



Mr Richard Shaw
rick@gogetus.com.au

8 May 2018

Dear Mr Shaw

Application No.	APP-0003754565
Applicant	Country Club (Finley) Pty Ltd
Application for	Full hotel liquor licence with a minors area authorisation
Licence name	Finley Country Club Hotel Motel
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 Saturday 10:00 am – 10:00 pm Sunday: 10:00 am to 10:00 pm
Premises	167-177 Murray Street FINLEY NSW 2713
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 the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a full hotel liquor licence with a minors area authorisation
Finley Country Club Hotel Motel**

The Independent Liquor and Gaming Authority considered, at its meeting on 14 March 2018, the Applicant's application above for a full hotel liquor licence with a minors area authorisation and, pursuant to sections 45 and 121 of the *Liquor Act 2007*, has decided to **grant** the application 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 six (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. Consumption on premises

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 st	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. Take away sales

Good Friday	Not permitted
Christmas Day	Not permitted
December 31 st	Normal trading

4. The premises is to be operated at all times in accordance with the Plan of Management dated 19 January 2018 as may be varied from time to time after consultation with NSW Police. A copy 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. 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 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 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 to 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:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (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
 - (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.
6. 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:
 - 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 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.

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.
7. The licensee must join and be an active participant in the local liquor accord.
8. Minors Area Authorisation: beer garden and bistro areas.
9. No live entertainment or amplified music is to be permitted within the premises at any time. Any music provided shall be by way of background music only.

Trading between 10 pm and 11 pm, Monday to Saturday

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.

A statement of reasons for this decision is attached at the end of this letter.

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

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

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

Statement of reasons

Decision

1. On 14 January 2018 Country Club (Finley) Pty Ltd (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought a hotel liquor licence (“Licence”) with a minors area authorisation (“Authorisation”), for the premises at 167-177 Murray Street, Finley NSW (“Premises”).
2. The Authority considered the Application at its meeting on 14 March 2018 and, pursuant to sections 45 and 121 of the *Liquor Act 2007* (“Act”), decided to grant the Licence and Authorisation.
3. A preliminary notification of this decision was sent to the Applicant on 16 March 2018, together with the licence document for the Premise.
4. 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 Regulation 2008.

Material considered by the Authority

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. 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.
7. 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”).
8. A list of the material considered by the Authority is set out in the Schedule.

Legislative framework

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

Objects of the Act

10. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations, needs and aspirations of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
11. 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

12. 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 for a licence application

13. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

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 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.

Provisions specific to a Licence

17. Further legislative provisions specific to a Licence are set out in sections 14 to 17 of the Act.

Provisions specific to an Authorisation

18. Section 51 of the Act prescribes the minimum procedural requirements for a licensee to make a valid application for a licence related authorisation. The section also provides that when determining an application for a licence related authorisation, the Authority has the same powers in relation to the application as it has in relation to an application for a licence.
19. Section 121 of the Act provides that the Authority may grant an Authorisation to a hotel licensee to permit minors to use part of the hotel while in the company of a responsible adult.

Key findings

20. 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

21. 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

22. 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 and the licence conditions to be imposed, and
- c) no development consent is required for use of the Premises as a hotel, based on the written confirmation from Berrigan Shire Council on 30 January 2018.

Community impact statement

23. 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.
24. 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 Finley, and the relevant "broader community" comprises Berrigan Local Government Area ("the LGA").

Positive social impacts

25. The Authority notes that the Premises operated as a hotel since 1882, and as a licensed premises since July 1947 until July 2016, when its former owners sold the business and allowed the Licence held at that time to lapse.
26. The Authority accepts the Applicant's contention that the Premises as a hotel had been an integral part of the town, and that granting the Licence would allow it to continue to provide liquor and other services to the community as it had for over a century.
27. The Authority also accepts that granting the Licence and the Authorisation would enable the Premises to cater for a variety of community functions and events, and provide family friendly services and entertainment to local residents and visitors.
28. The Authority notes and has taken into consideration the letters from the Finley Chamber of Commerce and Berrigan & District Race Club supporting the granting of the Licence and requesting expedited determination of the Application.
29. On the basis of the above, the Authority is satisfied that granting the Licence and the Authorisation would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry and the related hospitality and catering industry.

Negative social impacts

30. The Authority notes that the density of hotel licences in Finley and the LGA is considerably higher than the NSW state average. However, the Authority also notes that one of the two existing hotel licences in Finley is currently not trading.
31. The relevant BOCSAR data indicates that, for the year to September 2017:
- a) the Premises was not located within any hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, or malicious damage to property,
 - b) the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in the LGA were considerably lower than the NSW state average, and
 - c) Finley recorded lower than average rates of alcohol related domestic assault and malicious damage to property, and a higher than average rate of alcohol related non-domestic assault.
32. The most recent HealthStats NSW data available at the time of the Authority's consideration of the Application indicates that the LGA recorded:
- a) for the period 2012-13, a level of alcohol attributable deaths close to the NSW state average, and
 - b) for the period 2013-15, a lower than average level of alcohol attributable hospitalisations.

33. The Authority notes and has taken consideration the submission made by NSW Health Murrumbidgee Local Health District on 21 January 2018 which, while not opposing the approval of the Application, drew the Authority's attention to some demographic characteristics of the district which may increase the risk of alcohol related problems. These characteristics include the rural location of the community and the presence of relatively large groups of young people and Aboriginal people.
34. The Authority has also had regard to the ABS Socio-Economic Indexes for Areas ("SEIFA") data indicating that as at 2011, the LGA ranked below state average, and Finley was among the most disadvantaged suburbs, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. While this data is seven years old, the Authority accepts that it raises concerns about the social disadvantages experienced by the local and broader communities.
35. Having regard to the above, the Authority considers that there are some aspects of the local circumstances and prevailing alcohol related issues that raise concerns about the potential negative social impact of granting the Application. The Authority accepts that, if the Application were to be granted, there may be a risk that liquor sold or supplied at the Premises, over time, would contribute to an increase in alcohol related crime, health and other social issues in the community.
36. The Authority is nevertheless satisfied that the potential risks and concerns identified are sufficiently mitigated by the following:
- a) The Premises will not trade beyond midnight, and will have shorter trading hours compared to when it operated under the previous Licence.
 - b) No objection was received from the community or any of the stakeholders consulted in relation to the Application.
 - c) NSW Police confirmed that the previous operation of the Premises as a hotel did not cause much negative community impact. This observation is supported by the data provided by L&GNSW Compliance Unit, indicating that the number of violent incidents occurring at the Premises between 2010 and 2016 was "below threshold".
 - d) The Applicant has set out in the Plan of Management document detailed procedures and practices in respect of the responsible service of alcohol and prevention of intoxication. These measures are reinforced and complemented by the proposed licence conditions to which the Applicant consented.

Overall social impact

37. Having considered the positive and negative impacts that are likely to flow from approving the Application, 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.
38. 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.
39. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act, and grant the Authorisation under section 121 of the Act.



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 Finley 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. BOCSAR crime maps for the year to September 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
4. NSW Recorded Crime Statistics 2016 setting out the proportion of incidents by offence type, day of week and time of day in the LGA.
5. NSW crime statistics for the two years to September 2017, published by BOCSAR, showing the counts, rates and trend of alcohol related assault (domestic and non-domestic) and malicious damage to property in Finley, the LGA and NSW.
6. Category B Community Impact Statement signed and dated 9 January 2018.
7. Completed online application form lodged on 14 January 2018, accompanied by notices of the Application.
8. Local consent authority notice signed on behalf of Berrigan Shire Council on 15 January 2018, and subsequent emails from Council on 30 January 2018 in relation to the development consent for the Premises.
9. L&GNSW compliance data dated 17 January 2018, listing all compliance incidents and activities at the Premises between 1 January 2008 and 17 January 2018.
10. Certification of Advertising signed and dated 18 January 2018.
11. Plan of Management for the Premises dated 19 January 2018.
12. Submissions from NSW Police on 23 and 25 January 2018 in relation to the Application.
13. Submission from NSW Health Murrumbidgee Local Health District on 21 January 2018 in relation to the Application.
14. Submission from Berrigan & District Race Club on 2 February 2018 in relation to the Application.
15. Submission from the Finley Chamber of Commerce on 5 February 2018 in relation to the Application.
16. Submission from L&GNSW Compliance Operations Unit on 7 February 2018 in relation to the Application.
17. L&GNSW liquor licensing records as at 12 February 2018, outlining the density of liquor licences in Finley, the LGA and NSW, and listing all hotel licences in Finley and the LGA.
18. Google map images extracted from the Google website on 16 February 2018, showing the location and photos of the Premises in map view and earth view and street view.
19. Notice of manager appointment for the Premises, signed and dated 20 February 2018.
20. Correspondence between L&GNSW staff and the Applicant between 17 January and 25 February 2018 in relation to the assessment of the Application and the submissions received.
21. L&GNSW liquor licensing records as at 17 January 2018, setting out key liquor licence details of the previous Licence held for the Premises.
22. Undated premises plan for the Premises' proposed licence area and area to which the MAA would apply.
23. ASIC business records in relation to the Applicant.