



Mr Richard Abbott
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10 October 2017

Dear Mr Abbott

Application No.	1-5694777868
Application for	New on-premises (accommodation premises, catering service and restaurant, cafe) licence Primary service authorisation Extended trading authorisation
Trading hours	<u>Consumption on premises</u> Monday to Sunday: 10:00AM – 3:00AM
Licence name	West Hotel Sydney
Applicant	GL Investmentco Pty Ltd
Premises	65-79 Sussex Street SYDNEY NSW 2000
Issue	Whether to grant an application for an on-premises licence with a primary service authorisation and an extended trading authorisation
Legislation	Sections 3, 11A, 21-28, 40, 45, 48, 49(2) and 51 of <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for an on-premises liquor licence with an extended trading authorisation and
primary service authorisation – West Hotel Sydney**

The Independent Liquor and Gaming Authority (“Authority”) has considered an application on behalf of GL Investmentco Pty Ltd for an on-premises liquor licence with an associated application for an authorisation enabling the service of liquor to individual patrons with or without the primary service delivered by the licensed premises (“Primary Service Authorisation”) and an application enabling late licensed trading until 3:00 am seven days per week (“Extended Trading Authorisation”).

The Authority has decided, pursuant to section 45 of the *Liquor Act 2007* (“Act”), to **grant** the on-premises licence. The Authority has also decided, pursuant to section 49(2) of the Act, to grant the Extended Trading Authorisation pursuant to section 49(2) of the Act, with the extended trading hours to apply to the lobby bar and restaurant areas on level 1 of the premises between midnight and 3am on Monday through Saturday evening trade and from 10pm to 3am on Sunday evenings. The Authority has granted the Primary Service Authorisation pursuant to section 24(3) of the Act in respect of levels 1-7 of the premises (excluding the rooftop area).

The licence is granted 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 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.
2. Consumption on premises: restaurant
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 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, which 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. Consumption on premises: catering service

Good Friday Normal trading

Christmas Day Normal trading

December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

4. 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 this licence.
5. The premises is to be operated at all times in accordance with the Plan of Management dated August 2017 as may be varied from time to time after consultation with the Local Area Commander of 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.
6. A maximum number of 100 patrons are permitted in the restaurant on Level 1 at any one time.
7. A maximum number of 40 patrons are permitted in the lobby bar on Level 1 at any one time.
8. The business of providing the catering service must be conducted for fee, gain or reward. Functions held pursuant to the catering service must be pre-booked. A catering service booking register must be maintained.
9. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Authority.

10. **CCTV footage on premises**

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 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 licensed area.

The licensee must also:

- a. keep all recordings made by the CCTV system for at least 30 days,
- b. ensure that at least one member of staff is on the premises at all times the system is operating who is 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 of Liquor and Gaming NSW inspector to provide such recordings.

11. Neighbourhood amenity

The management of the premises:

- a. Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- b. 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.
- c. 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.
- d. 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.
- e. 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.

12. The licensee must join and be an active participant in the local liquor accord.

13. 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:

- a. take all practical steps to preserve and keep intact the area where the act of violence occurred,
- b. retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police, as published from time to time on the Liquor & Gaming NSW website,
- c. make direct and personal contact with the NSW Police Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
- d. comply with any directions given by the Commander or delegate 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 (eg. crowd controller or bouncer) on or about the premises.

14. No drinks commonly referred to as shots, shooters or slammers that are designed to be consumed rapidly are to be sold or supplied after 10:00 PM on any day.

15. 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 Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or OLGR Authorised Officers.

16. No drinks commonly referred to as shots, shooters or slammers that are designed to be consumed rapidly are to be sold or supplied after 10:00 PM on any day.

Appointment of an approved manager or transfer to an individual licensee

Please be advised that the licence cannot be exercised unless and until either an approved manager has been appointed to the licence or the licence has been transferred to an individual licensee.

If you have any questions about this letter, please contact the case manager via email to beatrice.pitpaiaac@liquorandgaming.nsw.gov.au.

Yours faithfully



David Armati
Deputy Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 20 April 2017 the Independent Liquor and Gaming Authority (“the Authority”) received from GL Investmentco Pty Ltd (“the Applicant”), through Liquor and Gaming NSW (“LGNSW”), an application under the *Liquor Act 2007* (“Act”) for the grant of a new on-premises (accommodation venue subcategory) liquor licence (“Licence Application”).
2. The Licence Application was accompanied by an application for a primary service authorization (“PSA”) pursuant to section 24(3) of the Act that will enable the sale or supply of liquor to individual patrons with or without provision of the primary service offered by the licensed business (“Primary Service Application”) and an application for an extended trading authorisation (“ETA”) pursuant to section 49(2) of the Act (“Extended Trading Application”).
3. The Licence Application, Extended Trading Application and Primary Service Application (“Applications”) are made with respect to a proposed new accommodation venue to be known as “West Hotel” located on premises at 65-79 Sussex Street, Sydney 2000 (“the Premises”).
4. The Authority has decided to grant the Licence Application pursuant to section 45 of the Act and the Extended Trading Application pursuant to section 49(2) of the Act. For the purposes of section 49(6) of the Act the extended trading hours shall apply, in the designated areas of the restaurant and lobby bar on level 1, from midnight until 3am Monday through Saturday and from 10pm until 3am on Sunday evening.
5. The Authority has also decided to grant the Primary Service Application pursuant to section 24(3) of the Act, that shall apply to the whole of levels 1 through 7 of the Premises excluding the rooftop area.
6. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 22, 23, 24, 25, 27, 40, 45, 48, 49(2) and 51 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“the Regulation”).

Material considered by the Authority

7. The Authority has considered the Applications, the accompanying 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 of the Applications were provided with the 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, HealthStats NSW data and Australian Bureau of Statistics (“ABS”) socio-demographic data, sourced by LGNSW from publicly available sources.
10. A list of material considered by the Authority is set out in the Schedule.

Legislative framework

11. The Authority has considered the Applications in the context of the following legislative provisions.

Objects of the Act

12. The objects of the Act, as set out in section 3(1), 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.

13. In the pursuit of these objectives, section 3(2) requires the Authority, when determining a liquor licence application, 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

14. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition on all licences 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

15. Section 40 of the Act and relevant provisions in the Regulation prescribe the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

16. Section 51 of the Act prescribes further the minimum procedural requirements for licence-related authorisations (including an ETA and PSA) to be validly made to the Authority.

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

17. Section 51(3) of the Act provides that when determining an application for a licence related authorisation, the Authority has the same powers in relation to the application as the Authority has in relation to an application for a licence.

18. Section 45 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 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 (“DC”) required for use of the premises for the proposed business is in force.

Community impact statement

19. Section 48 of the Act requires that certain applications, including an application for an extended trading authorisation for an on-premises licence seeking to trade between midnight and 5:00am, must be accompanied by a CIS that is prepared in accordance with the relevant requirements.

20. Section 48(5) provides that the Authority may only grant a relevant application on a licence or authorisation 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 before it.

Provisions specific to an on-premises liquor licence

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

Provisions specific to primary service authorisations

22. The power to grant a PSA is provided by section 24(3) of the Act, while clause 19 of the Regulation provides the conditions to which a PSA must be granted.

Provisions specific to extended trading authorisations

23. The legal requirements for making a valid application for an ETA are provided by section 51 of the Act and the Regulation. The power to grant an ETA is provided by section 49(2) of the Act.

24. Section 49(8) of the Act provides that the Authority must not grant an ETA in respect of licensed premises unless the Authority is satisfied that:
- 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
 - 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.

Key findings

25. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Applications.

Restriction on licences in Sydney CBD Entertainment Precinct does not apply

26. The Premises is located in the Sydney CBD Entertainment precinct, to which a temporary freeze on granting new licences applies under Division 1A of Part 4 of the Act.

27. Pursuant to clause 79(2) of the Regulation, the temporary freeze does not apply to or in respect of CBD subject premises that are tourist accommodation establishments (other than a club) or licensed restaurants.

28. The Regulation defines tourist accommodation establishment as:

(a) premises operating under an on-premises, hotel or club licence that relates to accommodation premises, and

(b) that provides accommodation in at least 20 rooms or self-contained suites (other than accommodation on a bed or dormitory-style basis rather than in separate rooms), and

(c) that provides beverages, meals and other associated services to temporary residents and their guests,

but does not include any tourist accommodation establishment bar area on the premises that permits entry or exit (including by way of a vestibule) directly to a public street.

29. On the basis of the material provided by the Applicant in the Applications, CIS and additional submissions, the Authority is satisfied that the temporary freeze does not apply to the business proposed in these Applications, as the premises falls within the definition of a tourist accommodation establishment.

Validity, procedural and trading requirements

30. The Authority is satisfied that:

- a) The Applications have been validly made and meet the minimum procedural requirements under sections 40 and 51 of the Act. These findings are made on the basis of the information provided in the Applications, CIS material and Certificate of Advertising for the Applications signed by Jenny Watt on behalf of the Applicant and dated 1 August 2017.
- b) The proposed trading hours for the Premises meet the requirements of sections 11A, 12 25 and 49 of the Act in respect of trading and 6-hour closure periods. This finding is made on the basis of the Applications, CIS material and additional submissions provided by the Applicant.
- c) The proposed use of the Premises as an accommodation premises, catering service and restaurant/cafe satisfies the requirements under section 23 of the Act. This finding is made on the basis of the Applications, CIS material and additional submissions provided by the Applicant.

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

31. Pursuant to section 45(3) of the Act, the Authority is satisfied that:

- a) For the purposes of section 45(3)(a) of the Act, the Applicant company is a fit and proper person to carry on the business to which the proposed licence relates. This finding is made on the basis that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies, including NSW Police ("Police") and LGNSW. The Authority notes that the Applicant company is not recorded as having ever being the licensee of a NSW liquor licence, however it is recorded as the premises owner for the Swissotel Sydney on Market Street since 2010 and the Hyatt Regency Sydney from 2009 to 2010.
- b) For the purposes of section 45(3)(b) 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 that all reasonable steps are taken to prevent intoxication on the Premises, having regard to the Applicant's *Plan of Management* ("POM") dated August 2017 (prepared by M & L Hospitality) and undated *House Policy* and the conditions consented by the Applicant to be imposed upon the licence, and
- c) For the purposes of section 45(3)(c) of the Act, the requisite development consent required for the conduct of the business or activity to which the licence relates (a licensed accommodation venue with a bar) is in force. This finding is made on the basis of the notice of determination on development approval D/2015/601/D ("DA") issued by City of Sydney Council ("Council") on 14 September 2015.

Community impact statement

32. The Applicant is required to submit a CIS by reason that the Licence Application combined with the Extended Trading Application, constitutes a "relevant application" under section 48(2) of the Act.
33. The Authority is satisfied that the CIS submitted by the Applicant has been prepared in accordance with the relevant legislative requirements. The Authority has taken into consideration the CIS and other available information and submissions before the Authority when making the findings below about the overall social impact of granting the Licence Application and the Extended Trading Authorisation in respect of the local and broader communities.
34. For the purpose of this decision and consistent with 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 relevant "broader community" comprises the City of Sydney Local Government Area ("the LGA").

Positive social impacts

35. The Authority is satisfied that the Applicant has demonstrated a substantial positive case for the operation of a new on-premises liquor licence within the Sydney CBD, with the supply of liquor ancillary to the designated primary purpose of providing accommodation, a restaurant/café, and a catering service.
36. The Authority is satisfied, on the basis of the CIS and additional information submitted with the Applications as well as the Applicant's further submission dated 16 August 2017, that the Applicant has obtained development consent from Council to construct a modern 4.5-star accommodation premises comprising 182 rooms and various facilities including a reception area, lobby bar, restaurant, meeting/conference room, internal courtyard and rooftop area.
37. On the information provided in the Applications and CIS, the Authority accepts the Applicant's submission that the Premises will help to meet "steadily growing demand" for quality short-term accommodation in Sydney, providing services "up to 24 hours per day" for residents and their guests.
38. The Authority is satisfied on this basis that granting the Licence Application and the Extended Trading Application will provide an additional measure of choice for visitors to Sydney, as well

as members of the local and broader community, who wish to stay in higher end accommodation in the heart of the Sydney CBD.

39. The Authority is further satisfied, on the basis of this material, that granting an on-premises licence with the proposed extended trading hours and PSA will provide substantial positive benefits to the local and broader community, as well as visitors from intrastate, interstate and overseas who wish to stay in close proximity to the busy, principally commercial area of Sydney City in which the Premises is located. The supply of liquor will be an ancillary service to business, visitors, tourists and others patronising the venue who may wish to consume liquor during their stay at this accommodation venue, including during later hours of the evening. The Primary Service Application will provide additional benefits of convenience for those visiting or staying on the Premises who wish to consume liquor without a meal.
40. Only one submission opposing the Application was received from a local resident which is discussed below. Police do not oppose the Applications but have proposed a number of licence conditions should the Applications be granted.
41. Accepting the Applicant's information that it notified "over 1,500" neighbouring premises, the Authority is satisfied on the very limited opposition to the proposal that granting the Applications will serve the "expectations, needs and aspirations" of the relevant communities, advancing the statutory object in section 3(1)(a) of the Act.
42. The Authority is satisfied on the basis of the information in the Applications and CIS that the Applicant has extensive experience owning and operating large-scale international standard accommodation hotels in Sydney City, including the Hyatt Regency Sydney located at 161 Sussex Street and the Swissotel at 68 Market Street. The Authority accepts the Applicant's submission that these hotels nearby to the Premises are large establishments which cater to "many thousands of people a week" and have several bar areas authorised to trade 24 hours.
43. The Authority is further satisfied, on the basis of this material, that a new 4.5-star hotel (with an on-premises licence with extended trading hours and a primary service authorisation in respect of its bar operations) that is likely to cater for both domestic and international visitors, will meet demand for such services within the Sydney CBD and significantly contribute to the development of the liquor industry in this part of the inner City. This will further the statutory object in section 3(1)(b) of the Act, 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.
44. Moreover, the Authority is satisfied, on the basis of the information provided in the Applications, CIS and additional submission dated 16 August 2017 that this new venue will target international and domestic visitors to the local and broader communities seeking quality accommodation. Granting the Licence Application with the Extended Trading Application will significantly contribute to the responsible development of related industries, specifically the tourism and hospitality industries, for the purposes of the statutory object in section 3(1)(c) of the Act.

Negative social impacts

45. Having reviewed all the material before it, the Authority considers that over time there is a risk that liquor sold from this on-premises licensed premises will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of patrons who abuse liquor.
46. The licence type under consideration is an on premises licensed venue with the designated primary purpose of providing accommodation, not the supply of liquor *per se*. That is a moderating factor.
47. The Authority considers that a venue licensed to sell or supply liquor for consumption on the Premises until 3:00am daily in a local and broader community experiencing high rates of

alcohol related crime has increased scope to generate adverse social impacts upon those communities over time and cause disturbance to the local community, whether or not such conduct rises to the level of criminality. The nature and scope of the business requires careful consideration before late trading hours are granted.

48. The proposed licensed trading hours sought by the Applicant are very extensive, until 3:00am seven days per week. This factor objectively increases the risk profile of the proposal trading into times of the day and week that pose increased risk for any licensed premises.
49. The Authority further notes, on the basis of the CIS and additional material including the updated plan or diagram of the Premises, that the new hotel will comprise 182 rooms over 8 storeys.
50. However, extended trading hours are sought in respect of the sale of alcohol in the lobby bar (which has a maximum patron capacity of only 40 persons) and the restaurant (which has a maximum capacity of 100 persons), whilst all other areas of the hotel (except for the rooftop area) are sought to be licensed until 12:00 midnight daily. So while the hours are extensive, the licensed areas to which 3:00 am trading shall apply will be confined to areas with moderate patron capacities, enabling ready supervision of patrons.
51. When considering the cumulative impact of adding another licence to the local and broader community, the Authority has considered the licence density data calculated by licensing staff from the LGNSW licensed premises list as at 1 August 2017 for Sydney LGA, the State suburb of Sydney and the State of New South Wales.
52. Liquor licence density is high in the Sydney CBD. Licensed premises information sourced from LGNSW indicates that the State suburb of Sydney has **47** on-premises licences with both a PSA and ETA (a rate of **272.43** per 100,000 persons) while the Sydney LGA has **138** (a rate of **66.23** per 100,000 persons). Both rates are well above the rate for New South Wales as a whole, which has a total of **340** of this licence type at a rate of **4.55** per 100,000 persons. Further, as at 1 August 2017, in the State suburb of Sydney there are **139** hotel licences at a rate of **805.7** per 100,000 persons of population, well above the rate of **165.57** in the Sydney LGA (based on **345** hotel licences) and **28.31** in New South Wales as a whole (based on **2118** hotel licences).
53. 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. The density of liquor licences within the suburb of Sydney is skewed by the large entertainment district and non-proportionate population.
54. The BOCSAR crime maps for the local community, derived from data from the period April 2016 to March 2017, indicate that the Premises is located within high-density hotspots for incidents of *alcohol related assault*, *alcohol related domestic assault*, *non-domestic assault* and *malicious damage to property*.
55. BOCSAR crime data for the year to March 2017 indicates that the local community of Sydney and the broader community of Sydney LGA recorded significantly higher rates per 100,000 persons of population than the state of New South Wales for incidents of *alcohol related domestic assault* (**366.7** for Sydney and **200.2** for Sydney LGA compared to the New South Wales rate of **114.7**), *alcohol related non-domestic assault* (**2883.7** for the suburb of Sydney and **751.0** for Sydney LGA compared to the New South Wales rate of **133.9**) and *malicious damage to property* (**2105.8** for Sydney and **1297.9** for Sydney LGA compared to the New South Wales rate of **816.4**). The prevailing data is a negative factor of some weight that warrants careful consideration of the type of licensed premises that is proposed, given the challenging environment for alcohol related crime and disturbance.
56. The Authority has also taken into account NSW Department of Health data on *alcohol attributable deaths and hospitalisations* for the Sydney LGA which indicates a slightly higher smoothed standardised mortality ratio of **101.80** and a higher smoothed standardised

separation ratio of **130.10** compared to a NSW average of **100**. The Authority considers that these are further adverse factors in its assessment of the overall social impact of granting this licence.

57. ABS Socio-Economic Indexes For Areas ("SEIFA") data establish that the local and broader communities are relatively advantaged, with Sydney ranking in the 7th decile compared to other suburbs in New South Wales and Sydney LGA ranking in the 9th decile compared to other New South Wales local government areas on the Index of Relative Socio-Economic Advantage and Disadvantage. The Authority is satisfied on this basis that socio-economic disadvantage is not a factor of concern when assessing the vulnerability of these communities to adverse alcohol related social impacts.
58. The Authority notes that a 7-page submission was received from Police on 9 July 2017 in relation to the Applications. In this submission, Police cite data from its Alcohol Related Crime Information Exchange ("ARCIE") and Computerised Operational Policing System ("COPS") which indicate that during the year to August 2016, 49% of all reported assault incidents and 36% of all domestic violence-related incidents which occurred in the Sydney City Local Area Command ("LAC") were recorded as alcohol-related and that the peak times for the occurrence of these offences were Fridays from 11:00am to 1:00am and Saturdays from 11:00pm to 3:00am. Whilst Police highlight adverse alcohol related impacts within the local and broader community, they do not object to the Applications but request that a number of conditions be imposed upon the licence "for the sole purpose of public safety". These conditions concern, *inter alia* requirements as to CCTV, measures to reduce impact on neighbourhood amenity, participation in the local liquor accord, compliance with crime scene preservation guidelines, a requirement to operate the Premises consistently with the POM, prohibition on operating the venue as a nightclub, and prevention of intoxication.
59. The Authority notes that in its response to the Police submission by letter dated 24 August 2017, the Applicant states that it does not consent to some of the licence conditions proposed by Police, namely those conditions imposing a maximum patron capacity for the hotel (although no number has been suggested by Police), prohibitions on nightclub-style entertainment and service of certain strong alcoholic drinks and shots, and a requirement for cessation of service of alcohol 15 minutes prior to closing time. The Applicant contends that these conditions are unnecessary, overly onerous, and that as a 4.5 star international standard hotel, patrons will expect to be able to purchase alcohol for consumption during the entirety of the licensed trading hours.
60. The Authority has also considered a 1-page submission from a local resident who objects to the Applications on the basis that two existing late trading licensed premises (Slip Inn and the Bristol Arms Hotel) are within close proximity of the Premises and create "very heavy traffic congestion in Sussex Street" as well as noise from music played within those venues which causes the author to "sleep with ear plugs". The author also complains that the patrons of these venues are "unbearable", that there have been "a number of fights on the street" which have been attended by Police and ambulances, and that he finds broken bottles and trash in front of his apartment building "almost every Saturday and Sunday morning". The author contends that granting the ETA sought will "destroy our peaceful and enjoyable home living surrounding".
61. The Authority accepts that these disturbance complaints, which concern nearby licensed premises that primarily operate in the mode of bars, are credible. Should issues arise with this particular venue the neighbouring resident will have standing to complain to LGNSW about the conduct of the West Hotel or its patrons under section 79 of the Act. However, given the nature of this proposed accommodation venue is such that its ordinary course of trade, being primarily an accommodation venue, is unlikely to generate the same types of impacts as a non-accommodation hotel or general bar the primary purpose of which is the sale of liquor.
62. The scale of the proposed Premises, extensive trading hours and prevailing alcohol related crime rates in the suburb of Sydney are adverse factors that objectively increase the scope for

this new licensed Premises to contribute, along with the incumbent licensed premises, to alcohol related impacts in the local and broader communities. The Authority finds that the local resident objector's concerns about prevailing patron noise and conduct from nearby hotel licensed venues are generally credible.

63. However, this proposal does not concern an ordinary licensed bar or restaurant, but a business whose overwhelming primary purpose is the provision of international standard accommodation services. This not only establishes the substantial positive public interest benefits that are described above but reduces the apparent risk profile of the proposal when assessing the likely scope for negative impacts, given that many of those served liquor on the Premises will be staying on the Premises for tourism or business purposes. This proposal may be distinguished from the many bars, hotels and licensed restaurants throughout the City frequented primarily by casual drinkers, including those premises identified by the local resident objector as problematic in terms of noise, litter and patron misconduct.
64. The Authority also accepts the Applicant's contention (in their letter dated 16 August 2017), noting the information provided about the venue, that the lobby bar and restaurant are "directly beneath" those levels in the hotel containing guest rooms and that therefore a focus of the venue's staff will be to ensure that noise from the late trading licensed areas is not audible within any habitable guest room – which would include the local resident's apartment.
65. Notably, the areas that will be operating until 3:00am are confined to the lobby bar and restaurant, with patron capacities of 40 persons and 100 persons respectively. These areas lend themselves to supervision by the licensee and staff and are not particularly large in scale by comparison to many other licensed venues in the City.
66. These factors reduce the scope for adverse social impact that may otherwise arise from licensed trading until 3:00am in this location.
67. The Authority has also taken into account the operational and harm reduction measures detailed in the *POM* and *House Policy* which form part of the Application and which will be enforceable through the operation of a licence condition, including building design intended to create environmental conditions which minimise the risk of crime at the Premises, noise minimisation strategies, onsite security, intoxication and underage drinking prevention and management.
68. The Authority is satisfied on the basis of this document that the Applicant has developed comprehensive harm minimisation measures to ensure that alcohol will be served responsibly at the Premises. The Authority notes that there is no adverse information before it, positive or negative as to the record of the proposed licensee or approved manager to responsibly conduct the liquor aspect of the hotel's operations.

Overall social impact

69. Having considered the positive and negative impacts that are likely to flow from granting the licence, the Authority is satisfied on the material before it that the overall social impact of granting the Licence Application with the Primary Service Authorisation and Extended Trading Authorisation in the terms sought by the Applicant will not be detrimental to the well-being of the local and broader communities.
70. Accordingly, the Authority has decided to grant the Applications.



David Armati
Deputy 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/lga/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. ABS SEIFA data based on the 2011 Census, ranking Sydney and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol related deaths and hospitalisations in the LGA for the period 2012-13.
3. BOCSAR crime maps for the year to March 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
4. NSW crime statistics for the two years to March 2017, published by BOCSAR, showing the rates of alcohol related domestic and non-domestic assault and malicious damage to property in the suburb of Sydney, the LGA and NSW as a whole.
5. Notice of determination issued by Council on 20 February 2017, approving modification of the Applicant's DA D/2015/601/D granted on 14 September 2015.
6. SAI Global Property documents containing Australian Securities and Investments Commission ("ASIC") National Business Name Current Extract for the business name West Hotel Sydney as at 19 July 2017, Current Extract for the Applicant company GL INVESTMENTCO PTY LTD as at 30 January 2017 and Current Extract for EP18 VIC MANAGEMENT PTY LIMITED as at 19 July 2017.
7. Completed Category B CIS form, signed by Jocelyn Wan Sze Kum and Mark Stewart Tucker, directors of the Applicant organisation, and dated 20 April 2017, and additional information provided by the Applicant in support of the CIS. Attached to the CIS are the following documents:
 - a. Map produced by the Council showing the Alcohol-Free Zone within the Sydney City Police LAC dated 5 January 2016.
 - b. Aerial image showing the notification radius.
 - c. List of special interest groups and stakeholders notified of the Applications.
 - d. Letter from NSW Roads & Maritime Services, dated 24 January 2017, to the Applicant's representative in relation to the Applications.
 - e. Letter from Council, dated 25 January 2017, to LGNSW in relation to the Applications.
 - f. Email from Aboriginal Affairs, NSW Department of Education, dated 31 January 2017, to the Applicant's representative in relation to the Applications.
 - g. Letter from the NSW Department of Family & Community Services, dated 2 February 2017, to the Applicant's representative in relation to the Applications.
8. Completed licence application form signed by Jocelyn Wan Sze Kum, a director of the Applicant organisation, and dated 20 April 2017, with copies of signed Notices of the Licence Application attached.
9. Completed extended trading authorisation application form signed by Jocelyn Wan Sze Kum, a director of the Applicant organisation, and dated 20 April 2017, with copies of signed Notices of the Extended Trading Application attached.
10. Completed primary service authorisation application form signed by Jocelyn Wan Sze Kum, a director of the Applicant organisation, and dated 20 April 2017, with copies of signed Notices of the Primary Service Application attached.

11. Submission from Mr Toko Yatsuki, resident of the neighbourhood of the Premises, to LGNSW dated 18 May 2017, in relation to the Applications.
12. Email from licensing staff to the Applicant's representative dated 13 June 2017 providing and requesting responses to proposed licence conditions.
13. Submission from Sydney City LAC, NSW Police to LGNSW dated 9 July 2017, in relation to the Applications.
14. Email from the Applicant's representative to licensing staff dated 18 July 2017 providing a POM for the Premises.
15. Email submission from LGNSW Compliance staff to licensing staff dated 18 July 2017.
16. Email from licensing staff to the Applicant's representative dated 19 July 2017 providing a copy of the LGNSW Compliance Branch submission in relation to the Applications.
17. Certification of Advertising Application signed by Jenny Watt on behalf of the Applicant and dated 1 August 2017.
18. Liquor licensing records from LGNSW as at 1 August 2017:
 - a. setting out the liquor outlet density and number of liquor licences in Sydney, the LGA, and across NSW based on the 2016 Census, and
 - b. listing on-premises liquor licences in Sydney and in the LGA.
19. Maps and street view images extracted from the Google website on 1 August 2017, showing the location of the Premises.
20. Image of the proposed Premises extracted from the Multiplex website on 1 August 2017, showing how the Premises is proposed to look upon completion of construction.
21. 12-page submission from the Applicant's representative to licensing staff dated 16 August 2017 providing information in relation to the Applications and responding to submissions.
22. Email from licensing staff to the Applicant's representative dated 17 August 2017 providing the Police submission in relation to the Applications.
23. Email from licensing staff to the Applicant's representative dated 18 August 2017 requesting consent to a condition requiring compliance with the POM and requesting a copy of the House Policy.
24. 5-page submission from the Applicant's representative to licensing staff dated 24 August 2017, responding to the submission from Police.
25. Email from the Applicant's representative Mr Chris Allen to licensing staff dated 25 August 2017, attaching a House Policy for the Premises.
26. POM and House Policy for the Premises dated August 2017.
27. Email from the Applicant's representative to licensing staff dated 21 September 2017 advising that the Applicant consents to the amended CCTV licence condition proposed in the email from licensing staff dated 18 September 2017.
28. Floor plan of the Premises comprising 10 pages and indicating the proposed licensed area as well as the areas proposed to be the subject of an extended trading authorisation and primary service authorisation.