



Mr Grant Cusack
Hatzis Cusack Pty Limited
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7 August 2017

Dear Mr Cusack

Application No. 1-5482501803
Application for Packaged Liquor Licence
Trading hours Monday to Saturday 8:00 am – 10:00 pm
Sunday 10:00 am – 6:00 pm
Applicant Kayenay Pty Ltd
Licence name IGA Bombala
Current Premises 117 Maybe Street
BOMBALA NSW 2632
Proposed Premises 101 Maybe Street
BOMBALA NSW 2632
Issue Application for removal of a packaged liquor licence
Legislation Sections 3, 11A, 29, 30, 31, 40, 45, 48 and 59 of *Liquor Act 2007*

**Decision of the Independent Liquor & Gaming Authority
Application for removal of a packaged liquor licence – IGA Bombala**

The Independent Liquor & Gaming Authority (“the Authority”) has considered your application on behalf of the Applicant for the removal of a packaged liquor licence. Pursuant to section 59 of the *Liquor Act 2007*, the Authority has decided to **approve** the Application 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 2:00 AM and 8:00 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 be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.

4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The Independent Liquor & Gaming Authority approved the removal of the licence to 101 Maybe St, BOMBALA NSW 2632 on 3 August 2017.
6. Notwithstanding this approval, the licence is not to be exercised at 101 Maybe St, BOMBALA NSW 2632 unless and until the Independent Liquor and Gaming Authority has been provided with evidence that the premises is complete and ready to trade.
7. The liquor licence remains at 117 Maybe St, BOMBALA NSW 2632 subject to the same conditions and trading hours that were immediately in force before this approval was granted until such time as the Independent Liquor and Gaming Authority is notified that the licence has been moved.
8. The licensee will ensure that upon removal of the licence to 101 Maybe Street Bombala, the premises is to be operated at all times in accordance with the Plan of Management dated December 2016 as may be varied from time to time after consultation with the Local Area Commander of 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.
9. The licensee will ensure that the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.
10. The licence remains at 117 Maybe Street, Bombala subject to the same conditions and trading hours that were immediately in force before the approval was granted until such time as the Independent Liquor and Gaming Authority is notified that the licence has been removed.
11. (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 (or, in the case of premises that is not required to cease trading, continuously at all times),
 - b. recordings must be in digital format and at a minimum of 15 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,
 - ii. the footpath immediately adjacent to the premises, and
 - iii. all publicly accessible areas (other than toilets) on the premises.
- (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 a police officer or Liquor and Gaming NSW inspector to provide such recordings.

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

Yours faithfully



Philip Crawford
Chairperson

For and on behalf of the Independent Liquor & Gaming Authority

Statement of reasons

Decision

1. On 3 January 2017, the Independent Liquor & Gaming Authority (“the Authority”) received from the Applicant, through Liquor & Gaming NSW (“L&GNSW”), an application for the removal of a packaged liquor licence (“the Application”).
2. Pursuant to section 59 of the *Liquor Act 2007* (“the Act”), the Authority has decided to grant the application to remove the licence.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45, 48 and 59 of the Act, and relevant provisions of the *Liquor Act Regulation 2008* (“the Regulation”).

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 material considered by the Authority is listed in the Schedule, with a summary where appropriate.

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 different 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 (or the removal of a licence) if it is satisfied that:
- the applicant is a fit and proper person to carry on the proposed business,
 - practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
 - the applicable development consent (“DC”) 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 the removal of 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.

Removal of liquor licence

16. Section 59 of the Act provides the legal requirements regarding the removal of a licence to another premises, and requires that such an application be dealt with and determined as if it were an application for the granting of a new licence.

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 requirements

22. The Authority is satisfied that:
- the Application has been validly made and meets the procedural requirements under section 40 and 59 of the Act,
 - the approved trading hours for the Proposed Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,
 - liquor will be sold and supplied in a separate liquor sales area on the Proposed Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required in sections 29 and 30 of the Act, and
 - section 31 of the Act does not apply to the Application, as the Proposed Premises will not be used for any of the purposes specified in the section.

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

23. Pursuant to sections 45 and 59 of the Act, the Authority is also satisfied that:

- the Applicant is a fit and proper person to carry on the proposed business, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies, and the Applicant is an existing licensee,
- practices will be in place from the commencement of licensed trading at the Proposed 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
- the requisite DC is in force, based on the notice of determination issued by Snowy Monaro Regional Council on 8 December 2016.

Community impact statement

24. 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 Proposed Premises on the local and broader communities.

25. 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 Bombala, and the relevant "broader community" comprises Snowy Monaro Regional Local Government Area ("the LGA").

Positive social impacts

26. The Authority accepts that the Proposed Premises will, as contended by the Applicant, operate at a much larger scale upon removal, offering a more modern facility with improved lighting and security features to better meet the needs, demands and expectations of the residents of Bombala and surrounding areas. The Proposed Premises will offer an increased range of liquor products (and the wider IGA Supermarket will offer an increased range of grocery and other items) and will allow for the provision of more accessible car parking and other facilities.

27. The Authority notes the Applicant's suggestion that the expectations of customers will be further accommodated if the trading hours for the sale and supply of liquor are the same as those that apply to the IGA Supermarket generally.

28. Furthermore, the Authority notes that another existing packaged liquor licence in Bombala is authorised to sell and supply liquor from 5.00am, and usually trades from 6.00am.

29. In recent years it has become the standard practice of the Authority to approve opening hours for supermarket packaged liquor licences from 8.00am at the very earliest, for the convenience of supermarket customers who wish to purchase grocery and liquor items at the same time and prior to 10.00am. The Authority is not satisfied that the majority of the IGA Supermarket's customers expect to attend at the store to purchase grocery and liquor items as early as 6.00am, and does not consider that there is sufficient evidence that commencing the sale and supply of liquor at 6.00am would meet the needs, demands and expectations of the local community to the extent that this would justify any deviation from the Authority's standard practice. For this reason, the Authority has approved an opening time of 8.00am, Monday to Saturday.

30. The Authority also accepts that the Applicant has been the licensee of the Current Premises since 2011 and has managed the operation of the packaged liquor facility with

no issues raised by NSW Police, L&GNSW or Snowy Monaro Regional Council (or its predecessors).

31. The Authority is satisfied that no concerns have been raised by any members of the public, NSW Police, Snowy Monaro Regional Council, NSW Health, or any other relevant agencies and bodies, in response to notification of the Application.
32. Having regard to the above, the Authority is satisfied that the Proposed Premises will provide enhanced access to a larger selection of liquor products to consumers in the local and surrounding areas.
33. Accordingly, the Authority is satisfied that the Premises will contribute to the development of the liquor industry, and the related retail industry, to meet the needs and expectations of the local and broader communities.

Negative social impacts

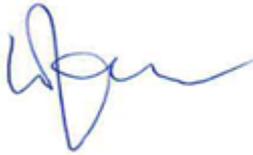
34. There are currently two packaged liquor licences in Bombala suburb including the current licence. While the density of packaged liquor outlets in both Bombala and the LGA is higher than the corresponding NSW figure, the Authority recognises that the removal of the licence from one location in Bombala to another will not alter the existing outlet density in the local or broader communities.
35. The Authority notes the following information derived from BOCSAR data:
 - the Snowy Monaro Regional LGA was created from the merger of Bombala, Cooma-Monaro and Snowy River LGAs on 12 May 2016. The data that was presented as part of the application is extracted from these previous LGAs,
 - for the year ending March 2017, there were no hotspots for incidents of domestic, non-domestic or alcohol-related assault, or malicious damage to property in Bombala,
 - rates of domestic, non-domestic and alcohol-related assault and malicious damage to property per 100,000 persons were not calculated for Bombala LGA for the years ending March 2016 and March 2017, and
 - the LGA (combining data for the previous LGAs of Bombala, Cooma-Monaro and Snowy River LGAs) recorded, for the two years to March 2017:
 - i. the rates of alcohol related domestic and non-domestic assault were not calculated for Bombala LGA,
 - ii. lower rates of alcohol-related domestic, non-domestic assault and malicious damage to property than the corresponding NSW figure for Snowy River LGA,
 - iii. higher rates of alcohol-related domestic assault, non-domestic assault and malicious damage to property than the corresponding NSW figure for the Cooma-Monaro LGA, and
 - iv. a stable two year trend for the above incidents.
36. The Authority also notes the following information derived from HealthStats NSW data:
 - for the period 2012-13, the smoothed standardised mortality ratios in respect of alcohol-attributable deaths for the previous LGAs of Bombala, Cooma-Monaro and Snowy River were all around the NSW state average, and
 - for the period of 2013-15, the smoothed standardised separation ratios in respect of alcohol-attributable hospitalisations were more varied – Bombala LGA had an

SSSR of 129.4, much higher than the NSW average (set at 100), whereas Cooma-Monaro and Snowy River LGAs had SSSRs just above the NSW average.

37. Notwithstanding the above, the Authority is satisfied that the removal of the existing packaged liquor licence from the Current Premises to the neighbouring Proposed Premises only 60 metres away will have no impact on any existing alcohol-related harms being experienced in the local or broader communities, despite some evidence of some degree of alcohol-related health harms being present in the part of the new LGA that was previously Bombala LGA.
38. The Authority acknowledges that, over time, there may be a risk that liquor sold or supplied at the Proposed Premises will contribute to the prevailing levels of alcohol-related crime and health issues in the local and broader communities. The Authority is nevertheless satisfied that this risk is adequately mitigated by the following:
- the Applicant is an experienced operator of a packaged liquor licence, having been the licensee of the Current Premises since 2011. The Authority is not aware of any adverse information or incidents associated with the sale of liquor at the Current Premises. The Proposed Premises is located only 60 metres away from the Current Premises and will not result in an additional packaged liquor facility being established in Bombala,
 - no objections were received in response to the Application, and
 - the Applicant has set out in the POM detailed procedures and practices in respect of the responsible service of alcohol, which are complemented by the conditions to be imposed on the licence upon removal. For additional clarity and enforceability, the Authority considers it appropriate to expressly reiterate some of the key measures outlined in the POM, such as the implementation of a CCTV surveillance system and details regarding the design and layout of the premises, in the licence conditions.

Overall social impact

39. The Authority has had regard to the ABS data indicating that, as at 2011, Bombala was relatively disadvantaged in comparison with other LGAs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is six years old, and that the surrounding areas of Cooma-Monaro and Snowy River, which together with the previous Bombala LGA comprise the new Snowy Monaro Regional LGA, are considerably advantaged.
40. Having considered the positive and negative impacts that are likely to flow from granting the licence, the Authority is satisfied that the overall social impact of granting the removal application would not be detrimental to the well-being of the local and broader communities.
41. The Authority is also satisfied that a decision to grant the removal of 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.
42. Accordingly, the Authority has decided to grant the removal of the packaged liquor licence.



Philip Crawford
Chairperson

1 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 <http://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 SEIFA data based on the 2011 Census indicating that the suburb of Bombala ranked in the 2nd decile within NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, with a decile ranking of 10 being the most advantaged.
2. HealthStats NSW data showing the trends for the ten year period to 2013 of alcohol-related deaths and hospitalisations in the previous LGAs of Bombala, Cooma-Monaro and Snowy River, expressed as smoothed estimated rates per 100,000 persons of the population.
3. Notice of determination of development application 10.2016.62.1 issued by Snowy Monaro Regional Council on 8 December 2016, approving the construction of the proposed IGA store at the Proposed Premises.
4. A completed Category B CIS form, signed by the Applicant and dated 16 December 2016, and additional information provided by the Applicant in support of the CIS.
5. A completed online application form, dated 16 December 2016.
6. A POM for the Proposed Premises dated December 2016.
7. Certification of Advertising Application signed by the Applicant and dated 15 February 2017.
8. BOCSAR crime maps for the year to March 2017, indicating that there are no hotspots for alcohol-related assault, domestic assault, non-domestic assault, or malicious damage to property in Bombala suburb.
9. NSW crime statistics for the year ending March 2017, published by BOCSAR, indicating the following:
 - a. The rate of domestic assault incidents was:
 - i. “not counted” for Bombala LGA
 - ii. 305.6 per 100,000 persons for Cooma-Monaro LGA
 - iii. 232.3 per 100,000 persons for Snowy River LGA
 - iv. 379.7 per 100,000 persons for NSW.
 - b. The rate of non-domestic assault incidents was:
 - i. “not counted” for Bombala LGA
 - ii. 305.69 per 100,000 persons for Cooma-Monaro LGA
 - iii. 232.3 per 100,000 persons for Snowy River LGA
 - iv. 379.7 per 100,000 persons for NSW.
 - c. The rate of malicious damage to property incidents was:
 - i. “not counted” for Bombala LGA
 - ii. 887.7 per 100,000 persons for Cooma-Monaro LGA
 - iii. 403.5 per 100,000 persons for Snowy River LGA
 - iv. 816.4 per 100,000 persons for NSW.

10. Submissions from Monaro Local Area Command, dated 6 January 2017, proposing to impose one condition, should the licence be granted.
11. Liquor licensing records provided by L&GNSW as at 2 May 2017, indicating that there were two packaged liquor licences in the suburb of Bombala, including the Current Premises, and 17 in total in Bombala, Cooma-Monaro and Snowy River LGAs.
12. Google maps showing the location of the Proposed Premises, extracted from Google on 22 May 2017.
13. The Applicant's response to the public submissions, dated 27 June 2017.
14. Photos of the locations of the Current and Proposed Premises and a map indicating their proximity, attached to an email from the Applicant, dated 27 June 2017.
15. A copy of the key liquor licence details for the Current Premises as at 4 July 2017.
16. An email from Aboriginal Affairs dated 9 August 2016 in response to the application as part of the Community Impact Statement process.
17. A letter from Roads & Maritime Services dated 15 August 2016, advising no objection to the Applicant and recommending that the Applicant join the local liquor accord.
18. Floor plan indicating the Proposed Premises' proposed liquor sales area, lodged with the Application.
19. Additional documents provided by the Applicant in relation to proposed conditions and the CIS, lodged with the Application.