

NSW Independent Liquor & Gaming Authority

KTG GROUP PTY LTD Licensee	Mr Ganesh Prasad Sedhain Manager
KTG GROUP PTY LTD Premises/Business Owner	A/Snr Sergeant Michael Sullivan Western Region Licensing Coordinator NSW Police
Walcha Council	Mr John Coady Liquor & Gaming NSW

2 August 2024

Dear Sir/Madam

Reference No.	DOC24/165628
Licensee	KTG GROUP PTY LTD
Licence Name	Apsley Arms Hotel
Licence Number	LIQH400121288
Licence Type	Hotel licence
Premises	33N Derby Street Walcha NSW 2354
Legislation	Part 9A of the <i>Liquor Act 2007</i>

Decision on remedial action for demerit points accumulated KTG GROUP PTY LTD, Apsley Arms Hotel (LIQH400121288)

On 2 May 2024, the Independent Liquor & Gaming Authority notified you of the remedial action it proposed to take for the demerit points accumulated by KTG GROUP PTY LTD (the licensee), the corporate licensee of Apsley Arms Hotel (the premises), under the *Liquor Act 2007* (the Act).

Our decision

On 15 July 2024, following consideration of submissions received in response to the notification, we decided to take the following remedial action on the licence of Apsley Arms Hotel (LIQH400121288) under section 144T of the Act:

- **impose conditions** on the licence in respect of a plan of management, incident register, CCTV, and requiring the approved manager to undertake Advanced Licensee training as proposed in the notice of potential remedial action issued on 2 May 2024 (and detailed in schedule 1)

Statement of reasons

Background

On 16 May 2023 we received a notification from Liquor & Gaming NSW (L&GNSW) that the Apsley Arms Hotel had:

- accumulated two demerit points under Part 9A of the *Liquor Act 2007* within a three-year period.

This followed the issue and subsequent payment of two penalty notices issued to the premises' corporate licensee and approved manager for repeated demerit offences relating to the sale and supply of liquor outside of authorised hours.

In addition to the notification, L&GNSW provided a submission recommending that we take remedial action in response to the accumulation of demerit points.

On 2 May 2024 we notified you and all relevant parties as required under section 144Z(1) of the Act, that we proposed to take remedial action in response the accumulation of demerit points and invited submissions in response.

Submissions

Submissions on behalf of L&GNSW, NSW Police, Walcha Council and the venue were received in response to the notice of proposed remedial action. We have considered these submissions, which are detailed below:

Liquor & Gaming NSW

On 3 May 2024, L&GNSW provided a submission in response to the proposed remedial action. L&GNSW supported the proposed remedial action due to the repeated and serious nature of the offending.

AMW Lawyers

On 3 May 2024, AMW Lawyers provided a submission in response to the proposed remedial action advising a transfer of the liquor licence was completed in December 2021 and required an update to the persons interested in both the premises and the business (removal of their client, the previous owner).

Walcha Council

On 9 May 2024 Walcha Council provided a submission in response to the proposed remedial action supporting the proposed remedial action.

Approved Manager

On 19 June 2024 the approved manager for the venue submitted a bundle of material in response to the proposed remedial action, which included

- a plan of management dated 18 May 2023 which includes (but is not limited to) staff RSA certification, CCTV operation, and recording complaints in an incident register
- evidence of successful completion of Advanced Licensee Training dated 5 June 2024
- evidence of CCTV recordings at different points across the premises including: main bar, balcony, front entry, beer garden, pool table/ dining room area, and rear service/storage area.

Considerations under section 144ZA of the Act

We have also considered the relevant factors identified in section 144ZA of the Act, and note in the original submission from L&GNSW dated 22 February 2023 that:

- there is no material to indicate that the size and patron capacity of the licensed premises impacted the licensee's ability to prevent the commission of the demerit offence.
- the licensee has no history of committing demerit offences.
- there is no record of any previous prescribed complaints against the licensee.
- the licensee has been in place since 1 November 2018 and the current approved manager has held this position since 20 December 2021. The licence has had two previous approved managers.
- there had been no changes to the business practices carried under the licence at the time of the submission.

Our findings

We are satisfied that:

- two demerit points have been accumulated by the licensee in a three-year period
- the offence *licensee sell/supply liquor outside authorised hours* was a breach of section 9(2)(b) of the Act.

Having considered the available material, we find that the licensee and approved manager failed to comply with their obligations under the Act, including the provision of responsible service of alcohol at the licensed premises. In breaching these obligations, the licensee and approved manager failed to provide proper controls and adequate monitoring, resulting in the repeated supply of liquor outside of authorised hours.

We consider the offence to be serious and warrant an enforceable regulatory response by way of remedial action, to prevent any similar occurrence in the future.

We acknowledge the premises has a plan of management in place which includes sections covering CCTV operation and recording complaints in an incident register. We also acknowledge that the current approved manager, Mr Ganesh Sedhain, has recently successfully completed the Advanced Licensee training course.

However, given the seriousness of the breaches and how fundamental they are to the operation of licensed premises in accordance with the law, it is appropriate that conditions in respect of a plan of management, incident register, CCTV and requiring the approved manager to complete Advanced Licensee training are included on the licence.

By imposing the requirement for Advanced Licensee training on the licence, we reinforce the expectation that an approved manager must be aware of the importance of operating licensed premises in accordance with the law at all times and demonstrating this to staff.

The material we considered

We considered all the material we received about the matter, including:

- Notification of the accumulation of demerit points from L&GNSW, dated 16 May 2023
- Submission from L&GNSW, dated 3 May 2024
- AMW Lawyers, dated 3 May 2024
- Walcha Council, dated 9 May 2024
- Submission from the current approved manager, dated 19 June 2024.

The law that applies

These sections of the *Liquor Act 2007* apply in this decision:

- Section 3: Statutory objects of the Act and other relevant considerations
- Section 9: Sale or supply of liquor contrary to licence
- Section 144T: Remedial action – accumulation of 2–3 demerit points
- Section 144Z: Notice of proposed remedial action
- Section 144ZA: Requirements for deciding to take remedial action.

If you disagree with this decision

If a person who is notified of the decision is dissatisfied with this decision, they may apply to NSW Civil and Administrative Tribunal (NCAT) for a review.

An application for review must be made no later 21 days after being notified of the decision.

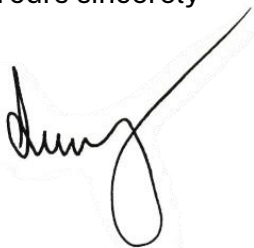
For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

This decision will be published on our website.

If you have any questions

Please contact the Office of ILGA at office@ilga.nsw.gov.au if you have any questions.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jeff Loy', with a long, sweeping flourish extending upwards and to the right.

Jeff Loy

Board Member

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

**Schedule 1 – Licence conditions to be imposed
Apsley Arms Hotel (LIQH400121288)**

No.	Condition to be imposed	Description
1.	Plan of Management	The premises is to be operated at all times in accordance with the Plan of Management dated 18 May 2023 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.
2.	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, d. any incident that results in a patron of the premises requiring medical assistance. 2. The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector: <ol style="list-style-type: none"> a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and b. allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises. 3. 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.
3.	CCTV	<ol style="list-style-type: none"> 1. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements: <ol style="list-style-type: none"> a. the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),

No.	Condition to be imposed	Description
		<ul style="list-style-type: none"> b. recordings must be in digital format and at a minimum of ten (10) frames per second, c. any recorded image must specify the time and date of the recorded image, d. the system's cameras must cover the following areas: <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.
4.	Licensee Training	The approved manager of the premises must complete the Advanced Licensee training course.