



**Independent
Liquor & Gaming
Authority**

RM8 ref # DOC17/013061

Mr Jim Adams
Adams Hospitality Solutions
74C/1-3 MacDonald Street
CRONULLA NSW 2230

18 January 2017

Dear Mr Adams,

APPLICATION NO: 1-5019659476
1-5019897735
1-4978608235
1-4978716713

APPLICATION FOR: On-premises liquor licence – vessel class

PROPOSED TRADING HOURS: Monday to Sunday 4:00PM – 9:00PM

APPLICANT: Harbour City Ferries Pty Ltd

PROPOSED LICENSED PREMISES NAME: MV Collaroy, MV Queenscliff, MV Freshwater, MV Narrabeen (each vessel comprising the respective “Premises”)

PREMISES LOCATION: Jetty 3 Circular Quay
SYDNEY, NSW 2000

Secondary mooring address:
Balmain Shipyard, 72 Waterview Street,
BALMAIN NSW 2041

ISSUE: Whether to grant or refuse an application for an on-premises liquor licence – vessel class

LEGISLATION: Sections 3, 11A, 21-28, 40, 45 and 48 of the *Liquor Act 2007*

INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR AN ON-PREMISES LIQUOR LICENCE - VESSEL CLASS – HARBOUR CITY FERRIES PTY LTD SYDNEY

The Independent Liquor and Gaming Authority considered four applications numbered 1-5019659476, 1-5019897735, 1-4978608235 and 1-4978716713 (Applications) at its

board meeting on 14 December 2016 and decided, pursuant to section 45 of the *Liquor Act 2007* (Act), to grant the Applications subject to the following conditions:

Conditions imposed:

1. Trading Hours

Monday to Sunday 4:00PM – 9:00PM

2. Restricted trading & NYE (std)

Consumption on premises

Good Friday Not permitted

Christmas Day Not permitted


December 31st Normal trading

3. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6-hours between 4:00AM and 10:00AM 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.
4. The premises are to be operated at all times in accordance with the Plan of Management dated November 2016 as may be varied from time to time after consultation with the Local Area Commander of NSW Police.
5. The licensee is to maintain an approved Incident Register with incidents and details of the action taken to be recorded in the Incident Register at all times.
6. The following drinks must not be sold or supplied at any time:
 - a. Any drink (commonly referred to as a shot, shooter, slammer or bomb) that is designed to be consumed rapidly.
 - b. Doubles (does not apply to genuine cocktails).
 - c. Ready to Drink (RTD) packaged beverages exceeding 5% Alcohol by Volume.
7. The licensee must not permit dance party events to be conducted on the premises. For the purpose of this condition, a “dance party event” means an event, whether a ticketed event or otherwise, which is open to the public and where the primary activity is entertainment provided by live DJ/DJs and/or other live performance/s for the purpose of dancing.
8. The licensee, approved manager and employees or agents of the licensee must ensure that a copy of the liquor licence and Plan of Management is made available upon request by Police or LGNSW Inspectors.
9. The licensee is to notify the Marine Area Commander of NSW Police or his/her representative of all serious incidents (“serious incidents” include an injury sustained by a patron that requires medical treatment or any unscheduled dockings to turn out a person who is intoxicated, violent quarrelsome or disorderly).
10. The licensee is to ensure that no patron is stockpiling drinks and that a single person has no more than two unconsumed drinks at any one time that are for their consumption.
11. The licensee must not permit staff to consume liquor on the licensed premises while engaged in the sale or supply of liquor (including during any meal or other break).
12. Any events incorporating adult entertainment are prohibited.
13. The sale of alcohol is limited to the hours between 16:00 and 21:00 daily.

14. The licensee must become an active member of local liquor accords applicable in the areas of the City of Sydney and Northern Beaches Council (in respect of Manly).

If you have any enquiries about this letter please contact the case manager, Mr Kieran McSherry via email to Kieran.mcsherry@justice.nsw.gov.au

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

Philip Crawford

Chairperson

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

STATEMENT OF REASONS

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 four on-premises licence (vessel class) applications lodged on 9 September 2016 (Applications) and all submissions received in relation to the Applications. As foreshadowed in Authority *Guideline 6*, the Authority has also had regard to the 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.

Summary of Further Submissions

3. City of Sydney Council Submission dated 20 October 2016 in response to each Application simply advising that “the City has no further concerns with this application” and that the Plan of Management provided by the Applicant “appears to cover the City’s previous concerns”.
4. Email from Ms Leanne Martin, Community Safety Coordinator for Northern Beaches Council, dated 25 October 2016 questioning why no notice of the Application was provided to Northern Beaches Council. Ms Martin advises that “Council has made objection on two previous occasions for such an application and wishes to have the opportunity to once again consider the application”.
5. NSW Health Northern Sydney Local Health District (NSW Health) submissions dated 27 October 2016 and 9 November 2016 advising that NSW Health “do not support” the Applications. The agency raises concerns about the social impact of granting the Applications upon families and visitors to the City and the “perceived lack of safety among this group” when using a public transport service. NSW Health also raises concerns regarding the difficulty in monitoring alcohol consumption and secondary supply of alcohol to minors on the Ferries and the difficulty in implementing and monitoring responsible service of alcohol practices. The agency contends that granting the Applications will “create an opportunity for pre-loading” and that “the short duration of the service may result in consuming alcohol at a faster rate than normal” while the “general deck-hands are insufficient to manage alcohol related problems”. NSW Health also contends that once granted, each liquor licence is “likely to operate as more of a general bar”.
6. Applicant’s *Plan of Management and House Policy* dated November 2016, prepared by the Applicant’s solicitor, Adams Hospitality Solutions. This 11-page document, submitted for each vessel, provides information regarding the liquor licence, liquor signage requirements, procedures for the responsible service of alcohol on the vessels (including intoxication, staff procedures and underage passengers), staff induction and training measures, other miscellaneous harm reduction measures (including no consumption of bring your own (BYO) liquor, no glass to be served to patrons, use of

security guards on Friday and Saturday between 4:00PM and 9:00PM (on a trial basis for the first three months), the sale of additional food and non-alcoholic beverages at all times that alcohol is served from within the licensed Premises, and use of CCTV on the vessel). The Plan also deals with the use of an Incident Register and the accompanying *House Policy* summarises procedures to be observed by staff for the responsible service of alcohol on each vessel.

7. Email from Mr Jim Adams, Adams Hospitality Solutions, dated 7 November 2016, providing an email from Mr Paul Zagami, Commercial Development Manager for the Applicant Ferries operator, Harbour City Ferries (HCF), dated 4 November 2016. Mr Zagami states that “HCF does not intend to exercise any licence granted by ILGA until such a time as a suitably qualified operator has been engaged by HCF and approved by ILGA”.
8. Email from Mr Adams dated 9 November 2016. In response to the submission from NSW Health the Applicant contends that “the sale of alcohol restricted to a small range of liquor products during a limited time period is commonplace on public transport in NSW” (referring to NSW country trains and domestic passenger flights arriving and departing Sydney Airport). The Applicant further contends that there will be staff and security guards on duty during peak periods, CCTV on the Premises, liquor signage and a requirement that the sale of liquor be confined to within a limited area of each vessel. The Applicant contends that the practice of “pre-loading” (which the Authority understands to mean the practice of persons, usually young adults, consuming liquor in public or private places before attending licensed venues) has not been “borne out by consumption habits on Manly Fast Ferries” (which the Authority notes are already licensed) and that alcohol service on the vessels that are the subject of the Applications will cease five minutes before a Ferry is due to dock.
9. The Applicant contends that any “unsocial” patrons will be refused service and removed from the licensed area. The Applicant objects to a proposal from NSW Health that there be four crew and two RSA staff supervising the service of liquor in the licensed area. The Applicant contends that this licensed area on each vessel will accommodate “less than 200 passengers” and not all passengers in that licenced area will be consuming alcohol.
10. LGNSW email submissions dated 14 and 17 November 2016. In these submissions LGNSW advise that a full assessment of the Applications is “not warranted” by reason of the business model, but an Environment and Venue Assessment Tool (EVAT) assessment indicates that the risk assessment is assessed “low” for all factors apart from the maximum number of patrons on each Premises, which is assessed as “high”. The location risk is also assessed as “high”. LGNSW submit that in order to mitigate risk, conditions be imposed upon each licence requiring the licensee to comply with the Plan of Management, requiring maintenance of an Incident Register and prohibiting the service of liquor designed to be consumed rapidly (including shots, shooters, slammers or bombs). LGNSW further propose a condition prohibiting double serves of alcohol unless in “genuine cocktails” and the prohibition of any “ready to drink” mixed beverages with more than 5% alcohol by volume. LGNSW note that the Applicant was refused a licence for its ferries in 2014, but take the position that if the concerns arising from that application are addressed in these Applications, a more detailed submission on the matter will not be required from LGNSW.

11. Email from Mr Adams on behalf of the Applicant dated 15 November 2016. The Applicant does not object to the three licence conditions proposed by LGNSW. The Applicant further submits that the Applications only seek a limited licensed trading period and contends that liquor will be restricted to a “very small range of alcoholic beverages”. The Applicant submits that the licence will only operate within a section of each vessel and the licensee will not permit the sale of alcoholic beverages before departure.
12. Further email submission from Ms Martin of Northern Beaches Council, dated 21 November 2016. In this two-page letter Ms Martin submits that the Application was not posted on the LGNSW Liquor Applications Notice Board in respect of the suburb of Manly (it was, however, posted to the Mosman and City of Sydney noticeboards). Ms Martin contends that “no paperwork” was received by Northern Beaches Council from the Applicant. Ms Martin objects to the Application on the same bases upon which the former Manly Council opposed the 2014 licence applications in response to these four vessels. Northern Beaches Council contends that licensing the ferries would not be in the interest of the responsible service of alcohol to the community.
13. The Council further submits that although Manly Council is now amalgamated into Northern Beaches Council, the circumstances that gave rise to the previous objections have not changed. The Council further submits that “alcohol misuse has been identified for many years as a problem in Manly CBD” and that “there is no clear reason why alcohol needs to be served whilst on the half hour ferry trip”. Council notes that it has not had access to any community impact statement nor a Plan of Management.
14. Submission from NSW Marine Area Command of NSW Police (Police) via Mr Grant Campbell, Licensing Coordinator, dated 21 November 2016. Police make a general objection to any new on-premises (vessel) licence due to the number of active licences that are already in this category, the limited locations for commercial vessels to embark and disembark their passengers and the large number of passengers in the Sydney wharf areas. Police also raise concerns regarding a lack of any “responsible council or governing authority” to impose conditions on the use of the Premises (for planning purposes) or to restrict trading with regard to on-premises (vessel) licences. Police make the general submission that the marine environment is “unique” and this gives rise to additional concerns for Police.
15. Turning to the specific proposal, Police observe that notwithstanding their general objection, the proposed operation and business model that is the subject of these Applications are “limited” in their scope and “would be considered low risk”.
16. Police request that conditions be imposed upon the licences should the Applications be granted – including a requirement that no dance party events be permitted, mandating that each licensed Premises be operated in accordance with the Plan of Management, requiring copies of the licence and Plan of Management to be made available upon request by Police or other inspectors and that an Incident Register be maintained for each Premises. Police further seek the imposition of a licence condition requiring the licensee to notify Police of all “serious incidents” occurring on the Premises and that drink restrictions be imposed (with no drinks sold that are designed to be consumed rapidly, no “doubles”, no ready to drink (RTD) packaged beverages exceeding 5% alcohol by volume. Police also seek conditions prohibiting the stockpiling of drinks and a requirement that no single patron may have more than two unconsumed drinks in

their possession at any one time for consumption. Police also seek the imposition of licence conditions requiring that staff not consume any liquor (including during breaks), that there be no events incorporating adult entertainment and that the service of liquor on the Premises be limited to between 4:00PM and 9:00PM daily.

17. Email from Mr Adams dated 21 November 2016, advising that the Applicant does not oppose the conditions proposed by Police, while submitting in response to Police concerns regarding a lack of any “restrictions” on the use of maritime vessels that Transport for NSW is the owner of the Ferries and these vessels are “hardly likely to suddenly turn into party boats”.
18. Further email submission from Ms Martin of Northern Beaches Council dated 5 December 2016. Ms Martin restates the concerns raised in her email dated 21 November 2016 and raises concerns regarding the proposed licensed hours of operation and the prospect that enabling passengers to consume alcohol on the Ferries will prompt patrons to either “pre-fuel” or “top up their alcohol intake” during this journey.
19. The Council raises concerns that there is “no information supplied” by the Applicant about how refusal of service will be managed and how patrons will be managed once they reach Manly Wharf. Northern Beaches Council seeks the imposition of specific conditions upon the licences should the Applications be granted, including a requirement that a security guard be provided during the busiest service periods (Friday to Sunday evenings), a requirement that Police are to be called if a serious incident occurs, a strict two drink limit per person, a requirement that an Incident Register be maintained, that CCTV be installed on the Premises and that all empty drink containers be collected at the end of the trip and not taken off the vessel by patrons.
20. Email from Mr Adams dated 6 December 2016. In response to the concerns raised by Northern Beaches Council, the Applicant submits that many of the issues raised by Northern Beaches Council relate to the “earlier applications” made by the Applicant (during 2014). The Applicant submits that the Applications now before the Authority propose “substantially different serving hours, significantly smaller licensed areas on each vessel and a limited range of liquor”. The Applicant submits that its purpose is to “enhance the on-board experience” of the Ferry ride, not to “provide an environment to encourage excessive drinking”.
21. Email from Ms Martin of Northern Beaches Council dated 8 December 2016. In response to the Applicant’s Plan of Management, Ms Martin submits that further clarification is required as to how staff will deal with intoxicated passengers whilst the ferry is underway and how the stated object in the Applicant’s *House Policy* of “providing safe transport options for patrons” will be implemented. Northern Beaches Council requests that the licensee become a “financial member” of the Northern Beaches Liquor Accord and that security guards be appointed on Sunday afternoons as well as Friday and Saturdays on an ongoing basis.

Legislative Framework

22. The legal requirements for the making of a valid application for a new liquor licence are provided by section 40 of *the Liquor Act 2007* (Act) and the *Liquor Regulation 2008*

(Regulation). The power to grant an application for a liquor licence is provided by section 45 of the Act.

- 23.** 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.*

Findings

- 24.** The Authority is satisfied, on the basis of the Application and material before it, that the Application has been validly made and the minimum procedural requirements with regard to the making of the Application have been satisfied for the purposes of section 40 of the Act.
- 25.** The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place upon the commencement of licensed trading on the Premises. This finding is made on the basis of the Applicant's Plan of Management dated November 2016, that will be enforceable through a licence condition.
- 26.** While no CIS was required or prepared by the Applicant, the Authority notes that NSW Police, Sydney City Council and Northern Beaches Council were among the public agencies consulted during the Application process. No objection was made by City of Sydney Council (who noted that the Plan of Management provided "appears to cover the City's previous concerns"). NSW Police express general opposition to licensing any further vessels with on-premises licences but make the specific observation that the proposed operation and business model is limited in scope and "low risk".
- 27.** A brief initial submission from the Deputy Manager of Northern Beaches Council dated 16 August 2016 supported the Application stating that it would "not adversely affect the amenity of the local area". However, several further submissions from that Council have raised social impact concerns regarding alcohol related crime and amenity impacts in Manly and the management of passengers affected by liquor on the vessels

and when they disembark. Those submissions were taken into account by the Authority when framing the appropriate licence conditions.

- 28.** The Authority notes that Northern Beaches Council have reiterated the concerns articulated by the former Manly Council in response to a previous application made during 2014 to licence the four Ferries that are the subject of the Applications now before the Authority
- 29.** However, these Applications are considerably reduced in scope by comparison to the 2014 applications, a factor noted by NSW Police in its submission before the Authority.
- 30.** In the present Applications, the operator seeks to licence only a portion of each vessel, so that liquor may only be consumed within that designated licensed area. The Applicant advises and the Authority accepts that the licensed area may potentially accommodate up to 200 people, but fewer patrons within that area will be drinking. By contrast, the 2014 applications had sought to licence the *entire* vessels (with a patron capacity of up to 800 persons).
- 31.** The current Applications seek to serve liquor between 16:00 and 21:00 hours each evening on the Sydney to Manly passenger service. By contrast, the 2014 applications had proposed to supply liquor from midday until 21:15 daily, with further licensed trading between 10:00AM and midnight on days when the Ferries were operating as private charter cruise vessels on weekends.
- 32.** Several letters in support of the Applications were provided by the Applicant, including correspondence from Mr Christopher Tooher, Executive Director of Sydney Festival, dated 14 June 2016; Ms Patricia Forsythe, Executive Director of the Sydney Business Chamber, dated 15 June 2016; Ms Sandra Chipchase, Chief Executive Officer of Destination NSW, dated 23 June 2016; Ms Margy Osmond, Chief Executive Officer of the Tourism & Transport Forum Australia (an industry body), dated 24 June 2016 and Mr Drew Johnson, President of Manly Chamber of Commerce dated 8 July 2016. The Minister for Transport and Infrastructure, The Hon. Andrew Constance MP, advised his consent to the making of the Applications in a letter dated 5 August 2016.
- 33.** Briefly:
 - (a) Mr Tooher contends that a liquor licence “would make the ferry a more attractive option to the Sydney Festival for a unique location performance”. The Applicant has previously been granted permission to serve alcohol for the Ferrython event on Australia Day, and Mr Tooher contends that the Applicant has “been a very safety conscious and diligent organisation in hosting the Ferrython with the Sydney Festival each year”.
 - (b) Ms Forsythe emphasises the importance of the Manly Ferry within the “visitor economy” and compares this service to the famous Staten Island Ferry and the London Thames Clipper service, contending that without a liquor licence “we cannot provide the same visitor experience in relation to a quality food and beverage service”.
 - (c) Ms Chipchase contends that “to be competitive in the global market, Sydney must offer experiences that meet the expectations of world travellers and which are available in all other global cities” and that “having a limited alcohol service on the

Manly Ferries would add to the tourism experience and provide an additional hospitality benefit and service”.

- (d) Ms Osmond makes the broad submission that “an alcohol service is already a standard part of many public transport operations” and contends that “attracting more people to use the Manly Ferry will reduce congestion on arterial roads”. Ms Osmond contends that granting the Applications “will likely also enhance the Manly Ferry service” and “drive economic prosperity via tourism services in both Manly and the Sydney CBD”.
- (e) Mr Johnson contends that licensing the Ferries will “enhance the experience” of visitors travelling to Manly and will offer “a fond farewell to guests returning to Circular Quay after a day out”.
- 34.** Having regard to the lack of a case specific objection from Police (their general opposition is noted) and the lack of any opposition from Sydney City Council and noting some degree of support received from some elements of the hospitality and tourism industry, the Authority is satisfied (on the material before it) that this new enterprise will be consistent with the “expectations, needs and aspirations” of the communities, which is a statutory object of section 3(1)(a) of the Act. The Authority is satisfied that the Sydney to Manly ferry service is not only a passenger service but a significant and internationally recognised tourist attraction. In this respect granting the licence will contribute to the responsible development of related industries, such as tourism, for the purposes of section 3(1)(c) of the Act.
- 35.** The Authority has given careful consideration to the submission from NSW Health. The Authority accepts the point made by NSW Health that the Ferries are first and foremost an essential passenger transport service. There may well be patrons, including families, who would prefer not to be exposed to passengers drinking alcohol during this 25-minute journey, or the spectrum of behaviour that may reasonably be associated with people consuming liquor, either individually or in groups.
- 36.** The concerns raised by NSW Health pose legitimate concerns when assessing the competing public interest considerations and objects of the Act and whether granting these Applications would be consistent with the needs desires and expectations of those in the community who patronise the Ferries, for the purposes of section 3(1)(a) of the Act. The Authority accepts that for some in the community, licensing these ferries will be inconsistent with their expectations.
- 37.** For this reason the Authority has given considerable weight to the Applicant’s proposal that the hours of service be confined to 16:00 and 21:00 each evening and that liquor service be confined to a defined licensed area only.
- 38.** As an *on-premises* licence, the Ferries will only be authorised to sell or supply liquor for consumption *within the licensed area on the Premises*. The Authority expects the licensed area to be clearly delineated by signage on each vessel. Were the licensee to permit patrons to consume the liquor sold or supplied by the operator on other parts of the Ferries, or to be consumed off the Ferries, the licensee will contravene the authorisation provided by the licence and be liable to prosecution.
- 39.** The Authority has carefully considered the implications of licensing the Ferries with regards to the considerations provided by sections 3(2)(a) and 3(2)(c) of the Act.

40. When assessing whether the grant of each licence is in the public interest in respect of the Act, there is prima facie cause for concern arising from the prevailing rates of alcohol related crime in those communities that the licences are most likely to service and impact. While the Applications disclose a secondary mooring address in Balmain, the Authority is satisfied that the Circular Quay to Manly passenger service will mostly directly impact the communities in Sydney and Manly, where passengers will disembark.
41. With regard to prevailing crime in the City of Sydney Local Government Area (LGA), BOCSAR Crime Maps for the period between July 2015 – June 2016 indicate that Wharf 3 at Circular Quay (from which passengers will board and disembark) is located within existing hotspots for the concentration of incidents of *assault police*, *domestic assault*, incidents of *non-domestic assault* and *malicious damage to property*. The BOCSAR Report on NSW Recorded Crime Statistics for July 2010 to June 2015 indicates that between July 2014 to June 2015 the Sydney LGA recorded higher rates per 100,000 persons for incidents of alcohol related *non-domestic violence assault*, *domestic violence assault* and *offensive behaviour offences* compared to the State of NSW.
42. Noting in particular the concerns raised by Northern Beaches Council, the BOCSAR Crime Maps data for the former Manly LGA indicate Manly Wharf area is located within hotspots for incidents of *domestic assault*, incidents of *non-domestic assault* and incidents of *malicious damage to property*. The BOCSAR Report on NSW Recorded Crime Statistics for July 2010 to June 2015 indicates that between July 2014 to June 2015 the Manly LGA recorded higher rates per 100,000 persons for incidents of *alcohol related assault police*, *alcohol related non-domestic violence assault*, and *alcohol related offensive behaviour offences* compared to the State of NSW. The Manly LGA recorded lower rates for *alcohol related domestic violence* related assault compared to the State of NSW.
43. Notwithstanding that the primary purpose of the Ferry businesses will not be the supply of liquor, but passenger transport, careful scrutiny is required when assessing whether licensing the Ferries is in the public interest.
44. The ABS Socio-Economic Indexes For Areas (SEIFA) data, indicates that both the suburb of Sydney and the Sydney LGA (where the vessel will be primarily moored) are reasonably advantaged with the Sydney suburb ranked in the 7th decile and the Sydney LGA ranked in the 9th decile on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged). The suburb of Balmain and the Leichhardt LGA both ranked in the 10th decile. The Authority is also aware, from its prior recourse to SEIFA data for Manly that this area is also relatively very advantaged. The Authority does not consider that the prevailing alcohol related crime risks evident in these communities are compounded by any relative social disadvantage, but is mindful that the passenger service will also be patronised by many visitors to the City, including tourists.
45. On the material before it, the Authority gives considerable weight to the limited licensed hours, the limited duration of the journey, the limited licensed area on each vessel and the substantial controls that will be imposed upon the licensee by way of mandatory licence conditions, including a detailed Plan of Management that will itself be enforceable through the operation of a condition on the licence.

46. The Applicant has consented to a number of conditions, above the minimum requirements of the legislation, designed to reduce the risk of alcohol related harm from the operation of this business. Notably, this includes conditions requiring that drinks designed to be consumed rapidly, double shots of liquor and RTD packaged beverages exceeding 5% alcohol by volume must not be sold or supplied at any time.
47. The licensee has undertaken in the Application to provide a limited range of alcoholic drinks. The licensee is also required to maintain an approved Incident Register, not permit dance party events on the Premises, notify the NSW Police Marine Area Commander or representative of all serious incidents, ensure no stockpiling of drinks and ensure that no single person has any more than two unconsumed drinks at any one time. Staff will not be permitted to consume liquor on the licensed Premises while engaged in the sale or supply of liquor (including during breaks), events incorporating adult entertainment are prohibited and that the licensee must become an active member of the local liquor accords for the Sydney City and Northern Beaches local government areas.
48. By reason of the problematic crime data in the Sydney and Manly locations where patrons will disembark, the Authority has seen fit to impose these substantive limitations and controls upon the service of liquor, while mandating, through an *enforceable* Plan of Management dated November 2016, requirements as to liquor licence signage, procedures for the responsible service of alcohol (including intoxication, staff procedures and underage passengers), staff induction and training, other harm minimisation controls (including no BYO permitted, no glass to be served, use of security guards on Friday and Saturday between 16:00 and 21:00 (on a trial basis for the first three months), the sale of additional food and non-alcoholic beverages at all times that alcohol is served from within the licensed Premises, and use of CCTV), along with a requirement to maintain an Incident Register and to comply with the House Policy. These additional measures are considered necessary to reduce the scope for some passengers consuming liquor to contribute to the prevailing alcohol related social impacts in the community, particularly the Sydney and Manly CBD areas.
49. The Authority notes the submission from Northern Beaches that security guards should be required as a separate and ongoing condition on the licence. As things stand, a security presence is mandated for a trial period within the enforceable Plan of Management and the Authority is satisfied with this safeguard at this time. Should an ongoing licence condition mandating security guards be required, it would be open to a local council, law enforcement agency or another party to make a submission to the Authority with evidence or information in support of such proposal. The Authority has the power to impose licence conditions from time to time, of its own initiative, pursuant to section 53(2)(b) of the Act.
50. The Authority emphasises that licensed area for each licence will extend only to that portion of the forward upper deck that the Applicant has indicated in the diagrams of each vessel that have been provided with each Application.

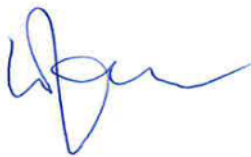
Conclusion

51. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Applications, 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, including Police and Council, and all other parties were consulted as required by the legislation.

52. The Authority has decided, under section 45 of the Act, that granting the four Applications would be in the “public interest” of the community which the licence is likely to service and impact.
53. 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.
54. The Application is granted pursuant to section 45 of the Act.

Decision Date: 14 December 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. Letter dated 22 August 2014 from the Authority refusing the licence application lodged 1 November 2013.
2. Letter from Mr Christopher Tooher, Executive Director of the Sydney Festival, dated 14 June 2016.
3. Letter from Ms Patricia Forsythe, Executive Director of the Sydney Business Chamber, dated 15 June 2016.
4. Letter from Ms Sandra Chipchase, Chief Executive Officer, Destination NSW, dated 23 June 2016.
5. Letter from Ms Margy Osmond, Chief Executive Officer, Tourism & Transport Forum Australia, dated 24 June 2016.
6. Letter from Mr Drew Johnson, President, on behalf of Manly Chamber of Commerce dated 8 July 2016.
7. Letter of consent from Minister for Transport and Infrastructure, The Hon. Andrew Constance MP, dated 5 August 2016.
8. Northern Beaches Council initial submission from Mr Henry T Wong, Deputy General Manager, dated 16 August 2016.
9. Australian Securities and Investments Commission (ASIC) Current Company Extract dated 1 September 2016.
10. Certification of Survey and Operation for all four vessels dates from 2013 to 2014, including diagrams highlighting the proposed licenced area of each vessel.
11. Public Consultation Site Notice, Police Notice and Local Consent Authority Notice all dated 9 September 2016.
12. Application Forms for on-premises licences lodged on 9 September 2016.
13. City of Sydney Council Submission from Mr Nick Pitchuev, Licensed Premises Coordinator, Health and Building, dated 20 October 2016.
14. Email from Ms Leanne Martin, Community Safety Coordinator, Northern Beaches Council dated 25 October 2016.
15. NSW Health submissions from Ms Melissa Palermo, dated 27 October 2016 and 9 November 2016.
16. Plan of Management and House Policy dated November 2016, prepared by Adams Hospitality Solutions.
17. Email from licensing staff to Mr Adams dated 4 November 2016.
18. Email from Mr Adams dated 7 November 2016, with email from Mr Paul Zagami dated 4 November 2016 attached.
19. Two emails from Mr Adams dated 9 November 2016.
20. Email from Mr Adams dated 15 November 2016.
21. LGNSW submissions dated 14 and 17 November 2016.

22. Email from Mr Adams dated 18 November 2016, with email from Mr Zagami dated 15 November 2016 and Google Maps image attached.
23. Email from Mr Adams dated 21 November 2016.
24. Email from Ms Martin dated 21 November 2016.
25. Police submission from Mr Grant Campbell, Licensing Coordinator, dated 21 November 2016.
26. Email from Ms Martin dated 5 December 2016.
27. Email from Mr Adams dated 6 December 2016.
28. Email from Ms Martin dated 8 December 2016.
29. Applicant Floor plans for each vessel illustrating the proposed licensed area.
30. Google Map and photograph of Circular Quay, Wharf 3. Google Map and photograph of Balmain Shipyard.
31. NSW Department of Health *HealthStats* Selected Reports for Sydney LGA, dated 21 November 2016.
32. NSW Department of Health *HealthStats* Selected Reports for the former Leichhardt, Marrickville and Ashfield LGAs (in light of the place of secondary mooring) dated 21 November 2016.
33. NSW Department of Health *HealthStats* Selected Reports for Leichhardt LGA dated 21 November 2016.
34. 2011 Census *QuickStats* information downloaded from the ABS website on 21 November 2016 for Sydney, Balmain.
35. NSW Department of Health *HealthStats* Selected Reports for Ashfield LGA dated 22 November 2016.
36. 2011 Census *QuickStats* information for Manly downloaded from the Australian Bureau of Statistics website on 8 December 2016.
37. NSW Department of Health *HealthStats* Selected Reports for Manly LGA dated 8 December 2016.
38. BOCSAR Report on NSW Recorded Crime Statistics July 2010 – June 2015. This report indicates that for July 2014 – June 2015:
 - (a) the rate of *alcohol related assault Police* incidents recorded by NSW Police recorded across the City of Sydney LGA was **85.2** per 100,000 persons, above the State-wide rate of **18.2** per 100,000 persons.
 - (b) the rate of *alcohol related non-domestic violence* assault incidents recorded across the City of Sydney LGA was **796.6** per 100,000 persons, above the State-wide rate of **144.0** per 100,000 persons;
 - (c) the rate of *alcohol related domestic violence* assault incidents recorded across the City of Sydney LGA was **213.3** per 100,000 persons, above the State-wide rate of **122.6** per 100,000 persons; and

- (d) the rate of *alcohol related offensive behaviour offences* recorded across the City of Sydney LGA was **525.4** per 100,000 persons, above the State-wide rate of **88.2** per 100,000 persons.
39. BOCSAR Report on NSW Recorded Crime Statistics July 2010 – June 2015 for the former Manly LGA.
 40. BOCSAR Crime Maps based upon data from July 2015 – June 2016 detailing hotspots for the concentration of offences near the location where patrons will disembark the vessels at Circular Quay and Manly.
 41. LGNSW liquor licensing records indicating that the City of Sydney LGA currently has 1486 on-premises liquor licensed premises and that the suburb of Manly has 89 on-premises liquor licensed premises.
 42. ABS SEIFA data prepared on the basis of the 2011 census.