



Mr Jon Martin  
JDK Legal

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24 August 2017

Dear Mr Martin

**APPLICATION NO:** 1-5419889343  
**APPLICATION FOR:** Packaged Liquor Licence  
**TRADING HOURS:** Monday to Saturday 9:00am – 9:00pm  
Sunday 10:00am – 8:00pm  
**APPLICANT:** Liquorland (Australia) Pty Ltd  
**LICENSED PREMISES NAME:** Liquorland  
**PREMISES LOCATION:** Stocklands Willowdale  
Willowdale Drive  
EAST LEPPINGTON NSW 2565  
**ISSUE:** Whether to grant or refuse an application for  
a packaged liquor licence  
**LEGISLATION** Sections 3, 11A, 29, 30, 31, 40, 45 and 48  
*Liquor Act 2007*

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

The Independent Liquor and Gaming Authority considered application number 1-5419889343 and decided, pursuant to section 45 of the *Liquor Act 2007*, to **grant** the application for a packaged liquor licence, 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 3:00am and 9:00am 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.
2. Restricted trading & NYE (std)

Retail sales

Good Friday	Not permitted
December 24th	Normal trading Monday to Saturday, 8:00am to 10:00pm Sunday
Christmas Day	Not permitted
December 31st	Normal trading

3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being 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.
5. The premises are 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. 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.

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

Yours faithfully



Philip Crawford

**Chairperson**

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

## Statement of reasons

### Decision

1. On 22 December 2016, the Independent Liquor and Gaming Authority (“the Authority”) received from the Applicant, through Liquor and Gaming NSW (“L&GNSW”), an application for a packaged liquor licence (“the Application”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to grant the licence.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45 and 48 of the Act, and 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, obtained 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 accordance with 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 and 6-hour closure period

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 proposed business,
- practices will be in place to ensure the responsible service of alcohol, and
- the applicable development consent (“DC”) required for use of the premises for the proposed business is in force.

#### Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.

15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

#### Provisions specific to 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 liquor is to be sold or supplied.

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 restrictions for granting 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, 12 of the Act in respect of trading and 6-hour closure periods, and
- the proposed use of the Premises as a bottle shop 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 satisfied that:

- the Applicant is a fit and proper person to carry on the proposed business,
- 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 Coles

Liquor "NSW Management Strategies" and "House Policy for the Responsible Service of Alcohol" documents lodged with the Application,

- the requisite DC for use of the Premises as a bottle shop is in force, based on the notice of determination issued by Campbelltown City Council on 17 May 2017 approving development application 3211/2015/DA-C.

#### Community impact statement

23. Pursuant to section 48 of the Act, the Authority is satisfied 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 Denham Court, and the relevant "broader community" comprises Campbelltown local government area ("the LGA"). The Premises is located within the locality of East Leppington, in the suburb of Denham Court.

#### Positive social impacts

25. L&GNSW's liquor licensing records indicate that:

- as at 4 May 2017, there were no packaged liquor licences in Denham Court, and
- the density of packaged liquor outlets in the LGA, reflected by licences per 100,000 persons of the population, was 19.87 which, well below the corresponding NSW figure of 35.81.

26. The Authority accepts, based on the information available, the Applicant's contention that the Premises will be part of a newly developed community in the locality known as East Leppington, which will undergo substantial residential and commercial development and associated population growth. The Authority also accepts that the anticipated population growth will create further demand for packaged liquor.

27. The Authority accepts that the Premises will, as contended by the Applicant, service the needs of the local and broader communities, offering a modern and convenient facility within a new neighbourhood shopping centre comprising a Coles Supermarket (to which the Premises will be adjacent), other grocery outlets and up to 12 speciality shops. The Premises will meet the needs of members of the local community who expect to be able to access packaged liquor whilst attending the shopping centre to purchase grocery and other items.

28. The Authority acknowledges that the Premises will offer a diverse range of liquor products, on-site car parking and various features designed to maximise ease of access for customers and minimise crime.

29. The Authority is satisfied that no concerns have been raised by any members of the public, NSW Police, Campbelltown City Council, NSW Health, or any other relevant agencies and bodies, in response to the Application.

30. 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

31. The Authority notes from the BOCSAR data that:

- for the year ending December 2016, the Premises was not located in the vicinity of any hotspots for incidents of domestic, non-domestic or alcohol-related assault, or malicious damage to property,
- the rates of alcohol-related domestic and non-domestic assault and malicious damage to property per 100,000 persons of the population of Denham Court were not counted for the years ending December 2015 and December 2016, however the number of alcohol-related assault incidents was very low.
- the LGA recorded, for the two years to December 2016:
  - i. lower rates of alcohol-related non-domestic assault than the corresponding NSW figures,
  - ii. slightly higher rate (10%) of alcohol-related domestic assault and higher rate (34%) of malicious damage to property than the corresponding NSW figures, and
  - iii. a stable two year trend for the above incidents.

32. The Authority also notes from the HealthStats NSW data:

- for the period 2012-13, the smoothed standardised mortality ratios in respect of alcohol-attributable deaths for Campbelltown LGA were slightly higher than the NSW state average, and
- for the period of 2013-15, the smoothed standardised separation ratios in respect of alcohol-attributable hospitalisations for Campbelltown LGA were lower than the NSW state average.

33. While the rates for alcohol-related domestic assault and malicious damage to property in the LGA are cause for concern, the Authority's concerns are somewhat alleviated by the very low outlet density in the local community and the location of the Premises within a very substantial new residential and commercial development. On this basis, the Authority is satisfied that levels of alcohol-related crime and health problems in Denham Court and the LGA do not give rise to any immediate concern, or indicate that an additional packaged liquor licence would exacerbate any existing alcohol-related problems in the local or broader communities.

34. Having regard to the Applicant's response to the submissions lodged in relation to the Application, and other available information, the Authority is also satisfied that the risks identified are adequately mitigated by the following:

- the Premises will be the only packaged liquor facility in both the shopping centre and Denham Court suburb, and will close by 9:00pm Monday - Saturday and 8:00pm on Sundays. Most patrons will most likely attend the location for other purchases and services in addition to the purchase of liquor,
- no objections were received in response to the Application, and
- the Applicant has set out in its "NSW Management Strategies" document detailed procedures and practices in respect of the responsible service of alcohol, which are complemented by the conditions to be imposed on the licence. For additional clarity and enforceability, the Authority considers it appropriate to expressly reiterate some of the key measures outlined in the POM, such as the installation and operation of CCTV and measures relating to crime scene preservation, on the licence by way of special licence conditions.

#### Overall social impact

35. The Authority has had regard to the ABS data indicating that as at 2011, the LGA was slightly disadvantaged in comparison with other LGAs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is six years old and that the area will experience significant changes to its demographics given increased residential development in the LGA.
36. Having considered the positive and negative 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.
37. The Authority is also 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.
38. Accordingly, the Authority has decided to grant the packaged liquor licence.



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/>.

### **Material before the Authority**

1. ABS SEIFA data based on the 2011 Census indicating that Campbelltown LGA ranked in the 4<sup>th</sup> decile within NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, with a decile ranking of 10 being the most advantaged.
2. HealthStats NSW data showing the trends for the ten year period to 2013 of alcohol-related deaths and ten year period to 2015 of alcohol-related hospitalisations in Campbelltown LGA, expressed as smoothed rates per 100,000 persons of the population.
3. Notice of determination of a development application issued by Campbelltown City Council on 17 May 2016, for the DA 3211/2015/DA-C. The notice approves the use of the Premises as a supermarket and sets out a number of conditions in relation to the hours and other aspects of the operation.
4. Submission from Roads & Maritime Services (RMS) dated 6 October 2016, proposing recommendations for the licensee to participate in the local liquor accord and support Council or RMS initiatives in relation to drink driving, should the licence be granted.
5. Coles Liquor "NSW Management Strategies" and "House Policy for the Responsible Service of Alcohol", dated 15 November 2016.
6. A completed Category B CIS form, signed by the Applicant and dated 21 November 2016, and additional information provided by the Applicant in support of the CIS.
7. A completed application form for the Application, dated 21 November 2016.
8. An email from L&GNSW Compliance Operations dated 5 January 2017, attaching the EVAT Assessment Report and advising that L&GNSW does not intend to carry out any further assessment of the Application.
9. BOCSAR crime maps for the year to December 2016, indicating that there were no hotspots for alcohol-related assault, domestic assault, non-domestic assault, or malicious damage to property in Denham Court suburb.
10. NSW crime statistics for the year ending December 2016, published by BOCSAR, indicating the following:
  - a. The rate of alcohol-related domestic assault incidents was:
    - i. Not counted for Denham Court
    - ii. 127.7 per 100,000 persons for Campbelltown LGA
    - iii. 116.9 per 100,000 persons for NSW.
  - b. The rate of alcohol-related non-domestic assault incidents was:
    - i. Not counted for Denham Court
    - ii. 90.7 per 100,000 persons for Campbelltown LGA
    - iii. 136.5 per 100,000 persons for NSW.
  - c. The rate of malicious damage to property incidents was:
    - i. Not counted for Denham Court
    - ii. 1117.7 per 100,000 persons for Campbelltown LGA
    - iii. 834 per 100,000 persons for NSW.



11. An email from Camden Local Area Command dated 17 March 2017, advising that NSW Police does not object to the application.
12. Certification of Advertising Application signed by the Applicant and dated 26 April 2017.
13. Additional documents provided by the Applicant in relation to the proposed imposition of conditions and responding to submissions, dated 27 April 2017.
14. Liquor licensing records from L&GNSW as at 4 May 2017, indicating that there were no packaged liquor licences in the suburb of Denham Court, and 29 in Campbelltown LGA.
15. Google maps showing the location of the Premises, extracted from the Google website on 4 May 2017.
16. Submission from the Applicant, dated 23 June 2017, commenting on the proposed imposition of the CCTV condition.
17. Undated floor plan indicating the Premises' proposed liquor sales area.