

Mr Tony Schwartz
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4 December 2017

Dear Mr Schwartz

Application no.	1-5887697193
Application for	Removal of Packaged Liquor Licence
Applicant	Kallin Pty Limited
Current licence name	Chambers Cellars
Proposed licence name	BWS – Beer Wine Spirits
Current premises	Shop 5A 633-639 Hume Highway CASULA NSW 2170
Proposed premises	607-611 Hume Highway CASULA NSW 2170
Current trading hours	Monday to Thursday 10:00 am – 7:00 pm Friday to Saturday 10:00 am – 8:00 pm Sunday 10:00 am – 6:00 pm
Proposed trading hours	Monday to Saturday 8:00 am – 10:00 pm Sunday 10:00 am – 10:00 pm
Issue	Whether to approve the removal of a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48 and 59 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for the removal of a packaged liquor licence – Chambers Cellars**

The Independent Liquor and Gaming Authority has considered the Applicant's application for the removal of a packaged liquor licence and, pursuant to section 59 of the *Liquor Act 2007*, has decided to **approve** the removal 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 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st 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 reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of granting the removal of the licence to premises at 607-611 Hume Highway Casula NSW 2170.

4. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, as submitted to the Independent Liquor and Gaming Authority in support of the licence application and as may be varied from time to time after consultation with the Alcohol Licensing Enforcement Command 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.
5.
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close,
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises, and
 - (ii) all publicly accessible areas (other than toilets) within the premises.
 - 2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (c) provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
6. The licensee or its representative must join and be an active participant in the local liquor accord.

The Authority approved the removal of the licence to 607-611 Hume Highway Casula NSW 2170 on 18 October 2017. The licence remains at Shop 5A 633-639 Hume Highway Casula NSW 2170, subject to the same conditions and trading hours that were immediately in force before this approval, until the Authority is notified that the licence has been moved.

Please note that the licence cannot be exercised unless and until the Authority has been 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 questions, please contact the case manager at charles.rivers@liquorandgaming.nsw.gov.au.

Yours faithfully



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

Statement of reasons

Decision

1. On 16 June 2017, Kallin Pty Limited (“the Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“the Authority”), an application for the removal of a packaged liquor licence (“the Application”) from Shop 5A 633-639 Hume Highway Casula NSW 2170 (“Current Premises”) to 607-611 Hume Highway Casula NSW 2170 (“Proposed Premises”). It is proposed that the licence will be attached to a Woolworths Supermarket at the Proposed Premises and will be trading as “BWS – Beer Wine Spirits”.
2. Pursuant to section 59 of the *Liquor Act 2007* (“the Act”), the Authority has decided to approve the Application.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45, 48 and 59 of the Act, and relevant provisions of the *Liquor Act Regulation 2008*.

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 and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. The list of the material before the Authority is set out in the Schedule.

Legislative framework

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

Objects of the Act

9. The key 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 exercising its powers, have due regard to the need to minimise harm associated with misuse and abuse of liquor, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Removal of liquor licence

11. Section 59 of the Act requires the Authority to determine an application to remove a licence to another premises as if it were an application for a licence at that premises, and provides that the provisions in respect of a licence application extend to a licence removal application.
12. Section 59 also provides that the Authority must not approve the removal application unless it is satisfied that practices will be in place following the removal and remain in place to reasonably ensure the responsible service of alcohol and to prevent intoxication on the premises to which the license is proposed to be removed

Trading hours and 6-hour closure period

13. Section 12 of the Act sets out the standard trading period for various 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

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

15. Section 59(2) of the Act prescribes the minimum procedural requirements for a valid application to remove the licence to another premises.

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

16. 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 business to which the proposed licence relates,
- 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

17. 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.

18. 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 a packaged liquor licence

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

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

21. 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.

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

Key findings

23. 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 hour requirements

24. The Authority is satisfied on the material before it that:

- a) the Application has been validly made and meets the procedural requirements under sections 40 and 59 of the Act,
- b) the proposed trading hours for the Proposed Premises meet the requirements under sections 11A, 12 and 29 of the Act in respect of trading and 6-hour closure periods,

- c) if the Application were to be approved, liquor will be sold and supplied in a separate liquor sales area at the Proposed Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, and
- d) section 31 of the Act does not apply to the Application, as the Proposed 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

25. Pursuant to sections 45 and 59 of the Act, the Authority is satisfied that if the Application were to be approved, practices will be in place from the commencement of licensed trading at the Proposed Premises, and will remain in place, to reasonably ensure the responsible serving of alcohol and prevent intoxication. In making this finding the Authority has had regard to the material before it, including the Applicant's Plan of Management documents titled "Endeavour Drinks Group Liquor Store House Policy" and "Best Practice Policy and Interventions".
26. The Authority is also satisfied that, for the purposes of section 45 of the Act:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies, and
 - b) the requisite development consent is in force, based on the notice of determination of development application DA-1349/2012, issued by Liverpool City Council on 4 September 2014.

Community impact statement

27. 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 Proposed Premises on the local and broader communities.
28. 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 Casula, and the relevant "broader community" comprises Liverpool Local Government Area ("the LGA").

Positive social impacts

29. The Authority notes that:
- a) there are currently four packaged liquor licences in Casula, one of which is the subject of this Application,
 - b) the density of packaged liquor licence in both Casula and the LGA, expressed by the number of licences per 100,000 persons of the population, is more than 20 percent below the NSW state average, and
 - c) both Casula and the LGA have lower than average density for all other liquor licence types.
30. The Authority notes that the Proposed Premises is approximately 465 metres from, and is on the same side of the main road as, the Current Premises. The Authority also notes that the Proposed Premises is a reasonably new building comprising a large Woolworths Supermarket, where liquor is proposed to be sold within a separate liquor sales area.
31. The Authority accepts, on the material before it, the Applicant's contention that granting the removal of the packaged liquor licence to the Proposed Premises will:
- a) provide local residents with a more conveniently located, modern and secure packaged liquor facility, thereby improving the local amenity, and

- b) offer a 'one stop shop' experience to consumers who will be able to purchase packaged liquor with grocery and other household items at the same place.
32. Given the relatively short distance between the Current Premises and the Proposed Premises, the Authority also considers that:
- a) the existing customers at the Current Premises will not be deprived of their access to packaged liquor, and
 - b) any inconvenience they experience as a result of the removal is reasonably likely to be offset by the additional benefits offered by the Proposed Premises.
33. On the basis of the above, the Authority is satisfied that approving the Application will serve the expectations, needs and aspirations of the local and broader communities, and contribute to the responsible and balanced development of the liquor and retail industries.

Negative social impacts

34. The Authority notes from the BOCSAR data that:
- a) for the year to June 2017, the Proposed Premises was not in any hotspot for incidents of alcohol related assault, non-domestic assault or malicious damage to property, and was in low density hotspots for incidents of domestic assault,
 - b) for the two years to June 2017, both Casula and the LGA reported considerably lower rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in comparison with the corresponding NSW figure.
35. The Authority also notes from the HealthStats NSW data that the LGA reported lower levels of alcohol related deaths and alcohol related hospitalisations than the NSW state average.
36. On the basis of the relevant statistics, the Authority is satisfied that the prevailing level of alcohol related crime and health issues in Casula and the LGA does not raise immediate concerns.
37. The Authority notes that in 2015 it had refused an application for a new packaged liquor licence for the Proposed Premises, due to concerns at the time over increasing the liquor outlet density and associated negative social impacts. The Authority further notes that both NSW Police and Liverpool Council, which made objections in relation to the previous application, raised no concerns regarding the current Application.
38. The Authority has given consideration to the submission by NSW Health South Western Sydney Local Health District indicating that it did not support the Application. The Authority notes the concerns identified in the submission in respect of alcohol consumption in the area and links between liquor outlet concentration and alcohol related harm. The Authority however also notes that no reference was made in the submission to the proposed closure of the Current Premises and the consequent mitigation of any negative social impacts of the Proposed Premises.
39. The Authority has also considered submissions from three members of the public, by telephone and in writing. The first submitter did not provide details of her concerns when speaking with the Applicant's representative on the phone, and did not respond to the Applicant's invitation to provide a written submission. The second and third submitters expressed concerns over the safety and adequacy of the public roadways for pedestrians accessing the Proposed Premises, given the anticipated increase in traffic as a result of the additional liquor facility. The Authority accepts the Applicant's response to these submissions that public infrastructure issues are more relevant to Council's planning consideration, and notes that no concern in this respect was raised by Council or NSW Transport Roads & Maritime Services upon consultation.
40. The Authority is mindful of its duty under section 59(3) of the Act to deal with the Application as if it were an application for a new liquor licence at the Proposed Premises. Having regard

to all of the available material, the Authority accepts that over time, there may be a risk that liquor sold or supplied at the Proposed Premises will contribute to an increase in alcohol related crime, health and other social issues in the local and broader communities.

41. However, noting the proposed closure of the Current Premises, the Authority finds that approving the Application will not lead to any increase in the density of packaged liquor licence. The Authority also considers that at least a large proportion of any alcohol related harm stemming from liquor sold at the Proposed premises will be offset by the reduction in such harm following the closure of the Current Premises, which is not far from, and is double the size of the liquor sales area at the Proposed Premises.
42. The Authority notes that the licensed trading hours sought in the Application are more extensive than those for the Current Premises. The Authority nevertheless accepts that the potential risk of alcohol related harm arising from the proposed additional hours is adequately mitigated by:
 - a) the comprehensive procedures and practices in the Applicant's Plan of Management documents and the proposed licence conditions in respect of the responsible service of alcohol,
 - b) the absence of immediate concerns in respect of local alcohol related crime and health issues or social disturbances which may be exacerbated by the additional trading hours, and
 - c) the absence of specific concerns from community stakeholders in respect of the social impact of the additional hours proposed or the removal itself.

Overall social impact

43. The Authority has had regard to the ABS Socio-Economic Indexes for Areas ("SEIFA") data indicating that as at 2011, Casula ranked in the middle and the LGA ranked slightly above average in NSW, on the Index of Relative Socio-economic Advantages and Disadvantages.
44. Having considered the positive and negative impacts that are likely to flow from the removal of the licence in question, and the proposed operational measures and licence conditions, the Authority is satisfied that the overall social impact of approving the Application would not be detrimental to the well-being of the local and broader communities.
45. The Authority is also satisfied that a decision to approve the Application would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.
46. Accordingly, the Authority has decided to grant the removal of the packaged liquor licence from the Current Premises to the Proposed Premises.



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.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, ranking Casula and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths and hospitalisations for the LGA for the period between 2012 and 2013.
3. Notice of determination issued by Liverpool Council on 4 September 2014, approving the development application DA-1349/2012 in relation to the Proposed Premises.
4. Floor plan dated 1 October 2014 indicating the proposed liquor sales area at the Proposed Premises.
5. Statement of reasons dated 30 November 2015 for the Authority's decision to refuse an application for a packaged liquor licence for the Proposed Premises.
6. Submission from NSW Transport Roads & Maritime Services, dated 22 March 2017, in relation to the Application.
7. Submission from Aboriginal Affairs, NSW Department of Education, dated 27 March 2017, in relation to the Application.
8. Submission from a member of the public, dated 6 April 2017, in relation to the Application.
9. Submission from NSW Family & Community Services, dated 12 April 2017, in relation to the Application.
10. Completed and signed Category B CIS form dated 7 June 2017, with additional supporting information attached, including information about two submissions via telephone from members of the public in relation to the Application.
11. Completed and signed application form dated 7 June 2017, accompanied by copies of notices of Application and relevant ASIC extracts and credit report about the Applicant company.
12. Submission from NSW Health South Western Sydney Local Health District, dated 22 June 2017, in relation to the Application.
13. BOCSAR crime maps for the year to June 2017, showing the location of the Proposed Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
14. NSW crime statistics for the two years to June 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Casula and the LGA.
15. L&GNSW liquor licensing records as at 10 July 2017, showing key licence details for the packaged liquor licence the subject of the Application.
16. Certification of Advertising Application, signed and dated 11 July 2017
17. Submission from the Applicant, dated 3 August 2017, in respect of the submissions received and proposed licence conditions.
18. Submission from NSW Police, dated 15 August 2017, in relation to the Application.
19. L&GNSW liquor licensing records as at 28 August 2017, setting out the density of all types of liquor licences in Casula, the LGA and NSW, and listing all packaged liquor licences in Casula and the LGA.
20. Google map images extracted from the Google website on 22 September 2017, showing the location and photos of the Proposed Premises in map view, earth view and street view.

21. Plan of Management documents titled “Endeavour Drinks Group Liquor Store House Policy” and “Best Practice Policy and Interventions”, and a set of procedures and guidelines for staff in respect of the service of alcohol.