



Ms Jade Hall
Liquor and Gaming Solutions
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6 May 2022

Dear Ms Hall

Application No.	APP-0009383976
Applicant	DEPT HOLDINGS PTY LTD
Application for	Hotel licence with minors area authorisation
Licence name	Devil's Hollow Tavern
Trading hours	10 Commercial Avenue Dubbo NSW 2830
Trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 am – 12 midnight Sunday 10:00 am – 10:00 pm <u>Takeaway sales</u> Monday to Saturday 10:00 am – 12 midnight Sunday 10:00 am – 10:00 pm
Legislation	Sections 3, 11A, 12, 14 - 17, 40, 44, 45, 48, 51 and 121 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a hotel licence with minors area authorisation – Devil's Hollow Tavern**

The Independent Liquor & Gaming Authority first considered the application above at its meeting on 13 April 2022 and, following the receipt and consideration of further requested information, and pursuant to sections 45 and 121 of the *Liquor Act 2007*, decided on 5 May 2022 to **approve** the application subject to:

- the surrender of on-premises licence number LIQO660035034
- the imposition of the licence conditions as set out in Schedule 1.

Concise statement of reasons

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager, Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P. Crawford', enclosed in a thin black rectangular border.

Philip Crawford
Chairperson

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

Concise statement of reasons

Key facts

Application No.	APP-0009383976
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Application date	25 November 2021
Decision	Approved under sections 45 and 121 of the <i>Liquor Act 2007</i>
Decision date	5 May 2022

Material considered by the Authority

The Authority has considered the following material in determining the application:

- application material, including evidence of notification to specified stakeholders and the community about the application
- Category B Community Impact Statement
- premises plan setting out the proposed boundaries of the licensed premises and the minors area authorisation
- Plan of Management for the licensed business at the premises
- development consent for the premises
- Liquor & Gaming LiveData Report
- stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- section 3: Statutory objects of the Act and relevant considerations.
- sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- sections 14, 15, 15A and 17: Specific provisions in respect of a hotel licence.
- section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- section 44: Submissions to Authority in relation to licence applications.
- section 45: Criteria for granting a liquor licence.
- section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available

information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.

- section 51: General provisions relating to licence-related authorisations.
- section 121: Minors in hotels in company of responsible adult.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Dubbo, and the broader community is the Local Government Area of Dubbo.

Positive social impacts

The Authority notes that the purpose of this application is to replace the existing on-premises licence, which has been operating at the premises for over two years, with a hotel licence. The Authority has had regard to the applicant's contentions that:

- the application is in response to community demand for a pub closer to the western side of Dubbo, and will provide a greater range of options and better access for those in this locality
- a hotel licence will provide the community with increased access to other facilities, such as entertainment, gaming and TAB
- the hotel licence will contribute to the responsible development of related industries such as live music, entertainment and tourism.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- higher risk profile of a hotel licence in comparison to an on-premises licence
- the fact that the boundary of the hotel licence will be 112m² larger than the boundary of the on-premises licence, due to an associated application to reduce the licence boundaries of the Devil's Hollow Brewery producer wholesaler licence to accommodate the hotel licence
- relatively large scale of the premises, with a 400 patron capacity
- higher than average saturation of hotel licences in the local and broader communities
- higher than average rates of alcohol-related domestic and non-domestic assault, alcohol-related offensive conduct, and malicious damage to property in the local community
- higher than average rates of alcohol-related domestic and non-domestic assault, and malicious damage to property in the broader community
- higher than average level of alcohol-attributable deaths in the broader community
- relative socio-economic disadvantage in the local community
- high Aboriginal and Torres Strait Islander population in the local and broader communities.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- the premises will not trade past midnight
- the premises is not situated in any crime hotspots
- the premises is situated in the newly developed Blueridge Business Park, with the closest residential dwellings situated on the opposite side of the Mitchell Highway
- licence density in the local and broader communities will not increase as approval of the application is contingent on the surrender of the existing on-premises licence

- lower than average clustering of hotel licences in the local and broader communities
- absence of any objections from agency stakeholders or members of the community
- a courtesy bus will be provided on Friday and Saturday evenings, as stipulated in the Plan of Management
- the experience of the proposed approved manager, who has been the approved manager of the on-premises licence at the premises since 2020
- there are no adverse findings or compliance issues recorded against the on-premises licence
- harm minimisation measures set out in the Plan of Management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under sections 45 and 121 of the Act.



Philip Crawford
Chairperson

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

Schedule 1 – Licence conditions to be imposed Devil's Hollow Tavern

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

Note: Trading is also allowed 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 5:00 AM.
3. Restricted trading & NYE
Take away sales

Good Friday	Not permitted
Christmas Day	Not permitted
December 31 st	Normal trading
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 reasonably be 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 February 2022 as may be varied from time to time after consultation with 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. The licensee or its representative must join and be an active participant in the local liquor accord.
7. Closed-circuit television system
 - 1) 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 a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of ten (10) 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 premises.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person 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.

8. Incident register

- 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
 - a) any incident involving violence or anti-social behaviour occurring on the premises,
 - b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
 - d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
 - a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

9. Minors Area Authorisation: Whole of the licensed premises, excluding the gaming room.

10. 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:

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.
- 5) 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.