

- 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 premises.
- 2) The licensee must also:
- a) keep all recordings made by the CCTV system for at least 30 days,
 - 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
 - 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.

7. Boutique and craft liquor products

- 1) The licensee must ensure that only craft beer, craft cider, craft spirits and boutique wines are sold and supplied on the premises.
- 2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted.
- 3) The licensee must ensure that a list of the product lines and products stocked on the licensed premises at any one time is kept at the premises and made available for inspection on the request of a police officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
- 4) For every craft beer, craft cider, craft spirit or boutique wine product that is available for sale on the premises, the licensee must maintain and make available for inspection on the premises written documentation from the supplier confirming that the product meets the relevant definition specified in this condition.

Definitions

For the purpose of this condition:

- 1) Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:
 - a) which is located in Australia and produces less than 40 million litres of beer per annum, or located overseas and produces less than 6 million barrels of beer per annum;
 - b) where not more than 25 percent of the brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer; and
 - c) which will certify that the majority of its total beverage alcohol volume is in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers).
- 2) Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:
 - a) which is located in Australia and produces less than 40 million litres of cider per annum, or located overseas and produces less than 6 million barrels of cider per annum;
 - b) where not more than 25 percent of the producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer; and
 - c) which will certify that the cider is made from liquid consisting only of juice (no concentrates).
- 3) Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:
 - a) the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in the case of blended spirits, the product of an independently owned and operated facility that uses any combination of traditional and innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile; and

- b) distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller.
- 4) Boutique wine is defined as wine (other than sparkling wine or champagne) that is manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently owned (i.e. not owned by a larger wine company).
- 5) Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is not generally considered to be mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.

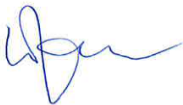
A statement of reasons for this decision is attached at the end of this letter.

Trading on a Sunday that falls on 24 December

Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade any earlier than 10:00am.

If you have any enquiries about this letter, please contact the case manager via email to beatrice.pitpaiaac@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 27 October 2017, Mr Alexander Searle (“Applicant”) lodged an application (“Application”) with Liquor and Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought the granting of a packaged liquor licence (“Licence”) for the premises at Shop 3, 362 Military Road, Cremorne, NSW (“Premises”).
2. The Authority first considered the Application at its meeting on 14 March 2018 and, on receipt of further requested information, decided to grant the Licence on 6 July 2018 under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the material before it, and the legislative requirements under the Act and the Liquor Regulation 2008.
4. A preliminary advice letter was issued on 12 July 2018 advising the Applicant of this decision.

Material considered by the Authority

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. 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.
7. In accordance with its Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
8. A list of the material considered by the Authority is set out in the Schedule.

Legislative framework

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

Objects of the Act

10. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations, needs and aspirations of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
11. In the pursuit of these objectives, section 3 requires the Authority to, in exercising its powers under the Act, have due regard to the need to minimise harm associated with misuse and abuse of liquor, 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

12. 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

13. 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

14. 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

15. 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.
16. 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 before it.

Provisions specific to a packaged liquor licence

17. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.
18. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.
19. 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.
20. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

Key findings

21. 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

22. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
 - b) the proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,
 - c) liquor will be sold and supplied in a separate liquor sales area at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence as required by sections 29 and 30 of the Act, and
 - d) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by the section.

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

23. Pursuant to section 45 of the Act, the Authority is also 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 document, and the conditions to be imposed on the licence, and

- c) the requisite development consent is in force, based on the Notice of Determination of Development Application No. 166/17 issued by North Sydney Council on 15 August 2017.

Community impact statement

24. The Authority notes that the Applicant inadvertently consulted the Aboriginal Heritage Office, which is not the recognised leader or representative of the local Aboriginal Community.
25. Having regard to the further submission made by the Applicant on 22 May 2018, the Authority is satisfied that the recognised leader or representative of the local Aboriginal Community has been consulted. Notably, Metropolitan Aboriginal Land Council did not make a submission in response to the Application.
26. Pursuant to section 48 of the Act, the Authority finds that the CIS has been 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.
27. 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 Cremorne, and the relevant “broader community” comprises North Sydney Local Government Area (“LGA”).

Positive social impacts

28. The Authority accepts, on the basis of the Plan of Management and CIS, the Applicant’s submission that the Premises will be a “boutique style” packaged liquor facility that offers premium wine and liquor products to fine wine connoisseurs and collectors.
29. The Authority notes the Applicant’s contention that there will not be any heavily discounted liquor promotions at the Premises, and that the proposed business model will unlikely attract customers wishing to purchase competitively priced liquor products.
30. The Authority notes that there were no objections to the Application received from any stakeholders, special interest groups, occupiers of neighbouring residences or any other member of the public. Notably, NSW Police made a submission and did not object to the Application.
31. Having regard to the above, the Authority is satisfied that granting the licence would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry.

Negative social impact

32. The Authority notes that the density of packaged liquor licences per 100,000 of population in Cremorne and the LGA is higher than the NSW state average. However, the Authority considers that the “boutique-style” products to be sold at the Premises will likely distinguish it from the existing packaged liquor facilities in the community.
33. The Authority notes, from the BOCSAR Crime Maps for the year ending September 2017, that the Premises was located in a high density hotspot for incidents of malicious damage to property, medium density hotspot for incidents of alcohol related assault and domestic assault, and a low density hotspot for incidents of non-domestic assault.
34. The Authority also notes, from the BOCSAR data for the year ending September 2017, that:
- a) Cremorne recorded a slightly higher than average rate of incidents of alcohol related domestic assault, while the LGA recorded a lower than average rate for the same period.
 - b) The LGA recorded a slightly higher than average rate of incidents of alcohol related non-domestic assault, while Cremorne recorded a significantly lower than average rate for the same period.

- c) Cremorne and the LGA recorded a lower rate of incidents of malicious damage to property compared to the NSW state average.
35. The Authority accepts, based on the most recent Healthstats NSW data available at the time of its consideration, that residents of the LGA are being hospitalised as a result of alcohol related health problems at a higher rate than the NSW average, but notes that alcohol attributable deaths are occurring at a lower rate than the NSW state average.
36. Having regard to the statistics above, the Authority accepts that the prevailing level of alcohol related crime and health issues in the local and broader communities raise some concerns. The Authority also accepts that, over time, there is a risk that liquor sold from the Premises may contribute to an increase in the level of alcohol related crime, health, amenity and other social issues in the community.
37. The Authority is nevertheless satisfied that any potential risks of negative social impact of granting the Licence are adequately mitigated by the following:
- a) The absence of any objections from members of the public or other key stakeholders such as NSW Police, North Sydney Council and NSW Health.
 - b) The proposed business model with a focus on providing “boutique style” wine and liquor products, which are less likely to result in a wide social impact or volume sales.
 - c) The Applicant has consented to a number of licence conditions, including a boutique and craft liquor products condition, which reduces the scope of the products that may be sold from the Premises.
 - d) The liquor sales area within the Premises is relatively small in size (approximately 25 square metres).
 - e) The ABS SEIFA data, as at 2011, indicates that Cremorne and North Sydney LGA were advantaged in comparison to other suburbs and LGAs on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority accepts that this data, while seven years old, raises no immediate concern as to the potential social impact of granting the Licence in the context of any socio-economic disadvantages in the local or broader community.

Overall social impact

38. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, 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.
39. Furthermore, the Authority is satisfied that a decision to grant the Licence would be consistent with the objects of the Act to regulate the supply of liquor and facilitate the responsible development of the liquor industry in line with community expectations and needs.
40. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

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 considered by the Authority

1. ABS SEIFA data based on the 2011 Census ranking Cremorne and the North Sydney Local Government Area on the Index of Relative Socio-economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths for the North Sydney LGA for the period between 2001-02 and 2012-13.
3. HealthStats NSW data showing alcohol hospitalisations for the North Sydney LGA for the period between 2001-03 and 2012-13.
4. Floor plan dated 26 April 2017 indicating the proposed liquor sales area within the Premises.
5. Notice to Applicant of Determination of Development Application No. 166/17 issued by North Sydney Council, proposing a change of use, part of the existing restaurant/wine bar to a bottle shop at Shop 3, 362 Military Road, Cremorne, dated 15 August 2017.
6. Record of Registration for Business Name for Barrel Boutique Wines, dated 14 September 2017.
7. Letter from Department of Transport, Roads and Maritime Services, dated 15 September 2017, in relation to the Application.
8. National Police Certificate issued on 18 September 2017 disclosing that there were no disclosable court outcomes or outstanding matters recorded against Mr Searle within the records of police services in Australia.
9. BOCSAR crime maps for the year to September 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 September 2017, published by BOCSAR, on incidents of alcohol related assault (domestic and non-domestic) and malicious damage to property in the LGA and Cremorne.
11. Submission from North Sydney Council in relation to the Application, dated 19 October 2017.
12. ASIC Current Company Extract for STAN ENTERPRISES PTY LTD ACN 168 865 290 dated 26 October 2017.
13. Completed application for a packaged liquor licence, lodged on 27 October 2017.
14. Copy of Mr Searle's drivers licence, RSA competency card and Medicare card.
15. Completed Category B CIS form, signed and dated 25 October 2017, and relevant additional information.
16. Completed Certificate of advertising application signed by Mr Alexander Searle on 30 November 2017.
17. Premises Plan of Management, dated 30 November 2017.
18. Submissions prepared by the Applicant's representative in response to the submissions received in relation to the Application and supporting information, dated 27 December 2017, 23 January and 7 February 2018.
19. Google map indicating the location of the Premises, dated 18 January 2018.
20. Liquor licensing records from L&GNSW as at 12 February 2018 listing the details of all liquor licences in Cremorne and North Sydney LGA, and the density of packaged liquor licences in Cremorne, North Sydney LGA and NSW as at 5 March 2018
21. Submission from NSW Police in relation to the Application, received 12 April 2018.
22. Liquor and Gaming NSW Compliance history report for The Barrel Bar and Dining, for the period 1 April 2012 to 21 February 2018.
23. Liquor and Gaming NSW Compliance history report for Barrel Online, for the period 1 April 2016 to 21 February 2018.

24. Liquor and Gaming NSW key liquor licence details document for Barrel Online as at 21 February 2018.
25. Liquor and Gaming NSW key liquor licence details document for The Barrel Bar and Dining as at 23 February 2018.
26. Approved Application for change of licensed boundary area for The Barrel Bar and Dining and premises plan showing licensed area and PSA area, 23 February 2018.
27. List of wine to be sold at the premises, undated.
28. Extract from Barrel Online bottle shop showing various liquor products sold on their website.
29. Local Consent Authority Notice and Public Consultation Site Notice, undated.