



Mr Grant Cusack
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20 December 2017

Dear Mr Cusack

Applicant	Urban Grocer Pty Ltd
Application No.	APP-0002985193
Application for	Packaged liquor licence
Proposed licence name	Spar Redfern
Proposed premises	Shop 6, Level 2, 'Urba' 7-9 Gibbons Street REDFERN NSW 2016
Proposed trading hours	Monday to Wednesday 10:00 am – 8:00 pm Thursday to Friday 10:00 am – 9:00 pm Saturday 9:00 am – 9:00 pm Sunday 10:00 am – 8:00 pm
Issue	Whether to grant a packaged liquor licence
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – Spar Redfern**

The Independent Liquor and Gaming Authority considered the Applicant's application for a packaged liquor licence at its meeting on 15 November 2017 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **refuse** to grant the licence.

A statement of reasons for this decision is attached at the end of this letter.

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

Yours faithfully

Philip Crawford
Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Statement of reasons

Decision

1. On 17 May 2017, Urban Grocer Pty Ltd (“the Applicant”) lodged an application for a packaged liquor licence (“the Application”), for the premises at Shop 6, Level 2, ‘Urba’ 7-9 Gibbons Street REDFERN NSW (“the Proposed Premises”), with Liquor & Gaming NSW (“L&GNSW”) for determination by the Independent Liquor and Gaming Authority (“the Authority”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority decided to refuse to grant the licence.
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31 40, 45 and 48 of the Act, and the relevant provisions of the *Liquor Regulation 2008*.

Material considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), 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 and data published by Bureau of Crime Statistics and Research (“BOCSAR”), HealthStats NSW, and Australian Bureau of Statistics (“ABS”).
7. A list of the material before 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 determining a liquor licence application, 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 various 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 packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
- 15. 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 brought to its attention.

Provisions specific to a packaged liquor licence

- 16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.
- 17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.
- 18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.
- 19. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

Key findings

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

Validity, procedural and trading hour requirements

- 21. The Authority is satisfied that:
 - a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
 - b) the proposed trading hours for the Proposed Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods, and
 - c) if the licence were to be granted, liquor would be sold and supplied in a separate liquor sales area at the Proposed Premises, and in accordance with the authorisation conferred by a packaged liquor licence, as required by sections 29 and 30 of the Act, and
 - d) section 31 of the Act does not apply to the Application as the Proposed Premises is not intended to operate as is contemplated by the section.

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

- 22. Pursuant to section 45 of the Act, the Authority is also 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) if the licence were to be granted, practices would be in place from the commencement of licensed trading at the Proposed Premises to ensure the responsible serving of alcohol, having regard to the Plan of Management for the Proposed Premises, and
 - c) the requisite development consent is in force, based on the notice of determination of development application D/2014/450 issued by City of Sydney Council on 4 June 2014.

Community impact statement

23. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Proposed Premises on the local and broader communities.
24. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the suburb of Redfern, and the relevant “broader community” comprises Sydney Local Government Area (“the LGA”).

Positive social impacts

25. The Authority accepts, based on the information available, the Applicant’s contention that parts of Redfern have undergone gentrification, and that this is expected to continue into the future. The Authority also accepts that the anticipated population growth, particularly following completion of the high-rise residential development projects near the Proposed Premises, will create further demand for packaged liquor.
26. The Authority nevertheless also notes that:
- a) the density of packaged liquor licences in the LGA, measured by the number of licences per 100,000 persons of the population, is 2.4 times the NSW state average,
 - b) while the density of packaged liquor licences in Redfern is just below the NSW state average, it will exceed the state average if a new licence is granted, and
 - c) both Redfern and the LGA have a significantly higher than average density of hotel licences, many of which sell packaged liquor.
27. On the basis of the above, the Authority considers that the residents of Redfern have adequate access to packaged liquor, even after taking into account any anticipated population growth in the near future.
28. The Applicant currently operates a supermarket at the Proposed Premises, and seeks the licence to enable the sale of liquor within a separated area of approximately 65 square metres in the supermarket.
29. The Authority accepts that the Application has the support of a considerable number of customers shopping at the supermarket, as evidenced by the signatures on the petition submitted by the Applicant. The Authority notes that the petition was signed by some customers more than once, and some customers who reside outside of Redfern.
30. The Applicant acknowledged that the Proposed Premises is located within a cluster of packaged liquor facilities, but contended that the existing facilities do not adequately address the needs of residents of the building complex in which the Proposed Premises is located and of nearby apartments, citing reasons such as the following:
- a) Of the four packaged liquor outlets in Redfern, one has ceased trading, one only accepts orders via mail, facsimile, telephone or the internet, and the other two are located more than one kilometre from the Proposed Premises.
 - b) The other liquor outlets near the Proposed Premises which sell packaged liquor only offer a limited range of liquor products, and are either located within a hotel bar or more than 300 metres away from the Proposed Premises.
31. The Authority accepts the Applicant’s claim that granting the licence would provide additional convenience to:
- a) local residents and some consumers living further way who wish to purchase liquor products while shopping at the supermarket, and
 - b) residents living in the vicinity of the Proposed Premises who will be able to purchase packaged liquor closer to home.

32. The Authority nevertheless considers that the benefit of such convenience is limited by the existing availability of packaged liquor around the Proposed Premises.
33. The Authority does not accept that it should disregard premises which supply packaged liquor through telephone and online orders. The Authority considers that, for example, such premises offer a convenient alternative to accessing packaged liquor for the high income and time poor customers described by the Applicant as the main consumers targeted by the Proposed Premises. Additionally, the calculation of the average density of packaged liquor licences in NSW does not exclude licences to which the same operational restrictions apply, and a meaningful comparison and analysis is only possible if such licences are also taken into account at the local level.
34. The Authority also finds it relevant, for the purpose of considering the local availability of packaged liquor, to take into account the licensed premises which is temporarily closed due to redevelopment of the building in which it is located and, as the licensee has advised L&GNSW, intends to resume trading following completion of the redevelopment.
35. The Authority further finds that while the Proposed Premises may offer certain liquor products not currently available in nearby outlets, the variety of products will be limited by the small size of the proposed liquor sales area. This means that customers of the supermarket may still prefer or have to attend another packaged liquor facility to find particular products. In any event, the Authority considers that it is reasonably open to existing liquor outlets to respond to any unmet consumer preferences or demands for particular products, should these preferences or demands become apparent.

Negative social impact

36. The Authority notes from the BOCSAR data that:
 - a) for the year to June 2017, the Proposed Premises was located within high density hotspots for incidents of domestic assault, non-domestic assault, alcohol related assault and malicious damage to property,
 - b) throughout the two years to June 2017, both Redfern and the LGA recorded very high rates of alcohol related assault (domestic and non-domestic) and malicious damage to property, ranging from 1.5 to more than 5 times the NSW state average,
 - c) with the exception of incidents of malicious damage to property in the LGA, the high rates of the incidents identified above in both Redfern and the LGA remained stable for the two years to June 2017, and
 - d) while the LGA recorded a downward trend for malicious damage to property of 7.5 percent per year in the two years to June 2017, the rate remained more than 50 percent higher than the state average.
37. The Authority also notes from the HealthStats NSW data that the LGA recorded a slightly higher level of alcohol attributable deaths for the period 2012-13 and a significantly higher level of alcohol attributable hospitalisations for the period 2013-15, compared to the corresponding NSW figures.
38. Six objections in respect of the Application were received from NSW Police, Drug Health Services Sydney Local Health District, and four members of the community, including the Aboriginal Housing Company Limited which is a local non-profit community housing provider.
39. NSW Police raised concerns in respect of the risks a new packaged liquor facility in a supermarket would add to the existing alcohol related crime and anti-social behaviour, issues with drinking in public and by minors, and exposure of vulnerable groups such as the indigenous and student population in the area to alcohol related harm. In its submission Police provided localised information in respect of alcohol related crime and incidents, such as the number of alcohol related move on directions and person searches in Redfern.

40. These concerns are echoed in the submissions from Drug Health Services Sydney Local Health District and Aboriginal Housing Company Limited, which noted the prevalence of alcohol in the area and the significant efforts of the community in combating alcohol related issues.
41. The other three public submissions shared a similar view, contending that the local demand for packaged liquor is sufficiently met by the large number of outlets near the Proposed Premises, and that a new licence will contribute to the increase of alcohol related social problems and adversely affect the safety and quiet order of the neighbourhood.
42. In response to the objections received, the Applicant provided extensive and detailed submissions and data in respect of the demographics of Redfern and customers of the supermarket, alcohol related crime and social issues in the local community, and factors and measures which would prevent or minimise alcohol related harm arising from packaged liquor sold at the Proposed Premises.
43. Having regard to the submissions and relevant statistics, the Authority finds that the rate of alcohol related crime in Redfern and the LGA, notwithstanding any improvement over recent years as contended by the Applicant, remains disturbingly high.
44. The Authority also finds the level of alcohol related health issues and social problems to be alarming, even after taking into account some observations provided by the Applicant to the contrary.
45. In these circumstances, the Authority considers it necessary to exercise extra caution and prudence in assessing the social impact of granting a new packaged liquor licence in the community.
46. The Authority does not accept that the six objections received should be taken lightly merely because a larger proportion of the stakeholders consulted either supported or did not oppose the grant of the licence. In particular, the Authority has given due weight to the concerns expressed by the local Aboriginal community and public authorities which deal with alcohol related challenges in the community firsthand and on a daily basis.
47. The Authority notes the ABS Socio-Economic Indexes for Areas ("SEIFA") data as at 2011 that Redfern ranked slightly above average, and the LGA ranked among the most advantaged in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. Notwithstanding the relatively high SEIFA scores and recent demographic changes, the Authority also notes from the information available, including the Applicant's own acknowledgement, that pockets of disadvantage continue to be present in the area.
48. The Authority does not accept the Applicant's contention that granting the licence will not affect the disadvantaged groups in the local and broader communities, who according to the Applicant live more than a short walking distance away and have other outlets to go to. The mainstream liquor products and competitive pricing proposed to be offered at the Proposed Premises, in the Authority's view, may well appeal to those parts of the population that are more price conscious and susceptible to alcohol related harm, such as young students living near the Proposed Premises, and public housing residents living one kilometre away.
49. The Authority also disagrees with the Applicant's contention that an increase in the supply of packaged liquor, where there can be little control over the manner in which the liquor will be consumed following purchase, would have minimal or no impact on alcohol related harm.
50. The Authority further considers that should the licence be granted, the Applicant's proposed product and pricing strategy may trigger pricing competition among existing outlets, which has the potential to lead to an increase in the overall alcohol consumption in the area.
51. Having regard to all of the above, the Authority finds that granting the licence will likely contribute to the prevailing levels of alcohol related crime and health issues, and disturbance in

the local and broader communities. In light of the local circumstances, the Authority is of the view that any exacerbation of the already high level of alcohol related harm experienced by the community is unacceptable and will likely be detrimental to the wellbeing of the community.

Overall social impact

52. The Authority has carefully considered both the positive and negative social impacts that are likely to flow from granting the licence, and acknowledges:
- that the demographics in Redfern have changed significantly over recent years,
 - the potential benefits of granting the licence to residents in the vicinity of the Proposed Premises, and
 - the factors and measures outlined by the Applicant which reduce the negative social impacts of granting the licence.
53. On balance of the available evidence, however, the Authority is not satisfied that these would sufficiently mitigate the risks associated with adding a packaged liquor licence in an area which:
- is experiencing serious alcohol related crime, health and social problems,
 - already provides sufficient access to packaged liquor, and
 - is home to vulnerable groups of the population susceptible to alcohol related harm.
54. The Authority is not satisfied that the overall social impact of granting the licence will not be detrimental to the well-being of the local or broader community, and finds that granting the licence will be inconsistent with the expectations and needs of the community and the objects of the Act.
55. Accordingly, the Authority refuses to grant the licence under section 45 of the Act.



Philip Crawford
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 for Redfern and the LGA on the Index of Relative Socio-Economic Advantage and Disadvantage.
2. HealthStats NSW data showing alcohol attributable deaths in the LGA for the period 2012-13 and alcohol attributable hospitalisations in the LGA for the period 2013-15.
3. Notice of determination issued by City of Sydney Council on 4 June 2014 approving development application D/2014/450 in relation to the Proposed Premises.
4. Submission from Transport NSW Roads & Maritime Services on 9 January 2017 in relation to the Application.
5. Submission from NSW Family & Community Services on 13 January 2017 in relation to the Application.
6. Submission from Aboriginal Affairs, Department of Education NSW, on 31 January 2017 in relation to the Application.
7. Plan of Management for the Proposed Premises dated April 2017.
8. Floor plan dated 27 April 2017 indicating the Proposed Premises' proposed liquor sales area.
9. Category B Community Impact Statement signed and dated 11 May 2017, with relevant supporting documents attached.
10. ASIC extracts dated 11 May 2017 for the Applicant and the owner of the Proposed Premises.
11. Submission from City of Sydney Council on 23 May 2017 in relation to the Application.
12. Submission from NSW Police on 30 May 2017 in relation to the Application, which followed an email from NSW Police to the Applicant on 17 January 2017.
13. Completed online application form dated 17 May 2017, accompanied by a copy of the local consent authority notice of the application and the public consultation site notice.
14. Three submissions from members of the public on 22 and 23 May 2017 in relation to the Application.
15. Submission from Aboriginal Housing Company Limited on 19 June 2017 in relation to the Application.
16. Submission from Drug Health Services, Sydney Local Health District, on 21 June 2017 in relation to the Application.
17. BOCSAR crime maps for the year to June 2017, indicating the location of the Proposed Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
18. NSW crime statistics for the two years to June 2017, published by BOCSAR, showing the counts, rates and two year trends of alcohol related assault (domestic and non-domestic) and malicious damage to property in Redfern and the LGA.
19. Liquor Licensing records from L&GNSW as at 28 August 2017 listing all packaged liquor licences in Redfern and the LGA.
20. Certifications of Advertising dated 26 and 29 September 2017, signed for the Applicant and the Applicant's representative.

21. The Applicant's response on 3 October 2017 to the submissions received, accompanied by additional supporting material.
22. Liquor licensing records from L&GNSW as at 13 October 2017 outlining the density of all types of liquor licences in Redfern, the LGA and NSW.
23. Google map images extracted from the Google website on 13 October 2017, showing the location and photos of the Proposed Premises in map view, earth view and street view.
24. An undated petition supporting the Application, featuring more than 1000 signatures according to the Applicant.