

Mr Grant Cusack
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28 September 2017

Dear Mr Cusack

Application No.	1-5753376809
Application for	Small bar liquor licence
Trading hours	<u>Consumption on premises</u> Monday to Saturday 12:00 midday – 12:00 midnight Sunday & Public Holidays 12:00 midday – 10:00 pm
Licence name	Bucket Boys Craft Beer Co
Applicant	Mr Johnathan Grant Hepner
Premises	Level 1, 300 Illawarra Road MARRICKVILLE NSW 2204
Issue	Whether to grant a small bar liquor licence
Legislation	Sections 3, 11A, 12, 20A, 20B, 20C, 40, 45 and 48 of <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a small bar liquor licence – Bucket Boys Craft Beer Co**

The Independent Liquor and Gaming Authority has considered your application on behalf of the Applicant for a small bar liquor licence and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **grant** the licence subject to the following conditions:

1. 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 4:00 am and 10:00 am during each consecutive period of 24 hours. The licensee must comply with this 6-hour closure period along with any other limits specified to the trading hours for this licence.
2. Consumption on premises
Good Friday Not permitted
Christmas Day Not permitted
December 31st Normal trading

Note: Trading is allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 am.
3. Liquor must not be sold or supplied on the premises after:
 - a. 12:00 midnight, Monday to Saturday, or
 - b. 10:00 pm on a Sunday or Public Holiday.
4. A maximum number of fifty (50) patrons are permitted in the premises at any one time.
5. The premises is to be operated at all times in accordance with the Plan of Management dated August 2017 as may be varied from time to time after consultation with the Local Area Commander of 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.
6. The licensee must maintain an incident register in the form and manner approved by Liquor and Gaming NSW for all incidents. The incident register must be produced on request by a police officer or Liquor and Gaming NSW Inspector.

7. No live entertainment or amplified music shall be permitted at the premises at any time. Any music provided shall be by way of background music only.
8. All doors and windows to the premises are to be kept in the closed position after 9.00 pm Monday to Sunday.
9. No queuing is to occur at the premises at any time. In the event the premises is at capacity, the additional persons must be moved on from the immediate vicinity.
10. All liquor shall be opened by staff and no liquor shall be sold or supplied under the licence in unopened cans or bottles.
11. At all times, the licensee shall consider the amenity of its neighbours and shall take all reasonable measures to ensure that adverse impacts to the surrounding area do not occur. The licensee will take all reasonable measures to ensure that the behaviour of staff and patrons when entering or leaving the premises does not detrimentally affect the amenity of the neighbourhood.
12. Signage is to be displayed at every entrance/exit to the premises so as to be clearly visible to patrons, advising patrons that they are to leave the area quickly and quietly and not to cause any disturbance to the neighbours.
13. The licensee or its representative must join and be an active participant in the local liquor accord.
14. Closed-circuit television system
 - (1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the licensed area.
 - (2) The licensee must also:
 - (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that at least one member of staff is on the premises at all times the system is operating who is able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and
 - (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 a police officer or Liquor and Gaming NSW inspector to provide such recordings.
15. Crime scene preservation

Immediately after the person in charge of the licensed premises or a staff member becomes aware of an 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:

- (1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- (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 & Gaming NSW website,
- (3) make direct and personal contact with the NSW Police Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
- (4) comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

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.

If you have any questions, please contact the case manager at
beatrice.pitpaiac@liquorandgaming.nsw.gov.au.

Yours faithfully



David Armati
Deputy Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 9 June 2017 the Independent Liquor and Gaming Authority (“the Authority”) received from Mr Jonathan Grant Hepner (“the Applicant”), through Liquor and Gaming NSW (“L&GNSW”), an application for a small bar liquor licence (“the Application”). The licence being sought is for the premises at Level 1, 300 Illawarra Road, Marrickville (“the Premises”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to grant the licence.
3. In reaching this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 20A, 20B, 20C, 40, 45 and 48 of the Act, and relevant provisions of the *Liquor Act Regulation 2008*.

Material considered by the Authority

4. The Authority has considered the Application 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, Bureau of Crime Statistics and Research (“BOCSAR”) crime data, HealthStats NSW data and Australian Bureau of Statistics (“ABS”) socio-demographic data, obtained by L&GNSW from publicly available sources.
7. The list of material considered by 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 and needs 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 exercising its powers under the Act, have due regard to the need to minimise alcohol related harm, 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 different 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 small bar liquor licence, to be accompanied by a community impact statement ("CIS") prepared in accordance with the relevant requirements.
15. An application for a small bar liquor licence is exempt from the CIS requirement under sections 48(3A) and 48(3C) if:
 - a) a development consent is required to use the proposed premises as a small bar or to sell liquor during the proposed hours, and the applicant notifies the local police and the Secretary within two working days of applying for the development consent, or
 - b) the proposed premises already has a general bar liquor licence and the relevant development consent has been obtained.

16. 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 before it.

Provisions specific to a small bar liquor licence

17. Further legislative provisions specific to a small bar liquor licence are set out in sections 20A, 20B and 20C of the Act.
18. Section 20A permits a licensee to sell liquor by retail on the licensed premises for consumption on the licensed premises only.
19. Section 20B sets out provisions in respect of trading hours for the licence.
20. Section 20C sets out a number of miscellaneous conditions relating to the maximum number of patrons, public access, and the availability of food in the licensed premises.

Key findings

21. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity and procedural requirements

22. The Authority is satisfied that:

- a) the Application has been validly made and meets the procedural requirements under section 40 of the Act, and
- b) the proposed use of the Premises as a small bar satisfies the requirements under sections 20A and 20C of the Act.

Trading hours

23. As the Premises is not situated within a freeze precinct for the purpose of the Act, pursuant to subsection 20B(2) of the Act it is entitled to an extended trading authorisation between midnight and 2 am on any day of the week.

24. The Authority nevertheless notes that:

- a) the relevant development consent from Inner West Council only permits the Premises to trade from 12 midday to 12 midnight between Mondays and Saturdays, and from 12 midday to 10 pm on Sundays and Public Holidays, and

- b) the Applicant has confirmed, by way of submission from his representative dated 15 August 2017, that he is only seeking to trade during the hours approved by Council.
25. The Authority considers it appropriate to impose a condition to reflect its position that, notwithstanding the effect of subsection 20B(2) of the Act, liquor can only be sold or supplied on the Premises during the hours sought by the Applicant and approved by Council.
26. The Authority is satisfied that the proposed trading hours satisfy all the other requirements under section 20B, 11A and 12 of the Act in respect of trading and 6-hour closure periods.

Fit and proper person, responsible service of alcohol, and development consent

27. Pursuant to section 45 of the Act, the Authority is 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) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol and prevent intoxication, having regard to the Applicant's Plan of Management ("POM") and the conditions to be imposed on the licence, and
- c) the requisite development consent is in force for use of the Premises as a small bar, based on the notice of determination issued by Inner West Council on 31 May 2017.

Community impact statement

28. The Authority notes that the Applicant notified NSW Police and the Secretary, by email on 2 May 2017, of his application to Inner West Council for development consent to use the Premises as a small bar on the same day the application was lodged with Council.
29. Accordingly, the Authority is satisfied that the exemption requirement under subsection 48(3A) is satisfied, and that the Application is not required to be accompanied by a CIS.
30. For the purpose of considering the social impact of granting the licence on the local and broader communities, the Authority is satisfied that the "local community" is the community within the suburb of Marrickville, and the relevant "broader community" comprises Inner West Local Government Area ("the LGA").

Positive social impacts

31. The Authority notes from L&GNSW's licensing records that the density of liquor licences per 100,000 persons of the population in Marrickville and the LGA is generally higher than the NSW average. In particular, the Authority notes that the density of small bars in Marrickville and the LGA is significantly higher than the corresponding NSW figure.
32. The Authority nevertheless accepts, on the available information, the Applicant's contention that the Premises will:
- a) provide a unique experience to customers which focuses on quality rather than quantity through, for example, providing a range of craft beer on rotating taps,
 - b) complement the bottle shop below the Premises, with which the Applicant is associated as a company director, which mainly sells craft beer along with other boutique and craft liquor products, and
 - c) be the only licensed venue in the area dedicated primarily to supplying craft beer.
33. The Authority also notes:
- a) the email from Inner West Council on 8 August 2017, stating that, inter alia, it supports the issuing of the liquor licence, and
 - b) the Applicant's experience in the liquor industry and familiarity with the community, as reflected by his current responsible service of alcohol competency card and claim of previous employment at "premises which include bar operations".

34. On the basis of the above, the Authority is satisfied that, notwithstanding the current liquor outlet density in the area, the Premises will benefit the local and broader communities through its dedicated offering of craft beer products and a unique small bar experience, and contribute to the responsible and balanced development of the liquor industry.

Negative social impacts

35. The Authority notes from the BOCSAR data that:

- a) for the year to March 2017, the Premises was located within high density hotspots for incidents of domestic assault, non-domestic assault and malicious damage to property, but was not located within any hotspot for incidents of alcohol related assault,
- b) the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in Marrickville were all lower than the NSW average, and
- c) the rates of alcohol related assault (domestic and non-domestic) and malicious damage to property in the former Marrickville Local Government Area, in which the suburb of Marrickville was located prior to the merger of the former Marrickville, Ashfield and Leichardt Local Government Areas in 2016 to form the LGA, were all moderately higher than the State average.

36. The Authority also notes from the HealthStats NSW data that for the period 2012-13, alcohol attributable deaths in the former Marrickville Local Government Area were below the NSW state average, but alcohol attributable hospitalisations, reflected by a Smoothed Standardised Separation Ratio, were 40 percent higher than the corresponding NSW figure.

37. NSW Police has provided a submission on 20 July 2017 in respect of the Application and, while not opposing the grant of the licence:

- a) identified a history of alcohol related offences and incidents of concern in the vicinity of the Premises,
- b) described the location of the Premises as "high risk" in terms of contributing to alcohol related crime, anti-social behaviour and other disturbances in the community, and
- c) requested that a number of conditions be imposed on the licence to protect the amenity of community life and wellbeing of the surrounding neighbourhood.

38. The L&GNSW Compliance Unit has also provided a submission on 14 August 2017, raising no objection to the grant but requesting conditions to be imposed on the licence to ensure compliance with the relevant development consent and the POM.

39. Having regard to the above, the Authority accepts that over time there is a risk that liquor sold or supplied at the Premises will contribute to the prevailing levels of alcohol related crime and health issues, and disturbance in the local and broader communities.

40. The Authority is nevertheless satisfied that the concerns arising from the statistical data and the risks identified are adequately mitigated by the following:

- a) The Premises is a small venue with a low patron capacity of 50 people, and will close by midnight between Mondays and Saturdays, and 10 pm on Sundays and Public Holidays.
- b) No objection was received from any relevant stakeholders in relation to the Application.
- c) The Applicant has set out in the POM detailed procedures and practices to ensure the responsible service of alcohol and the management of patron behaviour and noise levels to minimise negative impacts to the community. Many of these measures are reiterated and complemented by the conditions to be imposed on the licence.
- d) The Applicant has been involved in the operation of the bottle shop connected with the Premises, as a company director and the company secretary, for over 10 months since the shop commenced trading without any complaints or compliance issues.

- e) The Applicant has recently sought and been granted an increase in the licensed hours for the packaged liquor licence for the premises below the small bar. In granting the additional hours, the Authority has imposed a condition requiring that a barrier be in place after 10 pm to prevent patrons accessing the counter or other bottle shop areas when entering or leaving the small bar via the ground floor.
41. The Authority has also had regard to the ABS Socio-Economic Indexes for Areas ("SEIFA") data indicating that as at 2011, Marrickville recorded an average level of relative socio-economic advantage, and the former Marrickville Local Government Area recorded a high level of relative socio-economic advantage, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage.
- Overall social impact
42. Having considered the positive and negative impacts that are likely to flow from granting the licence, and the proposed measures and licence conditions, the Authority is satisfied that the overall social impact of granting the licence would not be detrimental to the well-being of the local and broader communities.
43. The Authority is also satisfied that a decision to grant the licence would be consistent with the objects of the Act to regulate liquor supply and facilitate responsible industry development in line with community expectations and needs.
44. Accordingly, the Authority has decided to grant the small bar liquor licence.



David Armati
Deputy 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 prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed 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 before the Authority

1. ABS SEIFA data based on the 2011 Census, ranking Marrickville and the former Marrickville LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol related deaths and hospitalisations in the former Marrickville LGA for the period 2012-13.
3. BOCSAR crime maps for the year to March 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
4. NSW crime statistics for the two years to March 2017, published by BOCSAR, showing the rates of alcohol related domestic and non-domestic assault and malicious damage to property in the suburb of Marrickville, and the former Marrickville, Ashfield and Leichhardt LGAs.
5. Notice of determination issued by Inner West Council on 31 May 2017, approving the Applicant's development application 201700206 in respect of the Premises.
6. ASIC extracts dated 1 June 2017 for the business owner Bucket Boys Craft Beer Co Pty Ltd evidencing that the Applicant is a director and the secretary for the company, and the ABN Lookup extract for the same company dated 31 July 2017.
7. Completed application form signed by the Applicant on 6 June 2017, accompanied by a copy of the Police Notice, Public Consultation – Site Notice and Local Consent Authority Notice dated 9 June 2017.
8. Copy of the Notice of Development Application form provided to NSW Police and the Secretary on 2 May 2017 of the Applicant's application for development consent for the Premises.
9. Floor plan dated 8 June 2017, indicating the Premises' proposed licensed area.
10. Submission from Mark Bazevski, Sergeant, Marrickville Local Area Command, dated 20 July 2017, in relation to the Application.
11. Plan of Management and House Policy for the Premises dated August 2017.
12. Liquor licensing records from L&GNSW as at 1 August 2017:
 - a. setting out the density of different types of liquor licences in Marrickville and the LGA, based on the 2016 Census data, and
 - b. listing all licensed premises in Marrickville and the LGA.
13. National Police Certificate dated 7 August 2017 in respect of the Applicant.
14. Submission from Inner West Council, dated 8 August 2017, in relation to the Application.
15. Submission from L&GNSW Compliance Unit, dated 14 August 2017, in relation to the Application.
16. Certification of Advertising Application signed by the Applicant's representative and dated 15 August 2017.
17. Correspondence between L&GNSW and the Applicant's representative between 7 July and 15 August 2017, in relation to the Application, including additional information and submissions.
18. Google maps and street view maps extracted from the Google website on 22 August 2017, showing the location and photos of the Premises.
19. A map extracted from Inner West Council's website on 22 August 2017, showing alcohol free zones near the Premises.

20. Proposed food and drinks menu for the Premises.
21. Copies of the Applicant's current RSA competency card and identification.