

REASONS FOR DECISION

APPLICANT: DHS HOLDINGS WA PTY LTD

OTHER PARTIES: COMMISSIONER OF POLICE (INTERVENOR)
JEAN JONES (OBJECTOR)
GAIL GARRITY (OBJECTOR)
TERRY HEALY (OBJECTOR)
MURRAY SHARPE (OBJECTOR)
EDMUND BLACK (OBJECTOR)
JOHN BENNETT (OBJECTOR)
SABRINA BOLTON (OBJECTOR)
ADAM GARRITY (OBJECTOR)

NATURE OF APPLICATION: APPLICATION FOR CONDITIONAL GRANT OF A LIQUOR STORE LICENCE

APPLICATION REF: A629954480

PREMISES: LIQUOR STAX HUNTINGDALE
5 (LOT 424) PIPIT CLOSE, HUNTINGDALE

DECISION OF: BRETT SNELL
DEPUTY DIRECTOR LIQUOR CONTROL AND ARBITRATION

DATE OF REASONS: 05 FEBRUARY 2019

1. On 22 January 2019, I published a notice of decision, pursuant to s 18AA of the *Liquor Control Act 1988* (the Act), in which I conditionally granted a liquor store licence to DHS Holdings WA Pty Ltd (the Applicant) for the conditional grant of a liquor store licence for premises to be known as *Liquor Stax Huntingdale* and situated at 5 (Lot 424) Pipit Close, Huntingdale.
2. Other parties to those proceedings included:
 - (a) the Commissioner of Police (the Intervenor), who lodged a notice of intervention pursuant to s 69 of the Act; and
 - (b) the following persons (together referred to as the Objectors), who each lodged objections, pursuant to s 73 of the Act:
 - (i) Jean Jones;
 - (ii) Gail Garrity;
 - (iii) Terry Healy;
 - (iv) Murray Sharpe;
 - (v) Edmund Black;
 - (vi) John Bennett;

- (vii) Sabrina Bolton; and
 - (viii) Adam Garrity.
3. On 22 January 2019, the Applicant requested written reasons for the notice, in accordance with s 18AA(4) of the Act.
4. Accordingly, my written reasons are as follows:
- (a) The Applicant proposed to operate a 'moderately sized' liquor store at the Huntingdale Forum Shopping Centre, which is a local / neighbourhood activity centre.
 - (b) According to the Applicant:
 - (i) there are no packaged liquor outlets in Huntingdale; and
 - (ii) the proposed premises:
 - (1) has been specifically designed to cater to the requirements of residents for liquor and related services; and
 - (2) would introduce a 'truly "local" liquor store into the Huntingdale community that features old fashioned personal service, provides a wide range of products (with a clear focus of wines, particularly WA wines), competitive pricing and a responsible approach to the sale and supply of liquor.'
 - (c) The application was supported by a Public Interest Assessment (PIA) and other submissions, including:
 - (i) a town planning report prepared by MGA Town Planners;
 - (ii) a market research report by Painted Dog Research; and
 - (iii) an environmental health assessment prepared by Caporn Services.
 - (d) Information on the surrounding locality, including demographics and outlet density was also provided in the Applicant's PIA; which generally addressed those matters prescribed in ss 5 and 38(4) of the Act. Further, the market research report revealed that most residents in the locality support the application and would utilise the proposed premises because of a range of factors, including convenience.
 - (e) Planning approval for the establishment of the liquor store at the proposed premises was approved by the City of Gosnells on 24 October 2017.
 - (f) The Applicant also submitted that it is a family owned, independent business that will be operated as part of a larger 'family' group of liquor stores, including *Liquor Barons Mandurah*; *Cellarbrations at Safety Bay*; *Greenfields Liquor Store*; *Liquor in the Valley* and *Cellarbrations at Mundaring*, which are all successful, local liquor stores that cater to community needs and operate in harmony with their local area,

- with no liquor infringement notices, issues or complaints recorded against any of these licences.
- (g) The Intervenor made representations as to matters relevant to the public interest.
 - (h) The objections, when considered together, primarily dealt with concerns that:
 - (i) the grant of the liquor store licence will result in anti-social behaviour and alcohol-related harm, including the exposure of children to the liquor store as they pass by on their way to or from school or the Huntingdale Forum Shopping Centre;
 - (ii) additional traffic congestion associated with the operation of the proposed licensed premises; and
 - (iii) that the grant of the application will result in a proliferation of liquor store licences in the area.
 - (i) After considering the submissions of all the parties, I formed the view that:
 - (i) the grant of the application would promote objects 5(1)(c) and 5(2)(a);
 - (ii) the risk of increased harm was not significant when regard was had to the circumstances of the locality and trading conditions offered by the Applicant;
 - (iii) the likely degree of harm to result from the grant of the application was no greater than that which appears to be commonly accepted in the community;
 - (iv) proposed changes to the Act to address the proliferation of liquor stores referenced by the Objectors, have not yet come into force, which means I was obliged to determine the application under the Act's existing provisions; and
 - (v) the Objectors had failed to establish the validity of their objections as required under s 73 of the Act.
 - (j) In relation to the representations of the Intervenor, I noted that intervenors carry no burden of proof, but rather provide submissions to assist the licensing authority to make an informed decision.¹
 - (k) Therefore, having considered all of the evidence presented by the parties, I was satisfied that the Applicant had discharged its onus under s 38(2) and demonstrated that the grant of the application was in the public interest, subject to the conditions specified in the schedule attached to my notice of decision. I was also satisfied that the Applicant had complied with all the necessary statutory criteria, requirements and conditions precedent to the application being granted.

¹ Refer Greaves J, *Re Gull Liquor* (1999) 20 SR (WA) 321

5. This matter was determined by me under delegation pursuant to s 15 of the Act.

A handwritten signature in black ink, appearing to be 'M. J. F.', written in a cursive style.

DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING