

NSW Independent Liquor & Gaming Authority

Mr Jowee Tan Licensee/Business Owner	GELTAN PTY LTD Business Owner
Inner West Council	NSW Police
Liquor & Gaming NSW	

30 September 2024

Dear Sir/Madam

Reference No.	DOC24/229176
Licensee	Mr Jowee Tan
Licence Name	Enmore Fine Wines
Licence Number	LIQP700382678
Licence Type	Packaged liquor licence
Premises	152 Enmore Road, Enmore NSW 2042
Legislation	Part 9A of the <i>Liquor Act 2007</i>

Decision on remedial action for demerit points accumulated Enmore Fine Wines, Enmore (LIQP700382678)

On 5 June 2024, the Independent Liquor & Gaming Authority notified you of the remedial action it proposed to take for the demerit points accumulated by Mr Jowee Tan, the licensee of Enmore Fine Wines, under the *Liquor Act 2007* (the Act).

Our decision

On 29 August 2024, following consideration of submissions received in response to the notification, we decided to take the following remedial action:

- require Mr Tan to undertake advanced licensee training under section 144P of the Act
- impose additional conditions on the licence under section 144T of the Act for:
 - a Plan of Management
 - CCTV
 - the requirement for the licensee to undertake the advanced licensee training (as above and detailed in schedule 1).

Statement of reasons

Background

On 20 June 2023, Liquor & Gaming NSW (L&GNSW) notified us that Mr Jowee Tan, the licensee of Enmore Fine Wines had accumulated a total of two demerit points under Part 9A of the *Liquor Act 2007* (the Act).

Mr Tan accumulated two demerit points following the issue and enforcement of a penalty notice for the offence of *licensee allow liquor to be sold or supplied to minor* under section 117(8) of the Act on 17 December 2022.

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 5 June 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 were received from L&GNSW, NSW Police and the licensee. We have considered these submissions, which are detailed below:

L&GNSW, dated 19 June 2024

- L&GNSW supports the proposed remedial action in light of the serious nature of the offence.

NSW Police, dated 24 June 2024

- the minor involved was 16 years of age at the time of the incident
- no identification was produced by the minor nor did the staff member request the minor to produce identification at any time
- the product sold to the minor was a 1.25L bottle Little Fat Lamb - Cola which contains 8% alcohol by volume and equating to 7.9 standard drinks
- the staff member was unable to produce the liquor licence for inspection
- Police have since had cause to issue warnings against the licensee on two further occasions
- NSW Police support the remedial action proposed.

Licensee, dated 17 July 2024

- the licensee agreed with the proposed remedial action, has completed the licensee training and provided a copy of the venue's plan of management.

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 20 June 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.
- there is no history of demerit offences having been committed
- there is no record of any previous prescribed complaints against the licensee.
- the licensee has been in place since 23 December 2009 and the business owner since 25 November 1999
- 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 allow liquor to be sold or supplied to minor* was a breach of section 117(8) of the Act.

Having considered the available material, we find that the licensee failed to comply with his obligations under the Act to ensure that liquor is not sold or supplied to persons under the age of 18.

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

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 20 June 2023
- submission from L&GNSW, dated 19 June 2024
- submission from NSW Police, dated 24 June 2024
- submission from the licensee, dated 17 July 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 117: Offences relating to sale or supply of liquor to minors
- Section 144P: Remedial action – accumulation of 2–3 demerit points
- 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 are dissatisfied 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



Jeff Loy

Board Member

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

**Schedule 1 – Licence conditions to be imposed
Enmore Fine Wines, Enmore (LIQP700382678)**

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 July 2024 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.	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), 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: <ol 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. 2. The licensee must also: <ol 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.
3.	Licensee Training	The licensee of the premises must complete the Advanced Licensee training course.