



Mr Tony Schwartz

Back Schwartz Vaughan

By email to: [licensing@bsv.com.au](mailto:licensing@bsv.com.au)

4 October 2023

Dear Mr Schwartz

**Application No.** APP-0010491958

**Applicant** NEWBY LAMB PTY LTD

**Application for** New hotel (general bar) with minor's area authorisation

**Licence name** Argyle Hotel

**Trading hours** **Consumption on premises**

Monday to Saturday 10:00 AM – 12 Midnight

Sunday 10:00 AM – 10:00 PM

**Premises** 205 River St,  
Maclean NSW 2463

**Legislation** Sections 3, 11A, 12, 14, 15, 16, 40, 44, 45, 48 and 121 of the *Liquor Act 2007*

**Decision of the Independent Liquor & Gaming Authority –  
Application for a new hotel (general bar) with minor's area authorisation (MAA) –  
Argyle Hotel**

On 18 January 2023, the Independent Liquor & Gaming Authority (Authority) approved the application under section 45 of the *Liquor Act 2007*.

We provided you with our preliminary advice of this decision on 1 March 2023.

**Approved manager or individual licensee**

You cannot use the licence unless and until the Authority or Liquor & Gaming NSW has been notified that:

- the licence has been transferred to an individual licensee, or an approved manager has been appointed, and
- the licensee or approved manager is a suitable and qualified person.

**Statement of reasons**

The statement of reasons will be published on the [Liquor & Gaming NSW website](#) under 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 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, Glenn Barry, at [glenn.barry@liquorandgaming.nsw.gov.au](mailto:glenn.barry@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Caroline Lamb'.

Caroline Lamb

**Chairperson**

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

# STATEMENT OF REASONS

## Our decision

We approve the application under section 45 of the *Liquor Act 2007* (NSW) (the Act).

We are satisfied that 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

The application is valid. It meets the Act's requirements for procedural fairness. The proposed trading hours and 6-hour closure period meet the requirements under sections 11A, 12 and 14 of the Act.

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. Clarence Valley Council approved the modification of development consent DA2021/0124 for the premises on 25 February 2022.

### Community impact

#### *Local and broader communities*

The 'local community' is the community in the suburb of Maclean, and the 'broader community' comprises the Local Government Area of Clarence Valley

#### *Diversity and density of licensed outlets*

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

- there are 7 authorised liquor licenses —1 packaged liquor licence, 1 registered club, 3 hotels and 2 on-premises licences
- saturation of hotel (general bar) licences in Maclean is lower compared to all of NSW.

#### *Crime data (annual rate per 100,000 residents)*

BOCSAR data shows that in the year to June 2022:

- alcohol-related domestic and non-domestic assault and offensive conduct in Maclean were higher compared to both the Clarence Valley LGA and all of NSW
- malicious damage to property in Maclean was lower compared to the Clarence Valley LGA but higher compared to all of NSW.

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

The most recent HealthStats NSW data available show that between 2018/19 to 2019/20:

- alcohol-related deaths in Clarence Valley were higher compared to the NSW average
- alcohol-related hospitalisations in Clarence Valley were lower compared to the NSW average.

## *ABS Socio-Economic Index for Areas (SEIFA) SEIFA*

Data as at 2016 shows that Maclean and Clarence Valley were relatively disadvantaged in household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

### *Business model*

The proposed business model involves a new hotel (general bar) licence with a minor's area authorisation and standard trading hours.

### *Benefits proposed by the applicant*

The applicant proposes that there would be these benefits:

- The proposed venue will provide genuine meals. This would potentially create less conflict between customers than a venue that is mainly a drinking environment.
- In regional areas, hotels play an important role as meeting places for connecting people.
- Provision of increased convenience and choice for the community.

### *Stakeholder submissions*

We considered submissions from:

#### *NSW Police Force – dated 2 November 2022*

Police note the high indigenous population in the suburb and LGA, high alcohol-related crime, hospitalisations and deaths in the suburb and high road trauma and traffic offences in the LGA. They were concerned that an additional licence would be detrimental to a vulnerable community and the well-being of the community generally and cause stress on existing businesses, which may cause them to engage in unsafe or irresponsible supply of alcohol.

NSW police requested that conditions be imposed on the licence.

#### *L&GNSW Compliance – dated 18 November 2022*

No adverse findings were noted.

#### *Clarence Valley Council – dated 12 and 24 October 2022*

Council noted that the proposed licence is consistent with the development consent granted. It also noted the driveway and carpark are included in the licensed boundary, but the area is not supported as part of the licensed area for consumption on the premises.

#### *NSW Health – dated 10 November 2022*

Health noted that Maclean has a high saturation of licences. They suggested the development consent doesn't allow a licensed hotel and that an on-premises or small bar licence is more appropriate and that the current hotel licence of Ritchie's Supa IGA should return to this location.

#### *Transport for NSW – dated 25 November 2022*

Transport notes 72 alcohol-related accidents between 2017 and 2022 and requested that the licensee agrees to the local liquor accord, access to road and party safety websites and public transport information and make food, low alcohol and soft drinks available.

### *Public submissions*

There were 4 submissions in support of the application. Two objections were received between 11 August and 21 October 2022. The common themes in the objections were that the saturation of licences in the suburb is high, another licensed premises would create public nuisance and anti-social behaviour and property prices would be affected by the pub-style atmosphere.

### Applicant's submissions in response

We also considered the applicant's responses to these submissions. The applicant:

- agreed to the ILGA-approved conditions police requested
- amended the proposed licensed boundary to exclude the carpark area behind the venue
- agrees to the liquor accord condition
- will review the websites suggested by Transport for NSW and will always have low-alcohol and soft drinks available
- notes that other concerns are addressed by its plan of management.

### Findings of concern

There is a risk that if the licence was granted, liquor sold at the premises will contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities.

#### Factors that may reduce this risk

However, we are satisfied that the risk may be reduced by these factors:

- licence saturation and crime rates may be skewed due to the relatively low population of the suburb
- the 5-year crime rate incidents for alcohol-related non-domestic assault, malicious damage to property and alcohol-related offensive assault show a downward trend within the LGA and stable within the suburb
- the licence will be the only hotel (general bar) in the suburb
- alcohol-attributable hospitalisations in the LGA are lower than NSW
- trading hours are within standard trading.

### The material we considered

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

#### Application Material

- completed application dated 23 September 2022
- completed Category B Community Impact Statement (CIS) dated 20 September 2022
- completed certifications of advertising dated 12 and 13 October 2022
- Plan of Management documents for the premises, titled Plan of Management, Argyle Hotel, 205 River Street, Maclean and dated 2 November 2022
- ASIC business records for the Applicant and associated companies.
- floor plan for the premises, dated 10 October 2022, indicating the proposed licensed area

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

#### Submissions

- Submission from NSW Police Force – dated 2 November 2022
- Submission from L&GNSW Compliance – dated 18 November 2022
- Submissions from Clarence Valley Council – dated 12 and 24 October 2022
- Submission from NSW Health – dated 10 November 2022

- Submission from Transport for NSW – dated 25 November 2022
- Submission from S. and B. Cameron, resident – dated 11 August 2022
- Submission from M. Williams (on behalf of Maclean Bowling Club) – dated 16 August 2022 and 21 October 2022
- Submission from C. Paine (local business owner and resident) – dated 12 August 2022
- Submission from H. Blunden (resident) – dated 13 August 2022
- Submission from C. Tyler (President of the Maclean District Business Chamber) – dated 17 August 2022
- Submission from K. Wotton – dated 24 August 2022
- Submission from W. Rackham (Secretary of the Maclean Scottish Town Association) – dated 22 August 2022.

#### Other relevant material

- Correspondence between L&GNSW staff and the applicant between 27 October 2022 and 18 November 2022 about the assessment of the application.
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

#### The law that applies

These sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 apply to this application:

- Section 3: Statutory objects of the Act and other 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 and 16: Specific provisions about a hotel licence.
- Section 40: Minimum requirements to apply for a liquor licence.
- Section 44: Submissions about licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including making sure that it won't harm the local or wider community's well-being.
- Section 121: Minors in hotels in the company of a responsible adult.

We also considered [Guideline 6](#) to assess the likely social impact on the local and broader community.

Yours sincerely



Caroline Lamb

**Chairperson**

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

## Schedule 1 – Licence conditions to be imposed

### Argyle Hotel

No.	Condition to be imposed	Description
1.	<b>6-hour closure</b>	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 <b>04:00 AM and 10:00 AM</b> 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.	<b>Consumption on premises</b>	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 <sup>st</sup> 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.	<b>Minors Area</b>	Minors Area Authorisation: Whole of the licensed premises excluding the first floor.
4.	<b>Plan of management</b>	The premises is to be operated at all times in accordance with the Plan of Management dated <b>2 November 2022</b> 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.
5.	<b>Social impact</b>	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.
6.	<b>Liquor Accord</b>	The licensee or its representative must join and be an active participant in the local liquor accord.
7.	<b>CCTV</b>	<ol style="list-style-type: none"> <li>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"> <li>(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),</li> <li>(b) recordings must be in digital format and at a minimum of <b>ten (10)</b> frames per second,</li> <li>(c) any recorded image must specify the time and date of the recorded image,</li> <li>(d) the system's cameras must cover the following areas: <ol style="list-style-type: none"> <li>(i) all entry and exit points on the premises,</li> <li>(ii) the footpath immediately adjacent to the premises, and</li> </ol> </li> </ol> </li> </ol>

No.	Condition to be imposed	Description
		<p>(iii) all publicly accessible areas (other than toilets) within the premises.</p> <p>2) The licensee must also:</p> <p>(a) keep all recordings made by the CCTV system for at least 30 days,</p> <p>(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</p> <p>(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.</p>
8.	<b>Crime scene preservation</b>	<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"> <li>1) take all practical steps to preserve and keep intact the area where the act of violence occurred,</li> <li>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,</li> <li>3) make direct and personal contact with NSW Police to advise it of the incident, and</li> <li>4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</li> </ol> <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 (For example, crowd controller or bouncer) on or about the premises.</p>
9.	<b>Incident register</b>	<ol style="list-style-type: none"> <li>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"> <li>(a) any incident involving violence or anti-social behaviour occurring on the premises,</li> <li>(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,</li> <li>(c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,</li> <li>(d) any incident that results in a patron of the premises requiring medical assistance.</li> </ol> </li> <li>2) The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector:</li> </ol>



No.	Condition to be imposed	Description
		<p>(a) make any such incident register immediately available for inspection by a police officer or Liquor &amp; Gaming NSW inspector, and</p> <p>(b) allow a police officer or Liquor &amp; Gaming NSW inspector to take copies of the register or to remove the register from the premises.</p> <p>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.</p>