



Mr Cusack
Hatzis Cusack Lawyers
By email to: gc@hatziscusack.com.au

30 June 2023

Dear Mr Cusack

Application No.	APP-0010383217
Applicant	HSS Liquor Pty Limited
Application for	New – packaged liquor licence
Licence name	Liquorworld Bonnyrigg
Trading hours	<u>Retail</u> Monday to Saturday 09:00 AM – 10:00 PM Sunday 10:00 AM – 09:00 PM
Premises	Shop 2, 709 Cabramatta Road West, Bonnyrigg NSW 2177
Legislation	Sections 3, 11, 12, 29, 31, 40, 44, 45, 48 and 114 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – Liquorworld Bonnyrigg**

The Independent Liquor & Gaming Authority (Authority) considered the application above and decided on 23 November 2022 to **refuse** the application under section 45 of the *Liquor Act 2007*.

Statement of reasons

The statement of reasons will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

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

If you have any questions

Please contact the case manager, Leonie Jennings, at leonie.jennings@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely

A handwritten signature in purple ink that reads "Sarah Dinning".

Sarah Dinning

Deputy Chairperson

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

STATEMENT OF REASONS

Our decision

We **refuse** the application under section 45 of the *Liquor Act 2007* (NSW) (the Act).

Overall, we are concerned that the social impact of approving the application may be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application meets the Act's requirements for procedural fairness and trading period
- the sale of liquor would comply with the licence's authorisation
- section 30 of the Act does not apply to this application, and
- the Community Impact Statement (CIS) meets the relevant requirements.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

Responsible service of alcohol

Procedures for the responsible service of alcohol have been provided as part of the application.

Development consent requirements

The necessary development consent is in force. Fairfield City Council approved the development application 442.1/2021 for the premises on 30 June 2022.

Community impact

Local and broader communities

The relevant 'local community' is the community in the suburb of Bonnyrigg, and the relevant 'broader community' comprises the Local Government Area of Fairfield.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Bonnyrigg shows:

- there are 11 authorised liquor licenses, of which 3 are authorised to sell packaged liquor.
- the saturation of packaged liquor licences in Bonnyrigg is higher compared to Fairfield and lower compared to all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to June 2022:

- the proposed premises is located in close proximity to hotspots for alcohol-related assault, domestic and non-domestic assault and malicious damage to property
- alcohol-related domestic assault rates in Bonnyrigg were higher compared to Fairfield and lower compared to all of NSW
- alcohol-related non-domestic assault rates in Bonnyrigg were higher compared to Fairfield and lower compared to all of NSW

- alcohol-related offensive conduct rates in Bonnyrigg were lower compared to Fairfield and lower compared to all of NSW
- malicious damage to property rates in Bonnyrigg were equal (0) compared to Fairfield and lower compared to all of NSW.

Alcohol-related health data (per 100,000 residents)

The most recent HealthStats NSW data available show that between 2018/19 – 2019/20:

- alcohol-related deaths rates in Fairfield were slightly lower compared to the NSW average
- alcohol-related hospitalisation rates in Fairfield were lower compared to the NSW average.

ABS Socio-Economic Index for Areas (SEIFA) SEIFA

Data as at 2016 shows that Bonnyrigg and Fairfield were relatively disadvantaged in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

We note that the proposed business model involves the sale of alcohol for consumption away from the premises.

Benefits proposed by the applicant

The applicant proposes that there would be these benefits:

- the proposed premises will provide a variety of beers, wines, spirits and ciders for purchase
- products will be ordered on the request of patrons and the product range will be tailored to meet the needs and demands of the local community, including difficult to find products and products not available at other facilities in the suburb.

We believe that these proposed benefits are limited by the lack of concrete evidence of community support for the application. We also note that there was one objection raised by a member of the community.

Stakeholder submissions

We considered the submissions from:

- **One member of the public**, dated 23 July 2022, which raised concerns regarding the proximity of the premises to Bonnyrigg High School and the potential for students over 18 years of age to purchase liquor for consumption on school grounds. Additional concerns were raised in respect of the saturation of existing liquor outlets and the lack of public parking around the premises.
- **Transport for NSW**, dated 28 July 2022, which requests the licensee maintains awareness of any specific local alcohol-related issues impacting the community, provides access to public education material within the premises and participates in the local liquor accord.
- **Local Council**, dated 17 August and 2 November 2022, which raised concerns regarding the vulnerability of the local community and proximity of the premises to Bonnyrigg High School. While the applicant has provided mitigation strategies through an updated plan of management, Council still has significant concerns that alcohol may be purchased by students of legal drinking age and potentially supplied to under-age students. Council also

advised that there is ongoing concerns from parents and faculty regarding the current traffic congestion near the proposed premises.

- **NSW Police Force**, dated 31 August 2022, which objected to the licence being granted as there are currently three packaged liquor stores within a 1 km radius of the proposed premises. Police submit that there is a high risk and probability that students will attempt to purchase liquor from the premises with the potential for secondary supply. Police note that Bonnyrigg has a high unemployment rate and on-going issues with alcohol related crime which are likely to increase and put further strain on Police resources. Police raise that in the last 12 months, they have attended 96 alcohol related incidents in the suburb, with 8 of those being stealing incidents from packaged liquor stores. Police request that a number of conditions be imposed on the licence should the application be approved.

We also considered the Applicant's submission in response, to these submissions, which notes that:

- it is common for a packaged liquor store to be located in close proximity to a school or education facility.
- no issues were raised by Bonnyrigg High School regarding the proximity of the two other licensed premises adjacent to the school.
- there are seven dedicated parking spaces for customer parking only. It is noted that these are potentially being used by parents as the site of the proposed premises is currently vacant.
- students over 18 years of age will not be sold or supplied liquor while in school uniform and underage students will not be permitted to purchase non-alcoholic products.
- there is no evidence that the location of the existing licences has resulted in any adverse impacts on the school or instances of secondary supply.
- contrary to what is suggested by Police, BOCSAR statistics reveal that Bonnyrigg is presently experiencing very low rates of liquor-related crime and practices will be implemented to minimise the potential for theft.
- the requests made by Transport for NSW have been agreed to.

Findings of concern

We have taken into consideration the very close proximity of the proposed premises to Bonnyrigg High School and a number of serious concerns raised by numerous stakeholders including the Police, Local Council and a member of the public regarding the risk and potential for alcohol consumption on school premises, secondary supply and underage drinking.

We have also considered the on-going issues raised by Police regarding alcohol-related crime, including the current strain on Police resources that will likely increase should the packaged liquor licence be granted. We have had regard to the unemployment rate in the suburb and the high number of alcohol related incidents in the suburb within the past 12 months as reported by Police which raises serious concerns.

The location of the proposed premises, being in a suburb which has high-density crime hotspots for alcohol-related assault, domestic and non-domestic assault and malicious damage to property, raises significant concerns and emphasises the vulnerability of the suburb.

Additionally, the SEIFA health data indicates a below-average level of socio-economic disadvantage and advantage in both Bonnyrigg and Fairfield, with the rate of alcohol-related deaths in Fairfield almost equal to the rates in NSW.

As such, there is a significant risk that if the licence was granted, liquor sold from the premises has the propensity to lead to greater risks and an increased likelihood of underage drinking, alcohol-related crime, health and other social and amenity issues, aggravating the pre-existing problems in the local and broader community.

The risks may be mitigated by the following:

- lower density of packaged liquor stores in Bonnyrigg and Fairfield compared to NSW
- lower rate of alcohol-related hospitalisations in Fairfield compared to NSW
- Council development consent to operate is provided under a 12-month trial period from the date of the grant, and
- the harm minimisation measures outlined in the plan of management.

However, on balance, we are concerned that the social impact of approving the application outweighs any benefit to the local or broader community.

The material we considered

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

Application Material

- ASIC business records for the Applicant and associated companies
- Floor plan for the premises, dated 30 June 2022, indicating the proposed licensed area.
- Completed Category B Community Impact Statement (CIS) dated 12 August 2022.
- Completed application dated 15 August 2022.
- Completed certification of advertising dated 5 October 2022.
- Plan of Management documents for the premises, titled Proposed Liquor Store and dated October 2022.

Under [Guideline 6](#), we have also considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Submissions

- Submission from one member of the public, dated 23 July 2022.
- Submission from Transport for NSW dated 28 July 2022.
- Submission from Fairfield Council dated 17 August 2022 and 2 November 2022.
- Submission from NSW Police Force dated 31 August 2022.

Other relevant material

- Correspondence between L&GNSW staff and the applicant between 24 August 2022 and 4 November 2022 in relation to the assessment of the Application.
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

The law that applies

These sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 apply to this application:

- Section 3: Statutory objects of the Act and other relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 29–31: Specific provisions about a packaged liquor licence.
- Section 40: Minimum requirements to apply for a liquor licence.
- Section 44: Submissions about licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including making sure that it won't harm the local or wider community's well-being.
- Sections 114E–114G: Specific provisions about same day liquor deliveries.

We also considered [Guideline 6](#) to assess the likely social impact to the local and broader community.

Yours sincerely



Sarah Dinning

Deputy Chairperson

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