

Our ref: DF24/000517

Ms Karen Barry & Mr Paul O'Sullivan
Shotters Lawyers
By email to: karen@shotters.com.au & paul@shotters.com.au

14 January 2024

Dear Ms Barry & Mr O'Sullivan

Application No.	1-8817436297
Applicant	MARC CHRISTOPHER CAPPELLACCI
Application for	Amendment – hotel (full) – change of conditions
Application date	5 September 2023
Decision date	14 December 2023
Licence name	Clarendon Hotel
Trading hours	Consumption on premises Monday to Saturday 05:00 AM – 03:00 AM Sunday 10:00 AM – 12:00 midnight Take away Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 12:00 midnight
Premises	347 Hunter Street Newcastle NSW 2300
Legislation	Sections 3, 11A, 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 an amendment – hotel (full) – change of conditions – Clarendon Hotel

We **partially approve** the application above under section 45 of the *Liquor Act 2007* (the Act) — with the conditions set out in Schedule 1.

Statement of reasons

Overall, we are satisfied that the social impact of approving the application will not be harmful to the well-being of the local or broader community.

The decision achieves the aim of the Act to regulate the liquor industry to meet the community's expectations, needs, and aspirations, while also promoting a balanced and responsible development of the industry.

Our main findings

The local community for the purposes of this decision is Newcastle. The broader community is the Local Government Area (LGA) of Newcastle.

Positive social impacts

The applicant seeks approval to vary existing conditions on the licence which were initially imposed by the Authority on 29 August 2018 as one of 14 late trading hotels in Newcastle. The venue was a participant in the Stage Two Newcastle Trial.

There were nil adverse findings in relation to the licensee or venue during the trial period.

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

We accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- the venue being in a high-density hotspot for all categories considered by the Authority
- crime rates for all offence categories usually considered by the Authority being higher in Newcastle compared to NSW
- crime rates being higher in the Newcastle LGA for incidents of alcohol-related domestic assault, alcohol-related non-domestic assault and malicious damage to property compared to NSW
- saturation rates for hotel licences being higher in both Newcastle and the Newcastle LGA compared to NSW.

However, we are satisfied that these risks are reduced by the:

- crime comparison data indicating that offence rates are trending downward in Newcastle for alcohol-related assault (non-domestic) and malicious damage to property over the last 10 years, while in the Newcastle LGA, rates have been trending down for all categories considered by the Authority over the last 10 years
- crime comparison data indicating that crime rates in Newcastle have remained stable or trending down over the last 5 years for alcohol-related assault (non-domestic) and malicious damage to property
- crime comparison data indicating that the rates for all four categories considered by the Authority are lower than those rates in 2014 for both Newcastle and the Newcastle LGA
- indication of a relative socio-economic advantage and disadvantage in both Newcastle and the Newcastle LGA is above average
- crime statistics and licence densities potentially being skewed due to the suburb having a relatively low population and, the venue being located within the Newcastle CBD where visits occur from other suburbs within the LGA and beyond
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response them.

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

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 have any questions

Please contact the case manager, Glenn Barry, at 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**

Schedule 1 – Licence conditions to be imposed
Clarendon Hotel

No.	Condition to be imposed	Description
1.	Liquor plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated October 2023 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.
2.	Liquor accord	The licensee or its representative must join and be an active participant in the local liquor accord.
3.	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, 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 (b) 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.
4.	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

No.	Condition to be imposed	Description
		<p>4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</p> <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 (eg. crowd controller or bouncer) on or about the premises.</p>
5.	Incident register	<p>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:</p> <ul 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 Liquor Act 2007, (d) any incident that results in a patron of the premises requiring medical assistance. <p>2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:</p> <ul style="list-style-type: none"> (a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and (b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises. <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>
6.	Sale of alcohol after 10:00 PM	<p>The following restrictions and conditions will apply upon the sale of alcohol after 10:00 pm:</p> <ul style="list-style-type: none"> a) No drinks commonly known as shots, shooters, slammers or bombs or any other drinks that are designed to be consumed rapidly; b) No more than four (4) drinks, or one bottle of wine, may be served to any patron at one time.

Licence conditions to be revoked
Clarendon Hotel

Conditions to be revoked	Description
2200	The licensee must participate in the precinct liquor accord that applies to the Newcastle/Hamilton precinct designated by the Director-General of Communities NSW under section 136B of the Liquor Act 2007.
3010	<p>1) The licensee must file with the Independent Liquor and Gaming Authority ("the Authority"), by not later than two (2) months after 30 August 2018, a revised version of the Plan of Management for the premises that has been reviewed in consultation with NSW Police. This plan shall be marked on its front page as "Revised plan of 2018".</p> <p>2) The premises is to be operated at all times in accordance with the Plan of Management as revised pursuant to clause 1 above,</p>

	<p>and as may be varied from time to time after consultation with NSW Police.</p> <p>3) 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 & Gaming NSW Inspector, or any other person authorised by the Authority.</p>
3020	<p>The following restrictions and conditions will apply upon the sale of alcohol after 10:00 PM:</p> <p>a) No drinks commonly known as shots, shooters, slammers or bombs or any other drinks that are designed to be consumed rapidly;</p> <p>b) No mixed drinks with more than 30 mls of alcohol;</p> <p>c) No RTD drinks with an alcohol by volume greater than 5%;</p> <p>d) No more than four (4) drinks, or one bottle of wine, may be served to any patron at one time.</p>