



Mr Grant Cusack  
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21 July 2017

Dear Mr Cusack

<b>Application No.</b>	APP-0002600678
<b>Application for</b>	Packaged Liquor Licence
<b>Trading hours</b>	Monday to Saturday 8:00 am – 9:00 pm Sunday 10:00 am – 9:00 pm
<b>Applicant</b>	Costco Wholesale Australia Pty Ltd
<b>Licence name</b>	Costco Wholesale
<b>Premises</b>	10 Langford Drive MARSDEN PARK NSW 2765
<b>Issue</b>	Whether to grant a packaged liquor licence
<b>Legislation</b>	Sections 3, 11A, 29, 30, 31, 40, 45 and 48 of <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority  
Application for a packaged liquor licence – Costco Wholesale**

The Independent Liquor and Gaming Authority (“the Authority”) has considered your application on behalf of the Applicant for a packaged liquor licence (“the Application”). Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to **approve** the Application subject to the following 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. Restricted trading and NYE (std)  
Retail Sales  
Good Friday Not permitted  
December 24<sup>th</sup> Normal trading Monday to Saturday  
8:00 am to 10:00 pm Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> Normal trading
3. 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.
4. The premises is to be operated at all times in accordance with the Plan of Management as may be varied from time to time after consultation with the Local Area Commander.
5. The licensee or its representative must join and be an active participant in the local liquor accord.

6. The licensee will ensure the liquor sales area is adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.
7. The licensee will not sell refrigerated liquor from the licensed premises.
8. All alcohol sold must be in a clearly separated section from the rest of the store.
9. Closed-circuit television system
  - (1) The licensee must maintain a closed-circuit television (CCTV) system on 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 (or, in the case of premises that is not required to cease trading, continuously at all times),
    - (b) recordings must be in digital format and at a minimum of 15 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,
      - (ii) the footpath immediately adjacent to the premises, and
      - (iii) all publicly accessible areas (other than toilets) on the premises.
  - (2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that there is at least one member of staff on the premises at all times the system is operating who is 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 inspector within 24 hours of any request by a police officer or inspector to provide such recordings.
10. The licensee must ensure that immediately after the licensee or a staff member becomes aware of any incident involving an act of violence causing an injury to a person on the premises, the following is adhered to:
  - (a) take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police, and
  - (b) make direct and personal contact with the Local Area Commander or his/her delegate and advise the Commander or delegate of the incident; and comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition:

"staff member", in relation to subject premises, means any person employed by or acting on behalf of the licensee of the premises, and includes any person who is employed to carry on activities as a crowd controller or bouncer on or about the premises.

If you have any questions, please contact the case manager via email at [charles.rivers@justice.nsw.gov.au](mailto:charles.rivers@justice.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 23 January 2017 the Independent Liquor and Gaming Authority (“the Authority”) received from the Applicant, through Liquor and Gaming NSW (“L&GNSW”), an application for a packaged liquor licence (“the Application”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to grant the licence.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45 and 48 of the Act, and relevant provisions of the *Liquor Act Regulation 2008* (“the Regulation”).

### Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the 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 the Authority’s *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, HealthStats NSW data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by L&GNSW staff from publicly available sources.
7. The material considered by the Authority is listed in the Schedule, with a summary where appropriate.

### Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions.

### Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise alcohol-related harm, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

### Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

### Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

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

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:

- the applicant is a fit and proper person to carry on the proposed business,
- practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- the applicable development consent (“DC”) required for use of the premises for the proposed business is in force.

### Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.

15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

### Provisions specific to packaged liquor licence

16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.

17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.

18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.

19. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

### **Key findings**

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

### Validity, procedural and trading requirements

21. The Authority is satisfied that:

- the Application has been validly made and meets the procedural requirements under section 40 of the Act,
- the proposed trading hours for the Premises meet the requirements under sections 11A, 12 of the Act in respect of trading and 6-hour closure periods,
- liquor will be sold and supplied in a separate liquor sales area on the Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required in sections 29 and 30 of the Act, and
- section 31 of the Act does not apply to the Application, as the Premises will not be used for any of the purposes specified in the section.

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

22. Pursuant to section 45 of the Act, the Authority is also satisfied that:

- the Applicant is a fit and proper person to carry on the proposed business, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Applicant's Plan of Management ("POM") and the conditions to be imposed on the licence, and
- the requisite DC is in force, based on the notice of determination issued by Blacktown City Council on 20 August 2015.

#### Community impact statement

23. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
24. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Marsden Park, and the relevant "broader community" comprises Blacktown Local Government Area ("the LGA").

#### Positive social impacts

25. The Authority accepts, based on the information available, the Applicant's contention that Marsden Park is undergoing substantial residential and commercial development and associated population growth. The Authority also accepts that the anticipated population growth will create further demand for packaged liquor.
26. There is currently one packaged liquor licence in Marsden Park, being an ALDI supermarket. The Premises will, as contended by the Applicant, operate at a much larger scale than ALDI, offering a wide range of consumer and liquor products not currently available in the area.
27. The Authority notes that one packaged liquor licence in Marsden Park translates into a high density of 100 licences per 100,000 persons in the suburb, while the density for the LGA is 19.2, almost 50 percent less than the corresponding NSW figure of 36. The density scores are based on the Census data in 2011, at which time Marsden Park had a small population of 1,050. Given the suburb's extensive development since then, the Authority considers it reasonable to expect its current density to have reduced significantly.
28. There has been no opposition from the public, NSW Police, Blacktown City Council, NSW Health, or any other relevant agencies and bodies, in response to notification of the Application.
29. Having regard to the above, the Authority is satisfied that the Premises will, through the variety of products and "one stop shop" experience it offers, provide additional convenience and liquor choices to consumers in the local and surrounding areas.
30. Accordingly, the Authority is satisfied that the Premises will contribute to the development of the liquor industry, and the related retail industry, to meet the needs and expectations of the local and broader communities.

#### Negative social impacts

31. The Authority notes from the BOCSAR data that:

- for the year ending in December 2016, the Premises was not located in any hotspot for incidents of domestic, non-domestic or alcohol-related assault, or malicious damage to property,
  - the rate of alcohol-related assault and malicious damage to property per 100,000 persons of the population was “not counted” for Marsden Park in 2015 and 2016, and
  - the LGA reported, for the two years to December 2016:
    - i. higher rates of alcohol-related domestic assault and malicious damage to property than the corresponding NSW figure,
    - ii. a lower rate of alcohol-related non-domestic assault, and
    - iii. a stable two year trend for the above incidents.
32. The Authority also notes from the HealthStats NSW data that the LGA reported a downward trend for alcohol attributable deaths in the two years to 2013, but an increase in alcohol attributable hospitalisations in the same period.
33. The Authority further notes the submission from the Mt Druitt Local Area Command which, while not opposing the grant of the licence, outlined its concerns in respect of alcohol-related crime in the LGA.
34. Having regard to the above, the Authority finds it difficult to draw inferences from the statistics for Marsden Park, due to its small population at the time of data collection, and subsequent development yet to be captured. However, the Authority finds that the overall statistics for the LGA raise legitimate concerns about, and warrant careful consideration of, the impact of an additional liquor licence in the area.
35. The Authority acknowledges that, over time, there may be a risk that liquor sold or supplied at the Premises will contribute to the prevailing levels of alcohol-related crime and health issues in the local and broader communities.
36. The Authority is nevertheless satisfied that this risk is adequately mitigated by the following:
- The Applicant is an experienced operator of licensed Costco stores across Australia, including two in NSW. The Authority is not aware of any adverse information or incidents associated with the sale of liquor at the two Costco stores in NSW.
  - No refrigerated liquor products will be sold or supplied at the Premises.
  - No objection was received in relation to the Application.
  - The Applicant has set out in the POM detailed procedures and practices in respect of the responsible service of alcohol, which are complemented by the conditions to be imposed on the licence. For additional clarity and enforceability, the Authority considers it appropriate to expressly reiterate some of the key measures outlined in the POM, such as CCTV and crime scene preservation, in the licence conditions.

#### Overall social impact

37. The Authority has had regard to the ABS data indicating that as at 2011, Marsden Park was relatively disadvantaged in comparison with other suburbs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is six years old and that the area has since experienced significant changes to its demographics.

38. Having considered the positive and negative impacts that are likely to flow from granting the licence, the Authority is satisfied that the overall social impact of granting the licence would not be detrimental to the well-being of the local and broader communities.
39. The Authority is also satisfied that a decision to grant the licence would be consistent with the objects of the Act to regulate the supply of liquor and facilitate the responsible development of the liquor industry in line with community expectations and needs.
40. Accordingly, the Authority has decided to grant the packaged liquor licence.



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 on 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. ABS SEIFA data based on the 2011 Census indicating that the suburb of Marsden Park ranked in the 3<sup>rd</sup> decile within NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, with a decile ranking of 10 being the most advantaged.
2. HealthStats NSW data showing the trends for ten year to 2013 of alcohol-related deaths and hospitalisations in the LGA, expressed as smoothed rates per 100,000 persons of the population.
3. BOCSAR crime maps for the year to December 2016, indicating that the Premises is not within any hotspots for alcohol-related assault, domestic assault, non-domestic assault, or malicious damage to property.
4. NSW crime statistics for the year ending December 2016, published by BOCSAR, indicating the following:
  - a. The rate of alcohol-related domestic assault incidents was:
    - i. “not counted” for Marsden Park
    - ii. 123.9 per 100,000 persons for the LGA
    - iii. 116.9 per 100,000 persons for NSW.
  - b. The rate of alcohol-related non-domestic assault incidents was:
    - i. “not counted” for Marsden Park
    - ii. 103.2 per 100,000 persons for the LGA
    - iii. 136.5 per 100,000 persons for NSW.
  - c. The rate of malicious damage to property incidents was:
    - i. “not counted” for Marsden Park
    - ii. 1024.6 per 100,000 persons for the LGA
    - iii. 834 per 100,000 persons for NSW.
5. Notice of determination of a development application issued by Blacktown City Council on 20 August 2015, approving the construction of the proposed Costco store at the Premises. The reference number for the determination is 14-1343.
6. A completed Category B CIS form, signed by the Applicant and dated 20 January 2017, and additional information provided by the Applicant in support of the CIS.
7. A completed online application form for the Application, dated 23 January 2017.
8. Submissions from Mt Druitt Local Area Command, Roads & Maritime Services, and Aboriginal Affairs in relation to the Application, and the Applicant's response to each of these submissions.
9. Certification of Advertising Application signed by the Applicant and dated 5 May 2017.
10. Liquor licensing records from L&GNSW as at 2 May 2017, indicating that there was one packaged liquor licence in Marsden Park and 58 in the LGA.
11. A POM for the Premises titled “Costco Wholesale – Management Plan and House Policy”.

12. Google maps showing the location of the Premises, extracted from the Google website on 16 May 2017.
13. Floor plan indicating the Premises' proposed liquor sales area.
14. Additional documents provided by the Applicant in relation to proposed conditions and the CIS.
15. Submission from the Applicant, dated 3 July 2017, updating the address of the Premises, and requesting an amendment to the condition in respect of CCTV.