

NSW Independent Liquor & Gaming Authority

Our ref: DF24/008561

Mr David Rippingill

18 July 2024

Dear Mr Rippingill

| | |
|------------------------|---|
| Application No. | 1-8816624972 – club licence removal 1-8816871023 – extended trading authorisation 1-8796435329 – club functions authorisation 1-8816871056 – non-restricted area authorisation |
| Applicant | Burwood RSL Club Ltd |
| Application for | Club licence removal, extended trading authorisation (ETA), non-restricted area authorisation (NRAA), club functions authorisation (CFA), gaming machine threshold (GMT) increase and gaming machine entitlement (GME) transfer |
| Application date | 4 September 2023 |
| Decision date | 19 June 2024 |
| Licence name | Burwood RSL Club |
| Licence number | LIQC300226069 |
| Current trading hours | Consumption on-premises Monday to Sunday unrestricted Takeaway sales Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM |
| Proposed trading hours | Consumption on-premises Monday to Sunday 10:00 AM – 04:00 AM Takeaway sales Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 11:00 PM |
| Current premises | 96 Shaftsbury Road Burwood NSW 2134 |
| Proposed premises | 2 George Street Burwood NSW 2134 |
| Legislation | Sections 3, 11A, 12, 18, 40, 45, 48, 49, of the <i>Liquor Act 2007</i> Sections 10, 22 and 23 of the <i>Registered Clubs Act 1976</i> Sections 3, 19, 34, 37 and 40 of the <i>Gaming Machines Act 2001</i> |

Decision of the Independent Liquor & Gaming Authority
Application for a club licence removal, ETA, NRAA, CFA, GMT increase and
GME transfer – Burwood RSL Club

We first considered the applications at the meetings of 17 April 2024 and 15 May 2024 and, following consideration of further information, decided on 19 June 2024 to **approve** the applications above under section 59 of the *Liquor Act 2007*, sections 22 and 23 of the *Registered Clubs Act 1976*, and sections 19 and 34 of the *Gaming Machines Act 2001* – with the conditions set out in Schedule 1.

Statement of reasons

Overall, we are satisfied that the social impact of approving the applications will not be harmful to the well-being of the local or broader community, while also promoting a balanced and responsible development of the industry.

Our main findings

The local community for the purposes of this decision is Burwood. The broader community is the Local Government Area (LGA) of Burwood.

Positive social impacts

The application seeks to remove the club licence to a proposed new premises which is a \$230 million development project and investment into the community, located in the Burwood Town Centre, 200m from Burwood train station. The proposed premises will largely consist of restaurants, a function centre, entertainment facilities and lounge areas for members. The project will also include a four-storey commercial building.

We note that the submission from the applicant in relation to the potential imposition of a late-night gaming condition did not provide strong data or evidence to support why such a condition should not be imposed. We could not be satisfied that the application included evidence of the implementation by the Club of adequate measures to mitigate the significantly heightened risk of harm from post 2am gaming. As such, a condition prohibiting gaming after 2am on harm minimisation grounds has been imposed.

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

Negative social impacts

We accept that the proposal could contribute to an increase in alcohol and gambling related harm in the local and broader communities because of the:

- venue's proposed location near high density hotspots for domestic & non-domestic violence and malicious damage to property
- incident rate of alcohol-related non-domestic assault and offensive conduct being higher in the suburb compared to the LGA
- proposed premises being located in a Band 2 SA2 area at the time the application was lodged (4 September 2023) that has since been rebanded to a Band 3 SA2 area in November 2023 (although the application was assessed as the venue being located in the Band 2 area, the problem gambling risk factors leading to the reclassification to Band 3 remained relevant to the decision)

- proposal to offer late night gaming from 12 midnight to 4am.

However, we are satisfied that these risks are reduced by the:

- incident rate of alcohol-related domestic and non-domestic assault within the suburb and LGA being lower than the NSW average
- indication of an above average level of socio-economic advantage within the suburb and LGA when compared to the rest of NSW
- removal being within the same suburb and LGA, with the current and proposed premises approximately 400m apart
- fact that there will be no increase in gaming machine entitlements
- venue's proposed GPOM being assessed as exceeding the minimum standard for a venue of this risk profile
- imposition of a late-night gaming condition which prohibits the club from operating gaming machines after 2am
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a community impact statement (CIS)
- the plan of the licensed premises and any authorisations
- a liquor plan of management for 'Club Burwood RSL' dated April 2021
- a gaming plan of management for 'Club Burwood RSL' dated October 2023
- a development consent for the premises
- gaming revenue reports for the club
- Club Constitution for the 'Burwood R.S.L. Club Limited' dated 22 March 2022
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

We also considered Guideline 6 to assess the likely social impact to the local and broader community.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you disagree with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to NCAT for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the website. There is a fee to lodge the application.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

If you have any questions

Please contact the case manager, Wendy Yeung, at Liquor & Gaming NSW if you have any questions.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Caroline Lamb'.

Caroline Lamb

Chairperson

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

Schedule 1: Licence conditions to be imposed – Burwood RSL Club

| No. | Condition to be imposed | Description |
|-----|-----------------------------------|--|
| 1. | Take-away sales | <p>Good Friday: Not permitted.</p> <p>December 24th: Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight on Sunday</p> <p>Christmas Day: Not permitted</p> <p>December 31st: Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight on Sunday</p> |
| 2. | Extended Trading Authorisation | Whole of the licensed premises as marked on the premises plan dated 19 June 2024 . |
| 3. | Non-Restricted Area Authorisation | Whole of the licensed premises area excluding the gaming area as marked on the premises plan dated 19 June 2024 . |
| 4. | Club-Functions Area Authorisation | Level 2 theatre, level 3, Eco Dome and other areas as marked on the premises plan dated 19 June 2024 . |
| 5. | Liquor plan of management | The premises is to be operated at all times in accordance with the Plan of Management dated April 2021 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority. |
| 6. | Social impact | 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 reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of removing this licence to the premises at 2 George Street, Burwood NSW 2123 . |
| 7. | Liquor Accord | Liquor Accord The licensee or its representative must join and be an active participant in the local liquor accord. |
| 8. | CCTV | <p>1. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:</p> <ol style="list-style-type: none"> the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times), recordings must be in digital format and at a minimum of ten (10) frames per second, any recorded image must specify the time and date of the recorded image, the system's cameras must cover the following areas: |

| No. | Condition to be imposed | Description |
|-----|----------------------------|--|
| | | <ul style="list-style-type: none"> i. all entry and exit points on the premises, ii. the footpath immediately adjacent to the premises, and iii. all publicly accessible areas (other than toilets) within the premises. <p>2. The licensee must also:</p> <ul style="list-style-type: none"> a. keep all recordings made by the CCTV system for at least 30 days, b. ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and c. provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings. |
| 9. | Gambling Incident Register | <ul style="list-style-type: none"> 1. The licensee must keep and maintain a gambling incident register. 2. The gambling incident register must record: <ul style="list-style-type: none"> a. any incident in which a patron of the venue displays or engages in problematic gambling behaviour of the kind specified in the 'Signs of risky and problem gambling behaviour: Know the signs and how to act' factsheet published on the L&GNSW website as amended from time to time. b. the time, location and machine number(s) and brief description (or identity, if known) of any gaming machine player identified displaying or engaging in that behaviour c. any proposed or implemented self or third-party exclusions of gaming machine players (specifying the player's name (where provided or known), membership number (if applicable) and duration of any exclusion) and the patron's response to the same. d. Any breach or attempted breach of a self or third party exclusion 3. The gambling incident register must also record details of the action taken in response to the incidents, applications and other matters recorded in the register. 4. The licensee must review the gambling incident register at least on a monthly basis and must consider whether an exclusion order is appropriate for any person who has been asked to self-exclude but has declined to do so. 5. The information recorded in a gambling incident register must be retained for at least 3 years from when the record was made. |

| No. | Condition to be imposed | Description |
|-----|---|--|
| | | 6. The licensee must, at the request of a police officer or L&GNSW inspector, make any gambling incident register available for inspection. |
| 10. | Responsible Gambling Officer (Gambling Contact Officer) | <p>1. The Licensee shall ensure that one Responsible Gambling Officer (Gambling Contact Officer), being a dedicated staff member who holds a current RCG certificate, is on duty and monitoring the gaming machines of the venue whenever gaming machines are operating.</p> <p>2. The Responsible Gambling Officer (Gambling Contact Officer)'s primary duties are to:</p> <ul style="list-style-type: none"> (a) maintain the gambling incident register. (b) make reasonable efforts to identify gaming machine players who display or engage in problematic gambling behaviour. (c) if any gaming machine player displays or engages in multiple problematic gambling behaviour as outlined in the Authority's Guideline, during a single trading day, then the Responsible Gambling Officer/Gambling Contact Officer must (at least once during that trading day): <ul style="list-style-type: none"> i. request that the player take a break from gaming machine play until the close of trade on that day or night (noting that a player who complies with a request to take a break may remain on the premises and consume other goods and services); ii. provide information about the self-exclusion scheme offered at the premises (being the scheme available pursuant to s. 49 of the <i>Gaming Machines Act 2001</i>) and ask whether the player wishes to participate in that scheme. iii. provide information about and access to problem gambling counselling. <p>3. This condition is not breached by:</p> <ul style="list-style-type: none"> a. a Responsible Gambling Officer (Gambling Contact Officer) undertaking minor additional gaming duties, so long as such duties do not detract from the Responsible Gambling Officer (Gambling Contact Officer)'s primary duties; or b. the temporary absence of a Responsible Gambling Officer (Gambling Contact Officer) from the gaming machine areas, where such absence occurs in the ordinary course of their primary duties (for example, to engage with a gaming machine player in a private space) or is by way of a routine break from work (such as a meal break or a bathroom break). |

| No. | Condition to be imposed | Description |
|-----|---------------------------|---|
| | | <p>c. At all times, the Duty Manager or other senior manager responsible for gaming machine operations will assist the Responsible Gambling Officer (Gambling Contact Officer) in carrying out the duties described in this condition.</p> |
| 11. | Gaming Plan of Management | <p>The premises is to be operated at all times in accordance with the gaming plan of management October 2023 as may be varied from time to time after consultation with the Independent Liquor & Gaming Authority. A copy of the gaming plan of management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor & Gaming Authority.</p> |
| 12. | Crime scene preservation | <p>Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:</p> <ol style="list-style-type: none"> 1. take all practical steps to preserve and keep intact the area where the act of violence occurred, 2. retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website, 3. make direct and personal contact with NSW Police to advise it of the incident, and 4. comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred. <p>In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.</p> |
| 13. | Incident register | <ol style="list-style-type: none"> 1. The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident: <ol style="list-style-type: none"> a. any incident involving violence or anti-social behaviour occurring on the premises, b. any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises, c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007, |

| No. | Condition to be imposed | Description |
|-----|-------------------------|---|
| | | <p>d. any incident that results in a patron of the premises requiring medical assistance.</p> <p>2. The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:</p> <p>a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and</p> <p>b. allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.</p> <p>The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.</p> |
| 14. | Late night gaming | Gaming machines are to cease operation by 2:00 AM. |