

Ms Denise Milne  
R.O.I. Properties Pty Ltd

[dmilne@roiproperties.com.au](mailto:dmilne@roiproperties.com.au)

22 November 2017

Dear Ms Milne

**APPLICATION NO:** APP-0002916402  
**APPLICATION FOR:** Packaged Liquor Licence  
**PROPOSED TRADING HOURS:** Monday to Sunday 10:00am – 8:00pm  
**APPLICANT:** ICE BOX LIQUOR PTY LTD  
**PROPOSED LICENCE NAME:** Ice Box Liquor  
**PROPOSED PREMISES:** 207 George St  
QUIRINDI NSW 2343  
**ISSUE:** Whether to grant or refuse an application for  
a packaged liquor licence  
**LEGISLATION:** Sections 3, 29, 30, 40, 45 and 48 of the  
*Liquor Act 2007*

**INDEPENDENT LIQUOR & GAMING AUTHORITY DECISION  
APPLICATION FOR A PACKAGED LIQUOR LICENCE – ICE BOX LIQUOR**

The Independent Liquor & Gaming Authority considered application number APP-0002916402 at its meeting on 18 October 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **refuse** the application.

If you have any enquiries about this letter, please contact the case manager via email to [charles.rivers@liquorandgaming.nsw.gov.au](mailto:charles.rivers@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
**Chairperson**  
For and on behalf of the **Independent Liquor & Gaming Authority**

## **STATEMENT OF REASONS**

### **DECISION**

1. On 15 May 2017, Ice Box Liquor Pty Ltd (“the Applicant”) lodged an application for a packaged liquor licence for premises located at 207 George St QUIRINDI NSW 2343 (“the Application”) with Liquor & Gaming NSW (“L&GNSW”) for determination by the Independent Liquor & Gaming Authority (“the Authority”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority decided to refuse the Application.
3. In making this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 29, 30, 31, 40, 45 and 48 of the Act, and the relevant provisions of the *Liquor Regulation 2008* (“the Regulation”).

### **MATERIAL CONSIDERED BY THE AUTHORITY**

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with the Authority’s Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, HealthStats NSW data, and Australian Bureau of Statistics (“ABS”) socio-demographic data pertaining to the local and broader communities, sourced by L&GNSW staff from publicly available sources.
7. The material considered by the Authority is listed in the Schedule, with a summary where appropriate.

### **LEGISLATIVE FRAMEWORK**

8. The Authority has considered the Application in the context of the following legislative provisions.

#### Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise alcohol-related harm, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

### Trading hours

11. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

### Minimum procedural requirements

12. Section 40 of the Act prescribes the minimum procedural requirements for a liquor licence application to be validly made to the Authority.

### Fit and proper person, responsible service of alcohol, and development consent

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:
  - (a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
  - (b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
  - (c) the applicable development consent required for use of the premises for the proposed business is in force.

### Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

### Provisions specific to packaged liquor licence

16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.
17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.
18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.
19. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

## **KEY FINDINGS**

20. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

### Validity, procedural and trading requirements

21. The Authority finds that:
  - (a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
  - (b) the proposed trading hours for the Proposed Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,

- (c) if the licence were to be granted, liquor would be sold and supplied in accordance with the authorisation conferred by a packaged liquor licence, as required by section 29 of the Act, and
- (d) sections 30 and 31 of the Act do not apply to the Application, as the Proposed Premises is not intended to operate as is contemplated by those sections.

#### Fit and proper person, responsible service of alcohol, and development consent

22. Pursuant to section 45 of the Act, the Authority is also satisfied that:

- (a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
- (b) if the licence were to be granted, practices would be in place from the commencement of licensed trading at the Proposed Premises to ensure the responsible service of alcohol, having regard to the Applicant's House Policy, and
- (c) the requisite development consent is in force, based on the Notice of Determination of Development Application 12/2016 issued by Liverpool Plains Shire Council on 12 July 2016.

#### Community impact statement

23. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Proposed Premises on the local and broader communities.

24. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Quirindi, and the relevant "broader community" comprises Liverpool Plains Local Government Area ("the LGA").

#### Positive social impacts

25. The Authority notes that L&GNSW liquor licensing records indicate that there is only one existing packaged liquor licence in Quirindi, which means that, in comparison to NSW as a whole, there is a slight underprovisioning of packaged liquor licences in the local community. Whilst there are several hotel licences in the local community that are authorised to sell packaged liquor, the Authority notes that their packaged liquor facilities have various limitations in respect of presentation, size and pricing.

26. Additionally, the Authority notes that the broader community has a significantly higher than average density of packaged liquor licences per 100,000 of population. Furthermore, if the Application were to be approved, the density of packaged liquor licences in the local community would equate to almost double the corresponding NSW rate.

27. The Authority notes the Applicant's contention that, were the Application to be granted, an existing hotel licence in Quirindi would be surrendered, thereby neutralising any impact on licence density in the local community. Whilst the Authority notes the intent of the Applicant's proposal, the Authority is not convinced that this would provide any tangible benefit to the local community, given that the subject hotel is currently dormant and has not traded for some years. There is no evidence to suggest that the current business owners of the hotel licence have any intention or capacity to recommence trading, and the hotel licence does not currently contribute to any of the alcohol-related harm being experienced by members of the local and broader communities.

28. The Authority accepts the Applicant's claim that the Proposed Premises would comprise a modern and well-presented packaged liquor facility, which would provide additional choice to residents of Quirindi and make available to that local community a range of liquor products that are only sold by Liquorstore member stores.
29. The Authority also accepts the Applicant's claim that the granting of the licence would provide an additional measure of convenience to residents of Quirindi who wish to purchase their liquor items at the same time as making other purchases in the CBD of Quirindi. This convenience would be further enhanced by way of the availability of car parking spaces located adjacent to the Proposed Premises.
30. The Authority notes the suggestion made by the Applicant and in various submissions in support of the Application that, if the licence were to be granted, the Proposed Premises would provide additional employment opportunities and help to invigorate the CBD of Quirindi and the local economy. This purported benefit is, however, offset by Quirindi's small and declining population, which indicates that the demand for packaged liquor is likely to decrease over time.
31. The Authority is satisfied that there is a degree of local support for the Application, as evidenced by the various letters received indicating such support, including from representatives of the local Aboriginal community, Liverpool Plains Shire Council and Liverpool Plains Business Chamber Inc. The Authority notes, however, that the letters from Nungaroo and Walhallow Local Aboriginal Land Councils suggest that this support is, at least in part, linked to the Applicant's proposal to offer employment to members of the Aboriginal community should the Application be granted.

#### Negative social impacts

32. The Authority notes the submissions received from NSW Police, NSW Health and various members of the local community in opposition to the Application. These objections suggest that the existing availability of packaged liquor in the area is contributing to a variety of forms of alcohol-related harm being suffered by members of the local and broader communities.
33. The Authority also notes that Quirindi's population decreased by 79 persons between the 2011 and 2016 Census collection dates. Notwithstanding the perceived deficiencies in Quirindi's existing packaged liquor facilities (as conveyed by the Applicant), the Authority is satisfied that packaged liquor is sufficiently available to Quirindi's small population.
34. Notwithstanding the letters of support received from representatives of Quirindi's Aboriginal community, the Authority recognises that Quirindi has a much higher than average indigenous population – comprising 12.4% of Quirindi's population, which equates to more than four times the corresponding NSW figure. The Authority has also had regard to the ABS data indicating that, as at 2011, Quirindi was significantly disadvantaged in comparison with other suburbs in NSW on the Index of Relative Socio-economic Advantage and Disadvantage, ranking in the 2<sup>nd</sup> decile. The LGA also ranked in the 2<sup>nd</sup> decile when compared to other LGAs in NSW.
35. The Authority notes from the BOCSAR data that, for the year ending June 2017, the Proposed Premises is located in a medium density hotspot for malicious damage to property. Additionally, there are hotspots for alcohol-related assault and domestic assault in close proximity to the Proposed Premises.
36. The Authority is troubled by evidence that alcohol-related offences are occurring at unacceptably high rates in the local and broader communities. Incidents of alcohol-related domestic assault, alcohol-related non-domestic assault, alcohol-related assault and malicious damage to property occurred at higher rates in both Quirindi and Liverpool Plains LGA in the year ending June 2017 when compared to corresponding NSW figures,

indicating that a significant degree of alcohol-related harm is currently being experienced within the local and broader communities.

37. The Authority notes that data provided by NSW Health indicates that, whilst residents of the LGA are being hospitalised as a result of alcohol-related health issues at a lower than average rate, they are dying from alcohol-related health problems at a higher than average rate.
38. The Authority notes the extensive submission provided by the Applicant in response to the objections received by L&GNSW, however, on balance, remains very concerned by the rates of relevant offences and the various indicia of vulnerability to alcohol-related harm in the local and broader communities. The Authority is satisfied that it is likely that any liquor that were to be sold or supplied at the Proposed Premises would contribute to the prevailing concerning levels of alcohol-related harm being experienced in those communities.
39. The Authority is not satisfied that the risks associated with the granting of the Application would be sufficiently mitigated by the imposition of special licence conditions or by the Applicant's adherence to the "Ice Box Liquor House Policy" document lodged with the Application.

#### Overall social impact

40. Having considered the positive and negative impacts that are likely to flow from granting the licence, the Authority is not satisfied that the overall social impact of granting the licence would not be detrimental to the well-being of the local and broader communities.
41. Furthermore, the Authority is not satisfied that a decision to grant the licence would be consistent with the objects of the Act to regulate the supply of liquor and facilitate the responsible development of the liquor industry in line with community expectations and needs.
42. Accordingly, the Authority has decided to refuse to grant the Application.



Philip Crawford  
Chairperson

#### **Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the liquor and gaming website <http://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

## SCHEDULE

1. 2011 Census Quickstats for Quirindi suburb.
2. ABS SEIFA data based on the 2011 Census indicating that Quirindi suburb ranked in the 2<sup>nd</sup> decile compared to other suburbs in NSW, and Liverpool Plains LGA ranked in the 2<sup>nd</sup> decile compared to other local government areas in NSW, on the Index of Relative Socio-Economic Advantage and Disadvantage.
3. HealthStats NSW data relating to alcohol attributable deaths by local government area, 2001-2002 to 2012-2013, indicating that the Smoothed Estimate of Standardised Mortality Ratio was 125.10 for Liverpool Plains LGA for the period 2012-2013.
4. HealthStats NSW data relating to alcohol attributable hospitalisations by local government area, 2001-2003 to 2013-2015, indicating that the Smoothed Estimate of Standardised Separation Ratio was 81.20 for Liverpool Plains LGA for the period 2013-2015.
5. 2016 Census Quickstats for Quirindi suburb and Liverpool Plains LGA.
6. Notice of Determination of Development Application 12/2016 issued by Liverpool Plains Shire Council on 12 July 2016, approving change of use from commercial to retail premises.
7. A letter from Liverpool Plains Shire Council advising that it supports the Application, dated 9 November 2016.
8. A letter from a drug and alcohol support officer employed by Walhallow Aboriginal Health Services advising that she has no concerns in respect of the Application, dated 23 November 2016.
9. A letter from Walhallow Local Aboriginal Land Council advising that it supports the Application, dated 28 November 2016.
10. A letter from Nungaroo Local Aboriginal Land Council advising that it supports the Application, dated 29 November 2016.
11. A petition objecting to the Application featuring 146 signatures dated May and June 2017.
12. CIS Category B dated 12 May 2017.
13. Application form for a packaged liquor licence, lodged 15 May 2017.
14. Plan of the proposed licensed area lodged with the Application on 15 May 2017.
15. An email from a councillor and resident of Quirindi advising that he objects to the Application, dated 17 May 2017.

16. BOCSAR Crime Hotspot Maps for Quirindi and surrounding suburbs for the year ending June 2017.
17. NSW crime statistics for the year ending June 2017, published by BOCSAR, for Quirindi suburb and Liverpool Plains LGA. This data indicates that:
  - the rate of alcohol-related domestic assault incidents recorded by NSW Police for Quirindi suburb was 376.3 per 100,000 persons, and for Liverpool Plains LGA, was 296.4, significantly above the State-wide rate of 116.2 per 100,000 persons;
  - the rate of alcohol-related non-domestic assault incidents recorded by NSW Police for Quirindi suburb was 241.9 per 100,000 persons, and for Liverpool Plains LGA, was 154.7, above the State-wide rate of 134.3 per 100,000 persons;
  - the rate of alcohol-related assault incidents recorded by NSW Police for Quirindi suburb was 645.2 per 100,000 persons, and for Liverpool Plains LGA, was 476.9, significantly above the State-wide rate of 265.8 per 100,000 persons; and
  - the rate of malicious damage to property incidents recorded by NSW Police for Quirindi suburb was 1424.7 per 100,000 persons, and for Liverpool Plains LGA was 1185.7, well above the State-wide rate of 817.3 per 100,000 persons.
18. A letter from a Quirindi business owner advising that she objects to the Application, dated 1 June 2017.
19. A letter from Oxley Local Area Command advising that NSW Police objects to the Application, dated 8 June 2017.
20. An email from the secretary of Quirindi Uniting Church advising that the Church objects to the Application, dated 8 June 2017.
21. A letter from Hunter New England Local Health District advising that it does not support the Application, dated 13 June 2017.
22. A letter from a resident of Quirindi advising that he/she supports the Application, dated 13 June 2017.
23. An email from the licensee of a licensed premises in Quirindi advising that he objects to the Application, dated 16 June 2017.
24. Liquor licensing records from L&GNSW as at 13 July 2017 indicating:
  - Quirindi suburb had 1 packaged liquor licence, equivalent to 29.03 packaged liquor licences per 100,000 of population;
  - Liverpool Plains LGA had 5 packaged liquor licences, equivalent to 65.04 packaged liquor licences per 100,000 of population; and
  - NSW had 2,475 packaged liquor licences, equivalent to 33.08 packaged liquor licences per 100,000 of population.
25. "Response to submissions received by ILGA", prepared by G.W. Smith, Design Collaborative Pty Ltd and dated August 2017.



26. A letter from Liverpool Plains Business Chamber Inc providing support for the Application, dated 8 August 2017.
27. Certification of Advertising Application signed by Mr David Richard Owens, dated 29 August 2017.
28. Extracts from Google maps indicating the location of the Proposed Premises, dated 8 September 2017.
29. "Supplementary information in support of application for a packaged liquor licence at George Street, Quirindi", prepared by the Applicant and dated 25 September 2017.
30. Undated ASIC Forms Manager Company Officeholders Extract for ICE BOX LIQUOR PTY LTD ACN 105 982 438.
31. Undated "Ice Box Liquor House Policy".