

## LICENCE DETAILS

<b>Application No.</b>	1-9025648684
<b>Application type</b>	Removal – packaged liquor licence
<b>Trading hours</b>	Monday – no trading Tuesday to Saturday 11:00 AM to 07:00 PM Sunday 11:00 AM to 04:00 PM
<b>Applicant</b>	Rebecca Ann Read
<b>Licence name</b>	Curious Craft Ales
<b>Premises address</b>	2/121 Keen Street, LISMORE NSW 2480
<b>Matter</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for the removal of a packaged liquor licence.
<b>Legislation</b>	Section 45(1) of the <i>Liquor Act 2007</i>
<b>Decision details</b>	Under delegation issued by the Independent Liquor and Gaming Authority under section 13 of the Gaming and Liquor Administration Act 2007, a designated Public Service employee or other Public Service employee of Liquor & Gaming NSW in the Department of Enterprise Investment and Trade, has decided to grant the application for a removal of a packaged liquor licence, subject to conditions set out at Schedule 1 imposed on the licence.
<b>Decision date</b>	21/06/2024

## Delegate details



Gabrielle Gallagher, Director  
Liquor and Gaming NSW  
Delegate of the Independent Liquor & Gaming Authority

## **STATEMENT OF REASONS**

### **ANALYSIS OF SUBMISSIONS AND STATUTORY REQUIREMENTS**

1. Appropriate consent is in place for the use of the premises as a bottle shop – packaged liquor licence. Council confirms they have no objection to the liquor licence being removed to 2/121 Keen Street, LISMORE NSW 2480.
2. Police raise no concerns in relation to this application.
3. L&GNSW Compliance has reviewed the application and note there are no current adverse compliance holdings for the past five years.
4. No public submissions were received objecting to the application.
5. I am satisfied that the applicant has been provided with an opportunity to consider and comment upon the conditions contained in the licence document.
6. I am satisfied that the statutory advertising requirements have been met.
7. Having reviewed all the material, I am satisfied that granting this application will not be detrimental to the local or broader community.

### **MATERIALS CONSIDERED BY THE ILGA DELEGATE**

#### **Information considered**

1. Application form received: 11 March 2024
2. Plan of proposed licensed area: Compliant
3. Certification of Advertising: Compliant
4. Plan of management: Compliant
5. Documents
  - a) National Police Certificate: Compliant
  - b) ID: Compliant
  - c) RSA competency card: Compliant
6. Approved Manager: N/A
7. Licensee Training: Compliant
8. Development consent: Compliant
9. Correspondence between Liquor & Gaming NSW to the applicant.
10. Correspondence from Police.
11. Correspondence from Council.
12. Applicant's response to submissions received
13. Applicant's consent to conditions.
14. Harm minimisation and community impact data

#### **Analysis of stakeholder submissions**

1. NSW Police:

Police had no objections to the application.
2. Local consent authority  
Council raises no concerns with the application.

3. Public

No public submissions were received during the community consultation period or during the assessment of the application.

## **OVERALL SOCIAL IMPACT**

### **1. Positive benefits**

2. The granting of the licence will provide patrons with the convenience of one-stop shopping and will result in continued choice for the residents of Lismore, and visitors to the area.

### **3. Mitigation of potential negative impacts**

I am satisfied that the business model, conditions imposed, and any other information contained in the application will provide that the lawful operation of the premises will not be detrimental to the local or broader community.

## **CONCLUSION**

1. I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether to grant the application. 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 decision was made by the delegate having reviewed the application statement, business model and risk analysis, stakeholder submissions and other relevant material.
2. In accordance with section 45(3)(a) of the Act I am satisfied that the proposed licensee is a fit and proper person to carry on the business or activity to which the proposed licence relates.
3. Having considered the management plan and related material, under section 45(3)(b) of the Act, I am satisfied that practices will be in place at the premises as soon as the licence is granted that ensure, as far as reasonably practicable, that all reasonable steps will be taken to prevent intoxication on the premises, and that those practices will remain in place.
4. Consistent with section 45(3)(c) of the Act requiring development consent from the local council, I am satisfied that the required development consent or approval is in force.
5. In making this decision under delegation from of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to grant the liquor licence application with conditions.

## **RELEVANT EXTRACTS FROM THE *LIQUOR ACT 2007***

### **Legislative framework, statutory objects and considerations**

In determining the application, the delegate has considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which state:

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 the 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.
  - d) the need to support employment and other opportunities in the—
    - i. live music industry, and
    - ii. arts, tourism, community and cultural sectors.

### **Statutory tests**

1. In determining an application for a licence, under section 45(3) of the *Liquor Act 2007*, the delegate must also be satisfied that:
  - a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
  - b) practices will be in place as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises and that those practices will remain in place, and
  - c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 4 Division 4.1 or Part 5.1 of that Act is required), to use the premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.
  - d) The proposed approved manager/licensee has completed the relevant tiered industry training as per legislative requirements.

### **Community impact test**

Under section 48(5) of the *Liquor Act 2007*, the delegate must not grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regards to the Community Impact Statement, where required, and any other matter the delegate is made aware of during the Application process, that the overall impact of the licence, authorisation or approval in question being granted will not be detrimental to the local or broader community.

The test applying under section 48(5) relates to delegated decisions in relation to:

- a) the grant or removal of a small bar licence (where required),
- b) a packaged liquor licence (limited to telephone/internet sales),
- c) an application for extended trading hours to permit the sale of liquor after midnight in relation to a small bar (where required), an on premises relating to a restaurant that includes an application for a primary service authorisation, an on-premises licence relating to a karaoke bar, a catering service or a vessel, and an application for a producer/wholesaler licence that includes an application for a drink on premises authorisation.

The Community Impact Statement provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and places of worship.

## **Important Information**

In accordance with Clause 5 of the Gaming and Liquor Administration Regulation 2008, this decision is reviewable by ILGA.

The licence applicant and persons who were required to be notified of the application and who made a submission can apply for an application for review. An application for a review must be lodged with ILGA within 28 days of the date of the publication of this decision. An application fee applies. In the case of the applicant, the fee payable is the fee applying to the original application. In all other cases, the fee is \$100.

Applications for review of ILGA delegated decisions, can be made via the [Liquor and Gaming Application Noticeboard](#). The Review Application form can be accessed online via the *make a submission* button.

Further information can be obtained from the [Reviews of liquor and gaming decisions](#) page on the Liquor & Gaming website.



<p><b>Crime scene preservation</b></p>	<p>Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:</p> <ol style="list-style-type: none"> <li>1. take all practical steps to preserve and keep intact the area where the act of violence occurred,</li> <li>2. retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,</li> <li>3. make direct and personal contact with NSW Police to advise it of the incident, and</li> <li>4. comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</li> </ol> <p>In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.</p>
<p><b>CCTV</b></p>	<ol style="list-style-type: none"> <li>1. The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements: <ol style="list-style-type: none"> <li>a. the system must record continuously from opening time until one hour after the premises is required to close,</li> <li>b. recordings must be in digital format and at a minimum of <b>ten (10)</b> frames per second,</li> <li>c. any recorded image must specify the time and date of the recorded image,</li> <li>d. the system's cameras must cover the following areas: <ol style="list-style-type: none"> <li>i) all entry and exit points on the premises, and</li> <li>ii) all publicly accessible areas (other than toilets) within the premises.</li> </ol> </li> </ol> </li> <li>2. The licensee must also: <ol style="list-style-type: none"> <li>a. keep all recordings made by the CCTV system for at least 30 days,</li> <li>b. ensure that the CCTV system is accessible at all times the system is required to operate pursuant to sub-clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and</li> <li>c. provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.</li> </ol> </li> </ol>

**Requirement to maintain an incident register**

1. The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:
  - a. any incident involving violence or anti-social behaviour occurring on the premises,
  - b. any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
  - c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
  - d. any incident that results in a patron of the premises requiring medical assistance.
2. The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
  - a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
  - b. allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
3. The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.



## Specialised Liquor Products

- 1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business (“Business”), except as provided by sub-clause 2:
  - a. craft beer
  - b. craft cider
  - c. craft spirits
  - d. boutique wines (including sparkling wines and champagne)
  - e. organic and natural liquor products
- 2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted. For liquor products available for sale under this sub-clause, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds.
- 3) The licensee must ensure that a list of the product lines and products stocked by the Business at any one time is kept at the premises and made available for inspection on the request of a police officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
- 4) For every liquor product that is available for sale under sub-clause 1, the licensee must maintain and make available for inspection on the premises documentation from the supplier confirming the location of production, and/or that the product meets the relevant definition specified in this condition.

### Definitions

For the purposes of this condition:

1. Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:
  - (a) which is located in Australia and produces less than 40 million litres of beer per annum, or located overseas and produces less than 6 million barrels of beer per annum;
  - (b) where not more than 25 percent of the brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer; and
  - (c) which will certify that the majority of its total beverage alcohol volume is in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers).
2. Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:
  - a. which is located in Australia and produces less than 40 million litres of cider per annum, or located overseas and produces less than 6 million barrels of cider per annum;
  - b. where not more than 25 percent of the producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer; and

	<ul style="list-style-type: none"> <li>c. which will certify that the cider is made from liquid consisting only of juice (no concentrates).</li> </ul> <p>3. Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:</p> <ul style="list-style-type: none"> <li>a. the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in the case of blended spirits, the product of an independently owned and operated facility that uses any combination of traditional and innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile; and</li> <li>b. distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller.</li> </ul> <p>4. Boutique wine is defined as wine (other than sparkling wine or champagne) that is manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently owned (i.e. not owned by a larger wine company at the time wine is supplied to the Business).</p> <p>5. Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is not generally considered to be mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.</p> <p>6. Organic and natural liquor products are defined as:</p> <ul style="list-style-type: none"> <li>a. Organic liquors (including organic wines) that bear a recognised organic certification logo;</li> <li>b. Wine that is labelled or marketed as organic wine, and is produced from vineyards and farms that are farmed organically or to organic standards, typically with little or no additions in wine-making (whether or not the wine is certified as organic);</li> <li>c. Wine that is labelled or marketed as natural wine, and is produced from vineyards that are farmed organically or bio-dynamically, and then produced with no additions (additives) in wine-making, including MegaPurple, tartaric acid, enzymes, malabugs, and bottled with lower levels of sulphur or without sulphur (preservative 220); and</li> <li>d. Boutique wines that are marketed as organic, bio-dynamic or natural wines (including sparkling wine), and manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently-owned (ie not owned by a larger wine company at the time the licensee purchases wine wholesale from the supplier).</li> </ul>
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