

NSW Independent Liquor & Gaming Authority

Our ref: DF24/028336

Ms Rebecca Pope
Liquor and Gaming Solutions

18 December 2024

Dear Ms Pope

Application No.	APP-0013565898
Applicant	EMBROSS PTY LTD
Application for	New packaged liquor licence
Application date	21 August 2024
Decision date	12 December 2024
Licence name	Shoal Bay Liquor
Trading hours	Monday to Thursday 10:00 AM – 09:00 PM Friday and Saturday 10:00 AM – 10:00 PM Sunday 10:00 AM – 09:00 PM
Premises	11/46-50 Austral Road Nelson Bay NSW 2315
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 53, 48, 114 and 123 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application for a new packaged liquor licence – Shoal Bay Liquor

We **approve** the application above under section 45 of the *Liquor Act 2007* – with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

Approved manager or individual licensee

The licence cannot be exercised until the Authority or Liquor & Gaming NSW is notified that:

- the licence is transferred to an individual licensee, or an approved manager is appointed; and
- the licensee or approved manager is a suitable and qualified person.

Mixed-use checkouts must be closed outside licensed hours

Under section 103(2) of the Act, any counter or place used to sell or supply liquor under the licence, including any mixed-use checkouts in the liquor sales area, must be closed to the public outside the licensed trading hours.

Statement of reasons

We are satisfied that the overall impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our main findings

The local community for the purposes of this decision is Nelson Bay. The broader community is the Local Government Area (LGA) of Port Stephens.

Positive social impacts

The application seeks to operate a liquor sales area within an existing IGA supermarket in a large tourist area.

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

Negative social impacts

We considered the objection from NSW Health and accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- high density hotspots in the suburb for domestic and non-domestic assault as well as for malicious damage to property and alcohol-related assault
- higher crime rates for alcohol-related domestic and non-domestic assault as well as malicious damage to property in both the suburb and LGA compared to NSW
- higher saturation rate of packaged licences in the suburb compared to NSW
- suburb and LGA having a higher than average population of the Aboriginal and Torres Strait Islander community compared to other areas in NSW
- higher rate of alcohol-attributable deaths in the LGA compared to NSW.

However, we are satisfied that these risk factors are reduced by the:

- lower crime rate for alcohol-related disorderly conduct offensive conduct in the suburb and LGA compared to NSW
- lower rate of alcohol-attributable hospitalisations in the LGA compared to NSW
- Socio-Economic Indexes for Areas (SEIFA) data indicating an average level of socio-economic advantage and disadvantage in the suburb and LGA compared to NSW
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a Statement of Risks and Potential Effects

- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

We also considered [Guideline 6](#) to assess the likely social impact to the local and broader community.

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

Opportunity for review

The applicant and anyone who was notified of the application and made a submission, may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the website. There is a fee to lodge the application.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

If you have any questions

Please contact the case manager, Leonie Jennings, at Liquor & Gaming NSW if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

Independent Liquor & Gaming Authority

Schedule 1: Licence conditions to be imposed - Shoal Bay Liquor

No.	Condition to be imposed	Description								
1.	6-hour closure	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 six (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 & NYE	<table border="0"> <tr> <td>Good Friday</td> <td>Not permitted</td> </tr> <tr> <td>December 24th</td> <td>Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</td> </tr> <tr> <td>Christmas Day</td> <td>Not permitted</td> </tr> <tr> <td>December 31st</td> <td>Normal trading Monday to Saturday 10:00 AM to 12:00 midnight Sunday</td> </tr> </table>	Good Friday	Not permitted	December 24th	Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday	Christmas Day	Not permitted	December 31st	Normal trading Monday to Saturday 10:00 AM to 12:00 midnight Sunday
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3.	Overall impact	The business authorised by this licence must not operate with a greater overall level of overall impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the application and other information submitted in the process of obtaining the licence.								
4.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.								
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated November 2024 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.								
6.	CCTV	<ol style="list-style-type: none"> 1. The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/specialty store in accordance with the following requirements: <ol style="list-style-type: none"> a. the system must record continuously from opening time until one hour after the supermarket/specialty store is required to close, b. recordings must be in digital format and at a minimum of ten (10) 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: <ol style="list-style-type: none"> i. all entry and exit points to the supermarket/specialty store, and ii. all publicly accessible areas (other than toilets) within the liquor sales area. 2. The licensee must also: <ol style="list-style-type: none"> a. keep all recordings made by the CCTV system for at least 30 days, 								

No.	Condition to be imposed	Description
		<ul style="list-style-type: none"> 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.
7.	Crime scene preservation	<p>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:</p> <ul style="list-style-type: none"> 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 and 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. <p>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 (eg. crowd controller or bouncer) on or about the premises.</p>
8.	Incident Register	<ul style="list-style-type: none"> 1. The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident: <ul style="list-style-type: none"> a. any incident involving violence or anti-social behaviour occurring on the premises, b. any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises, c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007, d. any incident that results in a patron of the premises requiring medical assistance. 2. The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector: <ul style="list-style-type: none"> a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and

No.	Condition to be imposed	Description
		<ul style="list-style-type: none"> b. allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises. 3. The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.
9.	Adequate separation	The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 12 December 2024 or any premises plan subsequently approved by the Authority.