



Ms Kathryn Richards
91 Beardy Street
Armidale NSW 2350

11 October 2016

Dear Ms Richards,

APPLICATION NO: APP-0001544158

APPLICATION FOR: New Hotel Licence – General Bar (Hotel Application) with an Extended Trading Authorisation (ETA) and a Minors Area Authorisation (MAA)

PROPOSED TRADING HOURS: Monday to Wednesday 10:00AM- 12:00AM
Thursday to Saturday 10:00AM – 03:00AM
Sunday 10:00AM – 10:00PM

APPLICANT: NEW CLUB ARMIDALE PTY LTD

PROPOSED LICENSED PREMISES NAME: New Club Armidale

PREMISES LOCATION: 91 Beardy Street,
Armidale NSW 2350 (Premises)

ISSUE: Whether to grant an application for a new (general bar) hotel licence with an ETA and MAA.

LEGISLATION Sections 3, 11A, 14, 15, 15A,16, 17, 40, 45, 48, 49, 121 of the *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION FOR
NEW HOTEL LICENCE (GENERAL BAR) WITH AN EXTENDED TRADING
AUTHORISATION AND MINORS AREA AUTHORISATION – NEW CLUB ARMIDALE**

The Independent Liquor and Gaming Authority considered the application for a new hotel licence (Application) at its meeting on 31 August 2016 and pursuant to section 45, 49(2) and 121 of the *Liquor Act 2007* (Act), has decided to **grant** the Application and the associated application for an Extended Trading Authorisation (ETA) and Minors Area Authorisation (MAA) subject to the following conditions:

1. **Trading hours**
consumption on premises

Monday to Wednesday 10:00AM – 12:00AM

Thursday to Saturday 10:00AM – 3:00AM

Sunday 10:00AM to 10:00PM

2. 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 04:00AM 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.

3. Consumption on premises

Good Friday 12:00 noon – 10:00PM

Christmas Day 12:00 noon – 10:00PM (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 2:00AM on New Years 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.

4. The business authorised by this licence must not operate with a greater overall level of social impact on the well being 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. No gaming or TAB Facilities may be provided at the premises.
6. Minors area authorisation: whole of premises excluding the kitchen, foyer and bar, office, storeroom and cool room.
7. The premises are to be operated at all times in accordance with the Security Management Plan dated 24 May 2016 as may be varied from time to time after consultation with the Local Area Commander.
8. No takeaway sales of liquor will be provided at the premises.
9. A maximum of 300 patrons may be permitted inside the licensed premises at any one time.
10. The main entrance doors of the licensed premises to close at 12.30am and no person will be permitted entry after that time.
11. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz-8kHz inclusive) by more than 5dB between 7:00am and 12:00 midnight at the boundary of any affected residence. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 7:00 am at the boundary of any affected residence. Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 7:00 am.
12. The licensee must become an active and financial member of the Armidale Local Liquor Accord. The Armidale Licensed premises “Code of conduct” also known as the “Terms” to be constantly maintained and enforced.

13. The licensee must ensure that immediately after the licensee or a staff member becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the following is adhered to:
 - a. Take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police;
 - b. Make direct contact with the Local Area Commander or his/her delegate and advise the commander or delegate of the incident;
 - c. 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", in relation to subject premises, 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 activities as a crowd controller or bouncer on or about the premises.

14. When the premises trades after midnight, suitably licensed and uniformed security staff are to be employed in the following manner: Two security staff to be employed from 10:00pm for the first 100 patrons or part thereof and one additional security staff member for each additional 100 patrons or part thereof.
15. No person is permitted to take glasses or open containers of liquid off the premises when leaving.
16. The licensee shall not permit any patron to remain on the licensed premises who is wearing any form of clothing, jewellery or other accessory that displays or infers by form of word, colours, logo, symbol or otherwise that they are a member of a Prescribed Group.

Prescribed Groups

Bandidos, Black Uhlans, Coffin Cheaters, Comanchero, Finks, Fourth Reich, Gladiators, Gypsie Jokers, Hells Angels, Highway 61, Life & Death, Lone Wolf, Mobshitters, Nomads, Odins, Warriors, Outcasts, Outlaws, Phoenix Rebels, Scorpions, Notorious and any similar group.

17. The licensee must develop and maintain a Plan of Management.
 1. The Plan of Management must address:
 - a. Compliance with licence conditions and liquor laws;
 - b. The responsible service of alcohol
 - c. Minimising disturbance to the neighbourhood particularly addressing the effective management of patrons; who are intoxicated, violent and/or quarrelsome or disorderly; queuing to gain entry to the premises; and within and departing the premises.
 - d. Effective management and deployment of venue staff particularly addressing: security and patron safety; and induction and training.
 2. The Plan should be amended to reflect appropriate responses to concerns as they arise from the local area commander or residents affected by the operation of the licensed premises.
 3. A copy or extract of the plan of management relating to RSA principles and responsibilities must be placed within the licensed premises that is visible to staff.

4. All staff must be provided with a copy of the developed plan of management.
 5. A copy of the current plan of management must be maintained at the licensed premises and made available for immediate inspection by members of the NSW Police Force or inspectors from Liquor and Gaming NSW.
18. At any time the licensed premises is trading and the licensee is not present on the premises the licensee must ensure that the premises are under the supervision of a person (“Supervisor”) of whom: the licensee has verified and shall maintain documentary evidence on the premises that the supervisor has at least one year of experience working as a supervisor or manager of a licensed premises. For the purpose of this condition “supervisor” means a person who is appointed by the licensee, either verbally or in writing, to have the responsibility and authority to manage the premises, its staff and contractors in the absence of the licensee and who shall supervise the activities of the licensed business to ensure that the licensed premises, its staff and contractors comply with liquor and gaming legislation.
19. The licensee is to install and maintain an effective CCTV system as per the endorsed NSW alcohol licensing enforcement command’s licensed premises CCTV minimum standards.
20. CCTV footage on premises:
- The Licensee shall maintain a CCTV system that meets the following minimum requirements:
1. A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
 - a. the person represents not less than 100% of the screen height, and
 - b. there is an unobstructed view of the person’s face.
 2. In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
 - a. all other public entrances and exits, whether or not in use at the time,
 - b. staircases,
 - c. all portions of the floor area accessible to the public where entertainment is provided,
 - d. toilet external entrances,
 - e. all public accessible areas within the premises excluding toilets and accommodation rooms,
 - f. the footpath area directly adjacent to the premises, and
 - g. courtyard and smoking areas.
 3. The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
 - a. the person represents not less than 50% of screen height, and
 - b. there is an unobstructed view of the person’s face.
 4. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

5. Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.
6. Recordings must:
 - a. be in digital format,
 - b. record at a minimum of ten (10) frames per second, and
 - c. commence one hour prior to opening, and operate continuously until at least one hour after closing.
7. The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
8. Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.
9. When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
10. Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, Liquor and Gaming NSW Inspectors or other regulatory officers upon request.
11. The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, Liquor and Gaming NSW Inspectors or other regulatory officers.
12. Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

If you have any enquiries about this letter please contact the case manager via email to santina.causa@ilga.nsw.gov.au

Yours faithfully



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 application for a new hotel (general bar subcategory) licence (Application) and the associated application for an extended trading authorisation (ETA) and minors' area authorisation (MAA) lodged on 26 November 2015, 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 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) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

Summary of Further Submissions

3. Report to the Authority dated 28 April 2016 from the Secretary of the Department of Justice via the Compliance Branch of LGNSW. The Report included an Environmental Assessment Tool (EVAT) report, and notes that a "general assessment has been carried out" on the Application. LGNSW submit that:
 - (a) The Application concerns premises that are currently licensed with a registered club licence number LIQC300235122 in the name of Armidale Club Limited, which was granted in 1958. The club's secretary manager, Ms Kathryn Richard, is the contact person for this Application.
 - (b) The requirements of a club licence have been "difficult to comply with" as membership declines. LGNSW submits that at the suggestion of Compliance Officers the Applicant seeks to replace the club licence with a hotel licence for operations reflecting a venue that is geared towards an older demographic offering entertainment including jazz music.
 - (c) The venue currently enjoys *unrestricted* licensed trading hours for consumption on premise and may sell or supply liquor for consumption off the premises from 5:00AM – 10:00PM Monday to Saturday, 10:00AM – 10:00PM Sunday.
 - (d) The licensed trading hours sought for the hotel licence the subject of this Application are from Monday to Saturday 10:00AM – 11:59PM and Sunday 10:00AM – 11:00PM.
 - (e) The Applicant also seeks an ETA that will permit an extension of licensed trading until 2:30 AM, thirty minutes prior to patrons departing the Premises by 3:00AM.
 - (f) LGNSW Compliance Branch records list 32 past breaches of licensing legislation resulting in 11 Penalty Notices and 21 Compliance Notices being issued in respect of the club licence LIQC300235122 for the Armidale Club Limited. A strike

- resulting from the sale of liquor to a minor (which is due to expire on 28 September 2016) is also recorded. A “significant portion” of the breaches detected relate to registered club governance issues. This, it is said has motivated the Application for a hotel licence. Between July 2013 and June 2015 six incidents of violence on the Premises were recorded in relation to the Premises.
- (g) LGNSW Compliance Branch records disclose that five Penalty Notices and one Compliance Notice (a written warning) was issued to the contact person / club secretary Ms Kathryn Richards who has held that position since 8 July 2015.
 - (h) LGNSW note that the operators of the Club seek to change the mode of business so that it operates as a hotel. They note that the venue is sound proofed, with a current patron capacity of 500 and long history of emphasis on live entertainment and blues/jazz music. They note that food options at the hotel will include a bistro.
 - (i) LGNSW notes that there are currently five conditions imposed on the club licence, including a requirement to adhere to a Plan of Management.
 - (j) LGNSW contends that discussion with LGNSW Compliance Officers attending the venue have indicated support for this Application on the basis that the business model is more reflective of a hotel licence than a registered club licence. LGNSW notes that there are currently no LA10 noise restriction conditions imposed on the licence.
 - (k) The decision on Development Application (DA) 228-2015 by Armidale Dumaresq Council (Council) covers the proposed change in use of the Premises from a registered club to a hotel. The DA is subject to conditions including a limitation on trading hours (from 10:00AM to 12:00 midnight Monday to Wednesday, 10:00AM to 3:00AM Thursday to Saturday and from 10:00AM to 10:00PM Sunday), a restriction on patron capacity to 300 persons and a requirement that the venue operate at all times in accordance with a Security and Management Plan.
 - (l) The existing radial density of liquor licensed premises in the suburb of Armidale is classified by LGNSW as “moderate”.
 - (m) LGNSW note that BOCSAR data for the period between October 2014 and September 2015 indicates that:
 - i) the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb of Armidale was **560** per 100,000 persons of population compared to the whole of NSW which had a rate of **288** per 100,000 persons of population;
 - ii) the rate of *alcohol related disorderly conduct offences* that occurred in the suburb of Armidale was **225** per 100,000 persons of population compared to the whole of NSW which had a rate of **89** per 100,000 persons of population.
 - (n) LGNSW submit that this crime data indicates “that there are issues relating to alcohol-related assault and anti-social behaviour when compared against the state average with the venue directly located in a hotspot rated high for alcohol related assault”.

- (o) LGNSW observe that since the venue is currently licenced any adverse impact to the local and broader community may be already felt and if this Application is granted within the confines of the development consent the impact of the venue's operations may be "significantly reduced".
 - (p) LGNSW submit that compliance officers attending the venue in 2015 indicate that a hotel licence is more appropriate and aligned with the venue's proposed business model". For this reason, the Application is supported on the proviso that four conditions requiring compliance with the development consent, compliance of the licensed business with the current Plan of Management, a requirement that licensing Police in the Local Area Command (LAC) approve any amendment to the Plan of Management and a requirement that the Plan of Management be made available for inspection by Police or Compliance Officers.
 - (q) If the Application is granted LGNSW request (without elaboration) the "transfer" of the strike previously imposed upon the club licence which has an expiry date of 28 September 2016.
4. Submission from Senior Constable and Licensing Coordinator Chris Borger and Detective Inspector and Crime Manager Ann Joy of the New England LAC of NSW Police (Police) dated 20 April 2016. In this two-page submission Police advise that they have no objection to granting the Application on the basis that Police have consulted and agreed with the licensee as to the imposition of 13 conditions upon the liquor licence, which correlate with requirements in the Security Management Plan and the DA..
 5. Email from Ms Linda Graham Town Planner for Council dated 18 December 2015 advising that the Application should not be granted until Council approves DA-228-2015 in respect of the proposed use of the Premises as a hotel.
 6. Submission from the Applicant dated 18 July 2016 in response to an email from licensing staff dated 18 July 2016. The Applicant consents to the proposed conditions on the MAA (extending to the whole of the Premises excluding the kitchen, foyer and bar, office, storeroom and cool room) and attaching a document containing seven photographs of the layout of the beer garden perimeter fencing. The Applicant advises that the beer garden is not currently established as it is not yet a licensed space, however all furniture and trimmings are ready to be set up and are stored in the storage shed in the beer garden area.
 7. Submission from the Applicant dated 24 May 2016 in response to an email from licensing staff. The Applicant clarifies a statement made in the LGNSW submission by advising that the venue is currently licensed (under the club licence) to sell liquor for consumption on premises 24 hours per day, with takeaway liquor sales from 5:00AM – 10:00PM Monday through Saturday and 10:00AM - 10:00PM Sunday. The Applicant contends that the venue has been trading under its club licence for the past year from 10:00AM – 12:00 midnight Monday to Wednesday, 10:00AM – 3:00AM Thursday to Saturday and 10:00AM – 10:00PM Sunday. The Applicant contends that:
 - (a) they do not object to the 13 conditions proposed by Police;

- (b) the Applicant does not propose to licence the whole block of land upon which the Premises is situated;
 - (c) the attached five photographs and satellite images clarify the licensed and land boundaries and the area to be utilised by the proposed beer garden;
 - (d) the outside area is for the provision of an outdoor beer garden and the remainder of the land on the block is onsite car parking for the venue which is not in the area to be licensed;
 - (e) attached is a plan or diagram highlighting the proposed area of the MAA;
 - (f) the DA, letter from Police dated 20 April 2016 and the CIS documents all reflect the same proposed licensed hours of operation;
 - (g) attached is a copy of the Australian Securities and Investments Commission (ASIC) Current Company Extract and Certificate of Registration for NEW CLUB ARMIDALE PTY. LTD. as at 16 October 2015;
 - (h) attached is a copy of the Plan of Management as approved by Council and Police and dated 24 May 2015;
 - (i) the current club licence LIQC300235122 will be surrendered if the Application is granted. A licence surrender form is attached;
 - (j) the reason for a change in licence type is that the club is failing in membership and is in a small regional centre. It was suggested by LGNSW compliance officers to seek a new hotel licence;
 - (k) the conditions proposed by licensing staff (relating to not operating the business on the Premises with a greater overall level of social impact, joining the local liquor accord, no gaming or TAB facilities, no takeaway sales and operating the Premises in accordance with the Plan of Management) are consented to;
 - (l) the Applicant is “aware” of the proposed condition relating to the six-hour closure period.
8. Submission from the Applicant dated 23 August 2016 responding to a letter from licensing staff dated 18 August 2016. In this three-page submission the Applicant addresses the actual trading hours exercised on the Premises pursuant to the club licence, BOCSAR crime data for the suburb of Armidale and the LGA, the likely impact on patronage and clientele when transitioning from a registered club to a hotel licence. The Applicant also consents to CCTV conditions proposed by licensing staff.

Legislative Framework

- 9. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the Act and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act. The power to grant an ETA is provided by section 49(2) of the Act and the power to grant an MAA is provided by section 121 of the Act.
- 10. 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.*
11. 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.
 12. An application for a new hotel licence with an ETA is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
 13. Section 48(5) of the Act requires that the Authority must not grant the 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”.
 14. 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 Armidale while the “broader community” comprises the responsible Local Government Area (LGA), the Armidale Dumaresq (Armidale) LGA.

Analysis of Relevant Facts

15. The Authority is satisfied, on the basis of the Application material and CIS before the Authority, that for the purposes of section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
16. The Authority is satisfied, for the purposes of section 15(1) of the Act, that the primary purpose of the business carried out on the licensed Premises will at all times be the sale of liquor by retail and that the keeping or operating of gaming machines will not detract unduly from the character of the hotel or the enjoyment of persons using the hotel otherwise than for the purposes of gambling. The Authority is satisfied on the

basis of the Application material and the CIS provided by the Applicant and is also satisfied that it is not proposed that gaming and TAB facilities will be provided at the Premises on the basis of a condition regarding this consented to by the Applicant.

17. 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 a hotel (general bar) licensed venue 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 company following consultation with Police. The Authority notes that LGNSW advised the Authority of the breaches, penalty notices and strike under LIQC300235122 for Armidale Club Limited and the penalty notices and compliance notice issued to contact person/club secretary Ms Kathryn Richards but is satisfied on the basis that LGNSW did not oppose the Application, a significant portion of the breaches detected relate to club governance issues and LGNSW officers have recommended it.
18. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. The Authority makes this finding on the basis of the comprehensive *Plan of Management / Security Management Plan* provided by the Applicant on 24 May 2016.
19. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in force to permit use of the Premises as a hotel, on the basis of DA 228-2015/A dated 9 March 2016 issued by Council for the “Change of Use - From Registered Club to Pub”.

Social Impact – Positive Benefits

20. The Authority is satisfied that the Applicant has demonstrated a substantial positive case for a new general bar hotel licensed premises within Armidale. This finding is made on the basis of the information provided about the proposal in the Application form, the CIS and additional submissions made by the Applicant.
21. The Authority notes that only one submission was received from a local resident who did not actually oppose the re-opening of the Premises but only raised some points of concern regarding the trading hours of the Premises and the noise and loud music that required addressing. Local organisations with a jurisdictional interest in ensuring public amenity, such as the Council and Local Police do not oppose the Application. On this basis, the Authority is satisfied that the Application may be said to serve the “expectations, needs and aspirations” of the communities, which is a statutory object of section 3(1)(a) of the Act.
22. The Authority is satisfied, on the basis of licence density data, that this Premises will increase the number of general bars within the suburb of Armidale and will diversify the range of options from the available mainstream full hotel licensed premises operating within the local and broader community. On this basis, the Authority is satisfied that granting the Application will reasonably develop, in the public interest, the liquor industry in respect of the local and broader community in furtherance of the statutory object in section 3(1)(b) of the Act.

Social Impact – Negative Impacts

23. Although the proposed trading hours under the extended trading authorisation are extensive, the Authority is satisfied that the trading hours are considerably reduced from those that were available to be exercised under the registered club licence that is currently in operation on the Premises.
24. Moreover, the Authority is satisfied that an important harm minimisation provision, in the form of an enforceable lockout after 12.30 am, will be in place to discourage late night patron migration to venue. This licence condition will considerably reduce the potential impact of the hotel licence and ETA that would otherwise be posed by a venue trading until 3:00am in this community.
25. While the Premises are substantial in size, the Authority is further satisfied, on the basis of submission supplied by LGNSW and the condition imposed by the DA-228-2015/A, that maximum patron capacity has been reduced from 500 to 300.
26. On the basis of licence density data detailed below, the Authority is satisfied that although Armidale has higher rates of *full hotel licences, packaged liquor licences* and *registered club licences* than New South Wales as a whole. Granting this Application would not increase late trading licence density as the current registered club licence applicable will be surrendered should the Application be approved. The Authority is further satisfied, on the basis of licence density data, that the Armidale LGA has lower rates of *hotel general licences* per 100,000 persons compared to NSW as a whole.
27. There is some cause for concern with respect to the broader community arising from the BOCSAR crime data for 2013 which indicates that the Armidale LGA has higher rates per 100,000 persons than NSW as a whole for incidents of *domestic violence related assault, non-domestic violence related assault, offensive conduct, assault police* and *malicious damage to property*.
28. There is also some concern with respect to the local community arising from the BOCSAR crime maps which indicate that the Premises is located *within a medium density hotspot* for incidents of *domestic assault* and *within high density hotspots* for incidents of *non-domestic assault* and *malicious damage to property*.
29. However, those concerns are ameliorated in this instance as the Application will bring about the replacement of a club licence with more extensive licensed trading hours and the capacity to sell takeaway liquor with a general bar licence with extended hours that are subject to a 12.30 am lockout and without the authorisation to sell takeaway liquor.
30. The SEIFA data for the communities is not particularly troubling as a potential compounding factor of concern when assessing overall social impact.
31. The Authority is satisfied, on the basis of submissions made by the Applicant, that the concern raised by a local resident regarding noise impacts have been adequately addressed through the imposition of LA10 noise controls, the 12:30 am lockout and the reduction in trading hours associated with the new licence.
32. The Authority has also had regard to the additional harm minimisation measures to ameliorate the scope for negative social impact from the operation of this new general bar hotel, as outlined in the *Plan of Management/Security Management Plan*.

33. The Authority further notes that the Applicant has consented to a number of significant harm minimisation licence conditions will cumulatively serve to mitigate the negative impacts arising from the exercise of the new licence.

Conclusion

34. 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 both the Hotel, ETA and MAA Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, NSW Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
35. Having considered together the positive benefits and negative impacts that the Authority are satisfied are likely to flow from granting the Application and the ETA 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. The Authority is further satisfied that the proposed grant of the MAA with respect to the areas specified by the Applicant is in the public interest.
36. The Hotel Application is granted pursuant to section 45 of the Act, the ETA Application is granted pursuant to section 49(2) of the Act and the MAA Application is granted pursuant to section 121 of the Act.
37. For the purposes of section 49(6) of the Act, the ETA extends from 12:00 midnight to 3:00 am Thursday through Sunday and applies to the whole of the Premises.
38. 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 (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: 31 August 2016



Philip Crawford
Chairperson

SCHEDULE

Material Before The Authority

1. Hotel (General Bar) Application form subject to an ETA and MAA – lodged on 26 November 2015.
2. CIS and supporting material dated 26 November 2015. Briefly, the following contentions on the overall social impact of granting the Application are made:
 - (a) The location has been and is currently in use as a registered club that has a 24 - hour licence, gaming certification and also allows for take away alcohol sales;
 - (b) If granted, the Application will reduce the impact that the venue has on the community to what is current as it will allow the venue to continue to operate “effectively the same and drawing on the same patrons” but with reduced licenced trading hours, no gaming provisions and no takeaway alcohol sales;
 - (c) All alcohol sales will be consumed on the Premises with all patrons under the supervision of the licensee, appropriate management and staff where Responsible Service of Alcohol (RSA) principles will be enforced;
 - (d) A detailed house policy will be in place in respect of the RSA and all staff involved in the sale and supply of alcohol will have the appropriate RSA certification;
 - (e) Measures will be in place to ensure that minors do not gain access to alcohol. CCTV surveillance and security staff will monitor the venue to oversee patrons leaving the venue in an orderly, quiet fashion to minimise any disturbance that may adversely affect the neighbourhood;
 - (f) Granting the Application is “likely to be less impactful” on the well-being of the community than the current licence conditions allow.
3. In a document attached to the CIS, the Applicant notes the submission from RMS and agrees to implement the measures suggested by RMS, “where relevant”, and to join and be an active participant in the local liquor accord. The Applicant also notes that a submission was received from Ms V Farrell, the occupier of a neighbouring premises, on 11 March 2015. In response to this submission, the Applicant contends that the venue will not be operating 24 hours (as was the case under the current licence approval); that the Applicant responded to Ms Farrell by email on 12 March 2015 highlighting the planned operational venue hours, the changes to the type of music that will be offered and the “new acoustic measures” that were being put in place at the venue; to date the venue has been operating to the protocol we propose under this Application with no issues being reported by any neighbouring property occupier; and that no further response has subsequently been received from Ms Farrell.
4. Email from Ms V Farrell, occupier of a neighbouring premises, dated 11 March 2015. In this one paragraph submission, Ms Farrell advises that she is “not against the re-opening of the club” but is concerned about the Premises operating 24 hours. Ms Farrell submits that she lives half a block from the club and contends that the noise from the music is “very loud” and “keeps us awake til early hours of the morning”. Ms Farrell requests that something be done about the noise and loud music from the club.

5. Email from the Applicant to Ms V Farrell dated 12 March 2015, in which the Applicant responds to the submission received from Ms Farrell dated 11 March 2015.
6. Google geographical map depicting the radius of neighbouring premises notified of the Application.
7. Plan of Management / Security Management Plan received by the Authority on 24 May 2016.
8. Plan or diagram of the Premises identifying the licenced area.
9. Alcohol and Licensing Enforcement Command (ALEC) Licensed Premises CCTV Minimum Standards.
10. DA-228-2015/A issued by Council on 9 March 2016 (modified 10 March 2016) granting consent for "Change of Use – From Registered Club to Pub" and restricting the hours of operation to between 10:00AM and 12:00 midnight Monday to Wednesday, 10:00AM to 3:00AM Thursday to Saturday and 10:00AM to 10:00PM Sunday.
11. Submission from RMS dated 30 March 2015, providing an analysis of alcohol-related casualty crashes occurring in Armidale LGA between 2004 and 2013. RMS advise that data shows that on average 6.3% of casualty crashes in the Armidale LGA were *alcohol related* less than the proportion for Northern NSW region (9.3%) but more than that for the State (5.2%). There were 39 alcohol related casualty crashes in the Armidale LGA between 2004 and 2013. RMS also analyse the data further by discussing risk factors such as sex, age range, blood alcohol level, residents of Armidale LGA, day of the week, the number of people killed and injured and the percentage of crashes that occurred by time of day. RMS recommend local liquor accord participation, the use of merchandise from the State Government drink driving campaign, the provision of alternative transport options and the provision of educational material.
12. OneGov licence record for LIQC300235122 as at 9 May 2016 reflecting the club licence currently held at the Premises.
13. Liquor Administration Board of NSW licence history sheet prepared on 9 May 2016 for the club licence currently held at the Premises.
14. Google maps photographs depicting the street view of the Premises and two internal photographs of the Armidale Club.
15. Screenshot of the Armidale Club website page.
16. Google geographical map depicting the location of the Premises.
17. BOCSAR Crime Maps based upon data from April 2014 to March 2015 detailing hotspots for the concentration of offences near the location of the Premises which is publically available on the BOCSAR website. This data indicates that the Premises:
 - (a) Is located *within a medium density hotspot* for incidents of *domestic assault*
 - (b) Is located *within a high hotspot* for incidents of *non-domestic assault*
 - (c) Is located *within a high density hotspot* for incidents of *malicious damage to property*

18. Liquor licensing records indicating that the suburb of Armidale already has 4 registered club licences, 9 full hotel licences, 3 limited licences, 34 on premises licences, 5 packaged liquor licences and 7 producer wholesaler licences.
19. Liquor licence density data derived from licensing records that are publicly available from LGNSW indicating that the Armidale LGA as a whole recorded:
 - (a) a rate of **0.00** *hotel general licences* per 100,000 persons, which is below the NSW state wide rate of **1.35**.
 - (b) a rate of **41.46** *full hotel licences* per 100,000 persons, which is higher than the NSW state wide rate of **30.36**.
 - (c) a rate of **53.89** *packaged liquor licences* per 100,000 persons, which is higher than the NSW state wide rate of **32.85**.
 - (d) a rate of **20.73** *registered club licences* per 100,000 persons, which is slightly higher than the NSW state wide rate of **20.48**.
 - (e) a rate of **45.60** *on-premises licences* per 100,000 persons, significantly below the NSW state wide rate of **121.31**.
20. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:
 - (a) the rate of *domestic violence related assault* incidents flagged by reporting Police as *alcohol related* across the Armidale LGA was **286** per 100,000 persons, well above the New South Wales rate of **145** per 100,000 persons;
 - (b) the rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* across the Armidale LGA for 2013 was **431** per 100,000 persons, substantially above the State wide rate of **191** per 100,000 persons;
 - (c) the rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across the Armidale LGA was **240** per 100,000 persons, substantially above the State wide rate of **83** per 100,000 persons;
 - (d) the rate of *assault Police* incidents flagged by reporting Police as *alcohol related* across the Armidale LGA was **33** per 100,000 persons, above the State wide rate of **24** per 100,000 persons; and
 - (e) the rate of *malicious damage to property* offences flagged by reporting Police as *alcohol related* across the Armidale LGA was **278** per 100,000 persons, well above the State wide rate of **122** per 100,00 persons.
21. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:
 - (a) The Armidale LGA ranked in the 7th decile compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
 - (b) The state suburb of Armidale ranked in the 5th decile compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).

22. Report to the Authority dated 28 April 2016 from the Secretary of the Department of Justice via the Compliance Branch of LGNSW.
23. Submission from Senior Constable and Licensing Coordinator Chris Borger and Detective Inspector and Crime Manager Ann Joy of the New England LAC of Police dated 20 April 2016.
24. Email from Linda Graham Town Planner for Council dated 18 December 2015.
25. Submission from the Applicant dated 18 July 2016 in response to an email from licensing staff dated 18 July 2016. The Applicant attaches seven photographs of the layout of the beer garden perimeter fencing.
26. Submission from the Applicant dated 24 May 2016 in response to an undated email from licensing staff. The Applicant attached five photographs and satellite images of the licensed and land boundaries and the area to be utilised by the proposed beer garden; a plan or diagram highlighting the MAA; a copy of the ASIC Current Company Extract and Certificate of Registration for NEW CLUB ARMIDALE PTY. LTD. as at 16 October 2015; Plan of Management as approved by Council and Police; undated Surrender Liquor Licence Application form.
27. Submission from the Applicant dated 23 August 2016 responding to a letter from licensing staff dated 18 August 2016.