



Mr Richie Haines

By email to: [richie@universalhotels.com.au](mailto:richie@universalhotels.com.au)

18 December 2023

Dear Mr Haines

<b>Application No.</b>	1-8732030366 & 1-8719335625
<b>Applicant</b>	Filiki Eteria Pty Ltd
<b>Application for</b>	Gaming Machine Threshold (GMT) increase with Gaming Machine Entitlement (GME) Lease, GMT increase & poker machine permit (PMP) transfer
<b>Licence name</b>	Hotel Downing
<b>Licence number</b>	LIQH400100604
<b>Trading hours</b>	Monday to Saturday 5:00 AM – 3:00 AM Sunday 10:00 AM – 3:00 AM
<b>Shutdown hours</b>	Monday to Sunday 4:00 AM – 10:00 AM
<b>Premises</b>	249-255 Castlereagh Street Sydney NSW 2000
<b>Legislation</b>	Sections 3, 24, 25, and 34 of the <i>Gaming Machines Act 2001</i> Section 53 of the <i>Liquor Act 2007</i>

### Decisions of the Independent Liquor & Gaming Authority Applications for Hotel Downing

We were to consider the application for a GMT increase with GME lease at our meeting on 19 July 2023. We were also to consider the application for a GMT increase with a PMP transfer for the Hotel at our meeting on 16 August 2023.

However, we deferred our decisions in view of the Supreme Court decision in *Whitebull HTL Pty Ltd & Ors v Independent Liquor and Gaming Authority [2023] NSWSC 588* and the subsequent appeal. Following the decision of the Court of Appeal on 20 September 2023 we considered both applications on 27 September and decided to **refuse** the applications under section 34 of the *Gaming Machines Act 2001*. Both applications were considered simultaneously.

#### Statement of reasons

Overall, we are concerned that approving the applications is likely to be detrimental to the well-being of the local or broader community.

We note the significant increase of 19 hours in post-midnight gaming at the Hotel Downing compared to the source venue, The Porterhouse Hotel and that the Hotel Downing is located in an area with high saturation of gaming machines. We are concerned that the harm minimisation measures in place would not mitigate the risk of potential harm in the community. We are also concerned that the imposition of additional conditions would not adequately mitigate the risks.

## **Our findings**

### *Community impact*

#### *Local and broader communities*

The relevant 'local community' is the community in the suburb of Sydney, and the relevant 'broader community' comprises the Local Government Area of Sydney.

#### *Office of Responsible Gambling identified risk factors*

The Office of Responsible Gambling (ORG) has identified a number of problem gaming risk indicators for local areas and recommend proceeding with caution in cases where these exceed NSW average figures. The following risk indicators have been identified for the LGA of Sydney:

- Proportion of population aged 20-24 is above the NSW average
- Proportion of the population who speak a language other than English at home is above the NSW average
- Proportion of lone person households is above the NSW average

## **Findings of concern**

We are concerned that if the applications were granted it is likely to increase the harm associated with the misuse and abuse of gambling activities and fail to facilitate the balanced development, in the public interest, of the gaming industry due to:

- post-midnight trading – the venue is licensed to trade up to 21 hours post-midnight per week, seven of these during the higher risk post-2:00AM period
- the venue being located in an area exhibiting three of six ORG identified problem gaming risk factors

The risks may be mitigated by the:

- venue's proposed gaming plan of management (GPOM) having been assessed as exceeding the Authority's standards for most venues of this risk profile
- below average gambling participation rates in the South-Eastern Sydney Health district compared to NSW

However, on balance, we are concerned that the potential for harm from approving the applications outweighs any benefit to the local or broader community and accordingly, approval of the applications are not in the public interest.

## **The material we considered**

We considered all the material we received about the applications, including:

### Application Material

- completed application dated 11 May 2023
- liquor licence documents recorded as at 29 June 2023
- Gaming Plan of Management dated April 2022

### Other relevant material

- correspondence between L&GNSW staff and the applicant on 29 June in relation to the assessment of, and submissions for the applications

This decision will be published on the [Liquor & Gaming NSW website](#).

## **If you have any questions**

Please contact the case manager, Charles River, at [Charles.Rivers@liquorandgaming.nsw.gov.au](mailto:Charles.Rivers@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely

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

Caroline Lamb

**Chairperson**

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