

DECISION OF DIRECTOR OF LIQUOR LICENSING

LICENSEE: LIQUORLAND (AUSTRALIA) PTY LTD

PREMISES: LIQUORLAND PINJARRA

PREMISES ADDRESS: SHOP 24, PINJARRA JUNCTION SHOPPING CENTRE,
21-31 GEORGE STREET, PINJARRA WA 6208

LICENCE NUMBER: 6030127101

APPLICATION ID: A000065066

NATURE OF APPLICATION: APPLICATION FOR GRANT OF AN EXTENDED
TRADING PERMIT – ONGOING HOURS

DATE OF DETERMINATION: 1 MAY 2015

Introduction

- 1 This is an application by Liquorland (Australia) Pty Ltd (“the applicant”) for the grant of an extended trading permit pursuant to s 60(4)(g) of the *Liquor Control Act 1988* (“the Act”), in respect of premises known as Liquorland Pinjarra and situated at Shop 24, Pinjarra Junction Shopping Centre, 21-31 George Street Pinjarra.
- 2 The application sought approval to trade between 10 a.m. and 7 p.m. on Sundays.
- 3 The application was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing. No objections or interventions were received.
- 4 Pursuant to ss 13 and 16 of the Act the application will be determined on the papers.

Determination

- 5 Pursuant to s 38(1)(b) and r 9F(b), an applicant for the grant of an extended trading permit under s 60(4)(g) of the Act for a period in excess of three weeks must satisfy the licensing authority that the grant of the application is in the public interest.
- 6 In determining whether the grant of an application is “in the public interest” I am required to exercise a discretionary value judgment confined only by the scope and purpose of the Act (refer *Water Conservation and Irrigation Commission (NSW) v Browning* (1947) 74 CLR 492; *O’Sullivan v Farrer* (1989) 168 CLR 210; *Palace Securities Pty Ltd v Director of Liquor Licensing* [1992] 7WAR 241; and *Re Minister for Resources: ex parte Cazaly Iron Pty Ltd* (2007) WASCA 175).

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- 7 The scope and purpose of the Act can be ascertained from its objects as set out in s 5. The three primary objects of the Act are:
- to regulate the sale, supply and consumption of liquor;
 - to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor; and
 - to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.
- 8 Notwithstanding that there are no objections or interventions, an applicant must nonetheless discharge its onus under s 38(2) of the Act. In this regard, the applicant submitted a Public Interest Assessment (PIA) which included a Survey Report prepared by Data Analysis Australia (DAA Report) and a Planning and Amenity Analysis Report prepared by Planning Solutions (Aust) Pty Ltd (Planning Report).
- 9 It was submitted that Liquorland Pinjarra is located in the Pinjarra Junction Shopping Centre (Shopping Centre) which trades on Sundays between 8 a.m. and 7 p.m. Liquorland wishes to trade on Sundays from 10 a.m. up until the closure of the shopping centre at 7 p.m.
- 10 The DAA Report indicated that 76% of respondents use the Shopping Centre on Sundays and there is strong support from respondents to purchase packaged liquor on Sundays from the applicant's store in conjunction with other shopping at the Shopping Centre. Convenience and the ability to purchase a wider range of product on Sundays were also highlighted by respondents as reasons for their support for the application.
- 11 The Planning Report stated that "Liquorland Pinjarra provides the only 'walk-in' and browse type facility in the locality and its core business is focussed on shopper convenience within the Pinjarra Junction Shopping Centre". The report also indicated that Liquorland Pinjarra and 'Bucks Off Liquor' (part of the Premier Hotel) as being the only two currently licensed premises principally providing retail packaged liquor sales for consumption off the premises. The Planning Report describes 'Bucks Off Liquor' as comprising "a drive thru facility orientated and focused at servicing passing trade along South Western Highway and Pinjarra-Williams Road. It is well positioned to service passing trade from those travelling along the South Western Highway and Pinjarra-Williams Road, however is less convenient for town centre shopping patrons due to its isolated location East of the Murray River and its special design as a 'drive through' facility".
- 12 In *McKail's Investments Pty Ltd v Commissioner of Police [LC39/2013]*, where the applicant was seeking and subsequently granted an ETP for Sunday trading, the Liquor Commission considered it significant that "the application was for an extended trading permit for premises that currently trade six days per week... combined with the fact that there is only one other licensed premises able to sell packaged liquor on a Sunday... which has a drive thru facility as opposed to a store in which a consumer may browse".

13 Consequently, having considered the applicant's evidence and submissions I am of the view that the grant of the application would be consistent with object 5(1)(c) of the Act. Also, there is no evidence before me to indicate that granting an extended trading permit to authorise Sunday trading to the applicant at these premises would increase alcohol-related harm in the community, contrary to object 5(1)(b) of the Act.

14 I am therefore satisfied that the grant of the application is in the public interest and pursuant to s 60(4)(g) of the Act an extended trading permit is granted authorising the sale and supply of liquor for consumption off the licensed premises only during the following hours:-

Sunday: 10 a.m. to 7 p.m.

15 The permit is subject to the following conditions:-

- No trading is permitted on Christmas Day or before noon on ANZAC Day;
- The area to which the permit relates is the whole of the licensed premises;
- The permit will remain in force for a period of five (5) years commencing **1 May 2015** and expiring **30 April 2020**.

20 The licensee is reminded that the permit can be modified or withdrawn at short notice if it is found that the licence is being operated in a manner contrary to the public interest.

21 This matter has been determined by me under delegation pursuant to s 15 of the Act.



Peter Minchin
DELEGATE OF THE DIRECTOR OF LIQUOR LICENSING

1 May 2015