



Brett Tobin
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Level 9, 68 Pitt Street
Sydney NSW 2000

23 August 2016

Dear Mr Tobin,

APPLICATION NO: 1-4082681703
APPLICATION FOR: New Packaged Liquor Licence
PROPOSED TRADING HOURS: Monday to Wednesday 10:00AM – 8:00PM
Thursday to Saturday 10:00AM – 9:00PM
Sunday 10:00AM – 6:00PM

APPLICANT: Alisa Therese Mazzei
**PROPOSED LICENSED PREMISES
NAME:** Liquor Central Pennant Hills

PREMISES LOCATION: The Pennant Arcade Shop 11 354-356 The
Pennant Hills Road, Pennant Hills, NSW
2120 (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 – LIQUOR CENTRAL PENNANT HILLS**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 27 July 2016 and pursuant to section 45 of the *Liquor Act 2007*, has decided to **grant** the Application number 1-4082681703 subject to the following conditions:

1. Trading Hours
Monday to Wednesday 10:00AM – 8:00PM
Thursday to Saturday 10:00AM – 9:00PM
Sunday 10:00AM – 6:00PM
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 4.00 AM and 10.00 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.

3. Retail Sales

Good Friday Not permitted

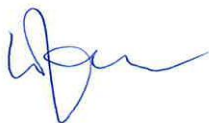
December 24th Normal trading Monday to Saturday, 8:00AM to 10:00PM Sunday

Christmas Day Not permitted

December 31st Normal trading

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 reasonable expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. The premises are to be operated at all times in accordance with the Plan of Management dated December 2015 as may be varied from time to time after consultation with the Local Area Commander.
7. The licence cannot be exercised unless and until the Authority has been provided with evidence that the premises are complete and ready to trade.

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 new packaged liquor licence Application (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) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

Summary of Further Submissions

3. There were no further submissions provided to the Authority other than the submissions received by the Applicant during the CIS period and provided to the Authority with the CIS, as noted above.

Legislative Framework

4. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007 (Act)* and the *Liquor Regulations 2008 (Liquor Regulations)*. The power to grant an application for a new liquor licence is provided by section 45 of the Act.
5. 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.*
6. 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.
 7. 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.
 8. Section 48(5) of the Act requires that the Authority must not grant the 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”.
 9. The Authority notes that the Applicant has posited a broader community that extends beyond the Hornsby Local Government Area (LGA) to include parts of surrounding LGA’s.
 10. In the absence of a statutory definition of “broader community” and for the sake of administrative consistency with the Authority’s long established practice, the Authority finds the relevant broader community to comprise the responsible LGA of the Sydney LGA.
 11. 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 Pennant Hills while the “broader community” comprises the responsible local government area, the Hornsby LGA.

Analysis of Relevant Facts

12. The Authority is satisfied for the purposes of section 40 of the Act and the Liquor Regulations that the Application has been validly made and minimum statutory requirements with regard to the Application, CIS and community consultation have been satisfied. This finding is made on the basis of the Application and CIS material provided by the Applicant and in the absence of any evidence or submission to the contrary.
13. 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 licenced venue of the kind proposed in the Application material. This finding is made on the basis that no issues of concern were raised with regard to the Applicant’s probity following consultation with relevant law enforcement agencies including Police and LGNSW.
14. 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 on the basis of the *Management Plan* dated December 2015 and *House Policy* provided by the Applicant.

15. The Authority is satisfied for the purposes of 45(3)(c) of the Act that development consent is in force for the Premises on the basis of the advice from Hornsby Shire Council (Council) dated 6 January 2016 advising that consent number LA/25/1995 is in place and sufficient to enable the proposed new use of the Premises for planning purposes.

Social Impact – Positive Benefits

16. The Authority is satisfied, on the basis of the Application and CIS, that granting this new licence will provide some benefits of additional convenience to members of the local and broader community who wish to purchase packaged liquor from within the Pennant Arcade, within the CBD of the suburb while making other purchases, whether for groceries or other items, noting the available car park.
17. The Authority accepts that the Applicant has distributed notices to the surrounding community and relevant stakeholders and has received no objections from local residents, LGNSW, Council or Police. The Authority is satisfied on the basis of the CIS and lack of any local opposition that granting the Application will be consistent with the “expectations, needs and aspirations of the community” in respect of the local community of Pennant Hills, being an object of section 3(1)(a).
18. Liquor licence records indicate that there is currently only 1 dedicated packaged liquor licenced business within the suburb of Pennant Hills and on this basis the Authority is satisfied that the proposal will, albeit to a modest extent, contribute to the development of the liquor industry for the purposes of section 3(1)(b) of the Act.
19. The Authority acknowledges the Applicant’s contention that the Premises may offer greater choice through a range of craft and boutique liquor items that are not widely available at mainstream liquor chains. However, in the absence of any great degree of specification of this claim, let alone substantiating evidence or material, the Authority gives little weight to this claim.
20. The Authority has also considered but given little weight to the Applicant’s submission that granting the new licence will service legitimate demands for alcohol in conjunction with social and recreational opportunities. That somewhat amorphous submission has been neither specified nor substantiated and is given little weight.
21. While the Applicant’s contentions that granting the Application will boost the local economy and employment may be generally credible, in the absence of a clear and specific commitment from the Applicant as to the hiring policy of the business substantiating the extent or manner in which granting this Application will boost in the local economy or source staff from the relevant communities, that contention is given limited weight.

Social Impact – Negative Impacts

22. The Authority is satisfied that over time, there will more likely than not be some contribution made from the liquor sold from the Premises to alcohol related crime, alcohol abuse, disturbance or adverse impacts on amenity (whether or not they rise to the level of criminality) caused by a minority of customers who abuse the packaged

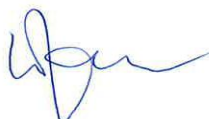
liquor purchased from this new business and adversely impact the local and broader community.

23. However, with regard to the prevalence of alcohol related crime, as a whole, the broader community of the Hornsby LGA has substantially lower rates of crime compared to NSW State averages for *domestic violence related assault, non-domestic violence related assault, offensive conduct, assault police* and *malicious damage to property*. This is demonstrated by the BOCSAR data for the Hornsby LGA and the State of NSW that is referred to above.
24. The local community is not experiencing heightened rates or concentrations of crime of crime on the basis of the BOCSAR crime mapping data for the area referred to above which indicates that the Premises is *not* located within high density hotspots for the concentration of incidents of assault (domestic and non-domestic) and malicious damage to property.
25. The Authority receives further comfort, when assessing social impact, from the ABS Socio-economic Indexes for Areas (SEIFA) data. Both the Hornsby LGA and the suburb of Pennant Hills ranked in the 10th decile on the Index of Relative Socio Economic Advantage and Disadvantage, indicating that both the local and broader community are relatively advantaged communities. That is, the rate of alcohol related crime in the local and broader community is not compounded by relative social disadvantage.
26. On the basis of the liquor licensing records and licence density data noted above, the Authority is satisfied that prevailing licence density is not an issue of concern *per se* for the local community of Pennant Hills or the broader community of Hornsby LGA.
27. The scale of the Premises (79 square metres in size) indicates that this is a medium scale liquor store and comparable in scale to many stand-alone liquor outlets.
28. Although the licensed trading hours sought by the Applicant are reasonably extensive, the Premises will not open early (commencing from 10:00AM seven days per week) and will not extend to the 10:00PM limit of night time trading that is permissible under the Act for packaged liquor retailers (closing at 8pm Monday through Wednesday and 9pm Thursday through Saturday and 6 pm on Sundays). These are factors that reduce to some extent the potential scope for the operation of this business to contribute to adverse social impacts over time.
29. Taking into account the comprehensive harm minimisation measures outlined in the *House Policy and Management Plan* provided by the Applicant as part of the Application, including the use of CCTV surveillance, steps will be taken by the Applicant and its staff to ensure that the extent of adverse impact arising from the abuse of liquor sold from the Premises would be constrained.
30. The conditions specified at the commencement of this decision have also been taken into account when considering the overall social impact of granting this Application upon the local and broader communities.

Conclusion

31. 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 are NSW Police, the Licensee, Council, NSW Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and Family and Community Services and all other parties required to be consulted under the legislation.
32. Having considered together the positive benefits and negative impacts that the Authority are satisfied are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
33. The Application is granted pursuant to section 45 of the Act.
34. 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 (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: 22 August 2016



Philip Crawford
Chairperson

SCHEDULE

Material Before The Authority

1. Application form– lodged on 16 February 2016.
2. CIS document and supporting material dated 16 February 2016. Briefly, the Applicant makes the following contentions on the overall social impact of granting the Application:
 - (a) The “usual form” of response was received from RMS and the Applicant contends that it will implement RMS recommendations to join the local liquor accord, provide public education material focused on drink driving and the NSW Police *Safe Party Kit*.
 - (b) There is a large carpark at the rear of the Arcade in which the Premises is situated for use by customers.
 - (c) The licensed business will be independently owned and operated and comprise a “modern facility with various display shelving, counter and separate cash register, small walk-in cool room and refrigeration units, and will comprise a total area of approximately 79sqm”.
 - (d) Although the store will operate as a traditional liquor store (providing a variety of types of liquor, including beers, wines and spirits) the Applicant contends that there will be a “focus” on craft beers and a range of products “not normally available” at a typical suburban liquor store that comprises part of a chain.
 - (e) The licensed trading hours sought are less than the standard hours permitted by the Act for a packaged liquor licensed business.
 - (f) There will be a “clear and firm commitment” to Responsible Service of Alcohol (RSA) principles and various policies will be in place including a House Policy. All staff involved in the sale and supply of liquor will complete an approved RSA course.
 - (g) Measures will also be in place to ensure that minors do not gain access to liquor, as well as security measures such as CCTV surveillance of the store and the proposed licensed area.
 - (h) A detailed Plan of Management sets out the measures to be implemented.
 - (i) All this Application seeks is “the continuation of the use of the shop as a liquor store”, as the liquor licence that currently attaches to the site is no longer being exercised as it is to be removed elsewhere.
 - (j) The liquor store proposed here has “little potential” to result in increased levels of alcohol related anti-social behaviour. There is “no evidence” that when the store previously operated as a liquor store, there were any relevant problems.
 - (k) Seven of the packaged liquor licenced businesses in the Hornsby LGA are restricted to taking orders over the telephone or by facsimile or mail order or through an internet site. The only registered club in Pennant Hills does not offer a separate “dedicated packaged liquor facility”. The only hotel in this suburb

provides a drive-thru packaged liquor facility for “north bound motorists” and there is only one devoted packaged liquor business in Pennant Hills being a BWS that was recently reduced in size. The Applicant contends that Hornsby LGA and the suburb of Pennant Hills are “underprovided for in terms of all types of licences”.

- (l) No objections were received from the community even though “responses were received from Police, Council, Transport RMS and Aboriginal Affairs and a telephone enquiry was made by a neighbouring occupier”.
 - (m) The proposed new liquor store will provide “substantial public benefits” in the form of convenience, choice, facilitating social/recreational opportunities and economic spin-offs. The business will allow customers of other shops in the Pennant Hills CBD the convenience of being able to purchase liquor when purchasing grocery or other needs.
 - (n) ABS SEIFA data indicates that both the suburb of Pennant Hills and the Hornsby LGA have an “advantaged population which is less likely to be vulnerable to alcohol-related harms”.
3. Plan of Management for the Premises dated December 2015 including a venue specific Responsible Service of Alcohol (RSA) House Policy.
 4. Plan or diagram of the Premises clearly highlighting the proposed licensed area.
 5. Submission from a delegate of the Secretary of the Department of Justice via the Compliance Branch of LGNSW advising LGNSW’s view that granting the Application is “unlikely to result in a significant increase in alcohol related issues in the neighbourhood” but seeking the imposition of the following condition upon the liquor licence:
The Premises must be operated in accordance with the Management Plan
 6. Submission from Council dated 6 January 2016, advising that Council approved Development Approval No. LA/25/1995 on 15 May 1995 for the proposed use of selling computers, computer peripheral and accessories and that the change of use from a retail shop to another type of retail shop is an ‘exempt’ development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. A further Development Application would “not be required” for the proposed change in use of the Premises and Council do not object to the proposed new liquor licence.
 7. Submission from Sergeant Kerry Bernard, Ryde Local Area Command (LAC) of NSW Police dated 11 January 2016 advising that Police have “no issues” with the Plan of Management but recommend the following condition should the licence be granted:
“The license to be operated at all times in accordance with the Plan of Management dated... 2016 as may be varied from time to time after endorsement by the Local Area Commander”.
 8. Submission from RMS, dated 4 January 2016 advising that RMS data for the Hornsby LGA indicates that during 2013 there were 25 alcohol-related crashes, resulting in 13 casualties. RMS recommend that the licensee maintain awareness of local alcohol-related issues; attend the LGA’s Liquor Accord and that public education material

focusing on drink drive and pedestrian-alcohol issues be supported and displayed within the Premises. RMS draws attention to the *Safe Party Strategies* available on the NSW Police website for customers buying large quantities of alcohol.

9. Submission from NSW Aboriginal Affairs dated 5 January 2016, advising that the agency has “no objection” to the Application on the basis that the Applicant has also notified the NSW Aboriginal Land Council and the Local Aboriginal Land Council of the proposal and objection process.
10. Applicant’s response to an email from licensing staff dated 6 June 2016 in which the Applicant discusses conditions the Applicant consents to being imposed upon the licence, Council approval, clarification of Part 6 of the Application form, location, growth, positive benefits, responses received from various stakeholders during the application stage, licence density, SEIFA, health and crime.
11. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location of the Premises which is publically available on the BOCSAR website. This data indicates that the Premises:
 - (a) Is *not* located within any hotspots for incidents of *domestic assault*
 - (b) Is *not* located within any hotspots for incidents of *malicious damage to property*
 - (c) Is *not* located within any hotspots for incidents of *non-domestic assault*
12. Liquor licensing records indicating that the suburb of Pennant Hills already has:
 - (a) 1 registered club licence
 - (b) 1 hotel licence
 - (c) 1 packaged liquor licence
13. Liquor licence density data derived from licensing records that are publicly available from LGNSW indicating that the Hornsby LGA as a whole recorded:
 - (a) A rate of **8.29 packaged liquor licences** per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
 - (b) A rate of **3.19 registered club licences** per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **6.38 full hotel licences** per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
14. 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 recorded by reporting Police as *alcohol related* across the Hornsby LGA was **32** per 100,000 persons, substantially below the New South Wales rate of **145** per 100,000 persons.
 - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Hornsby LGA for 2013 was **40**, substantially below the State wide rate of **191**.

- (c) The rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across this LGA was **8** per 100,000 persons, well below the State wide rate of **83**.
 - (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Hornsby LGA was **4**, well below the rate of **24** per 100,000 for New South Wales as a whole.
 - (e) The rate of *malicious damage to property* offences flagged by reporting Police as *alcohol related* across this LGA was **30** per 100,000 persons, well below the State wide rate of **122**.
15. ABS SEIFA data prepared on the basis of the 2011 census which indicates that:
- (a) The Hornsby LGA ranked in the 10th decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
 - (b) The state suburb of Pennant Hills ranked in the 10th decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.