



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

5 December 2016

Dear Mr O'Meara,

APPLICATION NO: 1-4307069013
APPLICATION FOR: Packaged Liquor Licence Removal
PROPOSED TRADING HOURS: Monday to Saturday 8:00AM – 10:00PM
Sunday 10:00AM – 10:00PM

APPLICANT: Liquorland (Australia) Pty Ltd

PROPOSED LICENSED PREMISES NAME: Liquorland

CURRENT PREMISES LOCATION: Shop 2, 316-316A Queen Street,
CAMPBELLTOWN NSW 2560.

PROPOSED PREMISES LOCATION: Macarthur Square Shopping Centre, 200
Gilchrist Drive CAMPBELLTOWN 2560
(Premises)

ISSUE: Whether to grant or refuse an application
for the removal of a packaged liquor licence

LEGISLATION: Sections 3, 29, 30, 31, 40, 45, 48 and 59
Liquor Act 2007

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION
FOR REMOVAL OF PACKAGED LIQUOR LICENCE – LIQUORLAND
CAMPBELLTOWN**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 16 November 2016 and, pursuant to section 59 of the *Liquor Act 2007* (Act), decided to **approve** Application number 1-4307069013 seeking removal of this licence subject to the following conditions:

- Trading Hours**
Monday to Saturday 8:00AM – 10:00PM
Sunday 10:00AM – 10:00PM

2. 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 2:00AM 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 December 24 th	Not permitted
	Normal trading Monday to Saturday, 8:00AM to 10:00PM Sunday
Christmas Day December 31 st	Not permitted
	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 removing this licence to premises at Macarthur Square Shopping Centre, 200 Gilchrist Drive CAMPBELLTOWN NSW 2560.
6. The Independent Liquor and Gaming Authority approved the removal of the licence to Macarthur Square Shopping Centre, 200 Gilchrist Drive CAMPBELLTOWN NSW 2560 on 16 November 2016. The licence remains at Shop 2 316-316A Queen St CAMPBELLTOWN NSW 2560 subject to the same conditions and trading hours that were immediately in force before this approval was granted until such time as the Independent Liquor and Gaming Authority is notified that the licence has been moved to the new approved address.
7. The licensed business conducted on the premises must be operated at all times in accordance with the licensee's *Management Strategies* document dated 12 April 2016, as may be varied from time to time in consultation with the Local Area Commander of NSW Police.

The Authority has granted the removal subject to a requirement, pursuant to section 47(2) of the Act, that the licence cannot be exercised at the Premises unless and until the Authority has granted a transfer of the licence to a suitably qualified person or a manager is approved and appointed to manage the Premises.

If you have any enquiries about this letter please contact the case manager via email to the case manager via rochelle.hurst@olgr.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 application for the removal of a packaged liquor licence filed 18 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 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 Graham McDonald from the Campbelltown Local Area Command (Police) lodged 22 April 2016. Police raise no objection to the Application, but request that conditions be imposed upon the licence should the Application be granted requiring the licensee to participate in the local liquor accord and requiring the licensee to develop a *House Policy* to “deal with the operation of the premises”.
4. Complying Development Certificate 16/0640/02, issued on 23 September 2016, by Steve Watson & Partners, Building Code Consultants, certifying the proposed fit out and use of the Premises as a retail premises.
5. Certification of Advertising Application dated 9 September 2016.
6. Submission from the Applicant’s solicitor, Ms Nicole Beath of JDK Legal, dated 27 September 2016. In this two-page submission the Applicant consents to the imposition of two conditions upon the licence that were requested by Police during consultation. The conditions require participation by the licensee in the local liquor accord and implementation and compliance with a strict house policy. In this submission the Applicant also provided a completed advertising certificate and copy of a Development Consent and Complying Development Certificate for the Premises. The Applicant advised its content to the conditions proposed by licensing staff in an email dated 30 August 2016 requiring that liquor not be sold between the hours of 2:00 AM and 8:00 AM 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 dated 12 April 2016, that the licence not be exercised unless and until the Authority has granted a transfer of the licence to a suitably qualified person or a manager is approved and appointed to the

licence. The Applicant also consented to the licence remaining at 316A Queen St, Campbelltown until the Authority is notified that the licence has been moved.

7. Report to the Authority dated 2 June 2016 from Compliance Branch of the Office of Liquor and Gaming NSW (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.
8. LGNSW document extract providing key liquor licence details recorded as at 3 November 2016 for Licence number LIQP700355581 in the trading name of Liquorland.

Legislative Framework

9. An application for the removal of an existing packaged liquor licence from its current location to another location is made under section 59 of the Act.
10. Pursuant to section 59(3) of the Act, an application to remove a licence to another premises is to be dealt with and determined by the Authority as if it were an application seeking the grant of a new licence in respect of those other premises.
11. Accordingly, the provisions of Division 1 of the Act extend to an application for the removal of a licence to other premises as if it were an application for a licence.
12. 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.*
13. 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.
14. 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.

15. 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”.
16. 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 Campbelltown while the “broader community” comprises the responsible Local Government Area (LGA), the Campbelltown LGA.

Analysis of Relevant Facts

17. The Authority is satisfied, based on the Application and CIS material before it, that for the purposes of Section 59 of the Act, the Application has been validly made. The Applicant has met minimum procedural requirements for the Application, the CIS and community consultation.
18. The Authority is 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 based on the Coles liquor “NSW Management Strategies” dated 12 April 2016, the “House Policy” dated 11 April 2016 and the “Licensing and Safe Trading Booklet”.
19. The Authority is also satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed activity that is the subject of the Application will fall within permissible use for the Premises for planning purposes, based on Development Application No. 1057/2014/DA-C/A approved 10 October 2014 and amended 6 July 2015, and on Complying Development Certificate 16/0640/02, determined on 23 September 2016.

Social Impact – Positive Benefits

20. The Authority is satisfied, based on the information provided by the Application and CIS, that granting this new licence will provide some modest additional benefit by way of additional convenience and choice to those members of the local and broader community who wish to conveniently purchase packaged liquor products when shopping within this new shopping centre.
21. On this basis, and noting the absence of any opposition to the Application from within the local or broader community, 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 Campbelltown, being an object of section 3(1)(a) of the Act.
22. The Applicant’s contended benefits relating to product choice have been substantiated in the Application, CIS and supporting material provided by the Applicant as to the nature of the proposed new business. The comprehensive product range is underscored by the medium scale of the new enterprise, which the Application material indicates has a licensed area of 149 square meters. In this respect granting the Application may also be said to serve both the “expectations, needs and aspirations of the community” regarding the sale and supply of liquor.

23. The Authority is satisfied, that facilitating the removal of the licence within the same local community to facilitate a newly appointed liquor business, providing a substantial range of products, within a major shopping centre development with a substantial range of products will responsibly develop the liquor industry in the local community, being an object of section 3(1)(b).
24. These benefits of convenience and development of the industry are reduced somewhat by the incumbent packaged liquor retailers in the local and broader communities, but the Authority is satisfied that some positive contribution in this regard has been demonstrated by the Applicant in the Application, CIS and submissions.

Social Impact – Negative Impacts

25. Having reviewed all the material before it, particularly the submission from local Police, the Authority considers that over time there is a risk that 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. The Authority is also satisfied that a new liquor outlet of this scale carries with it a risk of alcohol related crime in the form of the theft of liquor products from the Premises.
26. The proposed liquor outlet will occupy some 149 square metres. It is a medium scale enterprise, larger than many stand-alone liquor stores. While this factor objectively expands the potential of the new licence to contribute to any alcohol related adverse social impacts over time in the community that it services the Authority notes that the new Premises will represent a reduction in scale compared to the existing licensed premises (approximately 191 square metres). The Authority notes also that the new Premises will be located approximately 1.2 km from the current licensed premises and will not therefore increase the density of packaged liquor licenced premises in the local or broader community.
27. While granting this Application will not increase the number of licensed premises in the communities, the new Premises will be the site of an active licence whereas the existing premises have been dormant for some time. The Authority notes, on the basis of LGNSW liquor licensing records, that the State suburb of Campbelltown currently has 8 packaged liquor licences, 3 registered club licence and 5 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 local community and the licence density rates for the broader community (noted in the Schedule) are not particularly elevated either by comparison to New South Wales rates per 100,000 persons of population.
28. The licensed trading hours sought by the Applicant are extensive across the course of the week, with trading until 10:00 pm on Mondays through Sundays. This is a factor that increases the scope of the new Premises to contribute to prevailing social problems involving the abuse of packaged liquor.
29. Notably however, Police do not oppose the Application. There is no evidence from Police or any other agencies with a law enforcement role (such as LGNSW and Council) indicating any prevailing localised adverse social impacts involving the

abuse of packaged liquor in the area in which the new licence will operate, or that the Proposed Premises are less suitable than the location where the licence is currently available to be exercised.

30. At the level of the local community, BOCSAR Crime Maps between July 2015 and June 2016 indicate that the new Premises:
 - (a) Is located inside a *medium density hotspot* for incidents of *domestic assault*
 - (b) Is located inside a *high-density hotspot* for incidents of *non-domestic assault*
 - (c) Is not located inside or close to any *hotspot* for incidents of *alcohol related assault*.
31. The BOCSAR Report on *NSW Recorded Crime Statistics July 2010 – June 2015*, for July 2014 – June 2015, records that the City of Campbelltown LGA presents a mixed picture. The broader community had rates of *alcohol related domestic violence assault* that were moderately above the rate per 100,000 persons for New South Wales, while the alcohol related non-domestic assault rate was below the State-wide rate.
32. The prevailing crime data for the broader community the City of Campbelltown is of moderate concern to the Authority as a prevailing negative social impact (particularly with regard to alcohol related domestic violence). Nevertheless, the impact of this new business at the broader community level is likely to be more diffuse given the numerous other liquor outlets servicing that larger population and area.
33. As for the local community, where the contribution of liquor sales from this business is likely to have a more direct social impact, the Authority has accepted the Applicant's analysis (uncontested by Police or LGNSW) that the majority of assaults involving alcohol are attributable to the consumption of alcohol at hotels. The Authority further accepts that the Proposed Premises will be situated internally within a major shopping centre and will close considerably earlier than nearby hotels. The Authority notes that the Premises is not located in a hotspot for alcohol related assault, although there are such hotspots elsewhere in the suburb.
34. The Authority notes, based on the ABS SEIFA data, that both the suburb of Campbelltown and the City of Campbelltown 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 Campbelltown ranked in the 3rd decile on the Index and the City of Campbelltown ranked in the 4th decile (with a decile ranking of 10 being the most advantaged).
35. The negative factors associated with this Application require close scrutiny. The negative social impacts that may arise from the operation of this licence have been considered in the context of what is a licence *removal* application, not an application for a new licence. The licence will moved to smaller but more convenient premises within the same local community. Granting the Application will not increase the number or density of packaged liquor suppliers and this factor has been given some weight when assessing overall social impact.

Conclusion

36. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether 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 and all other parties required to be consulted under the legislation.
37. 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 removing this licence would not be detrimental to the well-being of these local and broader communities.
38. Removal of the licence is approved pursuant to section 59 of the Act.
39. 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: 16 November 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. Notice of Determination – Development Application No. 1057/2014/DA-C/A approved 10 October 2014. The DA was amended on 6 July 2015, providing for shopping centre operating hours of 6:00AM to midnight, seven days per week.
2. Plan indicating the proposed licensed area, dated April 2015.
3. Copy of a *Current Company Extract* for *LIQUORLAND (AUSTRALIA) PTY. LTD.* issued by the Australian Securities and Investments Commission (ASIC) on 23 March 2016.
4. Submission from Roads and Maritime Services (RMS) dated 31 March 2016 advising that during 2013 there were 14 alcohol-related crashes resulting in 11 casualties within the Canterbury LGA. RMS do not object to the Application but recommend that the licensee maintain awareness of alcohol-related issues by attending the liquor accord and that public education material be supported on the Premises.
5. Coles liquor “NSW Management Strategies” dated 12 April 2016, the “House Policy” dated 11 April 2016 and the “Licensing and Safe Trading Booklet”.
6. Application Form lodged on 18 April 2016.
7. CIS document and supporting material dated 11 April 2016 and lodged on 18 April 2016. The Applicant provides information about the Application, the location of the Premises, the manner of operation and facilities to be provided (including a site plan of the new store), suitability of the site for a packaged liquor facility, the location of nearby community buildings, facilities and places, and details regarding operational matters (policy and procedures, and Coles’ operating experience with Liquorland stores). In this document the Applicant further considers the both the risks and positive benefits of granting the Application. 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. The Applicant also provided Notices of the Application sent to various public agencies and other stakeholders, a list of stakeholders and special interest groups consulted, noting that no submissions were received from Council, Department of Health, Local Aboriginal community, FACS, stakeholders or neighbouring premises.
8. Submission from Senior Constable Graham McDonald from the Campbelltown Local Area Command (Police) lodged 22 April 2016.
9. LGNSW submission dated 2 June 2016. Submission included an EVAT Assessment Report dated 2 June 2016.
10. Request from LGNSW staff to the Applicant’s solicitor, Ms Nicole Beath of JDK Legal, dated 30 August 2016, for additional information and response, including consent to proposed conditions.

11. Certification of Advertising Application dated 9 September 2016.
12. Complying Development Certificate 16/0640/02, determined on 23 September 2016, by Steve Watson & Partners, Building Code Consultants.
13. Submission from the Applicant's solicitor, Ms Nicole Beath of JDK Legal, dated 27 September 2016.
14. Licence document LIQP700355581 dated 3 November 2016.
15. 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 *assault Police* incidents recorded by NSW Police as alcohol related across the Campbelltown LGA was **19.2** per 100,000 persons, just above the State-wide rate of **18.2** per 100,000 persons.
 - (b) the rate of *non-domestic violence related assault* incidents recorded by NSW Police as alcohol related across the Campbelltown LGA was **118.2** per 100,000 persons, below the State-wide rate of **144** per 100,000 persons;
 - (c) the rate of *domestic violence related assault* incidents recorded by NSW Police as alcohol related across the Campbelltown LGA was **143.1** per 100,000 persons, above the New South Wales rate of **122.6** per 100,000 persons;
 - (d) the rate of *offensive behaviour* offences recorded by NSW Police as alcohol related across the Campbelltown LGA was **41.5** per 100,000 persons, well below the State-wide rate of **88.2** per 100,000 persons.
16. Liquor licence density data from LGNSW indicating that the City of Campbelltown LGA recorded:
 - (a) A rate of 8.91 packaged liquor licences per 100,000 persons, which is well below the NSW state wide rate of 32.85.
 - (b) A rate of 3.43 registered club licences per 100,000 persons, which is well below the NSW state wide rate of 20.48.
 - (c) A rate of 6.85 full hotel licences per 100,000 persons, which is well below the NSW state wide rate of 30.36.
17. ABS SEIFA data sourced from the 2011 Census which indicates that:
 - (a) The Campbelltown LGA ranked in the 4th decile compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (IRSEAD) - with a decile ranking of 10 being the most advantaged.
 - (b) The state suburb of Campbelltown ranked in the 3rd decile compared to other state suburbs in NSW on the IRSEAD.