



Lachlan Archer
JDK Legal

By email to: l.archer@jdklegal.com.au

22 January 2024

Dear Mr Archer

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|-------------------------------|---|
| Application No. | 1-8701745103 |
| Applicant | Harvest Pub Operations 2 Pty Ltd |
| Application for | Amendment – hotel (full) - new extended trading authorisation (ETA) |
| Application date | 28 May 2023 |
| Decision date | 18 October 2023 |
| Licence name | Woy Woy Hotel |
| Licence No. | LIQH400110030 |
| Current trading hours | Consumption on premises Monday to Saturday 05:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM |
| Proposed trading hours | Consumption on premises Monday to Saturday 09:00 AM – 02:00 AM Sunday 10:00 AM – 12:00 AM Takeaway sales and bottle shop Monday to Saturday 09:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM |
| Premises | 33 - 39 The Boulevard Woy Woy NSW 2256 |
| Legislation | Sections 3, 11, 12, 14, 15, 40, 44, 45, 48, 49 and 121 of the <i>Liquor Act 2007</i> |

Decision of the Independent Liquor & Gaming Authority
Application for a new ETA – Woy Woy Hotel

We **refuse** the application above under section 49 of the *Liquor Act 2007* (the Act).

Statement of reasons

Overall, we are concerned that the social impact of approving the application may be detrimental to the well-being of the local or broader community.

We believe that the additional 14 hours per week of post-midnight gaming would, over time, contribute to an increase in alcohol-related crime, health and other social and amenity issues.

Our findings

Procedural requirements

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness

- the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 14 of the 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.

Responsible service of alcohol

Procedures for the responsible service of alcohol have been provided as part of the application.

Development consent requirements

The necessary development consent is in force. Central Coast Council approved the development application DA/28696/1984 for the premises on 5 July 1984, and the Gosford City Council also granted the development application 31764/2006 on 18/01/2007.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Woy Woy, and the relevant 'broader community' comprises the Local Government Area of the Central Coast.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Woy Woy shows:

- there are 19 authorised liquor licenses, of which 5 are authorised to sell packaged liquor. This includes 2 packaged liquor licences, 1 registered club licence and 2 hotel licences.
- saturation of hotel licences in Woy Woy is higher compared to the Central Coast LGA and lower compared to all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to March 2023:

- the premises were located in high-density hotspots for all categories usually considered by us
- alcohol-related domestic assault in Woy Woy was higher compared to both the Central Coast LGA and to all of NSW
- alcohol-related non-domestic assault in Woy Woy was significantly higher compared to both the Central Coast LGA and to all of NSW.
- alcohol-related offensive conduct in Woy Woy was lower compared to both the Central Coast LGA and to all of NSW.
- malicious damage to property in Woy Woy was significantly higher compared to both the Central Coast LGA and to all of NSW

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

HealthStats NSW data showed that:

- alcohol-related deaths in the Central Coast LGA were slightly higher compared to the NSW average
- alcohol-related hospitalisations in Central Coast LGA were higher compared to the NSW average

ABS Socio-Economic Index for Areas (SEIFA)

Woy Woy was ranked as having a below average level of relative socio-economic advantage in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

We note that the primary purpose of the existing licence is the retail sale of liquor on the licensed premises for consumption on and away from the licensed premises. The class of licence is appropriate for the existing business model.

Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- increased convenience and choice within the local community
- additional employment opportunities with increased hours of work for staff
- exemplary record of compliance at the Hotel

However, we believe that the proposed benefit of increased convenience and choice is limited based on the lack of concrete evidence of community support for the application.

Further the number of violent incidents at the venue reported by NSW Police Force tends to refute the claimed compliance.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 6 June 2023, which notes recent violent incidents at the venue and concerns about the increased risk of alcohol related violence in the area, no objection
- Local Council, dated 22 March 2023, which notes no objection
- L&GNSW Compliance, dated 19 September 2023, which notes no objection but recommendations for the hotel to include several harm minimisation measures in their plan of management
- L&GNSW Gaming, dated 15 September 2023, which notes no objection and further, that the applicant has provided a satisfactory Gaming Plan of Management (GPOM) implementing appropriate harm minimisation strategies with a recommendation to add the GPOM as a condition to the licence
- NSW Health, dated 22 June 2023, objecting to the proposal questioning the need of an additional packaged liquor outlet with ETA in the area and raising concerns about the potential negative social impact of granting the application to the local and broader community
- Transport for NSW, dated 2 March 2023, which notes no objection but recommendations for the applicant to establish additional initiatives and strategies for the responsible service of alcohol
- Two members from the public objected to the proposal, dated 10 March 2023 and 26 June 2023, raising concerns about the potential increase in noise disturbances, malicious damage to properties and the premises being located in an area which reports alcohol related presentations to the emergency department exceeding the national average.

We also considered the Applicant's submission in response, to these submissions, which claims that

- NSW Police Force have not objected to the application, nor have there been any other submissions from mandatory stakeholders, special interest groups or residents.

- proposed strategies and measures have been implemented in the plans of management
- the local and broader community will see social benefits if the application was granted, e.g. the hotel's increased ability to re-invest in the community by providing increased sponsorship to various community sporting teams and local charities
- the applicant consented to the majority of conditions proposed by agencies (except for the proposed 12 AM Lock-out condition proposed by NSW Police Force)
- the outlet saturation of hotels in the suburb is lower than NSW average

Findings of concern

We are concerned that if the application were granted it may increase the harm associated with the misuse and abuse of gaming activities or fail to facilitate the balanced development, in the public interest, of the hospitality industry due to:

- the proposal seeking to increase post-midnight gaming by 12 hours per week
- the premises being located in high-density hotspots for all categories usually considered by us
- higher incident rates of alcohol-related domestic, non-domestic assaults and malicious damage in the suburb and LGA compared to NSW
- higher rate of alcohol attributed hospitalisations and deaths in the LGA compared to NSW
- indication of a below average level of relative socio-economic advantage in the suburb compared to the rest of NSW

The risks may be mitigated by the:

- below average gaming intensity at the venue compared to other comparable venues
- overall hotel trading hours being reduced by 2 hours daily from Mondays to Saturdays
- harm minimisation measures outlined in the liquor and gaming plans of management

However, on balance, we are concerned that the likelihood of adverse social impact from approving the application outweighs any benefit to the local or broader community and accordingly, approval of the application is not in the public interest.

The material we considered

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

Application Material

- completed application dated 28 May 2023
- completed Category B Community Impact Statement (CIS) dated May 2023
- completed certification of advertising dated 31 May 2023
- plan of management documents for the premises, titled Liquor Plan of Management Woy Woy Hotel LIQH400110030 and dated 19 June 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 8 August 2022, indicating the area to which the ETA will apply.

Under [Guideline 6](#), we also 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 6 October 2023 and 11 August 2023 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](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you're 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 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

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, Wendy Yeung, at Wendy.Yeung.Wye.Kong@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

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