

# NSW Independent Liquor & Gaming Authority

Urban Purveyor Group Pty Ltd Business Owner, El Camino Cantina Miranda	Scentre Group Limited Premises Owner, El Camino Cantina Miranda
Mr Marcos Mamiya Terakado Former Licensee, El Camino Cantina Miranda	Liquor & Gaming NSW
Sutherland Shire Council	NSW Police

26 November 2024

Dear Sir/Madam

Reference No.	DOC24/276652
Licensee	Mr Marco Mamiya Terakado
Licence Name	El Camino Cantina Miranda
Licence Number	LIQ0660032330
Licence Type	Liquor – on premises licence - Restaurant
Premises	Westfield Miranda Shop 4006, 598-600 Kingsway MIRANDA NSW 2228
Legislation	Part 9A of the <i>Liquor Act 2007</i>

## **Decision on remedial action for demerit points accumulated Mr Marcos Mamiya Terakado, El Camino Cantina Miranda (LIQ0660032330)**

On 25 July 2024, the Independent Liquor & Gaming Authority notified you of the remedial action it proposed to take for the demerit points accumulated by Mr Marcos Mamiya Terakado, the former licensee of El Camino Cantina Miranda, under the *Liquor Act 2007* (the Act).

### **Our decision**

Following consideration of submissions received in response to the notification, we have decided to take no further action.

## **Statement of reasons**

### **Background**

On 5 June 2024, Liquor & Gaming NSW (L&GNSW) notified us that Mr Marcos Mamiya Terakado, the former licensee of El Camino Cantina Miranda had accumulated a total of two demerit points under Part 9A of the *Liquor Act 2007* (the Act).

Mr Terakado accumulated two demerit points following the issue and enforcement of a penalty notice for the offence of 'sell liquor to a minor on licensed premises' on 23 February 2024.

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 25 July 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**

On 9 August 2024, L&GNSW advised that they did not wish to make any further submissions and relied on their brief dated 5 June 2024. Submissions were received from NSW Police and the former licensee as per below:

NSW Police, dated 12 August 2024

- Police support the proposed remedial action, however, note that Mr Terakado is no longer the licensee of the premises and does not appear to hold a position as licensee elsewhere
- Police respectfully suggest that the proposed action be considered under 144T of the Act and seek the following condition be imposed on the licence:
  - the licensee must undertake licensee and advanced licensee training

Former Licensee, dated 6 September 2024

- the former licensee understands the proposal of undertaking the Advanced Licensee Training in NSW and has no problem in doing so. However, he has asked the Authority to consider the following:
  - he is no longer the Licensee of El Camino Cantina Miranda
  - he is no longer living in Sydney and has moved to QLD
  - he undertook the RMLV Training (QLD Licensee course) on 19 June 2024
  - he applied and received his Approved Manager Licence on 31 July 2024

### **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 5 June 2024 that:

- there is no material to indicate that the size and patron capacity of the licensed premises impacted the former licensee's ability to prevent the commission of the demerit offence
- there is no history of demerit offences having been committed by Mr Terakado, other than the offence described in the submission
- there is no record of any previous prescribed complaints against the former licensee
- it does not appear that other action against the former licensee, outside the remedial action as set in the submission, is preferable. The venue is subject to an existing plan of management condition (3080)
- Mr Terakado had been the licensee since 9 September 2022. The business owner has been in place since 26 August 2019
- 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 former licensee in a three-year period

- the offence ‘sell liquor to a minor on licensed premises’ was a breach of section 117(1) of the Act.

Having considered the available material, we are of the view that the former 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 of nature, however, we note that the former licensee has since relocated and is no longer working in the industry in NSW. The current licensee has completed the appropriate training and therefore no further action is warranted.

### **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 5 June 2024
- letter from L&GNSW, dated 9 August 2024
- submission NSW Police, dated 12 August 2024.
- submission from former licensee, dated 6 September 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**