



Mr Bobby Stefanovski
Liquor Advisory Services
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10 August 2018

Dear Mr Stefanovski

Application No. 1-6610702981
Applicant Mr Giovanni Demarte
Application for Removal of an on-premises liquor licence (for a catering service) with an extended trading authorisation and a sale on other premises authorisation
Licence name Novella Events Centre
Trading hours
Indoor area
Monday to Wednesday 10:00 AM – 9:00 PM
Thursday 10:00 AM – 12:00 midnight
Friday to Saturday 10:00 AM – 2:00 AM
Sunday 10:00 AM – 12:00 midnight
Outdoor area
Monday to Wednesday 10:00 AM – 9:00 PM
Thursday to Sunday 10:00 AM – 12:00 midnight
Sale on other premises authorisation
Monday to Wednesday 10:00 AM – 9:00 PM
Thursday to Saturday 10:00 AM – 12:00 midnight
Sunday 10:00 AM – 10:00 PM
Current Premises 682 Cabramatta Road
BONNYRIGG NSW 2177
Proposed Premises Lot 3, 1521 The Horsley Drive
ABBOTSBURY NSW 2176
Legislation Sections 3, 11A, 12, 21-28, 40, 45, 48, 49, 51 and 59 of the *Liquor Act 2007*

**Decision of the Independent Liquor and Gaming Authority
Application for the removal of an on-premises liquor licence – Novella Events Centre**

The Independent Liquor and Gaming Authority ("Authority") considered, at its meeting on 11 April 2018, the Application above for the removal of an on-premises liquor licence with an extended trading authorisation and a sale on other premises authorisation ("Application"). Pursuant to section 59 of the *Liquor Act 2007*, the Authority 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 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. Consumption on premises
Good Friday Normal trading
Christmas Day Normal trading
December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The premises is to be operated at all times in accordance with the Plan of Management dated October 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.

5. 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 a premises that is not required to cease trading, continuously at all times),
 - (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,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) 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.
6. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
 - 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor & Gaming NSW website,
 - 3) make direct and personal contact with NSW Police to advise it of the incident, and
 - 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.

In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

7. The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 7:00 AM and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 7:00 AM at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between 12:00 midnight and 7:00 AM.

*For the purposes of this condition, the LA10 can be taken as the average maximum deflection of the noise emission from the licensed premises.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Independent Liquor and Gaming Authority.

Removal of the on-premises licence

Notwithstanding the Authority's approval of the Application on 11 April 2018, the on-premises liquor licence and the associated authorisations the subject of the Application is not to be exercised at

the premises at Lot 3, 1521 The Horsley Drive, Abbotsbury NSW unless and until Liquor & Gaming NSW has been provided with evidence that the premises is complete and ready to trade.

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

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

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

Statement of reasons

Decision

1. On 11 January 2018, Mr Giovanni Demarte (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought to remove an on-premises liquor licence for a catering service (“Licence”) and the associated extended trading authorisation (“ETA”) and sale on other premises authorisation (“SOOPA”) from 682 Cabramatta Road, Bonnyrigg NSW (“Current Premises”) to Lot 3, 1521 The Horsley Drive, Abbotsbury NSW (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 11 April 2018 and decided to approve it under section 59 of the *Liquor Act 2007* (“Act”). In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under the Act, and relevant provisions of the Liquor Act Regulation 2008.
3. A preliminary advice letter advising of the decision was issued to the Applicant on 27 April 2018.

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 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 key 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, 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.

Removal of liquor licence

11. Section 59 of the Act requires the Authority to determine an application to remove a licence to another premises as if it were an application for a licence at that premises, and provides that the provisions in respect of a licence application extend to a licence removal application.
12. Section 59 also provides that the Authority must not approve the removal application unless it is satisfied that practices will be in place following the removal and remain in place to reasonably ensure the responsible service of alcohol and to prevent intoxication on the premises to which the license is proposed to be removed.

Trading hours and 6-hour closure period

13. 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

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

15. Section 59(2) of the Act prescribes the minimum procedural requirements for a valid application to remove a licence to another premises.

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

16. 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

17. 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.

18. 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 an on-premises liquor licence

19. Further legislative provisions specific to an on-premises liquor licence, including SOOPA as an associated authorisation, are set out in sections 21-28 of the Act.

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 the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12, 40 and 59 of the Act.

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

22. Pursuant to sections 45 and 59 of the Act, the Authority is satisfied that if the Application were to be approved, practices will be in place from the commencement of licensed trading at the Proposed Premises, and will remain in place, to ensure the responsible serving of alcohol. In making this finding the Authority has had regard to the material before it, including the Plan of Management.

23. The Authority is also satisfied that, for the purposes of section 45 of the Act:

- 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, and

- b) the requisite development consent is in force, based on the notice of determination issued by Fairfield City Council on 26 July 2017 in respect of the Proposed Premises.

Community impact statement

24. The Authority is satisfied that the CIS was prepared in accordance with the requirements of section 48 of the Act, and has taken the CIS into consideration 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:
- a) the relevant “local community” is the community within the suburb of Abbotsbury, and
 - b) the relevant “broader community” refers to the community within the Fairfield Local Government Area (“LGA”).

Positive social impacts

26. The Current Premises is an established wedding reception lounge and function centre, managed by the Applicant as the business owner and licensee for 13 years. The Applicant is seeking to remove the Licence due to the planned re-development of the Current Premises and the Applicant’s inability to renew the current lease.
27. The Proposed Premises is in the same LGA as the Current Premises and, if the Application is approved, will be the only licensed venue of its type in the Lizard Log reserve of the Western Sydney Parklands, the largest urban parkland in Australia.
28. The general availability of liquor in both Abbotsbury and Fairfield LGA, as reflected by the density of all types of liquor licences, is considerably lower than the state average. The density of on-premises liquor licences in both communities is less than half of the NSW state average. The removal of the Licence, if granted, will result in an increased, albeit still low, density of on-premises liquor licences in Abbotsbury, and no change to the density at the LGA level.
29. Having regard to the above, the Authority accepts that approving the Application will:
- a) provide members of the local community with additional convenience in accessing the liquor and hospitality services offered by the event centre business at the Proposed Premises, overseen by experienced management,
 - b) allow members of the broader community and visitors to continue to enjoy, albeit less conveniently for some, these services which will no longer be available at the Current Premises regardless of the outcome of the Application.
30. Accordingly, the Authority is satisfied that approving the Application would be in line with the expectations, needs and aspirations of the local and broader communities, and contribute to the responsible and balanced development of the liquor industry and related industries such as the hospitality and tourism industries.

Negative social impacts

31. The relevant NSW BOCSAR data indicates that:
- a) for the year to September 2017, the Proposed Premises was not located within any hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault and malicious damage to property, and
 - b) for the two years to September 2017, the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in Abbotsbury and Fairfield LGA were considerably lower than the NSW state average.
32. The most recent HealthStats NSW data available at the time of the Authority’s consideration also indicates that the levels of alcohol attributable deaths and hospitalisations in Fairfield LGA were below the state average.

33. The relevant ABS Socio-Economic Indexes for Areas ('SEIFA') data for 2011 indicates that Abbotsbury ranked among the most advantaged suburbs, and Fairfield LGA among the most disadvantaged LGAs, in NSW on the Index of Relative Socio-economic Advantages and Disadvantage.
34. The Authority is satisfied, based on the above, that the prevailing level of alcohol related crime and health issues in the local and broader communities does not raise immediate concerns. Notwithstanding the presence of socio-economic disadvantage in the broader community, the risk that the liquor sold or supplied at the Proposed Premises will contribute to an increase in these issues is, in the Authority's view, sufficiently mitigated by the following:
- a) The absence of any objections from members of the public, or other key stakeholders such as NSW Police, NSW Health or Council, in relation to the Application.
 - b) Any potential social harm associated with the sale or supply of liquor at the Proposed Premises would be offset to some degree by the reduction in such harm following the removal of the Licence from the Current Premises in the same LGA.
 - c) The reduced trading hours sought for the Proposed Premises, including the hours sought for the ETA and SOOPA, compared with the existing trading hours of the Current Premises.
 - d) The agreed licence conditions, including a Plan of Management, supporting the responsible service of alcohol and minimisation of alcohol related harm.
 - e) The Applicant's history of managing the same business for 13 years without any complaints or compliance issues.

Overall social impact

35. Having considered the positive and negative social impacts that are likely to flow from the removal of the Licence, the Authority is satisfied that the overall social impact of approving the Application would not be detrimental to the well-being of the local and broader communities.
36. The Authority is also satisfied that a decision to approve the Application 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.
37. Accordingly, the Authority has decided to grant the removal of the Licence and the associated ETA and SOOPA from the Current Premises to the Proposed Premises.



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, indicating that Abbotsbury and Fairfield LGA ranked in the 9th and 1st decile respectively on the Index of Relative Socio-economic Advantage and Disadvantage on a scale of 1 to 10, with the 10th decile being the most advantaged and 1st decile the most disadvantaged.
2. HealthStats NSW data showing that Fairfield LGA recorded:
 - a. for the period 2012-13, a smoothed standardised mortality ration of 91.7 compared to the state average of 100, and
 - b. for the period 2013-15, a smoothed standardised separation ratio of 74.2 compared to the state average of 100.
3. NSW Recorded Crime Statistics 2016 setting out the proportion of incidents by offence type, day of week and time of day in Fairfield LGA.
4. Notice of determination of development application 61.1/2016, issued by Fairfield City Council on 26 July 2017, in relation to the Proposed Premises.
5. BOCSAR Crime Hotspot Maps for the year to September 2017, indicating the location of the Proposed Premises relative to hotspots for incidents of alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
6. NSW crime statistics published by BOCSAR indicating that:
 - a. for the year to September 2016, the rate of:
 - i. alcohol-related domestic assault in Fairfield LGA and Abbotsbury were 74.9 and 0 respectively, compared to the NSW average of 115.4,
 - ii. alcohol-related non-domestic assault in Fairfield LGA and Abbotsbury were 48.6 and 0 respectively, compared to the NSW average of 135.2,
 - iii. malicious damage to property in Fairfield LGA and Abbotsbury were 601.4 and 382.5 respectively, compared to the NSW average of 818.7,
 - b. for the year to September 2017, the rate of:
 - i. alcohol-related domestic assault in Fairfield LGA and Abbotsbury were 69.3 and 0 respectively, compared to the NSW average of 114.3,
 - ii. alcohol-related non-domestic assault in Fairfield LGA and Abbotsbury were 48.9 and 45.1 respectively, compared to the NSW average of 131.9, and
 - iii. malicious damage to property in Fairfield LGA and Abbotsbury were 532.4 and 270.3 respectively, compared to the NSW average of 793.2.
7. Plan of Management dated October 2017.
8. Completed Category B CIS dated 16 December 2017 and its supporting documents.
9. Completed application forms dated 18 December 2017, with a copy of identity documents and national police certificate attached.
10. Email from L&GNSW licensing officer to NSW Police on 8 February 2018, inviting comments or submissions in respect of the Application.
11. Signed notice to local consent authority, site notice and notice to neighbouring premises and other stakeholders, and notice to police, dated 18 December 2017.
12. Email from L&GNSW Compliance Operations on 16 February 2018 in relation to the Application.
13. L&GNSW liquor licensing records as at 5 March 2018 listing all on-premises liquor licences in Fairfield LGA, and all liquor licences in Abbotsbury.
14. L&GNSW liquor licensing records as at 8 March 2018 setting the number of licences, and density figures in terms of licences per 100,000 persons of the population, for all types of liquor licences in Abbotsbury, Fairfield LGA and NSW. The density of on-premises liquor licences is 112.31 in NSW, 51.30 in Fairfield LGA, and 47.03 in Abbotsbury.

15. Completed certifications of advertising applications dated 9 March 2018.
16. L&GNSW liquor licensing records as at 12 March 2018, setting out the key liquor details for the Licence held at the Current Premises.
17. Google map images extracted from the Google website on 12 March 2018, showing the location and photos of the Proposed Premises in map view, earth view and street view.
18. Correspondence between L&GNSW Licensing staff and the Applicant's legal representative between 8 February and 14 March 2018 in relation to the assessment of the Application.
19. L&GNSW compliance report dated 15 March 2018 indicating that there were no recorded violent incidents, complaints or breaches for the Current Premises between 1 January 1994 and 15 March 2018.
20. Premises plan for the Proposed Premises.
21. Media information about the event centre business at the Current Premises, and Western Sydney Parklands in which the Proposed Premises is located.