



Mr Timothy O'Meara
Liquorland (Australia) Pty Ltd
800 Toorak Road
Hawthorn East Vic 3123
Timothy.O'meara@coles.com.au

24 October 2016

Dear Mr O'Meara,

APPLICATION NO: 1-4302297391
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Saturday 8:00AM – 10:00PM
Sunday 10:00AM – 10:00PM

APPLICANT: Mr Timothy O'Meara

**PROPOSED LICENSED
PREMISES NAME:** Liquorland

PREMISES LOCATION: Clemton Park Village, 60 Charlotte Street,
Clemton Park, NSW 2206 (Premises)

ISSUE: Whether to grant or refuse an application
for a new packaged liquor licence

LEGISLATION: Sections 3, 29, 30, 31, 40, 45, 48 *Liquor
Act 2007*

INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR NEW PACKAGED LIQUOR LICENCE – LIQUORLAND, CLEMTON PARK

The Independent Liquor and Gaming Authority considered the Application at its meeting on 28 September 2016 and, pursuant to section 45 of the *Liquor Act 2007* (Act), decided to **grant** the Application number 1-4302297391 subject to the following conditions:

- 1. Trading Hours**

Monday to Saturday	8:00AM – 10:00PM
Sunday	10:00AM – 10:00PM
- 2.** Section 11A of the Liquor Act 2007 Act applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:00AM and 8:00AM 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.
- 3. Retail Sales**

Good Friday	Not permitted
December 24 th	Normal trading Monday to Saturday, 8:00AM – 10:00PM Sunday 8:00AM – 10:00PM
Christmas Day	Not permitted

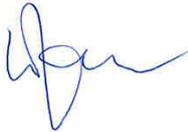
December 31st

Normal trading

4. The licensee or its representative must join and be an active participant in the local liquor accord.
5. 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.
6. The premises are to be operated at all times in accordance with the *Management Strategies and House Policy* dated 11 April 2016 as may be varied from time to time in consultation with the Local Area Commander of NSW Police.
7. The licence cannot be operated unless and until the Independent Liquor & Gaming Authority has been provided with evidence that the Premises are complete and ready to trade.
8. The licence cannot be exercised unless and until the Independent Liquor & Gaming Authority has been notified of the appointment of a manager to the licence.

If you have any enquiries about this letter please contact the case manager, Ms Santina Causa, via email to santina.causa@ilga.nsw.gov.au.

Yours faithfully,



Philip Crawford

Chairperson

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

STATEMENT OF REASONS

Material before the Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the packaged liquor licence application lodged on 14 April 2016 (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority *Guideline 6*, the Authority has also had regard to the relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-demographic data pertaining to the local and broader communities, sourced by licensing staff from publicly available sources. That material is listed and, in some cases, briefly summarised in the Schedule.

Summary of Further Submissions

3. Submission from Senior Constable Michael Kynezos from the Campsie Local Area Command (Police) dated 19 April 2016. In this submission Police raise no objection to the Application, but recommend “that the licensee or their representative be an active member of the local liquor accord”.
4. Report to the Authority dated 13 September 2016 from Compliance Branch of the LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment of the Application.
5. No submission was received from Canterbury City Council. The Authority notes that on 12 May 2016, the new City of Canterbury-Bankstown Council was proclaimed, replacing the former Canterbury and Bankstown Councils. This proclamation occurred after the Application was lodged (14 April 2016). The development consent for the Premises from the Joint Regional Planning Panel dated 13 November 2014 and a Complying Development Certificate provided by Vic Lilli and Partners Council are detailed in the Schedule.
6. A submission from Roads and Maritime Services (RMS) made in response to the CIS process is listed in the Schedule. The Authority notes the Applicant’s advice that no response was received by the Applicant from the local Aboriginal community, the Department of Health, the Department of Community Services or from other stakeholders or special interest groups.
7. Email submission from the Applicant dated 15 September 2016. In this two-page submission the Applicant consents to the conditions proposed by licensing staff requiring that liquor not be sold between 2:00AM and 8:00AM each day, that the business not operate with a greater level of social impact than could reasonably be expected from the information submitted with the Application, that the licensee or its representative join the local liquor accord, that the Premises must operate in

accordance with the *Management Strategies and House Policy* dated April 2016, the licence not be operated until the Authority is notified of the appointment of a manager and provided with evidence that the Premises are complete and ready to trade. The Applicant also consented to a request by Police that the Applicant become an active member of the local liquor accord and provided a copy of the DA, CDC and certificate of advertising of the Application.

8. The Applicant has also provided a Current Company Extract for *LIQUORLAND (AUSTRALIA) PTY. LTD.* issued by the Australian Securities and Investments Commission (ASIC) on 23 March 2016.
9. In the CIS dated 11 April 2016, the Applicant advised that the proposed new licenced business will operate as part of a very large mixed use development comprising multiple residential developments, a Coles Supermarket, speciality and convenience retail and community facilities. The new Liquorland store will adjoin and form part of the Coles Supermarket and offer a diverse range of domestic and imported wines, beers and spirits.
10. The Applicant noted that no adverse comments were received during the CIS process indicating that the net social impact from the licence is likely to be positive. The Applicant contends that the population of the local community is growing and that prevailing crime rates and licence density rates are low. The impact of the business upon minors and anti-social behaviour will be managed through security arrangements, CCTV on the Premises, the Management Strategies planning document and Responsible Service of Alcohol (RSA) procedures document.
11. The Applicant submits that the only people attending the new store will be those looking to purchase alcohol for consumption off the Premises. The Applicant will provide a service for those members of the local community who visit the shopping precinct, and expect to purchase alcohol at the same time as performing their other shopping requirements.
12. The Applicant contends that Coles Liquor operates over 800 liquor outlets across Australia and has detailed management practices to draw upon. All team members on the Premises will be trained as to RSA procedures, trading restrictions, dealing with underage customers, secondary supply to minors, signage and pricing policy.
13. The CIS indicates that there are no relevant nearby sensitive facilities that are likely to be negatively impacted on by the proposed Premises.
14. Attached to the CIS is the *Management Strategies and House Policy* dated April 2016.

Legislative Framework

15. The legal requirements for the making of a valid application for a new liquor licence are provided by section 40 of the Act and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a liquor licence is provided by section 45 of the Act.
16. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:

- (1) *The objects of this Act are as follows:*
 - (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*
 - (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
 - (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
 - (2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
 - (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
 - (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
 - (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*
17. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
 18. An application for a new packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
 19. Section 48(5) of the Act requires that the Authority must not grant an application unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
 20. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Clemton Park, while the broader community comprises the relevant local government area, which at the time of this decision is the City of Canterbury-Bankstown.

Analysis of Relevant Facts

21. The Authority is satisfied, on the basis of the Application and CIS material before it, that for the purposes of section 40 of the Act the Application has been validly made and the minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.
22. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licensed venue of the kind proposed in the Application material. The Authority notes that no probity issues were raised with regard to the Applicant following consultation with law enforcement agencies including Police and LGNSW.
23. The Authority is further satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Management Strategies and House Policy* dated April 2016.

24. The Authority is also satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed use of the Premises falls within the scope of the development consent in force with regard to the Premises. This finding is made on the basis of the Development Application (DA) DA-142/2014 determined by the City of Canterbury on 13 November 2014 and the Complying Development Certificate (CDC) CDC No. J150380 issued by Vic Lilli & Partners on 11 July 2016.

Social Impact – Positive Benefits

25. The Authority is satisfied, on the basis of the Application, CIS and additional material supplied by the Applicant that granting this new licence will provide some benefit of convenience and choice to those members of the local and broader community who wish to conveniently purchase liquor products when shopping at the new Coles supermarket within the Clemton Park Village Shopping Centre.
26. The Authority accepts the Applicant's contention that it distributed the consultation notice to stakeholders and neighbouring premises and did not receive any adverse comments or complaints. On this basis, the Authority is satisfied that granting this Application is consistent with the "expectations, needs and aspirations of the community" in respect of the local community of Clemton Park, being an object of section 3(1)(a) of the Act.
27. The Authority is satisfied, on the basis of the CIS and additional material supplied by the Applicant, that this new packaged liquor facility will provide a diverse range of domestic and imported wines, beers and spirits. The services provided will reasonably develop, in the public interest, the liquor industry serving the local and broader community, for the purposes of section 3(1)(b) of the Act.

Social Impact – Negative Impacts

28. Having reviewed all of the material before it, the Authority considers that over time there is a risk that the liquor sold from this new licensed business will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor.
29. The trading hours sought are extensive. The business will trade until the 10:00 pm limit of evening trading permitted by the Act and this increases the scope of the new licence to contribute to adverse social impact over time.
30. The Authority notes, on the basis of the information in the CIS that the licensed business area will occupy some 206 square metres. It is larger in scale than many packaged liquor outlets and this is another factor that increases its capacity to contribute to adverse social impacts over time.
31. However, when considering the cumulative impact of adding another licence, LGNSW liquor licence density data satisfies the Authority that the former City of Canterbury LGA recorded lower rates of *packaged liquor licences*, *registered club licences* and *full hotel licences* per 100,000 persons compared to NSW as a whole.

32. The Authority further notes, on the basis of LGNSW liquor licensing records, that the suburb of Clemton Park currently has no packaged liquor licences, one registered club licence and no hotel licences. The Authority does not consider that prevailing licence density *per se* gives rise to any particular cause for concern with regard to the relevant communities.
33. At the level of the local community, BOCSAR Crime Maps between July 2015 and June 2016 indicate that the Premises:
- (a) Is located inside a *high density hotspot* for incidents of *domestic assault*.
 - (b) Is located outside the suburb hotspots for incidents of *non-domestic assault*.
 - (c) Is located inside a *high density hotspot* for incidents of *malicious damage to property*.
34. However, the Authority derives considerable reassurance from the BOCSAR *Report on Crime by LGA and Alcohol Related Status* for July 2010 to June 2015 which records that the Canterbury LGA had considerably lower than the rates per 100,000 persons of population for the occurrence of (alcohol related) *assault police, non-domestic violence related assault, domestic violence related assault and offensive behaviour* compared to the rates for New South Wales as a whole. That is, the concentrations of crime evident from the crime maps is derived from relatively low rates of crime across the Canterbury LGA as a whole.
35. Noting that the new broader community will also incorporate areas formerly located within the Bankstown LGA, the Authority notes that the BOCSAR *Report on Crime by LGA and Alcohol Related Status* for July 2010 to June 2015 recorded that the Bankstown LGA had considerably lower than the rates per 100,000 persons of population for the occurrence of (alcohol related) *assault police, non-domestic violence related assault, domestic violence related assault and offensive behaviour* compared to the State wide rate.
36. The Authority notes that Police do not oppose the Application but propose a condition that the licensee or its representative must join and be an active participant in the local liquor accord, which was consented to by the Applicant. There is no evidence or material before the Authority indicating any prevailing localised packaged liquor related impacts in the local community or the area in which the new licence will operate.
37. The Authority notes, on the basis of the ABS Socio Economic Index for Areas (SEIFA) data, that both the suburb of Clemton Park and the City of Canterbury LGA are moderately disadvantaged compared to other local government areas and State suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, with Clemton Park ranked in the 4th decile on the Index and City of Canterbury ranked in the 4th decile (with a decile ranking of 10 being the most advantaged). The Authority also notes that the City of Bankstown ranked in the 5th decile.
38. The Authority has also had regard to the reasonably detailed harm minimisation measures set out in the *Management Strategies and House Policy* dated April 2016 and the conditions to which the Applicant has consented, the additional harm minimisation measures such as a CCTV system being installed in the proposed Premises and the location of the business within the shopping centre.

Conclusion

39. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as all of those required to be notified of the Application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties include NSW Police, the Applicant, Council, RMS, neighbouring occupiers, NSW Health and Department of Community Services and all other parties required to be consulted under the legislation.
40. Having considered together the positive benefits and negative impacts that the Authority is satisfied 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 this licence would not be detrimental to the well-being of these local and broader communities.
41. The Application is granted pursuant to section 45 of the Act.
42. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour); (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor; and (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Decision Date: 28 September 2016

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.justice.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. Application Form lodged on 14 April 2016.
2. Notices of the Application sent to various public agencies and other stakeholders.
3. CIS document and supporting material dated 11 April 2016. The Applicant provides information about the location of the Premises, manner of operation and facilities to be provided, suitability of the site for a packaged liquor business, responsible service of liquor, access to liquor by minors, positive benefits of granting the Application, the proposed 6-hour closure period, the location of nearby community buildings, facilities and places, notification of stakeholders and issues raised during consultation. The Applicant also discusses (by apparent reference to the social impact factors identified in Authority Guideline 6) the type, scale, hours of the Premises, along with measures to be implemented to reduce the potential for alcohol related harms and submits that there will be no adverse impact to the area.
4. Applicant *Management Strategies* and *House Policy* dated April 2016.
5. Copy of a *Current Company Extract* for *LIQUORLAND (AUSTRALIA) PTY. LTD* issued by ASIC on 23 March 2016.
6. The Authority notes that the former Canterbury City Council advised that Development Application (DA) DA-142/2014 was determined by the Joint Regional Planning Panel on 13 November 2014, permitting construction and use of a retail podium, comprising a supermarket and other retail spaces, together with the construction of apartments and community spaces with hours of use limited (for planning purposes) to between 6:00AM and midnight, seven days a week.
7. The Authority notes that a CDC No. J150380 was issued by Vic Lilli & Partners on 11 July 2016 in respect of fitout works for the Coles and Liquorland tenancies on this site.
8. Plan or diagram of the Premises highlighting in pink the proposed licensed area and separate plan of the licensed area within the Coles shopping complex.
9. Google geographical maps depicting an aerial view of the location of the Premises.
10. BOCSAR Crime Maps based upon data from July 2015 to June 2016 detailing hotspots for the concentration of offences near the Premises.
11. Liquor licensing records from LGNSW indicating that the suburb of Clemton Park only has one registered club licence, and no full hotel licence or packaged liquor licence.
12. Liquor licence density data from LGNSW indicating that the City of Canterbury LGA as a whole recorded:
 - (a) a rate of **9.46 packaged liquor licences** per 100,000 persons, which is substantially below the NSW state wide rate of **32.85**;

- (b) a rate of **3.64** *registered club licences* per 100,000 persons, which is well below the NSW state wide rate of **20.48**;
 - (c) a rate of **7.28** *full hotel licences* per 100,000 persons, which is substantially below the NSW state wide rate of **30.36**.
13. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:
- (a) the rate of *domestic violence related assault* incidents flagged by reporting Police as *alcohol related* across the Canterbury LGA was **65** per 100,000 persons, well below the NSW rate of **145** per 100,000 persons;
 - (b) the rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* across the Canterbury LGA was **53** per 100,000 persons, substantially below the State wide rate of **191** per 100,000 persons;
 - (c) the rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across the Canterbury LGA was **3** per 100,000 persons, substantially below the State wide rate of **83** per 100,000 persons;
 - (d) the rate of *assault Police* incidents flagged by reporting Police as *alcohol related* across the Canterbury LGA was **4** per 100,000 persons, well below the State wide rate of **24** per 100,000 persons.
14. Report on NSW Recorded Crime Statistics July 2010 – June 2015 obtained from published BOCSAR sources, for July 2014 – June 2015. This data indicates that:
- (a) the rate of *domestic violence related assault* incidents recorded by NSW Police as *alcohol related* across the Bankstown LGA was **79.4** per 100,000 persons, below the NSW rate of **122.6** per 100,000 persons;
 - (b) the rate of *non-domestic violence related assault* incidents recorded by NSW Police as *alcohol related* across the Bankstown LGA was **57.4** per 100,000 persons, substantially below the State wide rate of **144** per 100,000 persons;
 - (c) the rate of *offensive behaviour* offences recorded by NSW Police as *alcohol related* across the Bankstown LGA was **8** per 100,000 persons, well below the State wide rate of **88.2** per 100,000 persons;
 - (d) the rate of *assault Police* incidents recorded by NSW Police as *alcohol related* across the Bankstown LGA was **7** per 100,000 persons, well below the State wide rate of **18.2** per 100,000 persons.
15. ABS SEIFA data prepared on the basis of the 2011 Census indicating that the State suburb of Clemton Park ranked in the 4th decile and the City of Canterbury LGA ranked in the 4th decile compared to other local government areas and state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged) while the City of Bankstown LGA ranked in the 5th decile.
16. Submission from Senior Constable Michael Kynezos, Campsie LAC, dated 19 April 2016.
17. Submission from RMS dated 22 February 2016 advising that during 2013 there were 15 alcohol-related crashes resulting in two casualties within the Canterbury LGA. RMS does not object to the Application but recommends that the licensee

maintain awareness of alcohol-related issues by attending the liquor accord and that public education material be supported on the Premises.

- 18.** Report to the Authority dated 16 September 2016 from the Compliance Branch of the Office of LGNSW.
- 19.** Email submission from the Applicant dated 15 September 2016. Applicant consented to the Authority's proposed conditions and to a request by police that the Applicant become an active member of the local liquor accord and the Applicant provided a copy of the DA, CDC and advertising certificate.