



Mr Simon Elias Licensee MV John Cadman III <a href="mailto:simon-e@live.com.au">simon-e@live.com.au</a>	JC111 CRUISES PTY LTD Business/premises owner MV John Cadman III <a href="mailto:info@cadmancruises.com.au">info@cadmancruises.com.au</a>
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23 December 2021

Dear Sir/Madam

**Notice of Short-Term Closure Order under section 82 of the *Liquor Act 2007*  
MV John Cadman III (LIQO624002200)**

**SUMMARY OF DECISION**

1. Pursuant to section 82(1) of the *Liquor Act 2007* (Act), the Independent Liquor & Gaming Authority (Authority) orders that the licensed premises currently trading as “MV John Cadman III”, located at Cabarita Private Marina (Premises) close for a period of 72 hours from **6:00pm on Friday 24 December 2021** until **6:00pm on Monday 27 December 2021**.

**INTRODUCTION**

2. At 11:33am on 22 December 2021, the Authority received an application (Application) from Detective Chief Inspector Damian Beauflis of the Marine Area Command in his capacity as a delegate of the Commissioner of the New South Wales Police Force (Police). The Application was made under section 82 of the Act and seeks the issue of a Short-Term Closure Order in relation to the Premises, pursuant to subsections (3)(a) and (3)(d) – circumstances in which there may be a significant threat or risk to the public interest, including circumstances in which there is a threat to public health or safety, and a risk of serious offences (having a maximum penalty of not less than two years imprisonment) being committed on the premises.

**NOTICE OF APPLICATION**

3. At 12:04pm on 22 December 2021, a copy of a Notice of Application for Short-Term Closure Order (Notice) was emailed to the licensee, Mr Simon Elias (Licensee) and JC111 Cruises Pty Ltd, the business and premises owner (Owner). The Application material was included with the Notice.
4. The parties were invited to provide the Authority with any written submissions or evidence in response to the Application by no later than 11:00am on 23 December 2021.

**SUBMISSIONS IN RESPONSE TO THE APPLICATION**

5. At 2:45pm on 22 December 2021, a submission was received from the Licensee on behalf of the Owner of the Premises.
6. The Authority notes that the Licensee objects to the short-term closure order on the basis that the matters referred to in the Application are “not a real or actual risk or threat of risk”.

7. The Authority also notes the Licensee's comments in respect of the police reports provided as part of the Application, including that:
- The Licensee agrees that a meeting with Police occurred, however rejects that no further steps were taken following the meeting.
  - The Licensee advises that the route was altered to avoid quiet locations in residential areas, steps were taken to ensure appropriate speeds are maintained, signage was updated at all bars including the installation of COVID-19 related signage/ protocols and there was an increase of RSA staff supervision.
  - The Licensee maintains that staff follow appropriate steps to meet their obligations under the Act, including refusing service to intoxicated patrons, managing violent or quarrelsome patrons and not permitting or tolerating drugs at any time.
  - The Licensee is willing to implement a number of mitigation measures as proposed by Police.
8. The Authority notes that the Licensee opposes the reduction to trading hours and restriction of high-risk events, however, acknowledges that the Licensee agrees to the remainder of mitigation measures proposed by Police.
9. While the Authority recognises that these steps would assist to minimise harm associated with liquor misuse and abuse, including harm arising from violence and anti-social behaviour, implementing the majority of these in the new year would not reduce the risk to public health and safety over this coming weekend.
10. The Authority is of the understanding that the Licensee and Police intend to meet in the coming weeks to discuss the concerns raised by Police and to potentially agree on mitigation measures (including proposed conditions that ought to be imposed on the licence). The Authority will therefore not take any course of action in this respect unless a subsequent application is made by Police under section 53 of the Act.

## **REASONS FOR DECISION**

11. The Authority is satisfied, on the material before it and on the balance of probabilities, that serious breaches of section 73(1)(a) and (b) of the Act, which prohibits a licensee from permitting intoxication, or any indecent, violent, or quarrelsome conduct, occurred at the Premises between 16 October 2021 and 19 December 2021.
12. The Authority notes that the Application records that three patrons were arrested for possessing prohibited drugs and refers to section 74 of the Act, but is not satisfied on the material presented that a breach of section 74 has occurred.
13. The Authority has taken into consideration the police reports provided as part of the Application and has formed the view that there is a substantial risk to public health and safety, given the ongoing issues of patron intoxication and permitting violence on the Premises due to inadequate controls being in place regarding the sale and supply of liquor.
14. The Licensee's response, which states there is no "real or actual risk or threat of risk" does not give the Authority confidence that the Licensee can appropriately prevent or reduce any potential threats to public health or safety or the commission of serious offences that may occur on the Premises. The police reports outline a pattern of repeated breaches of the Act, occurring as recently as 19 December 2021. The Authority therefore considers it likely that continued breaches of the Act will occur this coming weekend. The Authority has also taken into account the fact that Christmas Eve, Christmas Day and Boxing Day, fall on the coming weekend, which further adds to the significant threat or risk to the public interest occurring.
15. The Authority has formed the view that there is a continued risk of serious offences being committed on the Premises, which operates in an environment that poses possible logistical difficulties for emergency services and police intervention should they be required.


16. On this basis, the Authority is satisfied that it is necessary to close the Premises for a period of 72 hours this weekend to prevent or reduce a significant threat or risk to the public interest, being a risk to public health and safety and a risk of serious offences being committed on the Premises.

## ORDER

17. Pursuant to section 82(1) of the Act, the Authority orders that the licensed premises currently trading as "MV John Cadman III", located at Cabarita Private Marina, close for a period of 72 hours from **6:00pm on Friday 24 December 2021** until **6:00pm on Monday 27 December 2021**.
18. The Authority notes that section 82(6) of the Act provides that failure to comply with an order made under this section may expose the licensee to a maximum penalty of 50 penalty units, 6 months' imprisonment, or both.

**TIME OF ORDER:** 9:00AM on 23 DECEMBER 2021

Yours faithfully



Samantha Zouroudis  
**Board Member**  
for and on behalf of the **Independent  
Liquor & Gaming Authority**



Paul Gentle  
**Board Member**  
for and on behalf of the **Independent  
Liquor & Gaming Authority**