



Hawkesbury City Council

supplementary ordinary meeting business paper

date of meeting: 31 August 2010
location: council chambers
time: 6:30 p.m.

ORDINARY MEETING - SUPPLEMENTARY

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SECTION 4 - Reports for Determination

SUPPLEMENTARY REPORTS

CITY PLANNING

Item: 213 **CP - Application for a Packaged Liquor Licence - Claus Mahlenhoff - Applications for Primary Service Authorisation and Change of Boundaries of Licensed Premises - Susan Mahlenhoff - Premises - 3356 Putty Road, Colo Heights - (33263, 33264, 119096, 95498)**

REPORT:

Executive Summary

Council has received three separate Notices from ArtisanOz Consulting that three different Liquor Licence applications have been lodged with the NSW Casino, Liquor and Gaming Control Authority for the subject premises. Council may make representations to the NSW Casino, Liquor and Gaming Control Authority in respect of each of the proposals.

The subject premises is a vehicle service station comprising petrol bowsers, convenience shop and restaurant. The premises is known as the Colo Heights Ampol Service Station and Restaurant.

The applications lodged with the NSW Casino, Liquor and Gaming Control Authority include:

1. A Packaged Liquor Licence (Bottle-shop);
2. A Primary Service Authorisation to an existing On-Premises Licence for the Restaurant (to allow for the consumption of alcohol without a meal); and
3. A Change in Boundary of the Licensed Premises (to extend the licensed area to include an existing outdoor dining area).

Development Consent for the use of the premises as a shop and service station is in force pursuant to DA0385/87. As the premises currently contains a shop for the retail of goods to the public, development consent for the sale of alcohol products to the public is not required. In this regard the Casino, Liquor and Gaming Control Authority are the consent authority for the licence applications. Whilst there are no, in principle, objections to the granting of the licences, in relation to the Packaged Liquor Licence, there are concerns raised by Section 31 (2) of the Liquor Act 2007 which states the following:

"A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop."

The Casino, Liquor and Gaming Control Authority and the Liquor Licensing Police are responsible for controlling the hours of operation and the conditions imposed upon a Liquor Licence. However, it is recommended that a response be provided to the Casino, Liquor and Gaming Control Authority advising that Council is concerned that the application for the Packaged Liquor Licence may be contrary to the Liquor Act 2007.

Consultation

The issues raised in this report concern matters which do not require community consultation under Council's Community Engagement Policy. However, it should be noted that as part of the preparation of the Community Impact Statement (CIS) public consultation has been undertaken by the applicant or their representative. Council is being asked to comment to the NSW Casino, Liquor and Gaming Control Authority as part of the Liquor Licence Application process.

Background

At the Ordinary Meeting of 30 June 2009 Council resolved to have all liquor licence applications that required the preparation of a Community Impact Statement (CIS) to be reported to Council until such time as a policy for dealing with liquor licence applications was adopted by Council. Work on this Policy is progressing and will be reported to Council later this year.

Packaged Liquor Licence Application

The application for a Packaged Liquor Licence (Bottle Shop) has been lodged by ArtisanOz Consulting with the NSW Casino, Liquor and Gaming Control Authority. The licence (if granted) will allow the sale of take-away liquor from the part of the premises identified in the application. Council may make representations to the Casino, Liquor and Gaming Control Authority in respect of the application.

Development Consent is currently in force for the use of the premises as a restaurant, shop and service station and the approval does not contain any restrictions on the operating hours. The hours of operation for the Packaged Liquor Licence, as proposed by the applicant in the Liquor Licence application, are Monday to Saturday 9.00am – 10.00pm and Sunday 10.00am – 10.00pm.

The provisions of the Liquor Act 2007, Section 31 (2) (extract Attached) would appear to prohibit the sale of alcohol from service stations and take-away food shops. The applicant's justification for the application states that the nearest bottle shop to the subject premises is 39 kilometres away. This statement seems to address only Section 31 (1)(a) & (b) and not 31 (2) adequately. However, the determination of the liquor licence application is a matter for the NSW Casino, Liquor and Gaming Control Authority.

No objections were raised by Council staff or the NSW Police as part of the preparation of the Community Impact Statement (CIS). Subsequently, no objections are raised by Council staff to the Liquor Licence being granted by the Casino, Liquor and Gaming Control Authority.

Given that development consent has been granted for the use of the premises as a shop and that the Casino, Liquor and Gaming Control Authority and the Liquor Licensing Police can control the hours of operation or the conditions imposed upon a Liquor Licence. However, it is recommended that a response be provided to the Casino, Liquor and Gaming Control Authority advising that, whilst there is no objection to the application in principle, Council is concerned that the application for the Packaged Liquor Licence may be contrary to the Liquor Act 2007.

Primary Service Authorisation

An application for a Primary Service Authorisation to the Existing On-Premises Licence (Restaurant) has been lodged by ArtisanOz Consulting with the NSW Casino, Liquor and Gaming Control Authority. The licence (if granted) will allow the sale and consumption of alcohol on the premises (within the licensed area) with or without a meal. Council may make representations to the Casino, Liquor and Gaming Control Authority in respect of the application.

The restaurant currently has a Liquor Licence and Development Consent is currently in force for the use of the premises as a restaurant and the hours of operation for the Liquor Licence as existing are Monday to Saturday 10.00am – 9.00pm and Sunday 10.00am – 9.00pm. The applicant does not propose any change to the hours of trading or the Liquor Licence.

In this regard, it is recommended that Council advise the Authority that there are no objections raised by Council to the Primary Service Authorisation being granted by the Casino, Liquor and Gaming Control Authority.

Change of Boundaries of Licensed Premises

An application for a Change in Boundaries of the Licensed Premises has been lodged by ArtisanOz Consulting with the NSW Casino, Liquor and Gaming Control Authority. The licence (if granted) will involve an outdoor dining area being included within the licensed area of the restaurant. Council may make representations to the Casino, Liquor and Gaming Control Authority in respect of the application.

Development Consent is currently in force for the use of the premises as a restaurant, shop and service station. No change is proposed to the hours of operation for the Liquor Licence.

The inclusion of the outdoor dining area in the restaurant licence will enable alcohol to be served to outside diners providing an enhanced amenity.

In this regard, it is recommended that Council advise the Authority that there are no objections raised by Council to the change of boundaries of licenced premises being granted by the Casino, Liquor and Gaming Control Authority.

Conformance to Community Strategic Plan

The proposal is consistent with the Supporting Business and Local Jobs Directions statement;

- Plan for a range of industries that build on the strengths of the Hawkesbury to stimulate investment and employment in the region.

and is also consistent with a strategy within the Community Strategic Plan being:

- Encourage stronger relationships between the business and community sectors to increase local career options.

The existing restaurant and proposed bottle shop is managed by local businesspeople who live within the Hawkesbury Area. The restaurant and bottle shop provides for the needs of the community and passing motorists as well as providing jobs for local people.

Financial Implications

There are no financial implications applicable to this report.

RECOMMENDATION:

That a response be provided to the Casino, Liquor and Gaming Control Authority:

1. Raising concern with the Authority that the Packaged Liquor Licence Application may be contrary to Section 31 (2) of the Liquor Act 2007 in respect of the granting of Packaged Liquor Licences for service station premises. Should the Authority not agree with this interpretation of the Act, Council raises no objection to the issue of the Licence.
2. Advising that no objection is raised to the issue of a Primary Service Authorisation and to the proposed extension of the boundary of the licensed area to include the outdoor dining area associated with the restaurant.

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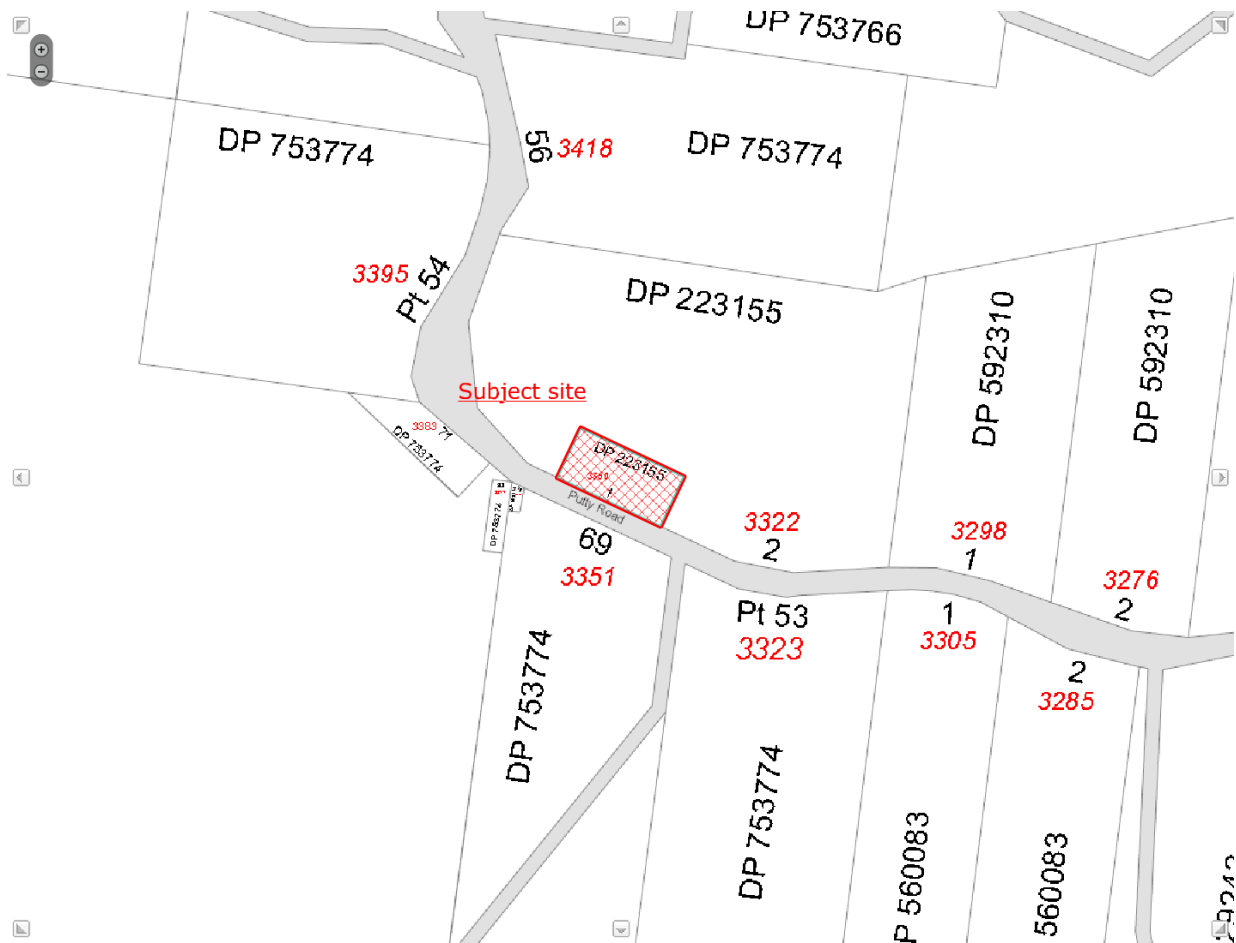
ATTACHMENTS:

- AT - 1** Locality Plan
- AT - 2** Aerial Photograph
- AT - 3** Proposed layout of existing building
- AT - 4** Proposed Change to Boundary of Licensed Area
- AT - 5** Extract of Liquor Act 2007

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AT - 1 Locality Plan



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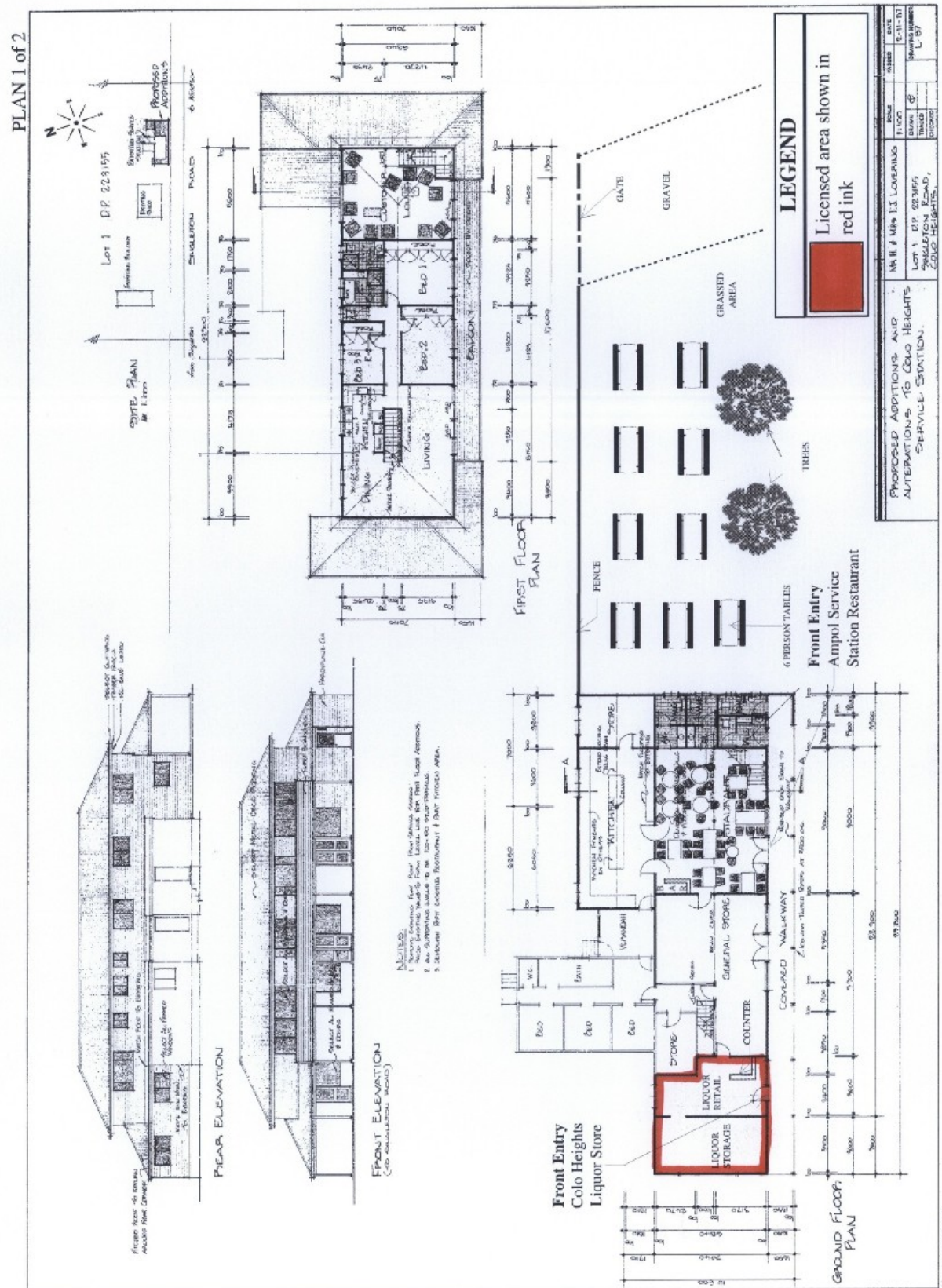
AT - 2 Aerial Photograph



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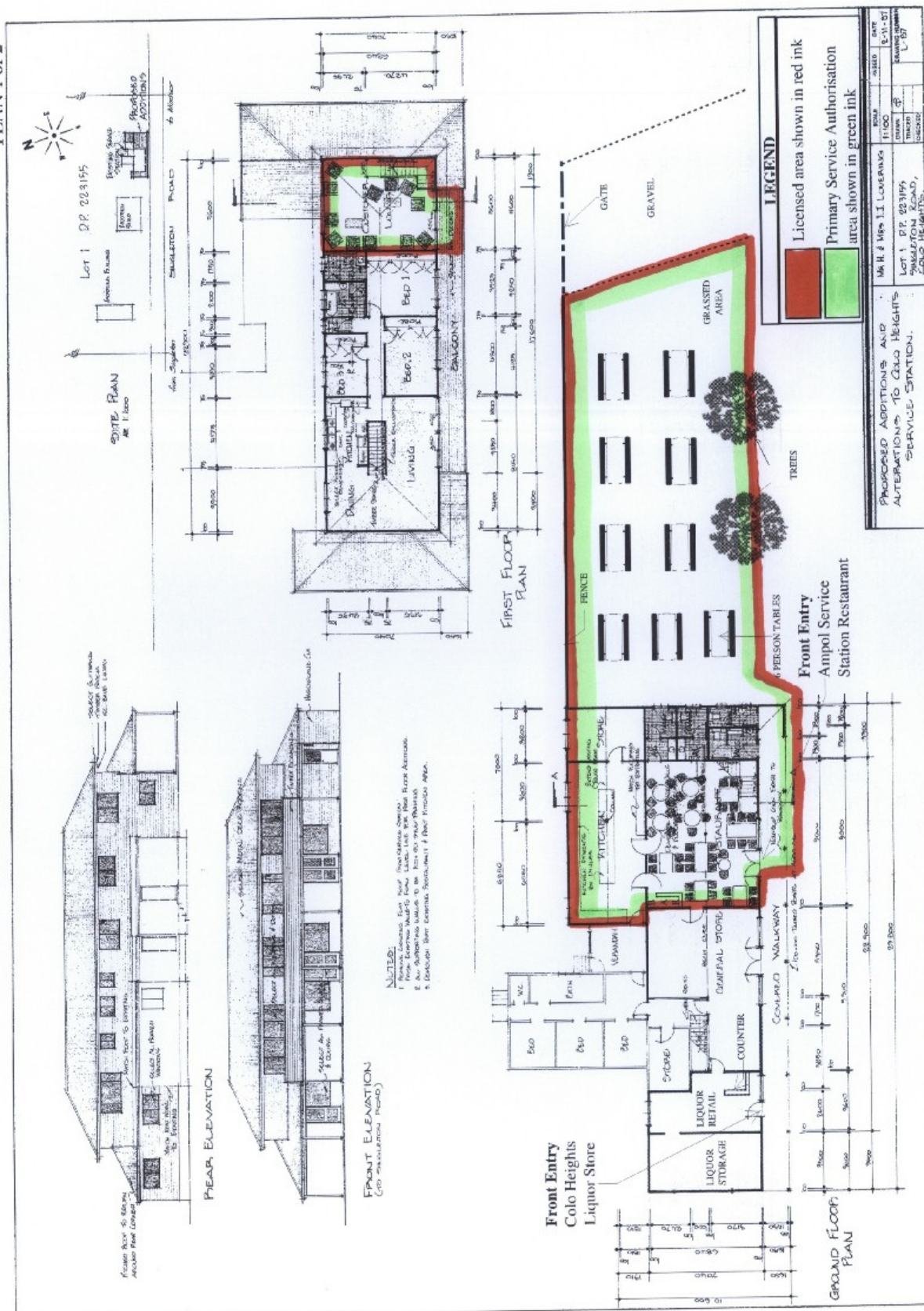
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AT - 3 Proposed layout of existing building



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AT - 5 Extract of Liquor Act 2007

Liquor Act 2007 No 90

Part 3 Division 5 Section 31

31 Restrictions on granting packaged liquor licences

(1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that:

(a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and

(b) the grant of the licence would not encourage drink-driving or other liquor-related harm.

(2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.

(3) In this section:- general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

*- **service station** means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.*

- take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

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ordinary
meeting

end of
supplementary
business
paper

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