

## **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

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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.<sup>1</sup>
  - (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.

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<sup>1</sup> 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