

# NSW Independent Liquor & Gaming Authority

Liquor & Gaming NSW	NSW Police, Richmond Police District
Ballina Shire Council	Anton Green, Australian Hotel

31 March 2025

Dear Sir/Madam

Reference No.	DOC25/090653
Licensee	Mr Anton Green
Licence Name	Australian Hotel
Licence Number	LIQH400108486
Premises	103 River Street, Ballina NSW 2478
Legislation	Part 9A Division 5 of the <i>Liquor Act 2007</i>

## Decision on application to remove demerit point Mr Anton Green, Australian Hotel (LIQH400108486)

On 18 June 2024, the Independent Liquor & Gaming Authority (**the Authority**) notified you of the application to remove a demerit point by Mr Anton Green (**the applicant**), the licensee of the Australian Hotel, under the *Liquor Act 2007* (**the Act**).

### Our decision

Following consideration of submissions received in response to the notification, we have decided to **refuse** the application to remove the demerit point incurred by Anton Green, Australian Hotel (LIQH400108486) under section 144ZE(1)(b) of the *Liquor Act*.

## Statement of reasons

### Background

On 25 March 2024, the Independent Liquor and Gaming Authority (**the Authority**) received an application from Mr Anton Green (**the applicant**), the licensee of the Australian Hotel, Ballina, LIQH400108486 (**the venue**) seeking the removal of a demerit point under section 144ZC(2)(a) of the *Liquor Act 2007* (**the Act**).

The licensee incurred one demerit point on 13 November 2023, in accordance with section 144H of the Act, for the category 1 demerit offence, *licensee/employee sell/supply liquor to intoxicated person*, in contravention of section 73(2) of the Act.

On 18 June 2024, we notified all relevant parties of the application and invited submissions in response.

### **Submissions**

Submissions were received from Liquor and Gaming NSW (**L&GNSW**), the Ballina Shire Council (**Council**) and NSW Police (**Police**). We have considered the submissions, which are detailed below:

Dated 26 June 2024, Council provided a compliance history for the venue listing 4 noise complaints received between 2013 - 2024 and noted that their records do not show that the applicant was listed as the licensee when those complaints were received.

Dated 2 July 2024, L&GNSW:

- did not oppose the proposed demerit point removal with the recommendation that the applicant undertake a Responsible Service of Alcohol (**RSA**) refresher course
- It was further noted that according to their records:
  - there is no evidence to confirm whether 'serious harm' occurred as a result of the incident
  - acknowledgment of the applicant's submission outlining measures implemented to mitigate future risks, however L&GNSW is not in a position to confirm whether such measures have been implemented
  - the Secretary has not taken any action against the Hotel in response to the demerit point being incurred or the incident giving rise to the demerit point
  - no compliance history in relation to the applicant for the previous 10-year period beyond the current matter apart from three complaints received with no further actions taken
  - the applicant has not committed any further demerit offences
  - the applicant has not refreshed their RSA or licensee training following the incident despite being one of the staff members who served the patron and failed to accurately assess their level of intoxication.

Dated 10 July 2024, Police:

- strongly objected to the removal of the demerit and raised the following concerns:
  - the applicant was appointed as the licensee of the venue on 30 August 2022. The applicant based his application on a 10-year clear record, however has not had 10 years experience as licensee of a Hotel to warrant this period being relevant
  - the applicant's consistent mismanagement of the venue resulting in a risk to the safety of the community, staff and Police
  - other offences were detected during the incident where the demerit point was incurred, including a security guard not holding the appropriate master security licence as required, and a security guard not being employed by a master licensee, and not wearing his security licence
  - confirmed that the applicant has not committed a further category 1 or category 2 demerit offence since the initial demerit point, however, is currently under investigation for additional demerit point offences over incidents that occurred at the venue in July 2024, and that the licensee is likely to be issued infringement notices for these demerit point offences (note – these additional offences occurred within one year from the initial demerit offence).

**Note:** Police advised on 21 March 2025, that no further action was taken due to insufficient evidence, and reiterated, that they still respectfully object to the removal of the demerit point on the basis of all the information based in the original submission.

- since the demerit point was incurred, there have been 9 police recorded incidents at the venue where patrons have been heavily affected by alcohol and posed a risk to the safety of the community
- the additional incidents at the venue reflect that the licensee has not implemented measures to reduce the risks that contributed to the commission of the demerit point offence
- confirmed that the venue is a member of the Ballina Shire Liquor Accord, however indicated that the venue is not complying with the terms
- noted that the circumstances of the offence did not result in serious harm to any person.

The applicant was provided copies of the submissions and was invited to make a submission in response. The applicant was also invited to provide further information to support the application and assist the Authority with certain considerations. However, the applicant did not provide any additional information.

### **Considerations under section 144ZE(2)(a) of the Act**

We have also considered the relevant factors identified in section 144ZE(2)(a) of the Act, and note that:

- no action was taken by the Authority or Secretary in relation to the licensee, or the licence for the licensed premises, under any provision of the Act in relation to (A) the demerit point, or (B) the act or circumstances that were the basis of the demerit offence in respect of which the demerit point was incurred
- no evidence that serious harm resulted from the commission of the demerit offence
- although the applicant is claiming that the venue has implemented measures to reduce the risks that contributed to the commission of the demerit offence, no evidence has been provided to support their claim
- the licensee has not committed any category 1 or category 2 demerit offences since the demerit point was incurred
- The *Liquor Regulation 2018* prescribes other matters the Authority must consider including:
  - The submissions received from L&GNSW and Council reflect that they do not object to the removal of the demerit point. However, the Police objected and raised serious concerns about the venue and the applicant's mismanagement as licensee.

### **Our findings**

We are satisfied that:

- no remedial action was taken by the Authority or Secretary in response to the demerit point being incurred
- the licensee has not committed any category 1 or category 2 demerit offences since the demerit was incurred.

According to submissions received the licensee has been in the role of licensee from 15 September 2016 to 29 October 2018 at the Coolamon Cheese Company Pty Ltd (LIQ0660033054) and has been the licensee of the Australian Hotel Ballina since 30 August 2022. Therefore, the licensee cannot sufficiently demonstrate that he has not committed a demerit offence other than this demerit offence in the 10-year period immediately preceding the making of the application (on 25 March 2024) as he has not held the position of licensee for 10 years.

Notwithstanding the above, we have considered your application and are concerned about the matters raised in the Police submission. Since the demerit point was incurred in 2023, there have

been at least 9 incidents Police have recorded at the venue, where patrons have been seriously affected by alcohol and posed a serious risk to the safety of other patrons and staff. The majority of these incidents have involved violence and physical harm, with the most recent incident involving a patron sustaining a laceration to his head. Despite the outcome of the investigation about the incidents that occurred at the venue in July 2024 resulting in no further action taken due to insufficient evidence; these ongoing issues demonstrate that the licensee has not put into practice measures to intervene with patrons before getting to a high level of intoxication to reduce the risk of safety to other patrons and/or staff.

On balance and having considered the evidence and information before us, we have decided to **refuse** the application to remove the demerit point under section 144ZE(1)(b) of the Act.

### **The material we considered**

We considered all the material we received about the matter, including:

- the application to remove a demerit point
- stakeholder submissions in response to the application.

### **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 21 days after the person receives the notice.

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](mailto: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**