



Mr Jon Martin
JDK Legal
j.martin@jdklegal.com.au

23 August 2018

Dear Mr Martin

Application No.	1-6674896431
Applicant	Petsolo Pty. Limited
Application for	Packaged liquor licence
Licence name	Petsolo
Trading hours	Monday to Saturday 09:00 am – 9:59 pm Sunday 10:00 am – 10:00 pm
Premises	119 Stenhouse Drive, Cameron Park, NSW 2282
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – Petsolo, Cameron Park**

The Independent Liquor and Gaming Authority considered, at its meeting on 16 May 2018, the Application above and, pursuant to section 45 of the *Liquor Act 2007*, 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 03:00 am and 09:00 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 premises is to be operated at all times in accordance with the Plan of Management dated January 2018 as may be varied from time to time after consultation with 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.
4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. Closed-circuit television system
 - 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

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 09:00 am.

Approved manager or individual licensee

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

A statement of reasons for this decision is attached at the end of this letter.

If you have any questions, please contact the case manager at beatrice.pitpaiaac@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 2018, Petsolo Pty. Limited (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (‘Application’) for a packaged liquor licence (‘Licence’) for the premises at 119 Stenhouse Drive, Cameron Park, NSW 2282 (‘Premises’).
2. The Authority considered the Application at its meeting on 16 May 2018 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under the Act and the Liquor 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 its 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. A list of the 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 exercising its powers under the Act, 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 before it.

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 on the material before it 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 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 the sections.

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 would be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Plan of Management for the Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the Notice of Determination for Development Application No. DA/274/2016 in respect of the Premises, issued by Lake Macquarie City Council on 11 October 2016.

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 Cameron Park, and the relevant “broader community” comprises Lake Macquarie City Council Local Government Area (“the LGA”).

Positive social impacts

25. The Authority notes that Cameron Park and the LGA have a lower than average density of packaged liquor and hotel licences, and accepts that the Premises will provide the community with additional access to packaged liquor.
26. The Authority accepts the Applicant’s contention that the Premises is located in a convenient location in a small mixed use complex, and would provide the convenience of a one-stop shopping facility to customers who wish to purchase packaged liquor while visiting the complex.
27. The Authority also notes that the complex provides a new and safer facility with 24 hour surveillance and security arrangements to prevent loitering and other anti-social behaviour around the Premises.
28. The Authority considers the proposed social benefits above to be somewhat limited by the lack of evident community support for the Application. The only indication of any such support is the fact that there was a lack of submissions in opposition to the Application received from the community.
29. Accordingly, the Authority is satisfied that granting the Licence would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry.

Negative social impact

30. The Authority notes from the BOCSAR Crime Maps for the year ending December 2017 that the Premises is not located in any hotspots for incidents of alcohol-related assault, non-domestic assault or for malicious damage to property.
31. The Authority also notes from the BOCSAR data that, for the two years to December 2017:
- a) the rates of incidents of alcohol related domestic and non-domestic assault and alcohol related offensive conduct were lower in Cameron Park and the LGA compared to the NSW state average, and
 - b) Cameron Park recorded a lower than average rate of malicious damage to property, while the LGA recorded a higher than average rate.
32. The Authority also notes from the most recent HealthStats NSW data available at the time of its consideration that the LGA recorded a moderately higher level of alcohol attributable deaths and a lower level of alcohol attributable hospitalisations compared to the corresponding NSW figures.
33. The Authority has considered a submission from a local business owner, in which concerns were raised regarding anti-social behaviour and social disturbances in the vicinity of the Premises.
34. The Authority has also considered the Applicant’s response that the concerns raised in the objecting submission were not substantiated by objective evidence and not supported by other stakeholders. The Authority also notes that the risks raised in the submission are mitigated

through 24 hour surveillance and additional security measures to reduce the risks of alcohol-related anti-social behaviour.

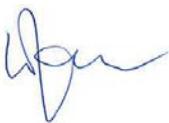
35. The Authority has considered the ABS Socio-Economic Indexes for Areas data indicating that as at 2016, Cameron Park ranked in the relatively advantaged suburbs, and the LGA ranked in the relatively advantaged LGAs, in NSW on the Index of Relative Socio Economic Advantage and Disadvantage. The Authority notes that this does not raise immediate concerns about any socio-economic disadvantages in the local or broader community.
36. The Authority accepts that, over time, there is a risk that liquor sold from the Premises may contribute to an increase in alcohol related crime and health issues in the local and broader community. The Authority notes however that the prevailing alcohol related social issues experienced in the local and broader communities are generally at a level below the state average.
37. The Authority considers that the potential risk identified above is mitigated by:
- a) the absence of objections from any key stakeholders, such as NSW Police, NSW Health and L&GNSW Compliance, in relation to the Application;
 - b) the Applicant's consent to all proposed conditions, and commitment to adhering to the measures set out in the Plan of Management to ensure the responsible serving of alcohol; and
 - c) the Applicant's commitment to preventing alcohol-related anti-social behaviour in the area through the installation of 24 hour CCTV surveillance and adherence to other harm minimisation measures to reduce the risk of social disturbances.

Trading hours

38. The Authority notes from the Application and community consultation material that the trading hours sought for the Premises are between Monday and Saturday end at 10 pm.
39. The Authority also notes that if the Premises is authorised to trade until 10 pm, Monday to Saturday, it would in practice be authorised to also trade between 10 pm and 11 pm on those days pursuant to an exemption afforded by clause 70AB of the Regulation.
40. In the current circumstances, the Authority considers it appropriate to impose a closing time of 9:59 pm, Monday to Saturday, to prevent the unintended consequences of permitting the Premises to trade beyond the hours sought by the Applicant and represented to stakeholders, including Council and NSW Police, during the community consultation process.

Overall social impact

41. Having considered the positive and negative social 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.
42. 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.
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. HealthStats NSW data showing alcohol-attributable deaths in the LGA for the period 2012-13; with a Smoothed Standardised Mortality Ratio of 109.5, in comparison to the NSW average of 100. The data for alcohol-attributable hospitalisations in the LGA for the period 2013-15; with a Smoothed Estimate of Standardised Separation Ratio of 84.8, in comparison to the NSW average of 100.
2. Premises plan dated 10 October 2016 for the Premises.
3. Notice of determination issued by Lake Macquarie Council on 11 October 2016 approving the development application DA/274/2016 in relation to the Premises.
4. ABS SEIFA data based on the 2016 Census for Cameron Park and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage indicates that the suburb ranked in the 8th decile and the LGA ranked in the 7th decile. These values represent both the suburb and LGA are relatively advantaged (with ten representing the most advantaged region and one the most disadvantaged).
5. NSW Recorded Crime Statistics 2017 outlining the proportion of offences in the LGA by day of week and time of day.
6. Public submission on 4 August 2017 in relation to the Application.
7. Statement of Reasons for Petsolo, Kurri Kurri dated 29 November 2017.
8. BOCSAR crime maps for the year to December 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
9. BOCSAR crime data for January 2016 to December 2017 highlights the following:
 - o 85.5 incidents of alcohol related domestic assault per 100,000 persons for Cameron Park, compared to 113.9 for the LGA and 114.4 for NSW;
 - o 12.2 incidents per 100,000 persons for alcohol related non domestic assault for Cameron Park, compared to 77.9 for the LGA and 130.7 for NSW;
 - o 684.2 incidents per 100,000 persons for malicious damage for Cameron Park, compared to 957.4 for the LGA and 788.7 for NSW; and
 - o 0.0 incidents per 100,000 persons for alcohol related offensive conduct for Cameron Park, compared to 10.4 for the LGA and 42.8 for NSW.
10. Plan of Management for the Premises, dated January 2018.
11. ASIC business records in relation to the Applicant extracted on 10 January 2018.
12. Completed application dated 30 January 2018.
13. Completed Category B Community Impact Statement dated 30 January 2018.
14. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 2 February 2018.
15. Certification of Advertising signed and dated 16 March 2018.
16. Submission from L&GNSW Compliance Operations on 19 March 2018 in relation to the Application.
17. Submission from NSW Police on 20 March 2018 in relation to the Application.
18. Correspondence between L&GNSW staff and the Applicant between 6 and 20 March 2018 in relation to the assessment of the Application.

19. L&GNSW liquor licensing records as at 19 April 2018, outlining the density of all types of liquor licences in Cameron Park the LGA and NSW, and listing all packaged liquor licences in Cameron Park and the LGA.
20. Google map images extracted from the Google website on 24 April 2018, showing the location and photos of the Premises in map view, earth view and street view.