



Mr James Scott-Mackenzie

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5 December 2017

Dear Mr Scott-Mackenzie

**APPLICATION NO:** APP-0003076109

**APPLICATION FOR:** Packaged Liquor Licence

**TRADING HOURS:** Monday to Friday 8:00AM – 8:00pm

**APPLICANT:** Mr James Scott-Mackenzie

**LICENCE NAME:** Woolworths Metro

**LICENSED PREMISES:** 1 Woolworths Way BELLA VISTA NSW 2153

**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 – Woolworths Metro**

The Independent Liquor & Gaming Authority considered application number APP-0003076109 at its meeting on 18 October 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **grant** the application, subject to the following conditions:

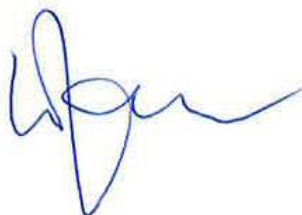
1. Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:00 AM and 8:00 AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Restricted trading & NYE (std)  

Retail sales	
Good Friday	Not permitted
December 24th	Normal trading Monday to Saturday, 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31st	Normal trading
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 Plan of Management – Woolworths Metro , 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 Commander of the Alcohol Licensing Enforcement Command of NSW Police.
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 is not to provide, supply or sell alcohol to members of the public unless they are an employee of or contracted to work within the Woolworths Group National Support Office.
8. (1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:
  - a. the system must record continuously from opening time until one hour after the supermarket/general store 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 to the supermarket/general store, and
    - ii. all publicly accessible areas (other than toilets) within the licensed 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.

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

Yours faithfully



Philip Crawford  
**Chairperson**

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

## **STATEMENT OF REASONS**

### **DECISION**

1. On 20 June 2017, Mr James A Scott-Mackenzie (“the Applicant”) lodged an application for a packaged liquor licence for premises located at 1 Woolworths Way BELLA VISTA NSW 2153 Australia (“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:

- 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 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:

- 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 and 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 at the Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, and
- the convenience-style Woolworths Metro Supermarket within which the Premises will be located satisfies the requirements of section 31 given that it has a total floor space of more than 240 square metres. Furthermore, the Premises does not comprise a service station or take-away food shop.

## 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 service of alcohol, having regard to the Applicant's Plan of Management – Woolworths Metro and the conditions to be imposed on the licence, and
- the requisite development consent is in force, based on Complying Development Certificate No. 1703035-2 issued by Hendry Group Pty Ltd on 15 June 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 Bella Vista, and the relevant "broader community" comprises The Hills Local Government Area ("the LGA").

## Positive social impacts

25. L&GNSW's liquor licensing records indicate that:

- as at 28 August 2017, there are only two existing packaged liquor licences in Bella Vista; and
- the density of packaged liquor outlets in Bella Vista and the LGA is 27.33 and 28.80 per 100,000 of population respectively, each of which is below the corresponding NSW figure of 31.54.

26. The Authority notes the Applicant's claim that the Premises intends to limit its sale and supply of liquor to Woolworths employees and contractors who are based in the Woolworths Group National Support Office ("Woolworths NSO") in Bella Vista.

27. The Premises will comprise a liquor department within an existing convenience-style Woolworths Metro Supermarket located within the Woolworths NSO, access to which is restricted by way of authorised security passes. The Authority notes that members of the public are not permitted to enter the building.

28. The Authority accepts the Applicant's claim that the granting of the licence will provide an additional measure of convenience to employees and contractors working in the Woolworths NSO who wish to purchase liquor items along with grocery and other items, particularly when arriving at, departing from or taking a break at their workplace.

29. The Authority is satisfied 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.

30. The Authority is also satisfied that the Premises will be operated by an experienced operator of many packaged liquor licences located across NSW.

31. On the basis of the above, the Authority is satisfied that the Premises will provide additional convenience and choice to consumers working within the Woolworths NSO who wish to purchase packaged liquor, and will contribute to the balanced and responsible development of the liquor industry.

#### Negative social impacts

32. The Authority notes that the characteristics of the local community have limited relevance to the Application given that customers of the Premises will be Woolworths employees and contractors working at the Woolworths NSO, many of whom will travel from outside the local area and will consume the liquor purchased at the Premises in localities further afield.

33. Notwithstanding the above, the Authority notes from the BOCSAR data that:

- for the year ending June 2017, the Premises was not located in the vicinity of any hotspots for incidents of domestic, non-domestic or alcohol-related assault, or malicious damage to property,
- for the year ending June 2017:
  - i) there were no incidents of alcohol-related domestic assault in the suburb;
  - ii) the rate of alcohol-related domestic assault incidents was 25.5 per 100,000 persons for the LGA, which is considerably lower than the NSW rate of 116.2 per 100,000 persons;
  - iii) the rates of alcohol-related non-domestic assault incidents were 35.5 and 31.2 for the suburb and LGA respectively, considerably lower than the NSW rate of 134.3; and
  - iv) the rates of malicious damage to property incidents were 177.5 and 328.3 for the suburb and LGA respectively, considerably lower than the NSW rate of 817.3.

34. On this basis, the Authority considers that the level of alcohol-related crime in Bella Vista and the LGA does not give rise to any immediate concern, or indicate that an additional packaged liquor licence would exacerbate any existing such problems attributable to alcohol.

35. However, the Authority also notes from the HealthStats NSW data that, for the period 2012-13, alcohol-attributable hospitalisations, reflected by a Smoothed Standardised Separation Ratio, were about 20 percent higher than the corresponding NSW figure, although alcohol-attributable deaths in the LGA were around 20 percent lower.

36. The Authority acknowledges that the high rate of alcohol-attributable hospitalisations in the LGA indicates some potential risk that liquor sold or supplied at the Premises will contribute towards the prevailing concerning level of alcohol-related health issues being experienced in the local and broader communities.

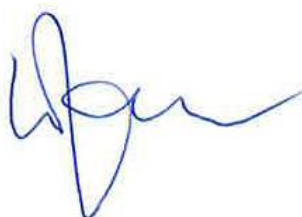
37. The Authority is nevertheless satisfied that any potential risks identified are adequately mitigated by the following:

- liquor cannot be sold or supplied to members of the public and is only to be made available to employees or contractors working at Woolworths NSO;
- trading hours are restricted to between 8:00am and 8:00pm, Monday to Friday;
- no objection was received from any relevant parties in relation to the Application; and
- the Applicant's adherence to the "Plan of Management – Woolworths Metro" document, which sets out detailed procedures and practices in respect of the

responsible service of alcohol, and is complemented by special conditions on the licence.

#### Overall social impact

38. The Authority has had regard to the ABS data indicating that as at 2011, Bella Vista and the LGA were among the most advantaged in comparison with other suburbs and LGAs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
39. 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.
40. 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.
41. Accordingly, the Authority has decided to grant the Application.



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 <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, ranking Bella Vista and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol related deaths for the period 2001-2002 to 2012-2013 and hospitalisations in the LGA for the period 2001-2003 to 2013-2015
3. A letter to the Applicant from Transport Roads & Maritime Services dated 17 March 2017, making a number of recommendations.
4. An email to the Applicant from Aboriginal Affairs dated 27 March 2017, advising that it has no objection to the Application on the basis that the Applicant has also notified the NSW Aboriginal Land Council and Local Aboriginal Land Council.
5. Probity documents provided by the Applicant including National Police History Check dated 29 May 2017, copies of the Applicant's identification and valid NSW competency card.
6. Complying Development Certificate No. 1703035-2 issued by Hendry Group PTY LTD on 15 June 2017 for proposed East Ground 'Metro Liquor' retail fitout.
7. CIS Category B dated 19 June 2017, with accompanying document titled "Additional Information".
8. A completed online application form for a packaged liquor licence, lodged 20 June 2017.
9. Plan of the proposed licensed area lodged with the Application on 20 June 2017.
10. A document titled "Plan of Management – Woolworths Metro" lodged with the Application on 20 June 2017.
11. An email from The Hills Shire Council, dated 22 June 2017.
12. Certification of Advertising Application signed by Mr Scott-Mackenzie, dated 22 June 2017.
13. NSW crime statistics for the two years to June 2017, published by BOCSAR, showing the rates of alcohol related domestic and non-domestic assault and malicious damage to property in Bella Vista and the LGA.
14. BOCSAR Crime Hotspot Maps for Bella Vista and surrounding suburbs for the year ending June 2017.
15. A letter from The Hills Local Area Command advising that NSW Police has "nil objections" to the Application, dated 20 July 2017.
16. Google maps showing the location of the Premises, extracted from the Google website on 4 August 2017.
17. A document titled "Response to Requisitions" from the Applicant, dated 10 August 2017.
18. Submission from L&GNSW Compliance Unit dated 28 August 2017.
19. Liquor licensing records from L&GNSW as at 28 August 2017 setting out the liquor outlet density in Bella Vista and the LGA.
20. An undated document received from the Applicant titled "Response to Community Consultation".