



Ms Ellie Yoo
LAS Lawyers & Consultants
e.yoo@laslawyers.com.au

20 February 2018

Dear Ms Yoo

Application No.	1-6302867748
Application for	Packaged Liquor Licence
Trading hours	Monday to Saturday 10:00am – 5:30 pm Sunday 10:00 am – 3:00 pm
Applicant	Mr Rodney Stephen Norris
Licence name	Envy Liqueurs, Wines & Spirits
Premises	Shop 1, 347 Bong Bong Street, BOWRAL 2576
Issue	Whether to grant or refuse an application for a packaged liquor licence
Legislation	Sections 3, 11A, 29, 30, 31, 40, 45 and 48 <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – Envy Liqueurs, Wines & Spirits**

The Independent Liquor and Gaming Authority (“the Authority”) has considered your application on behalf of the Applicant for a new 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 4:00 am and 10:00 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 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 dated November 2017 as may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy of the Plan of Management 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. Any sale or supply of liquor through an internet site must have the same name as the licenced premises being “Envy Liqueurs, Wines, Spirits”.
7. The licensee or its representative must join and be an active participant in the local liquor accord.

Please note that in the case of any Sunday that falls on 24 December, the statutory provision allowing the Premises to trade between 8:00 am and 10:00 pm under the licence is subject to the 6-hour closure period and requirements of the local planning authority. In accordance with the 6-hour closure period and the development consent for the current licence, the Premises must not start trading before 10:00 am and after 3:00pm.

If you have any questions, please contact the case manager via email to 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 13 December 2017 the Independent Liquor and Gaming Authority (“the Authority”) received from Mr Rodney Stephen Norris (“the Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for a packaged liquor licence (“the Application”) for the premises at Shop 1, 347 Bong Bong Street, Bowral 2576 (“the Premises”).
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, 12, 29, 30, 31, 40, 45 and 48 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, 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, obtained by L&GNSW staff from publicly available sources.
7. The list of material considered by 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 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 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

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 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

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 a 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 hour requirements

21. The Authority is satisfied 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, and
 - c) the proposed use of the Premises as a standalone liquor store satisfies the requirements under section 29 of the Act, and renders sections 30 and 31 not applicable.

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 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,
 - b) 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 document and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the notice of determination issued by Wingecarribee Shire LGA on 30 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 Bowral, and the relevant “broader community” comprises Wingecarribee Shire Council (“the LGA”).

Positive social impacts

25. The Authority notes, based on the information available, that the benefit of granting the licence is somewhat limited by the high density of liquor outlets in Bowral and the LGA, including a number of packaged liquor and hotel licences on Bong Bong Street where the Premises is located. The Authority considers that the local residents and visitors to the area can already access packaged liquor through venues within a short distance of the Premises.
26. The Authority nevertheless accepts the Applicant’s contention that the Premises will operate in a substantially different manner to that of existing liquor stores in the area, in that it will focus on selling the business owner’s self-produced spirits. The Authority notes that this type of liquor is currently available to be purchased online and accepts that the Premises will provide a direct platform to showcase exclusive products and tastings in person.
27. The Authority notes that the Applicant proposes to sell other types of liquor, including “more familiar liquor brands”, only on an ancillary basis.
28. The Authority is satisfied that there were no objections to the Application received from any key stakeholders specifically NSW Police and local council. Additionally, the Applicant has agreed to all of the conditions proposed by NSW Police.
29. On the basis of the available information, the Authority is satisfied that given the proposed business model, the Premises will benefit the local and broader communities by providing additional choice and convenience to local consumers wishing to purchase specialised local and self-produced liquor products not available in existing stores.
30. Accordingly, the Authority is satisfied that granting the licence will be in line with the expectations and needs of the community, and contribute to the balanced and responsible development of the liquor industry.

Negative social impacts

31. The Authority notes that the density of packaged liquor licences per 100,000 of population in Bowral and the LGA is significantly higher than the corresponding NSW figure.
32. The Authority also notes the submission from Bowral Baptist Church, received by the Applicant as part of the CIS process, opposing the Application on the basis of the high number of premises in the local community that sell takeaway liquor.
33. Notwithstanding the above, the Authority is satisfied that alcohol-related offences are occurring at lower than average rates in Bowral and the LGA, noting that for the year ending June 2017:
 - a) the rates of alcohol-related domestic assault incidents for Bowral and the LGA were 67.9 and 112.4 per 100,000 persons, which were lower than the NSW rate of 116.2 per 100,000 persons; and
 - b) the rates of alcohol-related assault incidents for Bowral and the LGA were 249.9 and 216.5 respectively, lower than the NSW rate of 265.8.
34. The Authority notes that the rate of incidents of malicious damage to property was moderately higher in Bowral (825.8 per 100,000 persons) and lower in the LGA (720.4 per 100,000 persons), compared to the NSW state average of 817.3 per persons.

35. The Authority is satisfied, based on the BOCSAR Crime Maps for the year ending June 2017, that the Premises was:
- a) not located in any hotspots for incidents of domestic assault;
 - b) located in low density hotspots for incidents of non-domestic and alcohol related assault; and
 - c) located in a high density hotspot for malicious damage to property.
36. The Authority accepts, based on the relevant data provided by NSW Health, that residents of the LGA are dying from alcohol-related health issues at a similar rate to the NSW average and are being hospitalised as a result of alcohol-related health problems at a lower rate than the NSW average.
37. On this basis, the Authority considers that the prevailing level of alcohol-related crime and health issues in Bowral and the LGA does not raise immediate concerns.
38. Additionally, the Authority considers that any potential risks of negative social impact of granting the licence would be mitigated by the cumulative effect of the following:
- a. The primary focus of the business will be the sale of self-produced spirits and other items not available in traditional liquor stores.
 - b. The Premises will cease trading at 5:30pm on Mondays to Saturdays and 3:00pm on Sundays, which will help to reduce any adverse impact its operation may have on the amenity of the community.
 - c. No objections were received from key stakeholders such as NSW Police and Wingecarribee Shire Council.
 - d. The Applicant has consented to a number of licence conditions, including all of the conditions proposed by NSW Police, to address the potential risks and concerns in respect of the Premises' operation. These conditions reiterate and complement the practices and procedures set out in the Plan of Management for the Premises to ensure the responsible service of alcohol.

Overall social impact

39. The Authority has had regard to the ABS data indicating that, as at 2011, Bowral and the Wingecarribee Shire LGA was advantaged in comparison with other LGAs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage, ranking in the 7th and 8th decile respectively (with a decile of 10 being the most advantaged).
40. 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.
41. The Authority is also satisfied that a decision to grant the licence 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.
42. 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.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 Bowral and the LGA 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 and alcohol attributable hospitalisations by local government area 2001-2003 to 2013-2015.
3. Notice of intention to apply for liquor licence, dated 14 June 2017, in respect of the Application.
4. BOCSAR crime maps for the year to June 2017, showing the Premises' location relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
5. NSW crime statistics for the two years to June 2017, published by BOCSAR, on incidents of alcohol-related assault (domestic and non-domestic) and malicious damage to property in Bowral and the LGA.
6. Notice of determination of a development application, issued by Wingecarribee Shire Council on 30 June 2017.
7. Completed Category B CIS form, signed and dated 16 July 2017, and relevant additional information prepared by the Applicant's representative.
8. Completed online application lodged on 21 August 2017, accompanied by the following documents:
 - a local consent authority notice signed by the Applicant and dated 2 August 2017;
 - a public consultation site notice signed by the Applicant and dated 2 August 2017; and
 - probity documents provided by the Applicant including National Police History Check issued 24 July 2017 and copies of the Applicant's identification
9. L&GNSW liquor licensing records as at 28 August 2017, setting out the density of packaged, hotel and club liquor licences in Bowral, the LGA and NSW based on the population at the time of the 2016 Census.
10. Submission from NSW Police submitted to L&GNSW on 27 September 2017, in respect of the Application.
11. Certification of Advertising Application, signed by the Applicant on 29 September 2017.
12. Correspondence between L&GNSW and the Applicant's representative, by emails between 5 October and 28 November 2017, in relation to the submissions received and additional information required for the Application.
13. A document titled "Plan of Management – Envy Liqueurs, Wine & Spirits Shop 1, 347 Bong Bong Street Bowral NSW 2576", dated November 2017.
14. Google map and earth views showing the location of the Premises, extracted from the Google website, undated.
15. Undated floor plan indicating the Premises' proposed licensed area.