



Ms Catherine Monica Antaw
Reidlaw

By email to: cath.antaw@reidlaw.com.au

8 December 2023

Dear Ms Antaw

Application No.	APP-0010108916
Applicant	Darren Joe Dimmock
Application for	Packaged liquor licence
Licence name	Food Works Wickham
Trading hours	Monday to Sunday 10:00 AM – 10:00 PM
Premises	Unit 2 38 Hannell St, Wickham NSW 2293
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45, 48, and 114 of the <i>Liquor Act 2007</i> (Liquor Act)

Decision of the Independent Liquor & Gaming Authority Application for a new packaged liquor licence – Food Works Wickham

The Independent Liquor & Gaming Authority (Authority) considered the application above and decided on 23 November 2022 to **approve** the application under section 45 of the *Liquor Act 2007* with the conditions set out in Schedule 1.

Preliminary advice of this decision was provided on 25 January 2023.

Trading on a Sunday that falls on 24 December

If a Sunday 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. However, under the 6-hour closure period for the licence, the premises must not trade earlier than 10:00 AM.

Statement of reasons

Overall, we are satisfied the social impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application is valid meets the Act's requirements for procedural fairness and trading period
- liquor would be sold and supplied in a separate liquor sales area at the premises
- [section 31](#) of the Act doesn't apply to this application
- the Community Impact Statement (CIS) meets the relevant requirements

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates. Law enforcement agencies raised no concerns about their integrity.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

Development consent requirements

The necessary development consent is in force. Newcastle LGA approved the development application (DA2021/0121) for the premises on 26 October 2021.

Community impact

Local and broader communities

The relevant local community is the community in the suburb of Wickham, and the relevant broader community comprises the Local Government Area (LGA) of Newcastle.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Wickham shows;

- there are 14 authorised liquor licenses, of which 5 are authorised to sell packaged liquor (comprised of: 1 packaged liquor licence, 2 registered clubs licences and 2 hotel licences)
- saturation of packaged liquor licences is higher compared to both Newcastle LGA and all of NSW. However, the low population of the Wickham may skew saturation rates. This application would be the second packaged licence in the suburb.

Crime data (annual rate per 100,000 residents)

BOCSAR data available shows:

- the premises are located in a medium-density hotspot for malicious damage to property, and low-density hotspot for domestic and non-domestic assault, and alcohol-related assault
- the incident rates for crime categories considered by the Authority have not been calculated for Wickham, however raw numbers of incidents are very low.

Alcohol-related health data (per 100,000 residents)

Health Stats NSW data available for Newcastle LGA:

- alcohol-related hospitalisations were lower compared to all of NSW
- alcohol-related deaths were higher compared to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

Wickham and Newcastle LGA were ranked as relatively advantaged in terms of household income and residents in skilled occupations compared with other suburbs and LGAs in NSW.

Business model

The proposed business model involves the operation of a new packaged liquor licence with a sales area that sits within a newly built and established supermarket, to sell packaged liquor for consumption away from the premises.

Benefits proposed by the applicant

The applicant proposed that the licence would provide diversity, competition, and employment benefits to the local economy. The premises will provide local residents with a convenient location to not only acquire their daily essential groceries and upscale gourmet food, but also to experience traditional local corner grocer customer service.

The licence will operate under reduced trading hours, is not located in a night-time entertainment precinct and would be one of only two packaged liquor licences in Wickham.

Stakeholder submissions

We considered the following submissions:

NSW Police – objected to the licence. According to their own data, the Newcastle City is over-saturated with licensed premises and has a far higher crime rate than all of NSW. They requested conditions relating to the use of CCTV and a plan of management be imposed if the licence was approved.

Newcastle LGA – raised no concerns

L&GNSW Compliance – raised no concerns

General public – two submissions were received in support of the application, suggesting the proposal would be excellent for the area, benefit local BYO hospitality businesses and provide convenience to local residents.

We also considered the Applicant's response in reply which contends that:

- the data relied on by NSW Police covers the entirety of the Newcastle City Police District, which includes 49 separate suburbs and therefore does not represent the suburb of Wickham
- the plan of management is robust and the licence conditions and location within a family owned supermarket with reduced trading hours provides for additional risk mitigation.

Findings of concern and mitigation

There is a risk that if the licence was granted, liquor sold from the premises will contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, and in other areas of the State.

The NSW Police objection was acknowledged. It was noted that although there is a high saturation of packaged liquor licences in Wickham compared to all of NSW, this data may be skewed due to the population size of the suburb.

We are satisfied the risks are adequately mitigated by the following factors:

- crime statistics across all four categories usually considered by the Authority are low
- alcohol-attributable hospitalisations are low
- SEIFA data indicates above average and average socio-economic advantage in both the suburb and LGA
- the licence would be only the second of two packaged liquor licences in Wickham
- the relatively small size of the area in which liquor will be sold
- the harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1.

Material considered

We considered all the material received:

Application material

- completed application dated 20 May 2022
- completed Category B Community Impact Statement (CIS) dated 20 May 2022
- completed certification of advertising dated 20 July 2022

- Plan of Management documents for the premises, titled and dated August 2022
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 9 May 2022 indicating the proposed licensed area / liquor sales area / area to which the PLL will apply
- data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material:

- submissions received
- Google map images extracted from the Google website showing the location and photos of the premises in map view
- Correspondence between L&GNSW staff and the applicant between 8 July 2022 and 7 November 2022 in relation to the assessment of the Application.

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

This decision will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to apply.

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, Zof El Hussein - zof.el.husseini@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Sarah Dinning
Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed

FoodWorks Wickham

No.	Condition to be imposed	Description
1.	6-hour closure	Section 11A of the <i>Liquor Act 2007</i> applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (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.	Retail sales	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
3.	Social impact	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.
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 August 2022 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 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 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/general 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, (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 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.	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 23 November 2023 or any premises plan subsequently approved by the Authority.
8.	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> <ol 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 (e.g. crowd controller or bouncer) on or about the premises.</p>
9.	Requirement to maintain Incident register	<ol 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: <ol 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: <ol 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 (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.
10.	Specialised liquor products	<ol style="list-style-type: none"> 1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business ("Business"), except as provided by sub-clause 2: <ol style="list-style-type: none"> (a) craft beer; (b) craft cider; (c) craft spirits; (d) boutique wines (including sparkling wines and champagne) (e) organic and natural liquor products; (f) wine produced in the Hunter Regions of New South Wales; and (g) liquor products produced in Australia, New Zealand, USA, United Kingdom, France, Italy, Ireland, Mexico and Japan. 2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one

		<p>time, are also permitted. For liquor products available for sale under this sub-clause, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds.</p> <p>3) The licensee must ensure that a list of the product lines and products stocked by the Business at any one time is kept at the premises and made available for inspection on the request of a police officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.</p> <p>4) For every liquor product that is available for sale under sub-clause 1, the licensee must maintain and make available for inspection on the premises documentation from the supplier confirming the location of production, and/or that the product meets the relevant definition specified in this condition.</p> <p>Definitions For the purposes of this condition:</p> <p>1) Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:</p> <ul style="list-style-type: none"> (a) which is located in Australia and produces less than 40 million litres of beer per annum, or located overseas and produces less than 6 million barrels of beer per annum; (b) where not more than 25 percent of the brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer; and (c) which will certify that the majority of its total beverage alcohol volume is in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers). <p>2) Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:</p> <ul style="list-style-type: none"> (a) which is located in Australia and produces less than 40 million litres of cider per annum, or located overseas and produces less than 6 million barrels of cider per annum; (a) where not more than 25 percent of the producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer; and (b) which will certify that the cider is made from liquid consisting only of juice (no concentrates). <p>3) Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:</p> <ul style="list-style-type: none"> (a) the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in the case of blended spirits, the product of an independently owned and operated facility that uses any combination of traditional and innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile; and (b) distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller. <p>4) Boutique wine is defined as wine (other than sparkling wine or champagne) that is manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently owned (i.e not owned by a larger wine company at the time wine is supplied to the Business).</p> <p>5) Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is not generally considered to be mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.</p>
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		<p>6) Organic and natural liquor products are defined as:</p> <ul style="list-style-type: none">(a) Organic liquors (including organic wines) that bear a recognised organic certification logo;(b) wine that is labelled or marketed as organic wine, and is produced from vineyards and farms that are farmed organically or to organic standards, typically with little or no additions in wine-making (whether or not the wine is certified as organic);(c) Wine that is labelled or marketed as natural wine, and is produced from vineyards that are farmed organically or biodynamically, and then produced with no additions (additives) in wine-making, including MegaPurple, tartaric acid, enzymes, malabugs, and bottled with lower levels of sulphur or without sulphur (preservative 220); and(d) Boutique wines that are marketed as organic, biodynamic or natural wines (including sparkling wine), and manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently-owned (ie not owned by a larger wine company at the time the licensee purchases wine wholesale from the supplier).
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