



Ms Chloe Bigg
Geolyse Trust
cbigg@geolyse.com

30 August 2017

Dear Mrs Bigg

Application No.	APP-0002723853
Application for	Packaged Liquor Licence
Proposed trading hours	Monday to Thursday 10:00 am – 6:00 pm Friday to Saturday 10:00 am – 9:00 pm Sunday 10:00 am – 6:00 pm
Applicant	Tenterfield Petroleum Pty Ltd
Proposed licence name	Yarramalong General Store
Proposed premises	1625 Yarramalong Rd YARRAMALONG NSW 2259
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 31 and 45 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – Yarramalong General Store**

The Independent Liquor and Gaming Authority has considered your application on behalf of the Applicant for a packaged liquor licence and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **refuse to grant** the licence.

If you have any questions, please contact the case manager at 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 16 March 2017 the Independent Liquor and Gaming Authority (“the Authority”) received from Tenterfield Petroleum Pty Ltd (“the Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for a packaged liquor licence (“the Application”). The Applicant is seeking the licence for the premises at 1625 Yarramalong Rd, Yarramalong (“the Proposed Premises”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to refuse to grant the licence, on the basis that the Application does not meet the requirement under section 31 of the Act. Specifically, the Authority is not satisfied that no other take-away liquor service is reasonably available to the public in the neighbourhood of the Proposed Premises.
3. In reaching this decision, the Authority has had regard to the relevant material before it, and the legislative requirements under sections 3, 31 and 45 of the Act.
4. For the purpose of this decision, it was not necessary to, and the Authority did not, consider whether the other criteria for a packaged liquor licence have been met.

Relevant material considered by the Authority

5. The Authority has considered the Application, all submissions received in relation to the Application, and relevant L&GNSW licensing records.
6. 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.
7. A list of all 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 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.

Restrictions on granting packaged liquor licence for a general store

11. Subsection 31(1) of the Act provides that the Authority must not grant a packaged liquor licence for premises comprising a general store, unless it is satisfied that, among other things, no other take-away liquor service is reasonably available to the public in the neighbourhood of the premises concerned.
12. Subsection 31(3) of the Act defines general store as a convenience store, mixed business shop, corner shop or milk bar which primarily sells groceries or associated small items by retail within a retail floor area of not more than 240 square metres.

Decision making in relation to licence applications

13. Section 45 of the Act provides that the Authority may, after considering an application for a licence and any relevant submissions, grant or refuse to grant the licence.

Key findings

14. The Authority finds, on the basis of the Applicant's contention and the information available, that the Proposed Premises is a general store for the purpose of section 31 of the Act. The layout plan provided by the Applicant in the Plan of Management indicates that the Proposed Premises is being used for selling food and other groceries within a retail floor area of 61 square metres.
15. The suburb in which the Proposed Premises is located, Yarramalong, is a small community of 340 people according to the 2016 Census data. There is currently one packaged liquor outlet, Gaofall Pty Limited, located within 100 metres from the Proposed Premises.
16. The Applicant submitted that the supply of packaged liquor at the existing outlet does not amount to reasonable availability of take-away liquor, as the existing outlet has short operating hours.
17. The Authority nevertheless notes and accepts the written confirmation from the manager of Gaofall Pty Limited that the premises is temporarily trading for shorter hours due to refurbishment, and that its standard hours as stated on its licence are from 10:00 am to 8pm Monday to Thursday, 10am to 8:30 pm Friday to Saturday and from 10:00 am to 6:30 pm on Sunday.
18. Additionally, the Authority notes that seven submissions were received from members of the public opposing the grant of the licence. In all of the submissions concerns were raised in respect of existing alcohol related issues and availability of packaged liquor in the small town.
19. Having regard to the above, the Authority is satisfied that take-away liquor service is reasonably available to the public at the existing packaged liquor premises in the vicinity of the Proposed Premises.
20. The Authority is therefore not satisfied that the Application has met the requirement under subsection 31(1) of the Act.
21. As there is no discretion for the Authority to consider granting a packaged liquor licence notwithstanding the Application's failure to satisfy section 31 of the Act, the Authority has not turned its mind to whether the Application satisfies the other criteria for grant of the licence.
22. Accordingly, the Authority refuses to grant the licence under section 45 of the Act.



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 2011 Census Quickstats for the Wyong and Gosford Local Government Areas, which were merged in 2016 to form the LGA.
2. ABS SEIFA data based on the 2011 Census for Yarramalong and on the 2006 Census for the LGA (comprising the Gosford and Wyong Local Government Areas which were merged in 2016 to form the LGA) on the Index of Relative Socio-Economic Advantage and Disadvantage.
3. Notice of determination issued by Central Coast Council on 18 October 2012, approving the Applicant's application to modify development consent DA/1011/2011/A.
4. A Community Impact Statement prepared by the Applicant's representative, dated September 2016, which was not signed by the Applicant or accompanied by a completed Category B CIS form.
5. BOCSAR crime maps for the year to March 2017, showing the Premises' location relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
6. NSW crime statistics for the two years to March 2017, published by BOCSAR, for Yarramalong and the LGA (comprising the Gosford and Wyong Local Government Areas which were merged in 2016 to form the LGA).
7. Completed online application form dated 16 March 2017, with copies of notices of the Application and relevant ASIC extracts attached.
8. Submission from Central Coast Council, by email on 29 March 2017, in relation to the Application.
9. Seven submissions from members of the public, between 22 March and 16 April 2017, in relation to the Application
10. Plan of Management dated July 2017.
11. Certification of Advertising signed by the Applicant and dated 7 July 2017.
12. Liquor licensing records from L&GNSW as at 10 July 2017, outlining the density of and listing all packaged liquor licences in Yarramalong and the LGA.
13. Floor plan indicating the Premises' proposed liquor sales area.
14. Correspondence between L&GNSW and the Applicant's representative between 24 April 2017 and 17 May 2017 in relation to the Application.
15. Google maps showing the location of the Premises, extracted from the Google website on 1 June 2017.
16. Correspondence between L&GNSW and the licensee of Gaofall Pty Ltd (the existing packaged liquor licence in Yarramalong) on 17 July 2017 in relation to the trading hours of Gaofall Pty Ltd.
17. HealthStats NSW data showing alcohol attributable deaths and hospitalisations for the Gosford and Wyong Local Government Areas (merged in 2016 to form the LGA).
18. Undated submission from Wyong Police in relation to the Application.
19. Undated submission from the Applicant's representative in response to the submissions received and concerns raised about the Application.