



Mr Christopher Cornforth
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TAMWORTH NSW 2340
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28 April 2017

Dear Mr Cornforth

APPLICATION NO: 1-5004826040
APPLICATION FOR: Hotel Licence (General Bar)
Extended Trading Authorisation (ETA)

TRADING HOURS: Consumption on premises
Monday to Wednesday 8:00AM – 12:00AM
Thursday to Saturday 8:00AM – 1:30AM
Sunday 8:00AM – 12:00AM

Consumption on premises – Outdoor dining
area on Peel Street
Monday to Sunday 12:00PM – 10:00PM

APPLICANT: P&T (TAMWORTH) PTY LTD

LICENSED PREMISES NAME: The Pig & Tinder Box

PREMISES LOCATION: 429 Peel Street
TAMWORTH NSW 2340 (Premises)

ISSUE: Whether to grant or refuse an application for
a hotel licence (general bar) and extended
trading authorisation.

LEGISLATION Sections 3, 11A, 14, 15, 15A, 16, 40, 45, 48,
49 and 51 *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR A
HOTEL LICENCE (GENERAL BAR) AND EXTENDED TRADING AUTHORISATION –
THE PIG & TINDER BOX**

The Independent Liquor and Gaming Authority considered application number 1-5004826040 at its meeting on 22 February 2017 and, pursuant to sections 45 and 49(2) of the *Liquor Act 2007*, decided to **grant** the application for a hotel licence (general bar) and extended trading 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 2.00 AM and 8.00 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. 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, the application and other information submitted in the process of obtaining this licence.
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The premises must at all times be operated in accordance with the Plan of Management dated 6 February 2017 as may be varied from time to time after consultation with the Local Area Commander.
5. No clothing, jewellery or accessories of outlaw motorcycle related organisations to be allowed on the premises.
6. The following drinks must not be sold or supplied on the Licensed premises:
 - a. Any drink (commonly referred to as a 'shot' or a 'shooter') that is designed to be consumed rapidly;
 - b. Any drink containing more than 50% spirit or liqueur;
 - c. Any drink prepared on the premise that contains more than 30mls of spirits or liqueur (eg doubles).
7. No "ready to drink beverage" containing an alcohol by volume content of more than 5% or mixed alcoholic energy drinks are to be sold or supplied after 9pm.
8. The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation.
9. Crime Scene Preservation

Immediately after the person in charge of the Licensed Premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:

 - i. Take all practical steps to preserve and keep intact the area where the act of violence occurred;
 - ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police;
 - iii. Make direct and personal contact with the Local Area Commander or his/her delegate and advise the Commander or delegate of the incident; and
 - iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
10. Food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be available at all times.
11. Closed circuit television footage will be retained for a period of not less than 28 days.
12. Active patrols to be made by staff to collect and dispose of empty and abandoned vessels within the premises and in the immediate surrounds of the premises.
13. No patrons will be allowed admittance after 12.30 AM.
14. Liquor consumption on Peel Street is only permitted subject to the conditions of any current footway licence agreement issued by the local consent authority.
15. There is to be no sale or supply of liquor prior to 10:00 AM on any day.

If you have any enquiries about this letter, please contact the case manager via email to kieran.mcsherry@justice.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', with a stylized, cursive script.

Philip Crawford

Chairperson

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

STATEMENT OF REASONS

DECISION

1. The Independent Liquor & Gaming Authority (“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 lodged 13 October 2016 (“the Application”) for a hotel licence (general bar) and extended trading authorisation (“ETA”), 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.
2. 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 that the overall social impact of granting the Application would not be detrimental to the well-being of the local and broader communities.
3. The Application is granted pursuant to sections 45 and 49(2) of the Act. For the purposes of section 49(6), the extended licensed hours granted extend from midnight to 1:30am Thursday to Saturday and between 8:00am and 10:00am, and 10:00pm and 12:00am on Sundays. These extended trading hours, however, do not apply to the outdoor dining area on Peel Street. Liquor can only be sold and supplied in that area between the hours of 12:00pm and 10:00pm Monday to Sunday.
4. 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).

MATERIAL CONSIDERED BY THE AUTHORITY

5. In making this decision, the Authority has considered the 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 relevant liquor licensing records maintained by Liquor & Gaming NSW (“L&GNSW”), 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. The material considered pursuant to the making of this decision is listed and, in some cases, briefly summarised in the Schedule.

LEGISLATIVE FRAMEWORK

6. The legal requirements for the making of a valid application for a liquor licence and extended trading authorisation are provided by sections 40 and 51 of the Act, and the *Liquor Regulation 2008* (“the Regulation”). The power to grant an application for a new liquor licence is provided by section 45 of the Act, and an extended trading authorisation, section 49(2) of the Act.
7. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3, which prescribes the regulation of the supply of liquor in a way that is consistent with the expectations and needs of the

community, alongside the facilitation of the balanced development of the liquor industry and related industries. Section 3 also requires attention to be paid to harm minimisation and the need to ensure that the sale of liquor does not detract from the amenity of community life.

8. Section 48 of the Act requires a Category B Community Impact Statement (“CIS”) to be lodged with an application for a hotel licence with an extended trading authorisation, and that the Authority, in making its decision, consider the CIS (as well as any other matter the Authority is made aware of during the application process) in order to determine the impact of the authorisation.
9. Section 48 further prescribes that the Authority must not grant an application unless satisfied that the “overall social impact [...] **will not** be detrimental to the well-being of the local or broader community”.
10. 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 suburb of Tamworth while the “broader community” comprises the Tamworth Regional Local Government Area (“LGA”).

KEY FINDINGS

11. The Authority is satisfied, based on the Application and CIS material before it, that for the purposes of sections 40 and 51(2) of the Act, the Application has been validly made and minimum procedural requirements have been satisfied.
12. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is fit and proper to carry on the business of a late trading hotel of the kind proposed in the Application material. The Authority makes this finding on the basis that no issues of concern were raised regarding the probity of the Applicant following consultation with relevant enforcement agencies.
13. The Authority is further satisfied, for the purposes of sections 45(3)(b) and 49(8) of the Act, that responsible service of alcohol practices will be in place, based on the Plan of Management lodged with the application and most recently updated on 6 February 2017. The Authority is also satisfied that the extended trading period sought in the Application will not result in the frequent undue disturbance of the quiet and good order of the neighbourhood of the Premises.
14. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed use of the Premises and extended trading hours fall within the scope of the development consent that is in force with respect to the Premises. This finding is made on the basis of a letter from Tamworth Regional Council to the Applicant advising that it does not object to the Application, and an email from Tamworth Regional Council to L&GNSW advising that no further development approval is required in respect of the proposal.

Social Impact – Positive Benefits

15. The Authority accepts the Applicant’s contention that it distributed the consultation notice to stakeholders and neighbouring premises and did not receive any adverse comments or complaints. Given the absence of any objection from local residents or representatives of the local community, the Authority is satisfied that the

proposal will serve the “expectations, needs and aspirations” of the local and broader communities, pursuant to section 3(1)(a) of the Act.

16. The Authority is satisfied that granting the hotel licence (general bar) and extended trading authorisation will provide some additional benefit to members of the local and broader communities who wish to attend the type of venue that is proposed for the primary purpose of on-premises consumption of liquor, as well as to dine and enjoy live acoustic entertainment, including during the extended hours of 12:00am to 1:30am, Thursday to Saturday and 10:00pm to 12:00am Sunday.
17. The Authority is satisfied that the Premises will continue to promote locally produced food, as it has done by way of on-premises licence LIQO624009296 with primary service and extended trading authorisations, which was surrendered in conjunction with the approval of the Application. The Authority is satisfied that the on-premises licence operated without incident for several years, including during extended trading hours, and since 2015 under the management of the current operators.
18. The Authority is satisfied that Tamworth Regional Council, NSW Police and L&GNSW are not opposed to the Application. The Authority has considered and imposed the various conditions requested by NSW Police.
19. The Application discloses that the general bar intends to operate a street facing “coffee window” on the Premises that will open from 8:00am. The Authority notes that pursuant to section 15A of the Act, the licensee is permitted to provide this additional facility during the standard licensed trading period prescribed for hotel licences by section 12 of the Act. This standard period extends between 5:00am and midnight Monday to Saturday and from 10:00am to 10:00pm on Sunday. The licensee is also permitted to provide this service during the extended trading period between 8:00am and 10:00am on Sunday. Pursuant to the special licence conditions imposed, there is to be no sale or supply of liquor prior to 10:00am on any day.
20. The Authority is satisfied that the part of the licensed area that extends onto the footpath on Peel Street is the subject of a Non Exclusive Footpath Licence issued by Tamworth Regional Council on 1 November 2015, which will assist in regulating and restricting the use of that section of the licensed area. Pursuant to that document, liquor must only be served with a meal to patrons who are seated on Peel Street, and alcohol consumption in that outdoor space is restricted to between 12:00pm and 10:00pm daily.
21. The Authority is satisfied that the Applicant’s experience in operating the Premises, together with the detailed provisions of the Plan of Management, indicate that the Premises will not cause undue disturbance to the neighbourhood, including during the extended trading period.
22. On this basis, the Authority is satisfied that granting the Application will reasonably develop, in the public interest, the liquor, tourism and hospitality industries in respect of the local and broader communities.

Social Impact – Negative Impacts

- 23.** In keeping with legislative provisions, the sale and supply of liquor will be the primary purpose of the Premises, which renders it a relatively higher impact licence. Notwithstanding this, the Authority is comforted by the fact that the Premises has operated with an on-premises licence endorsed with primary service and extended trading authorisations for several years, and that the proposed operation of the Premises as a hotel is unlikely to differ significantly from the current operation.
- 24.** The Authority acknowledges that there is a risk that any venues licensed for on-premises consumption, particularly hotels and particularly those that operate during extended trading hours, may cause adverse social impacts upon the community over time, including amenity impacts upon the neighbourhood and local community. Whilst no specific amenity impacts have been reported in respect of the Premises or in response to the Application, BOCSAR data in respect of the location and the LGA does present cause for concern.
- 25.** BOCSAR Crime Maps for the year ending September 2016 indicate that the Premises is located in an area where there is a concentration of offences typically associated with alcohol consumption, including a high concentration of incidents of malicious damage to property.
- 26.** There is also cause for concern with respect to the broader community arising from BOCSAR crime data for the year ending September 2016, which indicates that Tamworth Regional LGA has significantly higher rates per 100,000 persons than NSW as a whole for incidents of relevant alcohol-related offences. The high prevailing rates of alcohol-related crime mean that any application for a hotel licence, particularly one sought to be endorsed with an extended trading authorisation, warrants careful scrutiny.
- 27.** Despite the above, the Authority derives substantial reassurance from the fact that an ETA allowing the Premises to remain open until 2.00am Wednesday – Saturday and 12:00am Sunday has been exercised in conjunction with the existing on-premises licence and PSA for several years, without occasioning any significant alcohol-related disturbances. The on-premises licence (with authorisations) was granted in 2011. The Premises has been operated by the Applicant since 2015.
- 28.** The Authority is satisfied, based on liquor licence density data presented by L&GNSW, that while Tamworth Regional LGA does have a higher than average density of hotel licences, Tamworth suburb has a lower than average density. Given that the Premises is already the subject of an on-premises licence with primary service and extended trading authorisations, and does not envisage operating in a way that is materially different to its current mode of operation, the addition of another hotel licence to the local and broader communities will not be to their detriment.
- 29.** The Authority notes, on the basis of the ABS Socio-Economic Indexes For Areas (SEIFA) data, that the suburb of Tamworth ranked in the 1st decile on the Index of Relative Socio-Economic Advantage and Disadvantage while Tamworth Regional LGA ranked in the 5th decile (with a decile ranking of 10 being the most advantaged).

30. The Authority has had regard to the reasonably detailed harm minimisation measures set out in the Plan of Management dated 6 February 2017, and the licence conditions to which the Applicant has consented, which, together with the positive compliance history of the existing on-premises licence and the support of NSW Police and Tamworth Regional Council, mitigate the concerns stemming from the statistical data outlined above.

Decision Date: 22 February 2017



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. ABS SEIFA data based on the 2011 Census indicating that Tamworth suburb ranked in the 1st decile and Tamworth Regional LGA ranked in the 5th decile compared to other local government areas and suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
2. HealthStats NSW data relating to alcohol attributable deaths by local government area, Tamworth Regional LGA, NSW 2001-2002 to 2012-2013 indicating that the Smoothed Estimate of Standardised Mortality Ratio was 124.9 for the period 2012-2013.
3. HealthStats NSW data relating to alcohol attributable hospitalisations by local government area, Tamworth Regional LGA, NSW 2001-2003 to 2013-2015 indicating that the Smoothed Estimate of Standardised Separation Ratio was 83.1 for the period 2013-2015.
4. Non Exclusive Footpath Licence issued by Tamworth Regional Council on 1 November 2015 for the use of the footway on Peel Street.
5. A letter from Oxley Licensing Unit NSW Police to the Applicant dated 13 January 2016 expressing its support for the continuation of the licence hours that apply to the on-premises licence and requesting the imposition of a number of conditions.
6. National Police Certificate for Mr Blake Etheridge issued 5 May 2016.
7. A letter from Tamworth Regional Council to the Applicant dated 25 May 2016 advising that it does not object to the Application.
8. ASIC Current Company Extract for P&T (TAMWORTH) PTY LTD ACN 604 293 174 dated 26 June 2016.
9. CIS dated 27 June 2016, advising that no issues were raised by any neighbouring occupiers or stakeholders.
10. NSW Crime Statistics for the year ending September 2016, published by BOCSAR. This data indicates that:
 - (a) the rate of *alcohol-related domestic violence-related assault* incidents recorded by NSW Police for Tamworth Regional LGA was **562** per 100,000 persons, significantly above the State-wide rate of **118.1** per 100,000 persons.
 - (b) the rate of *alcohol-related non-domestic violence-related assault* incidents recorded by NSW Police for Tamworth Regional LGA was **510.8** per 100,000 persons, significantly above the State-wide rate of **137.9** per 100,000 persons; and
 - (c) the rate of *malicious damage to property* incidents recorded by NSW Police for Tamworth Regional LGA was **1314.2** per 100,000 persons, well above the State-wide rate of **838.1** per 100,000 persons.

11. BOCSAR Crime Maps for the year ending September 2016 detailing hotspots for the concentration of offences near the location, indicating that the Premises:
 - (a) is located within a *medium-density hotspot* for incidents of *domestic assault*
 - (b) is located within a *medium-density hotspot* for incidents of *non-domestic assault*
 - (c) Is located within a *high-density hotspot* for incidents of *malicious damage to property*.
12. Application form for an extended trading authorisation for a hotel lodged on 3 October 2016.
13. Application form for a new hotel licence lodged on 13 October 2016.
14. Surrender liquor licence form lodged on 13 October 2016.
15. Appointment of manager notice for Mr Blake Etheridge lodged on 13 October 2016.
16. Liquor licensing records from L&GNSW as at 18 October 2016 indicating that Tamworth suburb had 14 hotel licences and Tamworth Regional LGA had 28 hotel licences.
17. Email from L&GNSW to Mr Christopher Cornforth making various requisitions and requesting consent to various conditions, dated 15 November 2016.
18. Certificate of Advertising Application signed by Mr Christopher Cornforth dated 16 November 2016.
19. Email from Mr Christopher Cornforth to L&GNSW responding to requisitions and consenting to various conditions, dated 21 November 2016.
20. Submission from Compliance Operations L&GNSW dated 21 November 2016 advising that the Application was assessed using the EVAT and that L&GNSW does not intend to carry out any further assessment. The submission recommends that the conditions requested by NSW Police be incorporated in the Plan of Management.
21. Email from L&GNSW to Mr Christopher Cornforth requesting comment on the submission from Compliance Operations L&GNSW, dated 21 November 2016.
22. Email from Mr Christopher Cornforth to L&GNSW dated 21 November 2016, advising that the premises had at that point in time operated without issue for eighteen months and that its higher price point may deter persons who would want to drink excessively and/or partake in antisocial behaviour.
23. Key liquor licence details recorded as at 5 December 2016.
24. 2011 Census QuickStats for Tamworth suburb and Tamworth Regional LGA, last updated 19 December 2016.
25. Google Maps satellite map, road map and street view image indicating the location of the Premises, obtained by L&GNSW on 14 January 2017.

- 26.** Email from L&GNSW to Mr Christopher Cornforth making various further requisitions, dated 16 January 2017.
- 27.** Map of the alcohol free zone in Tamworth CBD obtained by L&GNSW from Tamworth Regional Council's website on 16 January 2017.
- 28.** Email from L&GNSW to Mr Christopher Cornforth requesting a response to its previous email, dated 30 January 2017.
- 29.** Email from Mr Christopher Cornforth to L&GNSW responding to its various further requisitions, dated 6 February 2017.
- 30.** The Plan of Management for the premises, updated 6 February 2017.
- 31.** Plan of proposed licensed area, updated 6 February 2017.
- 32.** Email from Tamworth Regional Council advising that no further development approval is required in order for the premises to operate with a hotel licence rather than an on-premises licence for a restaurant, dated 21 February 2017.
- 33.** Email correspondence between L&GNSW and Mr Christopher Cornforth seeking and providing consent to conditions as requested by the Authority, dated 13, 18 and 20 April 2017.