

NSW Independent Liquor & Gaming Authority

Yohanesh Chaulagain Manager	STEPHENSGYG PTY LTD Corporate Licensee
Hadyn James Stephens Business Owner	Paul Haydn Stephens Business Owner
Nicholas Maxwell Stephens Contact Person/Business Owner	KARIMBLA PROPERTIES (NO. 41) PTY LIMITED - Premises Owner
NSW Police	Liquor & Gaming NSW
Northern Beaches Council	

26 November 2024

Dear Sir/Madam

Reference No.	DOC24/276096
Licensee	STEPHENSGYG PTY LTD
Licence Name	Guzman Y Gomez Dee Why
Licence Number	LIQ0660034602
Licence Type	Liquor – on premises licence
Premises	Shop 5 Corner of Pittwater Road and Howard Avenue, DEE WHY NSW 2099
Legislation	Part 9A of the <i>Liquor Act 2007</i>

Decision on remedial action for demerit points accumulated Ms Donna Billingham, Guzman Y Gomez Dee Why (LIQ0660034602)

On 12 September 2024, the Independent Liquor & Gaming Authority notified you of the remedial action it proposed to take for the demerit points accumulated by Ms Donna Billingham, the former approved manager of Guzman Y Gomez Dee Why, under the *Liquor Act 2007* (the Act).

Our decision

Following consideration of submissions received in response to the notification, we have decided to take the following remedial action:

- impose a plan of management and RSA Training condition on the licence Guzman Y Gomez Dee Why under section 144T of the Act.

Statement of reasons

Background

On 14 August 2023, Liquor & Gaming NSW (L&GNSW) notified us that Ms Donna Billingham, the former approved manager of Guzman Y Gomez Dee Why had accumulated a total of two demerit points under Part 9A of the *Liquor Act 2007* (the Act).

Ms Billingham 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*’ on 4 August 2023.

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 12 September 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 and the Northern Beaches Council as per below:

L&GNSW, dated 17 September 2024

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

Northern Beaches Council, dated 20 September 2024

- Northern Beaches Council supports the proposed remedial action.

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 14 August 2023 that:

- there is no material to indicate that the size and patron capacity of the licensed premises impacted the former approved manager’s ability to prevent the commission of the demerit offence.
- there is no history of demerit offences having been committed by Ms Billingham, other than the offence described in the submission.
- there is no record of any previous prescribed complaints against the former approved manager.
- it does not appear that other action against the former approved manager, outside the remedial action as set in the submission, is preferable.
- Ms Billingham had been the approved manager since 9 August 2022. The business owner and licensee have been in place since 9 October 2018.
- 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 ‘*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 former approved manager failed to comply with her 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 14 August 2023
- submission from L&GNSW, dated 17 September 2024
- submission Northern Beaches Council, dated 20 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 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
Guzman Y Gomez Dee Why, LIQ0660034602

No.	Condition to be imposed	Description
1.	RSA Training	<p>The Licensee and all staff are required to undertake a responsible service of alcohol (RSA) training course conducted by an approved Registered Training Organisation (RTO). The training is required to be completed by all staff within a 2-month period.</p> <p>In this condition: “staff,” in relation to the subject premises, means any person undertaking duties related to the sale and supply of alcohol on the licensed premises, including staff responsible for the monitoring of liquor consumption and patron behaviour.</p> <p>Note: this excludes staff who have completed RSA training since the prescribed offence occurred.</p>
2.	Plan of management	<p>The licensee must prepare a plan of management for the licensed premises and submit to the Authority for approval within 2 months of the condition being imposed.</p> <p>The premises is to be operated at all times in accordance with the Plan of Management dated <insert date> 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.</p>