



Mr Grant Cusack  
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18 May 2018

Dear Mr Cusack

<b>Application No.</b>	APP-0003813040
<b>Applicant</b>	Mr Antonio Iannella
<b>Application for</b>	Packaged Liquor Licence
<b>Licence name</b>	Friendly Grocer Supermarket
<b>Trading hours</b>	Monday to Saturday 09:00 am – 07:00 pm Sunday 10:00 am – 07:00 pm
<b>Premises</b>	Shop 18, Bangor Shopping Centre Corner Yala & Menai Road Bangor NSW 2234
<b>Issue</b>	Whether to grant a packaged liquor licence
<b>Legislation</b>	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 – Friendly Grocer Supermarket**

The Independent Liquor and Gaming Authority considered, at its meeting on 11 April 2018, the Applicant's application 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 03:00 am and 09:00 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 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 am to 10:00 pm Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. 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.
5. The premises is to be operated at all times in accordance with the Plan of Management dated December 2017 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.
6. 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.
7. Closed-circuit television system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the supermarket/general store 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 to the supermarket/general store, and
    - (ii) all publicly accessible areas (other than toilets) within the licensed 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.

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 earlier than 09:00 am.

If you have any questions, please contact the case manager at [beatrice.pitpaiaac@liquorandgaming.nsw.gov.au](mailto: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 19 January 2018, Mr Antonio Iannella (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at Shop 18, Bangor Shopping Centre Corner Yala & Menai Road Bangor NSW 2234 (“Premises”).
2. The Authority considered the Application at its meeting on 11 April 2018 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 29-31, 40, 45 and 48 of the Act, and relevant provisions of the Liquor 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 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”).
7. A list of the 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, needs and aspirations 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 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

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 before it.

### 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 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

### **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 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) if the Licence were to be granted, liquor would 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

22. 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 would be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Plan of Management for the Premises and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force, based on the Development Consent 449/93 in respect of the Premises, issued by Sutherland Shire Council on 10 June 2013.

#### Community impact statement

- 23. 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.
- 24. 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 Bangor, and the relevant “broader community” comprises Sutherland Shire Council Local Government Area (“the LGA”).

#### Positive social impacts

- 25. For the reasons below, the Authority accepts the Applicant’s contention that granting the Licence could provide a number of positive social impacts to the local community.
- 26. Firstly, there is currently no packaged liquor licence in Bangor, and the density of liquor licences in Bangor and the LGA is lower than the NSW state average across all licence types. Granting the Licence would therefore provide the community with additional access to packaged liquor.
- 27. Additionally, the convenience of a one-stop shopping facility would enable customers of the supermarket to meet their liquor needs at the same time as they purchase groceries and other items.
- 28. The relatively large size of the proposed liquor sales area within the Premises would also enable the provision of a greater variety of liquor choices to customers.
- 29. Further, the Authority accepts that there is strong community support for granting the Licence, having regard to the petition produced by the Applicant with over 970 signatures, and the absence of any objections from the community in respect of the Application.
- 30. Accordingly, 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

- 31. The Authority is satisfied, on the information available, that the proposed liquor premises would unlikely pose significant negative social impacts to the community.
- 32. The Authority notes from the BOCSAR data that:
  - a) for the year to September 2017, the Premises was not located within any hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, or malicious damage to property,
  - b) for the two years to September 2017, the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in both Bangor and the LGA were lower than the corresponding NSW figures.

33. The Authority also notes that the rates of alcohol attributable deaths and hospitalisations in the LGA were approximately 15 percent lower than the NSW average in 2012-2013 and 2013-15 respectively.
34. The Authority considers that, if the Licence were to be granted, any risks of alcohol related harm associated with the operation of the Premises would be further mitigated by the following:
- a) The Applicant has proposed that the Premises will close by 7:00 PM on all trading days to reduce any risk of harm associated with the misuse and abuse of alcohol at night.
  - b) The measures set out in the Plan of Management and the licence conditions in respect of the responsible service of alcohol and prevention of intoxication.

#### Overall social impact

35. The Authority has had regard to the ABS data before it at the time of its decision indicating that as at 2011, Bangor was among the most advantaged suburbs, and the LGA among the most advantaged Local Government Areas, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is seven years old and does not draw any specific inferences from it, other than to note that it does not raise any apparent concerns.
36. 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.
37. 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.
38. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford  
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 considered by the Authority

1. ABS SEIFA data based on the 2011 Census for Bangor and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol-attributable deaths in the LGA for the period 2012-13 and alcohol-attributable hospitalisations in the LGA for the period 2013-15.
3. Notice of determination issued by Sutherland Shire Council on 10 June 2013 approving the Development Application 449/93 in relation to the Premises.
4. NSW Recorded Crime Statistics 2016 outlining the proportion of offences in the LGA by day of week and time of day.
5. NSW crime statistics for the two years to September 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Bangor and the LGA.
6. Premises plan dated 1 October 2017 for the Premises.
7. Submission from Transport Roads & Maritime on 17 October 2017 in relation to the Application.
8. Submission from Family & Community Services on 18 Oct 2017 and 2 Feb 2018 in relation to the Application.
9. Submission from Aboriginal Affairs on 7 Nov 2017 and 22 Jan 2018 in relation to the Application.
10. ASIC business records in relation to the Applicant extracted on 13 November 2017.
11. Submission from NSW Police on 16 Nov 2017 and 1 Mar 2018 in relation to the Application.
12. Petition in support of liquor licence application.
13. Plan of Management documents for the Premises, titled Management Plan for the Operation of a proposed liquor department to be located within a Friendly Grocer Supermarket and dated December 2017.
14. Completed Category B Community Impact Statement dated 17 January 2018.
15. Completed application dated 19 January 2018.
16. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 19 January 2018.
17. Submission from L&GNSW Compliance on 16 Feb 2018 in relation to the Application.
18. Certification of Advertising signed and dated 9 March 2018.
19. BOCSAR crime maps for the year to 9 March 2018, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
20. Google map images extracted from the Google website on 9 March 2018, showing the location and photos of the Premises in map view, earth view and street view.
21. L&GNSW liquor licensing records as at 9 March 2018, outlining the density of all types of liquor licences in Bangor, the LGA and NSW, and listing all packaged liquor licences in Bangor and the LGA.
22. Correspondence between L&GNSW staff and the Applicant between 24 January 2018 and 8 March 2018 in relation to the assessment of the Application.