

# NSW Independent Liquor & Gaming Authority

Our ref: DF24/019588

Ms Fiona Myatt  
AMW Lawyers

11 September 2024

Dear Ms Myatt

Application No.	1-8931710173
Applicant	Paul Charles Bruce Zammit
Application for	Hotel licence removal
Application date	14 December 2023
Decision date	21 August 2024
Licence name	Henry Kendall Family Bistro & Tavern
Proposed and current trading hours (no change)	Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
Current premises	Shops 35-40 299 Brisbane Water Drive Point Clare NSW 2250
Proposed premises	Part of Terrigal Beach House Terrigal Esplanade Terrigal NSW 2260
Legislation	Sections 3, 11A, 12, 14, 15, 40, 44, 45, 48 and 53 of the <i>Liquor Act 2007</i>

## Decision of the Independent Liquor & Gaming Authority Application for a hotel licence removal – Henry Kendall Family Bistro & Tavern

We **approve** the application above under section 59 of the *Liquor Act 2007* – with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

### Statement of reasons

We are satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

## **Our main findings**

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

### *Social impacts*

The application seeks the removal of the existing hotel licence to an unlicensed storeroom located at the Terrigal Beach House. The licence may not be exercised at the proposed premises. Accordingly, no negative social impacts are associated with the removal. The licence remains subject to the conditions 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 plan of management for the licensed business
- a development consent for the premises
- 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*.

## **Opportunity for review**

The applicant and anyone who was notified of the application and made a submission, 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 and Gaming NSW if you have any questions.

Yours sincerely



Caroline Lamb

**Chairperson**

**Independent Liquor & Gaming Authority**

## Schedule 1: Licence conditions to be imposed – Henry Kendall Family Bistro & Tavern

No.	Condition	Description
1.	6-hour closure	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 six (6) hours between <b>4:00 AM and 10:00 AM</b> 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.	Restricted trading & NYE - Consumption on premises	<p>Good Friday 12:00 noon – 10:00 PM</p> <p>Christmas Day 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)</p> <p>December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later</p> <p>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.</p>
3.	Restricted trading & NYE - 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>
4.	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 Part of Terrigal Beach House, Terrigal Esplanade, Terrigal NSW 2260 as shown on the premises plan approved on <b>21 August 2024</b> .
5.	Licence must not be exercised	The licence must not be exercised at <b>Part of Terrigal Beach House, Terrigal Esplanade, Terrigal NSW 2260</b> as shown on the premises plan approved on <b>21 August 2024</b> .
6.	No gambling activities	No Gaming machines may be operated on the licensed premises at <b>Part of Terrigal Beach House, Terrigal Esplanade, Terrigal NSW 2260</b> as shown on the premises plan approved on <b>21 August 2024</b> .

## Schedule 1: Licence conditions to be revoked – Henry Kendall Family Bistro & Tavern

Condition	Description
Condition 200	NO NUISANCE: The premises shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, vapour steam, soot, ash, dust, wastewater, waste products, grit, oil or otherwise.
Condition 210	<p>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 7.00 am and 12.00 midnight at the boundary of any affected residence.</p> <p>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.</p> <p>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.</p> <p>Interior noise levels which exceed safe hearing levels are in no way supported or condoned by the Authority.</p> <p>For the purpose of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.</p>
Condition 220	No form of entertainment shall be provided without obtaining any necessary licence, authority or certificate required under any legislation including the Local Government Act 1993.
Condition 340	DRESS CODE: The licensee shall have and maintain a dress code of at least 'neat casual'.
Condition 350	CLOSED CIRCUIT VIDEO: The licensee must install and operate closed circuit video cameras, recording activity within the premises, on the footpath in the vicinity of the premises and at the entrance to the premises. The licensee shall retain video (or CD-ROM) records for a period of 28 days from the date of the recording and will make the tapes (or CD-ROM) available to the local Council and/or Police on their request. The closed-circuit video camera system shall be monitored by staff whilst the premises are open for trade.
Condition 360	SIGN REQUIRING ORDERLY DEPARTURE OF PATRONS: A clearly visible sign shall be permanently erected immediately adjacent to the entry/exit doors indicating that patrons are to leave in an orderly fashion and shall leave the vicinity of the premises in a manner that does not disturb the quiet and good order of the neighbourhood.
Condition 370	ANNOUNCEMENTS REQUIRING ORDERLY DEPARTURE: An announcement shall be made at the cessation of trade to the effect that patrons shall leave the premises and the vicinity quickly and quietly to avoid disturbance of the neighbourhood.
Condition 420	Bistro/Tavern Area, Al Fresco Dining Area, Foyer Area, TAB Area and Amenities.