



Mr Peter Franki  
Director c/o Eastsail  
D'Albora Marinas  
1b New Beach Road  
Rushcutters Bay NSW 2027

15 September 2016

Dear Mr Franki,

**APPLICATION NO:** 1-3947489903  
**APPLICATION FOR:** New Packaged Liquor Licence with Extended Trading Authorisation (ETA)  
**PROPOSED TRADING HOURS:** Monday to Sunday 7:30AM – 7:00PM

**APPLICANT:** EASTSAIL PTY LTD

**PROPOSED LICENSED PREMISES NAME:** Eastsail Pty Ltd

**PREMISES LOCATION:** 1b New Beach Road  
Rushcutters Bay NSW 2027 (Premises)

**ISSUE:** Whether to grant or refuse an application for a new packaged liquor licence subject to an ETA.

**LEGISLATION** Sections 3, 29, 30, 31, 40, 45, 48, 49 *Liquor Act 2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION FOR  
NEW PACKAGED LIQUOR LICENCE WITH EXTENDED TRADING AUTHORISATION –  
EASTSAIL PTY LTD**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 17 August 2016 and pursuant to section 45 and 49 of the *Liquor Act 2007* (Act), has decided to **grant** the Package Liquor Application and ETA Application (the Application) subject to the following conditions:

1. Trading Hours  
Monday – Sunday 7:30AM – 7:00PM

2. 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 1:30 AM and 7:30 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.
3. Retail Sales

Good Friday	Not permitted
December 24 <sup>th</sup>	Normal trading Monday to Saturday, 8:00AM – 10:00PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal trading
4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. 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 be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
6. The premises are to be operated at all times in accordance with the Plan of Management dated January 2016 as may be varied from time to time after consultation with the Local Area Commander.
7. All liquor must be delivered directly to the vessel for consumption on the vessel only.
8. A register listing all liquor sold, the name of the vessel chartered, the duration of the charter and the number of patrons on board the charter is to be maintained on a daily basis and produced at the request of Police and/or an Inspector.
9. Alcohol sales must be limited to beer, cider, wine and low alcohol beverages only.
10. Terms and conditions surrounding the sale of liquor are to be included in the charter contract between Eastsail Pty Ltd and the customer.
11. Alcohol must not be sold or supplied to any person that is not part of a booked Eastsail Pty Ltd Charter.
12. Alcohol products must not be displayed, exposed or offered for general sale on the premises.

If you have any enquiries about this letter please contact the case manager via email to [santina.causa@ilga.nsw.gov.au](mailto:santina.causa@ilga.nsw.gov.au)

Yours faithfully



Philip Crawford

**Chairperson**

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

## STATEMENT OF REASONS

### Material Before The Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the application for a new packaged liquor licence with an ETA lodged on 7 January 2016 (the Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

### Summary of Further Submissions

3. Report to the Authority dated 3 May 2016 from the Secretary of the Department of Justice via the Compliance Branch of LGNSW. The report included an Environment and Venue Assessment Tool (EVAT) report, and notes that a “general assessment has been carried out” on the Application. LGNSW submit that:
  - (a) Founded in 1983 Eastsail is a family run business specialising in boat charters, boat hire and corporate sailing events and which operates from an office in the d’Albora Marina (Marina) 1b New Beach Road Rushcutters Bay.
  - (b) Eastsail has a staff of eight, a team of 20 skippers and a \$10 million fleet of 24 yachts and cruises.
  - (c) The Premises is within walking distance to several established licensed venues one authorised with a Club licence.
  - (d) Packaged liquor is currently supplied to Eastsail customers via Vintage Blue under LIQP700352639, with orders available online.
  - (e) As this is an application for a new liquor licence a compliance history is not available nor are there any violent incidents recorded against the venue.
  - (f) Mr Peter Franki is currently the approved manager of on-premises licence LIQO624008713 (vessel) in the name of MV Yarranabbe issued on 14 December 2000. Eastsail Pty Ltd is the organisational licensee on that licence with the vessel moored at the Marina. Compliance branch records did not disclose any adverse information regarding Mr Franki or Ms Deborah McCawley who is listed as an interested party.
  - (g) After assessing the proposed business model, LGNSW advises that Eastsail specialises in corporate sailing, boat hire, boat charter, learning to sail, courses, sightseeing and overnight packages.

- (h) BOCSAR data shows that for the period between October 2014 and September 2015:
- i) the rate of *alcohol related assaults* (domestic and non-domestic) that occurred in the suburb of Rushcutters Bay was **115** per 100,000 persons of population compared to the rate of **288** per 100,000 persons for New South Wales as a whole;
  - ii) the rate of *alcohol related disorderly conduct offences* that occurred in the suburb of Rushcutters Bay was **77** per 100,000 persons of population compared to the rate of **89** per 100,000 for New South Wales as a whole.
- (i) While the above figures suggest there are no significant issues relating to alcohol-related assault and anti-social behaviour in Rushcutters Bay when compared against the state average, LGNSW observe that vessels utilising Sydney Harbour and city wharves raise “significant compliance issues” and “associated risk”.
4. LGNSW advise that there are two packaged liquor licences in Rushcutters Bay along with several liquor licenses listing New Beach Road as the business address: LIQO624008471 – Zenon Investments Pty Limited authorised with a PSA, 1B New Beach Road Rushcutters Bay; LIQO624008713 – MV Yarranabbe, 1b New Beach Road Rushcutters Bay (held by the Applicant company); and LIQOC300226808 – Cruising Yacht Club of Australia approximately 50 metres distance on New Beach Road authorised for takeaway sales. LGNSW contend that the local and broader community already have a range of options available for takeaway liquor purchases and the benefit of another is debatable.
  5. LGNSW note Council’s submission that development consent has not been obtained to use the Premises as a retail bottle shop. LGNSW also note the three conditions requested by Council should the licence be granted.
  6. LGNSW advise that the Applicant company has one licensed vessel authorised to sell liquor. If this Application is granted, an approved manager other than the one already appointed under the licence LIQO624008713 is required. LGNSW is concerned that if this Application is granted a “precedent” will be set whereby other operators forfeit their on premises liquor licences in favour of a packaged liquor licence, thereby removing a range of legislative tools available to address “rogue practices and procedures on the waterways” if they arise.
  7. Noting objections from Council and concerns raised as to the ability to sell packaged liquor impacting juniors attending sailing school, LGNSW submit that the benefit of issuing this licence for the local and broader communities is “debatable” given the existence of established venues in the near vicinity able to accommodate demand. LGNSW submit that conditions restricting the sale of liquor to customers involved in chartering a vessel may assist with preventing the sale of liquor to the general public, but without measures imposed to identify those involved with chartering vessels the ability to identify one customer over another is difficult from a compliance perspective.
  8. LGNSW submit that the following conditions be considered to potentially mitigate risk:
    - (a) No advertising of the availability of alcohol external to the Premises;

- (b) All liquor must be delivered directly to the vessel for consumption on the vessel only;
  - (c) Liquor is to be sold to customers involved in the charter of vessels only;
  - (d) A register listing all liquor sold, the name of vessel chartered, the duration of the charter and the number of patrons on board is to be maintained on a daily basis and produced at the request of Police and/or an LGNSW Inspector;
  - (e) Alcohol sales limited to beer, cider, wine and low alcohol beverages only;
  - (f) Terms and conditions regarding the sale of liquor shall be included in charter contract between Eastsail Pty Ltd and its customers.
9. Submission from Constable Phillip Street, Rose Bay Local Area Command (LAC) Licensing on behalf of NSW Police (Police) dated 5 March 2016 advising that Police have met with Mr Franki. Police submit that should the Application be granted the licence be subject to conditions preventing the sale or supply to any person who is not part of a booked charter; that liquor be limited to beer, cider, wine and low alcohol beverages, that there be no advertising of the sale of liquor outside the Premises; that packages must be delivered directly to the vessel for consumption on the vessel and that signs must not be displayed indicating that liquor is generally available for sale.
  10. Submission from Ms Michelle Easton, Compliance Officer, Woollahra Municipal Council (Council) dated 11 February 2016 advising that Building Approval (BA) 514/1977 was approved by Council on 4 January 1978 for the construction of a new Marina which included office space for the administration of a sailing school and for sailing tours/charters. Council advise that development consent **is not required** for the proposed activity provided that the main function of the subject premises remains as an office.
  11. Council notes that the Applicant intends to offer optional alcohol packages to clients at the time of booking a sailing tour or charter that will be delivered to the charter vessel for consumption during the charter and Council advise that this scenario “would be consistent with the approved use of the premises”. However, Council raise concerns that a packaged liquor licence would provide the Applicant with the ability to operate as a bottle shop, supplying packaged liquor to the general public and as a result liquor may be consumed at the Marina or at nearby parks and public places. Council advise that development consent has not been obtained to use the premises as “a bottle shop”.
  12. Council submit that should the Application be granted conditions be imposed preventing the display or offer of alcohol for general sale on the Premises; preventing signage indicating that alcohol is available for general sale and that alcohol ordered by charter clients be delivered to the vessel for consumption on the vessel. Council advise that **if** the licence cannot be limited by the above conditions, development consent must first be obtained from Council to use the Premises as a retail bottle shop.
  13. Submission from Mr I Shrestha, local resident of Thornton Street Darling Point, dated 20 January 2016. In this three-paragraph submission, Mr Shrestha objects to the Application and expresses concern that the Marina already has a liquor licence

operating until midnight; questions how people disembarking from boats with unfinished liquor in their possession will be policed; questions how ten vessels will be managed with alcohol and one instructor per boat for at minimum of six people per boat; questions who will be responsible for intoxicated persons disembarking and looking to get home and questions who will clean up liquor containers left of the street after people leave vessels.

14. Submission from Mr S Danesi dated 20 November 2015. In this seven-paragraph submission, Mr Danesi objects to the Application and questions why a sailing school and vessel charter business would require a licence to sell takeaway alcohol for 12 hours per day; expresses concern for the ability of members of the public to enter the Premises and buy takeaway alcohol as there are “no apparent controls in place” that would distinguish a client from an “ordinary member of the public”; expresses concern that there is little to stop members of the public from using the Premises as an ordinary takeaway liquor shop; contends that there are “at least 11” takeaway liquor shops within a three-kilometre radius from the Premises, listing those businesses and submits that the company already has a licence to serve alcohol on one of its vessels and contends that the local area “simply does not need yet another takeaway liquor shop” as it would “negatively impact the general amenity of the marina and is likely to attract undesirable behaviour”.
15. Submission from Mr S Sarris, local resident of Thornton Street Darling Point, dated 8 December 2015. In this four paragraph submission, Mr Sarris objects to the Application; questions the “need” for the licence in that there are eight or more bottle shops in the surrounding area offering “premium service and price” and contends that the Applicant is “keen to change their business model from a sailing school and vessel charter, to one of a bottle shop” with serious issues surrounding RSA arising from that proposed change of business model.
16. Email submission from Mr Franki on behalf of the Applicant to the Authority dated 18 July 2016. In this two-page submission, the Applicant responds to the objections received from Mr Danesi, Mr Sarris and Mr Shrestha and makes the following key contentions or submissions:
  - (a) We have no interest in selling liquor to the broader public;
  - (b) There are 11 takeaway liquor shops located within a 3-kilometre radius as well as the Cruising Yacht Club of Australia and these businesses are “adequately equipped to meet the requirements of takeaway clients;
  - (c) The “tiny” Premises are not suited to the operation of a takeaway bottle shop;
  - (d) The primary reason for seeking this licence is to “more effectively control the provision of alcohol to charter customers”;
  - (e) Alcohol will *only* be available for purchase by customers prior to hiring the charter vessels. These purchases are “usually made in writing in advance of the charter” with the contents of the order being placed on-board on the day of the activity;
  - (f) We have been operating from the same Premises with the same management and the same business model since 1983, Business operations include the supply

- of boat charters and sail training with many charters being for small groups of less than 6 and a “fair number” for couples;
- (g) 20% of the Applicant company’s turnover is from sail training and no alcohol is provided during sail training;
  - (h) Typically, a charter includes a stop for lunch when alcohol may be consumed. On the “rare occasion” that charter customers are more interested in drinking than sailing, the skipper is trained to operate the vessel with limited sails set or under motor only and to return to base if warranted in the circumstances and this “has never occurred”;
  - (i) The Marina in general and the Applicant business specifically does not have a history of alcohol related complaints. Customers are advised to come by public transport or taxi due to parking being difficult in the area and large groups typically arrive and depart via coach or taxi;
  - (j) Eastsail has been in this business for more than 30 years with management and staff being experienced and trained in the prevention of the problems raised and capable of dealing with them if and when they occur. The lack of any history of complaints demonstrates the success of the company’s management controls.
17. Email submission from Mr Franki, on behalf of the Applicant to the Authority dated 12 July 2016. In this two-page submission, the Applicant responds to an email from licensing staff dated 6 May 2016 and advises that in February 2016 the Applicant met with Police, discussed all areas of concern and is in agreement and will comply with all conditions as stated.
18. The purpose of the Application is to ensure that the Applicant can “better” manage the supply of alcohol directly to clients. The Applicant confirms that they will only be offering beer, wine and cider as well as low alcohol alternatives, as well as food, water and soft drinks. A responsible consumption of alcohol sign will be displayed on each boat, that all empty bottles and cans will be disposed of in the recycling bins on the Marina and public transport options will be recommended as street parking can be problematic.
19. In this submission the Applicant:
- (a) Consents to the six-hour closure period being set at between 1:30am and 7:30am;
  - (b) Advises that no response was received from the letter notifying the Application emailed to the La Perouse Aboriginal Community Information and Referral Service;
  - (c) Confirms that the liquor will be stored in a locked room;
  - (d) Advises that the Application is for all of the 20 Eastsail charter boats, as the current system makes the monitoring the amount of alcohol taken aboard difficult. The Applicant contends that any person who looks under the age of 30 will be asked for their ID to ensure no alcohol is sold to minors, that liquor will only be available to be ordered in advance of the charter, and staff will limit the amount supplied on a per person, per hour basis;

- (e) Advises that the enclosed area where the licence will be stored is complete and ready to trade;
- (f) Agrees to the three conditions imposed by licensing staff that relate to the business not operating with a greater overall level of social impact than what could be reasonably expected, the licensee or its representative joining and becoming an active member in the local liquor accord and the Premises being operated at all times in accordance with the Plan of Management.

20. The Applicant attaches further documents noted in the Schedule.

## Legislative Framework

21. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* (Act) and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act and the power to grant an ETA is provided by section 49 of the Act.
22. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
- (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.*
23. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
24. An application for a new packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
25. Section 48(5) of the Act requires that the Authority must not grant the Application unless satisfied 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”.

26. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Rushcutters Bay while the “broader community” comprises the responsible Local Government Area (LGA), the Woollahra LGA.

### **Analysis of Relevant Facts**

27. The Authority is satisfied, on the basis of the Application and CIS material before the Authority that, for the purposes of Section 40 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
28. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. The Authority notes the Australian Securities and Investments Commission (ASIC) company extracts supplied by the Applicant and that no probity issues with regards to the Applicant company were raised following consultation with law enforcement agencies including Police and LGNSW.
29. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Plan of Management* dated January 2016 that was provided by the Applicant.
30. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that development consent for the proposed use of the Premises that is the subject of this Application is not required, on the basis of the submission from Council dated 11 February 2016.

### **Social Impact – Positive Benefits**

31. Although there are numerous licensed premises capable of selling packaged liquor in the local and broader communities, the Authority is satisfied, on the basis of the Application, CIS and additional submissions supplied by the Applicant, that granting a packaged liquor licence restricted to selling alcohol to customers that have booked a charter service with the Applicant’s business will contribute, albeit to a modest extent, to the development of the liquor industry for the purposes of section 3(1)(b) of the Act.
32. Accepting the Applicant’s contention that they are the recipient of numerous state and national tourism travel awards, and having regard to the location and nature of the licensed business in question, the Authority is satisfied that granting the Application will also contribute to the responsible development of a related (tourism) industry, which is an object of section 3(1)(c) of the Act.

33. The limited grant of extended trading hours will further these benefits, in that they will enable the sale or supply of liquor to charter patrons who depart early on a Sunday morning.

### **Social Impact – Negative Impacts**

34. Having reviewed all the material, the Authority is satisfied that over time there may be some contribution from the liquor sold at the licensed business to alcohol related crime, disturbance or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Premises.
35. Although the Application is accompanied by an ETA Application, the extended hours sought only relate to between 7:30am and 10:00am on a Sunday to cater for charter cruises that depart the marina early.
36. The Authority is satisfied on the basis of the Application and CIS that the licensed trading hours sought from 7:30am to 7:00pm Monday through Sunday, are substantially less than the standard hours potentially available under the Act, particularly in the evenings. The limited evening hours objectively reduce the scope for potential adverse impacts from the sale of liquor from this business.
37. On the basis of the plan of the Premises provided by the Applicant, the Authority is satisfied that the licensed area is of a relatively small scale, approximately 41 square metres. This is another factor that reduces the scope for adverse social impact of the business over time.
38. The Applicant consents to the imposition of a licence condition limiting liquor sales to beer, cider, wine and low alcohol beverages only. This factor further reduces the range and strength of liquor products for sale and the scope for adverse social impact.
39. The Authority is satisfied on the basis of the ABS Socio-Economic Indexes for Areas (SEIFA) data discussed in detail below, that the local and broader community is relatively advantaged in socio-economic terms with Woollahra LGA ranking in the 10<sup>th</sup> (most advantaged) decile and the suburb of Rushcutters Bay in the 8<sup>th</sup> decile.
40. While charter cruises may well accommodate persons from outside of the communities, socio economic disadvantage is not a compounding risk factor in so far as this is discernible from the local and broader communities pertaining to the location of the Premises.
41. The Authority is satisfied on the basis of liquor licence density data obtained from records publicly available from LGNSW, that licence density is not an issue per se in the broader community of the Woollahra LGA. The Authority notes that this data indicated that Woollahra LGA recorded lower rates of *packaged liquor licences*, *registered club licences*, *full hotel licences* and *on-premises licences* compared to NSW.
42. The Authority notes that the BOCSAR Crime Maps for the period between April 2015 to March 2016 indicate that the Premises *is* located on the *border of a low and medium density hotspot* for incidents of *domestic assault*, *is not* located *within a hotspot* for incidents of *non-domestic assault*, and *is* located *just outside a low density hotspot* for incidents of *malicious damage to property*.

43. However, those local concentrations are assessed by BOCSAR in the context of a broader community that, as noted above, exhibits lower rates of alcohol-related assaults and alcohol-related disorderly conduct offences compared to NSW as a whole. The Authority is further satisfied on the basis of the BOCSAR data provided in the LGNSW submission that the suburb of Rushcutters Bay performs relatively well when compared against the state average rates for *alcohol related assault* and *anti social behaviour*.
44. The Authority is further satisfied on the basis of the BOCSAR Report on *Crime by LGA and Alcohol Related Status* as at June 2015, with which the Authority is familiar, that the broader community of Woollahra LGA has lower rates for incidents of *domestic violence related assault*, *non-domestic violence related assault* and *assault police per 100,000 persons* compared to NSW as a whole.
45. The Authority has considered the concerns raised by several local residents regarding the lack of controls that would distinguish ordinary members of the public from Eastsail's clients and the Applicant's ability to monitor the responsible service of alcohol and intoxication of clients.
46. However, the Authority is satisfied, on the basis of the further submission supplied by the Applicant, the Plan of Management dated January 2016 and the numerous conditions consented to by the Applicant, that these concerns have been adequately addressed.
47. The Authority has considered the submission by LGNSW that granting this licence may result in a precedent being set in that other vessel owners may forfeit their on-premise liquor licences in favour of packaged liquor licences and thereby remove a range of legislative tools available to address rogue practices and procedures on the waterways if they arise.
48. The Authority accepts the Applicant's submission that granting this Application would provide the Applicant with more control. In this case the Authority accepts that the Applicant business has been supplying liquor on licensed vessels through its business for more than 30 years.
49. The Authority must consider each application on its merits there is insufficient evidence or information indicating that this business will not demonstrate the same level of managerial control of liquor sold to charter customers through this type of licence than is presently the case.
50. The Applicant has an established record of operating from the Marina and supplying liquor to its patrons on its charter sailing vessels. The Authority is satisfied that the business will maintain its focus on supplying packaged liquor to charter customers in light of the Applicant's submissions and the conditions imposed upon the licence. There is no evidence of any adverse history, or complaints as to adverse impact from the patrons of this business.
51. The Authority is satisfied that Police do not object to the Application and that the Applicant has consented to a number of conditions requested by Police.

52. The Authority has considered Council's concerns that liquor be consumed on the charter sailing vessels only. The Authority is satisfied that the conditions consented to by the Applicant have adequately addressed the alcohol related impact concerns raised by local residents, Council, LGNSW and Police.
53. No submissions or evidence have been provided by law enforcement or Council supporting concerns as to any prevailing or likely amenity impacts upon the relevant communities from the extension of opening hours on a Sunday morning.

## **Conclusion**

54. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the packaged liquor licence subject to an ETA, as all of those required to be notified of the Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Licensee, Council, NSW Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and Family and Community Services (FACS) and all other parties required to be consulted under the legislation.
55. Having considered together the positive benefits and negative impacts that the Authority are satisfied 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 licence would not be detrimental to the well-being of these local and broader communities.
56. The Application is granted pursuant to section 45 and 49 of the Act.
57. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (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.

Decision Date: 17 August 2016



**Philip Crawford**  
**Chairperson**

## SCHEDULE

### Material Before The Authority

1. Application Form for new packaged liquor licence lodged on 7 January 2016.
2. ETA Application Form lodged on 7 January 2016 in which the Applicant advises that Liquor will be stored in a locked room, liquor will only be supplied for take-away to Eastsail charter customers and staff will limit the supply of alcohol to customers. The Applicant also contends that the ETA period relates to 7:30AM – 10:00AM on a Sunday as the business is already open at that time and liquor will be provided to boat charter customers departing before 10:00am.
3. Copies of stakeholder notices notifying the Application to various stakeholders as required by the liquor legislation – including Police, Council and the site notice placed on the Premises.
4. CIS document and supporting material lodged on 7 January 2016. Briefly, the Applicant makes the following contentions on the overall social impact of granting the Application in the CIS:
  - (a) We do not believe that the proposed packaged liquor licence will have any impact on the local community.
  - (b) We are already, and have been, supplying liquor to our charters for more than 30 years by utilising the services of a liquor store.
  - (c) The liquor will only be available for sale to Marina customers.
  - (d) Alcohol will be sold on the basis that it will be consumed on a chartered vessel only.
5. Google map depicting the location of neighbouring premises that were supplied with notice of the Application.
6. Submission from RMS dated 1 December 2015 advising that data for the Woollahra LGA indicates that during 2013 there were 9 alcohol-related crashes, resulting in 2 casualties. RMS recommend that the licensee maintain awareness of local alcohol-related issues; attend the LGA's Liquor Accord and that public education material focusing on drink drive and pedestrian-alcohol issues be supported and displayed within the Premises. RMS also recommends that the licensee draw attention to the *Safe Party Strategies* available on the NSW Police website for customers buying large quantities of alcohol or alternatively display a list of tips for people hosting social events.
7. Submission from NSW FACS dated 13 November 2015 advising that FACS “do not have a response” to the Application.
8. ASIC Current Company Extracts for Eastsail Pty Ltd as at 26 November 2015.
9. Google geographical map depicting an aerial view of the location of the Premises.
10. Two-page printout from the Eastsail website.
11. OneGov licence record for MV Yarranabbe as at 18 July 2016.

12. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location indicating that the Premises:
  - (a) Is located *on the border of a low and medium density hotspot* for incidents of *domestic assault*
  - (b) Is *not* located *within a hotspot* for incidents of *non-domestic assault*
  - (c) Is located *just outside a low density hotspot* for incidents of *malicious damage to property*
13. Liquor licensing records indicating that the suburb of Rushcutters Bay already has 2 packaged liquor licences.
14. Liquor licence density data derived from licensing records that are publicly available from LGNSW indicating that the Woollahra LGA as a whole recorded:
  - (a) a rate of **24.92 packaged liquor licences** per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
  - (b) a rate of **9.58 registered club licences** per 100,000 persons, well below the NSW state wide rate of **20.48**.
  - (c) a rate of **19.17 full hotel licences** per 100,000 persons, well below the NSW state wide rate of **30.36**.
  - (d) a rate of **21.09 on-premises licences** per 100,000 persons, well below the NSW state wide rate of **121.31**.
15. BOCSAR Report on *Crime by LGA and Alcohol Related Status* as at June 2015 with which the Authority is familiar provides the following comparison of alcohol related crime in the Woollahra LGA and New South Wales as a whole:
  - (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Woollahra LGA was **75.1** per 100,000 persons, less than the rate for New South Wales rate of **122.6** per 100,000 persons.
  - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Woollahra LGA for 2013 was **129.7**, less than the State wide rate of **144.0**.
  - (c) The rate of *offensive behaviour* offences flagged by reporting Police as *alcohol related* across this LGA was **97.2** per 100,000 persons, higher than the State wide rate of **88.2**.
  - (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Woollahra LGA was **15.4**, less than the rate of **18.2** per 100,000 for New South Wales as a whole
16. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:

- (a) The Woollahra LGA ranked in the 10<sup>th</sup> decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
  - (b) The state suburb of Rushcutters Bay ranked in the 8<sup>th</sup> decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.
17. Report to the Authority dated 3 May 2016 from a Delegate of the Department of Justice via the Compliance Branch of LGNSW.
  18. Submission from Constable Phillip Street, Rose Bay LAC Licensing on behalf of Police dated 5 March 2016.
  19. Submission from Constable Phillip Street, Rose Bay LAC Licensing on behalf of Police dated 10 February 2016
  20. Submission from Michelle Easton, Compliance Officer on behalf of Council dated 11 February 2016.
  21. Email submission from Mr Peter Franki, Director of Eastsail, on behalf of the Applicant to the Authority dated 18 July 2016.
  58. Email submission from Mr Peter Franki, Director of Eastsail, on behalf of the Applicant to the Authority dated 12 July 2016. The Applicant has attached the following documents to this submission:
    - (a) Appointment of manager form
    - (b) Approved manager form
    - (c) Police check for the manager
    - (d) Floor plans of the Premises clearly defining the licensed area in red
    - (e) Five photographs of the Premises
    - (f) Letter sent to La Perouse Aboriginal Community Information and Referral Service
    - (g) Plan of Management dated January 2016