



**Independent
Liquor & Gaming
Authority**

Our Ref: 1-3771278473

Warwick Caisley
c/o Lands Legal
131 York Street
Sydney NSW 2000

23 August 2016

Dear Mr Caisley,

APPLICATION NO: 1-3771278473
APPLICATION FOR: Packaged Liquor Licence Removal

CURRENT TRADING HOURS: Monday to Saturday 5:00AM – 10:00PM
Sunday 10:00AM – 10:00PM

PROPOSED TRADING HOURS: Monday to Saturday 8:00AM-9:00PM
Sunday 10:00AM – 7:00PM

APPLICANT: Ritchies Stores Proprietary Limited
PROPOSED LICENSED PREMISES NAME: Ritchies Supa IGA Coffs Harbour

PREMISES ADDRESS: Removal from Park Beach Plaza Shopping Centre, Tenancy 118 Pacific Highway & Park Beach Rd, Coffs Harbour, NSW 2450 (Current Premises) to 5/253 Park Beach Plaza Shopping Centre, Pacific Highway, Coffs Harbour, NSW 2450 (Proposed Premises)

ISSUE: Whether to grant or refuse an application for packaged liquor licence removal and/or impose conditions for that licence.

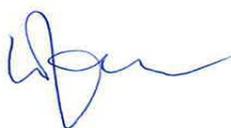
LEGISLATION Sections 3, 29, 30, 31, 40, 45, 48 and 59
Liquor Act 2007

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – REMOVAL OF
PACKAGED LIQUOR LICENCE – RITCHIES STORES PROPRIETARY LIMITED**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 27 July 2016 and pursuant to section 59 of the *Liquor Act 2007* (Act), has decided to **approve** the removal of the licence under Application number 1-3771278473 subject to the following conditions:

1. Trading Hours
Monday to Saturday 8:00AM – 9:00PM
Sunday 10:00AM – 7:00PM
2. The liquor licence remains at Park Beach Plaza Shopping Centre, Tenancy 118 Pacific Hwy & Park Beach Rd, COFFS HARBOUR subject to the same conditions and trading hours that were immediately in force before this approval was granted until such time as the Independent Liquor & Gaming Authority is notified that the licence has been moved.
3. Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday, 8:00AM to 10:00PM Sunday
Christmas Day Not permitted
December 31st Normal trading
4. Notwithstanding this approval, the licence is not to be exercised at 5/253 Park Beach Plaza Shopping Centre, Pacific Highway, COFFS HARBOUR unless and until the Independent Liquor and Gaming Authority has been provided with evidence that the premises are complete and ready to trade.
5. Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours between 2:00AM and 8:00AM during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified in the trading hours for this licence.
6. The business authorised by this licence must not operate with a greater overall level of social impact on the well being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of removing this licence to premises at 5/253 Park Beach Plaza Shopping Centre, Pacific Highway, COFFS HARBOUR.
7. The premises are to be operated at all times in accordance with the Plan of Management dated November 2015 as may be varied from time to time after consultation with the Local Area Commander.

Yours faithfully



Philip Crawford

Chairperson

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

STATEMENT OF REASONS

Material Before The Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the removal Application (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority Guideline 6, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) data pertaining to the local and broader communities sourced by licensing staff from publicly available sources. That material is listed and briefly summarised in the Schedule.

Summary of Further Submissions

3. On 26 November 2015 a submission was received from the Secretary of NSW Department of Trade and Investment (now the jurisdiction of the Department of Justice) via the Compliance Branch of the then Office of Liquor, Gaming and Racing, now LGNSW advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed a specific assessment of the Application. The automated report notes that LGNSW “does not intend to carry out any further assessment”.
4. On 20 November 2015 a submission was received from Coffs City Council (Council) advising that Council raises no issues with the Application and that there is no Council enforced alcohol free zone located on or near the Proposed Premises. Council advise that proposed use of the Proposed Premises as a retail liquor store (within the supermarket) will involve an “exempt development” however any fit out works that may be necessary to convert the floor space to a bottle shop may require prior development consent or a complying development certificate.

Legislative Framework

5. An application for the removal of an existing packaged liquor licence from its current location to another location is made under section 59 of the *Liquor Act 2007* (Act).
6. Pursuant to section 59(3) of the Act, an application for approval to remove a licence to another premises, is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises.
7. Accordingly, the provisions of Division 1 of the Act, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
8. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the Act and the *Liquor Regulations 2008* (Liquor

Regulations). Power to grant an application for a new liquor licence is provided by section 45 of the Act.

9. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
 - (1) *The objects of this Act are as follows:*
 - (a) *to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*
 - (b) *to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*
 - (c) *to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*
 - (2) *In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:*
 - (a) *the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),*
 - (b) *the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,*
 - (c) *the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.*
10. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
11. An application under section 59 of the Act to remove a packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
12. Section 48(5) of the Act requires that the Authority must not grant the Application unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
13. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Coffs Harbour while the “broader community” comprises the responsible Local Government Area (LGA), the Coffs Harbour LGA.

Analysis of Relevant Facts

14. The Authority is satisfied, on the basis of the Application material before the Authority and the absence of any submissions to the contrary that, for the purposes of section 59 of the Act, the Application has been validly made and minimum procedural requirements with regard to the Application, CIS and community consultation have

been satisfied. This finding is made on the basis of the Application and CIS material provided by the Applicant.

15. The Authority is satisfied, on the basis of the Application material and plans of the Proposed Premises that additional requirements as to packaged liquor businesses required by section 30 and 31 of the Act have also been satisfied.
16. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licenced venue of the kind proposed in the Application material. The Authority is satisfied on the basis that no issues of concern were raised with regard to the Applicant's probity following consultation with relevant law enforcement agencies including LGNSW.
17. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act that responsible service practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *Plan of Management* dated November 2015 provided by the Applicant.
18. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act that the required development consent is in place for use of a packaged liquor licence at the Proposed Premises, on the basis of the submission from Council dated 20 November 2015 advising that the proposed relocation of the bottle shop is exempt development.

Social Impact – Positive Benefits

19. The Authority is satisfied on the basis of the information provided by the Applicant that the license will be removed from one location within the suburb of Coffs Harbour to another within that same suburb, around 60 metres away, albeit to a location also within the same Park Beach Plaza Shopping Centre. The Authority is further satisfied on the basis of the Application and CIS that the liquor store will be moving from a stand-alone store to within a grocery store.
20. The Authority notes that the Applicant distributed notices to the surrounding community which resulted in no objection to the Application from the local community, Police, LGNSW, Council or any relevant stakeholders and on this basis the Authority is satisfied that granting the removal of the licence would be consistent with the "expectations needs and aspirations" of the local or broader community within the meaning of section 3(1)(a) of the Act.
21. The Authority is satisfied that the proposal will, albeit to a modest extent, contribute to the development of the liquor industry for the purposes of section 3(1)(b) of the Act by enabling the business to move to another nearby premises for the commercial purposes of that business.

Social Impact – Negative Impacts

22. The Authority is satisfied that over time there will likely be some contribution from the liquor sold at the Proposed Premises to alcohol related crime, disturbances or impact on amenity from a minority of customers who abuse packaged liquor purchased from

the Proposed Premises. Given that the Application proposes the removal of a licence distance of 60 metres within the same local community and same shopping centre, there will be no increase in licence density and no compelling submissions have been made to indicate a net change in impact or increase in sensitivity from moving the licence from one location to another.

23. With regard to the prevalence of alcohol related crime, the broader community of the Coffs Harbour LGA has significantly higher rates of crime compared to NSW State averages in several relevant categories. This is demonstrated by the BOCSAR data for the Coffs Harbour LGA and the State of NSW that is referred to above.
24. The BOCSAR crime mapping data indicates that the Proposed Premises is located within high density hotspots for the concentration *domestic assault* and *malicious damage to property* and a medium density hotspot for incidents of *non-domestic assault*.
25. However, the Application concerns the removal of a licence a short distance from the Current Premises. No issues of concern were raised by Police, local residents or neighbouring premises as to current contribution of the licence to the prevalence of alcohol related crime within the local or broader community. Removal of the licence within the same local community will not increase the number or density of liquor licensed premises in either community. This is not an instance of a licensed business moving from a less sensitive site to a more problematic site.
26. The proposed trading hours are substantial but granting the Application will bring about a reduction of 27 hours on the current licensed trading hours available at the Current Premises.
27. The smaller scale of the Proposed Premises at 53 square metres is an objective mitigating factor that objectively reduces the scope of this business to contribute, along with other licensed premises, to prevailing social impacts over time.
28. Taking into account the harm minimisation measures outlined in the *Plan of Management* provided by the Applicant as part of the Application, the Authority is satisfied that steps will be taken by the Applicant and its staff to ensure that the extent of adverse impact arising from the abuse of liquor sold from the Proposed Premises would be constrained.
29. The Authority has decided to approve the removal subject to the imposition of conditions specified at the start of this decision letter, which have been taken into account when assessing the overall social impact of granting the Application.

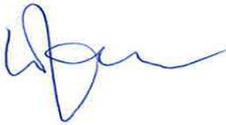
Conclusion

30. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the application, as all of those required to be notified of the application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The interested parties are NSW Police, the Licensee, Council, NSW Roads and Maritime Services (RMS), neighbouring occupiers, NSW Health and

Family and Community Services and all other parties required to be consulted under the legislation.

31. Having considered together the positive benefits and negative impacts that I am satisfied are likely to flow from granting the Application, the Authority is satisfied that the overall social impact of removing the licence would not be detrimental to the well being of these local and broader communities.
32. Removal of the licence is approved pursuant to section 59 of the Act.
33. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour) (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.

Decision Date: 23 August 2016

A handwritten signature in blue ink, appearing to read 'Philip Crawford', written in a cursive style.

Philip Crawford
Chairperson

SCHEDULE

Material Before The Authority

34. Application form – lodged 5 November 2015
35. CIS document and supporting material that accompanies the Application dated 5 November 2015. Briefly, the Applicant makes the following contentions on the social impact of granting the Application:
 - (a) Council submitted a letter dated 25 August 2015 advising that Council raises no issues with the Application but if fit-out works are necessary than a Development Application (DA) may be required.
 - (b) A letter was received from RMS dated 15 September 2015 expressing “general concern” about the part played by alcohol in pedestrian car crashes and suggesting that the licensee or representative actively participate in the Local Liquor Accord and draw attention to RMS brochures. The Applicant has “agreed” to both of these suggestions.
36. List of sites near the Premises supplied by the Applicant as part of the CIS including nearby hospitals, community buildings, facilities and places.
37. Submission from Council dated 8 July 2015 advising that there are currently no Alcohol Free Zones in the vicinity of Park Beach Plaza and that Council is preparing a proposal to “re-establish” the “existing” Alcohol Free Zones in the City for a further 4 years as well as “consider any new zones”.
38. Plan identifying the location of the Current Premises within Park Beach Plaza Shopping Centre and premises provided with notification of the Application.
39. Submission from Council dated 25 August 2015 advising that Council raises “no issues” with the Application and that there is no Council enforced alcohol free zone on or near the Proposed Premises. Council also advise that any fit out works necessary to convert the floor space to a bottle shop “may require prior development consent or a complying development certificate”.
40. Submission from RMS dated 15 September 2015, providing an analysis of alcohol-related casualty crashes occurring in Coffs Harbour LGA between 2005 and 2014. RMS advise that data for this period shows that on average 11% of casualty crashes in the Coffs Harbour LGA were alcohol related which was more than that for the State (5%) and the northern NSW level (9%). RMS advise that the level of drink driving has decreased over the years to a figure that is now below the RMS Northern Region figure and that there were 170 alcohol related casualty crashes in the Coffs Harbour LGA between 2005 and 2014. RMS also analyse the data by risk factors including days of the week, and time of day. RMS recommend that the licensee or its representative join and be an active member of the local Liquor Accord and that the licensee draw staff’s attention to the RMS brochure *Drinking and Driving: The Facts*.
41. Plan of Management for the Proposed Premises dated November 2015.
42. Applicant’s response to an email from licensing staff dated 16 May 2016 advising:

- (a) The licence is being removed from a free-standing liquor store to form part of a supermarket operated by a company that is well experienced in conducting licensed premises, with an “unblemished” record.
 - (b) There will be no intensification of licence numbers from granting the Application and the prevailing hotspot for alcohol related assault and non-domestic assault is located within the City part of Coffs Harbour. The shopping centre is barely in a low spot for domestic assault and malicious damage.
 - (c) Conditions proposed by licensing staff are accepted by the Applicant, including a condition fixing the six-hour daily closure period, for the purposes of section 11A of the Act at between 2 am and 8 am
43. Google geographical aerial map depicting the location of the Helloworld Coffs Harbour Park Beach Plaza.
44. Four-page plan of the Proposed Premises clearly highlighting in red the proposed licensed area, which is 53 square metres within the IGA supermarket.
45. BOCSAR Crime Maps based upon data from April 2015 to March 2016 detailing hotspots for the concentration of offences near the location of the Proposed Premises which is publically available on the BOCSAR website. This data indicated that the immediate location and areas surrounding the Proposed Premises:
- (a) Is located *within a high density* hotspot for incidents of *domestic assault*
 - (b) s located *within a medium density* hotspot for incidents of *non-domestic assault*
 - (c) Is located *within a high density* hotspot for incidents of *malicious damage to property*
46. Liquor licensing records indicating that the suburb of Coffs Harbour already has:
- (a) 8 registered club licences
 - (b) 6 full hotel licences
 - (c) 7 packaged liquor licences.
47. Liquor licence density data obtained by the Authority from licensing records that are publicly available from LGNSW indicate that the Coffs Harbour LGA as a whole recorded:
- (a) A rate of **19.00 packaged liquor licences** per 100,000 persons, which is well below the NSW state wide rate of **32.85**.
 - (b) A rate of **7.31 registered club licences** per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
 - (c) A rate of **14.61 full hotel licences** per 100,000 persons, which is well below the NSW state wide rate of **30.36**.
48. Report on *Crime by LGA and Alcohol Related Status* obtained from published BOCSAR sources for calendar year 2013. This data indicates that:

- (a) The rate of *domestic violence related assault* incidents recorded by reporting Police as *alcohol related* across the Coffs Harbour LGA was **297** per 100,000 persons, substantially above the New South Wales rate of **145** per 100,000 persons.
 - (b) The rate of *non-domestic violence related assault* incidents flagged by reporting Police as *alcohol related* in the Coffs Harbour LGA for 2013 was **323**, substantially above the State wide rate of **191**.
 - (c) The rate of *offensive conduct* offences flagged by reporting Police as *alcohol related* across this LGA was **111** per 100,000 persons, higher than the State wide rate of **83**.
 - (d) The rate of *assault police* incidents flagged by reporting Police as alcohol related across the Coffs Harbour LGA was **50** per 100,000 persons, higher than the State wide rate of **24** per 100,000.
 - (e) The rate of *malicious damage to property* offences flagged by reporting Police as *alcohol related* across this LGA was **181** per 100,000 persons, above the State wide rate of **122**.
49. ABS Socio-economic Indexes for Areas (SEIFA) data prepared on the basis of the 2011 census which indicates that:
- (a) The Coffs Harbour LGA ranked in the 5th decile, compared to other local government areas in the state on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
 - (b) The state suburb of Coffs Harbour ranked in the 3rd decile, compared to other state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage.
50. On 26 November 2015 a submission was received from the Secretary of NSW Department of Trade and Investment (now the jurisdiction of the Department of Justice) via the Compliance Branch of the then Office of Liquor, Gaming and Racing, now LGNSW.
51. On 20 November 2015 a submission was received from Council.