

# NSW Independent Liquor & Gaming Authority

Mr Harley Talbot Licensee, The Lambton Fridge	Lambton Fridge Nominees Pty Ltd Premises Owner
Newcastle Council	NSW Police
Liquor & Gaming NSW	

28 October 2024

Dear Sir/Madam

Reference No.	DOC24/251556
Licensee	Mr Harley Talbot
Licence Name	The Lambton Fridge
Licence Number	LIQP700384026
Licence Type	Packaged liquor licence
Premises	86 Elder Street, LAMBTON NSW 2299
Legislation	Part 9A of the <i>Liquor Act 2007</i>

## Decision on remedial action for demerit points accumulated Mr Harley Talbot, The Lambton Fridge (LIQP700384026)

On 12 June 2024, the Independent Liquor & Gaming Authority notified you of the remedial action it proposed to take for the demerit points accumulated by Mr Harley Talbot, the licensee of The Lambton Fridge, under the *Liquor Act 2007* (the Act).

### Our decision

Following consideration of submissions received in response to the notification, we have decided to take the following remedial action:

- require Mr Talbot to undertake licensee training under section 144P of the Act.
- impose a plan of management condition on the licence under section 144T of the Act.

## Statement of reasons

### Background

On 15 May 2024, Liquor & Gaming NSW (L&GNSW) notified us that Mr Harley Talbot, the licensee of The Lambton Fridge had accumulated a total of two demerit points under Part 9A of the *Liquor Act 2007* (the Act).

Mr Talbot accumulated two demerit points following the issue and enforcement of two penalty notices for the offence of *'licensee allow liquor to be sold or supplied to a minor'* on 17 December 2023 and *'sell liquor to a minor on licensed premises'* on 18 December 2023. The two demerit offences were committed within a single 24 hour period and are therefore considered to be a single demerit offence under section 144C(3) of the Act.

In addition to the notification, L&GNSW provided a submission recommending that we take remedial action in response to the accumulation of demerit points.

On 12 June 2024, we notified you and all relevant parties as required under section 144Z(1) of the Act, that we proposed to take remedial action in response the accumulation of demerit points and invited submissions in response.

### **Submissions**

Submissions were received from L&GNSW and the licensee. We have considered these submissions, which are detailed below:

L&GNSW, dated 19 June 2024

- L&GNSW supports the proposed remedial action in light of the serious nature of the offence.

Licensee, dated 15 July 2024

- strategies and procedures have been implemented since the offence and the licensee is willing to prepare a plan of management. The licensee is also willing to complete the licensee training.
- it appears the advanced licensee training is primarily designed for troublesome pubs and clubs, late night venues and businesses located in a high-risk area and as such would not be applicable to the licence.
- it is requested that the Authority consider the licensee's 30-year clean history and remove the advanced license training requirement.

Second submission from Licensee, dated 5 August 2024

- it is requested that a plan of management not be imposed on the licence as the licensee is approaching retirement.

### **Considerations under section 144ZA of the Act**

We have also considered the relevant factors identified in section 144ZA of the Act, and note in the original submission from L&GNSW dated 15 May 2024 that:

- there is no material to indicate that the size and patron capacity of the licensed premises impacted the licensee's ability to prevent the commission of the demerit offence.
- there is no history of demerit offences having been committed by Mr Talbot, other than the two offences described in the submission.
- there is no record of any previous prescribed complaints against the licensee.
- the licensee has been in place since 4 July 1994.
- there had been no changes to the business practices carried under the licence at the time of the submission.

### **Our findings**

We are satisfied that:

- two demerit points have been accumulated by the licensee in a three-year period
- the offence *'sell liquor to a minor on licensed premises'* was a breach of section 117(1) of the Act.

- the offence ‘licensee allow liquor to be sold or supplied to a minor’ premises was a breach of section 117(8) of the Act.

Having considered the available material, we find that the licensee failed to comply with his obligations under the Act to ensure that liquor is not sold or supplied to persons under the age of 18.

We consider the offence to be serious and warrant an enforceable regulatory response by way of remedial action, to prevent any similar occurrence in future.

### **The material we considered**

We considered all the material we received about the matter, including:

- notification of the accumulation of demerit points from L&GNSW, dated 15 May 2024
- submission from L&GNSW, dated 19 June 2024
- submission from licensee, dated 15 July 2024.
- second submission from licensee, dated 5 August 2024

### **The law that applies**

These sections of the *Liquor Act 2007* apply in this decision:

- Section 3: Statutory objects of the Act and other relevant considerations
- Section 117: Offences relating to sale or supply of liquor to minors
- Section 144P: Remedial action – accumulation of 2–3 demerit points
- Section 144T: Remedial action – accumulation of 2–3 demerit points
- Section 144Z: Notice of proposed remedial action
- Section 144ZA: Requirements for deciding to take remedial action.

### **If you are dissatisfied with this decision**

If a person who is notified of the decision is dissatisfied with this decision, they may apply to NSW Civil and Administrative Tribunal (NCAT) for a review.

An application for review must be made no later 21 days after being notified of the decision.

For more information, please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the NCAT website.

This decision will be published on our website.

### **If you have any questions**

Please contact the Office of ILGA at office@ilga.nsw.gov.au if you have any questions.

Yours sincerely



Jeff Loy

### **Board Member**

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

**Schedule 1 – Licence conditions to be imposed**  
**The Lambton Fridge, LIQP700384026**

No.	Condition to be imposed	Description
1.	Plan of management	<p>The licensee must prepare a plan of management for the licensed premises and submit to the Authority for approval within 2 months of the condition being imposed.</p> <p>The premises is to be operated at all times in accordance with the Plan of Management dated &lt;insert date&gt; as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.</p>