

Mr Sherif Mouakkassa
Thomson Geer Lawyers
By email to: smouakkassa@tqlaw.com.au

18 December 2023

Dear Mr Mouakkassa

Application No.	APP-0009637510
Applicant	City Tattersalls Club
Application for	<ul style="list-style-type: none">• new club licence with extended trading authorisation (ETA)• non-restricted area authorisation (NRAA)• club functions authorisation (CFA)• increase gaming machine threshold by 143 (GMT)• transfer 143 gaming machine entitlements (GME)• reduced gaming machine shutdown on weekends and public holidays
Decision Date	22 November 2022
Licence name	St James by City Tatts
Proposed trading hours	Consumption on premises Monday to Sunday 09:00 AM – 03:00 AM Gaming Machine Shut down hours Monday to Friday 04:00 AM – 10:00 AM Saturday, Sunday, and Public Holidays 06:00 AM – 9:00 AM
Proposed premises	114 -120 Castlereagh Street, Sydney NSW 2000
Legislation	Sections 3, 11A, 12, 18, 19, 20, 40, 44, 45, 48, 49 and 66 of the <i>Liquor Act 2007</i> Sections 10(1), 22 and 23 of the <i>Registered Clubs Act 1976</i> Sections 3, 19, 34, 37 and 40 of the <i>Gaming Machines Act 2001</i>

**Decision of the Independent Liquor & Gaming Authority -
Application for a new club licence with extended trading authorisation, non-restricted area
authorisation, club functions authorisation, increase gaming machine threshold, gaming
machine entitlement transfer and reduced gaming machine shutdown on weekends and
public holidays – St James by City Tatts**

We **approve in part** the application above as follows:

- a new club licence is **approved** under section 45 of the *Liquor Act 2007* (the Liquor Act)
- a club functions authorisation (CFA) is **approved** under section 23 of the Liquor Act
- a non-restricted area authorisation (NRAA) is **approved** under section 22 of the Liquor Act
- an extended trading authorisation (ETA) is **approved** under section 49 of the Liquor Act
- a gaming machine threshold (GMT) increase of 143 under section 34 of the *Gaming Machines Act 2001* (the Gaming Act) and associated transfer of 143 gaming machine entitlements (GME) is **approved** under section 19 of the Gaming Act
- a reduction in the gaming machine shutdown on weekends and public holidays is **refused** under section 40 of the Gaming Act.

Preliminary advice of this decision was provided on 29 November 2022.

Statement of reasons

We are satisfied the social impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied:

- The application is valid and meets the Liquor Act's requirements for procedural fairness and the proposed trading hours for the premises meet the requirements under sections 11A, 12 and 18 of the Liquor Act in respect of trading and 6-hour closure periods
- the Community Impact Statement (CIS) meets the relevant requirements.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

Development consent requirements

The necessary development consent is in force. The City of Sydney LGA approved the development application Ref: D/2022/555 for the premises on 9 September 2022.

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 the City of Sydney.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming Live Data Report for the Sydney shows:

- there are 757 authorised liquor licenses, of which 691 premises are authorised to sell liquor on the premises. This includes (19 registered club licences, 105 hotel (full) licences, 8 hotel (general bar), 521 on-premises licences and 38 small bar licences).
- saturation of club, hotel (full and general bar), on premises and small bar licences in the Sydney are higher compared to both the City of Sydney and all of NSW

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that in the year to June 2022:

- the premises are located in hotspots for domestic assault, non-domestic assault, and malicious damage to property.
- the incident rate for Sydney for all crime categories considered by the Authority was higher compared to both the City of Sydney and all of NSW.

Alcohol-related health data (per 100,000 residents)

Health Stats NSW data available for the City of Sydney LGA (20 – 2018/19 – 2019/20) shows:

- alcohol-related deaths were marginally lower compared to all of NSW
- alcohol-related hospitalisations were higher compared to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

Sydney and the City of Sydney LGA were ranked as relatively advantaged in household income and residents in skilled occupations compared with other suburbs and LGAs in NSW.

Business model

The business model involves the temporary cessation of trading at 198-200 Pitt Street, Sydney (existing licensed premises) during a 5-year premises redevelopment program. A new (temporary) club licence will operate at 114-120 Castlereagh Street Sydney. Takeaway sales will not be available, and both venues will not trade at the same time.

Benefits proposed by the applicant

The applicant consented to all agency recommendations, but no benefits were proposed

Stakeholder submissions

We considered the submissions from:

NSW Police Force (9 September 2022) noted there were 15 adverse incidents recorded against the applicant in the previous 10 years, the location of the new venue in a cumulative impact area and the high density of other licensed venues in the area. They recommended that several conditions, including security guards and no shots, shooters, blasters, and bombs, be imposed on the licence.

Sydney City LGA – (20 September 2022): raised no concerns

L&GNSW Compliance (1 August 2022) recommended several conditions be imposed, including security and an incident register

L&GNSW Gaming (undated) - noted the gaming plan of management exceeded the minimum standard expected from a venue with this risk profile

NSW Health (21 June 2022) - were concerned the location of the venue may increase negative health and social outcomes in the area. They noted the high rates of crime, including alcohol-related non-domestic assault, with most assaults occurring at night. They recommended a condition to cease liquor trading one hour before closing time

Transport for NSW (9 June 2022) - requested the licensee maintain awareness of any local alcohol-related issues affecting the community. They encouraged the licensee to participate in the local liquor accord and have public education material about preventing drink-driving and alternative transport options, on the premises

Department of Communities and Justice (27 June 2022) - raised no concerns

General public - 6 submissions were made, objecting to the licence, expressing concern that the number of gaming machines would make the venue a 'purely gaming venue' potentially increasing crime, financial hardship, housing instability and reduced well-being across communities in Sydney'. They expressed concern, that 'children and minors would be welcomed' on the premises and the proximity of the venue to the Great Synagogue and the Daughters of St Paul church. 12 submissions from the general public were made, supporting the licence including, the contribution

the venue would make to revitalising the area, it would, make Castlereagh Street more appealing, bring back hospitality services previously offered by the St James Hotel, and foot traffic would boost local employment and the economy.

We considered the applicant's response in reply:

- they acknowledged that Sydney is a hotspot for crime offences, but that they had been operating in the area for a long time, across multiple venues, with no history of on-premises assault
- they support raising awareness of the issues of drink-driving and public transport options and the liquor plan of management details measures to help patrons leave the venue safely
- they contend that the objecting submissions wrongly assume the venue will increase the density of high-impact licensed premises and gaming machines in the area.

Findings of concern

The Authority considered the applicant just met the cumulative impact assessment test given the business model, operator experience and 'replacement venue' arguments. While the current licence is in a tourism area with venues open until 6am, the Authority did not approve this for the new club licence, on the grounds that it is a new licence, liquor service ceases at 3:00 AM, and the increased potential for gaming harm from 143 machines in post 2:00 AM hours.

The premises are located in an alcohol-free zone; a high-density crime hotspot for non-domestic assault, domestic assault, malicious damage to property and a medium-density hotspot for incidents of alcohol-related assault. There are high crime incident rates across all four crime categories, the saturation rate of clubs in Sydney and the rate of alcohol-attributable hospitalisation are higher in the City of Sydney LGA compared to all of NSW.

The risks are adequately mitigated by:

- no takeaway liquor offering
- the applicant being an experienced and well-established operator of licensed clubs in the Sydney CBD
- the inclusion of a concurrent trading condition when the redeveloped Tattersalls club is able to re-open, meaning that this club cannot trade at the same time and this new licence must be surrendered within 30 days of cease to trade. This has the effect of not increasing density or number of GMEs in the area
- the imposition of an all hours RGO condition
- harm minimisation measures outlined in the plan of management and licence conditions set out under Schedule 1.

The material we considered

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

Application material

- application dated 15 July 2022
- category B Community Impact Statement (CIS) dated 13 July 2022
- certifications of advertising dated August 2022
- Plan of Management documents for the premises, Liquor June 2022, and Gaming June 2022
- ASIC business records for the Applicant and associated companies
- undated floor plan for the premises, indicating the proposed licensed area.

Under [Guideline 6](#), we considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material

- submissions received
- correspondence between L&GNSW staff and the applicant between 9 June 2022 and 31 October 2022 in relation to the assessment of the Application.
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

This decision will be published on the [Liquor & Gaming NSW website](#) under section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later than 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to apply.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

If you have any questions

Please contact the case manager, Leonie Jennings, at leonie.jennings@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Sarah Dinning
Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed

St James by City Tatts

No	Condition to be imposed	Description
1.	6-hour closure	Section 11A of the <i>Liquor Act 2007</i> applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 3:00 AM and 9:00 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.	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 31st: Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later.
3.	Takeaway sales	No takeaway sales shall occur from the premises
4.	Trial period	The licensee must provide satisfactory evidence to Liquor & Gaming NSW that the licensed trading hours continue to be authorised by the local consent authority after the trial period specified in the relevant development consent ends, 12-months from the date of consent (or as may be extended from time to time). A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor & Gaming inspector, or any other person authorised by the Independent Liquor & Gaming Authority.
5.	Concurrent trading	<ol style="list-style-type: none"> 1. 114-120 Castlereagh Street, Sydney 2000, and 194-204 Pitt Street Sydney 2000 (LIQC300226433) may not be exercised at the same time. 2. 114-120 Castlereagh Street, Sydney 2000 must be placed into cease to trade on the same day as the licence at 194-204 Pitt Street Sydney 2000 (LIQC300226433) recommences trade. 3. The licence at 114 -120 Castlereagh Street, Sydney 2000 must be surrendered within 30 days of the cease to trade notification.
6.	Licensee operating under licence	No other licensee is to operate under this liquor licence.
7.	Social impact	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 granting the licence.
8.	Liquor plan of management	The premises is to be operated at all times in accordance with the Liquor Plan of Management dated June 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.

9.	Gambling plan of management	The premises is to be operated at all times in accordance with the Gaming Plan of Management dated June 2022 as may be varied from time to time after consultation with the Authority. 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.
10.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
11.	Incident Register	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> 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 Act, 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 inspector: <ol style="list-style-type: none"> a) make any such incident register immediately available for inspection by a police officer or inspector, and b) allow a police officer or 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.
12.	Crime Scene Preservation	<p>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:</p> <ol style="list-style-type: none"> 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. <p>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 (e.g. crowd controller or bouncer) on or about the premises.</p>

13.	CCTV	<ol style="list-style-type: none"> 1. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements: <ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> (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: <ol style="list-style-type: none"> 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 sub-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.
14.	Extended Trading	Extended Trading Authorisation: whole of the licensed premises.
15.	Club Functions	Club Functions Authorisation: whole of the licensed premises excluding the gaming areas/rooms
16.	Non-Restricted Area Authorisation	Non-Restricted Area Authorisation: whole of the licensed premises excluding the gaming areas/rooms
17.	Security	A minimum of one security guard is to be employed from 6:00 PM daily. Security guards must be employed at a ratio of one guard per one hundred patrons (1:100) or part thereof, until 30 minutes after the cessation of the respective hours of operation.
18.	OMCG prohibition	<p>The licensee must not permit any person to enter the premises, or to remain on the premises, if the person is wearing or carrying any clothing, jewellery or accessory displaying:</p> <ol style="list-style-type: none"> a) the name of any of the following motorcycle-related and similar organisations: Bandidos, Black Uhlands, Coffin Cheaters, Comanchero, Finks, Fourth Reich, Gladiators, Gypsy Jokers, Highway 61, Life & Death, Lone Wolf, Mobshitters, Nomads, Odins Warriors, Outcasts, Outlaws, Phoenix, Rebels, Hells Angels, Scorpions, Mongols, Notorious, Muslim Brotherhood Movement; or any "declared organisation" within the meaning of the Crimes (Criminal Organisation Control) Act 2009. b) the colours, club patch, insignia or logo of any such organisation, or c) the "1%" or "1%er" symbol, or d) any image, symbol, abbreviation, acronym, or other form of writing that indicates membership of, or an association with, any of the organisations specified in point 1 (a).

		Any incident where a person is refused entry or removed from the premises in relation to this condition must be recorded in the incident register.
19.	Liquor cessation	Cessation of liquor one hour before closing time
20.	Gambling incident register	<ol style="list-style-type: none"> 1. The licensee must keep and maintain a gambling incident register. 2. The gambling incident register must record: <ol style="list-style-type: none"> a) any incident in which a patron of the venue displays or engages in problematic gambling behaviour of the kind specified in the 'Signs of risky and problem gambling behaviour: Know the signs and how to act' factsheet published on the L&GNSW website as amended from time to time. b) the time, location and machine number(s) and brief description (or identity, if known) of any gaming machine player identified displaying or engaging in that behaviour c) any proposed or implemented self or third-party exclusions of gaming machine players (specifying the player's name (where provided or known), membership number (if applicable) and duration of any exclusion) and the patron's response to the same. d) Any breach or attempted breach of a self or third-party exclusion 3. The gambling incident register must also record details of the action taken in response to the incidents, applications and other matters recorded in the register. 4. The licensee must review the gambling incident register at least on a monthly basis and must consider whether an exclusion order is appropriate for any person who has been asked to self-exclude but has declined to do so. 5. The information recorded in a gambling incident register must be retained for at least 3 years from when the record was made. 6. The licensee must, at the request of a police officer or L&GNSW inspector, make any gambling incident register available for inspection.
21.	Responsible Gambling Officer (Gambling Contact Officer)	<ol style="list-style-type: none"> 1. The Licensee shall ensure that one Responsible Gambling Officer (Gambling Contact Officer), being a dedicated staff member who holds a current RCG certificate, is on duty and monitoring the gaming machines of the venue whenever gaming machines are operating. 2. The Responsible Gambling Officer (Gambling Contact Officer)'s primary duties are to: <ol style="list-style-type: none"> a) maintain the gambling incident register; <ol style="list-style-type: none"> i. make reasonable efforts to identify gaming machine players who display or engage in problematic gambling behaviour; ii. if any gaming machine player displays or engages in multiple problematic gambling behaviour as outlined in the Authority's Guideline, during a single trading day, then the Responsible Gambling Officer/Gambling Contact Officer must (at least once during that trading day) b) request that the player take a break from gaming machine play until the close of trade on that day or night (noting that a player who complies with a request to take a break may remain on the premises and consume other goods and services);

		<ul style="list-style-type: none"> c) provide information about the self-exclusion scheme offered at the premises (being the scheme available pursuant to s. 49 of the <i>Gaming Machines Act 2001</i>) and ask whether the player wishes to participate in that scheme; d) provide information about and access to problem gambling counselling. <p>3. This condition is not breached by:</p> <ul style="list-style-type: none"> a) a Responsible Gambling Officer (Gambling Contact Officer) undertaking minor additional gaming duties, so long as such duties do not detract from the Responsible Gambling Officer (Gambling Contact Officer)'s primary the b) temporary absence of a Responsible Gambling Officer (Gambling Contact Officer) from the gaming machine areas, where such absence occurs in the ordinary course of their primary duties (for example, to engage with a gaming machine player in a private space) or is by way of a routine break from work (such as a meal break or a bathroom break). <p>4. At all times, the Duty Manager or other senior manager responsible for gaming machine operations will assist the Responsible Gambling Officer (Gambling Contact Officer) in carrying out the duties described in this condition.</p>
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