



Mr Ripple Himanshu Parekh
ripple.parekh@gmail.com

5 March 2018

Dear Mr Parekh

Applicant	Parekh Retail Pty Ltd
Application No.	APP-0003346346
Application for	Packaged liquor licence
Proposed licence name	Lake Cargelligo IGA
Proposed premises	31 Foster Street Lake Cargelligo NSW 2672
Proposed trading hours	Monday to Saturday 9:00 am – 8:00 pm Sunday 10:00 am – 8:00 pm
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – Lake Cargelligo IGA**

The Independent Liquor and Gaming Authority considered the Applicant's application above for a packaged liquor licence at its meeting on 14 February 2018 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **refuse** to grant the licence.

A statement of reasons for this decision is attached at the end of this letter.

If you have any questions, please contact the case manager at
wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au.

Yours faithfully

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

Statement of reasons

Decision

1. On 13 November 2017, Parekh Retail Pty Ltd (“the Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”), for the premises at 31 Foster Street, Lake Cargelligo NSW (“Proposed Premises”).
2. The Authority considered the Application at its meeting on 14 February 2018 and decided to refuse to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”), on the basis that it was not satisfied under section 48(5) of the Act that the overall social impact of granting the Licence will not be detrimental to the well-being of the local or broader community.
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31 40, 45 and 48 of the Act, and the relevant provisions of the *Liquor Regulation 2008*.

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 and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Health, and Australian Bureau of Statistics (“ABS”).
7. A list of the material before the Authority is set out in the Schedule.

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, needs and aspirations 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 harm associated with misuse and abuse of liquor, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

Trading hours and 6-hour closure period

11. Section 12 of the Act sets out the standard trading period for various 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 a 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 hour requirements

21. The Authority is satisfied 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, and
 - c) if the licence were to be granted, liquor would be sold and supplied in a separate liquor sales area at the Proposed Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, and
 - d) section 31 of the Act does not apply to the Application as the Proposed Premises is not intended to operate as is contemplated by the section.

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 serving of alcohol, having regard to the plan of management documents titled "Management Policies and Strategies" and "House Rules as of 13/12/17", and

- c) the requisite development consent is in force, based on the written confirmation by Lachlan Shire Council on 22 November 2017 that no development consent is required for the purpose of the Application.

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 Lake Cargelligo, and the relevant “broader community” comprises Lachlan Shire Local Government Area (“the LGA”).

Positive social impacts

25. Noting that there is only one packaged liquor licence in Lake Cargelligo, the Authority accepts that granting the Licence would provide local residents with additional access to and choices of packaged liquor, together with lower pricing through competition.
26. The Authority also accepts that granting the Licence would provide additional “one stop shop” convenience to customers who wish to purchase packaged liquor while shopping at Proposed Premises, which comprises an IGA supermarket.
27. The Authority has had regard to the evidence before it of considerable support for the Application, including 18 letters of support from local residents and businesses, and a petition containing 190 signatures. The Authority acknowledges the multiple references made in the letters of support to:
 - a) the community’s need for more choice and competition in respect of the supply of packaged liquor to counter the monopoly pricing set by the existing outlet, and
 - b) the good services provided by the Applicant to the community since taking over the management of the Proposed Premises.
28. However, the Authority also notes that the potential benefits of granting the Licence are somewhat limited by the following which indicate that, statistically, there is a sufficient level of supply, if not an oversupply, of packaged liquor in both Lake Cargelligo and the LGA:
 - a) Lake Cargelligo is a small community with a population of 1479 according to the 2016 Census. The one packaged liquor licence in the suburb translates to a density of 67.61 packaged liquor licences per 100,000 of the population, which is significantly higher than the NSW state average of 37.99.
 - b) The density of packaged liquor licences in the LGA, at 64.58 licences per 100,000 of the population, is also significantly higher than the state average.
 - c) There are three full hotel licences in Lake Cargelligo, representing a density of 202.84 hotel liquor licences per 100,000 of the population, which is more than six times higher than the corresponding NSW figure. As premises with a full hotel licence can also sell packaged liquor, it appears that there is already some competition in the community in respect of the supply of packaged liquor.

Negative social impact

29. The Authority notes from the BOCSAR data that:
 - a) for the year to September 2017, the Proposed Premises was located within low density hotspots for alcohol related assault, domestic assault, and malicious damage to property, but not within any hotspots for incidents of non-domestic assault,

- b) for the two years to September 2017, the LGA recorded very high rates of alcohol related assault (both domestic and non-domestic) and malicious damage to property, ranging from 1.4 to 5.5 times the NSW state average,
 - c) for the two years to September 2017, the number of reported incidents of alcohol related domestic assault and malicious damage to property had increased in Lake Cargelligo, though the number of alcohol related non-domestic assault dropped by one count, and
 - d) while the crime rates for Lake Cargelligo for the two years to September 2017 were not calculated, the counts of incidents appear proportionally high in the context of the suburb's small population.
30. The Authority also notes from the most recent HealthStats NSW data that the LGA recorded:
- a) for the period 2012-13, a smoothed standardised rate of alcohol attributable deaths which was 16 percent higher than the NSW state average, and
 - b) for the period 2013-15, a smoothed standardised rate of alcohol attributable hospitalisations at almost 60 percent higher than the state average.
31. No objections in relation to the Application were received from NSW Police, NSW Health or Council. However, 12 submissions were received from members of the public and the Murrumbidgee Local Aboriginal Land Council opposing the grant of the Licence, on the basis of:
- a) the high density of liquor outlets in Lake Cargelligo,
 - b) the high level of local crime and social issues attributable to alcohol,
 - c) the presence of a relatively large Aboriginal population in the community, and a local youth centre opposite the Proposed Premises, and
 - d) the Authority's previous decision in 2011 to refuse to grant a packaged liquor licence sought by a different applicant for the Proposed Premises.
32. In response to the objections received, the Applicant provided further information in respect of its consultation with, and the support it received from, members of the community and key stakeholders such as NSW Police and the local Aboriginal community. The Applicant also contended that the policies and measures to be implemented at the Proposed Premises, overseen by a business owner and approved manager with extensive local experience, will effectively prevent or minimise any potential alcohol related harm arising from packaged liquor sold at the Proposed Premises.
33. Having regard to the submissions and relevant statistics, the Authority finds the rate of alcohol related crime and health issues in the LGA to be disturbingly high. The Authority also considers the level of alcohol related crime and social issues in the local community to be concerning, on the basis of the relevant data and submissions from the public.
34. The Authority further notes from the ABS Socio-Economic Indexes for Areas ("SEIFA") data as at 2011 that Lake Cargelligo and the LGA were among the more disadvantaged areas in NSW, ranking in Decile 3 (representing the bottom 30 percent) on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is seven years old, but is nonetheless concerned by what the data indicates as social disadvantage in the local and broader communities.
35. In these circumstances, the Authority considers it necessary to exercise extra caution and prudence in assessing the social impact of granting a new packaged liquor licence in the community.
36. The Authority acknowledges the Applicant's genuine efforts in conducting extensive community consultation, improving the operation of the Proposed Premises, and developing procedures and engaging experienced management to ensure the responsible service of alcohol. The Authority also accepts that there is considerable community support for the Application.
37. However, the Authority does not accept the Applicant's contention that the social circumstances which informed the Authority's decision in 2011 to refuse to grant a packaged

liquor licence for the Proposed Premises have substantially changed. While the Authority accepts that some of the previous objecting parties such as NSW Police no longer oppose the granting of the Licence, the evidence before the Authority indicates that there continue to be divided views in the community, including within the Aboriginal community, in respect of the potential negative social impacts of granting the Licence.

38. The Authority considers that the large product variety and competitive pricing proposed to be offered at the Proposed Premises would likely lead to an increase in the supply and consumption of packaged liquor in the community, and there is a real risk that such an increase would:
- a) contribute to the prevailing levels of alcohol related crime and health issues, and social disturbances in the community, and
 - b) expose the more vulnerable groups in the community, such as the indigenous and younger population, to a higher risk of harm associated with misuse and abuse of liquor.
39. The Authority is not satisfied that the risk identified above can be sufficiently mitigated by the Applicant's proposed measures and adherence to licence conditions, noting that there can be little control over the manner in which the packaged liquor sold at the Proposed Premises will be consumed.
40. Having regard to the current circumstances, the Authority is of the view that any exacerbation of the already high level of alcohol related harm experienced by the community is unacceptable and will likely be detrimental to the wellbeing of the community.

Overall social impact

41. The legislative test under section 48(5) of the Act requires the Authority to be satisfied that the overall social impact of granting the Licence will not be detrimental to the well-being of the local or broader community.
42. Having regard to the information before it in respect of the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is not convinced that the legislative test is met. The Authority is not satisfied on the material before it that the overall social impact of granting the Licence will not be detrimental to the well-being of the local or broader community, and finds that granting the Licence would be inconsistent with the expectations and needs of the community and objects of the Act.
43. Accordingly, the Authority refuses to grant the Licence under section 45 of the Act.



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 Application and who made a submission to the Authority or the Secretary in respect of the 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 <https://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

Material considered by the Authority

1. ABS SEIFA data based on the 2011 Census for Lake Cargelligo and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. Statement of reasons dated 6 June 2012, for the Authority's decision on 24 November 2011 to refuse an application for a packaged liquor licence for the Proposed Premises.
3. HealthStats NSW data showing alcohol attributable deaths in the LGA for the period 2012-13 and alcohol attributable hospitalisations in the LGA for the period 2013-15.
4. NSW Recorded Crime Statistics 2016 setting out the proportion of incidents by offence type, day of week and time of day in the LGA.
5. Category B Community Impact Statement dated 9 October 2017, with relevant supporting documents attached.
6. ASIC records dated 11 September 2017 in relation to the Applicant company.
7. BOCSAR crime maps for the year to September 2017, indicating the location of the Proposed Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
8. NSW crime statistics for the two years to September 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Lake Cargelligo and the LGA.
9. Completed online application for approved manager dated 10 November 2017.
10. Completed online application dated 13 November 2017.
11. Copy of the local consent authority notice and public consultation site notice, dated 13 November 2017, in relation to the application.
12. Written acknowledgement from Lachlan Shire Council on 22 November 2017 of the local consent authority notice of the Application, advising that no development consent is required to permit the proposed activity.
13. Liquor licensing records from L&GNSW as at 1 November 2017 outlining the density of all types of liquor licences in Lake Cargelligo, the LGA and NSW.
14. Submissions from 18 members of the public between 29 September and 9 December 2017 in support of the Application.
15. Submissions from 12 members of the public between 28 November and 12 December 2017 opposing the approval of the Application.
16. Plan of management documents titled "Management Policies and Strategies" and "House Rules as of 13/12/17".
17. Liquor Licensing records from L&GNSW as at 15 January 2018 listing all liquor licences in Lake Cargelligo and the LGA.
18. Correspondence between the Applicant and L&GNSW Licensing staff between 7 December 2017 and 22 January 2018 in relation to the Application.
19. A map illustration, dated 22 January 2018, of the Alcohol Free Zone in Lake Cargelligo.
20. Google map images extracted from the Google website on 23 January 2018, showing the location and photos of the Proposed Premises in map view, earth view and street view.
21. Certification of Advertising signed for the Applicant company and dated 24 January 2018.
22. Emails from NSW Police on 23 and 25 January 2018 in relation to the Application.
23. The Applicant's response in respect of the objections received.
24. A petition containing approximately 190 signatures in support of the Application.
25. Floor plan indicating the proposed liquor sales area in the Proposed Premises.