

Ms Natalie Scanlon
Countrywide Legal & Business Services
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18 September 2017

Dear Ms Scanlon

Application No.	1-5395005571
Application for	Packaged Liquor Licence
Trading hours	Monday to Sunday 10:00 am – 7:00 pm
Applicant	Sri Narayan Group Pty Ltd
Licence name	Sri Narayan Group Pty Ltd
Premises	27 Duff Street ASHFORD NSW 2361
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – Sri Narayan Group Pty Ltd**

The Independent Liquor and Gaming Authority has considered your application on behalf of the Applicant for a packaged liquor licence and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **grant** the licence subject to the following conditions:

1. 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 6 hours between 4:00 am and 10:00 am 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. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
10:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
4. Closed-circuit television system (packaged liquor licence)
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,

- (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the licensed area.
- 2) The licensee must also:
- (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that at least one member of staff is on the premises at all times the system is operating who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (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.
5. The premises is to be operated at all times in accordance with the Plan of Management dated 1 July 2017 as may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy 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.
6. The licensee or its representative must join and be an active participant in the local liquor accord.
7. The licensee will ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.

If you have any questions, please contact the case manager at charles.rivers@liquorandgaming.nsw.gov.au.

Yours faithfully



David Armati
Deputy Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 19 December 2016 the Independent Liquor and Gaming Authority (“the Authority”) received from Sri Narayan Group Pty Ltd (“the Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for a packaged liquor licence (“the Application”). The licence being sought is for the premises at 27 Duff Street, Ashford (“the Premises”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to grant the licence.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Act, and relevant provisions of the *Liquor Act Regulation 2008*.

Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with the Authority’s *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, HealthStats NSW data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by L&GNSW staff from publicly available sources.
7. The list of material considered by the Authority is set out in the Schedule.

Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions.

Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise alcohol-related harm, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for various types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

Fit and proper person, responsible service of alcohol, and development consent

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:

- a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
- b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- c) the applicable development consent required for use of the premises for the proposed business is in force.

Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.

15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

Provisions specific to a packaged liquor licence

16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.

17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.

18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.

19. Section 31 provides that the Authority:

- a) must not grant a liquor licence to premises comprising a service station or take-away food shop, and
- b) may only grant a packaged liquor licence to a premises comprising a general store if it is satisfied that:
 - i) no other take-away liquor service is reasonably available to the public in the neighbourhood of the premises concerned, and
 - ii) the grant of the licence would not encourage drink-driving or other liquor-related harm.

Key findings

20. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading hour requirements

21. The Authority is satisfied that:

- a) the Application has been validly made and meets the procedural requirements under section 40 of the Act, and
- b) the proposed trading hours for the Premises meet the requirements under sections 11A, 12 and 29 of the Act in respect of trading and 6-hour closure periods.

The Premises' business

22. The Premises comprises a shop with a floor space of 213 square metres, and two petrol bowsers outside the shop.

23. For the purpose of section 31 of the Act, the Authority finds that the Premises comprises a general store.
24. The Authority is also satisfied that the primary business of the Premises will not be the sale of take-away liquor, given that the Premises is the only shop in Ashford, and liquor will only be sold within a small area (31 square metres).
25. Pursuant to section 30 of the Act, the Authority is satisfied that liquor will be sold in a separate area within the Premises, having regard to the proposed floor plan and the Applicant's consent to a licence condition requiring a fixed and permanent separation of the liquor sales area.
26. While the Premises has two petrol bowsers, the information provided by the Applicant indicates that the sale of petrol makes up less than 10 percent of the Premises' business transactions and less than 25 percent of sales revenue in the 12 months to March 2017.
27. Accordingly, the Authority accepts the Applicant's contention that the Premises does not comprise a service station for the purpose of section 31 of the Act, as it is not used primarily for the fuelling of motor vehicles.

Availability of take-away liquor and encouragement of liquor related harm

28. As the Premises comprises a general store, the Authority is required to consider whether take-away liquor service is reasonably available to the public in the neighbourhood of the Premises, and whether the grant of the licence would encourage drink-driving or other liquor-related harm.
29. There is currently one licensed premises in Ashford, being a bowling club within approximately 100 metres from the Premises. There are no other licensed premises within 40 kilometres of the Premises.
30. The bowling club holds a club licence which authorises it to sell liquor to its members and their guests only. In the absence of any submissions from the club, the Authority is not satisfied that the club's supply of liquor, limited by club membership, amounts to reasonable availability of take-away liquor to the public.
31. Accordingly, the Authority finds that take-away liquor is not reasonably available by retail to the public in the neighbourhood of the Premises.
32. The Authority is also satisfied that the grant of the licence would not encourage drink-driving or other liquor related harm, on the basis that:
 - a) the fuelling of motor vehicles only forms a small part of the Premises' business,
 - b) liquor will only be sold within a small area of the Premises, and
 - c) the Applicant has consulted Roads and Maritime Services ('RMS') and agreed at its request to join and be an active member of the local liquor accord, and direct staff to information on drink driving penalties and the effects of alcohol.

Fit and proper person, responsible service of alcohol, and development consent

33. Pursuant to section 45 of the Act, the Authority is satisfied that:
 - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Applicant's Plan of Management ("POM") and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the notice of determination issued by Inverell Shire Council and modified on 21 July 2016.

Community impact statement

34. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
35. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the suburb of Ashford, and the relevant “broader community” comprises Inverell Local Government Area (“the LGA”).

Positive social impacts

36. The Authority notes that Ashford is a small town with a population of 652 people according to the 2016 Census, and located approximately 60 kilometres from the nearest local regional centre of Inverell.
37. Given the remoteness of and limited availability of take-away liquor in Ashford, the Authority accepts that granting the licence will provide residents in Ashford with reasonable access to packaged liquor.
38. In reaching the finding above, the Authority has taken into consideration the fact that local residents who cannot or are not willing to obtain membership at the local bowling club have no other way of purchasing packaged liquor without having to travel a reasonably long distance.
39. The Authority has also considered, but in the absence of corroborating evidence given less weight to, the following contentions by the Applicant in relation to other positive social impacts of granting the licence:
- a) written support was received from four local residents following the Applicant’s consultation with them about the Application,
 - b) the Premises will supply liquor for certain hours during which the bowling club does not trade, for example between 10 am and 2 pm on weekdays and between 10 am and 10:30 am on Sundays, and
 - c) the availability of packaged liquor at the Premises increases the services available in Ashford, and may make Ashford a more attractive destination for home buyers and tourists.
40. The Authority also notes that apart from one submission from NSW Health, there has been no opposition from the public, NSW Police, Inverell Shire Council, or any other authorities or agencies in respect of the grant of the licence following notification of the Application. The relevant CIS refers to concerns raised by one local resident, but the Authority has received no submission from this or any other member of the community.
41. Having regard to the above, the Authority is satisfied that the grant of the licence will:
- a) provide reasonable access to packaged liquor to consumers in the area, and
 - b) contribute to the development of the liquor industry in line with the needs and expectations of the local and broader communities.

Negative social impacts

42. The Authority notes from the BOCSAR data that:
- a) for the year to March 2017, the Premises was not located in any hotspot for incidents of domestic, non-domestic or alcohol-related assault, or malicious damage to property,
 - b) for the two years to March 2017:

- i) Ashford reported no incidents of alcohol related domestic assault and low counts of alcohol-related non-domestic assault and malicious damage to property – given the small population and the low counts, the rate of these incidents per 100,000 of the population was ‘not calculated’,
 - ii) the LGA reported considerably higher rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in comparison with the corresponding NSW figure, and a stable two year trend for these incidents.
43. The Authority also notes from the HealthStats NSW data that the LGA reported higher alcohol related deaths (reflected by a Smoothed Standardised Mortality Ratio) but lower alcohol related hospitalisations (reflected by a Smoothed Standardised Separation Ratio) in comparison with the NSW state average.
44. Additionally, the Authority notes the ABS data indicating that at the time of the 2011 Census, Ashford and the LGA were among the most disadvantaged areas in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
45. One submission was received from NSW Health opposing the grant of the licence on the basis of:
- a) high density of liquor outlets which will result from the grant
 - b) concerns in respect of the health and crime statistics in the region as a remote area, and
 - c) vulnerabilities in the local community, such as higher proportions of aged and Aboriginal people, high unemployment and low income.
46. In response, the Applicant contended that NSW Health had relied on incorrect density data, and, while acknowledging the concerns raised in relation to alcohol related issues, submitted that the people of Ashford are entitled to access to liquor services, and that they will commit to the responsible service of alcohol.
47. Having regard to the above, the Authority draws no inferences from the crime statistics for Ashford, given that it is difficult if not impossible to meaningfully interpret or compare the counts of incidents in the context of the suburb’s small population.
48. For the same reason, the Authority also draws no inference from the high liquor outlet density in Ashford which will result from the grant of the licence.
49. The Authority nevertheless finds that the demographics of Ashford and the crime and health data for the LGA raise legitimate concerns about, and warrant careful consideration of, the social impact of granting the licence.
50. The Authority acknowledges that, over time, there may be a risk that liquor sold or supplied at the Premises will contribute to an increase in alcohol-related crime and health issues in the local and broader communities.
51. Notwithstanding the risks and concerns identified, the Authority considers that the negative impact of granting the licence is mitigated to an extent by:
- a) the fact that packaged liquor is not reasonably available in the local community,
 - b) the absence of any opposition from the community, NSW Police or Inverell Shire Council,
 - c) measures set out in the POM to ensure the responsible service of alcohol at the Premises, and
 - d) the Applicant’s willingness to comply with licence conditions and cooperate with local authorities to reduce alcohol related harm.

52. On the basis of the above, the Authority does not consider that the negative social impacts of granting the licence are sufficient to lead to a conclusion that the grant of the licence will be detrimental to the community's wellbeing.

Overall social impact

53. Having considered the positive and negative impacts that are likely to flow from granting the licence, and the proposed measures and licence conditions, the Authority is satisfied that the overall social impact of granting the licence would not be detrimental to the well-being of the local and broader communities.

54. The Authority is also satisfied that a decision to grant the licence would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.

55. Accordingly, the Authority has decided to grant the packaged liquor licence.



David Armati
Deputy Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule

Material before the Authority

1. ABS 2011 Census Quickstats for the LGA.
2. ABS SEIFA data based on the 2011 Census ranking Ashford and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
3. HealthStats NSW data showing alcohol attributable deaths and hospitalisations for the LGA for the period between 2012 and 2013.
4. Floor plan dated 13 May 2016 indicating the Premises' proposed liquor sales area.
5. Notice of determination of a development application, issued by Inverell Shire Council on 21 July 2016, approving the Applicant's development application DA-67/2016.
6. Completed Category B CIS form, signed by the Applicant's representative and dated 31 August 2016.
7. Completed application form signed by the Applicant and dated 21 October 2016, accompanied by copies of notices of Application and relevant ASIC business extracts.
8. Submission from NSW Health, dated 19 January 2017, in relation to the Application.
9. BOCSAR crime maps for the year to March 2017, showing the Premises' location relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
10. NSW crime statistics for the two years to March 2017 for Ashford and the LGA, published by BOCSAR, on incidents of alcohol-related assault and malicious damage to property.
11. L&GNSW liquor licensing records as at 19 June 2017, setting out liquor outlet density data for Ashford and the LGA.
12. Certification of Advertising Application, signed by the Applicant's representative and dated 1 July 2017.
13. Plan of Management dated 1 July 2017.
14. Google maps showing the location of the Premises, extracted from the Google website on 1 June and 1 July 2017.
15. Correspondence between L&GNSW and the Applicant's representative, by emails between 20 April and 14 July 2017, in relation to the submissions received in relation to and additional information required for the Application.
16. Email from the Applicant's representative, dated 30 August 2017, confirming the Applicant's consent to additional licence conditions.