

NSW Independent Liquor & Gaming Authority

Liquor & Gaming NSW	NSW Police, Mid North Coast Police District
Port Macquarie Hastings Council	Naomi George, Fernhill Tavern

20 June 2025

Dear Sir/Madam

Reference No.	DOC25/175720
Venue Name	Fernhill Tavern
Licence Number	LIQH424004498
Secretary & Manager	Mrs Naomi George
Corporate Licensee	Fernhill Tavern Port Macquarie Pty Ltd
Premises	4 Jindalee Road, Port Macquarie, NSW 2444
Legislation	Part 9A Division 5 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application to remove demerit point - Mrs Naomi George, Fernhill Tavern, LIQH424004498

On 12 March 2025, the Independent Liquor & Gaming Authority (**the Authority**) notified you of the application to remove a demerit point from Mrs Naomi George on behalf of the Fernhill Tavern Port Macquarie Pty Ltd (**the applicant**), the corporate licensee of the Fernhill Tavern, LIQH424004498 (**the venue**), 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 under section 144ZE(1)(b) of the Act.

Statement of reasons

Background

On 10 March 2025, the Authority received an application from the venue, seeking the removal of a demerit point under section 144ZD of the Act. The venue incurred one demerit point on 5 May 2023, in accordance with section 144H of the Act, for the category 1 demerit offence, *licensee permit intoxication on licensed premises*, in contravention of section 73(1)(a) of the Act.

As part of their application, the applicant advised that:

- they have implemented measures to reduce the risks that contributed to the commission of the demerit offence in response of which the demerit point was incurred, including (but not limited to) mandatory staff training, active participation in the Hastings Liquor Accord, deployment of additional security personnel and RSA marshals, the utilisation of a Courtesy Bus and the update of the venue's Plan of Management (POM)
- staff members have completed online training (and provided evidence)
- the 2 managerial staff members present during the incident are no longer employed by the business
- no further Category 1 demerit offence or Category 2 demerit offence was committed since the venue incurred the initial demerit point on 5 May 2023.

On 12 March 2025, we notified all relevant parties of the application and invited submissions in response.

Submissions

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

Dated 18 March 2025, L&GNSW:

- did not oppose the proposed demerit point removal
- advised that Police material indicates injuries were sustained by an individual and that this individual was later involved in a car accident
- advised there is insufficient detail in the Police material to conclude whether this is 'serious harm' as a result of the incident which was the basis for the demerit offence
- confirmed that the licensee has not committed any further demerit offences
- indicated a lack of adverse compliance history with respect to the venue and to the applicant
- recognised additional measures have been implemented, including inhouse staff training, additional security and RSA personnel to be present during events, a courtesy bus and an updated POM
- advised that the approved manager has been in the role since 19 August 2022
- confirmed that the imposition of the demerit point is the only action taken in response to the incident
- noted that the approved manager last completed liquor related training on 14 July 2022 and has completed the advanced Responsible Conduct of Gambling competency course on 9 May 2024.

Dated 18 March 2025, Police:

- objected to the application, raising concerns that the venue has not sufficiently addressed the risks of patron intoxication since the demerit point was incurred
- advised that the incident (17 December 2022) resulted in 'moderate' harm to the intoxicated patron as the intoxicated patron collided with the fence at the scene before reaching open road
- submitted that the implemented measures are insufficient to adequately reduce those risks, highlighted by a number of incidents since the demerit point was imposed
- confirmed that no further category 1 or category 2 demerit point offences occurred since the demerit was incurred

- provided details of incidents of note that have been linked to the venue since the imposition of the demerit point:
 - On 18 July 2023, a driver was charged with PCA offence and has nominated the venue as the place where he had been drinking
 - On 9 October 2024, Police identified a non-compliance issue resulting in a warning for the offence: 'Fail to display prescribed notice re minors to be accompanied by adult'
 - On 7 February 2025, police attended the venue in response to an altercation between two patrons. CCTV footage confirmed that a violent confrontation occurred on the premises resulting in one patron injured (minor head cut) and another one being conveyed home due to level of intoxication. Police noted that the incident is still under investigation.

Dated 2 April 2025, Council advised they do not object to the demerit removal application. No additional information was provided.

The applicant was provided a copy of the submissions and invited to comment. On 5 May 2025, the applicant:

- provided additional information about the incident on 7 February 2025, advising that it took place during a private function
- advised that the manager on duty was in the process of refusing service for potential intoxication
- emphasised the venue's commitment to community safety, e.g. their courtesy bus driver proactively contacted police to report the intoxicated patron driving
- noted they actively seek opportunities to strengthen their approach to safety and compliance
- advised they invited local Police to attend a staff meeting to provide the team with practical guidance and support in managing complex situations effectively
- confirmed their consistent attendance at Liquor Accord meetings demonstrating unwavering dedication to community safety and the responsible service of alcohol
- advised that their courtesy bus service is available during tavern operating hours as a harm minimisation measure.

Considerations under section 144ZE of the Act

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

- no remedial action was taken by the Authority in response to the demerit point being incurred
- the manager of the licensed premises has implemented measures, and undertaken training courses, to manage or reduce the risks that contributed to the commission of the demerit offence in respect of which the demerit point was incurred
- the licensee has not committed any category 1 or category 2 demerit offences since the demerit was incurred
- The Liquor Regulation 2018 prescribes other matters we must consider, including:
 - the submissions received from L&GNSW and Council, which reflect that they do not object to the removal of the demerit point; however the Police objected and raised serious concerns that the associated risks relating to the matter that led to the demerit point have not been adequately addressed
 - the venue's active participation in the Hastings Liquor Accord.

Our findings

In the course of considering the application and in light of the Police submission, we were concerned that the venue has not adequately addressed the risks of patron intoxication since the demerit point was incurred. We are also concerned that a further incident occurred at the venue on 7 February 2025 involving an altercation between two patrons noting that the incident is still under active investigation by Police.

We recognise that the applicant implemented a number of harm minimisation measures to prevent a recurrence of the incident including (but not limited to) mandatory staff training focussing on intoxication and RSA practices as well as updating the venue's POM. Two staff members with Manager duties who were present during the incident have also since been separated from the business.

On balance and in the interest of harm minimisation associated with the misuse and abuse of liquor, we have decided to **refuse** the application to remove the demerit point under section 144ZE(1)(b) of the Act.

We are also in the process of considering the imposition of a Plan of Management condition on the licence under section 53 of the Act, in the interest of harm minimisation associated with the misuse and abuse of liquor. We issued a notice of proposed imposition of licence condition to the applicant on 20 June 2025, in line with our obligation under section 53(4) 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
- the applicant's submission in response to stakeholder submissions received.

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 if you have any questions.

Yours sincerely



Jeff Loy

Chair, Disciplinary Matters Committee

NSW Independent Liquor & Gaming Authority