



Ms Sara Hayes  
1 Mackney Lane  
LENNOX HEAD NSW 2478  
[sarah@ballina.nsw.gov.au](mailto:sarah@ballina.nsw.gov.au)

31 January 2017

Dear Ms Hayes,

**APPLICATION NO:** 1-4940232273

**APPLICATION FOR:** On-premises liquor licence – cinema public entertainment venue, public hall, public arena and events, theatre, public entertainment venue, catering services.

**PROPOSED TRADING HOURS:** Monday to Saturday 10:00AM – 11:00PM  
Sunday 10:00AM – 10:00PM

**APPLICANT:** Ms Sara Hayes

**PROPOSED LICENSED PREMISES NAME:** Lennox Community Centre

**PREMISES LOCATION:** 1 Mackney Lane  
LENNOX HEAD, NSW 2478 (Premises)

**ISSUE:** Whether to grant or refuse an application for an on-premises liquor licence

**LEGISLATION:** Sections 3, 11A, 21-28, 40, 45, 47 and 48 of the *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR ON-PREMISES LIQUOR LICENCE – LENNOX COMMUNITY CENTRE, LENNOX HEAD**

The Independent Liquor and Gaming Authority considered application number 1-4940232273 (Application) and, pursuant to section 45 of the *Liquor Act 2007* (Act), decided to **grant** the Application subject to the following conditions:

Conditions imposed:

**1. Trading Hours**

Monday to Saturday	10:00AM – 11:00PM
Sunday	10:00AM – 10:00PM

## 2. Restricted trading & NYE (std)

Consumption on premises - other public entertainment venue

Good Friday - 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

Christmas Day - 12:00 noon - 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

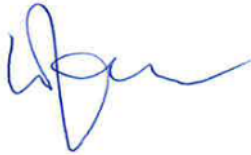
Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. 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 4:00AM and 10:00AM 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.
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 be reasonably 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 are to be operated at all times in accordance with the Plan of Management dated 17 November 2016 as may be varied from time to time after consultation with the Local Area Commander of NSW Police.
6. The licensee or its representative must join and be an active participant in the local liquor accord.
7. No drinks commonly referred to as shots, shooters, slammers and/or bombs are to be sold or supplied.
8. Liquor may only be sold/supplied to persons attending the licensed premises for the purpose of functions, events, performances, films and conferences, whether by invitation or payment of an entry fee. Where the event is a theatre performance or cinema, liquor will only be sold ancillary to the event for one (1) hour prior to the event and at intermission. Liquor will not be sold at the conclusion of the theatre, performance or cinema event.
9. Conditions of hire:
  - a) An accredited security guard is to be engaged for any event on the premises with more than 100 patrons. An additional guard is to be engaged for each additional 100 patrons thereafter.
  - b) Notice of the event and details of the security staff hired is to be lodged with the local police prior to the event.
10. Announcements are to be made at the conclusion of the event asking patrons to depart the vicinity in a quiet and orderly manner.
11. Food is to be available at all times whilst liquor is sold or supplied.
12. Liquor can only be sold or supplied for consumption on the licensed premises.
13. The business of providing the Catering Service must be for fee, gain or reward. Functions held pursuant to the Catering Service must be pre-booked. A Catering Service booking register must be maintained.

Clause 6 of the *Gaming and Liquor Administration Regulation 2016* requires that reasons be provided in respect of the proposed catering service to be operated pursuant to the on-premises licence that is the subject of the Application, and the attached statement of reasons are provided for that service.

If you have any enquiries about this letter please contact the case manager, Ms Santina Causa, via email to [santina.causa@justice.nsw.gov.au](mailto:santina.causa@justice.nsw.gov.au).

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Philip Crawford', with a stylized flourish at the end.

Philip Crawford  
**Chairperson**

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

## STATEMENT OF REASONS

### Material before the Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high-volume jurisdiction.
2. In making this decision, the Authority has considered the on-premises liquor licence application lodged on 14 September 2016 (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority *Guideline 6*, the Authority has also had regard to the relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-demographic data pertaining to the local and broader communities, sourced by licensing staff from publicly available sources. That material is listed and, in some cases, briefly summarised in the Schedule.

### Summary of Further Submissions

3. LGNSW Environment and Venue Assessment Tool (EVAT) reference LA16/07584 dated 28 October 2016 states that the venue risk for the Premises is assessed as “low”, apart from the patron capacity of the Premises, which is assessed as “high”. The risk associated with the licence type is assessed as “moderate” and the location risk for the Premises is “low to moderate”. Three conditions are proposed by the Delegate of the Secretary, including that liquor will only be sold ancillary to a scheduled event and only for one hour prior to the event and at intermission, an accredited security guard is to be engaged for events with greater than 50 patrons and concluding after 10:00PM (and an additional guard for each additional 50 patrons thereafter) and notice of the event and details of security staff hired is to be lodged with the local police.
4. Richmond Local Area Command Police (Police) submission from Senior Constable Simon Thorpe dated 28 October 2016. Police have “no objections to this Application” but request that if the licence is granted, the following conditions be imposed:
  - (a) The licensee is to be an active member of the local liquor accord or any like arrangement in place from time to time.
  - (b) The licensee or their representative must attend all general meetings as announced by the liquor accord.
5. Email from Ms Sara Hayes, Community Facilities Team Leader of the Strategic and Community Facilities Group for Ballina Shire Council (Council), to licensing staff dated 21 November 2016. Ms Hayes amends the Application by nominating herself as the proposed individual licence holder, instead of Council itself. The Applicant submits a three-page Plan of Management dated 17 November 2016 providing detailed information about the objective of the proposed licensed Premises, procedures for the licensed business, a diagram and map of the licensed area and related documentation.
6. The Applicant consents to the imposition of licence conditions fixing the 6-hour daily closure period between 4:00AM and 10:00AM for the purposes of section 11A of the Act; with licensed trading hours to be from 10:00AM and 11:00PM Monday to Saturday and 10:00AM to 10:00PM Sunday. The Applicant also consents to licence conditions

requiring that the social impact of the Premises not be inconsistent with the information disclosed in the Application and CIS; mandating compliance with the Plan of Management, requiring participation in the local liquor accord and prohibiting “shots”, “shooters” or “bombs”. The Applicant also consents to a condition that liquor may only be sold or supplied to persons attending the Premises for the purpose of functions, events, performances, films and conferences, whether by invitation, payment of an entry fee or otherwise and that liquor only be sold ancillary to any scheduled functions, events, performances, films and conferences and only for one hour prior to the event and at intermission. The Applicant consents to a requirement that announcements be made to notify patrons to depart in a quiet and orderly manner. The Applicant advises that the Premises is complete and attaches an occupation certificate.

7. In response to the Police submission, the Applicant agrees to be part of the local liquor accord. In response to the Secretary’s submission, the Applicant accepts conditions limiting liquor service to one hour prior and during intermission and that announcements be made at the conclusion of the event. The Applicant opposes the Secretary’s proposal that a security guard be engaged for any event with more than 50 patrons and for an additional security guard to each additional 50 patrons thereafter.
8. In response to the submission by Mr Geoff Bensley local property owner, the Applicant submits that Mr Bensley’s concerns “relate to the construction of the facility and a nearby shed” and that “he does not have specific objection to the liquor licence, and our conditions will ensure that his properties are not adversely affected”.
9. In response to the submission by a local resident Ms Robyn McIntyre, the Applicant submits, with regard to her concerns about disturbance to local amenity, that the licensed venue “will employ security to alleviate the dispersion of patrons in a disruptive manner” and contends that there “are many other existing licensed venues in close proximity to the same homes and units mentioned”. The Applicant further submits that the licensed trading hours have been amended to start at 10:00AM, and that the Applicant does not have control over the times that rubbish collection takes place in the area, while contending that the likely instances of midweek events going to 11:00PM are “considered to be rare”.
10. Addressing Ms McIntyre’s concerns regarding the close proximity of the Premises to the skate park where children are present, the Applicant contends that “there are other licensed premises located in proximity to the skate park”, but that “the street is covered by an alcohol-free zone” and the courtyard of the Premises “will be controlled so minors cannot enter”. In response to Ms McIntyre’s concerns regarding the impact of the licence upon established local licensed premises, the Applicant submits that the local Bowling Club and Lennox Hotel “raised no objection” and that “both venues do not see their business being adversely affected”.
11. In response to the submission by a local resident Mr Mark Kornhauser, the Applicant submits that “Council’s purpose in operating community facilities is to deliver positive outcomes to the community, but to also provide ways to do this at least cost to the taxpayer.” The revenue raised from operating this bar will have a “small impact on this overall deficit”.
12. The Applicant contends that “most venues holding events of a similar nature offer the sale of [alcoholic] beverages to complement the show and provide a general ambience

for attendees”. In response to Mr Kornhauser’s concern about illegal parking, the Applicant submits that illegal use of the carpark is a matter for Council Rangers and Mr Kornhauser is advised to contact Council enforcement staff if any illegal parking occurs. Addressing Mr Kornhauser’s concerns about local amenity and “unwieldy behaviour from people that are drunk”, the Applicant contends that staff of the licensed business “will control the exit of patrons” from the Premises and “ensure that no glass leaves the building”, referring to the responsible service of alcohol provisions of the Plan of Management.

### **Legislative Framework**

13. The legal requirements for the making of a valid application for a new liquor licence are provided by section 40 of *the Liquor Act 2007* (Act) and the *Liquor Regulation 2008* (Regulation). The power to grant an application for a liquor licence is provided by section 45 of the Act.
14. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
  - (1) *The objects of this Act are as follows:*
    - (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*
    - (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
    - (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
  - (2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
    - (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
    - (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
    - (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*
15. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
16. An application for an on-premises liquor licence is not, *per se*, a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required. However, this Application is deemed to be a relevant application through the operation of section 48(2)(g) of the Act and clause 10(3)(d) of the Liquor Regulation 2008. The Regulation requires the preparation and submission of a category B CIS when making an application for an on-premises licence that relates to a public entertainment venue other than a cinema or theatre. As this Application concerns a public entertainment

venue that includes, but is not limited to, a cinema or theatre, clause 10(3)(d) of the Regulation applies.

17. Section 48(5) of the Act requires that the Authority must not grant an application unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
18. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Lennox Head, while the broader community comprises the relevant local government area (LGA), which at the time of this decision is Ballina Shire Council.

### **Analysis of Relevant Facts**

19. The Authority is satisfied, on the basis of the Application and CIS material before it, that for the purposes of section 40 of the Act, the Application has been validly made and the minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
20. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of an on-premises liquor licensed venue of the kind proposed in the Application material. The Authority notes that no probity issues were raised with regard to the Applicant following consultation with law enforcement agencies including Police and LGNSW.
21. The Authority is further satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place upon the commencement of licensed trading on the Premises. This finding is made on the basis of the Applicant’s amended Plan of Management dated 17 November 2016.
22. The Authority is also satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed use of the Premises that is the subject of this Application falls within the scope of the development consent that is currently in force with regard to the Premises. This finding is made on the basis of Applicant’s Plan of Management dated 17 November 2016 and Development Consent 2008/447 dated 11 March 2009 issued by the Council.

### **Social Impact – Positive Benefits**

23. The Authority is satisfied, on the basis of the Application, CIS and additional material supplied by the Applicant that granting this new licence will provide some substantial benefits to members of the local and broader community participating in a range of social and entertainment functions facilitated by this venue.
24. On the basis of the Application and CIS the Authority is satisfied that the Premises will operate as a multi-function space (theatre/cinema, public hall and function centre). The Authority accepts that live music and fundraising events by community groups have previously required applications for a *temporary event licence*, granted to various licensees on a case-by-case basis. The grant of this Application will mean that the Premises will be licensed on an ongoing basis. This will increase regulatory certainty while providing the community benefit of reducing delays as various community groups plan and promote their respective events.

25. The Authority notes that the Application is sought on behalf of a local government authority, and accepts that the proposal forms part of Council's plan to improve live event infrastructure in the broader community and will make a modest contribution to Council's fiscal position.
26. Noting that Council is the jurisdictional representative of the broader community, and accepting that there are several local objectors (whose concerns are addressed below), on the whole the Authority is satisfied that granting the Application is consistent with the "expectations, needs and aspirations of the community" in respect of the local community of Lennox Head and the broader community of the Ballina Shire Council, furthering an object of section 3(1)(a) of the Act.
27. The catering service is one of the proposed primary purposes of the Application (alongside the other designated primary purposes, including use of the Premises as a theatre and event space). The Authority is satisfied on the basis of the information provided in the Application and CIS that the liquor sold or supplied on the Premises will be ancillary to the staging of a live event, theatre production, film screening or fundraiser.
28. The Authority accepts the Applicant's contention that granting this Application will "support the widening interest in utilising the venue for a range of future events". The Authority notes, on the information provided by the Applicant that the Premises is already the site of numerous licensed events and this further demonstrates that granting an ongoing licence promotes the object of section 3(1)(a) of the Act.
29. The Authority is further satisfied, on the basis of the CIS and additional material supplied by the Applicant that the liquor sold on the Premises pursuant to the catering service will reasonably develop, in the public interest, related industries including hospitality, music, tourism and the arts in the local and broader community. In this respect, granting the Application will advance the statutory object of section 3(1)(b) of the Act.

### **Social Impact – Negative Impacts**

30. Having reviewed all of the material before it, the Authority considers that over time there is a risk that the liquor sold from this new licensed business will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor.
31. The Applicant originally proposed trading hours starting from 6:00AM to accommodate events such as a champagne breakfasts, but in response to community consultation the proposal has been reduced to between 10:00AM and 11:00PM Monday to Saturday and between 10:00AM and 10:00PM on Sunday. Those hours do not extend into late trading times, nor do they extend across the gamut of standard trading hours prescribed by section 12 of the Act.
32. The size of the Premises is substantial (up to 550 patrons) and this factor increases the scope for adverse amenity impacts, but the Authority is reassured by the procedures outlined in the Plan of Management dated 17 November 2016 which substantially limit the type and timing of liquor service within the licensed hours and will reduce the scope for negative impacts associated with the sale or supply of liquor at this venue.



- 33.** The Authority notes that a Community Q&A session was conducted by Council as part of the community consultation process on 18 February 2016 to “give community members the opportunity to meet directly with staff, to ask questions and raise any concerns”. Three objections were received from members of the public.
- 34.** Mr Bensley’s concerns are based on the “possible impacts on the amenity” for local residents from the operation of the venue, which he states arise from “Council’s ability to follow its own consent conditions for 2008/447”, which were brought into question during June and July 2010 when “noise outside of the approved hours and excessive vibrations disrupted the amenity”. The Applicant notes, and the Authority accepts that Mr Bensley’s concerns were directed to disturbance from the “construction of the facility and a nearby shed” and that he does not have specific objection to the liquor licence. While Mr Bensley’s account of what occurred during construction is accepted by the Authority, the construction phase has now been completed. The Authority notes that the Premises will be subject to development controls, in addition to conditions on the licence. Notwithstanding Mr Bensley’s concerns that Council may be conflicted on any breach of development conditions, the liquor licence conditions (including the Plan of Management) will be enforceable by LGNSW and Police.
- 35.** Ms McIntyre, a local resident who is opposed the Application, expressed concern about the “variety of events” proposed for the Premise, the lateness of closing time and the proposed 6:00AM commencement of licensed trading. Ms McIntyre also raised concerns regarding the prospect of alcohol fuelled patrons leaving the Premises through Park Lane, the noise of cars leaving the venue and the general noise emissions from the events held on the Premises.
- 36.** Ms McIntyre further raises concern about the garbage collections that commence at 5:15AM six days a week and that this, in combination with events staged until 11:00PM, will expose residents “to excessive noise very early in the morning and then very late at night”. Ms McIntyre submits that this “is not fair to the residents, many who are elderly”.
- 37.** The Authority accepts that these concerns are generally credible and there is potential for the venue to adversely impact local amenity. However, (as noted above) the scope for disturbance has been reduced through a reduction in the initially proposed licensed trading hours, and constrained by the conditions on the licence for when liquor may be sold. The Authority further notes that the use of the Premises will be regulated by the development consent.
- 38.** Mr Kornhauser opposed the Application on the basis that “wherever there is booze there are issues”, that the Application “sounds like a revenue raising exercise” and that he believes that offering alcohol at the Premises is “unnecessary”. Mr Kornhauser further identifies amenity impacts including “illegal use of our car park”, “broken glass and bottles in the streets” and “unwieldy behaviour from people that are drunk”.
- 39.** The Authority accepts that there is a risk with any licensed premises of adverse amenity impacts. The Authority accepts the Applicant submission that illegal use of Mr Kornhauser’s carpark will be a matter for Council Rangers. The Authority notes that this may also constitute a basis for complaint to Police.
- 40.** The Authority has taken into account the enforceable licence conditions and the enforceable Plan of Management that the licensee must observe. On the information

before it, the Authority accepts that sufficient arrangements are in place to minimise the generally credible risks identified by Mr Kornhauser. There is insufficient evidence or material before the Authority regarding previous abuses of the temporary licences granted in respect of the Premises to infer that it would be contrary to the public interest to grant an ongoing licence on the conditions now proposed.

41. The Applicant has provided the Authority with the Facilities Committee Meeting Agenda dated 15 June 2016, which provides a detailed summary of the (pre-Application) consultation process undertaken by Council. Council received a submission from Somerville Laundry Lomax Solicitors dated 15 February 2016 on behalf of eleven registered proprietors of several local property owners (the Property Owners) opposing the proposed licensing of the Premises.
42. Briefly, the Property Owners contend that the number of existing licensed premises in the immediate vicinity (including the Lennox Head Hotel and Bowling Club) militate against licensing the Premises. They further contend that the licensed trading hours (which the Authority notes refers to the initial 6:00AM opening time) and the patron capacity of the Premises are aspects of concern with regard to adverse social impact. They contend that the Premises is located adjacent to a residential area, scout hall, preschool, infants and primary schools. They contend that the nearby currently licensed premises operating as a hotel or bar licence would not exercise the “spread” of licensed trading hours proposed by this Application and submit that early licensed trading for a champagne breakfast or similar function is “inconsistent with the residential amenity of the surrounding area”.
43. The Authority accepts these concerns regarding the location of the Premises and potential impact of trading hours but notes that the scope for residential disturbance has been reduced through amendment of the Application and the enforceable Plan of Management and licence conditions imposed by the Authority. The location of the schools are relevant matters of concern but noting the availability of numerous existing licensed venues in the community and the nature of this Application (catering for events rather than providing licensed entertainment every day of the week in the manner of a bar or hotel) it is not apparent why the licensing of these events will necessarily coincide with school hours, or if so, how and to what extent school students will be affected. On the material before the Authority there is insufficient evidence information or analysis to give substantial weight to these concerns.
44. The Property Owners further submit that “Council appears to be changing the purpose” of the Premises and that the Lennox Head Community Centre (LHCC) “is not an entertainment venue, function centre, restaurant or motel”. They submit that licensing the venue with temporary licences on a case-by-case basis is the “appropriate manner in which for a community centre to operate” and that a permanent licence would make the LHCC “akin to a commercial venture”.
45. The Property Owners also contend that the Application does not address “operational matters” pertaining to a liquor licence and that the Development Consent for the Premises “would appear not to provide for the LHCC to operate as a licensed premise on a commercial basis”. They submit that granting the Application “would appear to be at odds” with the Event Management Procedure for the LHCC and that the Application is “silent on how an on-premises liquor licence would be controlled and managed”. They submit that the Application is also silent as to how functions exercising the licence

will “co-exist” with other users of the LHCC (e.g. childcare, health care consultants, library, meeting room and dance classes) and that it is “irresponsible” for such an application to be made by the Council.

46. The Authority accepts that there is a real risk of adverse impact upon local amenity from any new licensed premises, but is satisfied that the Applicant’s harm reduction measures, which go above and beyond minimum requirements of the Act have reduced the scope for those concerns. The now amended and reduced licensing trading hours, Plan of Management and the conditions attaching to this licence will meaningfully reduce the scope for negative social impacts. As noted above, the Authority is satisfied, on the information provided by Council, that the required development consent for the proposed licensed business to be conducted on the Premises is in force.
47. The Authority does not accept the proposition that licensing events at the Community Centre on a case by case basis is necessarily the best option in the circumstances disclosed by the Applicant. Given the frequency and variety of events for which the Premises is utilised, licensing the venue on an ongoing basis will provide regulatory consistency and certainty as to responsibility for the sale or supply of liquor on the Premises, rather than a variety of third parties assuming responsibility on a temporary basis.
48. Finally, the Authority notes the submission from Father Michael Nilon of St Francis Xavier Catholic Parish Ballina who does “not object”, but wishes to “formally request that every effort be made to ensure patrons attending functions at the Centre respect the nearby Lennox Head Catholic Church and grounds and funeral services that may be held during times that events are being held”.
49. The Authority accepts this as a reasonable and credible concern. The Authority is satisfied that the controls implemented in the Plan of Management and licence conditions will meaningfully reduce the scope for adverse social impact upon any services provided by the Church. Granting the Application will provide consistent regulatory responsibility for the Premises, with a single point of accountability, regardless of the nature of the event, should any issues arise.
50. The Authority notes that the recent use of the Premises for ad hoc licensed events has not given rise to any significant evidence of disturbance to neighbouring premises, including the Church. Nevertheless, given the patron capacity of the venue, the range of potential events proposed by the Applicant and the proximity of the Premises to residential areas and the Church, the Authority finds it preferable to impose a more stringent security guard requirement than that proposed by the Applicant. A licensed security guard will be required for any event with more than 100 patrons with an additional guard for each 100 patrons. This will more closely manage the risk of adverse liquor related impacts upon on local amenity.
51. As for prevailing licence density in the communities, LGNSW licensing records indicate that the suburb of Lennox Head currently has 14 on-premises liquor licensed premises, while the Ballina Shire Council LGA has 50 on-premises liquor licensed premises.
52. With regard to prevailing crime data in the communities, BOCSAR Crime Maps for the period between July 2015 – June 2016 indicate that the Premises:

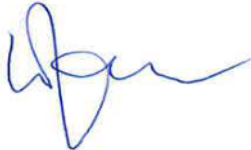
- (a) Is not located within a density *hotspot* for incidents of *domestic assault*.
  - (b) Is not located within a density *hotspot* for incidents of *non-domestic assault*.
  - (c) Is not located within a density *hotspot* for incidents of *malicious damage to property*.
53. The Authority derives considerable reassurance from the BOCSAR Report on NSW Recorded Crime Statistics July 2010 – June 2015 which records that during the 2014/15 financial year the Ballina Shire Council LGA recorded lower rates per 100,000 persons of population for the occurrence of *alcohol related assault police*, *alcohol related domestic violence assaults* and *alcohol related offensive behaviour offences* than NSW as a whole. The rate of *alcohol related non-domestic violence assault* incidents was slightly above the State-wide rate.
54. The Applicant submits that “there have been no reported incidents associated with events at the centre in the four years of operation” and that “centre management ensures that all community events, regardless of licencing or not, have adequate security before an event is approved”.
55. The Authority notes that Police do not object to the Application and accepts the Applicant’s account as to the previous history of the Premises. This gives the Authority further confidence when assessing the risks of licensing the Premises with an ongoing liquor licence. On the material before it, the Authority considers that regularising the licensing arrangements will provide a more consistent framework for the supply of liquor on the Premises than the previous ad hoc arrangements.
56. The Authority notes, on the basis of the ABS Socio-Economic Indexes For Areas (SEIFA) data, that both the suburb of Lennox Head and the Ballina LGA are relatively advantaged compared to other local government areas and State suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, with Lennox Hill ranked in the 8<sup>th</sup> decile and the Ballina LGA ranked in the 7<sup>th</sup> decile on the index (with a decile ranking of 10 being the most advantaged).
57. When making this decision the Authority has had regard to all of the conditions to which the licence will be subject and the detailed and enforceable measures set out in the Plan of Management dated 17 November 2016.

## **Conclusion**

58. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties, including Police and Council, and all other parties were consulted as required by the legislation.
59. Having considered together the positive benefits and negative impacts that the Authority is satisfied are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
60. The Application is granted pursuant to section 45 of the Act.

61. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour); (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor; and (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Decision Date: 24 December 2016



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.justice.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. Development Consent 2008/447 dated 11 March 2009 issued by Council. Amendments of Development Consent 2008/447 set out in letters dated 9 June 2009, 17 August 2010, 10 May 2011 and 20 September 2011.
2. Occupation Certificate number 13.2008.447.6 and Inspection History Report for construction of the Community Centre dated 21 February 2013.
3. CIS form and supporting material dated 6 July 2016 submitted with the Application lodged on 14 September 2016. The supporting material includes:
  - (a) Ballina Shire Council Annual Report 2014/2015.
  - (b) Letter from Ms Sara Hayes, Council, to The Occupant dated 5 February 2016.
  - (c) Minutes of the Ballina Shire Council Aboriginal Community Committee dated 11 February 2016.
  - (d) Ballina Shire Council Notice of Facilities Committee Meeting Agenda (Agenda) dated 15 June 2016. The following documents are included within the Agenda:
    - i) Notice of Intention to apply for a liquor licence by Ms Hayes dated 22 January 2016.
    - ii) Letter from Ms Hayes to The Occupant dated 5 February 2016.
    - iii) Submission from Mr Kornhauser dated 11 February 2016.
    - iv) Submission from Ms McIntyre dated 14 February 2016.
    - v) Submission from Mr Guy Latham, Somerville Laundry Lomax Solicitors, on behalf of eleven registered proprietors dated 15 February 2016.
    - vi) Submission from Father Michael Nilon, Parish Priest, St Francis Xavier Catholic Parish Ballina dated 24 February 2016.
    - vii) Submission from Mr Bensley dated 21 April 2016.
    - viii) Lennox Community Centre Information Sheet for application for on-site liquor licence.
  - (e) Public Consultation Site Notice, Police Notice and Local Consent Authority Notice all dated 8 July 2016.
  - (f) Certification of Advertising Application dated 19 September 2016.
  - (g) Lennox Community Centre Information Sheet for application for on-site liquor licence.
  - (h) Two maps of the area surrounding the Premises.
4. Application Form for packaged liquor licence lodged 14 September 2016.
5. LGNSW EVAT reference LA16/07584 dated 28 October 2016.
6. Police submission from Senior Constable Simon Thorpe dated 28 October 2016.
7. Plan of Management dated 17 November 2016.

8. Email from Ms Hayes to licensing staff dated 21 November 2016.
9. NSW Department of Health *HealthStats* Selected Reports for Ballina LGA dated 2 December 2016.
10. 2011 Census *QuickStats* information for Lennox Head and Ballina, downloaded from the ABS website on 2 December 2016.
11. Five photographs of the Premises.
12. Plan or diagram of the Premises.
13. Two Google Maps of the Premises and surrounding area.
14. BOCSAR Report on NSW Recorded Crime Statistics July 2010 – June 2015. This report indicates that for July 2014 – June 2015:
  - (a) the rate of *alcohol related assault Police* incidents recorded by NSW Police recorded across the Ballina LGA was **4.8** per 100,000 persons, below the State-wide rate of **18.2** per 100,000 persons.
  - (b) the rate of *alcohol related non-domestic violence* assault incidents recorded across the Ballina LGA was **148.9** per 100,000 persons, above the State-wide rate of **144.0** per 100,000 persons;
  - (c) the rate of *alcohol related domestic violence* assault incidents recorded across the Ballina LGA was **103.3** per 100,000 persons, below the State-wide rate of **122.6** per 100,000 persons; and
  - (d) the rate of *alcohol related offensive behaviour offences* recorded across the Ballina LGA was **81.6** per 100,000 persons, below the State-wide rate of **88.2** per 100,000 persons.
15. BOCSAR Crime Maps based upon data from July 2015 – June 2016 detailing hotspots for the concentration of offences near the location of the Premises.
16. LGNSW liquor licensing records for the suburb of Lennox Head and the Ballina Shire Council LGA.
17. ABS SEIFA data prepared on the basis of the 2011 census.