



Mr Tony Schwartz
BSV Pty Limited

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3 September 2018

Dear Mr Schwartz,

Application No.	APP-0004000084
Applicant	D'Aquino's Liquor North Orange Pty Limited
Application for	Packaged Liquor Licence
Licence name	D'Aquino's Liquor North Orange
Trading hours	Monday to Saturday 9:00am – 9:59pm Sunday 10:00am – 10:00pm
Licensed Premises	2 Hanrahan Place ORANGE NSW 2800
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 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 – D'Aquino's Liquor North Orange**

The Independent Liquor and Gaming Authority considered application number APP-0004000084 at its meeting on 16 May 2018 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 3:00 AM and 9:00 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 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 licensee or its representative must join and be an active participant in the local liquor accord.
5. CCTV condition
 - 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. The premises is to be operated at all times in accordance with the Plan of Management dated December 2017 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.

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

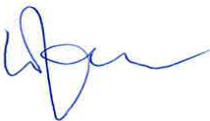
Please note that the licence cannot be exercised unless and until the Authority has been provided with evidence that the premises is complete and ready to trade and notified of the appointment of an approved manager to the licence.

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 any earlier than 9:00am.

If you have any enquiries about this letter, please contact the case manager via email to santina.causa@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 16 May 2018 2018, D'AQUINO'S LIQUOR NORTH ORANGE PTY LIMITED ("Applicant") lodged an application ("Application") with Liquor and 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 Proposed Premises at 2 Hanrahan Place, Orange NSW 2800 ("Premises").
2. The Authority considered the Application at its meeting on 14 March 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 material before it, the legislative requirements under sections 3, 11A, 12, 29, 40, 45 and 48 of the Act, and relevant provisions of 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 at the end of this statement of reasons.

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) liquor will be sold and supplied at the Premises, in accordance with the authorisation conferred by a packaged liquor licence as required by section 29 of the Act, and
- d) section 31 of the Act does not apply to the Application as the Premises is not intended to operate as is contemplated by the section.

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 Premises Plan of Management, and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force, based on the Notice of Determination of Development Application DA289/2017(1), issued by Orange City Council on 8 November 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 Orange, and the relevant "broader community" comprises Orange City Council ("LGA").

Positive social impacts

- 25. The Authority notes, based on the material before it, that the Premises will be located in the "Hanrahan Place Precinct", a predominately industrial and commercial area that, over time, will become surrounded by residential development, which is likely to translate into an increased demand for packaged liquor and provide members of the local and broader community an additional choice to purchase liquor items.
- 26. The Authority accepts, on the basis of information provided in the CIS, the Applicant's submission that it is an experienced operator of several licensed premises in regional NSW and has a good compliance history. Notably, NSW Police examined the history of other stores operated by the Applicant in the Orange area and "found minimal adverse history within the last ten (10) years".
- 27. The Authority is satisfied, on the basis of information provided in the CIS, Plan of Management and House Policy document, that the Premises will be operated in the same consistent manner and to the same high standards as the existing licensed premises managed by the Applicant.
- 28. The Authority accepts, based on the information before it, the Applicant's contention that appropriate practices will be in place at the Premises aimed at minimising harm associated with the misuse of liquor.

29. The Authority notes that there were no objections to the Application received from any stakeholders, special interest groups, occupiers of neighbouring residents or any other member of the public. Furthermore, NSW Police has advised that it does not oppose the Application.
30. Having regard to the above, 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.

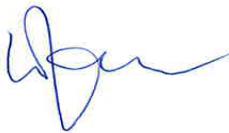
Negative social impact

31. The Authority notes that the density of packaged liquor licences per 100,000 of population in Orange and the LGA is higher than the NSW state average.
32. The Authority notes from the BOCSAR data that incidents of alcohol related assault (domestic and non-domestic) are occurring at higher than average rates in Orange suburb and LGA, noting that for the year ending December 2017, the suburb and LGA recorded:
- a) rates of 209.8 and 198.1 per 100,000 of population, respectively, for incidents of alcohol-related domestic assault, compared to the NSW rate of 114.4, and
 - b) rates of 186.7 and 176.4 per 100,000 of population, respectively, for incidents of alcohol-related non-domestic assault, compared to the NSW rate of 130.7.
33. The Authority further notes from the BOCSAR data that Orange suburb and LGA recorded higher than average rates of incidents of malicious damage to property compared to NSW, noting that for the year ending December 2017, the suburb and LGA recorded:
- a) rates of 1491.3 and 1418.4 per 100,000 of population, respectively, compared to the NSW rate of 788.7.
34. Having regard to the statistics above, the Authority notes that the prevailing rates of incidents of alcohol-related crime in the local and broader communities raise some concerns. However, the Authority is somewhat reassured by the BOCSAR Crime Maps for the year ending December 2017, which indicate that there are no localised concentrations of alcohol-related crime in the area in which the Premises will operate.
35. The Authority accepts, based on the most recent Healthstats NSW data available at the time of its consideration, that alcohol-related attributable deaths are occurring at a higher rate when compared to the NSW average, but notes that residents of the LGA are being hospitalised as a result of alcohol-related health problems at a lower than average rate.
36. The Authority has had regard to the ABS Socio Economic Indexes For Areas ("SEIFA") data indicating that as at 2016, both Orange suburb and LGA were moderately advantaged in comparison to other suburbs and LGAs on the Index of Relative Socio-economic Advantage and Disadvantage, ranking in the 4th and 6th deciles respectively (with a decile of 10 being the most advantaged).
37. The Authority accepts that, over time, there is a risk that liquor sold from the Premises may contribute to an increase in the level of alcohol-related crime, health, amenity and other social issues in the community.
38. The Authority is nevertheless satisfied that any potential risks associated with the granting of the Licence are adequately mitigated by the following:

- a) The absence of any objections from members of the public or other key stakeholders consulted such as NSW Police and Orange City Council in relation to the Application. Notably, NSW Police has advised that it does not object to the Application.
- b) The location of the Premises, being in an industrial and commercial area that is approximately 3.7km from Orange CBD, may discourage persons wishing to purchase liquor products conveniently or impulsively.
- c) The fact that the Applicant is an experienced operator of several liquor retail outlets in regional NSW and comprehensive practices and procedures will be in place to ensure the responsible service of alcohol.
- d) The fact that the Applicant will be required to adhere to the Plan of Management and numerous special conditions intended to minimise harm.

Overall social impact

39. 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.
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 Licence under section 45 of the Act.



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

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 for the Orange Local Government Area for the period between 2001-02 and 2012-13.
2. HealthStats NSW data showing alcohol attributable hospitalisations for the Orange Local Government Area for the period between 2001-03 and 2013-15.
3. ABS SEIFA data based on the 2016 Census ranking Orange and the Local Government Area of Orange City Council on the Index of Relative Socio-economic Advantage and Disadvantage.
4. Notice of Determination of Development Application No. 289/2017(1) issued by Orange City Council, dated 8 November 2017.
5. Approved Premises plan indicating the proposed liquor sales area, signed by Orange City Council, dated 8 November 2017.
6. BOCSAR crime maps for the year to December 2017, showing the Premises' location relative to hotspots for alcohol related assault, domestic assault, non-domestic assault and malicious damage to property.
7. NSW crime statistics for the year to December 2017, published by BOCSAR, on incidents of alcohol related assault (domestic and non-domestic) and malicious damage to property in the Orange City Council LGA.
8. Premises Plan of Management, dated December 2017.
9. ASIC Current Organisation Extracts for D'AQUINO'S LIQUOR NORTH ORANGE PTY LTD ACN 156 609 531, dated 16 February 2018.
10. Completed Category B CIS form, signed and dated 20 February 2018, and relevant additional information prepared by the Applicant's representative.
11. Completed application for a packaged liquor licence, lodged on 6 March 2018.
12. Certification of Advertising Application signed by Mr Tony Schwartz and Mr David Clark, dated 12 March 2018.
13. Letter from NSW Police, dated 16 March 2018, in relation to the Application.
14. Email from Orange City Council, dated 16 March 2018, in relation to the Application.
15. Email from Department of Transport, Roads and Maritime Services, dated 26 March 2018, in relation to the Application.
16. Email from Aboriginal Affairs, Department of Education NSW, dated 27 March 2018, in relation to the Application.
17. Liquor licensing records from L&GNSW as at 19 April 2018 listing the details of all liquor licences in the Orange City Council LGA, and setting out the density of packaged liquor licences in Orange, the LGA and NSW.
18. Google map indicating the location of the Premises and image of the site, dated 24 April 2018.

19. Submission prepared by the Applicant's representative, dated 13 April 2018, in response to the submissions received in relation to the Application and supporting information.
20. Local Consent Authority Notice and Public Consultation Site Notice, undated.