

- 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.

Trading on a Sunday that falls on 24 December

Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 am.

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 6 February 2017 Mr Eric Pyo (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought the granting of a packaged liquor licence (“Licence”) for the premises at 58A Joseph Street, Lidcombe NSW (“Premises”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“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 Regulation 2008* (“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 and data published by Bureau of Crime Statistics and Research (“BOCSAR”), HealthStats NSW, and Australian Bureau of Statistics (“ABS”).
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, needs and aspirations 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 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.

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,
 - c) if the Licence were to be granted, liquor would be sold and supplied at the Premises in accordance with the authorisation conferred by the 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 operate as is contemplated by those sections.

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

22. The Authority notes that NSW Police initially made a submission on 9 March 2017 raising concerns about the Applicant's probity arising from:
- a) an incident during 2006 of being barred from a licensed venue,
 - b) an offence in 2008 for driving with middle range prescribed concentration of alcohol, and

- c) his work for another licensed business in 2016, albeit not in any regulated capacity, which Police considered to be noncompliant with relevant liquor licensing requirements.
23. However, NSW Police advised in a further submission on 13 October 2017 that, following a review of the available information, Police has no objection in respect of the Applicant's probity.
24. The Authority has considered all available information going to the Applicant's probity and is satisfied, pursuant to section 45 of the Act, that the Applicant is a fit and proper person to carry on the business to which the proposed licence relates at this time.
25. The Authority is also satisfied that, in accordance with section 45 of the Act:
- a) 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, and
 - b) the requisite development consent is in force, based on the notice of determination of development application DA-328/2016 issued by Cumberland Council on 2 November 2016.

Community impact statement

26. 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.
27. 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 Lidcombe, and the relevant "broader community" comprises Cumberland Local Government Area ("the LGA").

Positive social impacts

28. The Authority accepts, on the information available, the Applicant's contention that Lidcombe and the LGA have undergone substantial development and growth, which will likely continue into the future. The Authority also accepts that the anticipated population growth, particularly following completion of the residential development projects near the Premises, will create further demand for packaged liquor.
29. The Authority further notes that the level of supply of packaged liquor in the local and broader communities is substantially lower than the NSW state average, as reflected by the density of packaged liquor licences and hotel licences which can sell packaged liquor in Lidcombe and the LGA.
30. Accordingly, the Authority finds that the Premises will provide local residents and visitors with increased access to, and additional choices of, packaged liquor.
31. The Authority nevertheless considers that these benefits are somewhat limited by the short distance between the Premises and other packaged liquor facilities in the suburb, and the absence of any evidence of community support for the Application.
32. On balance of the available information, the Authority is satisfied that granting the Licence will be in line with the expectations, needs and aspirations of the local and broader communities, and contribute to the balanced and responsible development of the liquor industry.

Negative social impacts

33. The Authority notes from the BOCSAR data that, for the year to June 2017:

- a) the Premises was located within a high density hotspot for incidents of alcohol related assault, non-domestic assault and malicious damage to property, and a medium density hotspot for incidents of domestic assault, and
 - b) both Lidcombe and the LGA (comprising the former Local Government Areas of Auburn, Holroyd and Parramatta) recorded lower rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in comparison with the NSW state average.
34. The Authority also notes from the most recent HealthStats NSW data at the time of its consideration that the LGA (comprising the former Local Government Areas of Auburn, Holroyd and Parramatta) reported lower levels of alcohol attributable deaths, but mixed levels of alcohol attributable hospitalisations, in comparison with the NSW state average. The Authority notes that the level of alcohol attributable hospitalisations in the former Local Government Area of Auburn, in which Lidcombe was located, was lower than the NSW state average.
35. NSW Police expressed concerns in its submissions dated 23 December 2016 and 9 March 2017 that the area is already well supplied for packaged liquor, and that granting the Licence would contribute to additional alcohol related crime and negative social impacts. Police also notes that the Premises is located within an alcohol free zone.
36. In response, the Applicant contended that the density and alcohol related crime in Lidcombe and the LGA were both relatively low, the crime statistics referred by NSW Police cover a large area and do not point to any specific local issues, and that the operation of the alcohol free zone in the environs of the Premises would help to prevent the consumption of liquor in the vicinity of the Premises.
37. The Authority considers that the relevant statistics before it do not raise immediate or significant concerns about the existing alcohol related crime and health issues, and other social disturbances in the local or broader community. The Authority accepts, however, that over time there may be a risk that liquor sold or supplied at the Premises will contribute to an increase in these issues and disturbances.
38. The Authority nevertheless considers that this risk is mitigated by:
- a) the absence of objection from relevant stakeholders, apart from the submission from NSW Police, in relation to the Application, and
 - b) the Applicant's commitment to a range of measures, as set out in the Plan of Management and the licence conditions consented to by the Applicant, to minimise harm arising from the liquor sold and supplied on the Premises.
39. The Authority notes that pursuant to the operation of section 70AB of the Regulation, Premises which are authorised to trade until 10 pm can also trade between 10 pm and 11 pm on any day other than a Sunday or restricted trading day. The Authority does not consider it appropriate in the circumstances to allow the Premises to trade beyond 10 pm, noting that the Applicant only sought to trade until 10 pm and consulted the community about trading until 10 pm. The Authority therefore finds it appropriate to authorise the Premises to trade until 9:59 pm, Monday to Saturday, so its operation is not affected by section 70AB of the Regulation.

Overall social impact

40. The Authority notes from the relevant ABS data that as at 2011, Lidcombe and the LGA (comprising the former Local Government Areas of Auburn, Holroyd and Parramatta) were ranked among the medium to more advantaged areas in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is six years old and does not draw specific inferences from it, other than to note that it does not raise any apparent concerns.
41. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.
42. The Authority is also satisfied that the Application has satisfied all of the other criteria for approval, and that granting the Licence would be consistent with the objects of the Act.
43. Accordingly, the Authority has decided 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 considered by the Authority

1. ABS SEIFA data based on the 2011 Census ranking the suburb of Lidcombe and the former Local Government Areas of Auburn, Holroyd and Parramatta on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths in the former Local Government Areas of Auburn, Holroyd and Parramatta for the period 2012-13 and alcohol attributable hospitalisations in the these Areas for the period 2013-15.
3. Floor plan dated 1 August 2016 indicating the Premises' proposed licensed area.
4. Notice of determination of development application issued by Cumberland Council on 2 November 2016, approving the Applicant's development application DA-328/2016.
5. Submission from Aboriginal Affairs, Department of Education NSW, on 13 December 2016 in relation to the Application.
6. Submission from NSW Transport Roads & Maritime Services on 13 December 2016 in relation to the Application.
7. National police certificate issued on 21 December 2016 providing all disclosable court outcomes and/or outstanding matters against the Applicant.
8. ABS 2011 and 2016 Census Quickstats for the former Local Government Areas of Auburn, Holroyd and Parramatta.
9. NSW Recorded Crime Statistics 2016, showing the Proportion of incidents by offence type, day of week and time of day for the former Local Government Areas of Auburn, Holroyd and Parramatta.
10. Completed Category B CIS form, signed by the Applicant and dated 3 February 2017, and additional information provided by the Applicant in support of the CIS.
11. Completed online application form dated 6 February 2017, accompanied by copies of notices of application and ASIC business information.
12. Signed Certification of Advertising Application dated 28 April and 1 May 2017.
13. 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.
14. NSW crime statistics for the two years to June 2017, published by BOCSAR, for the suburb of Lidcombe and the former Local Government Areas of Auburn, Holroyd and Parramatta.
15. Submissions from NSW Police dated 23 December 2016, 9 March 2017 and 13 October 2017.
16. Submissions from the Applicant's representative, dated 21 April, 26 May and 29 November 2017, in relation to the Application and the submissions received.
17. L&GNSW liquor licensing records as at 20 October 2017, setting out the liquor outlet density data and premises list for the suburb of Lidcombe and the LGA.
18. L&GNSW information report in relation to searches conducted in respect of the Applicant.
19. Google map images extracted from the Google website on 5 December 2017, showing the location and photos of the Premises in map view, earth view and street view.
20. Plan of Management dated December 2017.