



Mr Mikhael Baimakov
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16 February 2018

Dear Mr Baimakov

Application No.	1-6131818357
Applicant	Rostrade Pty Ltd
Application for	Packaged Liquor Licence
Licence name	Rostrade Pty Ltd
Trading hours	Monday to Saturday 10:00 am – 7:00 pm Sunday 10:00 am – 5:00 pm
Premises	2/4 Homepride Avenue WARWICK FARM NSW 2170
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 – Rostrade Pty Ltd**

The Independent Liquor and Gaming Authority considered, at its meeting on 19 January 2018, the Applicant's application for a packaged 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 in the trading hours for this licence.
2. Restricted trading and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st Normal trading
3. The licensee or its representative must join and be an active participant in the local liquor accord.
4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. The premises is to be operated at all times in accordance with the Plan of Management dated 20 November 2017 as may be varied from time to time after consultation with NSW Police. A copy 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. Only alcoholic beverages imported from Latvia, Russia, Serbia, Armenia, Ukraine, Poland and Georgia may be sold or supplied at the licensed premises.
7. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:

- (a) the system must record continuously from opening time until one hour after the supermarket/general store is required to close,
 - (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 to the supermarket/general store, and
 - (ii) all publicly accessible areas (other than toilets) within the licensed premises.
- 2) The licensee must also:
- (a) keep all recordings made by the CCTV system for at least 30 days,
 - (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to 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
 - (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.

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

Trading on a Sunday that falls on 24 December

Please note that in the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 am.

If you have any questions, please contact the case manager at andrew.whitehead@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 22 June 2017, Rostrade Pty Ltd (“Applicant”) lodged an application (“Application”) with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor and Gaming Authority (“Authority”). The Application sought the granting of a packaged liquor licence (“Licence”) for the premises at 2/4 Homepride Avenue, Warwick Farm (“Premises”).
2. The Authority considered the Application at its meeting on 19 January 2018 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it, the legislative requirements under sections 3, 11A, 12, 29-31, 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 its 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”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
7. A list of the 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, needs and aspirations 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 harm associated with misuse and abuse of liquor, 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 before it.

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 on the material before it 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 Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods,
 - c) if the Licence were to be granted, liquor would be sold and supplied in a separate liquor sales area at the 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 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) practices would be in place from the commencement of licensed trading at the Premises to ensure the responsible serving of alcohol, having regard to the Plan of Management for the Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the notice of determination of the modification of development application DA-636/2014 in respect of the Premises, issued by Liverpool Council on 25 October 2017.

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 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 Warwick Farm, and the relevant “broader community” comprises Liverpool Local Government Area (“the LGA”).

Positive social impacts

25. The Authority accepts, on the available information, that the Applicant only intends to sell a unique range of liquor products imported from Eastern Europe to complement the imported food products sold at the Premises.
26. The Authority accepts that the proposed business model distinguishes the Premises from all existing liquor stores in the local and broader communities, and caters to the demand for imported liquor products among consumers with an Eastern European cultural background. The Authority notes the Applicant’s contention that some of the liquor products proposed to be sold at the Premises would be exclusive and not available anywhere else in Australia.
27. The Authority also notes that the density of packaged liquor licences in both Warwick Farms and the LGA is lower than the NSW state average.
28. On the basis of the above, the Authority finds that granting the Licence will benefit consumers in the local and broader communities, especially those with a preference for Eastern European food and beverages, through providing them with additional choices of liquor products, and access to imported liquor products that would not otherwise have been available.
29. Accordingly, the Authority is satisfied that granting the Licence would be in line with the expectations, needs and aspirations of the community, and contribute to the balanced and responsible development of the liquor industry.

Negative social impact

30. The Authority notes from the BOCSAR data that, for the year to September 2017:
- a) the Premises was:
 - i. located within low density hotspots for incidents of domestic assault and malicious damage to property,
 - ii. not located within any hotspots for alcohol related assault and non-domestic assault,
 - b) Warwick Farm recorded a slightly lower rate of alcohol related domestic assault, and higher rates of alcohol related non-domestic assault and malicious damage to property, in comparison with the NSW state average, and
 - c) the LGA recorded considerably lower rates of alcohol related assault (domestic and non-domestic) and malicious damage to property than the NSW state average.
31. The Authority also notes from the most recent HealthStats NSW data available at the time of its consideration that the LGA recorded a lower level of alcohol attributable deaths and hospitalisations compared to the corresponding NSW figure.
32. The Authority accepts that there may be a risk that if the Licence were to be granted, liquor sold or supplied at the Premises will, over time, contribute to an increase in alcohol related crime and health issues in the local and broader communities.
33. The Authority is nevertheless satisfied that the risk is adequately mitigated by the following:

- a) The liquor sales area within the Premises is relatively small in size (approximately 30 square metres within a delicatessen of 195 square metres).
- b) The liquor products sold at the Premises will be limited, as prescribed in the relevant licence condition, to products imported from seven Eastern European countries. The Authority accepts the Applicant's contention that the proposed business model mainly targets a specific group of consumers who have a preference for these imported liquor products, and is unlikely to have a wide social impact or result in high volume sales.
- c) The Premises will trade at reduced hours in comparison with the standard hours for packaged liquor licences, closing at 7 pm or earlier on all trading days. This will help to further reduce any adverse impact its operation may have on the amenity of the community.
- d) There were no objections from the key stakeholders consulted, such as NSW Police and NSW Health, or any members of the public.
- e) The Applicant has consented to all proposed licence conditions, such as the operation of a CCTV system, and committed to adhering to the measures set out in the Plan of Management to ensure the responsible serving of alcohol.

Overall social impact

34. The Authority has had regard to the ABS data indicating that as at 2011, Warwick Farm was among the most disadvantaged suburbs, and the LGA among the relatively advantaged Local Government Areas, in NSW on the Index of Relative Socio-economic Advantage and Disadvantage. The Authority notes that this data is seven years old and accepts that it may not fully reflect the current demographics of the local and broader communities.
35. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, 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.
36. Accordingly, the Authority has decided 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 considered by the Authority

1. ABS SEIFA data based on the 2011 Census for Warwick Farm 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. NSW Recorded Crime Statistics 2016 outlining the proportion of offences in the LGA by day of week and time of day.
4. Floor plan dated June 2016 indicating the proposed liquor sales area within the Premises.
5. Notice of determination issued by Liverpool City Council on 25 October 2016 approving the modification of development consent DA-636/2014 in relation to the Premises.
6. Submission from Gandangara Local Aboriginal Land Council on 14 February 2017 in relation to the Application.
7. Completed application dated 1 June 2017.
8. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 1 June 2017.
9. Completed Category B Community Impact Statement dated 1 August 2017.
10. Certification of Advertising signed and dated 1 August 2017.
11. BOCSAR crime maps for the year to September 2017, indicating the location of the Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
12. NSW crime statistics for the two years to September 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 Warwick Farm and the LGA.
13. Plan of Management for the Premises dated 20 November 2017.
14. Google map images extracted from the Google website on 22 November 2017, showing the location and photos of the Premises in map view, earth view and street view.
15. L&GNSW liquor licensing records as at 30 December 2017, outlining the density of all types of liquor licences in Warwick Farm, the LGA and NSW, and listing all packaged liquor licences in Warwick Farm and the LGA.
16. Additional undated information provided by the Applicant in support of the Application.
17. ASIC business records in relation to the Applicant.