



Mr John Van der Veen
Liquor and Gaming Solutions Pty Ltd
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6 December 2017

Dear Mr Van der Veen

Application No.	1-5682964463
Application for	Full hotel liquor licence with a minors area authorisation
Trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 am – 12:00 midnight Sunday 10:00 am – 10:00 pm <u>Takeaway sales</u> Monday to Sunday 10:00 am – 10:00 pm
Licence name	The Pourhouse
Applicant	Hunter Beer League Pty Limited
Premises	327 High Street MAITLAND NSW 2320
Issue	Whether to grant a full hotel liquor licence with a minors area authorisation
Legislation	Sections 3, 11A, 12, 14, 15, 15A, 17, 40, 45, 48, 51 and 121 of <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a full hotel liquor licence – The Pourhouse**

The Independent Liquor and Gaming Authority has considered the Applicant's application for a full hotel liquor licence with a minors area authorisation and, pursuant to section 45 of the *Liquor Act 2007*, has decided to grant the licence and the authorisation subject to the following conditions:

1. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4:00 AM and 10:00 AM 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. Restricted trading & NYE (std)

Consumption on premises

Good Friday 12:00 midday – 10:00 PM

Christmas Day 10:00 midday – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

December 31st 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. Restricted trading & NYE (std)

Take away sales

Good Friday Not permitted

Christmas Day Not permitted

December 31st Normal trading

4. 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.
5. The premises is to be operated at all times in accordance with the Plan of Management (Alcohol Management Plan) dated April 2017 as may be varied from time to time after consultation with the Local Area Commander of 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. The licensee must join and be an active participant in the local liquor accord.
7. Minors Area Authorisation: whole of premises.
8. No TAB facilities or Keno facilities are to be provided from the licensed premises.
9. No gaming (poker) machines are to be kept on or operated from the licensed premises.
10. Closed-circuit television system
 - (1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) 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:
 - (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 licensed area.
 - (2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that at least one member of staff is on the premises at all times the system is operating who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (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 a police officer or Liquor and Gaming NSW inspector to provide such recordings.
11. Neighbourhood amenity
 - (1) The Management of the premises:
 - (a) Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
 - (b) Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by patrons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.
 - (c) Shall record in a Register full details of any disturbance complaint/s made by a person to the management or staff in respect of the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
 - (d) Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management/staff to resolve such complaint/s shall be recorded in the Register.
 - (2) An adequate queuing system for patrons must be implemented at the main entrance of the licensed premises so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.

12. Crime scene preservation

Immediately after the person in charge of the licensed premises or a staff member becomes aware of an 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:

- (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 & Gaming NSW website,
- (3) make direct and personal contact with the NSW Police Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
- (4) comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

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.

13. Boutique and craft packaged liquor products

- (1) The licensee must ensure that only craft beer, craft cider, craft spirits and boutique wines are sold to take away from the premises.
- (2) The licensee must ensure that a list of the product lines and products stocked for take away sales on the licensed premises at any one time is kept at the premises and made available to a police officer or Liquor and Gaming NSW inspector upon request.
- (3) For every craft beer, craft cider, craft spirit or boutique wine product that is available for take away sales on the premises, the licensee must maintain and make available for inspection on the premises written documentation from the supplier confirming that the product meets the relevant definition specified in this condition.

Definitions

For the purposes of this condition:

- (1) Craft beer is defined as beer that is:
 - (a) produced by a craft brewer in Australia that produces less than 40 million litres of beer per annum or by a craft brewer located overseas that produces less than 6 million barrels of beer per annum;
 - (b) not more than 25 percent of the craft brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer;
 - (c) the craft brewery will certify that the majority of its total beverage alcohol volume in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers); and
 - (d) is not generally considered to be mainstream beer.
- (2) Craft cider is defined as cider that is:
 - (a) produced by a craft producer in Australia that produces less than 40 million litres of cider per annum or by a craft producer located overseas that produces less than 6 million barrels of cider per annum;
 - (b) where less than 25 percent of the craft cider producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer;
 - (c) the craft cider producer will certify that the cider is made from liquid consisting only of juice (no concentrates); and
 - (d) is not generally considered to be mainstream cider.
- (3) Craft spirits are defined as spirits that are:
 - (a) the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in respect of blended spirits, the products of an independently owned and operated facility that uses any combination of traditional and/or innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile;
 - (b) distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller; and

- (c) not generally considered to be mainstream spirits.
- (4) Boutique wine is defined as wine (other than sparkling wine or champagne) that is:
 - (a) manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is owned independently (i.e. not owned by a larger wine company).
- (5) Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is:
 - (a) generally not considered to be a mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.

Please note that pursuant to section 12 of the *Liquor Act 2007*, the standard trading period during which liquor can be sold for consumption away from the licensed premises must end at 10 pm on all trading days. Nevertheless, the exemption provision under section 70AB of the *Liquor Regulation 2008* permits takeaway liquor sales between 10 pm and 11 pm on days other than Sundays and restricted trading days.

If you have any questions, please contact the case manager at michael.fabits@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 21 April 2017 Hunter Beer League Pty Limited (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“the Authority”), an application for a full hotel liquor licence with a minors area authorisation (“Application”), for the premises at 327 High Street, Maitland NSW (“the Premises”). The Applicant also sought to surrender its existing hotel (general bar) licence should the Application be granted.
2. The Authority considered the Application at its meeting on 13 September 2017 and, pursuant to section 45 of the *Liquor Act 2007* (“Act”), decided to approve the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 14, 15, 15A, 17, 40, 45, 48, 51 and 121 of the Act, and relevant provisions of the *Liquor Act Regulation 2008*.

Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with the its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. A list of the material before the Authority is set out in the Schedule.

Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in exercising its powers under the Act, have due regard to the need to minimise harm associated with misuse and abuse of liquor, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Standard trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for various types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.
13. Section 51 of the Act further prescribes the minimum procedural requirements for a valid application for a licence related authorisation.

Fit and proper person, responsible service of alcohol, and development consent

14. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
- a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
 - b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
 - c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

15. Section 48 of the Act requires certain applications, including an application for a hotel licence, to be accompanied by a community impact statement ("CIS") prepared in accordance with the relevant requirements.
16. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter before it.

Other provisions specific to the Application

17. Sections 14 to 17 of the Act set out further legislative provisions relevant to a hotel liquor licence.
18. Section 14 of the Act contains specific provisions on the trading hours for a hotel licence.
19. Section 15 of the Act sets out the primary purpose test for a hotel licence, whereby the primary purpose of the business carried out on the licensed premises must at all times be the sale of liquor by retail.
20. Section 15A of the Act contains provisions on the cessation of liquor sales during trading hours. Section 16 relates to the grant of a hotel licence designated as a general bar licence. Section 17 sets out a number of miscellaneous conditions applicable to a hotel licence.
21. Section 121 of the Act gives the Authority the power to grant, on application, a minors area authorisation to allow the use of the hotel or part of it by a minor in the company of a responsible adult.

Key findings

22. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading requirements

23. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural requirements under sections 40 and 51 of the Act,
 - b) 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,
 - c) the primary purpose of the business carried out on the Premises will at all times be the sale of liquor by retail, as required by section 15 of the Act,
 - d) sections 15A and 16 of the Act are not relevant for the consideration of the Application, and
 - e) liquor will be sold and supplied at the Premises in accordance with the requirements under section 17 of the Act.

Fit and proper person, responsible service of alcohol, and development consent

24. Pursuant to section 45 of the Act, the Authority is satisfied that:

- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- b) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's Plan of Management titled 'Alcohol Management Plan' and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force for use of the Premises as a hotel, based on the notice of determination issued by Maitland City Council on 16 July 2013 for development application 13-1683, and written confirmation from Council on 27 March 2017 that the development consent required for the purpose of the Application is in place.

Community impact statement

25. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
26. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Maitland, and the relevant "broader community" comprises Maitland Local Government Area ("the LGA").

Positive social impacts

27. The Authority accepts, on the material before it, the Applicant's contention that:
 - a) the Premises has been trading under a hotel (general bar) licence since 2013 and specialises in selling craft beer,
 - b) the Premises has a close connection with the local community and is an active participant in community events,
 - c) the Applicant is seeking the full hotel licence and the minors area authorisation primarily to facilitate the sale of its craft beer products for take away, and the provision of family friendly services and entertainment on the Premises.
28. The Authority notes that there is no apparent shortage of packaged liquor in the local or broader community, as evidenced by the high density of packaged liquor licences and hotel licences in both Maitland and the LGA in comparison with the NSW state average.
29. The Authority nevertheless finds that the current and proposed business model of the Premises, in particular its focus on selling craft beer, distinguishes it from the more common types of hotels and packaged liquor retailers. The Authority also notes that the Applicant proposes to surrender its existing hotel (general bar) licence should the full hotel licence be granted, offsetting the impact of the grant on liquor outlet density in the area.
30. The Authority further notes, and has given consideration to, the two submissions from the public supporting the Application, including a submission from Maitland Business Chamber.
31. On the basis of the above, the Authority is satisfied that granting the licence and the authorisation will benefit the local and broader communities through:
 - a) providing additional convenience to residents and visitors who wish to purchase the craft beer products offered by the Premises for take away,
 - b) enabling the enjoyment of the craft beer products offered by the Premises at commercial and community events outside the Premises,
 - c) facilitating the provision of family friendly services and entertainment on the Premises, and
 - d) helping to attract visitors to the area to purchase the craft beer products.
32. Accordingly, the Authority is satisfied that approving the Application is consistent with the expectations, needs and aspirations of the community, and will contribute to the balanced and

responsible development of the liquor industry and related industries such as the tourism and hospitality industries.

Negative social impacts

33. The Authority notes from the BOCSAR data that:

- a) for the year to June 2017, the Premises was located within high density hotspots for incidents of domestic assault and malicious damage to property, though not within any hotspots for alcohol related assault and non-domestic assault,
- b) throughout the two years to June 2017:
 - i. the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in Maitland were significantly higher than the NSW state average, and
 - ii. the LGA recorded higher than average alcohol related domestic assault and malicious damage to property, and lower than average alcohol related non-domestic assault.

34. The Authority also notes from the HealthStats NSW data that for the period 2012-13, the LGA recorded a higher level of alcohol attributable deaths but a lower level of alcohol attributable hospitalisations compared to the corresponding NSW figure.

35. The Authority considers these statistics to be concerning and warrant a careful assessment of the potential social impacts of granting the full hotel licence, particularly the risk of exacerbating the prevailing levels of alcohol related crime and health issues in the local and broader communities.

36. The Authority is nevertheless satisfied that the potential risks and concerns are adequately mitigated by the following:

- a) The Premises is already selling liquor under its current hotel (general bar) licence, and is not seeking any increase in its licensed trading hours. The main practical effect of granting a full hotel licence will, as contended by the Applicant, be to enable the take away sale of craft beer. The Authority has given significant weight to this factor and therefore considers it appropriate to impose a condition restricting take away sales at the Premises to craft beer and other boutique and craft liquor products, to ensure that the risk of alcohol related harm is mitigated in line with the Applicant's stated intention.
- b) The grant of the licence will not give rise to any gaming related social impacts, as the Applicant has advised that no gaming machines or other gambling facilities will be made available on the Premises. For additional clarity and enforceability, the Authority considers it appropriate to impose licence conditions to reflect the Applicant's undertaking in this regard, and the fact that the Authority has not given consideration to gaming related social impacts in determining the Application.
- c) No objection was received in relation to the Application, and NSW Police indicated in its submission that it did not think approving the Application will result in any additional adverse social impact on the community.
- d) The Premises has been operating as a licensed premises for four years without any reported issues.
- e) The Applicant has set out in the Plan of Management document titled "Alcohol Management Plan" detailed procedures and practices in respect of the responsible service of alcohol and prevention of intoxication. These measures are reinforced and complemented by the conditions to be imposed on the licence.

37. The Authority notes that the Premises' patron capacity is limited to 80 persons by a condition on its current licence. The Applicant sought to expand the patron capacity to 150 persons, and provided evidence that Council has no concerns with the expansion. In the circumstances, the Authority does not consider it necessary to impose a condition limiting the number of patrons.

Overall social impact

38. The Authority has had regard to the ABS Socio-Economic Indexes for Areas ("SEIFA") data indicating that as at 2011, Maitland was among the most disadvantaged and the LGA ranked above average in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
39. Having considered the positive and negative impacts that are likely to flow from granting the licence, and the proposed measures and licence conditions, the Authority is satisfied that the overall social impact of granting the licence and authorisation would not be detrimental to the well-being of the local and broader communities.
40. The Authority is also satisfied that a decision to grant the licence and the authorisation would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.
41. Accordingly, the Authority has decided to grant the full hotel licence and the minors area authorisation, and approve the surrender of the Applicant's hotel (general bar) licence.



Philip Crawford
Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule

Material before the Authority

1. ABS SEIFA data based on the 2011 Census, ranking Maitland and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths in the LGA for the period 2012-13 and alcohol attributable hospitalisations in the LGA for the period 2013-15.
3. Notice of determination issued by Maitland City Council on 16 July 2013, approving development application 13-1683 in respect of the Premises.
4. Letter dated 8 November 2013 of the Authority's decision to grant a hotel (general bar) licence, accompanied by relevant documents it took into consideration in granting the licence.
5. National Construction Code 2016 Building Code of Australia – Volume One.
6. BOCSAR crime maps for the year to March 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
7. NSW crime statistics for the two years to March 2017, published by BOCSAR, showing the rates of alcohol related domestic and non-domestic assault and malicious damage to property in Maitland and the LGA.
8. Completed applications for a full hotel licence, minors area authorisation, and surrender of a hotel (general bar licence), dated 8 March, 12 May and 7 April 2017 respectively, accompanied by notices of the Application, notice of manager appointment, and relevant ASIC extracts.
9. Local consent authority notice signed on behalf of Maitland Council and dated 27 March 2017.
10. Plan of Management titled "Alcohol Management Plan" for the Premises, dated April 2017.
11. Category B Community Impact Statement signed and dated 7 April 2017.
12. Submissions from the public, dated 7 and 8 May 2017, in relation to the Application.
13. Submission from NSW Police on 2 June 2017 in relation to the Application.
14. Information from the website of the Premises, including its menu.
15. Certification of Advertising signed and dated 14 July 2017.
16. Liquor licensing records from L&GNSW as at 1 August 2017:
 - a. setting out the density of all types of liquor licences in Maitland, the LGA and NSW, based on the 2016 Census data, and
 - b. listing all hotel licences in Maitland and the LGA.
17. Google map images extracted from the Google website on 10 August 2017, showing the location and photos of the Premises in map view and Earth view.
18. L&GNSW liquor licensing records as at 14 August 2017, setting out key liquor licence details of the Applicant's existing hotel (general bar) licence.
19. Media article 17 August 2017 in relation to the Premises.
20. 2016 Census Quickstats for Maitland and the LGA, extracted from the ABS website on 8 October 2017.
21. Correspondence between L&GNSW and the Applicant between 12 July and 23 October 2017 in relation to the Application.
22. Undated floor plan indicating the Premises' proposed licensed area.
23. Undated information published by Maitland City Council in relation to alcohol regulated areas in the LGA.