



Mr George Smith
Design Collaborative
Level 3/225 Clarence Street
Sydney NSW 2000
georgesmith@designcollaborative.com.au

26 September 2016

Dear Mr Smith,

APPLICATION NO: 1-4213544846
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Sunday 10:00 – 22:00

APPLICANT: Hassy Investments Pty Ltd
**PROPOSED LICENSED PREMISES
NAME:** Harry's Liquor

PREMISES ADDRESS: Shop 1/50 Windsor Road KELLYVILLE
2155

ISSUE: Whether to grant or refuse an application
for a new packaged liquor licence.

LEGISLATION Sections 3, 29, 30, 31, 40, 45, and 48
Liquor Act 2007

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION FOR
NEW PACKAGED LIQUOR LICENCE – HARRY'S LIQUOR**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 14 September 2016 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application number 1-4213544846 subject to the following conditions:

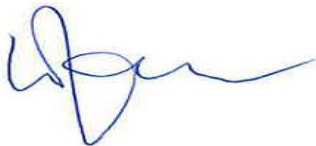
1. Trading Hours
Monday to Sunday 10:00AM – 10:00PM
2. Section 11A of the *Liquor Act 2007* applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 4.00 AM and 10.00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
3. Retail sales:

Good Friday	Not permitted
December 24 th	Normal trading Monday to Sunday, 10am to 10pm
Christmas Day	Not permitted
December 31 st	Normal trading

4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. 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.
6. The premises are to be operated at all times in accordance with the Plan of Management dated 27 July 2016 as may be varied from time to time in consultation with the Local Area Commander.
7. The licence cannot be exercised unless and until the Independent Liquor & Gaming Authority has been provided with evidence that the premises are complete and ready to trade.
8. The licensee must install and maintain a CCTV security system with cameras covering entrance and exit points and all sales points on the premises.
 - a) The cameras are to be of a type and in a position that will enable identification of offenders committing offences within the premises.
 - b) The cameras are to be operating at all times whilst the premises are trading.
 - c) All recordings to be kept for a period of no less than 1 month in a format able to be accessed and viewed by investigating authorities.
 - d) An operator must be present during trading hours and be able to play back and copy footage upon request of investigating authorities.

If you have any enquiries about this letter please contact the case manager via email to santina.causa@ilga.nsw.gov.au

Yours faithfully



Philip Crawford

Chairperson

For and on behalf of the **Independent Liquor & Gaming Authority**

STATEMENT OF REASONS

Material Before the Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the licence removal application (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-demographic data pertaining to the local and broader communities, sourced by licensing staff from publicly available sources. That material is listed and in some cases briefly summarised in the Schedule.

Summary of Further Submissions

3. On 2 May 2016 a submission was received from Licensing Officer, Sergeant Cowell of The Hills Local Area Command (LAC) of NSW Police (Police) advising that while Police do not object to the Application, they raise concerns as to the impact of the new business upon the students of nearby schools, who frequent other shops in the complex. Police request that the Applicant provide in their plan of management measures for reporting, managing, and combating secondary supply of alcohol to minors. Police also request that a condition be imposed upon the license, requiring the installation and maintenance of CCTV cameras at the Premises.
4. On 14 June 2016 a submission was received from the Department of Justice via the Compliance Branch of LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed a specific assessment of the Application.

Legislative Framework

5. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the Act and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
6. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
 - (1) *The objects of this Act are as follows:*
 - (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*
 - (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*

- (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
- (2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
- (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
 - (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
 - (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*
7. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
 8. An application for a new packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
 9. Section 48(5) of the Act requires that the Authority must not grant the Application unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
 10. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Kellyville while the “broader community” comprises the responsible Local Government Area, The Hills Shire LGA.

Analysis of Relevant Facts

11. The Authority is satisfied, on the basis of the Application material before the Authority that for the purposes of Section 40 of the Act the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied. This finding is also made on the basis of the Application and CIS material and certification of advertising and stakeholder notices provided by the Applicant.
12. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. This finding is made on the basis of the information provided by the Applicant and that no issues of concern were raised with regard to the Applicant’s probity following consultation with relevant law enforcement agencies including Police and LGNSW.
13. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act that responsible service practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Plan of Management* dated 27 July 2016 provided by the Applicant.

14. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act that the required development consent is in force for the proposed use of the Premises as a packaged liquor licenced business, on the basis of DA No. 96/85 issued by The Hills Shire Council (Council).

Social Impact – Positive Benefits

15. The Authority is satisfied, on the basis of the information provided by the Applicant in the Application and CIS, that the new liquor license will replace an existing liquor license (LIQP700382538) that has recently been removed to 90-92 Wrights Road, Kellyville.
16. The Authority is satisfied that the Premises has been trading as a liquor store for approximately 40 years and has not generated negative impact on the community sufficient to warrant any comment or objection by local law enforcement authorities.
17. The Authority is also satisfied, on the basis of the Application and CIS material, that the Applicant distributed notices to the surrounding community which resulted in no objection from the local community, Police, LGNSW, Council or any relevant stakeholders. On this basis the Authority is satisfied that granting the licence would be consistent with the “expectations needs and aspirations” of the local or broader community within the meaning of section 3(1)(a) of the Act.
18. The Authority is satisfied that by granting the Application, the enhanced choice and convenience for customers of the Proposed Premises will be consistent with the expectations, needs and aspirations of the community within the meaning of section 3(1)(a) of the Act. Those benefits are somewhat reduced by reason of the considerable availability of liquor outlets authorised to sell or supply takeaway liquor in the local and broader community.

Social Impact – Negative Impacts

19. The Authority is satisfied that over time there will likely be some contribution from the liquor sold at the Proposed Premises to alcohol related crime, disturbances or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Proposed Premises.
20. The scale of the Proposed Premises is slightly larger than a typical liquor store, having an area of 121 square metres. This, and the extensive licensed trading hours sought by the Applicant are adverse factors when considering the scope for this new business to contribute to adverse alcohol related social impacts in the relevant communities over time.
21. However, the Authority is satisfied, on the basis of the Application and CIS that the Premises has been the site of a liquor store for approximately 40 years. The material before the Authority does not indicate that the site has generated sufficient negative social impact to warrant comment from local law enforcement authorities as to the location of the proposed new licence. The Premises is not located within an Alcohol Free Zone.
22. While the Authority has considered the concerns raised by Police as to the location of the Premises in relation to school children there is no objection from any school and

Police have not provided evidence as to any localised problems with underage or youth drinking, public drinking or other anti-social conduct in the area where the Premises is located.

23. BOCSAR crime maps based upon data from April 2015 to March 2016 satisfy the Authority that the Premises is not located within or near any hotspots for the concentration of *alcohol related crime*.
24. Noting that this Application concerns a packaged liquor premises authorised to sell liquor for consumption *away* from the Premises, there are multiple hotspots for the concentration of incidents of *domestic-violence assault* and *malicious damage to property* in the suburb of Kellyville as well as one low density hotspot for the concentration of *alcohol related assault*.
25. LGNSW liquor license density data indicates that there are presently 2 packaged liquor licences in the suburb of Kellyville and no full hotel licences or club licences. There is presently 1 other packaged liquor licence application in train for Kellyville. The Authority is mindful that granting both of these licences would represent a substantial increase in the availability of packaged liquor compared to what has previously been available in Kellyville.
26. In relation to The Hills Shire LGA, LGNSW records indicate that the rates of *packaged liquor licences*, *registered club licences* and *full hotel licences* per 100,000 persons in the broader community are substantially lower than NSW as a whole. That is, licence density for the broader community is relatively low.
27. When assessing the contribution that this licence may make to alcohol related crime, considerable reassurance is provided by the BOCSAR alcohol related crime data for the Hills Shire LGA from 2013. This data establishes that the broader community (from which the hotspot data is derived) has considerably lower rates of offences per 100,000 persons of population than the rates recorded for New South Wales as a whole. This applies in the categories of *alcohol-related domestic assault*, *alcohol-related non-domestic assault*, *alcohol related offensive conduct* and *alcohol related assault police*. Furthermore, BOCSAR data provided by the Applicant indicates that crime rates for (overall) *domestic violence*, *non-domestic violence*, and *malicious damage to property* events in Kellyville and The Hills Shire LGA for 2012 to 2014 indicate that both communities maintain substantially lower rates of offences in those crime categories compared to the rates for NSW as a whole.
28. The Authority has also taken into account the further harm minimisation measures outlined in *Plan of Management* provided by the Applicant as part of the Application and is satisfied that the licensee and staff will implement internal business practices and plans designed to reduce the extent of adverse impact arising from the abuse of liquor sold from the Premises. The Authority is further reassured by the Applicant's consent to a condition requiring the provision of CCTV surveillance of Premises.
29. The Authority has imposed several conditions (specified at the start of this letter), which have also been taken into account when assessing the overall social impact of granting the Application.

Conclusion

30. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, RMS, neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
31. Having considered together the positive benefits and negative impacts that the Authority is satisfied are likely to flow from granting the Application, and notwithstanding some concern about the increasing density of packaged liquor premises in Kellyville the Authority is satisfied, on the material before it, that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
32. The Application is granted under section 45 of the Act.
33. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Decision Date: 14 September 2016



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 in the liquor and gaming website

<https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilqa/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. Application form lodged on 15 March 2016.
2. CIS document and supporting material that accompanies the Application dated 11 March 2016. Briefly, the Applicant makes the following contentions on the overall social impact of granting the licence:
 - (a) The Premises is small, covering 121 square meters and has been licensed for about 40 years until the licences was removed to a premises in Wrights Road, Kellyville.
 - (b) The suburb of Kellyville is very advantaged, landing in the highest decile in both NSW and Australia on the Index of Relative Socio-Economic Advantage and Disadvantage;
 - (c) BOCSAR data indicates very low levels of crimes usually associated with alcohol;
 - (d) There are three packaged liquor licences and no hotels in the suburb of Kellyville;
 - (e) The Premises has been licensed to sell packaged liquor for over 40 years and has done so without any apparent unreasonable consequences;
 - (f) The recent legislative change restricting the trading hours of packaged liquor licences should have reduced any untoward impacts that the presence of the licence at the premises may have caused in the past;
 - (g) Harry's Liquor stores are well-managed, comply with legislation and its house policy, have CCTV systems installed, and employ well-trained staff; and
 - (h) Harry's Liquor stores have traded in suburbs where the socio-demographic characteristics of the population are more conducive to problems associated with the consumption of liquor than those of the suburb of Kellyville.
3. Stakeholder notices dated 11 March 2016.
4. Aerial geographical map depicting the 100m radius of notifying the Application and the properties notified.
5. Aerial geographical map depicting the Premises and the surrounding area.
6. List of community facilities and stakeholders notified of the Application.
7. A street map of the area surrounding the Premises, indicating the location of the Premises.
8. A map depicting the boundaries of the suburb of Kellyville and the location of the Premises.

9. ABS Statistics from the 2011 Census relating to the suburb of Kellyville and The Hills Shire LGA.
10. BOCSAR statistics from 2013 to 2015 recording the rates of domestic violence, non-domestic violence, and malicious damage to property in NSW, The Hills Shire and Kellyville.
11. Submission from RMS dated 1 May 2015. This submission does not record an objection to the Application but requests that public education material relating to drink drive and pedestrian-alcohol issues be provided in the Premises and that staff draw attention to the safe party kit available on the police website for customers who are buying large quantities of alcohol.
12. Submission received from Senior Constable Xuereb of NSW Police, The Hills Local Area Command, dated 13 May 2015. This submission does not record an objection to the Application but expresses concern of increased risk of underage drinking and secondary sales of alcohol to minors due to the number of schools located within close proximity to the Premises. Police also express concern that there are an increasing number of licensed premises within The Hills Local Area Command. Police request that CCTV cameras be installed at the Premises covering the entry and exit points of the liquor store.
13. Liquor licensing records indicating that the suburb of Kellyville currently has:
 - (a) 0 registered club licences;
 - (b) 0 hotel licence; and
 - (c) 2 packaged liquor licences
14. Liquor licence density data obtained by the Authority from licensing records that are publicly available from LGNSW indicate that The Hills Shire LGA as a whole recorded:
 - (a) A rate of **7.66 packaged liquor licences** per 100,000 persons, which is below the NSW state wide rate of **32.85**.
 - (b) A rate of **2.94 registered club licences** per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **5.89 full hotel licences** per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
15. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for period between July 2014 and June 2015. This data indicates that:
 - (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across The Hills Shire LGA was **28** per 100,000 persons, well below than the New South Wales rate of **145** per 100,000 persons.
 - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in The Hills Shire LGA for 2013 was **47**, significantly less than the State wide rate of **191**.

- (c) The rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across The Hills Shire LGA was **18** per 100,000 persons, well below than the State wide rate of **83**.
- (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across The Hills Shire LGA was **4**, lower than the rate of **24** per 100,000 for New South Wales as a whole.
16. BOCSAR Statistics for the years 2012, 2013, 2014 ending in September provided by the Applicant. This data indicates that:
- (a) The rates of *domestic violence related assault* incidents per 100,000 persons in the suburb of Kellyville, The Hills LGA, and NSW were as follows:
- i) Kellyville had a rate of **190.3** in 2012, a rate of **167.1** in 2013, and a rate of **162.4** in 2014.
 - ii) The Hills Shire LGA had a rate of **139.3** in 2012, a rate of **154.8** in 2013, and a rate of **123.2** in 2014.
 - iii) NSW had a rate of **383.1** in 2012, a rate of **400.1** in 2013, and a rate of **396.5** in 2014.
- (b) The rates of *non-domestic violence related assault* incidents per 100,000 persons in the suburb of Kellyville, The Hills LGA, and NSW were as follows:
- i) Kellyville had a rate of **157.8** in 2012, a rate of **157.8** in 2013, and a rate of **125.3** in 2014.
 - ii) The Hills Shire LGA had a rate of **153.7** in 2012, a rate of **154.3** in 2013, and a rate of **145.4** in 2014.
 - iii) NSW had a rate of **473.2** in 2012, a rate of **438.1** in 2013, and a rate of **422** in 2014.
- (c) The rates of *malicious damage to property* incidents per 100,000 persons in the suburb of Kellyville, The Hills LGA, and NSW were as follows:
- i) Kellyville had a rate of **385.2** in 2012, a rate of **427** in 2013, and a rate of **385.2** in 2014.
 - ii) The Hills Shire LGA had a rate of **522.7** in 2012, a rate of **457.2** in 2013, and a rate of **385.7** in 2014.
 - iii) NSW had a rate of **1080.5** in 2012, a rate of **949** in 2013, and a rate of **882.5** in 2014.
17. BOCSAR Crime Maps based upon data from April 2015 to March 2016.
18. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:
- (a) The Hills Shire LGA ranked in the 10th decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).

- (b) The state suburb of Kellyville ranked in the 10th decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.
19. Plan of Management for Harry's Liquor Kellyville, dated 27 July 2016.
 20. ASIC Company Extract for Hassy Investments Pty Ltd, dated 11 March 2016.
 21. Certificate of Advertising signed by Denise Tse on behalf of the Applicant on 4 April 2016.
 22. Plan of the Premises indicating the proposed licensed area in red.
 23. DA number D 96/85 issued by Baulkham Hills Shire Council, dated 1 May 1996.
 24. Submission and EVAT Report dated 14 June 2016 from a Delegate of the Secretary of the Department of Justice via the Compliance Branch, LGNSW.
 25. Submission from Sergeant Cowell of NSW Police, The Hills Local Area Command, dated 2 May 2016.
 26. OneGov liquor licence details for license number LIQP70382538, as recorded at 31 August 2016.
 27. Email from Authority staff to the Applicant, sent 31 March 2016.
 28. Email from the Applicant to Authority staff, sent 4 April 2016.
 29. Email from Authority staff to the Applicant, sent 4 April 2016.
 30. Email from the Applicant to Authority staff, sent 8 April 2016.
 31. Email from Mary Pereira of The Hills Shire Council to the Applicant, sent 8 April 2016.
 32. Email from Authority staff to the Applicant, sent on 22 July 2016.
 33. Email from the Applicant to Authority staff, sent on 27 July 2016.