



Mr Jon Martin
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27 September 2019

Dear Mr Martin,

Application No.	APP-0005648626
Applicant	Liquorland (Australia) Pty Ltd
Application for Licence name	Packaged liquor licence Liquorland
Trading hours	Monday to Friday 8:00 am to 9:00 pm Saturday 8:00 am to 8:00 pm Sunday 10:00 am to 6:00 pm
Premises	Tenancy 202/203, Tweed City Shopping Centre 38-54 Minjungbal Drive Tweed Heads South NSW 2486
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i> (NSW)

Decision of the Independent Liquor and Gaming Authority Application for a new Packaged Liquor Licence – Liquorland

The Independent Liquor and Gaming Authority (“Authority”) considered the above application at its meeting on 14 August 2019 and has decided, pursuant to section 45 of the *Liquor Act 2007* (NSW), to **grant** the application subject to imposition of the following licence conditions:

1. 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 2:00 AM and 8:00 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 24 th	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 st	Normal Trading
3. 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 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. The licensee or its representative must join and be an active participant in the local liquor accord.
5. The premises is to be operated at all times in accordance with the Coles Liquor NSW Management Strategies and House Policy for the Responsible Service of Alcohol documents, as submitted to the Independent Liquor & Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents 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 Authority.

6. Closed-Circuit Television

1. The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises (“the premises”) in accordance with the following requirements:
 - a) the system must record continuously from opening time until one hour after the premises is required to close,
 - b) recordings must be in digital format and at a minimum of six (6) 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:
 - i. all entry and exit points on the premises, and
 - ii. all publicly accessible areas (other than toilets) within the premises.
2. The licensee must also:
 - 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
 - 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.

A statement of reasons is attached at the end of this letter.

Approved manager or individual licensee

The Authority requires that the licence not be exercised unless and until Liquor & Gaming NSW have been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

Please direct any questions about this letter to the case manager via email to natasha.barlow@liquorandgaming.nsw.gov.au

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 13 April 2019 the Independent Liquor and Gaming Authority (“the Authority”) received from Liquorland (Australia) Pty Ltd (“the Applicant”), through Liquor and Gaming New South Wales (“LGNSW”), an application for a new packaged liquor licence (“Application”) in respect of premises located at Tenancy 202/203, Tweed City Shopping Centre, 38-54 Minjungbal Drive, Tweed Heads South New South Wales (“NSW”) 2486 (“Premises”) to be known as *Liquorland*.
2. The Authority considered the Application at its meeting on 14 August 2019 and pursuant to section 45(1) of the *Liquor Act 2007* (NSW) (“Act”) has decided to **grant** the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Act and relevant provisions of the *Liquor Regulation 2018* (NSW) (“Regulation”).

Material Considered by the Authority

4. The Authority has considered the Application, accompanying Community Impact Statement (“CIS”), and all submissions received in relation to this Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with its *Guideline 6*, the Authority has also had regard to relevant LGNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health and Australian Bureau of Statistics (“ABS”).
7. A list of the material considered by the Authority is set out in Schedule 1.

Legislative framework

8. The Authority has considered the Application in accordance with the following provisions of the Act:
 - (a) Section 3: Statutory objects of the Act and relevant considerations.
 - (b) Section 11A: 6-hour closure period.
 - (c) Section 12: Standard trading period.
 - (d) Sections 29: Authorisation conferred by packaged liquor licence.
 - (e) Section 30: Liquor sales area required if bottle shop is part of another business activity.
 - (f) Section 31: Restrictions on granting packaged liquor licences.
 - (g) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - (h) Section 45: Criteria for granting a liquor licence.
 - (i) Section 48: Requirements in respect of a CIS.
9. An extract of these sections is set out in Schedule 2.

Key findings

10. Having regard to the information before it and the relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading hour requirements

11. The Authority finds that the Application and accompanying CIS have been validly made in that they meet the minimum procedural requirements under sections 40 and 48(4) of the Act and clauses 20 through 29 of the Regulation. This finding is made on the basis of the Application, CIS material and the Certificate of Advertising signed Mr Timothy O'Meara on behalf of the Applicant on 14 May 2019.
12. The Authority is satisfied that the trading hours sought by the Applicant in the Application form, amended in the submission dated 29 May 2019 and subsequently granted by the Authority meet the requirements specified by sections 11A, 12 and 29 of the Act in respect of a daily 6 - hour liquor sales cessation and the standard trading hours for packaged liquor licensed premises.

Fit and proper person, responsible service of alcohol and development consent

13. The Authority is satisfied that:
 - For the purposes of section 45(3)(a) of the Act, the corporate Applicant is a fit and proper person to carry on the business to which the proposed licence relates, on the basis that no issues of concern were raised regarding its probity following consultation with relevant law enforcement agencies, including NSW Police ("Police") and the compliance section of LGNSW.
 - For the purposes of section 45(3)(b) of the Act, practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevention of intoxication. This finding is made on the basis of the Applicant's business policy documents *Coles Liquor NSW Management Strategies* and *House Policy For The Responsible Service of Alcohol* provided by the Applicant when lodging the Application.
 - For the purposes of section 45(3)(c) of the Act, the requisite development consent permitting the conduct of a packaged liquor licensed business on the Premises is in force. This finding is made on the basis of development consent DA14/0063 issued by Tweed Shire Council ("Council") on 18 June 2014 for the re-configuration and expansion of retail space in Tweed City Shopping Centre. The Authority is also satisfied on the basis of the submission from Council dated 6 May 2019 in which Council advise no objection to the proposed liquor licence provided the hours of operation are brought into line with condition 164 of DA14/0063. In a submission dated 29 May 2019, the Applicant advised that they agree with Council and amended the proposed trading hours. The Authority accepts the Applicant's submissions in an email dated 3 July 2019, that the use of the Premises as a retail tenancy falls within the scope of use permitted by DA14/0063 for the shopping centre.

Community impact statement

14. For the purposes of this decision and consistent with Authority *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Tweed Heads South, and the relevant “broader community” comprises the local government area (“LGA”) of Tweed Shire Council (“Tweed Shire LGA”).

Positive social impacts

15. The Authority is satisfied, on the information provided in the CIS material, that this stand-alone packaged liquor store will be situated within the Tweed City Shopping Centre, co-located next to the existing Coles supermarket.
16. The Authority accepts that the location of the liquor outlet will provide some additional measure of convenience to those in the local and broader community who seek to purchase their packaged liquor whilst shopping within the Coles supermarket and within the Tweed City Shopping Centre.
17. The Authority notes the Applicant’s contention in the CIS, that customer demand for the business has been tested and verified using internal insights data and a specifically designed survey to Coles customers. A survey ran for approximately 1 month, obtaining 172 individuals’ responses. 37.2% advised “Have a bottle shop/liquor store adjacent to the supermarket?” as one of the top 3 improvements. The Authority accepts that this survey was conducted, although greater weight would have been provided if the Applicant had provided copies of the survey and any internal report.
18. The proposal received no opposition from local residents, with the sole source of opposition from the Northern NSW Local Health District (“Northern Health”), discussed below. By contrast, six submissions were received in support of the Application - one from the Centre Manager from Tweed City Shopping Centre and five from residents of the local and broader communities.
19. Accepting that there is support from the community (taking into account the survey information and resident submissions) the Authority is satisfied that granting the licence will advance, to a modest extent the statutory object of regulating liquor in a manner consistent with the “expectations, needs and aspirations” of the local and broader community, for the purposes of section 3(1)(a) of the Act.
20. The Authority finds that the benefit of increased convenience will be modest, given the existing BWS Beer Wine Spirits store in the Shopping Centre and the 7 packaged liquor outlets elsewhere within the local community of South Tweed Heads.
21. On the Applicant’s contention that Liquorland is a known or popular brand, and there is no presence of a Liquorland branded store in the suburb, the Authority accepts that another mainstream liquor chain will provide some increase in choice of retailer. Without more specific information about the product lines offered, or any products that the outlet will supply that are not available at the incumbent outlets, only limited weight can be given to this benefit noting the range of options for local liquor consumers.
22. The Authority is satisfied that granting the new liquor licence will contribute, to only a small extent, to the balanced development of the liquor industry in the local community, advancing the statutory object of section 3(1)(b) of the Act.

23. By reason of the minimal supporting information or analysis provided in the CIS, the Authority has given little weight to the Applicant's purported benefits of increased competition, increased employment, economic benefits and potential contributions to local community groups and sports. These are complex factual matters that are not readily inferred and warrant substantial supporting evidence or analysis.
24. The Authority accepts that the business will employ 5 team members on a regular basis with additional team members employed during peak periods. However, the Applicant has not specified how this purported benefit will flow to the community, as no clear commitment has been given to ensure employees are sourced from the local or broader community, or how this will be a net benefit to local employment. This limits the weight that can be given to this positive benefit.

Negative social impacts

25. The licence type in question is a packaged liquor licence, which aside from product tastings authorises the sale of liquor for consumption away from the premises only.
26. The scale of the Premises, at 123 square metres, is a medium scale stand-alone liquor store by comparison to other packaged liquor licensed outlets across NSW.
27. Although the proposed licensed trading hours are reasonably extensive across the course of the week (from 8:00 am to 9:00 pm Monday to Friday, 8:00 am to 8:00 pm Saturday and from 10:00 am to 6:00 pm Sunday) the potential for liquor sold from this location to negatively impact the community is somewhat mitigated by the fact that the outlet will not trade later into the evening on higher risk times such as weekends and public holidays.
28. Licence density will be increased in the communities with the grant of this new licence, noting that the rate of packaged liquor licences in the suburb is already elevated at 91.92 per 100,000 persons compared to 38.31 for the LGA and 35.01 for NSW. Licence density is adverse to an assessment of this Application, given that higher packaged liquor licence density has been associated with adverse social outcomes.
29. There is some cause for concern resulting from the crime statistics in both the local and broader community. The BOCSAR data for the year to March 2019 recorded:
 - A rate of **269.8** for incidents of *alcohol related domestic assault* per 100,000 persons for the suburb, a rate of **147.6** for the LGA and a rate of **115.5** for NSW.
 - A rate of **141.3** for incidents of *alcohol related non-domestic assault* per 100,000 persons for the suburb, a rate **83.3** for the LGA and a rate of **118.8** for NSW.
 - A rate of **1130.7** for incidents of *malicious damage to property* per 100,000 persons for the suburb, a rate of **674.7** for the LGA and a rate of **737.8** for NSW.
 - A rate of **25.7** for incidents of *alcohol related disorderly conduct (offensive conduct)* per 100,000 persons for the suburb, a rate of **44.3** for the LGA and with a rate of **36.6** for NSW.
30. In addition, BOCSAR hotspot maps from April 2018 to March 2019 indicate that the Premises is located within concentrations of crime. In particular, the Premises is within low-density and near the border of medium-density hotspots for incidents of domestic assault and malicious damage to property and within a low-density hotspot for incidents of non-domestic assault. In contrast, these maps indicate that there are no concerning hotspots for alcohol related assault within close proximity to the Premises.

31. According to the NSW Government Planning & Environment North Coast Regional Plan 2036 dated March 2017 (“Regional Plan”), more than 12 million people visit the North Coast of NSW region each year, making it “one of the greatest tourist attractions of the nation”. The Plan recognises Tweed Heads as a prime tourism development area, stating that “Tweed Shire is the gateway between the North Coast and South East Queensland, and the fastest growing area in the region”. An independent report prepared for Destination Tweed by Peter Valerio of Tourism Strategy Development Services titled *Tweed Tourism Monitor: Monitoring Tweed Local Government Area Tourism Volume and Market Share* indicates that for the year ending December 2017 the Tweed LGA received a total of 1.97 million visitors, with a total spend by visitors of \$446 million.
32. The Authority accepts that the suburb’s status as a tourist location and the influx of persons may adversely impact crime rates and be a driver for the number of liquor outlets serving tourism. While the Authority takes a community as it finds it, the resident population of this State suburb is not large, at 7,615 persons, which will impact density calculations.
33. The Authority also finds that socio-economic disadvantage is another adverse risk factor. Socio-economic index for areas (“SEIFA”) data establishes that the local community of Tweed Heads South ranked in the most disadvantaged 1st decile on the Index of Relative Socio-Economic Advantage and Disadvantage (“IRSEAD”) compared to other suburbs in NSW. However, the broader community (which is likely to be serviced by this Shopping Centre) provides a more average socio-economic picture, ranking in the 5th decile compared to other LGAs in the State.
34. The Authority also notes that alcohol attributable deaths in the LGA are elevated with a spatially adjusted rate per 100,000 population of 23.7 compared to the NSW rate of 18.1 (2015 to 2016). The LGA fares better for alcohol attributable hospitalisations, recording a rate of 491.8 per 100,000 persons compared to the NSW rate of 555.6 during the period from 2016 to 2018.
35. The Authority has given close consideration to the submission from Northern Health, who oppose the Application on the basis of a contended oversupply of licensed premises in the LGA, the location of the Premises in a crime hotspot, the location of the Premises in a disadvantaged location, the proximity of the Premises to certain community service providers, the proximity to a nearby Alcohol Free Zone and the potential adverse impact of alcohol product marketing and price.
36. In addition to research on the association between increased licence density and adverse social outcomes, Northern Health refer to Recommendation 14 of the *Domestic Violence Death Review Team Report 2015-2017* which states that:

“When making determinations regarding any alcohol licensing related applications in areas identified by the NSW Bureau of Crime Statistics and Research as domestic violence ‘hot spots’, apply the following criteria:

 - For any applications pertaining to an extension of trading hours, or the development of new liquor outlets or bottle-shops in domestic violence hot spots, there should be a rebuttable presumption against granting the application”.
37. The Authority accepts that licence density and low socio-economic status in the local community are adverse factors of some weight in this matter. The rate of domestic

violence is significantly above State-wide rates, and has increased between March 2018 and 2019. The Authority has taken some care with licence density and crime rates per 100,000 persons by reason of the impact of tourism on this local community, which has the potential to skew the results.

38. However, the Authority has not received an adverse submission from Police or local domestic violence agencies. The Authority accepts that the Coroner has recommended a rebuttable presumption against the grant of a licence when a licensed premise is situated in a domestic violence hotspot but that recommendation has not been reflected in the legislation.
39. In addition, Northern Health provides information about two schools within approximately 900 metres (Tweed River High School) and 1 kilometre (Tweed Heads South Public School) of the Premises, the location of “High traffic” bus stops on Minjungbal Drive and within the Tweed City Shopping Centre car park and the location of an alcohol free zone that is located “approximately 550 metres away” covering the public car park adjoining the Tweed Regional Aquatic Centre, Home and Community Care and South Tweed Skate Park.
40. The Authority accepts that there are some sensitive community services in the neighbourhood of the proposed liquor outlet. However, noting that the liquor store will be situated within a Shopping Centre and in the absence of any adverse submissions on the present impact of packaged liquor suppliers upon those service providers, the Authority has given less weight to those adverse factors than would have been the case were localised impacts identified.
41. Northern Health also express concerns about product marketing and advertising not being addressed in the CIS and the potential for this Premises to increase the exposure of vulnerable populations (children, young people and those at risk of alcohol-related harm and mental health conditions) to images and messaging that encourages consumption and purchase of alcohol. While the Authority considers it likely that the new liquor store will engage in advertising the Authority is unable to give that submission great weight given the absence of information as to how the incumbent retailers are exacting an adverse impact upon the communities. The extent of any additional impact is difficult to infer without further evidence or analysis.
42. The Authority has considered a submission from NSW Roads and Maritime Services (“RMS”) submission which, while not objecting to the Application, provides data on alcohol-related casualty crashes in the LGA between 2014 and 2018.
43. According to RMS, in this LGA during 2018, on average 10.4% of casualty crashes were alcohol related, which is “largely parallel” to Northern Region’s average of 8.5% but twice the State average of 5.2 per cent.
44. This decision has been made on balance, with some adverse risk factors present for the local community identified by Northern Health. The density and crime concerns have been considered in their context with some reassurance provided by the absence of any information or concerns raised by Police or other agencies with an enforcement capacity (such as Council and LGNSW Compliance) as to anti-social conduct involving the abuse of packaged liquor. There are also no localised concerns raised by local residents, and some reasonable evidence of local support for the proposal, although the extent of benefits are limited.

45. The Authority has taken into consideration the harm minimisation measures to be implemented by the Applicant, which will include site-specific security measures such as: security film on external glass; bright lighting throughout the store; an alarm system that is monitored off-site; CCTV cameras covering the entire store and development; duress pendants issued to all team members. The Authority considers that the locational risks are further moderated by the situation of the liquor store within a substantial Shopping Centre that provides a degree of increased security and passive surveillance.

Overall social impact

46. Having considered the positive benefits and negative impacts that are likely to flow from granting the Application, the Authority is satisfied, for the purposes of section 48(5) of the Act, that the overall social impact of granting this new packaged liquor licence would not be detrimental to the well-being of the local community or broader community.
47. The Application is granted pursuant to section 45(1) of the Act.



Philip Crawford
Chairperson

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed application and who made a submission to the Authority or the Secretary in respect of the prescribed application) who is aggrieved by this decision may apply to the New South Wales Civil and Administrative Tribunal ("NCAT") for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule 1

Material before the Authority

1. Application Form for a new packaged liquor licence ("Application") and an undated Category B Community Impact Statement ("CIS") lodged on 13 April 2019 by Liquorland (Australia) Pty. Ltd ("Applicant") accompanied by the following documents:
 - (a) Liquor and Gaming New South Wales ("LGNSW") *Declaration: Consent to lodge on behalf of applicant* form signed and dated 8 April 2019.
 - (b) Australian Securities and Investments Commission Current Organisation Extract and (creditor)watch Credit Report for Liquorland (Australia) Pty. Ltd. extracted on 19 December 2018.
 - (c) Public consultation site notice and local consent authority notice.
 - (d) List of stakeholders and special interest groups notified of the Application.
 - (e) Two maps depicting the neighbouring premises in which notice of the Application was distributed.
 - (f) Notice of intention to apply for liquor licence or a licence authorisation dated 30 January 2019.
 - (g) Email correspondence from LGNSW staff regarding a potential CIS failure dated 14 May 2019.
 - (h) An updated CIS document amended to include the date 12 April 2019.
 - (i) A thirteen-page document titled *Additional Statement – Category B CIS*, which includes 9 photographs of the proposed alcohol and layout of the store, a plan/diagram of the premises and a letter from Dexus, the manager of Tweed City Shopping Centre dated 18 December 2018 in support of the Application.
 - (j) *Coles Liquor NSW Management Strategies and House Policy for the Responsible Service of Alcohol*.
 - (k) A three-page document providing additional information on the proposed 6-hour shutdown period.
 - (l) Development consent DA14/0063 issued by Tweed Shire Council ("Council") on 24 June 2014.
2. Two-page submission letter from Council dated 6 May 2019 on whether the Application is compliant with development consent.
3. An email from the Applicant dated 9 May 2019 confirming that the Liquorland premises does not form part of the Coles supermarket, providing letters of support:
 - (a) One half-page submission letter from Ms K Veares, resident of Uki, dated 24 April 2019.
 - (b) One half-page submission letter from Mr N Smith, resident of Banora Point, dated 2 May 2019.
 - (c) One half-page submission letter from Mr J and Ms N Jones (address not specified), dated 3 May 2019.
 - (d) One half-page submission letter (undated) from Mr A Pohlmann, a local resident of Tweed Heads South.
 - (e) One half-page submission letter (undated) from Mr M Taylor (address not specified).
4. Two-page submission from Senior Constable Chris McCaffery of NSW Police ("Police") dated 10 May 2019, advising that Police have no objections.
5. Six-page submission letter from Northern NSW Local Health District dated 10 May 2019, attached to the official LGNSW submission form dated 8 May 2019, objecting to the Application.
6. Two-page submission letter from NSW Transport Roads and Maritime Services dated 17 May 2019, providing alcohol-related casualty crash data as a two-page attachment.
7. Email submission from the Applicant dated 29 May 2019 responding to requisitions in an email from staff dated 9 May 2019 and providing the certificate of advertising signed by Mr Timothy O'Meara on behalf of the Applicant dated 14 May 2019 and a revised plan/diagram of the premises highlighting the licensed area in red.
8. An email from LGNSW Compliance dated 5 June 2019 advising there are no compliance checks that can be completed.

9. An email from the Applicant dated 5 June 2019 in regards to the new training requirements.
10. Google geographical maps and street view image of the Premises and surrounds, sourced by licensing staff on 19 June 2019.
11. Bureau of Crime Statistics and Research (“BOCSAR”) crime data for April 2017 to March 2019 comparing the count and rate per 100,000 persons for incidents of alcohol related domestic assault, alcohol related non-domestic assault, malicious damage to property and alcohol related disorderly conduct (offensive conduct) for NSW, the suburb and the Local Government Area (“LGA”), sourced by licensing staff on 19 June 2019.
12. BOCSAR data on number of selected offences flagged by Police as alcohol related by time of day and week for NSW, the suburb and LGA from April 2018 to March 2019, sourced by staff on 19 June 2019.
13. BOCSAR number and proportion of selected offences flagged by Police as alcohol related for the LGA and NSW from 2018, sourced by licensing staff on 19 June 2019.
14. Australian Bureau of Statistics (“ABS”) Socio-Economic Indexes For Areas data based on the 2016 Census for the suburb and LGA, sourced by licensing staff on 18 and 19 of June 2019.
15. Four-page submission titled *In Response to the Additional Submissions*, provided by the Applicant on 21 June 2019, responding to the submissions received and attaching a copy of Liquorland’s *Responsible promotion and advertising of alcohol policy* dated 4 July 2016.
16. NSW Government Planning & Environment North Coast Regional Plan 2036 dated March 2017, sourced by licensing staff on 2 July 2019.
17. Report prepared for Destination Tweed by Mr Peter Valerio of Tourism Strategy Development Services titled *Tweed Tourism Monitor: Monitoring Tweed Local Government Area Tourism Volume and Market Share* for the year ending December 2017, sourced by licensing staff on 2 July 2019.
18. Email submission from the Applicant dated 3 July 2019 addressing section 45(3)(c) of the *Liquor Act 2007* (NSW).
19. Licence density data calculated by licensing staff using the 2016 ABS population data and licensed premises information as at 8 July 2019.
20. LGNSW list of licensed premises in Tweed Heads South, sourced by licensing staff as at 8 July 2019.
21. NSW Healthstats data on alcohol attributable deaths in NSW (between 1997 and 2016); alcohol attributable deaths, Tweed LGA, NSW (between 2001 and 2016); alcohol attributable hospitalisations in NSW (between 2001 and 2018); and alcohol attributable hospitalisations, Tweed LGA (between 2001 and 2018), sourced by licensing staff on 11 July 2019.
22. BOCSAR hotspot maps for the suburb from April 2018 to March 2019 for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property, sourced by licensing staff on 16 July 2019.

Schedule 2

Relevant extracts from the *Liquor Act 2007* (NSW)

3 Objects of Act

- (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.

11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to:
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (***the 6-hour closure period***).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence:
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the *Liquor Legislation Amendment Act 2008*) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than:
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises:
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).

- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the **standard trading period** means:
 - (a) for any day of the week other than a Sunday:
 - (i) the period from 5 am to midnight, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
 - (b) for a Sunday:
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from noon to midnight on any day of the week.

Note. Small bars are subject to the 6-hour closure period under section 11A.
- (1B) Despite subsection (1) (a), the **standard trading period** for premises to which this subsection applies ends at 10 pm.
- (1C) Subsection (1B) applies to the following premises or part of premises:
 - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may:
 - (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2) (a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

29 Authorisation conferred by packaged liquor licence

(1) Retail sales

A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only:

- (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
- (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to 10 pm on that day.

(2) No retail trading on restricted trading days

Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.

(3) **Selling liquor by wholesale or to employees**

A packaged liquor licence also authorises the licensee:

- (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
- (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.

(3A) An extended trading authorisation must not authorise the sale after 10 pm on any day of liquor for consumption away from the licensed premises.

(4) **Tastings**

A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

30 Liquor sales area required if bottle shop is part of another business activity

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (**the liquor sales area**) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.
- (2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.
- (3) In this section:

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by:
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the *Registered Clubs Act 1976*.
- (3) An application for a licence may not be made by:
 - (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
 - (c) an individual who is a controlled member of a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*.

Note. Controlled members are prohibited from applying for licences—see section 27 of the *Crimes (Criminal Organisations Control) Act 2012*.

- (4) An application for a licence must:
- (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
- Note.** See also section 48 which requires a community impact statement to be provided with certain licence applications.
- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that:
- (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and
 - (c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person:
- (a) that the person:
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of, a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*, and
 - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3) (a), in determining whether an applicant is a fit and proper

person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant:

- (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of:
- (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
- (2) In this section:
- relevant application** means any of the following:
- (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,
 - (g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,
- but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49 (5) (b) or (5A) or 49A (3) (b)).
- (3) A relevant application must be accompanied by a community impact statement.
- (3A) However, a small bar application is not required to be accompanied by a community impact statement if:
- (a) development consent is required under the *Environmental Planning and Assessment Act 1979* to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and
 - (b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.
- (3B) For the purposes of subsection (3A), a **small bar application** means any of the following:
- (a) an application for a small bar licence,
 - (b) an application for approval to remove a small bar licence to other premises,
 - (c) an application for an extended trading authorisation for a small bar,
 - (d) an application to vary an extended trading authorisation for a small bar.
- (3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if:

- (a) the application relates to the same premises as the premises to which a general bar licence relates, and
 - (b) development consent has been obtained under the *Environmental Planning and Assessment Act 1979* to sell liquor during the times to which the application relates and those times are specified in the development consent.
- (3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if:
- (a) an extended trading authorisation of the kind referred to in section 49 (5) (a) is in force in respect of the licensed premises concerned, or
 - (b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the *Registered Clubs Act 1976*.
- (4) The community impact statement must:
- (a) be prepared in accordance with the regulations and any requirements of the Authority, and
 - (b) be in the form approved by the Authority.
- (5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to:
- (a) the community impact statement provided with the application, and
 - (b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),
- 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.
- (6) The regulations may make provision for or with respect to the following:
- (a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),
 - (b) the matters to be addressed by a community impact statement,
 - (c) the information to be provided in a community impact statement,
 - (d) the criteria for determining the local and broader community for the purposes of a relevant application,
 - (e) any other matter relating to the preparation and content of a community impact statement.
- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.