



DECISION AND REASONS FOR DECISION

In the matter of an application by Breztilla Pty Ltd under section 153 of the *Liquor Control Reform Act 1998* for internal review of a decision to refuse to grant an application for a packaged liquor licence for the premises known as The Kiewa General Store, located at 31 Kiewa East Road, Kiewa.

Commission:

Mr Ross Kennedy, Chair

Ms Deirdre O'Donnell, Deputy Chair

Dr Dina McMillan, Commissioner

Date of Decision:

8 September 2017

Date of Reasons:

8 September 2017

Decision:

The Commission has determined to set aside the reviewable decision, and, in substitution, grant a packaged liquor licence subject to the conditions set out in Appendix A.

Signed:

Ross Kennedy

Chair



BACKGROUND

1. On 25 October 2016, Breztilla Pty Ltd (**the Applicant**) applied to the Victorian Commission for Gambling and Liquor Regulation (**the Commission**) for a packaged liquor licence under the *Liquor Control Reform Act 1998 (LCR Act)*¹ to sell and supply packaged liquor (**the Application**).
2. The location of the proposed licensed premises is 31 Kiewa East Road, Kiewa, 3691 (**the Premises**). The proposed hours during which liquor would be supplied at the Premises were:

Monday to Saturday	Between 9am and 8pm
Sunday	Between 10am and 8pm
3. The Application included:
 - (a) an ASIC company summary dated 22 January 2016, showing the registration of the Applicant;
 - (b) a declaration of the right to occupy the Premises as a tenant dated 19 October 2016;
 - (c) two pages of the lease of the Premises dated 10 November 2014, executed by the landlord and the Applicant;
 - (d) a planning permit number PP16-0115 (**the Planning Permit**) issued by the Indigo Shire Council (**the Council**) allowing for the use of a licensed premises for the sale of packaged liquor, including a cover letter from the Council dated 29 September 2016;
 - (e) copies of a red-line plan outlining the area in which liquor would be supplied on the Premises endorsed by the Council and dated 29 September 2016;
 - (f) a liquor licensing questionnaire completed by the director of the Applicant, Mr Brendon Arundel, completed on 19 October 2016;
 - (g) a Responsible Service of Alcohol (**RSA**) certificate for Mr Arundel dated 22 March 2016; and
 - (h) a Victorian Licensee's Training Course certificate for Mr Arundel dated 24 March 2016.
4. A copy of the Application was forwarded to Victoria Police and the Council in accordance with section 33 of the LCR Act. There was no objection from the Council, the Chief Commissioner of Police (**Chief Commissioner**) or the licensing inspector.²

¹ All references to legislation are references to the LCR Act unless stated otherwise.

² As to the meaning of "licensing inspector" see section 3 of the LCR Act.



5. On the same day that the Application was received, 25 October 2016, a delegate of the Commission wrote to the Applicant noting certain premises could not be licensed due to section 22 of the LCR Act, including premises that, in the opinion of the Commission, are used primarily as a milk bar, convenience store or mixed business. The delegate therefore requested further information as to the nature of the business and sent a packaged liquor licence questionnaire (**the Questionnaire**) to the Applicant to complete.
6. On 26 October 2016, the director of the Applicant emailed a completed copy of the Questionnaire. On 27 October 2016, the Applicant also emailed a copy of the public notice section of the Border Mail dated 27 October 2016, which contained the advertisement of the Application. On 30 November 2016, the Applicant provided the Commission with a statement of display form dated 30 November 2016, certifying that a public notice of the Application was displayed from 1 November 2016 to 30 November 2016. The Commission received no objections to the Application from members of the public.
7. On 5 December 2016, a delegate requested further outstanding information from the Applicant, being photographs of the internal and external views of the Premises. On the same day, the director of the Applicant emailed the Commission attaching four such photographs.
8. Having considered the material submitted by the Applicant, a delegate of the Commission (**the Delegate**) determined to refuse to grant the Original Application on 21 December 2016 and provided reasons for that decision (**Original Decision**). Summarised, the reasons in the Original Decision were that:
 - (a) the closest available premises licensed to supply packaged liquor was the Tangambalanga Hotel, approximately 1.5 km from the Premises;
 - (b) considering the Questionnaire, in terms of the range of goods and the services provided by the Applicant, and the photographs, the Premises was a 'mixed business' pursuant to section 22 of the LCR Act (discussed at paragraphs 30 to 32 below);
 - (c) the Delegate considered there were adequate arrangements for the supply of liquor in the area, and as such did not consider whether Kiewa was a tourist area or an area with special needs; and
 - (d) therefore, section 22(c) of the LCR Act prohibited the Delegate from granting a licence.
9. On 6 February 2017, the Applicant made an application for internal review of the Delegate's decision (**Review Application**).



LEGISLATION AND THE COMMISSION'S TASK

The Commission's internal review power

10. Division 2 of Part 9 of the LCR Act governs internal review applications. Under section 152, the Original Decision is a reviewable decision, and the Applicant is eligible to apply for review of that decision. The Review Application was made under section 153.
11. Pursuant to section 157(1), the specific task of the Commission with respect to the Review Application is to make a fresh decision that:
 - (a) affirms or varies the reviewable decision; or
 - (b) sets aside the reviewable decision and substitutes another decision that the Commission on review considers appropriate.³
12. Under the LCR Act, an application for a packaged liquor licence may be contested or uncontested. Pursuant to section 3(1), an uncontested application is:

an application for the grant, variation, transfer or relocation of a licence or BYO permit in respect of which no objection is received under Division 5 of Part 2 within the period set out in that Division for that objection (or that period as extended under section 174)
13. The Application was uncontested and the Review Application remains uncontested. In effect, the Commission, on internal review, stands in the shoes of the original decision maker and makes a fresh decision with respect to the Review Application. The Commission must either:
 - (a) grant the application (and may do so subject to conditions);⁴
 - (b) refuse to grant the application;⁵ or
 - (c) grant another licence instead.⁶
14. The Commission considers that while the grounds of refusal outlined in section 44(2) of the LCR Act are a relevant consideration, the ultimate determination of an uncontested application is to be made pursuant to section 44(1) and section 157(1) at the discretion of the Commission with reference to the objects of the LCR Act.

³ Section 157(2) to (5) of the LCR Act and section 25(3) of the VCGLR Act further prescribe the manner in which the Commission is to undertake internal reviews.

⁴ LCR Act, sections 44, 49 and 157.

⁵ LCR Act, section 44 and 157.

⁶ LCR Act, section 158.



Exercising the internal review power

15. Section 9 of the *Victorian Commission for Gambling and Liquor Regulation Act 2011* (**VCGLR Act**) requires the Commission, in exercising its internal review function, to have regard to the objects of the LCR Act and any decision-making guidelines issued by the Minister under section 5 of the VCGLR Act.⁷

16. The objects of the LCR Act are set out in section 4(1), which provides:

The objects of this Act are—

- (a) to contribute to minimising harm arising from the misuse and abuse of alcohol, including by—
 - (i) providing adequate controls over the supply and consumption of liquor; and
 - (ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life; and
 - (iii) restricting the supply of certain other alcoholic products; and
 - (iv) encouraging a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community; and
- (b) to facilitate the development of a diversity of licensed facilities reflecting community expectations; and
- (c) to contribute to the responsible development of the liquor, licensed hospitality and live music industries; and
- (d) to regulate licensed premises that provide sexually explicit entertainment.

17. Section 4(2) of the LCR Act provides further that:

It is the intention of Parliament that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm minimisation and the risks associated with the misuse and abuse of alcohol.⁸

18. On 7 June 2012, decision-making guidelines with respect to the “Grant of Licences for the Sale of Packaged Liquor” (**the Guidelines**) were issued under section 5 of the VCGLR Act.⁹

19. Paragraph 3 of the Guidelines relevantly states:

... the grant of a licence that allows for the provision of packaged liquor from licensed premises during hours that are outside ordinary trading hours as defined in section 3 of the Act should only be granted by the Victorian Commission for Gambling and Liquor Regulation if exceptional circumstances can be demonstrated by an applicant.

⁷ VCGLR Act, section 9(3) and (4).

⁸ See further *Kordister Pty Ltd v Director of Liquor Licensing* [2012] VSCA 325, which confirms that harm minimisation is the primary regulatory object of the LCR Act and therefore the primary consideration in liquor licensing decisions (although not to the exclusion of the other objects).

⁹ *Victorian Government Gazette*, G 23, 7 June 2012, 1176-1177.



20. In exercising the internal review power, the Commission:
- (a) must consider all the information, material and evidence before the original decision maker;¹⁰ and
 - (b) may also consider further information or evidence¹¹ and, in respect of uncontested applications on review, have regard to any matter the Commission considers relevant¹² and make any enquiries the Commission considers appropriate.¹³

MATERIAL BEFORE THE COMMISSION

21. The Commission had before it and considered all of the material received by the Delegate, which included:
- (a) the Application, including all documents listed at paragraph 3 above;
 - (b) correspondence from the Council and Victoria Police, described in paragraph 4 above;
 - (c) the completed Questionnaire;
 - (d) a copy of the public notice section of the Border Mail dated 27 October 2016, advertising the packaged liquor application for the Premises;
 - (e) a statement of display form dated 30 November 2016;
 - (f) four photographs of the internal and external views of the Premises provided to the Applicant on 5 December 2016; and
 - (g) a decision record dated 21 December 2016.
22. The Commission also had before it and considered additional information and evidence including:
- (a) the Original Decision;
 - (b) the Review Application, including a letter from Ryan Commercial Lawyers, the Applicant's representative, dated 6 February 2017, which included a submission in support;
 - (c) an email from Victoria Police dated 15 March 2017, advising that its position (ie no objection) was unchanged;

¹⁰ LCR Act, section 157(2).

¹¹ LCR Act, section 157(3).

¹² LCR Act, section 44(4)(a).

¹³ LCR Act, section 44(4)(b).



- (d) an email from Council dated 17 March 2017, advising that the Council raises no objection and attaching the Planning Permit;
- (e) a letter from the Applicant's representative dated 23 March 2017, being further written submissions for the Review Application, enclosing 25 tourist brochures for the region surrounding the Premises;
- (f) a tourism audit completed by the Council on 20 February 2013;
- (g) Australian Bureau of Statistics (**ABS**) 2016 Census data in relation to Kiewa;
- (h) information from the Commission's database listing licensed premises in and around Kiewa and Wodonga;
- (i) extracts from Google maps showing distance and travel times between the Premises and various towns;
- (j) a brief to the Minister for Consumer Affairs, Gaming and Liquor Regulation dated 30 May 2017, endorsed by the Minister on 6 June 2017; and
- (k) various correspondence to and from the Applicant's representative in relation to the Review Application.

23. Commissioner O'Donnell also visited the Premises on 7 April 2017.

Matter to be determined 'on the papers'

24. On 3 March 2017, the Commission wrote to the Applicant's representative, noting that the Commission may determine the internal review on the papers or by setting the matter down for hearing where the Applicant could address the Commission in person. On 14 March 2017, the Applicant's representative advised that the Applicant's preference was to conduct the Review Application without a public hearing. As such, the Commission considered this Review Application on the papers.

REASONS FOR DECISION ON REVIEW

Issues for determination on review

25. In order for the Commission to make its decision on review, a number of issues require consideration:
- (a) firstly, the application of the legal test under section 22 of the LCR Act;
 - (b) secondly, whether the Review Application meets the mandatory requirements for a packaged liquor licence;



- (c) thirdly, the application of the Guidelines; and
- (d) finally, whether the Review Application should be granted or refused, having regard to the objects of the LCR Act and, in particular, harm minimisation, which is the primary object.¹⁴

Section 22 test

26. Section 22(1) of the LCR Act prohibits the Commission from granting a licence in respect of premises that, in the opinion of the Commission, are used primarily as a milk bar, convenience store or mixed business. However, section 22(2) allows the Commission to grant a licence in respect of such premises if the Minister is satisfied that:
- (a) the area in which the premises are situated is a tourist area or an area with special needs; and
 - (b) there are not adequate existing facilities or arrangements for the supply of liquor in the area.
27. Under the foregoing test, the three relevant legal issues are:
- (a) whether the Premises are used primarily as a milk bar, convenience store or mixed business;
 - (b) whether the area in which the Premises are situated is a tourist area; and
 - (c) whether there are adequate existing facilities or arrangements for the supply of liquor in the area.
28. Only the first issue is a matter to be decided by the Commission. It is the Minister who is required to be satisfied as to the second and third issues.
29. The Commission notes that restrictions under section 22 of the LCR Act, and the associated offences under section 113 of the LCR Act, are geared towards minimising the harmful effect of alcohol on young people.¹⁵ Insofar as these restrictions and offences relate to milk bars, convenience stores and mixed businesses, this is due to the frequency of minors being present in such premises, whether as staff or customers.

¹⁴ See paragraphs 16 to 17 above. The Commission notes that in determining this matter it has also considered each of the grounds set out in section 44(2) of the LCR Act.

¹⁵ See, e.g., *Liquor Control Act 1987 Review – Final Report*, April 1998, p.162. See also Victoria, *Parliamentary Debates (Hansard)*, Legislative Assembly, 14 October 2004, p.1062-4 (second reading speech for the *Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act 2004*).



Issue 1 of Section 22 test – Milk bar, convenience store or mixed business

30. The Premises are a general store. In the Questionnaire, the Applicant indicated that the approximate size of the retail area was 200 m² (but subsequently clarified that the whole retail area is approximately 54 m², with the proposed licensed area approximately 9 m²).¹⁶ Also from the Questionnaire, the Applicant has approximately 200 product lines, selling fruit and vegetables, meat, hot snacks, coffee and ice-creams, which is borne out in the photographs of the Premises. The Premises also provide newsagency, postal and banking services. According to the Questionnaire, approximately 2,000 people live in the community, with 75% of those community members regularly using the Premises.
31. The term “mixed business” is not defined by the LCR Act. The Macquarie Dictionary defines the term “mixed business” as “a small grocery which also sells a selection of other types of merchandise.”¹⁷
32. In this instance, based on the information provided, the Premises, in the opinion of the Commission, are used primarily as a mixed business.

Issues 2 and 3 of Section 22 test – Tourist area or an area with special needs and supply of liquor in area

33. Kiewa is a small town with a population of 474 (according to the 2016 Census¹⁸) located 250km north-east of Melbourne, close to the Hume Weir. Towns close to Kiewa with developed tourism industries include Albury-Wodonga (approximately 19 km away), Yackandandah (approximately 18 km away) and Beechworth (approximately 45 km away).

The Applicant's submissions

34. According to the Questionnaire, the purpose of the application ‘is to showcase local wines and craft beers from our area’. In its submissions, provided along with the Review Application on 6 February 2017, the Applicant submitted that the Premises are located in a significant tourism area of the Kiewa valley, in easy reach of the Hume Weir (10 kms), Falls Creek (approximately 100 kms), and close to historic townships such as Bright and Myrtleford. The Applicant was also of the view that there are a number of tourism attractions and activities in close proximity to the Premises, including the Kiewa River, the Alpine Rail Trail, and bushwalking tracks.

¹⁶ Email from the Applicant’s representative to the Commission dated 4 April 2017.

¹⁷ The Commission also notes, and agrees with, the approach adopted in *GPG Mobil No 1 Pty Ltd v Director of Liquor Licensing* [2009] VCAT 2374 (9 November 2009).

¹⁸ ABS, 2016 Census QuickStats, Kiewa, available online at

http://www.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/SSC21336?opendocument.

However, the Commission notes the Applicant says it serves 75% of the 2,000 people living in its community: See paragraph 30 above.



35. In the Applicant's view, the Premises are the appropriate place to offer a range of regional liquor to complement and enhance local producers' efforts to market their products to a wider audience, listing 14 such wineries and breweries in the local region.¹⁹ The Applicant also submitted that part of the local population did not feel comfortable visiting the Tangambalanga Hotel, and submitted that granting the Review Application would ensure those individuals would be able to purchase liquor without doing so. The Applicant submitted there is a special need for its proposed liquor licence given the tourism focus coupled with the lack of adequate existing facilities due to the isolation of the Premises.
36. In its further submissions of 23 March 2017, the Applicant enclosed 25 tourism brochures for Kiewa and the surrounding areas, including the Regional Parklands and High Country Rail Trail, the Victorian Recreational Fishing Guide 2016, the North East Victorian & Southern Riverina NSW Touring Map and a brochure for Schmidt's Strawberry Winery. The brochures noted that the Kiewa River and Hume Weir attract tourists who fish, and the surrounds feature bushwalking and cycling trails, including the Regional Parklands and High Country Rail Trail, as well as the Premises' proximity to several alpine vistas, such as the Huon Hill Lookout and Lockhart's Gap Lookout.
37. Further, the Applicant submitted that the promotion of local goods and produce, such as the Applicant proposed, is a common feature of contemporary tourism.

Other materials

38. The Council completed a tourism audit that was last updated in February 2013.²⁰ This identifies the Indigo Gold Trail, which is near the Premises, as well as several natural and man-made attractions, recreational parks, garden and picnic facilities in Kiewa. The audit notes the Tangambalanga/Kiewa Walkway, and several festivals and events in Kiewa.

Existing facilities or arrangements for the supply of liquor

39. An assessment of the existing facilities or arrangements for the supply of liquor in the area will vary depending upon the size of the geographical area considered and the types of licences in the area. In the township of Kiewa itself, there is only one licence, being a limited licence held by the Kiewa Cricket Club. In Tangambalanga, there are three licences: a full club licence (held by the Kiewa Valley Bowling Club), a limited licence (held by the Kiewa-Sandy Creek

¹⁹ When reading the Applicant's submissions on the Review Application dated 6 February 2017, the Commission was not clear as to whether the Applicant intended to limit the supply of liquor to locally produced products. While a packaged liquor licence may be conditioned so as to limit supply to locally produced liquor, such limitations are usually applied to renewable limited licences. However, when asked about this, on 26 July 2017, the Applicant clarified that it still intended to apply for a packaged liquor licence.

²⁰ The audit can be found online here:

http://www.indigoshire.vic.gov.au/Tourism_Events/Tourism_Business_Information/Tourism_Audit.



Football Club) and the already-mentioned general licence held by the Tangambalanga hotel. The next closest licensed premises both hold wine and beer producer's licences, and are approximately 7 km and 9.5 km away from the Premises.

40. The closest major centre near Kiewa is Wodonga, which is approximately 19 km away. The Commission's data shows there are 79 licences in Wodonga, 13 of which are packaged liquor licences.
41. In relation to the liquor licences in the area in which the Premises are situated, in and around Kiewa, the limited licences allow supply of liquor on licensed premises or during sporting events to a member of the club on particular days in restricted hours. Similarly, the full club licence allows the supply of liquor for a member for consumption on or off the licensed premises and to a guest for consumption on the licensed premises. The two wine and beer producers' licences are restricted to only allow the supply of each licensee's product. In relation to the general licence held by the Tangambalanga hotel, while the licence allows the supply of liquor for consumption on and off the licensed premises, the Applicant submitted that the Hotel carries only limited stock and variety, offering a small range of commercial lines with no products from the local area.
42. As such, there are constraints on the existing facilities and arrangements for the supply of liquor in the area.

The Minister's view

43. The Commission briefed the Minister for Consumer Affairs, Gaming and Liquor Regulation regarding the Application and the Review Application.
44. On 6 June 2017, the Minister approved the Commission granting a licence in respect of the Premises on the basis that she was satisfied that the area in which the Premises are situated is a tourist area or an area with special needs and there are not adequate existing facilities or arrangements for the supply of liquor in the area.

Conclusion as to section 22(2) of the LCR Act

45. The Commission therefore considers that even though the Premises are a 'mixed business', it has the Minister's approval to grant a licence in respect of the Premises under section 22(2) of the LCR Act. As such, as per section 22(2), the Commission may grant a licence.

Whether the Review Application meets the mandatory requirements for a packaged liquor licence



46. The LCR Act sets out that the Commission must not grant a packaged liquor licence unless satisfied of certain matters.

Completion of approved RSA program

47. First, section 26B(2) of the LCR Act provides that the Commission must not grant a packaged liquor licence unless satisfied that the applicant, or if the applicant is a body corporate, the person who will be responsible for the management or control of the licensed premises, has completed an approved responsible service of alcohol program in the three years prior to the date on which the application was made. Here, the Commission is satisfied that Mr Arundel, who manages and lives at the Premises, will be the person responsible for the management or control of the licensed premises and has obtained his RSA certificate for completion of an approved RSA program. As such, the Commission is satisfied that the mandatory requirement under section 26B of the LCR Act is met.
48. The Commission also notes Mr Arundel has completed a Victorian Licensee's Training Course, as per his certificate issued on 24 March 2016.

Predominant activity in the area set aside is sale of packaged liquor

49. Secondly, section 42 of the LCR Act provides that the Commission must not grant a packaged liquor licence unless satisfied that the predominant activity to be carried on in the area set aside as the licensed premises is the sale by retail of liquor for consumption off the licensed premises.
50. The Commission has reviewed the Applicant's red-line plan included with the Application, which the Council has endorsed, and notes that the red-line area set aside as the proposed liquor section is separate from the rest of the Premises. The Commission also notes that condition 1 of the Planning Permit provides that "the use of the land to sell liquor is restricted to the red-line area on the endorsed plans and shall not be modified or altered". Further, the Commission notes that the Applicant has agreed to lock up liquor outside trading hours, which gives the Commission additional comfort that the predominant activity to be carried on in the area set aside as the licensed premises is the sale by retail of liquor for consumption off the licensed premises. Finally, the Licensee has informed the Commission that it is aware of and will ensure ongoing compliance with section 24 of the LCR Act.



51. As such, the Commission is satisfied that the mandatory requirement in section 24 of the LCR Act is met.²¹

Application of the Guidelines

52. The Guidelines apply to “the grant of liquor licences that may allow the sale of packaged liquor”. The licence sought is a packaged liquor licence and therefore the Guidelines apply, and the Commission must have regard to them under section 9(4) of the VCGLR Act.²²
53. In summary, the only relevant paragraph of the Guidelines, paragraph 3, is set out at paragraph 19 above, requiring that a licence allowing for provision of packaged liquor outside ordinary trading hours should only be granted by the Commission if the applicant can demonstrate exceptional circumstances apply. The ordinary trading hours for a packaged liquor licence as defined in section 3(1) of the LCR Act are: 9am to 11pm each day other than Sunday, Good Friday, ANZAC Day or Christmas day; 10am to 11pm on Sunday; and 12 noon to 11pm ANZAC Day.
54. In the Application, the Applicant seeks to supply liquor between:
- (a) 9am and 8pm Monday to Saturday; and
 - (b) 10am and 8pm Sunday.
55. These hours are within the ordinary trading hours for a packaged liquor licence, apart from in relation to Good Friday, Christmas Day and ANZAC Day. The Commission is not satisfied that the Applicant has demonstrated any exceptional circumstances for the provision of packaged liquor outside ordinary trading hours on Good Friday, Christmas Day and ANZAC Day.
56. Therefore, if the Commission determines to grant the application, the Commission would apply the hours as per the definition in the LCR Act.²³ This would essentially provide for no trade on Christmas Day and Good Friday, and trade from 12 pm to 8 pm on ANZAC Day.
57. With this change, the Commission considers the Application is consistent with the Guidelines.

Whether to grant or refuse the licence having regard to the objects of the LCR Act

58. The Commission is also mindful of the need to ensure that appropriate regard be given to the objects of the LCR Act and particularly the harm minimisation object,²⁴ recognising that it is the primary object of the LCR Act.

²¹ The Commission notes that, pursuant to section 11(3)(aa) of the LCR Act, a packaged liquor licence is effectively subject to section 24 as a condition.

²² The Commission also considered and was satisfied as to the matters set out in the Decision-Making Guidelines relating to the assessment of the cumulative impact of licensed premises dated 7 June 2012, particularly as granting the Application would not result in a concentration of licensed premises in the area.

²³ See LCR Act, section 3, the definition of ‘ordinary trading hours’ in relation to a packaged liquor licence.



59. As the Premises are a mixed business and would regularly have minors on the Premises, and noting that the policy intent behind section 22 seems to be in relation to children on the premises,²⁵ the Commission considers it appropriate to place a special condition on the Licence ensuring liquor is locked outside of licensed hours.
60. Further, the Commission notes that every packaged liquor licence is subject to a condition that the licensee comply with the code of conduct determined by the Minister as in force from time to time.²⁶ The current code of conduct is dated July 2013 and can be found on the Commission's website (**the Code**).²⁷ Amongst other things, the Code includes requirements in relation to signage, marketing and promotion, minors on premises, developing house rules for the premises and RSA. The Licensee's compliance with the Code will further assure the Commission that the LCR Act's primary object of harm minimisation is supported.
61. Accordingly, the Commission considers that the grant of a packaged liquor licence in this instance would not be contrary to the LCR Act's primary object of harm minimisation. Further, the Commission also considers that granting the licence would facilitate the development of a diversity of licensed facilities reflecting community expectations, in furtherance of the object outlined in section 4(1)(b) of the LCR Act.

DECISION ON REVIEW

62. Based on all of the matters set out above, the Commission on review has decided to set aside the Delegate's decision and, in substitution, grant a packaged liquor licence for the Premises subject to the conditions set out in Appendix A.

The preceding sixty-two (62) paragraphs are a true copy of the Reasons for Decision of Mr Ross Kennedy, Chair, Ms Deirdre O'Donnell, Deputy Chair and Dr Dina McMillan, Commissioner.

²⁴ LCR Act, section 4(1)(a) and (2).

²⁵ See footnote 15 above.

²⁶ See LCR Act, ss 11(3)(aad) and 11(5).

²⁷ Available here: https://www.vcglr.vic.gov.au/sites/default/files/uploadLiquor_Licensing_Code_of_Conduct_-_Packaged_liquor_licensees_.pdf.



Appendix A

CONDITIONS

TYPE OF LICENCE

This licence is a packaged liquor licence and authorises the licensee to supply liquor in sealed containers, bottles or cans on the licensed premises for consumption off the licensed premises during the trading hours specified below.

TRADING HOURS

Sunday	Between 10 am and 8 pm
ANZAC Day	Between 12 noon and 8 pm
On any other day other than Sunday, ANZAC Day, Christmas Day & Good Friday	Between 9 am and 8 pm

SPECIAL CONDITIONS

The licensee must comply with the Code of Conduct determined by the Minister pursuant to section 11(5) of the *Liquor Control Reform Act 1998*.

Within 28 days after the grant of the licence, any storage area used to display liquor for supply must be locked at all times outside the permitted trading hours under this licence.