



Dru Gillan
c/o Service Industry Legal Services
Level 8, 65 York Street
Sydney NSW 2000

23 August 2016

Dear Mr Gillan,

APPLICATION NO: 1-3799125401
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Sunday 10:00AM – 10:00PM

APPLICANT: Mr Phana Srey
**PROPOSED LICENSED PREMISES
NAME:** Little Bottle Shop (Cabramatta)

PREMISES LOCATION: Shop 1/263 Cabramatta Road west,
Cabramatta (Premises)

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

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

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION FOR
NEW PACKAGED LIQUOR LICENCE – LITTLE BOTTLE SHOP (CABRAMATTA)**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 13 July 2016 and pursuant to section 45 of the *Liquor Act 2007* (Act), has decided to **grant** the Application number 1-3799125401 subject to the following conditions:

1. Trading Hours Retail Sales
Monday – 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 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.
3. Retail Sales
Good Friday Not permitted

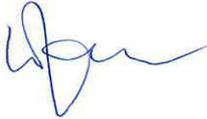
December 24th Normal trading Monday to Saturday, 8:00AM to 10:00PM Sunday

Christmas Day Not permitted

December 31st Normal trading

4. The business authorised by this licence must not operate with a greater overall level of social impact on the well being 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.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. The premises are to be operated at all times in accordance with the Plan of Management dated October 2015 as may be varied from time to time after endorsement by 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 is complete and ready to trade.

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 & 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 new packaged liquor licence 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) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

Summary of Further Submissions

3. Report to the Authority dated 15 December 2015 from Compliance Branch of the Office of Liquor, Gaming and Racing, now LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment of the Application.
4. Certificate of Advertising signed by the Applicant dated 2 December 2015.
5. Email from the Applicant to the Authority dated 27 April 2016 consenting to conditions regarding the 6-hour closure period, operating in a manner consistent with the CIS, compliance with the Plan of Management dated October 2015, participation in the Local Liquor Accord, and that the licence not be exercised until the Premises is complete and ready to trade. Licensed trading hours are from 10am and 10pm Monday to Sunday.

Legislative Framework

6. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* (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.
7. 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.*
- 8. 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.
- 9. 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.
- 10. 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”.
- 11. 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 Cabramatta while the “broader community” comprises the responsible Local Government Area (LGA), the Fairfield LGA.

Analysis of Relevant Facts

- 12. The Authority is satisfied, on the basis of the Application and CIS 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.
- 13. 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. The Authority notes the Applicant’s National Police Certificate and notes that no probity issues were raised following consultation with law enforcement agencies including Police and LGNSW.
- 14. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Plan of Management* dated October 2015, which also contains a *House Policy* and was provided by the Applicant.
- 15. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the required development consent is in place, on the basis of the Development Approval (DA) No. 661.1/2015.

Social Impact – Positive Benefits

16. The Authority is satisfied, on the basis of the Application and CIS, that granting the licence will provide some benefit of additional convenience to members of the local and broader community who wish to purchase packaged liquor from the Premises.
17. The Authority accepts that the Applicant has distributed notices to the surrounding community and relevant stakeholders and has received no objections. The Authority is satisfied on the basis of the CIS and the nature of responses and lack of any local opposition that granting the Application will be consistent with the “expectations, needs and aspirations of the community” in respect of the local community of Cabramatta, being an object of section 3(1)(a).
18. Liquor licence records indicate that there are currently 2 packaged liquor licences within the suburb of Cabramatta. The Authority accepts the Police advise that the BWS located in Cabramatta West has temporarily ceased trading. On this basis, the Authority is satisfied that the proposal will, albeit to a modest extent, contribute to the development of the liquor industry for the purposes of section 3(1)(b) of the Act.
19. While the Applicant’s contentions as to boosting the local economy and employment may be generally credible, in the absence of a clear commitment from the Applicant as to the hiring policy of the business and evidence substantiating the extent of this contention, it is difficult to give those submissions great weight.
20. However, while the benefits are difficult to quantify on the material before the Authority the Applicant’s submission that granting the licence will increase competition is accepted, noting the small number of retail packaged liquor businesses currently operating in the local community.

Social Impact – Negative Impacts

21. Having reviewed all the material, the Authority is satisfied that over time there will likely be some contribution from the liquor sold at the licensed business to alcohol related crime, disturbance or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
22. The extensive trading hours sought by the Applicant for the Premises (10:00am to 10:00pm Monday through Sunday) are an objective factor that expands the scope for potential adverse impact from the liquor sales made by this business.
23. On the basis of the CIS and additional information provided by the Applicant, the Authority is satisfied that the Premises is of medium scale, approximately 83 square metres with substantially fewer lines of liquor sold than a traditional liquor store.
24. There is some cause for concern arising from the ABS Socio-economic Indexes for Areas (SEIFA) data which indicates that both the Fairfield LGA and the state suburb of Cabramatta ranked in the 1st decile compared to other local government areas and state suburbs in the state of NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
25. The Authority further notes that the BOCSAR Crime Maps for the period between January 2015 and December 2015 indicate that the Premises *is located within high*

density hotspots for incidents of malicious damage to property and non-domestic assault and on the boarder of a high and medium density hotspot for incidents of domestic assault.

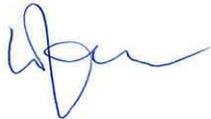
26. However, those local concentrations are assessed by BOCSAR as arising in the context of a broader community that has significantly lower rates compared to NSW as a whole, for incidents of *domestic violence related assault, non-domestic violence related assault, offensive conduct, assault police and malicious damage to property.*
27. Comprehensive consultation between the Applicant and Police did not give rise to Police raising concerns relating to abuse of packaged liquor or localised anti-social conduct or alcohol related crime. Police did raise concerns about minors potentially obtaining access to liquor, consumption by staff members and the risk of theft the Authority is satisfied that these concerns were resolved by the Applicant with enforceable conditions within the Plan of Management dated October 2015.
28. The licensed premises and density records satisfy the Authority that licence density per se is not a particular cause for concern within the relevant communities.
29. The Applicant has implemented comprehensive harm minimisation measures evident though the Plan of Management dated October 2015. The procedures in that document satisfy the Authority that the Applicant and all staff members will be adequately trained and engage in measures to minimise the extent of adverse impact arising from the abuse of liquor sold at the Premises.
30. The Applicant has agreed to mandatory enforceable licence conditions and amended the Plan of Management to implement the Police recommendations regarding the consumption of alcohol by staff members and the secured storage of high proof spirits have also been taken into account.

Conclusion

31. 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 are NSW Police, the Licensee, Council, NSW Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
32. Having considered together the positive benefits and negative impacts that the Authority are satisfied are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
33. The Application is granted pursuant to section 45 of the Act.
34. 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: 23 August 2016

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Philip Crawford
Chairperson

SCHEDULE

Material Before The Authority

1. Application form lodged on 26 November 2015.
2. CIS document and supporting material dated 26 November 2015. Briefly, the Applicant makes the following contentions on the overall social impact of granting the Application in the CIS and Attachment A to the CIS:
 - (a) The Premises, along with the adjoining carparks, is situated within an alcohol free zone and this will “only reinforce the preservation of the peace, quiet and good order of the neighbourhood”;
 - (b) The Applicant will adopt the initiatives requested by RMS in their submission letter dated 12 October 2015;
 - (c) The CIS Notice was forwarded to 128 occupiers of neighbouring premises on 2 October 2015 and no responses were received;
 - (d) The Applicant met with Police and modified the Plan of Management to include provisions regarding staff consumption and theft;
 - (e) Granting the Application “will result in substantial stakeholder benefits, including increased social and recreational opportunities for local residents, business people and tourists in the area, and increased employment and economic activity”;
 - (f) The people in the local community who use the services provided will “derive social benefit” as the licence will help satisfy a “legitimate public demand”. The Applicant contends that the Application will: increase the levels of convenience experienced by people who live or work in the area; boost the local economy by increasing expenditure in the local area; increase competition among local businesses; and result in some degree of local employment.
3. Plan of Management and House Policy dated October 2015.
4. Copies of Stakeholder Notices notifying the Application to various stakeholders.
5. Identification documents for the Approved Manager.
6. National Police Certificate No. NCHRC-2015-92353 for the Applicant.
7. List of stakeholders and special interest groups notified of the Application.
8. Email to the Applicant from Sgt Paul Leaney at Cabramatta Local Area Command (LAC) of NSW Police (Police) attaching the amended Plan of Management dated October 2015 adding conditions addressing police concerns.
9. Email from Police to the Applicant dated 8 October 2015 advising that the Plan of Management meets the Police requirements. Police state “residual concerns” of an increase of traffic to the location/traffic congestion and whether the needs of the community have already been met.

10. Email to the Applicant from Police dated 27 October 2015 advising that Police *do not object* provided that the BWS in Cabramatta West remains closed and a condition requiring compliance with Plan of Management is imposed upon the licence.
11. Submission from RMS dated 12 October 2015.
12. DA 661.1/2015 issued by Fairfield City Council (Council) dated 21 December 2015.
13. Google geographical map depicting an aerial view of the location of the Premises.
14. BOCSAR Crime Maps based upon data from January 2015 to December 2015 detailing hotspots for the concentration of offences near the location indicating that the Premises:
 - (a) Is located *on the border of a high and medium density hotspot* for incidents of *domestic assault*
 - (b) Is located *within a high density hotspot* for incidents of *non-domestic assault*
 - (c) Is located *within a high density hotspot* for incidents of *malicious damage to property*
15. Liquor licensing records indicating that the suburb of Cabramatta already has 3 registered club licences; 2 full hotel licences; and 2 packaged liquor licences.
16. Liquor licence density data derived from licensing records that are publicly available from LGNSW indicating that the Fairfield LGA as a whole recorded:
 - (a) a rate of **6.92 packaged liquor licences** per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
 - (b) a rate of **2.66 registered club licences** per 100,000 persons, well below the NSW state wide rate of **20.48**.
 - (c) a rate of **5.33 full hotel licences** per 100,000 persons, well below the NSW state wide rate of **30.36**.
 - (d) a rate of **5.86 on-premises licences** per 100,000 persons, well below the NSW state wide rate of **121.31**.
 - (e) a rate of **10.65 producer wholesaler licences** per 100,000 persons, substantially below the NSW state wide rate of **28.76**.
17. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:
 - (a) the rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Fairfield LGA was **89** per 100,000 persons, significantly less 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 Fairfield LGA for 2013 was **81**, substantially below the State wide rate of **191**.

- (c) the rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across this LGA was **6** per 100,000 persons, well below the State wide rate of **83**.
 - (d) the rate of *assault police* incidents flagged by reporting Police as alcohol related across the Fairfield LGA was **13**, substantially below the rate of **24** per 100,000 for New South Wales as a whole.
 - (e) the rate of *malicious damage to property* offences flagged by reporting Police as *alcohol related* across this LGA was **54** per 100,000 persons, substantially below the State wide rate of **122**.
18. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:
- (a) The Fairfield LGA ranked in the 1st 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 Cabramatta ranked in the 1st decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.
19. Report to the Authority dated 15 December 2015 from Compliance Branch of the Office of Liquor, Gaming and Racing, now LGNSW.
20. Certificate of Advertising signed by the Applicant dated 2 December 2015.
21. Email from the Applicant to the Authority dated 27 April 2016.