



Our ref: DF22/022881

Mr Lindsay Cornish
Pyramid Liquor Licensing
By email to: lindsay@pyramidliquor.com.au

19 December 2023

Dear Mr Cornish

Application No.	1-8364496992
Applicant	Mara Draper LANG
Application for	Amendment - new primary service authorisation – on-premises licence (restaurant)
Decision Date	16 December 2022
Licence name	Son of a Gun
Licence No.	LIQO660035206
Proposed trading hours	Consumption on premises: Indoor area Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises: Outdoor dining area Monday to Saturday 10:00 AM – 10:30 PM Sunday 10:00 AM – 10:00 PM Primary service authorisation: Indoor area Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Primary Service authorisation: Outdoor dining area Monday to Saturday 10:00 AM – 10:30 PM Sunday 10:00 AM – 10:00 PM
Current trading hours	Consumption on premises Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises: Outdoor dining area Monday to Sunday 10:00 AM – 10:30 PM
Premises	66 Beaumont Street, Hamilton NSW 2303
Legislation	Sections 3, 11A, 12, 24, 25, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for an amendment - a new primary service authorisation –
on-premises licence (restaurant) – Son of a Gun**

We **approve** the application under section 45 of the *Liquor Act 2007* (Act) - with the conditions set out in Schedule 1. Preliminary advice of this decision was provided on 17 January 2023.

Statement of Reasons

Overall, 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

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness and the proposed trading hours for the Premises meet the requirements under sections 11A and 12 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 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 Newcastle City Council approved the development consent DA2003/1866 and modification DA2003/1866.02 permitting use as a restaurant between the licensed hours.

Community impact

Local and broader communities

The relevant local community is the suburb of Hamilton, and the relevant broader community comprises the Local Government Area of Newcastle.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming Live Data Report for Hamilton shows:

- there are 40 authorised liquor licenses, of which 13 are authorised to sell packaged liquor. This includes 4 packaged liquor licences, 1 registered club licences, 6 hotel licences and 2 Producers/Wholesalers.
- saturation of packaged liquor, club and hotel licences in Hamilton is higher compared to both the Newcastle LGA 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 a hotspot for all crimes categories usually considered by us
- the incident rate for Hamilton for all crime categories considered by the Authority was higher compared with Newcastle and all of NSW, except the incident rate for malicious damage to property in Hamilton, which was lower compared to both Newcastle LGA and all of NSW

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

Health Stats NSW data available for Newcastle LGA shows:

- alcohol-related deaths in the Newcastle LGA were higher compared to the NSW average
- alcohol-related hospitalisations in the Newcastle LGA were lower compared to the NSW average

ABS Socio-Economic Index for Areas (SEIFA) SEIFA

Hamilton and the Newcastle LGA were ranked as relatively advantaged in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

The proposed business model involves a new primary service authorisation (PSA) for an existing on-premises licence (restaurant) so that liquor can be sold or supplied for consumption on the licensed premises without requiring it to be ancillary to another product or service being offered, such as a meal in a restaurant.

Benefits proposed by the applicant

The applicant did not propose any benefits, but we note that the business would continue its current model of operation as a restaurant with the primary purpose of serving food to customers dining at the premises. Alcohol would only be served to customers at the premises, no alcohol will be taken off the premises or supplied for off-premises consumption.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force dated 25 August 2022, objecting to the proposal, noting concerns about high rates of alcohol-related assault in the LGA and the potential increase to alcohol-related violence and anti-social behaviour in the area.
- Local Council dated 10 November 2022, 26 October 2022 and 6 October 2022, objecting to the proposal, noting concerns that the PSA would turn the restaurant into a small bar or pub and not being consistent with the development consent.
- L&GNSW Compliance dated 24 October 2022, which notes nil adverse findings against the licensee and the recommendation to update the plan of management.

We also considered the Applicant's submission in response, to these submissions, which notes the applicant seeks to keep the primary purpose of the business to be a restaurant and that the approval of the application would not result in the venue operating like a bar. A liquor plan of management, detailing how responsible service will be maintained during the PSA hours was provided.

Findings of concern

The premises is located in a high-density crime hotspot for incidents across all categories. Crime rates in the suburb and LGA are also high. 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.

However, we are satisfied the risks are adequately mitigated by the following factors:

- the relatively small size of the venue with the licence not trading past 12:00 midnight
- data indicating an average level of socio-economic advantage in the suburb and LGA
- lower rate of alcohol-attributable hospitalisations in the LGA compared to NSW
- harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1.

The material we considered

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

Application Material

- Completed application dated 4 August 2022
- Completed Category B Community Impact Statement (CIS) dated 17 July 2022
- Completed certification of advertising dated 4 August 2022
- Plan of Management documents for the premises dated 28 June 2022
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 17 July 2022, indicating the proposed licensed area

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
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.
- Correspondence between L&GNSW staff and the applicant between 24/08/22 – 26/11/22 in relation to the assessment of the Application

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 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 Leonie Jennings, 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

Son of a Gun

No.	Condition to be imposed	Description
1.	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 obtaining this extended trading authorisation on 16 December 2022 .
2.	Participation in the local liquor accord	The licensee or its representative must join and be an active participant in the local liquor accord.
3.	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. 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 (e.g. crowd controller or bouncer) on or about the premises.
4.	CCTV	<ol style="list-style-type: none"> 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("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, (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, and (ii) all publicly accessible areas (other than toilets) within the premises. 2) The licensee must also:

		<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>
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 28 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.
6.	No stockpiling	The licensee shall ensure, by adequate supervision methods throughout the premises, that no patron is stockpiling drinks. For this purpose, stockpiling shall mean that any one patron has more than 2 unconsumed drinks at any one time (a patron may purchase up to 4 drinks at the one time).
7.	No themed or nightclub operation	The licensed premise is not to be themed or operated as a Nightclub. No DJ styled booth, disco/nightclub styled lighting system or dance floor area are to be utilised at any time on the premise.
8.	Maximum number of patrons	The maximum number of patrons on the premises is not to exceed the number of available seated positions and the number of persons authorised within the Primary Service Area (PSA) is not to exceed the number of available seated positions.

Licence conditions to be revoked

Son of a Gun

No.	Condition to be revoked	Description
1	Condition 3010	<p>CCTV footage on premises: The Licensee shall maintain a CCTV system that meets the following minimum requirements:</p> <p>1) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:</p> <p>a) the person represents not less than 100% of the screen height, and</p>

		<p>b) there is an unobstructed view of the person's face.</p> <p>2) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:</p> <ul style="list-style-type: none"> a) all other public entrances and exits, whether or not in use at the time, b) staircases, c) all portions of the floor area accessible to the public where entertainment is provided, d) toilet external entrances, e) all public accessible areas within the premise excluding toilets and accommodation rooms, f) the footpath area directly adjacent to the premises, and g) courtyard and smoking areas. <p>a. the person represents not less than 50% of screen height, and b. there is an unobstructed view of the person's face. a. be in digital format, b. record at a minimum of ten (10) frames per second, and c. commence one hour prior to opening and operate continuously until at least one hour after closing.</p> <p>3) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:</p> <p>4) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.</p> <p>5) Camera recordings must always meet the standards set in sub condition (1) and (3), either by way of camera positioning, camera shades or other environmental factors.</p> <p>6) Recordings must:</p> <p>7) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.</p> <p>8) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.</p> <p>9) When the venue is open and trading, at least one person shall be at the venue who can access the CCTV</p>
--	--	--

		<p>system and is able to immediately review recordings and produce copies.</p> <p>10) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, OLGR Inspectors or other regulatory officers upon request.</p> <p>11) The CCTV system shall be able to reproduce a copy of the recordings, in the same quality as stated under point 6), on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, OLGR Inspectors or other regulatory officers.</p> <p>12) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken repair the system as soon as practicable.</p>
2	Condition 3020	<p>Crime Scene Preservation a. Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:</p> <ul style="list-style-type: none"> i. Take all practical steps to preserve and keep intact the area where the act of violence occurred ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police iii. Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident and iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
3	Condition 3030	<p>The licensee is to operate the business in accordance with a suitable Plan of Management. A suitable Plan of Management is to be submitted to local police for review prior to the licensee being exercised. The licensee must notify local police of any proposed changes to the Plan of Management at least 14 days, or as soon as reasonably practicable, prior to those changes being implemented.</p>
4	Condition 3040	<p>Consumption of alcohol Alcohol may be supplied or consumed in an outdoor trading area when provided supplementary to a meal and subject to any requirements of the <i>Liquor Act 2007</i>.(per Outdoor Trading Policy number 2019/1724 issued by City of Newcastle)</p>