

DECISION OF DIRECTOR OF LIQUOR LICENSING

APPLICANT: WOODLAKE LIQUOR PTY LTD

PREMISES: WOODLAKE LIQUOR PTY LTD

PREMISES ADDRESS: SHOP 2, WOODLAKE VILLAGE SHOPPING CENTRE, 20
SUNRAY CIRCLE, ELLENBROOK

APPLICATION ID: A000192479

NATURE OF APPLICATION: CONDITIONAL GRANT OF A LIQUOR STORE LICENCE

DATE OF DETERMINATION: 9 JUNE 2016

Introduction

- 1 Woodlake Liquor Pty Ltd (the applicant) seeks the conditional grant of a liquor store licence for premises to be known as Woodlake Liquor Pty Ltd and located at Shop 2, Woodlake Village Shopping Centre (the Shopping Centre), 20 Sunray Circle, Ellenbrook. The application is made pursuant to ss 47 and 62 of the Liquor Control Act 1988 (the Act).
- 2 The application was advertised for public comment in accordance with instructions issued by the Director of Liquor Licensing. There were no objections or interventions to the grant of the application.
- 3 The application will be determined on the written material lodged by the applicant as permitted under ss 13 and 16 of the Act. The applicant's evidence and submissions are briefly summarised as follows.

The applicant's evidence and submissions

- 4 The Shopping Centre first opened in 1999 and serves as a neighbourhood centre and hub for the Woodlake Village Estate, providing retail, commercial services and community facilities. Since 2000, Liquorland operated a liquor store from the applicant's proposed premises, however, in October 2014, Liquorland was successful in obtaining approval to remove the liquor store licence from this location to new premises adjacent to The Shops at the Ellenbrook Shopping Centre.
- 5 In effect, packaged liquor services have been available at the Shopping Centre for the past 16 years and the applicant seeks the grant of this licence to ensure there is a continuity of packaged liquor services available at the Shopping Centre for the benefit of its customers, local residents and visitors to the locality.
- 6 The applicant proposes to operate under the Cellarbrations retail banner group and will provide a wide selection of beverages that will encompass the Cellarbrations mandatory range, together with specialty items that will have a focus on craft beer.

According to the applicant, it expects the following groups to make up its customer base:

- existing Liquorland customers;
- Shopping Centre customers;
- visitors to the area who wish to pick up supplies before visiting friends or family living nearby;
- local residents and visitors who wish to purchase packaged liquor to take with them to local BYO restaurants and cafes, social events or at home; and
- local business/corporate clients.

7 The applicant submitted a Public Interest Assessment (PIA) to support its application. The PIA included 85 Consumer Requirement surveys, information on the locality surrounding the proposed liquor store, an Amenity Impact Statement prepared by Dynamic Planning and Development Pty Ltd and a Community Survey by Perth Market Research.

8 It was submitted by the applicant that it is in the public interest for the application to be granted because:

- the grant will not result in harm or ill-health due to the consumption of liquor;
- there will be no adverse impact upon the amenity of the area by the granting of the application. Rather the granting of the application will maintain the amenity of Woodlake Village Estate and Ellenbrook in general, supporting the vision of the City of Swan in which the premises is located; and
- the grant will not result in an increase in anti-social behaviour, noise or disturbance in the locality.

Determination

9 A liquor store has operated out of the Woodlake Village Shopping Centre for almost 16 years. More recently, the licensee of the existing liquor store was granted approval to remove the licence to other premises in Ellenbrook. By this application, the applicant effectively seeks to ensure the continued provision of a packaged liquor service for patrons and other visitors to the Shopping Centre.

10 The onus is upon the applicant to satisfy the licensing authority that the grant of the application is in the public interest. 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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- 11 The factual matters which the licensing authority is bound to take into account when determining whether the grant of an application is 'in the public interest' are those relevant to the primary and secondary objects of the Act as set out in s 5;
- 12 The primary objects of the Act are:
- to regulate the sale, supply and consumption of liquor;
 - to minimise harm 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.
- 13 The secondary objects of the Act are:
- to facilitate the use and development of licensed facilities, including their use and development for the performance of live original music, reflecting the diversity of the requirements of consumers in the State;
 - to provide adequate controls over, and over the persons directly or indirectly involved in, the sale, disposal and consumption of liquor; and
 - to provide a flexible system, with as little formality or technicality as may be practicable, for the administration of this Act.
- 14 In consideration of the applicant's evidence as a whole, and giving weight to the fact that a liquor store has previously operated out of these premises for many years, I am satisfied that the grant of the application will be catering to the requirements of consumers for liquor and related services and will facilitate the use and development of licensed facilities reflecting the diversity of consumer requirements, consistent with objects 5(1)(c) and 5(2)(a) of the Act. The applicant's evidence also establishes that the locality in which the proposed liquor store will operate is not disadvantaged or experiences high rates of alcohol-related harm. Therefore, in considering the application in the context of the Act's harm minimisation object, I am satisfied that the grant of the application does not pose an unacceptable risk to the local community.
- 15 In weighing and balancing the evidence presented by the applicant, I am satisfied the applicant has discharged its onus under s 38(2) and the grant of the application is in the public interest.
- 16 Consequently, the applicant has complied with all of the statutory requirements and conditions precedent to the application being granted, and a liquor store licence is conditionally granted to the applicant subject to the following:
- (a) a Certificate under s 39 of the Act being lodged before the operation of the licence;

- (b) compliance with the *Local Government Act 1960*, *Health Act 1911* and any written law relating to the sewerage and drainage of these premise;
- (c) all work being completed within 12 months in accordance with the plans and specifications dated 23 December 2015.
- (d) the recommendations of the Inspector of Licensed Premises on the Schedule of Requirements being satisfactorily completed and the Director of Liquor Licensing being notified in writing at least 21 days prior to applicant wishing to trade under the licence;
- (e) a final inspection by an Inspector of Licensed Premises being conducted to ensure that all requirements have been satisfactorily completed; and
- (f) the applicant seeking confirmation of the grant on or before **8 June 2017** pursuant to s 62(4)(c) of the Act.

Conditions to be imposed on the issue of the licence

Trading hours

The permitted trading hours are those prescribed in s 98D of the Act. In this respect, only liquor stores located in the metropolitan area are permitted to trade on Sundays.

Trading

The licensee is authorised to sell and supply packaged liquor in accordance with the provisions of s 47 of the Act.

CCTV

The licensee is to have and maintain a CCTV system in accordance with the policies of the Director of Liquor Licensing.

Tasting condition

Pursuant to s 47(2) of the Act, the licensee is authorised to supply liquor, by way of free sample, for consumption within the licensed premises, subject to the following conditions:

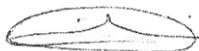
- (a) Tastings must be conducted under the full responsibility and supervision of the licensee or approved manager at all times.
- (b) Tastings cannot be supplied to juveniles.
- (c) Glasses to be used for tastings are to be washed in accordance with the provisions of the Standards of Licensed Premises Policy of the Director of Liquor Licensing unless single use disposable containers are used.
- (d) Compliance with the Food Act 2008 at all times.

(e) Tastings per sample must not exceed the following measures:

- (i) Wine – 50 mls
- (ii) Beer – 100 mls
- (iii) Spirits – 15 mls.

(f) Free drinking water must be made available at all times that samples of liquor are available for tasting.

- 17 Pursuant to s 127(2) of the Act, the prescribed licence fee will be payable prior to the operation of the licence.
- 18 The applicant is reminded that trading **may not** commence without the prior written approval of the licensing authority.
- 19 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