



Ms Nicole Beath
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15 September 2016

Dear Ms Beath,

APPLICATION NO: 1-4213976924
APPLICATION FOR: Packaged Liquor Licence Removal

CURRENT TRADING HOURS: Monday to Saturday 05:00 – 22:00
Sunday 10:00 – 22:00

PROPOSED TRADING HOURS: Monday to Sunday 08:00 – 22:00
Sunday 10:00 – 22:00

APPLICANT: Liquorland (Australia) Pty Ltd
PROPOSED LICENSED PREMISES NAME: Liquorland

PREMISES ADDRESS: Removal from 338 Camden Valley Way, Narellan 2567 (Current Premises) to 326 Camden Valley Way, Narellan 2567 (Proposed Premises)

ISSUE: Whether to grant or refuse an application for packaged liquor licence removal and/or impose conditions for that licence.

LEGISLATION Sections 3, 29, 30, 31, 40, 45, 48 and 59
Liquor Act 2007

INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION - APPLICATION TO REMOVE LIQUOR LICENCE – LIQUORLAND, NARELLAN

The Independent Liquor and Gaming Authority considered the Application at its meeting on 31 August 2016 and pursuant to section 59 of the *Liquor Act 2007* (Act), decided to **approve** the removal of the licence on Application number 1-4213976924 subject to the following conditions:

1. Trading Hours
Monday to Saturday 8:00AM – 10:00PM
Sunday 10:00AM – 10:00PM
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 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.
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. The premises are to be operated at all times in accordance with the Management Strategies dated 20 October 2015 as may be varied from time to time in consultation with the Local Area Commander.
6. The licence cannot be exercised unless and until the Independent Liquor & Gaming Authority has granted a transfer of the licence to a suitably qualified person or a manager is approved and appointed to manage the premises.
7. Notwithstanding this approval, the licence is not to be exercised at Narellan Town Centre, 326 Camden Valley Way NARELLAN NSW 2567 unless and until the Independent Liquor and Gaming Authority has been provided with evidence that the premises is complete and ready to trade.
8. The Independent Liquor and Gaming Authority approved the removal of the licence to Narellan Town Centre, 326 Camden Valley Way NARELLAN NSW 2567 on 31 August 2016.
9. The liquor licence remains at 338 Camden Valley Way, NARELLAN NSW 2567 subject to the same conditions and trading hours that were immediately in force before this approval was granted until such time as the Liquor & Gaming NSW Authority is notified that the licence has been moved.

If you have any enquiries about this letter please contact case manager via email to 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 licence removal application (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. During the CIS consultation period, a submission from NSW Roads and Maritime Services (RMS) dated 12 August 2016 was received, advising that data for the Camden Local Government Area (LGA) indicates that during 2013 there were 10 alcohol-related crashes, resulting in 10 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 Proposed Premises. RMS further recommend 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. In the CIS, the Applicant agreed to implement the recommendations proposed by RMS.
4. On 17 August 2016 a submission was received from Licensing Officer, Senior Constable Mario Pasalic of the Camden Local Area Command (LAC) of NSW Police (Police) advising that Police have reviewed the Application and do not object to the Application.
5. On 23 August 2016 a submission was received from the Department of Justice via the Compliance Branch of LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed a specific assessment of the Application.

Legislative Framework

6. An application for the removal of an existing packaged liquor licence from its current location to another location is made under section 59 of the *Liquor Act 2007* (Act).
7. Pursuant to section 59(3) of the Act an application for approval to remove a licence to another premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1 of the Act, in particular, extend to an

application for the removal of a licence to other premises as if it were an application for a licence.

8. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the 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.
9. 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.*
10. 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.
11. An application under section 59 of the Act to remove a packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
12. 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”.
13. 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 Narellan while the “broader community” comprises the responsible Local Government Area, the Camden LGA.

Analysis of Relevant Facts

14. The Authority is satisfied, on the basis of the Application material before it and the absence of any submissions to the contrary, that for the purposes of section 59 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. This finding is made on the basis of the Application and CIS material provided by the Applicant.
15. 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. This finding is made on the basis of the information provided by the Applicant and that no issues of concern were raised with regard to the Applicant's probity following consultation with relevant law enforcement agencies including Police and LGNSW. The Authority also notes, on the basis of its licensing records that the Applicant company is a repeat applicant for packaged liquor licences. There are numerous licensed Liquorland outlets currently operating in NSW.
16. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act that responsible service practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *House Policy for the Responsible Service of Alcohol* and *NSW Management Strategies* provided by the Applicant.
17. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act that the required development consent is in place for use of the proposed use of the Premises as a packaged liquor licenced business, on the basis of DA No. 167/2014 issued by Camden Council (Council).

Social Impact – Positive Benefits

18. The Authority is satisfied, on the basis of the information provided by the Applicant in the Application and CIS, that the licence will be removed 400m away from the Current Premises within the same suburb of Narellan and will be situated within the soon to be redeveloped "Narellan Town Centre".
19. The Authority is also satisfied, on the basis of the Application and CIS material, that the Applicant distributed notices to the surrounding community which resulted in no objection from the local community, Police, LGNSW, Council or any relevant stakeholders. On this basis the Authority is satisfied that granting the removal of the licence would be consistent with the "expectations needs and aspirations" of the local or broader community within the meaning of section 3(1)(a) of the Act.
20. The Authority accepts the Applicant's contention that granting the Application will provide some additional measure of convenience to those members of the local and broader community who wish to purchase liquor for consumption off the Proposed Premises at the same time as buying their groceries from this Coles Supermarket, as they will be able to do so during the licensed trading hours at the Proposed Premises (from 8:00am to 10:00pm on Monday through Saturday and 10:00am to 8:00pm on Sunday).

21. The Authority accepts the Applicant's submissions regarding the \$200m expansion of the Narellan Town Centre which will result in an enlarged, improved and upgraded retailing environment and this will become Sydney's newest major regional shopping centre.
22. The Authority is satisfied that by granting the Application, the enhanced choice and convenience for customers of the Proposed Premises (and supermarket) will be consistent with the expectations, needs and aspirations of the community within the meaning of section 3(1)(a) of the Act.
23. While the Applicant contends that granting the Application will increase employment in that the Proposed Premises will employ five team members on a regular basis with additional members employed during peak periods, the Applicant has not provided clear or unequivocal undertakings that employees will actually be sourced from within the local or broader communities. Little weight is given to this purported community benefit on the material before the Authority.
24. Similarly, while the Applicant contends that granting the Application "may" lead to support for local community groups and sports, the Applicant has not provided clear or unequivocal undertakings that it will do so or the timing and quantum of such support. Little weight is given to those purported positive community benefits on the material before the Authority.
25. The Authority is satisfied that the proposal will contribute, in a modest sense, to the development of the liquor industry for the purposes of section 3(1)(b) of the Act by enabling this business to move to another nearby premises for the commercial purposes of that business.

Social Impact – Negative Impacts

26. The Authority is satisfied that over time there will likely be some contribution from the liquor sold at the Proposed Premises to alcohol related crime, disturbances or impact on amenity from a minority of customers who abuse packaged liquor purchased from the Proposed Premises.
27. However, given that this is a licence removal application involving the relocation of the licence a distance of 400m within the same local community, there will be no increase in licence density or numbers in the relevant communities. There is no information or submissions before the Authority to indicate a net change in social impact or increase in sensitivity from moving the licence from the Current Premises to the Proposed Premises. There are no pending packaged liquor licence applications for premises situated in Narellan.
28. The scale of the Proposed Premises is slightly smaller than the Current Premises and the Proposed Premises will be open to trade 18 fewer hours across the week than the licensed hours at the Current Premises. Upon removal of the licence, it will be subject to a 6-hour closure period for the purposes of section 11A of the Act. These are all factors that objectively reduce the potential adverse social impact from the exercise of the licence over time.

29. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location indicate that the Proposed Premises is located within a low to medium density hotspot for reported incidents of *non-domestic violence assault*. The Proposed Premises is not located within a hotspot for reported incidents of *alcohol-related assault*, but is located within low density hotspots for reported incidents of *domestic violence assault* and *malicious damage to property* (noting that such matters may or may not be recorded as alcohol related).
30. However, since the licence is being moved to a nearby location within the same suburb, it is unlikely that the contribution of the licence to crime rates or other adverse social impacts will increase as a result of the granting of the Application. Additionally, as advised by the Applicant, the Proposed Premises is not located within an Alcohol Free Zone.
31. The Authority is further reassured by the BOCSAR crime statistics for the 12 months ended June 2015, which demonstrate that the Camden LGA has lower rates of alcohol related crime per 100,000 persons than the rates for New South Wales as a whole for incidents of *alcohol-related domestic violence assault*, *alcohol-related non-domestic violence assault*, *offensive conduct* and *assault police*.
32. Taking into account the detailed harm minimisation measures outlined in *House Policy for the Responsible Service of Alcohol* and *NSW Management Strategies* provided by the Applicant as part of the Application, steps will be taken by the Applicant and its staff to ensure that the extent of adverse impact arising from the abuse of liquor sold from the Proposed Premises would be constrained. The Authority is further satisfied, on the basis of the information provided in the Application and CIS that scope for passive surveillance of the business and the conduct of patrons will arise through the location of the licence within a major shopping centre, along with security measures at the shopping centre.
33. The Authority has imposed several conditions (specified at the start of this letter), which have been taken into account when assessing the overall social impact of granting the Application.

Conclusion

34. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, 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, RMS, neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
35. Having considered together the positive benefits and negative impacts that have been found to flow from approving the removal, the Authority is satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
36. Removal of the licence approved pursuant to section 59 of the Act.

37. 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: 31 August 2016



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 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 in the liquor and gaming website

<https://www.liquorandgaming.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> 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

Material Before the Authority

1. Application form lodged on 24 March 2016.
2. CIS document and supporting material that accompanies the Application dated 10 February 2016. Briefly, the Applicant makes the following contentions on the overall social impact of removing the licence:
 - (a) The Application only seeks to remove an existing licence a short distance within the same LGA;
 - (b) Despite “extensive additional notification”, the only submission received during the consultation process was the standard RMS response;
 - (c) The Proposed Premises will offer greatly improved facilities from the Current Premises, including the introduction of “improved designing out crime features”;
 - (d) Industry leading protocols and procedures to ensure harm minimisation;
 - (e) Unlike the Current Premises, the Proposed Premises will be located internally in a shopping centre which reduces the potential for adverse amenity impacts and will provide patrons of the centre with a convenient shopping experience; and
 - (f) There will be no increase in outlet density.
3. Additional Information about the Application and CIS attached to the CIS dated 10 February 2016. In this 7-page document, the Applicant provides information about the Application and the Proposed Premises; the local community; notification of stakeholders; density of packaged liquor outlets; potential adverse amenity impacts of the Application; benefits of the Proposed Premises (including convenience; modern, safer facilities; increased competition; increased employment; economic benefits; and potential contributions to local community groups and sports); and harm minimisation measures.
4. Additional information about the proposed 6-hour closure period attached to the CIS dated 10 February 2016. In this 3-page document, the Applicant discusses, inter alia, the proposed operation of the licensed premises; the absence of objections received in respect of the Application from Police or Council; and the object of the Act.
5. Aerial geographical map depicting the 120-130m radius of notifying the Application.
6. Aerial map depicting the location of the Proposed Premises in relation to the Current Premises.
7. Map of the suburb of Narellan depicting alcohol free zones and reserves.
8. Photographs depicting the interior of the Proposed Premises on the basis of similar outlets.
9. Plan of the Proposed Premises clearly highlighting in red the proposed licensed area.
10. Certificate of Advertising signed by Mr Timothy O’Meara on behalf of the Applicant on 5 August 2016.

11. Coles Liquor *NSW Management Strategies and House Policy for the Responsible Service of Alcohol*.
12. Submission from RMS dated 12 August 2016.
13. Submission received from Licensing Officer, Senior Constable Mario Pasalic of Police dated 17 August 2016.
14. Submission received from the Department of Justice via the Compliance Branch of LGNSW dated 23 August 2016.
15. Development Approval number 167/2014 issued by Council on 27 November 2014.
16. Emails from staff assisting the Authority to the Applicant dated 29 July 2016; 17 August 2016; and 18 August 2016.
17. Email from the Applicant to staff assisting the Authority dated 5 August 2016; 17 August 2016; and 18 August 2016.
18. Liquor licensing records indicating that the suburb of Narellan currently has:
 - (a) 2 registered club licences;
 - (b) 1 hotel licence; and
 - (c) 2 packaged liquor licences (including the Current Premises)
19. Liquor licence density data obtained by the Authority from licensing records that are publicly available from LGNSW indicate that the Camden LGA as a whole recorded:
 - (a) A rate of **22.92 packaged liquor licences** per 100,000 persons, which is below the NSW state wide rate of **32.85**.
 - (b) A rate of **8.81 registered club licences** per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **17.63 full hotel licences** per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
20. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for period between July 2014 and June 2015. This data indicates that:
 - (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Camden LGA was **85** per 100,000 persons, below than the 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 Camden LGA for 2013 was **61.1**, significantly less than the State wide rate of **144**.
 - (c) The rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across Camden LGA was **43.2** per 100,000 persons, well below than the State wide rate of **88.2**.

- (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Camden LGA was **16.4**, slightly lower than the rate of **18.2** per 100,000 for New South Wales as a whole.
21. BOCSAR Statistics for the period between April 2014 and March 2016 provided by the Applicant. This data indicates that:
- (a) The rate of *domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in Narellan suburb:
- i) Between April 2014 and March 2015 was **75.7**, lower than the State wide rate of **125.8**.
 - ii) Between April 2015 and March 2016 was **0.0**, significantly lower than the State wide rate of **120.2**.
- (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in Narellan suburb:
- i) Between April 2014 and March 2015 was **50.4**, significantly less than the State wide rate of **149.9**.
 - ii) Between April 2015 and March 2016 was **277.4**, higher than the State wide rate of **137.4**.
- (c) The rate of *alcohol related assault* incidents flagged by reporting Police as *alcohol related* in Narellan suburb:
- i) Between April 2014 and March 2015 was **126.1**, less than the State wide rate of **294.5**.
 - ii) Between April 2015 and March 2016 was **403.5**, significantly higher than the State wide rate of **275.5**.
- (d) The rate of *malicious damage to property* incidents in Narellan suburb (noting that such matters may or may not be recorded as alcohol related):
- i) Between April 2014 and March 2015 was **681.0**, significantly less than the State wide rate of **888.1**.
 - ii) Between April 2015 and March 2016 was **1034.0**, significantly higher than the State wide rate of **849.7**.
22. BOCSAR Crime Maps based upon data from April 2015 to March 2016.
23. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:
- (a) The Camden LGA ranked in the 9th 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 Narellan ranked in the 9th decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.