains in effect.

The licence was granted with respect to the former Sydney Convention and Exhibition Centre which has now been demolished and replaced with the Sydney International Convention Centre (ICC).

The Applicant seeks a new extended trading authorisation under section 49(2) of the Act (Application) in respect of areas of the ICC that are not covered by the existing licence. Related to this Application are applications to change the boundaries of the relevant licensed area for the new Premises, vary the designated primary purpose or activity for the licence and vary the conditions attaching to the licence (Related Applications).

The Authority considered all of the applications at its board meeting on 17 August 2016 and decided to **grant** the extended trading authorisation Application pursuant to section 49(2) of the Act. The Authority also decided to:

- **Change** the boundaries of the licensed Premises pursuant to section 94 of the Act;
- **Change** the designated business activities of the licence, pursuant to section 23 of the Act, to also include "Theatre/Public Entertainment Venue" and "Public Arena and Events Venue";
- **Change** two of the existing licence conditions pursuant to section 53 of the Act but refused to grant the new condition on the licence which would permit the exercise of a Limited Licence – Trade Fair on a designated part of the Premises as proposed by the Applicant.

Informal advice on the outcome of the applications was provided by licensing staff on 9 September 2016. The attached statement of reasons is prepared in respect of the decision on the (extended trading) Application while providing a formal record of these decisions and the resulting conditions imposed upon the licence, as follows:

1. **Trading Hours**

Consumption on premises  
Monday to Sunday 8:00AM – 2:00AM.

2. 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 2:00AM and 8:00AM 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.

3. **Consumption on premises – Bar and Public Hall**

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 5:00AM on Good Friday and Christmas Day.

4. **Catering service: Consumption on premises**

Good Friday	Normal trading
Christmas Day	Normal trading
December 31 <sup>st</sup>	Normal opening time until 2:00AM on New Year's Day.

5. Sections 22(1) and (2) of the *Liquor Act* (relating to the primary purpose of the business or activity carried out on the premises) do not apply to the premises to which this licence relates.

6. The licence applies to the areas as highlighted in pink on the plans held by the Independent Liquor and Gaming Authority dated 1 August 2016.
7. Except for the bar and alfresco area (also known as “the Laneway”) located on the northern side of the Theatre and the Event Deck Bar (Level 4 of the Exhibition space), liquor can only be sold to persons attending the licensed premises for the purpose of exhibitions, conventions, functions, occasions or events, whether by invitation, payment of an entry fee or otherwise. Food is to be available at all times whilst ever liquor is sold or supplied. Liquor may only be sold or supplied for consumption on the licensed premises.
8. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, Application and other information submitted in the process of obtaining the extended trading authorisation.
9. The licensee must conduct the licence in accordance with the Responsible Service of Alcohol House Policy Statement dated 30 May 2016 as may be varied from time to time after endorsement by the Local Area Commander.
10. The Laneway and Event Deck Bar are restricted to trade between 11:00am and 11:00pm. The Event Deck Bar may trade between 8:00am and 2:00am the following day only when holding pre-booked occasions, functions or events.

11. **CCTV footage on premises**

The licensee shall maintain a CCTV system that meets the following minimum requirements:

1. 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.
2. 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 publicly accessible areas within the premises excluding toilets and accommodation rooms,
3. The CCTV recordings of the cameras referred to in sub condition (2) 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.
4. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
5. Camera recordings must meet the standards set in sub conditions (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.
6. 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.
7. 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.
8. 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.

9. 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.
  10. Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, LGNSW Inspectors or other regulatory officers upon request.
  11. 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 Inspectors or other regulatory officers.
  12. 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 or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.
12. **Neighbourhood Amenity**
- a. The management of the premises:
    - i. Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such 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 Council, the Management is to deploy security staff to ensure, to the best of their ability, that this condition is complied with.
    - iii. Shall record in an electronic 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 electronic register.
  - b. An adequate queuing system for patrons must be implemented so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.
13. The licensee must join and be an active participant in the local liquor accord.
14. **Crime Scene Preservation**
- a. 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 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.
15. The premises are to be operated at all times in accordance with the ICC Operational Policies (the Liquor Act Plan, House Policy Statement and the Liquor Harm Minimisation Strategy) dated February 2016 as may be varied from time to time after consultation with the Local Area Commander.
16. A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required 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 New South Wales Authorised Officers.

17. The following drinks must not be sold or supplied on the licensed premises between midnight and 5:00am:
- a. Any drink (commonly referred to as a 'shot' or a 'shooter') that is designed to be consumed rapidly.
  - b. Any drink containing more than 50% spirit or liqueur.
  - c. Any premix drink beverage with an alcohol by volume content of more than 5%.
  - d. Any drink prepared on the premises that contains more than 30mL of spirits or liqueurs (e.g. 'doubles').
18. The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the permitted trading hours for the sale of liquor.

If you have any enquiries about this letter please contact the case manager, Ms Trudy Tafea via email to [trudy.tafea@ilga.nsw.gov.au](mailto:trudy.tafea@ilga.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 an extended trading authorisation filed on 6 April 2016 (Application), the accompanying applications to change a liquor licence condition, change the business type and change the boundaries of the licensed premises (Related Applications), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. 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-demographic data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and in some cases briefly summarised in the Schedule.
3. The Authority notes, on the basis of the information provided in the CIS, that the Sydney Convention and Exhibition Centre (SCEC) closed its doors at the end of 2013 for the International Convention Centre (ICC) to be constructed. The on-premises licence for the SCEC was capable of being exercised 24 hours per day, 7 days a week and was endorsed with an extended trading authorisation. The SCEC buildings no longer exist and the stated purpose of this Application is to correct “an irregularity that now exists with the footprint of the Existing ETA”.

### Summary of Further Submissions

4. Email from the Applicant dated 30 May 2016, responding to an email from licensing staff dated 24 May 2016. The Applicant provides a table responding to any outstanding matters raised by licensing staff and the new conditions sought by the Applicant.
5. Report to the Authority dated 7 June 2016 from the Compliance Branch of the Office of LGNSW, advising that the application to change licence conditions and change licence conditions was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment in relation to those applications or the ETA Application.
6. Submission from Leading Senior Constable Juan Maruri of Sydney City Licensing Unit of NSW Police (Police) dated 22 June 2016. In this 8-page submission Police note that the Applicant has held the licence since 17 December 2015 and the purpose of the Application is to accommodate the newly constructed venue.
7. Police submit that information held on the Alcohol Related Information Exchange (ARCIE) database confirm that the Applicant was appointed as approved manager for the Australian Turf Club Limited (liquor licence number LIQO600702607) from 15 July 2011 until 14 July 2015 and that the Computerised Operational Policing System (COPS) database records no adverse incidents against the Applicant.

8. Police advise that the Premises is not located within the Sydney CBD Entertainment Precinct as defined by section 116C of the Act and is therefore not subject to the Sydney CBD Plan of Management licensing regime.
9. Police submit that the Plan of Management provided by the Applicant is adequate for a venue of this size and style. Police contend, on the basis of ARCIE data for the Sydney City Local Area Command (LAC) between July 2015 and December 2015 furnished with the submission, that 47% of all assaults and 34% of all domestic violence incidents dealt with by this Command were alcohol related. This equates to 457 alcohol related assaults and 142 alcohol related domestic violence incidents during that period.
10. Police further contend, on the basis of data provided with this submission, that COPS data for alcohol related assault in the Command between July 2014 and June 2015 indicates that these incidents peak on Friday mornings from 12:00am to 2:00am and Saturday evenings from 10:00pm to 3:00am.
11. Police contend, on the basis of a BOCSAR crime map for non-domestic alcohol related assault between October 2014 to September 2015 for the Sydney Local Government Area (LGA) furnished with the submission, that a high concentration of those events occur within the neighbouring areas of The Rocks. Police contend that over the past two years, the rate of alcohol related assault within the State suburb of Sydney was 2348.3 incidents per 100,000 persons of residential population compared to 102.3 incidents per 100,000 persons for New South Wales as a whole.
12. Police further submit that the association between alcohol outlet density and violence is an issue for the Sydney City LAC and extract the findings of a study conducted in 2011 and discussed in a BOCSAR Crime and Justice Bulletin (Melissa Burgess and Steve Moffatt, 'The association between alcohol outlet density and assaults on and around licensed premises' (Crime and Justice Bulletin No 147, Bureau of Crime Statistics and Research, January 2011)).
13. Police submit that they do not object to the Application or the Related Applications but raise concerns as to the prevailing high level of violence experienced around late trading licensed premises in the area, the saturation of licensed premises in the area and the size of the Premises in question.
14. Police advise that upon consultation the Applicant has agreed to the imposition of a number of conditions on the existing licence for the purpose of public safety. Police have sought requirements as to CCTV; neighbourhood safety; participation in the local liquor accord; crime scene preservation; operation of the business on the Premises in accordance with the Plan of Management; ensuring that the level of social impact from the business is in accordance with the proposal in the Application and CIS; keeping certain regulatory documents on the Premises and making them available for inspection; restricting sales of certain alcoholic drinks between midnight and 5:00am and the cessation of the supply of liquor prior to the cessation of licensed trading for specified indoor seating areas.
15. In an 8-page submission from the Applicant dated 5 July 2016, the Applicant responds to the Police submission of 22 June 2016, contending, *inter alia*, that Police fail to acknowledge the "significant reduction" in licensed trading hours proposed by comparison to the existing licence; that there is no suggestion that the current licence caused any concerns when it last traded; that people will attend the ICC for a purpose that is unrelated to the sale of liquor and that the Darling Harbour Precinct is "consistently monitored".

16. The Applicant advises that it agreed to some of the Police conditions, but not others, providing a Table on the points of agreement.
17. The Applicant further discusses the conditions to be imposed upon the licence in emails dated 26 August 2016 and 6 September 2016. The latter email attached the Applicant's *Plan of Management* dated September 2016, a *Liquor Harm Minimisation Strategy* dated 4 September 2016 and a *Responsible Service of Alcohol House Policy* dated 4 September 2016.

## Legislative Framework

18. The legal requirements for making a valid ETA application are provided by section 51 of the *Liquor Act 2007* and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for an ETA is provided by section 49(2) of the Act.
19. 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.*
20. 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.
21. An application for an extended trading authorisation is a "relevant application" within the meaning of section 48(2) of the Act for which a CIS is required.
22. Section 48(5) of the Act requires that the Authority must not grant an 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".
23. 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 Sydney; while the "broader community" comprises the responsible local government area, the Sydney LGA.

## Analysis of Relevant Facts

24. The Authority is satisfied, on the basis of the Application and CIS material before the Authority that, for the purposes of section 51(2) of the Act, the Application has been



validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.

25. The Authority is satisfied, for the purposes of section 49(8) of the Act, that responsible service practices are in place and that the extended trading period will not result in frequent undue disturbance of the quiet and good order of the neighbourhood. This finding is made on the basis of the ICC Operational Policies documentation (the *Plan of Management, House Policy Statement* and the *Liquor Harm Minimisation Strategy*) dated September 2016 provided by the Applicant and the Applicant's submission that there is no evidence that the previous exercise of the licence generated disturbance.
26. The Authority notes section 51(3) of the Act, which provides that in determining an application for an authorisation, the Authority has the same powers in relation to the Application as the Authority has in relation to an application for a licence. To this end, the Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place, on the basis of development consent No. SSD-5752 dated 22 August 2013 issued by the NSW Government Department of Planning and Infrastructure for the development of the Sydney International Convention, Exhibition and Entertainment Precinct.

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

27. The Authority is satisfied, on the basis of the Application and CIS and noting that there is no evidence of opposition to the proposal, that granting the Application will facilitate the provision, during extended hours, of substantial benefits to members of the local and broader community utilising the exhibition, convention and theatre centre. In this respect, the additional convenience may be said to serve the "expectations, needs and aspirations of the community" in respect of the local community of Sydney, being an object of section 3(1)(a) of the Act.
28. The Authority is also satisfied, on the basis of the CIS and additional submissions provided by the Applicant, that the Premises will provide a world class art exhibition, convention and theatre space. In this sense, the Authority is satisfied that granting this Application will ensure that the business will develop the liquor industry in the local and broader community, which is an object of section 3(1)(b) of the Act.
29. The Authority is further satisfied, on the basis of the CIS, Applicant submissions and the location of the Premises in the major tourist precinct of Darling Harbour, that licensing the Premises during extended hours (subject to the conditions imposed upon the licence) will substantially contribute to the responsible development of related industries – such as the live music, entertainment, tourism and hospitality industries in accordance with section 3(1)(c) of the Act.
30. The Authority accepts the Applicant's contention, on the information provided in the CIS, that the extended hour will enable the venue to make Sydney a more competitive destination for domestic and international conferences whilst offering exhibition spaces, a theatre, conventions and meeting room spaces. This will also advance the object of section 3(1)(c) of the Act.
31. The other purported positive community benefits of improved CCTV coverage, street décor, appearance, character, amenity and access to service enhancing the quality of life and satisfaction of the public located in the local and broader community and increased employment have been less well established by supportive evidence or analysis.

32. While the Authority accepts that the operation of the ICC itself will provide those benefits, the extent to which the licensing the venue (with liquor being only an ancillary service) during extended trading hours will facilitate those benefits is less apparent. Similarly, the Applicant has not provided an unequivocal indication or evidence as to the number of staff to be sourced from the local or broader community, and how that will be enhanced by granting the ETA. On the material before the Authority, these purported additional benefits have been given little weight by the Authority.

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

33. The Authority is satisfied, on the Plans of the Premises dated 1 August 2016, that the licensed area is of a very large scale – extending to 50,000 square metres. This factor objectively increases its capacity to contribute, along with the incumbent licensed premises, to alcohol related impacts in the local and broader community during late trading hours.
34. The Authority notes that there is real cause for concern arising from the BOCSAR Crime Maps from April 2015 to March 2016, which indicate high concentrations of alcohol related crime within the local and broader community.
35. The Authority notes that the BOCSAR report on *Crime by LGA and Alcohol Related Status* for calendar year 2013 indicates that the Sydney LGA has higher rates of alcohol related *domestic violence related assault, non-domestic violence related assault, offensive conduct, assault police and malicious damage to property* compared to the rate per 100,000 persons for NSW as a whole.
36. The Authority acknowledges the scope for this venue to generate negative impacts but is satisfied, on the basis of the CIS and additional submissions provided by the Applicant, that harm minimisation has been managed to the extent practicable, by the comprehensive regime of licence conditions consented to by the Applicant in response to the submission from Police.
37. The Authority accepts the Applicant’s proposition that this type of venue does not have the primary purpose of selling or supplying liquor to the public, and that the sale of liquor will be ancillary to the three current classes on the licence (“Bar”, “Catering Service” and “Public Hall”) and the two new classes added to the licence as a consequence of granting the Related Applications (“Theatre/Public Entertainment Venue” and “Public Arena and Events Venue”).
38. Notably, the licence currently facilitates 24-hour trading, seven days a week. By reason that the licence was granted prior to 2008, it was not required to comply with a daily 6-hour shutdown period prescribed by section 11A of the Act. By contrast, the licence in its new configuration will commence at 8:00am and cease at 2:00am Monday to Sunday, with a shutdown period from 2:00am to 8:00am. This provides a net *reduction* in the total licensed trading hours that may be exercised, by comparison to the existing licence, and this has been taken into account when assessing the overall social impact of granting the Application for the new ICC Premises.
39. The Authority further notes, on the basis of the CIS and further submissions made by the Applicant dated 5 July 2016, that the operating hours of the licence with the ETA granted by the Authority in this decision will represent a reduced licensed area footprint across the relevant exhibition convention and theatre space.
40. The Authority notes that prevailing licence density is not a cause for concern in the Sydney LGA which has lower rates of *on-premises licences, packaged liquor licences,*

*registered club licences and full hotel licences per 100,000 persons of population compared to the NSW state wide rate.*

41. The Authority is satisfied, on the basis of the Socio-Economic Indexes for Area (SEIFA) data from the ABS, that the local and broader community is on the whole very advantaged in terms of socio-economic status.
42. The Authority accepts the generally credible concerns relating to noise expressed by one local resident (who does not object to the proposal) but is satisfied that this planning related concern was assessed during the application for development consent.
43. The Authority notes with interest the concerns raised by Police regarding the high level of violence being experienced around late trading licensed premises within the area, the saturation of licensed premises in the immediate area and the overall size of the Premises. Notwithstanding those concerns, liquor provides an ancillary service to the primary purposes or activities to be conducted on the Premises, and the Authority accepts the Applicant's contention that the Police data does not include data attributable to the previous convention centre.
44. The Authority is further satisfied, on the basis of the Application and additional material provided by the Applicant, that there are well-developed business practices, CCTV measures and security practices and plans for the Premises which will further contribute to minimising the adverse social impact of the licence during extended trading hours upon the local and broader communities.

## **Conclusion**

45. 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 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 Family and Community Services (FACS) and all other parties required to be consulted under the legislation.
46. 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 for the purposes of section 48(5) of the Act that the overall social impact of granting this licence would not be detrimental to the wellbeing of these local and broader communities.
47. The Application is granted pursuant to section 49(2) of the Act. The Authority specifies, for the purposes of section 49(6) of the Act, that the extended trading authorisation is granted for the entire area specified in the Application between 12:00 midnight and 2:00am Monday through Saturday, from 8:00am to 10:00am on Sunday morning and from 12:00 midnight to 2:00am on Sunday evening.
48. In making this 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; and (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.

49. Finally, although the Authority does not propose to provide reasons for the Related Applications, the Authority refused to endorse the licence with the following condition that had been proposed by the Applicant:

*The areas of the Exhibition Centre and/or Convention Centre as identified on the plans held by the Authority are to be excluded from the licensed premises of this Licence when used for a nominated function conducted under a Limited Licence – Trade Fair, provided not less than twenty-eight (28) days' notice prior to the function being held is provided to:*

- (a) *the local Police;*
- (b) *the local Consent Authority; and*
- (c) *the Independent Liquor and Gaming Authority;*

*and provided the Applicant for the Limited Licence has received consent or approval to conduct the function by the Independent Liquor and Gaming Authority.*

50. The Authority was not satisfied that it was in the public interest to agree to impose this condition, and considers that the licensee should observe the mechanism provided by the Act to voluntarily suspend the licence under section 46A of the Act, for a specified period, as and when a limited licence is required to host a trade fair.

Decision Date: 17 August 2016



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.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. ETA Application Form lodged on 6 April 2016 accompanied by the Related Applications.
2. CIS document dated 4 April 2016 and supporting material in support of the ETA Application lodged on 6 April 2016. In this document, the Applicant contends that the Application relates to a change in the footprint of an existing ETA applying to liquor licence number LIQO624001487 and that this change is sought by way of the grant of a new ETA.
3. List of Stakeholders and special interest groups notified of the Application attached to the CIS lodged on 6 April 2016.
4. The Applicant's assessment of the ETA Application attached to the CIS lodged on 6 April 2016. This 19-page document addresses the Applicant's submissions on the overall social impact of granting the licence. In this document, the Applicant discusses the proposed new "*state of the art* multi-purpose exhibition, convention and theatre complex"; background information on the broader community of the Sydney LGA; background information of the Premises; licence conditions and the primary purpose of the business of the licence; harm minimisation and responsible service of alcohol measures; potentially sensitive facilities located near the Premises; impact on neighbourhood amenity; the community consultation process; prevailing alcohol related crime and the contended public interest benefits (which have been discussed in the reasons above).
5. The Applicant also discusses the community consultation process by addressing the submissions from Police, Council, the Sydney Harbour Foreshore Authority (SHFA), NSW Aboriginal Affairs, RMS and an individual located 100 metres from the Premises.
6. In an attachment to the CIS, the Applicant makes the following contentions on the extent of positive and negative impacts upon the relevant communities:
  - (a) The venue as planned will address the potential for real and ongoing conflict between staff and patrons as to why some areas of the Premises are partitioned off as only standard trading hours apply to those areas; while some areas of the Premises are not subject to standard trading hours;
  - (b) The venue will provide an alternative to other licensed premises in Sydney and to the world as it will emphasise the provision of up-market quality facilities where the furnishings, fitting, surroundings and overall ambiance projects a superb experience;
  - (c) The venue will provide a facility that will not be attractive to any vulnerable groups, as the site will not be open to the general public. The public may attend for a specific purpose such as attending a convention, the theatre, an exhibition or an occasion, function or event;
  - (d) The venue will operate pursuant to the *ICC Operational Policies* at all times;
  - (e) The venue has the potential to change the character of the area in a positive way, although the ETA will not bring about liquor services in this location for the first time during the ETA period;
  - (f) The venue is highly unlikely to increase alcohol related crime within the local or broader community;

- (g) The venue is highly unlikely to adversely impact upon traffic movements, parking outcomes or increased litter;
  - (h) The venue is highly unlikely to cause unreasonable levels of noise.
7. Map depicting the alcohol free zones in the Sydney LGA in accordance with the approximate location of the Premises (attached to the CIS lodged on 6 April 2016).
  8. Aerial Map depicting the liquor licence boundary of the ICC Sydney (provided by the Applicant as part of the Application material lodged on 6 April 2016).
  9. Additional Information: Change Boundaries of Licensed Premises (provided by the Applicant as part of the Application material lodged on 6 April 2016). In this 5-page document the Applicant explains why and how the Applicant proposes to change the existing licensed area.
  10. Additional Information: Change Liquor Licence Condition (provided by the Applicant as part of the Application material lodged on 6 April 2016). In this 4-page document the Applicant seeks to include an additional licence condition and vary two licence conditions that no longer apply.
  11. OneGov licence record for liquor licence number LIQO624006670, Royal Agricultural Society, Homebush as at 16 June 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016).
  12. ICC Operational Policies (provided by the Applicant as part of the Application material lodged on 6 April 2016), which comprises the Liquor Action Plan dated February 2016, the Responsible Service of Alcohol House Policy Statement dated 30 May 2016 and the Liquor Harm Minimisation Strategy printed 31 March 2016.
  13. Plan of Management dated June 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016).
  14. Development Consent No. SSD-5752 issued by the NSW Government Department of Planning and Infrastructure on 22 August 2013 for the redevelopment of the Sydney International Convention, Exhibition and Entertainment Precinct (provided by the Applicant as part of the Application material lodged on 6 April 2016).
  15. Report to the Authority dated 16 March 2016 from the Compliance Branch of the Office of LGNSW advising that the application to change boundaries of an on-premises licence was assessed using the EVAT (provided by the Applicant as part of the Application material lodged on 6 April 2016). This means that LGNSW have not performed any specific assessment in relation to that application.
  16. Submission from City of Sydney Council (Council) dated 23 February 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016) advising that Council has no matters of concern with the Application. Council advise, *inter alia*, that the Premises are the subject matter of development consent No. SSD-5732; that the existing building is being demolished and a new building is being constructed; that the previous existing on-premises licence has conditions for each level and that the footprint of the new building does not accord with the existing licensed area.
  17. Submission from SHFA dated 8 March 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016) advising that SHFA grants landowner's consent to lodge the Application with the appropriate consent authorities.

18. Submission from RMS dated 1 March 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016) advising, *inter alia*, that during 2014 there were 24 alcohol related crashes resulting in 13 casualties within the City of Sydney LGA. RMS recommend the licensee install physical barriers, improve lighting, eliminate trip points, attend the local liquor accord, provide access to local public transport information and taxi services, display public education material on drink drive and pedestrian alcohol issues and install an alcohol standards approved breath testing device.
19. Submission from NSW Aboriginal Affairs dated 11 February 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016), advising no objection to the Application on the proviso that the relevant NSW Aboriginal Land Council and Local Aboriginal Land Council have been notified.
20. Back Schwartz Vaughn (BSV) survey submission from local resident Mr L Lambert of Pymont Street, Ultimo dated 9 February 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016). In this submission Mr Lambert raises some concerns about the noise generated from the rooftop area but contends that the Premises is “good for the area and good for the economy”.
21. Approved plans depicting the previous licensed area (and the footprint of the ETA) relating to the building now demolished under the current on-premises licence (provided by the Applicant as part of the Application material lodged on 6 April 2016).
22. Twenty-nine plans or diagrams of the Premises depicting the boundary of the existing licensed area, the boundary of the proposed ETA and the boundary of the proposed licensed Premises, specifically in relation to the new building dated 1 August 2016 (provided by the Applicant as part of the Application material lodged on 6 April 2016).
23. Google geographical map depicting an aerial view of the location of the Premises.
24. Map depicting the location of the Premises in relation to the Sydney CBD Entertainment Precinct and the Kings Cross Precinct, which commenced operation in December 2012.
25. OneGov licence record for the current on-premises licence as at 21 July 2016.
26. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location of the Premises. This data, which is publicly available on the BOCSAR website, indicates that the Premises:
  - (a) Is located *within a high density hotspot* for incidents of *domestic assault*
  - (b) Is located *within a high density hotspot* for incidents of *non-domestic assault*
  - (c) Is located *within a high density hotspot* for incidents of *malicious damage to property*.
27. Liquor licensing records from LGNSW indicating that the suburb of Sydney already has 603 on-premises licences, 40 packaged liquor licences, 25 club licences and 132 full hotel licences.
28. Liquor licence density data from LGNSW indicating that the Sydney LGA as a whole recorded:
  - (a) A rate of **6.49 on-premises licences** per 100,000 persons, which is significantly lower than the NSW state wide rate of **121.31**.

- (b) A rate of **7.67** *packaged liquor licences* per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
  - (c) A rate of **2.95** *registered club licences* per 100,000 persons, which is below the NSW state wide rate of **20.48**.
  - (d) A rate of **5.90** *full hotel licences* per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
- 29.** Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:
- (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Sydney LGA was **261** per 100,000 persons, significantly higher than the New South Wales rate of **145** per 100,000 persons.
  - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Sydney LGA for 2013 was **1,129**, significantly higher than the NSW state wide rate of **191**.
  - (c) The rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across this LGA was **815** per 100,000 persons, significantly higher than the NSW state wide rate of **83**.
  - (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Sydney LGA was **124**, significantly higher than the rate of **24** per 100,000 for New South Wales as a whole.
  - (e) The rate of *malicious damage to property* incidents flagged by reporting Police as alcohol related across the Sydney LGA was **311**, significantly higher than the rate of **122** per 100,000 for New South Wales as a whole.
- 30.** ABS SEIFA data prepared on the basis of the 2011 census indicating that the Sydney LGA ranked in the 9<sup>th</sup> decile and the suburb of Sydney ranked in the 7<sup>th</sup> decile, compared to other local government areas and state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
- 31.** Email from the Applicant dated 30 May 2016.
- 32.** Report to the Authority dated 7 June 2016 from the Compliance Branch of the Office of LGNSW.
- 33.** Report to the Authority dated 7 June 2016 from the Compliance Branch of the Office of LGNSW.
- 34.** Submission from Leading Senior Constable Juan Maruri of Sydney City Licensing Unit of Police dated 22 June 2016.
- 35.** Submission from the Applicant dated 5 July 2016.
- 36.** Email from the Applicant dated 26 August 2016.
- 37.** Email from the Applicant dated 6 September 2016 attaching the *Plan of Management* dated September 2016, the *Liquor Harm Minimisation Strategy* dated 4 September 2016 and the *Responsible Service of Alcohol House Policy* dated 4 September 2016.