

# NSW Independent Liquor & Gaming Authority

Our ref: DF24/028326

Mr Tony Schwartz  
BSV Liquor and Gaming Lawyers

16 December 2024

Dear Mr Schwartz

Application No.	APP-0013385135
Applicant	CLARENCE PROPERTY CORPORATION LIMITED
Application for	New hotel (full) licence with minors' area authorisation
Application date	18 July 2024
Decision date	20 November 2024
Proposed licence name	Epiq Tavern
Proposed trading hours	<u>Consumption on premises</u> Monday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM <u>Takeaway sales</u> Monday to Sunday 10:00 AM – 09:00 PM
Approved trading hours	<u>Consumption on premises</u> Monday to Wednesday 10:00 AM – 10:00 PM Thursday to Saturday 10:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM <u>Takeaway sales</u> Monday to Sunday 10:00 AM – 09:00 PM
Proposed premises	6 & 26 Salt Air Circuit Lennox Head NSW 2478
Legislation	Sections 3, 11A, 12, 14, 15, 40, 44, 45, 48, 53 and 121 of the <i>Liquor Act 2007</i>

## Decision of the Independent Liquor & Gaming Authority Application for a new hotel (full) licence with minors' area authorisation – Epiq Tavern

We **partially approve** the application above under section 45 of the *Liquor Act 2007* — with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

The applicant proposed trading hours to midnight Monday to Saturday, however we approved trading until midnight Thursday to Saturday only.

### **Approved manager or individual licensee**

The licence cannot be exercised until the Authority or Liquor & Gaming NSW is notified that:

- the licence is transferred to an individual licensee, or an approved manager is appointed; and
- the licensee or approved manager is a suitable and qualified person.

## **Statement of reasons**

We are satisfied that the overall 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 Lennox Head. The broader community is the Local Government Area (LGA) of Ballina Shire.

#### *Positive social impacts*

The applicant seeks to operate a new hotel (full) licence with associated minors' area authorisation that will form part of the "Epiq Lennox Estate", a proposed major development in Lennox Head.

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

#### *Negative social impacts*

We noted the objections from NSW Police, Council, NSW Health and members of the public and we accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- rate of alcohol-attributable deaths in the LGA being higher compared to the NSW rate
- higher Aboriginal and Torres Strait Islander population in the LGA compared to NSW.

However, we are satisfied that these risk factors are reduced by the:

- trading hours being reduced to address some concerns raised in the objections
- reduced takeaway hours until 09:00 PM each night
- premises not being located in any crime-density hotspot for all categories we considered
- lower crime rates in the suburb and LGA (with exception to alcohol-related disorderly conduct) for all categories we considered compared to NSW generally
- saturation rate of hotel licences in both the suburb and LGA being lower than in NSW as a whole
- rate of alcohol-attributable hospitalisations in the LGA being lower than in NSW generally
- Socio-Economic Indexes for Areas (SEIFA) data indicating an above average level of relative socio-economic advantage and disadvantage in the suburb and LGA compared to other communities in NSW
- lower ATSI population in the suburb compared to NSW
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

Note: the premises will be located in an area which attracts a large population of visitors relative to the local residential population. This has the effect of distorting both crime rates and licence saturation figures, which are calculated based on residential figures alone.

### **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, Leonie Jennings, at Liquor & Gaming NSW if you have any questions.

Yours sincerely



Chris Honey

**Deputy Chairperson**

**Independent Liquor & Gaming Authority**

## Schedule 1: Licence conditions to be imposed - Epiq Tavern

No.	Condition to be imposed	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 <b>between 04:00 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.	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>
3.	Take away sales	<p>Good Friday: Not permitted</p> <p>December 24<sup>th</sup>: 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.	Overall impact	The business authorised by this licence must not operate with a greater overall level of overall impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the application and other information submitted in the process of obtaining the licence.
5.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
6.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated <b>27 November 2024</b> 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.
7.	Crime scene preservation	<p>Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:</p> <ol style="list-style-type: none"> <li>1. take all practical steps to preserve and keep intact the area where the act of violence occurred,</li> <li>2. retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,</li> <li>3. make direct and personal contact with NSW Police to advise it of the incident, and</li> <li>4. comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</li> </ol>

No.	Condition to be imposed	Description
		In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises
8.	Incident register	<p>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:</p> <ol style="list-style-type: none"> <li>a. any incident involving violence or anti-social behaviour occurring on the premises,</li> <li>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,</li> <li>c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,</li> <li>d. any incident that results in a patron of the premises requiring medical assistance.</li> </ol> <p>2. The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector:</p> <ol style="list-style-type: none"> <li>a. make any such incident register immediately available for inspection by a police officer or Liquor &amp; Gaming NSW inspector, and</li> <li>b. allow a police officer or Liquor &amp; Gaming NSW inspector to take copies of the register or to remove the register from the premises.</li> </ol> <p>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.</p>
9.	CCTV	<p>1. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:</p> <ol style="list-style-type: none"> <li>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),</li> <li>b. recordings must be in digital format and at a minimum of <b>ten (10)</b> frames per second,</li> <li>c. any recorded image must specify the time and date of the recorded image,</li> <li>d. the system's cameras must cover the following areas: <ol style="list-style-type: none"> <li>i. all entry and exit points on the premises,</li> <li>ii. the footpath immediately adjacent to the premises, and</li> <li>iii. all publicly accessible areas (other than toilets) within the premises.</li> </ol> </li> </ol> <p>2. The licensee must also:</p> <ol style="list-style-type: none"> <li>a. keep all recordings made by the CCTV system for at least 30 days,</li> <li>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</li> </ol>

No.	Condition to be imposed	Description
		<ul style="list-style-type: none"> <li>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.</li> </ul>
10.	Complaints register	<ol style="list-style-type: none"> <li>1. A complaints register is to be maintained at the premises at all times which records the following: <ul style="list-style-type: none"> <li>a. the name and number of the complainant</li> <li>b. the time and date on which the complaint was received</li> <li>c. the nature of the complaint, and</li> <li>d. the measures taken to resolve the complaint.</li> </ul> </li> <li>2. Details of complaints received, either in person or over the phone, must be: <ul style="list-style-type: none"> <li>a. recorded in the complaints register, and</li> <li>b. reported to the duty manager.</li> </ul> </li> <li>3. A mobile or dedicated contact number for the duty manager is to be published on the hotel's website, and on a sign to be posted at the premises entrance. If requested, the duty manager's contact details must be provided to complainants. A messaging service must be in place if the dedicated contact number is unattended.</li> </ol>
11.	Minors' area	<p>Minors' Area Authorisation: The laneway, bistro &amp; bar, terrace, kids room, kitchen counter, and kids outdoor room.</p>