



Mr Jon Martin  
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7 November 2017

Dear Mr Martin

<b>Application No.</b>	1-5681732707
<b>Application for</b>	Packaged Liquor Licence
<b>Trading hours</b>	Monday to Saturday 8:00am – 8:00pm Sunday 10:00am – 8:00pm
<b>Applicant</b>	LIQUORLAND (AUSTRALIA) PTY. LTD.
<b>Licence name</b>	Liquorland
<b>Premises</b>	2 Boomerang Place CAMBRIDGE GARDENS NSW 2747
<b>Issue</b>	Whether to grant or refuse an application for a packaged liquor licence
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of <i>Liquor Act 2007</i>

**INDEPENDENT LIQUOR & GAMING AUTHORITY DECISION  
APPLICATION FOR A PACKAGED LIQUOR LICENCE – LIQUORLAND**

The Independent Liquor & Gaming Authority considered application number 1-5681732707 at its meeting on 13 September 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **grant** the application subject to lesser trading hours than those sought by the Applicant and the imposition of 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 2:00 am and 8:00 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 24<sup>th</sup> Normal trading Monday to Saturday, 8:00 am to 10:00 pm Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> 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. The premises is to be operated at all times in accordance with the Coles Liquor "NSW Management Strategies" and "House Policy for the Responsible Service of Alcohol" documents, as submitted to the Independent Liquor and Gaming Authority in support of the licence application or as varied from time to time after consultation with the Local Area Commander of NSW Police. A copy of these documents 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.
6. Closed-circuit television (CCTV) system
  - 1) The licensee must maintain a closed-circuit television (CCTV) system on 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 licensed area.
  - 2) The licensee must also:
    - (a) keep all recordings made by the CCTV system for at least 30 days,
    - (b) ensure that at least one member of staff is on the premises at all times the system is operating who is 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.

Please note that the licence cannot be exercised unless and until the Authority has been:

1. provided with evidence that the premises is complete and ready to trade, and
2. notified of the appointment of an approved manager to the licence or the licence has been transferred to an individual licensee.

If you have any enquiries about this letter, please contact the case manager via email to [santina.causa@liquorandgaming.nsw.gov.au](mailto:santina.causa@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford

**Chairperson**

For and on behalf of the **Independent Liquor & Gaming Authority**

## **STATEMENT OF REASONS**

### **DECISION**

1. On 13 April 2017, Liquorland (Australia) Pty Ltd (“the Applicant”) lodged an application for a packaged liquor licence for premises located at 2 Boomerang Place CAMBRIDGE GARDENS NSW 2747 (“the Application”) with Liquor & Gaming NSW (“L&GNSW”) for determination by the Independent Liquor & Gaming Authority (“the Authority”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority decided to grant the Application.
3. In making this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45 and 48 of the Act, and the relevant provisions of the *Liquor Regulation 2008* (“the 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, 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, sourced by L&GNSW staff from publicly available sources.
7. The material considered by the Authority is listed in the Schedule, with a summary where appropriate.

### **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

11. Section 12 of the Act sets out the standard trading period for different 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:
  - the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
  - practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - the applicable development consent required for use of the premises for the business to which the proposed licence relates 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 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 requirements

21. The Authority finds that:

- the Application has been validly made and meets the procedural requirements under section 40 of the Act,
- 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,
- the proposed use of the Premises as a bottle shop 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:

- 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,
- practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible service of alcohol, having regard to the Applicant's operational practices as detailed in Coles Liquor "NSW Management Strategies" and "House Policy for the Responsible Service of Alcohol" and the conditions to be imposed on the licence, and
- the requisite development consent is in force, based on Complying Development Certificate No. J160432 issued by Vic Lilli & Partners on 9 November 2016, and the Notice of Determination of a Development Application 991887 issued by Penrith City Council on 7 August 2000.

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 Cambridge Gardens, and the relevant "broader community" comprises Penrith Local Government Area ("the LGA").

Positive social impacts

25. The Authority notes that there are no packaged liquor licences in the suburb of Cambridge Gardens, although there are several outlets in the surrounding suburbs and in proximity to the Premises which sell packaged liquor.. Further, the density of packaged liquor licences per 100,000 of population in the LGA is lower than NSW as a whole. The Authority is satisfied that a decision to grant the licence will reasonably develop, in the public interest, the liquor industry in respect of the local community and broader community.

26. The Authority is satisfied that granting the licence will provide some benefit to the local and broader community by way of increased convenience. This convenience will extend to local residents who wish to purchase grocery items and packaged liquor items from stores which are in close proximity to one another.

27. The Authority accepts the Applicant's contentions that the Premises will offer shoppers a "pleasant" experience, by offering a newly renovated and modern facility

with a wide range of products and ample car parking. Whilst no specific evidence has been provided by the Applicant to substantiate the claim that the local community has “special needs” that require the Premises to open at 8:00am, the Authority accepts that this will meet the needs of those members of the local community who prefer to do their grocery shopping early in the morning.

28. The Authority has also had regard to the other public benefits that the Applicant has advanced should the licence be granted, including increased employment and potential contributions to local community groups and sports, however the Authority has given little weight to those purported benefits given the lack of specificity offered by the Applicant.
29. On the basis of the above, the Authority is satisfied that the Premises will provide additional convenience and choice to local consumers wishing to purchase liquor, and will contribute to the balanced and responsible development of the liquor industry.

#### Negative social impacts

30. Having reviewed all of the material before it, the Authority considers that over time there is a risk that liquor sold from this licensed business will contribute to the prevailing levels of alcohol-related harm, disturbance and adverse amenity impacts being experienced by the local and broader communities from a minority of customers who misuse packaged liquor.
31. BOCSAR Crime Maps for the year ending March 2017 indicate that the Premises is located between a high and medium density hotspot for incidents of alcohol-related domestic assault and within a medium density hotspot for malicious damage to property. In close proximity to the Premises is a low density hotspot for alcohol related assault which further concerns the Authority.
32. The Authority is also troubled by the BOCSAR crime data for the year to March 2017, which indicates that the local community of Cambridge Gardens and the broader community of Penrith LGA recorded higher rates per 100,000 of population than the state of NSW for incidents of alcohol-related domestic assault (133.2 for Cambridge Gardens and 146.5 for the Penrith LGA, compared to the NSW rate of 114.7) and malicious damage to property (1509.8 for Cambridge Gardens and 995.8 for the Penrith LGA, compared to the NSW rate of 816.4). However, incidents of alcohol-related non-domestic assault within both the local and broader communities are not occurring at rates that are higher than the corresponding NSW rate.
33. The Authority has exercised some caution with respect to crime data for the local community by reason of the very small population of Cambridge Gardens, which has the potential to skew the rates based on only very minor variations in the incidence of crime.
34. The Authority also notes from the HealthStats NSW data obtained by licensing staff in respect of alcohol-attributable hospitalisations and alcohol-attributable deaths for the periods 2013-2015 and 2012-2013 respectively, that the LGA had a smoothed standardised mortality ratio of 98.80 and a smoothed standardised separation ratio of 105.10, with the NSW average fixed at 100. The rate of alcohol-related hospitalisations is a cause for concern for the Authority.

35. The Authority has had regard to the ABS Socio- Economic Indexes For Areas ("SEIFA") data which indicates that, as at 2011, Cambridge Gardens was neither particularly advantaged nor disadvantaged in comparison with other suburbs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage, ranking in the 5th decile. Penrith LGA is, however, advantaged ranking in the 8th decile when compared to other local government areas in NSW. The Authority notes that this data is six years old and that the local and broader communities may have experienced significant changes to their demographics in recent years. Nevertheless, SEIFA data does not indicate that socio-economic disadvantage is a compounding factor of concern at the level of either community.
36. NSW Police has provided a submission objecting to the Application due to the following concerns:
- the high density of packaged liquor licences and other licensed premises in the broader community;
  - the location of the Premises contributing to some associated risks in anti-social behaviour in terms of its close proximity to a family friendly fast-food chain and the potential for secondary supply to minors; and
  - general contribution to alcohol-related crime, anti-social behaviour and other disturbances in the community.
37. Penrith City Council also raised concerns in relation to the CIS accompanying the Application, including the number of liquor outlets within the vicinity of the Premises and its potential social impact given the proximity of the Premises to social housing in the adjacent suburb of Penrith.
38. The Authority notes that there is little evidence of any significant degree of support for the proposal amongst members of the local or broader communities. The only indication of any such support is a letter of support from the commercially interested landlord of the shopping centre within which the Premises will be located.
39. The Authority is nevertheless satisfied that the concerns arising from the statistical data and other risks identified are adequately mitigated by the following:
- the fact that there are no other packaged liquor licences in Cambridge Gardens;
  - the Authority's decision to reduce the trading hours to between 8:00am and 8:00pm Monday to Friday and 10:00am and 8:00pm Sunday;
  - the Applicant being an experienced operator of many packaged liquor licences across NSW, each of which conforms to the business model outlined in the Application; and
  - the operational practices as detailed in Coles Liquor "NSW Management Strategies" and "House Policy for the Responsible Service of Alcohol" documents which set out detailed procedures and practices in respect of the responsible service of alcohol, complemented by the special conditions imposed on the licence.
40. Having considered all of the available information, the Authority formed the view that it was appropriate to reduce the proposed trading hours to alleviate some of the concerns identified. While the Applicant will not be able to monitor the conduct of persons consuming liquor away from the Premises, the Authority is satisfied that the reduction in hours will minimise the potential that liquor sold from this outlet will contribute to harm and amenity impacts within the local and broader communities.

41. Following the Authority's meeting on 13 September 2017 and its decision to approve the application, an objection from the Briscoe Hotel Group who owns the Overlander Hotel Motel, was brought to the attention of the Authority. The objection was misplaced in the first instance and was not provided to the Authority along with the Application.
42. The Authority considered the objection and notes that a significant number of concerns raised in the objection related to parking, development and traffic issues. These concerns were not raised by the relevant stakeholder agencies that oversee such matters. On that basis, the Authority does not consider it necessary to request further submissions from the Applicant in relation to this objection and remains satisfied with its decision to grant the Application.

#### Overall social impact

43. Having considered the positive and negative impacts that are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting the packaged liquor licence would not be detrimental to the well-being of the local and broader communities.
44. Accordingly, the Authority has decided to grant the Application pursuant to 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 <http://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

1. Notice of Determination of a Development Application 991887 for McDonalds Restaurant, General Store and Commercial Premises, issued by Penrith City Council on 7 August 2000 and modified on 16 July 2001 and 10 January 2002.
2. ABS SEIFA data based on the 2011 Census ranking Cambridge Gardens and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
3. HealthStats NSW data showing alcohol related deaths for the period 2001-2002 to 2012-2013 and hospitalisations in the LGA for the period 2001-2003 to 2013-2015.
4. 2016 Census QuickStats for Cambridge Gardens and Penrith LGA.
5. ASIC Current Organisation Extract for LIQUORLAND (AUSTRALIA) PTY. LTD. ACN 007 512 414 dated 23 March 2016.
6. Complying Development Certificate No. J160432 issued by Vic Lilli & Partners on 9 November 2016 for fit out of existing retail tenancy for liquor retail .
7. Notice of intention to apply for a liquor licence or licence authorisation dated 3 February 2017.
8. A letter to the Applicant from Transport Roads & Maritime Services dated 13 February 2017, making a number of recommendations.
9. BOCSAR Crime Hotspot Maps for Cambridge Gardens and surrounding suburbs for the year ending March 2017.
10. NSW crime statistics for the two years to March 2017, published by BOCSAR, showing the rates of alcohol related domestic and non-domestic assault and malicious damage to property in Cambridge Gardens and the LGA.
11. CIS Category B signed 13 April 2017.
12. Application form for a packaged liquor licence, lodged 13 April 2017, accompanied by Public Consultation- Site Notice, Police Notice, Local Consent Authority Notice all dated 13 April 2017 and the following documents:
  - “Coles Liquor – NSW Management Strategies”; and
  - “Coles Liquor – House Policy for the Responsible Service of Alcohol”.
13. Plan of the proposed licensed area lodged with the Application.
14. Correspondence from Penrith City Council dated 4 May 2017.
15. Submission lodged by St Marys Local Area Command dated 10 May 2017.
16. Letter from ISL Property Investments Management Pty Ltd to the Applicant, dated 26 June 2017.

17. Email correspondence between the Applicant and L&GNSW, including consent to a number of proposed conditions and responses to submissions received, dated between 12 July and 24 August 2017.
18. Certification of Advertising Application signed by Mr Timothy O'Meara, dated 17 July 2017.
19. Submission from St Marys Local Area Command- Licensing dated 31 July 2017.
20. Liquor licensing records from L&GNSW as at 1 August 2017 listing the details of all the packaged liquor licences in Penrith LGA and setting out the liquor outlet density for the Cambridge Gardens suburb, Penrith LGA, and New South Wales.
21. Google maps indicating the location of the Premises, extracted on 18 August 2017.
22. Public submission from Briscoe Hotel Group dated 15 March 2017 objecting to the Application.