



Mr Warwick Caisley

AMW Lawyers

wcaisley@amwlawyers.com.au

26 July 2018

Dear Mr Caisley

Application No.	1-6647784107
Applicant	Number One Gun Concrete Pty Ltd
Application for	Packaged Liquor Licence
Licence name	IGA Abbotsbury
Trading hours	Monday to Sunday 10:00 am – 8:00 pm
Premises	Shop 1, 60-68 Stockdale Crescent Abbotsbury NSW 2176
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 – IGA Abbotsbury**

The Independent Liquor and Gaming Authority considered, at its meeting on 16 May 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 04:00 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
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st 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 March 2018 as may be varied from time to time after consultation with 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 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.

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 10:00 am.

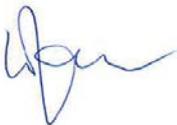
Approved manager or individual licensee

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

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

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

Yours faithfully



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

Statement of reasons

Decision

1. On 19 January 2018, Number One Gun Concrete Pty Ltd (“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 1, 60-68 Stockdale Crescent, Abbotsbury NSW 2176 (‘Premises’).
2. The Authority considered the Application at its meeting on 16 May 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 the 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 special conditions to be imposed on the licence, and
- c) the requisite development consent is in force, based on the Notice of Development Consent 478/99 in respect of the Premises, issued by Fairfield City Council on 31 March 1999.

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 Abbotsbury, and the relevant “broader community” comprises Fairfield City Council Local Government Area (“the LGA”).

Positive social impacts

25. The Authority is satisfied, on the basis of the Application, CIS and additional material provided by the Applicant that granting the licence will provide some reasonable public benefit by way of increased convenience to those members of the local and broader communities who wish to engage in “one-stop” shopping by purchasing packaged liquor products whilst grocery shopping at this IGA supermarket in Abbotsbury.
26. The Authority notes that Abbotsbury suburb and the LGA have a lower density of all types of liquor licences compared to respective NSW averages. The only other packaged liquor outlet in Abbotsbury is limited to the sale of liquor only by means of taking orders over the telephone, by facsimile, mail order or through an internet site. The Authority accepts that an additional packaged liquor licence would provide members of the local community with a conveniently located bottle shop facility.
27. The Authority has considered the submissions received from the Secretary and NSW Police, which raised no objections to the application. NSW Police did, however, request the imposition of several licence conditions including a condition restricting the types of liquor products permitted to be sold, to which the applicant has consented.
28. The Authority also notes that the applicant has consented to conditions that there would not be any sales of casks or flagons containing more than 4 litres of alcohol, no high alcohol ready to drink spirits, pre-made ready to drink shots, limited overproof spirits, or high alcohol beers above 6.1% alcohol volume.
29. The Authority also notes the letter of support received from a resident of Abbotsbury, which expresses support for the proposal on the basis of the following contentions:
- the increased convenience of purchasing liquor with groceries and one-stop shopping;
 - there is currently no bottle shop located in the suburb, requiring residents to leave the area in order to purchase packaged liquor;
 - the submitter does not envisage any negative impacts; and
 - the closing hours do not extend into the late evening.

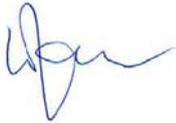
Negative social impact

30. The Authority has given thought to the single submission from another resident of Abbotsbury objecting to the Application. The resident objected to the Application on the basis that:
- the local demand would not be likely to sustain a viable liquor outlet;
 - there would be increased traffic and risk to pedestrians;
 - the availability of liquor may create problems relating to offensive behaviour at the local park;
 - the liquor outlet may result in an escalation of crime rates at the shopping centre; and
 - the quiet suburb of Abbotsbury is not a suitable location for a liquor outlet.
31. The Authority notes these claims were not supported by any objective data or trend analysis; and that these issues were not raised by NSW Police.
32. The Authority has considered the BOCSAR crime maps for the year ending December 2017 which show that the Premises is not located within crime hotspots for alcohol-related assault, domestic assault, non-domestic assault or malicious damage to property.
33. The Authority also notes that the BOCSAR crime data for Abbotsbury suburb and Fairfield LGA indicates that rates of alcohol-related domestic assault, alcohol-related non-domestic assault, malicious damage to property and alcohol-related offensive conduct for the year ending December 2017 are all significantly lower than the average NSW incident rates for these crime types over the same reporting period.
34. The Authority notes the NSW Healthstats which indicate that alcohol-related hospitalisations and deaths in Fairfield LGA have remained lower than the state average for the last ten years of available data.
35. The Authority notes from the SEIFA data for 2016 Index of Relative Socio-economic Advantage and Disadvantage that Abbotsbury suburb is relatively advantaged in relation to all suburbs across the state, whereas the LGA is significantly disadvantaged in comparison to other LGAs in NSW.
36. The Authority accepts that there may be a risk that if the Licence were to be granted, liquor sold or supplied at the Premises will, over time, contribute to an increase in alcohol related crime and health issues in the local and broader communities.
37. The Authority is however satisfied that the risk are adequately mitigated by the following:
- a) the prevailing level of alcohol related crime and health issues in the community is relatively low;
 - b) the only objecting submission was not supported by any objective data or trend analysis and the other submissions received from key stakeholders consulted, such as NSW Police and NSW Health did not object the Application;
 - c) the relatively small licensed area, which will help to further reduce any adverse impact its operation may have on the amenity of the community by having a reduced supply of liquor products available;

- d) the fact that the Applicant has consented to all proposed conditions, and committed to adhering to the measures set out in the Plan of Management to ensure the responsible serving of alcohol; and
- e) the Applicant's confirmation that all staff involved in the sale and supply of liquor will complete an approved Responsible Service of Alcohol course, and measures will be in place to ensure minors do not gain access to liquor.

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. 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.
40. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Phillip 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. HealthStats NSW data showing alcohol-attributable deaths in the LGA for the period 2012-13; with a Smoothed Estimate of Standardised Mortality Ratio of 91.70, and alcohol-attributable hospitalisations in the LGA for the period 2013-15; with a Smoothed Estimate of Standardised Separation Ratio of 74.20.
2. ABS SEIFA data based on the 2016 Census for Abbotsbury and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage indicates that the suburb is ranked in the 9th decile, while the LGA ranks in the 1st decile compared to other suburbs and LGAs in NSW.
3. NSW Recorded Crime Statistics 2016 outlining the proportion of offences in the LGA by day of week and time of day.
4. Notice of determination issued by Fairfield City Council on 3 July 2017 approving the development application/modification of development consent 295399/2017 in relation to the Premises.
5. Floor plan dated 20 October 2017 indicating the proposed liquor sales area within the Premises.
6. BOCSAR crime maps for the year to December 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
7. NSW crime statistics for the two years to December 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 Abbotsbury and the LGA. The data indicates the following:
 - o 45.1 incidents of alcohol related domestic assault per 100,000 persons for the suburb, compared to 73.6 for the LGA and 114.4 for NSW;
 - o 22.5 incidents per 100,000 persons for alcohol related non domestic assault for the suburb, compared to 47.5 for the LGA and 130.7 for NSW;
 - o 292.9 incidents per 100,000 persons for malicious damage for the suburb, compared to 543.0 for the LGA and 788.7 for NSW; and
 - o 0.0 incidents per 100,000 persons for alcohol related offensive conduct for the suburb, compared to 4.4 for the LGA and 42.8 for NSW.
8. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 19 December 2017.
9. Completed application dated 19 December 2017.
10. Submission from local resident on 9 January 2018 in relation to the Application.
11. Completed Category B Community Impact Statement dated 9 January 2018.
12. Correspondence between L&GNSW staff and the Applicant between 16 February 2018 and 30 April 2018 in relation to the assessment of the Application.
13. ASIC business records in relation to the Application extracted on 19 February 2018.
14. Submission from L&GNSW Compliance on 21 February 2018 in relation to the Application.
15. Submission from NSW Police on 28 February 2018 in relation to the Application.
16. Certification of Advertising signed and dated 28 February 2018.

17. Plan of Management documents for the Premises, titled Plan of Management IGA Abbotsbury and dated March 2018.
18. Submission from a local resident on 23 April 2018 in relation to the Application.
19. Google map images extracted from the Google website on 29 April 2018, showing the location and photos of the Premises in map view, earth view and street view.
20. L&GNSW liquor licensing records as at 29 April 2018, outlining the density of all types of liquor licences in Abbotsbury, the LGA and NSW, and listing all packaged liquor licences in Abbotsbury and the LGA.