



DECISION AND REASONS FOR DECISION

In the matter of an application by Woolworths Group Limited under section 153 of the *Liquor Control Reform Act 1998* for internal review of a decision to refuse to vary an existing packaged liquor licence for the premises known as BWS – Beer Wine Spirits, located at 1A/9-45 Ashley Street, Braybrook

Commission: Ms Deirdre O'Donnell, Deputy Chair
Ms Helen Versey, Deputy Chair
Dr Dina McMillan, Commissioner

Date of Hearing: 18 July 2018
Date of Decision: 21 September 2018
Date of Reasons: 21 September 2018

Appearances: Ms Sarah Porritt, Counsel for the Applicant (instructed by King & Wood Mallesons)
Ms Caitlin McAlister, Counsel Assisting the Commission

Decision: The Commission has determined to set aside the decision of the Delegate and, in substitution, vary the existing packaged liquor licence and impose the conditions set out in Appendix One

Signed:

A handwritten signature in black ink, appearing to read 'Deirdre O'Donnell'.

Deirdre O'Donnell
Deputy Chair

BACKGROUND

1. On 8 February 2018, Woolworths Group Limited (the **Applicant**) applied to the Victorian Commission for Gambling and Liquor Regulation (the **Commission**) for variation of conditions on its existing packaged liquor licence (the **Licence**) under the *Liquor Control Reform Act 1998 (LCR Act)*¹ for the premises trading as BWS – Beer Wine Spirits, located at 1A/9-45 Ashley Street, Braybrook (the **Premises**). Specifically, the Applicant sought both an increase to the size of the existing licensed area and an increase to the existing trading hours (the **Application**).
2. The Premises consist of a warehouse located in an industrial site where online supermarket grocery and associated liquor orders are processed for delivery by the Applicant across Melbourne. Customers have no access to the Premises.
3. The existing hours of trade (**Existing Trading Hours**) are:

On any day other than Sunday, Good Friday, ANZAC Day or Christmas Day	Between 9 am and 11 pm
Sunday	Between 10 am and 11 pm
ANZAC Day	Between 12 noon and 11 pm
4. The increase to the Existing Trading Hours as proposed by the Applicant (**Proposed Increased Trading Hours**) involves:

On any day other than Good Friday, ANZAC Day or Christmas Day	Between 6 am and 11 pm
ANZAC Day	Between 12 noon and 11 pm
5. By applying for variation of the Existing Trading Hours, the Applicant is seeking to have liquor which has already been purchased by a customer online to be delivered earlier, specifically from 6am rather than 9am. Under the variation sought by the Application, no alcohol would be delivered on Christmas Day or Good Friday, and there would be no variation to the existing trading hours on ANZAC Day.
6. The Application included:
 - (a) a completed application form received by the Commission on 5 February 2018;
 - (b) a copy of the plan for the Premises showing the licensed area (the **Red Line Plan**);
 - (c) an amended planning permit number TP528/2016(2), dated 3 January 2018 (the **Amended Planning Permit**) issued by the Maribyrnong Council (the **Council**) allowing for an increase in

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



the area in which liquor can be stored on the Premises, including a cover letter from the Council dated 3 January 2018; and

- (d) a copy of the public notice section of the Herald Sun dated 5 February 2018, which contained the advertisement of the Application.²
7. A copy of the Application was forwarded to the Chief Commissioner of Police and the licensing inspector³ (together, **Victoria Police**) and the Council in accordance with section 33. There was no objection from the Council or Victoria Police in relation to the Application.
 8. On 20 March 2018, the Applicant provided the Commission with submissions in support of the Application, including photographs of the Premises, the Applicant's annual business performance report of 2017, and the original planning permit number TP528/2016(1).
 9. On 26 March 2018, the Applicant provided the Commission with a statement of display form dated 23 March 2018 confirming that a Notice with details of the Application had been displayed in accordance with the LCR Act. The Commission received no objections to the Application from members of the public.
 10. Having considered the material submitted by the Applicant, a delegate of the Commission determined to grant the Application, but only in part. Specially, the delegate determined to vary the Licence in respect to the size of the licensed area, but refused to vary the Existing Trading Hours (the **Original Decision**). Summarised, the reasons in the Original Decision for refusing to vary the Existing Trading Hours were:
 - (a) no exceptional circumstances exist to justify an increase to the number of trading hours beyond the 'ordinary trading hours' as specified in the LCR Act;
 - (b) it is not evident as to how the Proposed Increased Trading Hours would not detract from or be detrimental to the local amenity; and
 - (c) delivery of packaged liquor from 6am from the Premises would likely be conducive to or encourage the misuse and abuse of alcohol.
 11. On 19 April 2018, the Applicant made an application for internal review of the Original Decision (the **Review Application**).

² The public display of the Application is in accordance with section 34.

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

LEGISLATIVE FRAMEWORK AND THE TASK BEFORE THE COMMISSION

12. Under the LCR Act, an application to vary a licence may be contested or uncontested. Pursuant to section 3(1) of the LCR Act, an uncontested application relevantly includes “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)”.⁴ It is noted that the Application was uncontested and the Review Application similarly remains uncontested.
13. Division 2 of Part 9 of the LCR Act governs internal review applications. Under section 152, the Delegate’s decision in respect of the Application is a reviewable decision, and the Applicant is eligible to apply for review of that decision. The Review Application was made under section 153.
14. Under section 157(1), the specific task for the Commission with respect to a review application is to make a fresh decision that:
 - (a) affirms or varies the Original Decision; or
 - (b) sets aside the Original Decision and substitutes another decision that the Commission on review considers appropriate.⁵
15. In effect, the Commission, on internal review, stands in the shoes of the delegate and makes a fresh decision with respect to the Application. In doing so, it must consider all of the information, material and evidence before the delegate.⁶ It may also consider further information, material or evidence as part of making its decision.⁷

Conduct of an inquiry

16. Section 34 of the *Victorian Commission for Gambling and Liquor Regulation Act 2011 (VCGLR Act)* provides that subject to that Act, gambling legislation or liquor legislation, the Commission may conduct any inquiry in any manner it considers appropriate. Relevant provisions governing the conduct of an inquiry by the Commission in this matter include:
 - (a) section 33 of the VCGLR Act, which provides, *inter alia*:

“(1) *The Commission may conduct an inquiry for the purposes of performing its functions or duties, or exercising its powers under this Act, gambling legislation or liquor legislation.*”

⁴ Conversely, a “contested application” is defined in section 3(1) as being “an application for the grant, variation, transfer or relocation of a licence or BYO permit in respect of which any objections are received under Division 5 of Part 2 within the period set out in that Division for those objections (or that period as extended under section 174)”.

⁵ Sections 4(2) and 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.

⁶ Section 157(2).

⁷ See section 157(3).



...

(3) *When conducting an inquiry for the purposes of performing its functions under section 9(1)(a), (b), (c) or (d) the Commission is taken to be a board appointed by the Governor in Council and Division 5 of Part 1 (including section 21A) of the Evidence (Miscellaneous Provisions) Act 1958, as in force immediately before the repeal of that Division, applies accordingly.*"

(b) section 25(3) of the VCGLR Act, which provides:

"In performing a function or duty the Commission—

(a) except when exercising a power under Division 5 of Part 1 of the Evidence (Miscellaneous Provisions) Act 1958, is not bound by the rules of evidence but may inform itself in any way it thinks fit;

(b) is bound by the rules of natural justice."

Determination of an uncontested application

17. Where an application is an uncontested application, pursuant to section 44(1) of the LCR Act:

"Subject to Division 3, the Commission must grant or refuse to grant an uncontested application at any time after the expiry of the period for objection under Division 5 (or that period as extended under section 174)."

18. Section 44(4) provides that before granting or refusing an uncontested application under subsection (1), the Commission:

"(a) may have regard to any matter the Commission considers relevant; and

(b) may make any enquiries the Commission considers appropriate".

19. Section 9(3) of the VCGLR Act provides that:

"The Commission must, when performing functions or duties or exercising its powers under the Gambling Regulation Act 2003, the Liquor Control Reform Act 1998, the Casino Control Act 1991, the Racing Act 1958 or any other Act, have regard to the objects of the Act conferring functions on the Commission."⁸

20. Section 9(4) of the VCGLR Act further provides that:

"The Commission must, when performing functions or duties or exercising its powers under gambling legislation or liquor legislation, have regard to any decision-making guidelines issued by the Minister under section 5."

21. Accordingly, in exercising its discretion to either grant or refuse an uncontested application under section 44(1) of the LCR Act, the Commission must have regard to the objects of the LCR Act.

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

⁸ There are no objects specified in the VCGLR Act itself.



- “(1) *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.”*

23. Section 4(2) 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.”

24. The Court of Appeal of the Victorian Supreme Court has made it clear in *Kordister Pty Ltd v Director of Liquor Licensing* [2012] VSCA 325 (**Kordister**) that harm minimisation is a fundamental principle of the LCR Act, and can properly be regarded as “the primary regulatory object of the Act and therefore the primary consideration in liquor licensing decisions”.⁹ However, as was also noted by the Court of Appeal, “this is not to say ... that it [harm minimisation] is to be taken into account, or given such weight, to the exclusion of the other objects”.¹⁰

25. Pursuant to section 44(2) of the LCR Act, the Commission may refuse to grant the Application on the grounds, *inter alia*:

- (a) that the grant of the application would detract from or be detrimental to the amenity of the area in which the Premises to which the application relates are situated (section 44(2)(b)(i)); or
- (b) that the grant of the application would be conducive to or encourage the misuse or abuse of alcohol (section 44(2)(b)(ii)).

⁹ See *Kordister* [2012] VSCA 325, at [19] per Warren CJ and Osborn JA; [188] per Tate JA.

¹⁰ See *Kordister* [2012] VSCA 325, at [188] per Tate JA.

26. For the purposes of the LCR Act, the amenity of an area is defined as being the quality that the area has of being pleasant and agreeable.¹¹ Factors that may be taken into account in determining whether a proposed grant would detract from or be detrimental to the amenity of the area include:
- (a) the possibility of nuisance or vandalism;
 - (b) the harmony and coherence of the environment; and
 - (c) any other prescribed matters.¹²
27. However, the definition of ‘amenity’ for the purposes of the LCR Act is not limited by the factors in paragraph 26 above.¹³
28. Under section 49, the Commission may impose any condition it thinks fit on the grant of an application.
29. The Commission considers that while the grounds of refusal outlined in section 44(2) are relevant considerations, the ultimate determination of an uncontested application is to be made pursuant to sections 44(1) and 157(1) at the discretion of the Commission with reference to the objects of the LCR Act.

Packaged liquor licences

30. Section 9(4) of the VCGLR Act requires the Commission to have regard to any decision-making guidelines issued by the Minister under section 5 of the VCGLR Act when performing its functions or duties or exercising its power under liquor legislation. On 7 June 2012, the Minister for Consumer affairs issued a decision-making guideline titled the “Grant of Licences for the Sale of Packaged Liquor” (**the Guidelines**) concerning the grant of liquor licences that allow for the sale of packaged liquor outside ordinary trading hours.¹⁴
31. The operative sections of the Guidelines are set out in the second part, and the specific requirements are stipulated in three separate paragraphs:
- 1. That the grant of a licence that allows for the provision of packaged liquor from licensed premises on a 24-hour basis is contrary to the aim of minimisation of harm from the misuse and abuse of alcohol and contrary to the aim of ensuring the amenity of community life.
 - 2. That, in the case of a general licence or packaged liquor licence that allows for the provision of packaged liquor from licensed premises during the hours specified in section 8(1)(a)(ii)–(iii) of the Act in the case of general licences or section 11(1)(b)–(c) of the Act in the case of

¹¹ Section 3A(1).

¹² Section 3A(2).

¹³ Section 3A(3).

¹⁴ *Victorian Government Gazette*, G 23, 7 June 2012, 1176-1177.



packaged liquor licences, the Victorian Commission for Gambling and Liquor Regulation should consider the position of Government in these guidelines in determining the grant of the licence. In all circumstances, the extended hours for a packaged liquor licence should not extend past 12 midnight.

3. That, **excepting those licences specified in paragraph 2**, 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 **[Emphasis added]**.

32. Packaged liquor licences are granted under section 11 of the LCR Act. Section 11(1) provides that:

- (i) A packaged liquor licence authorises the Applicant to supply liquor on the licensed premises in sealed containers, bottles or cans –
 - (a) during ordinary trading hours; and
 - (b) between 11 p.m. on any particular day until 1 a.m. on the following day, if so determined by the Commission and specified in the licence; and
 - (c) subject to section 15A, between a time (not being earlier than 5 a.m.) before the commencement of ordinary trading hours and the commencement of ordinary trading hours on a particular day, if so determined by the Commission and specified in the licence; and
 - (d) at any time on Christmas Day or on Good Friday determined by the Commission and specified in the licence –for consumption off the licensed premises.

33. **'Ordinary trading hours'** in relation to a packaged liquor licence or a late night (packaged liquor) licence is defined under section 3 as:

- (ii) the hours between 9 a.m. and 11 p.m. on each day, other than Sunday, Good Friday, Anzac Day or Christmas Day; and
- (iii) the hours between 10 a.m. and 11 p.m. on Sunday; and
- (iv) the hours between 12 noon and 11 p.m. on ANZAC Day.

MATERIAL BEFORE THE COMMISSION

34. 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 6 above;

- (b) correspondence from the Council and Victoria Police, described in paragraph 7 above; and
- (c) the Applicant's documents detailed in paragraphs 8-9 above.

35. The Commission also had before it and considered additional information and evidence including:

- (a) the Original Decision;
- (b) the Review Application, including a submission in support from the Applicant's legal representative, dated 19 April 2018; and
- (c) further written submissions for the Review Application from the Applicant's legal representative dated 6 June 2018.

PUBLIC HEARING

36. The Review Application was heard at a public inquiry on 18 July 2018 (the **Hearing**). Ms Porritt of Counsel appeared on behalf of the Applicant, and made submissions to the Commission.

REASONS FOR DECISION ON REVIEW

Issues for determination on review

37. In making its decision on review as to whether to vary the Licence, four issues require determination:

- (a) whether the Proposed Increased Trading Hours are consistent with the Guidelines which the Commission is required to have regard to under section 9(4) of the VCGLR Act;
- (b) whether varying the Licence in accordance with the Application would detract from or be detrimental to the amenity of the area;
- (c) whether varying the Licence in accordance with the Application would be conducive to or encourage the misuse or abuse of alcohol; and
- (d) whether the Commission should exercise its discretion to vary the Licence, having regard to the objects of the LCR Act and, in particular, harm minimisation, which is the primary object.¹⁵

38. Each of these issues are discussed in turn.

Application of the Guidelines

38. As stated in paragraph 30 above, under section 9(4) of the VCGLR Act, the Commission must have regard to the Guidelines in exercising its internal review function in this matter. The operative

¹⁵ See paragraphs 22 to 23 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.

sections of the Guidelines are specified in paragraph 31 above, and their relevance to this Review Application is discussed below.

39. Paragraph (1) relates to 24-hour licences. Considering this Application does not involve 24-hour supply, paragraph (1) of the Guidelines does not apply.
40. Paragraph (2) concerns applications regarding packaged liquor and general licences allowing for the provision of packaged liquor from licensed premises during the hours specified in section 8(1)(a)(ii)-(iii) and 11(1)(b)-(c) of the LCR Act. This paragraph requires the Commission to consider the position of the Government when determining applications that seek to supply packaged liquor during the hours between 11pm and 1am the following day, and prior to the commencement of ordinary trading hours. Further, paragraph (2) also prohibits the grant of trading hours past 12 midnight for packaged liquor licences.
41. Finally, paragraph (3) requires applicants for licences, excepting those specified in paragraph (2), seeking to allow the provision of packaged liquor from licensed premises to demonstrate exceptional circumstances when seeking to trade past ordinary trading hours. The Commission considers this paragraph is only engaged for licence categories other than packaged liquor and general licences or packaged liquor and general licences that do not seek to trade in the hours specified in sections 8(1)(a)(ii-iii) and 11(1)(b)-(c). This is because the opening sentence of paragraph (3) limits the application to exclude licences specified in paragraph 2. Accordingly, paragraph (3) of the Guidelines is not relevant to this Review Application.
42. Given this Application involves variation of a packaged liquor licence to which paragraph (2) applies, the factors specified in paragraph (2) should be considered by the Commission.
43. In considering the position of the Government as referred to in paragraph (2), the Commission's view is that regard should be given to the matters that were taken into account in developing the Guidelines, as set out in the first part of the Guidelines. The first part includes reference to the decision by the Liquor Licensing Commission in 1998 in relation to the matter of the Rosstown Hotel (the **Rosstown Hotel Decision**) as well as community concern and issues noted in the media regarding the potential increase in the hours of operation of packaged liquor outlets.
44. In the Rosstown Hotel Decision, it was determined that demand and need were relevant in determining applications that seek to supply packaged liquor during extended trading hours. Further, it was determined that the community interest must be considered when determining whether to grant extended trading hours for the supply of packaged liquor.
45. Accordingly, based on these matters, the Commission is of the view that in considering the position of the Government as expressed in the Guidelines, it should consider:



- (a) whether there is evidence of demand and need for the Proposed Increased Trading Hours;
- (b) whether it is contrary to the community interest to permit the Proposed Increased Trading Hours; and
- (c) whether there are any community concerns in relation to the Original Application and the Review Application.

Demand and need

46. In its submissions to the Commission, the Applicant made it clear that a benefit of granting the Application is that the Proposed Increased Trading Hours would allow people who leave early for work to have access to the Applicant's delivery service, rather than having to attend work later after waiting for deliveries.
47. Having made reference to its general customer data, the Applicant asserted that there is a real demand for early morning liquor deliveries, and that customer expectations are such that they should be able to have their online orders delivered at times suited to them which the Proposed Increased Trading Hours would achieve.
48. On the evidence and materials received, the Commission accepts that there is demand and need for the Proposed Increased Trading Hours.

Community interest

49. The Commission in the Rosstown Hotel Decision indicated that a cautious approach should be taken in determining an application involving trading hours outside ordinary trading hours, and that regard must be given to the social impact of the increased consumption of takeaway liquor.
50. In the current Review Application, the Commission considers that it should adopt a similarly cautious approach when considering any social impacts from permitting the Proposed Increased Trading Hours. Ultimately, the Commission must balance and weigh the interests of the Applicant and its customers in seeking the Proposed Increased Trading Hours against the general interest of the community in being protected from potential alcohol-related harms associated with increased access to liquor delivery.
51. At the Hearing, the Applicant submitted that the service is not aimed at, or capable of, delivering instantaneous delivery of alcohol, for example, where people wish to continue binge drinking into the evening. Rather, the purpose of the delivery service is to allow delivery of alcohol primarily as part of a broader shopping service which is pre-planned to provide customer convenience rather than to in any way facilitate the abuse of alcohol.

52. Ms Porritt on behalf of the Applicant asserted that this Application is strikingly different to the application in the Rosstown Hotel Decision as it does not relate to extended hours later into the evening or early morning of a hotel or packaged liquor outlet where the packaged liquor is sold for immediate provision to customers. Rather, there is no spontaneous or immediate provision of liquor under this Licence. She submitted that where customers order on-line from the Applicant, their orders would generally be delivered on the following or subsequent day. The earliest that a same day delivery could take place would be 1:30pm, and for this to occur, the order would need to have been made by no later than 9am on that same day.
53. Given the above, the Commission considers that the Proposed Increased Trading Hours would not, on balance, be contrary to the community interest.

Community concern

54. Other than the principle developed in the Rosstown Hotel Decision, the Government also considered the community concern and media interest regarding the increase in packaged liquor outlets and extended trading hours in issuing the Guidelines.
55. In this regard, the Commission again notes that no concerns were raised by the Police, Council or any members of the public in relation to the trading hours sought by the Applicant in the Original and Review Applications.

Whether varying the Licence in accordance with the Application would detract from or be detrimental to the amenity of the area

56. The Commission must also determine whether varying the Licence in accordance with the Application would detract from or be detrimental to the amenity of the area in which the Premises are located, which may give rise to a ground of refusal under section 44(2). While section 3A(2) provides a list of the factors that the Commission may take into account when determining whether a variation would detract from or be detrimental to the amenity of an area¹⁶, the Minister's second reading speech¹⁷ and the explanatory memorandum¹⁸ indicate that the Commission is not limited from taking into account factors other than those stated in section 3A(2).

¹⁶ See paragraph 26 above.

¹⁷ Victorian Legislative Assembly, Parliamentary Debates, 28 March 2018 (Second Reading Speech) (Ms Kairouz, Minister for Consumer Affairs, Gaming and Liquor Regulation) at 927.

¹⁸ Explanatory Memorandum, Liquor and Gambling Legislation Amendment Bill 2018, published 27 March 2018 (Explanatory Memorandum).



57. The Commission notes that no evidence has been put forward to support a proposition that there would be any amenity impact in the vicinity of the Premises arising from varying the Licence in accordance with the Application.
58. Further, the Commission considers that the location of the Premises, being in an industrial area, means that a slight increase to the licensed area and the Proposed Increased Trading Hours permitting operation of the licensed premises three hours earlier each day, will be unlikely to have any detrimental impact to the amenity of the area.
59. Accordingly, the Commission is satisfied that permitting variation of the Licence in accordance with the Application would not detract from or be detrimental to the amenity of the area.

Whether varying the Licence in accordance with the Application would be conducive to or encourage the misuse or abuse of alcohol

60. An application for variation of a liquor licence may be refused if granting the application would be conducive to or encourage the misuse or abuse of alcohol.¹⁹ The Commission notes that Victoria Police did not raise any concerns in this regard, nor did any member of the public.
61. In its Application, the Applicant submitted evidence of the procedures it has in place to ensure the responsible delivery of alcohol from the Premises and reduction of risk associated with the supply of alcohol. The Applicant also made it clear that customers have no access to the Premises for purchasing liquor, unlike a hotel or packaged liquor outlet and that the provision of liquor is only by way of delivery
62. Having discussed the community interest in paragraphs 49-53 above, the Commission has already considered any likelihood of risk of alcohol-related harm. The Commission notes that no evidence has been advanced to show that varying the Licence in accordance with the Application would be conducive to or encourage the misuse or abuse of alcohol.
63. Given the above, the Commission is satisfied that varying the Licence in accordance with the Application would not be conducive to or encourage the misuse or abuse of alcohol.

Whether to vary the Licence having regard to the objects of the LCR Act

64. The Commission must exercise its discretion under section 44(1) when determining whether or not to vary the Licence, having regard to the objects of the LCR Act, particularly harm minimisation, which is the primary object.

¹⁹ Section 44(2)(b)(ii).

65. In considering the Guidelines and the position of the Government regarding packaged liquor supply which are relevant to this Review Application, the Commission notes that it has already considered the statutory objects and determined that the variation of the Licence in this Application would be in accordance with those objects.
66. 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.²⁰ The current code of conduct is dated July 2013 and can be found on the Commission's website (**the Code**).²¹ Amongst other things, the Code includes requirements in relation to signage, marketing and promotion, minors on premises, developing house rules for the premises and Responsible Service of Alcohol (**RSA**). The Applicant's obligation to comply with the Code condition further assures the Commission that the LCR Act's primary object of harm minimisation is supported in this Application.
67. In the circumstances, the Commission considers that varying the Licence as sought by the Application would not be contrary to the LCR Act's primary object of harm minimisation. Further, the Commission also considers that permitting these variations 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

68. Having regard to the objects of the LCR Act, pursuant to sections 44(1) and 157 above, the Commission has determined to set aside the decision of the Delegate and, in substitution, grant the Application and vary the existing packaged liquor licence in accordance with the conditions set out in Appendix One.

The preceding sixty-eight (68) paragraphs are a true copy of the Reasons for Decision of Ms Deirdre O'Donnell, Deputy Chair, Ms Helen Versey, Deputy Chair and Dr Dina McMillan, Commissioner.

²⁰ Sections 11(3)(aad) and 11(5).

²¹ Available here: https://www.vcglr.vic.gov.au/sites/default/files/uploadLiquor_Licensing_Code_of_Conduct_-_Packaged_liquor_licensees_.pdf.



Appendix One

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.

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.

TRADING HOURS

On any day other than ANZAC Day, Christmas Day or Good Friday Between 6 am and 11 pm
ANZAC Day Between 12 noon and 11 pm

Liquor must be delivered to a person aged 18 years or over. The licensee must ensure that delivery arrangements include requiring evidence of age where appropriate.

Liquor must not be delivered and left at unoccupied premises on the same day the order is received by the licensee.

Liquor may only be delivered during the trading hours specified above.

INFORMATION REQUIRED TO BE DISPLAYED ON WEBSITE/S

The following notice must be prominently displayed on the licensee's website/s:

“WARNING

Under the Liquor Control Reform Act 1998 it is an offence

- To supply alcohol to a person under the age of 18 years (Penalty exceeds \$17,000)
- For a person under the age of 18 years to purchase or receive liquor. (Penalty exceeds \$700)”

The licensee is required to prominently display the number of this licence on the website/s.

ORDERS FOR LIQUOR

Orders for the supply of liquor may be taken at any time on any day.