

Mr Jon Martin  
JDK Legal

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22 September 2017

Dear Mr Martin

**APPLICATION NO:** 1-5622484004  
**APPLICATION FOR:** Packaged Liquor Licence  
**TRADING HOURS:** Monday to Saturday 8:00am – 10:00pm  
Sunday 10:00am – 10:00pm  
**APPLICANT:** LIQUORLAND (AUSTRALIA) PTY. LTD.  
**LICENCE NAME:** Liquorland  
**LICENSED PREMISES:** Shop 18 1-11 Town Terrace  
GLENMORE PARK NSW 2745  
**ISSUE:** Whether to grant or refuse an application for  
a packaged liquor licence  
**LEGISLATION:** Sections 3, 29, 30, 40, 45 and 48 of the  
*Liquor Act 2007*

**INDEPENDENT LIQUOR & GAMING AUTHORITY DECISION  
APPLICATION FOR A PACKAGED LIQUOR LICENCE – LIQUORLAND**

The Independent Liquor & Gaming Authority considered application number 1-5622484004 at its meeting on 13 September 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **grant** 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 & 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 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 and Gaming Authority in support of the licence application or as varied from time to time after consultation with the Local Area Commander of NSW Police. 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 Independent Liquor and Gaming Authority.
6. Closed-circuit television (CCTV) 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,
    - (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 licensed area.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that at least one member of staff is 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 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.

Please note that the licence cannot be exercised unless and until the Authority has been:

1. provided with evidence that the premises is complete and ready to trade, and
2. notified of the appointment of an approved manager to the licence or the licence has been transferred to an individual licensee.

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

Yours faithfully



David Armati

**Deputy Chairperson**

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

## **STATEMENT OF REASONS**

### **DECISION**

1. On 22 March 2017, Liquorland (Australia) Pty. Ltd. (“the Applicant”) lodged an application for a packaged liquor licence for the premises located at Shop 18 1-11 Town Terrace GLENMORE PARK NSW 2745 (“the Application”) with Liquor & Gaming NSW (“L&GNSW”) for determination by the Independent Liquor & Gaming Authority (“the Authority”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority decided to grant the Application.
3. In making 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 the relevant provisions of the *Liquor 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

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:
  - (a) the applicant is a fit and proper person to carry on the proposed business,
  - (b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - (c) the applicable development consent 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 finds that:
  - (a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
  - (b) the proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,

- (c) liquor will be sold and supplied in accordance with the authorisation conferred by a packaged liquor licence, as required by section 29 of the Act, and
- (d) sections 30 and 31 of the Act do not apply to the Application, as the Premises is not intended to 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:

- (a) 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,
- (b) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible service of alcohol, having regard to the Applicant's Plan of Management ("POM") and the conditions to be imposed on the licence, and
- (c) the requisite development consent is in force, based on the Determination of Development Application DA14/0765.01 for Stage 2 of Glenmore Park Town Centre, issued by Penrith City Council on 27 August 2015, and Complying Development Certificate No. 17/0390/02 issued by Steve Watson & Partners on 27 July 2017.

#### 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 Glenmore Park, and the relevant "broader community" comprises Penrith Local Government Area ("the LGA").

#### Positive social impacts

25. The Authority accepts, based on the information available, the Applicant's contention that significant population growth is likely to occur in Glenmore Park in the coming years. The Authority also accepts that the anticipated population growth will create further demand for packaged liquor.

26. The Authority notes that there is only one existing packaged liquor facility in Glenmore Park, and considers that it is likely that an alternative option would be a welcome addition to the local community. The Authority notes that the density of packaged liquor licences per 100,000 of population in the suburb is extremely low in comparison to the NSW rate.

27. The Authority notes that, once redeveloped, the Glenmore Park Town Centre, within which the Premises will be housed, will comprise Coles, ALDI and Woolworths Supermarkets along with 60 speciality stores. The Authority accepts the Applicant's contention that the Premises will service the needs of the local and broader communities by offering a conveniently located modern packaged liquor facility, allowing members of those communities to access Liquorland's range of packaged liquor items whilst attending the shopping centre to purchase grocery and other items. The Premises will offer an even greater degree of convenience to customers of the Coles Supermarket, as it will be located immediately adjacent to the Supermarket.

28. The Authority does, however, consider that the benefit of convenience is somewhat reduced by the fact that visitors to Glenmore Park Town Centre can already access

grocery and liquor products together at the existing Woolworths Supermarket and adjoining BWS outlet.

29. The Authority notes that there were no objections to the Application received from any stakeholders, special interest groups, occupiers of neighbouring residents or any other members of the public. Furthermore, NSW Police made a submission in response to the Application which advised that it has no objection to the proposal, notwithstanding the concerns raised in that submission.

#### Negative social impacts

30. The Authority notes the concerns raised by NSW Police in respect of existing issues with juvenile drinking at a reserve located adjacent to the Premises, and agrees that there is a need for the Applicant to employ appropriate measures to prevent secondary supply and purchases by minors.
31. The Authority is satisfied that the Applicant is a particularly experienced operator of packaged liquor facilities, and that the various responsible service of alcohol measures prescribed in its POM, along with the special licence conditions imposed on the licence, will adequately mitigate the risk of access to alcohol by minors. The Authority is also satisfied that NSW Police is not troubled by this issue to the extent that such would warrant an objection to the Application.
32. The Authority notes that there is no evidence of local support for the proposal. The only indication of any such support is the fact that no submissions in opposition to the Application were received.
33. The Authority notes that data provided by NSW Health indicates that residents of Penrith LGA are dying from alcohol-related health issues at a lower than average rate, yet being hospitalised as a result of alcohol-related health problems at a higher than average rate.
34. The Authority notes from the BOCSAR data that, for the year ending March 2017, there is a high density hotspot for domestic assault and various medium density hotspots for malicious damage to property in Glenmore Park suburb. There are, however, no hotspots for non-domestic assault or alcohol-related assault in the suburb.
35. The Authority is satisfied that alcohol-related offences are occurring at significantly lower than average rates in Glenmore Park suburb. The Authority notes, in particular, that alcohol-related domestic assault occurred at a rate of only 53.6 per 100,000 of population in Glenmore Park in the year ending March 2017, compared to the corresponding NSW rate of 114.7. The rate was relatively steady over the two years to March 2017.
36. The Authority is concerned by the elevated rates of alcohol-related domestic assault and malicious damage to property recorded for Penrith LGA in the year ending March 2017, however considers that the more favourable localised data alleviates this concern somewhat.
37. The Authority has had regard to the ABS data indicating that, as at 2011, Glenmore Park was advantaged in comparison with other suburbs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage, ranking in the 9<sup>th</sup> decile. Penrith LGA was also comparatively advantaged, ranking in the 8<sup>th</sup> decile when compared to other LGAs in NSW.
38. Whilst, as noted above, there is evidence that the broader community is susceptible to alcohol-related illness and injury, and that there are elevated rates of alcohol-related crime at the LGA level, the Authority's concerns regarding these indicia of vulnerability to alcohol-related harm are significantly alleviated by the very low density of packaged liquor licences and very low rates of alcohol-related crime in Glenmore Park itself. The Authority is satisfied that these factors adequately mitigate the risks that are associated with this

additional packaged liquor facility given the prevailing scope of the alcohol-related problems being experienced by the local and broader communities.

39. The Authority is also satisfied that any risk associated with the granting of the Application will be further mitigated by the imposition of special licence conditions and by the Applicant's adherence to the measures stipulated in its POM.
40. The Authority also accepts that the Applicant is an experienced operator of many packaged liquor licences, many of which conform to the business model outlined in the Application.

#### Overall social impact

41. 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.
42. Furthermore, the Authority is 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.
43. Accordingly, the Authority has decided to grant the Application.



David Armati  
Deputy 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 <http://www.liquorandgaming.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

1. ABS SEIFA data based on the 2011 Census indicating that Glenmore Park suburb ranked in the 9<sup>th</sup> decile compared to other suburbs in NSW, and Penrith LGA ranked in the 8<sup>th</sup> decile compared to other local government areas in NSW, on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data relating to alcohol attributable deaths by local government area, 2001-2002 to 2012-2013, indicating that the Smoothed Estimate of Standardised Mortality Ratio was 98.8 for Penrith LGA for the period 2012-2013.
3. HealthStats NSW data relating to alcohol attributable hospitalisations by local government area, 2001-2003 to 2013-2015, indicating that the Smoothed Estimate of Standardised Separation Ratio was 105.1 for Penrith LGA for the period 2013-2015.
4. Determination of Development Application DA14/0765.01 for Stage 2 of Glenmore Park Town Centre, issued by Penrith City Council on 27 August 2015.
5. 2016 Census QuickStats for Glenmore Park suburb and Penrith LGA.
6. ASIC Current Organisation Extract for LIQUORLAND (AUSTRALIA) PTY. LTD. ACN 007 512 414 dated 23 March 2016.
7. Notice of intention to apply for a liquor licence dated 30 November 2016.
8. A letter to the Applicant from Transport Roads & Maritime Services dated 9 December 2016, making a number of recommendations.
9. An email to the Applicant from Penrith Local Area Command dated 22 December 2016.
10. BOCSAR Crime Hotspot Maps for Glenmore Park and surrounding suburbs for the year ending March 2017.
11. NSW crime statistics for the year ending March 2017, published by BOCSAR, for Glenmore Park suburb and Penrith LGA. This data indicates that:
  - the rate of alcohol-related domestic assault incidents recorded by NSW Police for Glenmore Park suburb was 53.6 per 100,000 persons, and for Penrith LGA was 146.5, compared to the State-wide rate of 114.7;
  - the rate of alcohol-related non-domestic assault incidents recorded by NSW Police for Glenmore Park suburb was 40.2 per 100,000 persons, and for Penrith LGA was 114.7, compared to the State-wide rate of 133.9; and
  - the rate of malicious damage to property incidents recorded by NSW Police for Glenmore Park suburb was 450.9 per 100,000 persons, and for Penrith LGA was 995.8, compared to the State-wide rate of 816.4.
12. CIS Category B signed 2 March 2017.



13. A copy of the Local Consent Authority Notice signed on behalf of Penrith City Council, indicating that development consent is required and in place, received by L&GNSW on 14 March 2017.
14. Application form for a packaged liquor licence, lodged 22 March 2017, accompanied by the following documents:
  - “Coles Liquor – NSW Management Strategies”; and
  - “Coles Liquor – House Policy for the Responsible Service of Alcohol”.
15. Plan of the proposed licensed area lodged with the Application on 22 March 2017.
16. An email to L&GNSW from Penrith Local Area Command dated 6 April 2017.
17. Newspaper article entitled “First look at new \$30 million shopping centre for Glenmore Park” published in the *Penrith Press* website on 8 April 2017.
18. Email correspondence between the Applicant and L&GNSW, including consent to a number of proposed conditions and responses to submissions received, dated between 11 July and 15 August 2017.
19. Certification of Advertising Application signed by Mr Timothy O’Meara, dated 17 July 2017.
20. Complying Development Certificate No. 17/0390/02 issued by Steve Watson & Partners on 27 July 2017 for first use and internal fitout of tenancies T18 and T18.1 for Coles and Liquorland.
21. Liquor licensing records from L&GNSW as at 1 August 2017 indicating:
  - Glenmore Park suburb had one packaged liquor licence, equivalent to 4.34 packaged liquor licences per 100,000 of population;
  - Penrith LGA had 41 packaged liquor licences, equivalent to 20.91 packaged liquor licences per 100,000 of population; and
  - NSW had 2,460 packaged liquor licences, equivalent to 32.89 packaged liquor licences per 100,000 of population.
22. Google maps indicating the location of the Premises, extracted on 9 August 2017.