



Mr Kim Stapleton
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18 August 2017

Dear Mr Stapleton,

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| Application No. | APP-0002436861 |
| Application for | New Full Hotel Licence Minors Area Authorisation (“MAA”) Extended Trading Authorisation (“ETA”) Residents Bar Authorisation (“RBA”) |
| Trading hours | <u>Consumption on premises</u> Monday to Sunday 10:00am – 4:00am |
| Applicant | Darling Harbour Hotel Pty Ltd |
| Licensed premises name | Sofitel Sydney Darling Harbour |
| Premises | 12 Darling Drive DARLING HARBOUR, NSW, 2000 |
| Issue | Whether to grant or refuse an application for a new full hotel licence with an ETA, MAA and RBA |
| Legislation | Sections 3, 11A, 14, 15, 15A, 17, 40, 45, 48, 49, 51 and 121 the <i>Liquor Act 2007</i> |

Decision of the Independent Liquor and Gaming Authority – Application for a new full hotel licence with an extended trading authorisation, minors area authorisation and residents bar authorisation – Sofitel Sydney Darling Harbour

The Independent Liquor and Gaming Authority considered application number APP-0002436861 seeking the grant of a new full hotel licence (“Hotel Application”) with an extended trading authorisation (“ETA”), minors area authorisation (“MAA”) and residents bar authorisation (“RBA”). Pursuant to sections 45, 49(2), 121 and 17(6) of the *Liquor Act 2007* (Act) respectively, the Authority has decided to **grant** the Hotel Application, ETA, MAA and RBA. The hotel licence is 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. **Restricted trading & NYE (std) – Consumption on premises**

| | |
|---------------------------|--|
| Good Friday | 12:00 noon – 10:00PM |
| Christmas Day | 12:00 noon – 10:00PM (liquor can only be served with or ancillary to a meal in a dining area) |
| December 31 st | Normal opening time until normal closing time or 2:00AM on New Year's Day, whichever is the later. |

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00AM.

3. 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 and extended trading authorisation.
4. The premises is to be operated at all times in accordance with the Plan of Management dated 15 June 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.

5. **Minors Area Authorisation**

Whole of premises excluding the dining areas.

6. **Residents Bar Authorisation**

A residents bar authorisation applies to the Executive Lounge area on the 35th level of the hotel. No liquor may be sold during the hours of 4:00AM and 10:00AM. Liquor may be supplied to hotel residents only on a strictly complementary basis in the Executive Lounge area during this 6-hour liquor closure period.

7. No gaming (poker machines) are to be kept on or operated from the licensed premises.
8. No TAB facilities or Keno facilities are to be provided from the licensed premises.
9. The licensee must join and be an active participant in the local liquor accord.

10. **Crime Scene Preservation**

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.
11. A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Management must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or L&GNSW Authorised Officers.
12. The licensee will not sell or supply liquor for consumption off the Premises.
13. **Closed-circuit television system**
- (i) 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 are 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.
 - (ii) 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 or Liquor and Gaming NSW inspector to provide such recordings.
14. No drinks commonly referred to as shots, shooters, slammers, and/or bombs are to be sold or supplied at the premises.
15. **Neighbourhood Amenity**
- (i) 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. If so directed by Council, the management is to employ private security staff to ensure that this condition is complied with.

- 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.

The attached statement of reasons has been prepared in the context of a high-volume jurisdiction, which requires the publication of reasons as soon as practicable. If you have any advice or enquiries about this letter, please contact the case manager via email to santina.causa@justice.nsw.gov.au

Yours faithfully



Philip Crawford

Chairperson

For and on behalf of the Independent Liquor & Gaming Authority

Statement of reasons

Decision

1. On 25 November 2016 the Independent Liquor and Gaming Authority (“Authority”) received from the Applicant, through Liquor and Gaming NSW (“L&GNSW”), an application for a new full hotel liquor licence (“Hotel Application”) with an extended trading authorisation (“ETA Application”), minors area authorisation (“MAA Application”) and a residents bar authorisation (“RBA Application”).
2. The Hotel Application is granted pursuant to section 45 of the *Liquor Act 2007* (“Act”), the ETA Application is granted pursuant to section 49(2) of the Act, the MAA Application is granted pursuant to section 121 of the Act and the RBA Application is granted pursuant to section 17(6) of the Act.
3. For the purposes of section 49(6) of the Act, the ETA will permit the sale of liquor between 12:00 midnight and 4:00am Monday to Sunday and shall apply to all designated bar areas and the Executive Lounge.
4. The licensed trading hours in respect of the Executive Lounge on the 35th floor of the Premises are between 10:00am and 4:00am Monday to Sunday. Outside of licensed hours the Residents Bar Authorisation permits the complementary supply, but not the sale, of liquor to hotel residents only between 4:00 am and 10:00 am.
5. In reaching this decision, the Authority has had regard to all material before it, the relevant legislative requirement under sections 3, 11A, 14, 15, 15A, 17, 40, 45, 48, 49, 51 and 121 of the Act, and relevant provisions of the *Liquor Regulation 2008* (“Regulation”).

Material considered by the Authority

6. The Authority has considered the Applications, Community Impact Statement (“CIS”) and all submissions received in relation to the Applications.
7. 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 Application were provided with the opportunity to make submissions.
8. As foreshadowed in the Authority’s *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, HealthStats NSW data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, obtained by L&GNSW staff from publicly available sources.
9. The material considered by the Authority is listed in the Schedule, with a summary where appropriate.

Legislative framework

10. The Authority has considered the Applications in accordance with the following legislative provisions.

Objects of the Act

11. The objects of the Act, as set out in section 3(1), are to regulate the supply of liquor in line with the expectations and needs of the community, facilitate the balanced development in the public interest of the liquor industry and contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
12. In the pursuit of these objectives, section 3(2) requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise harm associated with the misuse and abuse of liquor (including harm from violence and anti social behaviour), the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor, and the liquor supply practices, and the need to ensure that the sale, supply and consumption of liquor does not detract from the amenity of community life.

Minimum procedural requirements

13. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence to be validly made to the Authority.
14. Section 51 of the Act prescribes the minimum procedural requirements for licence related authorisations to be validly made to the Authority.

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

15. The Authority notes that section 51(3) of the Act, which 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.
16. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
 - the applicant is a fit and proper person to carry on the proposed business,
 - practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
 - if any applicable development consent (“DC”) is required to use the premises for business or activity to which the licence relates, such consent is in force.

Restrictions on granting extended trading authorisation

17. Section 49(8) of the Act provides that the Authority must not grant an extended trading authorisation 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.

Community Impact Statement

18. Section 48 of the Act requires certain applications, including an application for a hotel licence and an ETA in relation to a hotel licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
19. Section 48(5) provides that the Authority may only grant the licence, authorisation or approval if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter the Authority becomes aware of during the application process.

Provisions specific to hotel liquor licence

20. Further legislative provisions specific to hotel liquor licences are set out in sections 14, 15, 15A, 16 and 17 of the Act and in the Regulation.

Matters relating to gambling activities

21. Section 10A of the Regulation requires, in the case of an application for an ETA in relation to a hotel licence, the CIS to address matters relating to gambling activities that will be conducted on the Premises during the period that the authorisation is proposed to be in force.

Key findings

22. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings in relation to the Applications.
23. Pursuant to section 51(2) and section 40 of the Act, the Authority is satisfied that the Applications have been validly made and meet the minimum procedural requirements. This finding is made on the basis of the Application and CIS material before the Authority and the declaration signed by Mr Jerry Schwartz (the sole director of the Applicant Company) dated 26 May 2017 confirming that advertising requirements have been complied with.
24. Pursuant to section 45 of the Act, the Authority is satisfied that:
 - for the purposes of section 45(3)(a), the Applicant is a fit and proper person to carry on the proposed business, on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with relevant law enforcement agencies,
 - for the purposes of section 45(3)(b), practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's undated Plan of Management ("POM") provided to licensing staff on 21 June 2017, and
 - for the purposes of section 45(3)(c) the requisite DC for use of the Premises as a hotel is in force, pursuant to development consent SSD 6116 granted by the Minister for Planning on 15 June 2014 and a modification of development consent SSD 6116 MOD1 granted by the Minister for Planning on 8 July 2015.

25. Pursuant to section 49(8), the Authority is also satisfied, on the basis of the undated Plan of Management provided to licensing staff on 21 June 2017, that the extended trading period sought in the ETA Application will not result in undue disturbance of the quiet and good order of the neighbourhood of the Premises.
26. The Authority has taken into account the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
27. For the purposes of this decision and consistent with its position in *Guideline 6* and longstanding practice, the Authority is satisfied that the relevant “local community” is the community within the suburb of Sydney (Darling Harbour not being recognised as a suburb for statistical purposes), and the relevant “broader community” comprises City of Sydney Local Government Area (“the Sydney LGA”).

Positive social impacts

28. The Authority is satisfied that the Applicant has demonstrated a substantial positive case for the operation of a new full hotel licensed premises with an ETA, MAA and RBA on the site within the popular Darling Harbour tourism area of Sydney. This finding is made on the basis of the information provided about the project in the Application forms, the CIS and additional submissions made by the Applicant.
29. The Authority accepts the Applicants submission in the CIS that the hotel development was approved by the Minister for Planning as part of a major re-development of Darling Harbour and that it has been planned in relation to the neighbouring International Convention Centre Sydney (“ICC”) complex, being a “multi-billion-dollar redevelopment of the area, planned to give Sydney a competitive edge in attracting international events”.
30. The Authority is satisfied on the basis of the CIS, Application forms and additional submissions made by the Applicant that granting a full hotel licence with the proposed extended trading hours, MAA and RBA will provide substantial additional benefits to the local and broader community who wish to consume alcohol during their stay in the hotel’s accommodation, at events and functions hosted at the hotel or after events which may be held in adjacent components of the ICC.
31. Taking into consideration the submission received from a local hotelier (requesting further information about the proposed bars and questioning the trading hours) and the lengthy Police submission (in which Police do not object to the Applications, but seek in the imposition of certain conditions should the licence be granted), the Authority is satisfied, on the basis of the lack of any other concerns or objections from local and broader community, Council or Police that broadly speaking this venue will serve the “expectations, needs and aspirations” of the relevant communities, advancing the statutory object in section 3(1)(a) of the Act.
32. Furthermore, by providing a new 5 star international hotel intended to cater for international visitors, as discussed in the CIS, the Authority is satisfied that granting this Application will ensure that the business will contribute to the development of the

higher end of the market in respect of the local liquor industry serving the communities, in furtherance of the statutory object in section 3(1)(b) of the Act.

33. The Authority accepts the Applicant's contention, on the information provided in the CIS, that the hotel will accommodate high-end international and domestic visitors to ICC and boost tourism. The Authority is further satisfied, on the basis of the CIS, Applicant submissions and the location of the Premises within a 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 – including the live music, entertainment, tourism and hospitality industries for the purposes of the statutory object in section 3(1)(c) of the Act.
34. As this large hotel will form part of a major new development of Darling Harbour that is also closely linked to the ICC, the Applicant's contentions that the new hotel will provide community benefits by way of boosting the City and State's economies and providing employment are broadly credible, but the quantification of those benefits have not been supported by any great degree of supporting analysis or evidence, limiting the weight that may be given to those complex economic claims.
35. The Authority accepts the Applicant's contention in the CIS that the RBA is required in order to ensure that accommodation guests of the hotel who arrive in Sydney on early flights and may have to wait for their accommodation to be ready can "wait and have the ability to freshen up, have a meal and relax after checking into the hotel".
36. The Authority accepts and has given weight to the information provided in the CIS and the Applicant's submissions dated 26 May 2017 and 21 June 2017 that the hotel will not sell or supply liquor for consumption off the Premises nor will it provide gaming machines or any other gambling services (TAB/Keno facilities) and the Applicant has consented to three conditions to that effect. This commitment further establishes that the hotel will provide a more sophisticated style of licensed accommodation hotel that provides an alternative to mainstream hotels on offer in the local and broader community.

Negative social impacts

37. Having reviewed all the material before it, the Authority considers that over time there is a risk that liquor sold from this hotel licensed Premises (whose primary purpose is the sale of liquor) 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 customers who abuse liquor.
38. The Authority considers that a full hotel licensed premises, whose primary purpose is to sell or supply liquor for consumption on the Premises, is a licence type that has increased scope to generate adverse social impacts upon the community over time and cause disturbance to the local community and neighbourhood, whether or not such conduct rises to the level of criminality.
39. The Authority notes, on the basis of the CIS, that the hotel comprises 596 rooms and is part of a 35 storey free-standing building with alcohol available from the following:

- (a) a small bar in the ground floor lobby.
 - (b) a main bar on the third floor (with seating for about 100 patrons).
 - (c) a dining room on the third floor, seating around 220 persons.
 - (d) a small bar associated with a swimming pool and gym on the fourth level.
 - (e) an Executive Lounge on the 35th level, approximately 440 sqm.
 - (f) a dispense bar on the first level (which will serve persons attending meetings, functions and like activities in the ballroom (475 sqm) and any of the eight conference rooms as well as those in the pre-function space on that floor. The conference rooms range in size from two capable of seating 10 people to one able to accommodate 72 people).
 - (g) All guests' rooms will have mini bars and the hotel will operate a room service for food and beverages.
40. The licensed trading hours sought by the Applicant are very extensive with the ETA enabling the hotel to trade from 10:00am to 4:00am Monday to Sunday. In addition to this the Applicant has sought an RBA to permit the sale, supply and consumption of liquor in the Executive Lounge on the 35th level of the hotel. That facility will be available exclusively to residents of the hotel, but the Applicant consents to a condition preventing the sale of liquor in that area during the proposed daily closure period from 4:00am to 10:00am each day.
41. 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 25 May 2017 and ABS *Quickstats* population data for Sydney LGA, the State suburb of Sydney and the State of New South Wales.
42. There is significant cause for concern arising from prevailing licence density in the local and broader communities. Licensed premises information sourced from LGNSW on 25 May 2017 and ABS Census QuickStats data on 2 June 2017 for Sydney LGA indicates that the State suburb of Sydney has **143** hotel licences (a rate of **999.44** per 100,000 persons) while the Sydney LGA has **346** (a rate of **204.12** per 100,000 persons). Both rates are well above the rate for New South Wales as a whole, which has a total of **2,129** licenses at a rate of **30.77** per 100,000 persons. Although licence density is concerning, the Authority is somewhat reassured by the fact that this high rate of hotel licences reflects the great many city residents, workers and visitors that are serviced by the liquor industry in the Sydney LGA. The Authority notes that there are only five hotel licences in Darling Harbour and that the density of hotel licences for the suburb of Sydney is skewed by the large entertainment district and non-proportionate population.
43. Further cause for concern arises from BOCSAR crime maps for the local community derived from data from the period January 2016 to December 2016, indicating that the Proposed 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*.

44. BOCSAR crime data for the year to December 2016 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* (364.3 for Sydney and 201.7 for Sydney LGA compared to the New South Wales rate of 116.9), *alcohol related non-domestic assault* (3036.1 for the suburb of Sydney and 789.1 for Sydney LGA compared to the New South Wales rate of 136.5) and *malicious damage to property* (2324.8 for Sydney and 1378.5 for Sydney LGA compared to the New South Wales rate of 834).
45. Although the crime and licence density is clearly problematic the Authority notes that this is a function of the great many licensed premises servicing many residents, visitors and City workers alike.
46. 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 Social Advantage and Disadvantage. That is, socio economic disadvantage is not a factor of concern when assessing the vulnerability of these communities to adverse alcohol related social impacts.
47. The Authority also notes the 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 **104.80** and a higher smoothed standardised separation ratio of **130.10** compared to a NSW average of **100**. These are further adverse factors that have been taken into account when assessing the overall social impact of granting this licence.
48. The Authority notes that a submission was received from Police dated 17 March 2017. In this letter Police discuss the location of the Premises, licensed premises saturation and late trading hours, liquor licence freeze within the Sydney CBD Entertainment Precinct (which Police note that the Premises is not within this precinct), NSW BOCSAR crime data (including alcohol related assaults (non-domestic assault from April 2014 to March 2015), Alcohol Related Crime Information Exchange (“ARCIE”) Alcohol Linking Monthly Report data (including data from 1 September 2015 to 31 August 2016 for Sydney LAC for incidents of assault, domestic violence and all incidents), the association between alcohol outlet density and assaults on and around licensed premises, Sydney City LAC statistics for alcohol related incidents and assaults from July 2015 to June 2016, Computerised Operational Policing System (“COPS”) data (indicating the number of alcohol related incidents within the Sydney City LAC for 2015 and 2016), data for assault (alcohol-related) between July 2015 to June 2015 including hotspot maps statics for premises type and graphs for day of week and time of day for City North, City South and the Pyrmont area.
49. Although this submission is lengthy (comprising nine-pages) the Authority notes that Police do not object to the Application but instead request a number of conditions be imposed upon the licence (for the sole purpose of public safety) which relate to CCTV, liquor sale/supply/consumption, neighbourhood amenity, joining the local liquor accord, crime scene preservation, operating the Premises in accordance with the Plan of

Management, restrictions on entertainment, the level of social impact from operating the business, and storing/making available any development consents, registers and Plan of Managements.

50. The Authority also note that a letter was received from a local hotelier (who's details have been redacted from the submission) dated 6 July 2016 requesting further information about the proposal (especially the size, number and capacity of the proposed bars) and questioning the proposed trading hours of 10:00am to 4:00am. The Authority notes that the Applicant responded to this submission in an email dated 9 August 2016.
51. Taking into consideration the submissions received and the Applicant's responses, the Authority is further reassured that no objections were received from the local community or relevant stakeholders in relation to this Application.
52. The scale, extensive trading hours and prevailing alcohol related crime rates in the suburb of Sydney are adverse factors that objectively increase the scope of this new licensed premises to contribute, along with the incumbent licensed premises, to alcohol related impacts in the local and broader communities.
53. The otherwise substantial scope for negative social impacts arising from these factors are ameliorated by the nature of the business model, being an international five-star accommodation hotel, which will be primarily concerned with accommodating persons staying on the premises. According to the CIS, the main public bar will have seating for 100 persons, while the dining room will have seating for 220 persons, as part of the restaurant operations of the hotel. Noting that the Executive Lounge will be limited to residents of the hotel, the public bar offering at the hotel will not be particularly large in scale.
54. The Authority further accepts the contentions made by the Applicant's consultant, Mr George Smith of Design Collaborative, in an email dated 9 August 2016 that prices could be expected to deter most casual visitors to Darling Harbour, that the hours being sought are the maximum possible and that the hotel is expected to attract many international travellers and it is reasonable to seek to provide them with the hotel's bar facilities for the maximum hours possible.
55. The Authority has given weight to the Applicant's consent to the imposition of a licence condition preventing the Premises from conducting takeaway liquor sales from the Premises. This will mitigate the risk of patrons consuming alcohol away from the Premises and engaging in alcohol related crime and anti-social behaviour in residential or other locations in the local and broader communities.
56. One aspect of the hotel operation that may be likely to generate alcohol affected patrons is the function room facility, which may accommodate larger numbers of people in a licensed environment. In this respect, the Authority has also had regard to the additional harm minimisation measures, including enforceable licence conditions, that will work to reduce the risk of negative impacts from the operation of the hotel. The Authority notes and gives weight to the Applicant's consent to conditions regarding CCTV, neighbourhood amenity and conditions preventing the provision of live entertainment or the hotel operating a nightclub.

57. Clause 11A of the Regulation requires an applicant for an extended trading authorisation to provide information about the gambling activities that will be conducted on the premises of a hotel or registered club during extended trading hours. When considering the overall social impact in respect of this aspect of the hotel's operations, the Authority notes that there will be no gaming machines, TAB or Keno facilities operated on the Premises, and the Applicant has consented to such conditions being imposed on the licence. This provides a further substantial harm mitigation factor that is accepted by the Authority as reducing potential negative social impacts resulting from the hotel's potential to operate during extensive and very late hours.
58. The Authority has also considered the operational measures detailed in the *Plan of Management* which form part of the Application. The Authority is satisfied on the basis of this document that the Applicant has implemented comprehensive and well-developed harm minimisation measures to ensure that alcohol will be served responsibly at the Premises. The Authority notes that the operator of the business will be a major international hotel and that there is no adverse information before the Authority 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

59. Having considered the positive and negative impacts that are likely to flow from granting the Hotel Application and ETA Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting the hotel and ETA Applications would not be detrimental to the well-being of the local and broader communities.
60. The Authority is further satisfied that it is in the public interest to grant the MAA and RBA Applications in association with the Hotel Application.
61. The Application is granted pursuant to sections 45, 49(2), 121 and 17(6) of the Act.



Philip Crawford
Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.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. ABS SEIFA data sourced from the 2011 Census for the suburb of Sydney and the Sydney LGA.
2. NSW Department of Health, *Health Stats* data obtained by licensing staff on *alcohol attributable deaths and hospitalisations* for the Ryde LGA for 2013.
3. NSW BOCSAR Crime Statistics for April 2015 to March 2017 for the State suburb of Eastwood, Ryde LGA and the State of New South Wales as a whole.
4. NSW BOCSAR Crime Maps based upon data from January 2016 to December 2016 detailing hotspots for the concentration of offences in Darling Harbour.
5. Application form for new full hotel licence, lodged with the Authority on 25 November 2016 accompanied by the following documents:
 - (a) Australian Securities and Investments Commission (ASIC) Current Organisation Extract for the Applicant DARLING HARBOUR PTY LTD as at 17 October 2016;
 - (b) Development consent SSD 6116 granted by the Minister for Planning on 15 June 2014 and modification of development consent SSD 6116 MOD1 granted by the Minister for Planning on 8 July 2015.
 - (c) Architectural plans/diagrams of the Premises indicating *inter alia* the proposed licensed area the proposed area in which the ETA will apply, the proposed area to which the MAA will apply and the area proposed to which the RBA will apply.
 - (d) RBA application form signed by the Sole Director and Secretary of the Applicant company Mr Jerry Schwartz on 3 November 2016 accompanied by the notice to local consent authority and notice to Police in relation to the RBA.
 - (e) Local consent authority notice, public site notice in relation to the new full hotel licence and the relating ETA and MAA.
6. Category B CIS signed and dated 7 September 2016 and lodged with the Application on 25 November 2016. This document is accompanied by the following documents:
 - (a) Geographical map indicating the 120-metre radius in which notification of the Application was distributed.
 - (b) Plan160777/2 Location plan – a geographical map prepared by Design Collaborative highlighting the Sydney LGA.
 - (c) Letter from City of Sydney Council (Council) to LGNSW dated 14 July 2016 advising that Council has no matters of concern and that the building has been approved by the New South Wales Department of Planning with SSD 6116.
 - (d) Letter from the department of Family and Community Services (FACS) to Design Collaborative dated 18 July 2016 advising that FACS do not have a response.
 - (e) Letter from RMS to Design Collaborative dated 11 July 2016 including road crash statistics and recommendations for the operation of the Premises.

- (f) Letter from an unknown source (the Authority notes that the details of this author have been redacted) to Design Collaborative dated 6 July 2016 requesting further information about the proposal (especially the size, number and capacity of the proposed bars) and questioning the proposed trading hours of 10:00am to 4:00am.
 - (g) Letter from the Applicant's consultant, Mr George Smith of Design Collaborative dated 9 August 2016, responding to the letter requesting additional information dated 6 July 2016 as discussed above.
7. Letter from RMS to Design Collaborative dated 5 December 2016 including road crash statistics and recommendations for the operation of the Premises.
 8. Letter from City of Sydney Council ("Council") dated 6 December 2016 advising that Council has no matters of concern and development consent was approved by the New South Wales Department of Planning with SSD 6116 and SSD 6831.
 9. Email from Senior Constable David Marshall of Sydney City Local Area Command ("LAC") of NSW Police ("Police") to licensing staff dated 11 April 2017 attaching a nine-page submission letter date 17 March 2017 advising no objection to the Application.
 10. LGNSW records listing all hotel licensed premises in the Sydney LGA and the suburb of Sydney and Darling Harbour sourced by licensing staff on 2 May 2017.
 11. Licensed density data provided by licensing staff calculated on the basis of LGNSW licensed premises information as at 25 May 2017 and ABS *Quickstats* population data for Sydney LGA, the State suburb of Sydney and the State of New South Wales.
 12. Email from the Applicant's legal representative Mr Kim Stapleton of JDK Legal to licensing staff dated 26 May 2017 responding to emails from licensing staff dated 11 April 2017 and 23 May 2017. The Applicant addresses submissions from Council and Police, attaching a Plan of Management and Certificate of Advertising from Mr Jerry Schwartz, Director, dated 26 May 2017.
 13. Google geographical maps (aerial and satellite view) indicating the area surrounding the Premises extracted by licensing staff on 2 June 2017.
 14. Letter from the Applicant's legal representative to licensing staff dated 21 June 2017 confirming the proposed licensed area, discussing the Executive Lounge and takeaway sales. The Applicant responds to emails from licensing staff dated 7 June 2017 and 16 June 2017 enclosing amended plans/diagrams of the Premises and an amended *Plan of Management* (undated) prepared by JGK Legal on behalf of the Applicant, accompanied by the LGNSW Intoxication Guidelines, LGNSW Prevention of Intoxication in Licensed Premises Guidelines and the LGNSW Liquor Promotion Guidelines dated July 2013.
 15. Email from Applicant representative dated 1 August 2017 consenting to form of conditions (including the 6-hour closure period, social impact, Plan of Management, minors authorisation, gaming, TAB/Keno, liquor accord, crime scene preservation, CCTV and not selling liquor in the residents bar during the 6-hour closure period).