



Ms Nicole Beath
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24 February 2022

Dear Ms Beath

Application No.	APP-0006429484
Applicant	Fort Denison Dining Pty Ltd
Application for	On-premises liquor licence (restaurant, catering, tourist and cultural precinct, and tourist facility classes) Primary service authorisation Extended trading authorisation
Licence name	Fort Denison Dining
Premises	Fort Denison, Sydney Harbour National Park Sydney NSW 2000
Trading hours	Monday to Sunday 7:00 am – 12:00 midnight
Legislation	3, 11A, 12, 21 – 28, 40, 44, 45, 48, 49 and 51 of the <i>Liquor Act 2007</i> (NSW)

**Decision of the Independent Liquor & Gaming Authority
Application for an on-premises liquor licence with primary service and extended trading
authorisations – Fort Denison Dining**

The Independent Liquor & Gaming Authority considered the application above, and decided on 19 January 2022 to **approve** the application pursuant to sections 24(3), 45 and 49(2) of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Licence cannot be exercised

The licence cannot be exercised unless and until:

- the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.
- a full and current plan of management has been forwarded and approved by Licensing, Liquor and Gaming NSW. This plan must include the approved liquor trading hours and built-in security management plan.

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, Wendy Yeung, at wendy.yeung@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip 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-0006429484
Applicant	Fort Denison Dining Pty Ltd
Application for	On-premises liquor licence (restaurant, catering, tourist and cultural precinct, and tourist facility classes) Primary service authorisation Extended trading authorisation
Licence name	Fort Denison Dining
Premises	Fort Denison, Sydney Harbour National Park Sydney NSW 2000
Trading hours	Monday to Sunday 7:00 am – 12:00 midnight
Application date	28 April 2021
Decision	Approved under sections 24(3), 45 and 49(2) of the <i>Liquor Act 2007</i>
Decision date	19 January 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 A Community Impact Statement.
- Premises plan setting out the proposed boundaries of the licensed premises and the extended trading and primary service authorisations.
- Former Plan of Management for 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 21-28: Specific provisions in respect of an on-premises 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 49: General provisions in respect of ETAs.

- Section 51: General provisions relating to licence-related authorisations.

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 Sydney, and the broader community is the Local Government Area of Sydney.

Positive social impacts

The Authority notes that:

- the premises is located at Fort Denison in the middle of the Sydney Harbour and is accessible only by boat
- the application for a liquor licence is endorsed by Planning, Industry and Environment NSW and the Heritage Council of NSW in order to restore and preserve the historical significance of Fort Denison, and to establish a world class hospitality venue which will showcase the venue and Sydney Harbour for tourists and locals alike
- the applicant proposes to offer high-end dining to promote the heritage landmark to tourists and locals.

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, will contribute to the tourism industry and will benefit locals and tourists through the continued provision of increased liquor access, choice and convenience.

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 community, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- higher than average liquor licence saturation and clustering in the local and broader community
- presence of crime hotspots in the local community
- higher than average crime rates in the local and broader community
- patrons would be embarking and disembarking from Sydney and North Sydney wharfs which may contribute to the already high rates of alcohol related domestic and non-domestic violence and offensive conduct, as well as malicious damage
- higher than average level of alcohol-attributable deaths and hospitalisations in the broader community.

The Authority notes, however, that Sydney is a popular commercial, hospitality, entertainment and tourist precinct, with a large influx of visitors, which may skew density and crime figures.

Furthermore, the Authority is satisfied that these risk factors are sufficiently mitigated by the following:

- the local and broader community are relatively advantaged
- absence of any objections from agency stakeholders or members of the community
- experience of the operator, Icebergs Group, in the hospitality industry
- harm minimisation measures incorporated in the 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 applications 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 applications 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 applications under sections 24(3), 45 and 49(2) of the Act.

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Philip Crawford
Chairperson

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

Schedule 1 – Licence conditions to be imposed Fort Denison Dining

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 1:00 AM and 7:00 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. 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.
3. The premises is to be operated at all times in accordance with the Plan of Management dated <insert date> as may be varied from time to time after consultation with NSW Police and NSW Sydney Parks & Wildlife. 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.
4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. 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.
6. 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.

7. 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.

8. Licensee training must be completed no later than six (6) months from the date of grant of the liquor licence.

9. The Licensee must not permit staff to consume liquor on the licensed premises whilst engaging in the sale or supply of liquor (including during any meal or other break).

10. No dance parties

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/DJ's and/or other live performances for the purpose of dancing. This includes the vessel being part of a group of vessels or part of a land-based activity which involves an event that could be described as a "Dance Party" or where amplified music is the main reason for the event or gathering.

11. No drinks designed to be consumed rapidly, for example 'shots', 'shooters', 'slammers', bombs, are to be sold at any time.

12. The Licensee must not permit events to be conducted on the premises that would be considered 'Bucks' or 'Hens' parties or any event where 'adult entertainment' is provided. Adult entertainment may include, not limited to, events involving nudity, simulated sex and/or audience participation.

13. This liquor licence cannot be exercised until a full and current plan of management has been forwarded and approved by Licensing, Liquor and Gaming NSW. This plan must include the approved liquor trading hours and built-in security management plan.