



Mr Malcolm Higgs  
Gregmal Enterprises Unit Trust  
2/181 High Street  
North Willoughby NSW 2068  
25 October 2016

Dear Mr Higgs

**APPLICATION NO:** APP-0001728224  
**APPLICATION FOR:** New Packaged Liquor Licence  
**PROPOSED TRADING HOURS:** Monday to Saturday 10:00AM – 8:00PM  
Sunday 10:00AM – 7:00PM

**APPLICANT:** Mr Malcolm Higgs

**PROPOSED LICENSED  
PREMISES NAME:** The Drink Hive

**PREMISES LOCATION:** Shop 5, 61-71 Mentmore Ave, ROSEBERY,  
NSW 2018 (Premises)

**ISSUE:** Whether to grant or refuse an application for  
a new packaged liquor licence.

**LEGISLATION** Sections 3, 29, 30, 31, 40, 45, 48 *Liquor Act  
2007*

**INDEPENDENT LIQUOR AND GAMING AUTHORITY DECISION – APPLICATION FOR  
NEW PACKAGED LIQUOR LICENCE – THE DRINK HIVE, ROSEBERY**

The Independent Liquor and Gaming Authority considered the Application at its meeting on 28 September 2016 and, pursuant to section 45 of the *Liquor Act 2007* (Act), decided to **grant** the Application number APP-0001728224 subject to the following conditions:

- 1. Trading Hours**

Monday to Saturday	10:00AM – 8:00PM
Sunday	10:00AM – 7:00PM
- 2.** 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 4:00AM and 10:00AM 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.
- 3. Retail Sales**

Good Friday	Not permitted
December 24 <sup>th</sup>	Normal trading Monday to Saturday, 8:00AM – 10:00PM Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	Normal trading.
- 4.** The licensee or its representative must join and be an active participant in the local liquor accord.

5. 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 be reasonably expected from the information contained in the community impact statement, application and other information submitted in the process of obtaining this licence.
6. The business on the Premises shall be operated at all times in accordance with the Plan of Management dated 12 September 2016 as may be varied from time to time after consultation with the Local Area Commander.
7. The licence cannot be exercised unless and until the Independent Liquor & Gaming Authority has been provided with evidence that the premises are complete and ready to trade.
8. The licence cannot be exercised unless and until the Independent Liquor & Gaming Authority has been notified of the appointment of a manager to the licence.
9. CCTV surveillance cameras shall be strategically installed, operated and maintained throughout the premises with particular coverage to:
  - (i) principal entrances and exits
  - (ii) all areas within the premises occupied by the public excluding toilets
  - (iii) the area within a 10m radius external to the public entrances to the premises.

Suitable and clearly visible signage shall be displayed at the principal entrances to the premise and in a prominent position on each floor in lettering not less than 50mm in height with the words 'closed circuit television in use on these premises'.

All CCTV recording equipment and cameras shall be of high grade digital quality capable of establishing the population and identification of patrons, offenders and incidents within the depth of field view of the cameras. In this respect each surveillance camera shall be capable of recording a minimum rate of 5 frames per second and at high resolution.

CCTV recording discs or hard drive recordings shall be retained for 28 days before being re-used, destroyed or deleted. Time and date shall be auto recorded on the disc or hard drive. The CCTV recording equipment shall be capable of reproducing a CD, DVD, USB or other appropriate digital copy of recorded footage on demand of council or police either immediately or within 24 hours of the request being made.

All CCTV recording devices and cameras shall be checked daily to ensure the equipment is operating correctly. The Licensee shall record this daily checking activity in the security/incident register book that meets the standards required by the Licensing Police and Council. If it is discovered at any time that the equipment is not in full operating order all reasonable steps must be taken to repair the system as soon as practicable. Where the system shall not be functioning in full operating order for a period of longer than 24 hours the manager/licensee is to notify the relevant Local Area Commander or delegate.

If you have any enquiries about this letter please contact the case manager, Mr Kieran McSherry via email to [kieran.mcsherry@ilga.nsw.gov.au](mailto:kieran.mcsherry@ilga.nsw.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P Crawford', written in a cursive style.

Philip Crawford

**Chairperson**

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

## STATEMENT OF REASONS

### Material before the Authority

1. The following is a summary only of the material and submissions before the Independent Liquor and Gaming Authority (Authority) for the purposes of publication of a statement of reasons, as soon as practicable, in a high volume jurisdiction.
2. In making this decision, the Authority has considered the packaged liquor licence application filed on 29 March 2016 (Application), the accompanying community impact statement (CIS) and all submissions received in relation to the Application. As foreshadowed in Authority *Guideline 6*, the Authority has also had regard to relevant liquor licensing records and licence density data maintained by Liquor and Gaming NSW (LGNSW), Bureau of Crime Statistics and Research (BOCSAR) crime data and Australian Bureau of Statistics (ABS) socio-demographic data pertaining to the local and broader communities, sourced by licensing staff from publicly available sources. That material is listed and in some cases briefly summarised in the Schedule.

### Summary of Further Submissions

3. Submission from Senior Constable Philip Tucker from Redfern Police (Police) dated 2 May 2016. In this two-page submission Police advise “no objection” to the Application but seek the imposition of three conditions requiring that the business not exceed the social impact reasonably expected from the Application material, that trading hours not exceed be those specified on the Application and that CCTV cameras be “strategically installed” throughout the Premises.
4. Report to the Authority dated 14 September 2016 from Compliance Branch of the Office of Liquor and Gaming NSW (LGNSW) advising that the Application was assessed using the Environment and Venue Assessment Tool (EVAT). This means that LGNSW have not performed any specific assessment of the Application.
5. Submission from Mr David Smith City of Sydney Council (Council), dated 5 April 2016, advising no concerns with the Application, while noting that development application D/2015/1908 (DA) was approved 26 February 2016 permitting the use and fit out of the Premises to operate as a licensed bottle shop. The hours of use are restricted, for planning purposes, to between 9.00am to 8.00pm Monday to Saturday and between 10.00am and 7.00pm on Sunday.
6. Submission from Roads and Maritime Services (RMS) dated 20 October 2015 advising that during 2013 there were 29 alcohol-related crashes resulting in 16 casualties within the City of Sydney LGA. RMS does not object to the Application but recommends that the licensee must maintain awareness of alcohol-related issues by attending the liquor accord and that public education material be supported on the Premises.
7. The Authority notes information in the CIS that no response was received by the Applicant from the local Aboriginal community, the Department of Health, the Department of Community Services or from the occupier of any neighbouring premises.

8. Email submission from the Applicant dated 16 September 2016. In this one-page submission the Applicant advised that the products stocked will include premium wines, beers, ciders and spirits according to the needs of the local community. They will also carry a range of low alcohol and non-alcoholic wines and beers, as well as a range of soft drinks and water. The Applicant made comment on the responses, or lack thereof, during the CIS process.
9. Email submission from the Applicant dated 15 September 2016. In this one-page submission the Applicant contends that most of the usual risk factors of social harm attributable to this Application are low, that he has already attended a Local Liquor Accord meeting and will be participating in the Accord as soon as the licence is granted and notes the “other mitigating strategies” to be applied on the Premises as including an on-site security service provided by Centre Management and a CCTV system that will operate pursuant to the conditions of the DA and as recommended by NSW Police.
10. Email submission from the Applicant dated 14 September 2016. In this three-page submission the Applicant consents to the imposition of seven (7) conditions upon the licence, including those requested by Police and others proposed by licensing staff.
11. Attached to this submission is the Plan of Management dated 12 September 2016 and a copy of a *Directors History Schedule* issued by the Australian Securities and Investments Commission (ASIC) for GREGMAL ENTERPRISES PTY. LTD.
12. In the CIS the Applicant advised that the proposed licence will operate as one of nine retail shops located within this converted warehouse building on Mentmore Ave, Rosebery. This small local shopping precinct, known as “Saporium”, will have a mix of retail within the building. The Applicant submits that the centre will have a “local community” feel about it - something like a “village marketplace”.
13. The Applicant does not believe that the new licence will have any negative impact upon the local community as it will be operating within this “Saporium” building and not be visible from any local residences. The business will cease trading at 8pm and the Applicant submits that it is unlikely to contribute to any late night anti-social behaviour for that reason. The only people attending the Premises will be those looking to purchase alcohol for consumption away from the Premises. The Applicant will be providing a service for those members of the local community who visit this new shopping precinct and may expect to purchase liquor at the same time as their other shopping needs.
14. The Applicant contends that as a responsible liquor store operator with over 40 years’ experience, he will run the business utilising a range of proactive strategies to ensure there is no negative impact on the local community. This includes ID25, the industry's own “age checking” protocol whereby all customers who look 25 years of age or under will be asked to produce identification. Intoxicated persons will not be served and staff will be trained to identify signs of intoxication and how to handle refusing service.
15. The CIS identifies no relevant nearby sensitive facilities as likely to be negatively impacted on by the proposed premises.

## Legislative Framework

16. The legal requirements for the making of a valid application for a liquor licence are provided by section 40 of the *Liquor Act 2007* and the *Liquor Regulations 2008* (Liquor Regulations). The power to grant an application for a new liquor licence is provided by section 45 of the Act.
17. Any person exercising functions under the Act must also have regard to the objects and considerations set out in section 3 of the Act which states:
  - (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 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.*
18. Section 48(5) of the Act requires the Authority, in certain circumstances, to consider a CIS (as well as any other matter the Authority is made aware of during the application process) in order to ensure that the overall impact of the licence, authorisation or approval being considered will not be detrimental to the local or broader community.
19. An application for a new packaged liquor licence is a “relevant application” within the meaning of section 48(2) of the Act for which a CIS is required.
20. Section 48(5) of the Act requires that the Authority must not grant an application unless satisfied that “the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community”.
21. For the purposes of this decision and consistent with its longstanding practice and its position in *Guideline 6*, the Authority is satisfied that the relevant “local community” is the community within the State suburb of Rosebery.
22. Consistent with the Authority’s long standing policy to find that the broader community comprises the relevant local government area, the Authority is satisfied that the broader community is, at the time of this decision, the area of the City of Sydney Council.

## Analysis of Relevant Facts

23. The Authority is satisfied, on the basis of the Application and CIS material before it, that for the purposes of Section 40 of the Act, the Application has been validly

made and minimum procedural requirements with regard to the Application, CIS and community consultation have been satisfied.

24. The Authority is satisfied, for the purposes of section 45(3)(a) of the Act, that the Applicant is a fit and proper person to carry on the business of a packaged liquor licensed venue of the kind proposed in the Application material. The Authority notes that no probity issues were raised with regard to the Applicant following consultation with law enforcement agencies, including Police and LGNSW.
25. The Authority is satisfied, for the purposes of section 45(3)(b) of the Act, that responsible service of alcohol practices will be in place with the commencement of licensed trading. This finding is made on the basis of the *House Policy and Management Plan* dated 12 September 2016.
26. The Authority is satisfied, for the purposes of section 45(3)(c) of the Act, that the proposed use of the Premises falls within the scope of development consent. This finding is made on the basis of the Development Application No D/2015/1908 issued by City of Sydney on 26 February 2016.

### **Social Impact – Positive Benefits**

27. The Authority is satisfied, on the basis of the Application, CIS and additional material supplied by the Applicant that granting the licence will provide some benefit to those members of the local and broader community who wish to conveniently purchase liquor products when shopping at this new, boutique retail centre.
28. The Authority accepts that the Applicant has notified stakeholders and neighbouring premises and did not receive any adverse comments or complaints.
29. On this basis, the Authority is satisfied that granting this Application is consistent with the “expectations, needs and aspirations of the community” in respect of the local community of Rosebery, being an object of section 3(1)(a) of the Act.
30. The Authority is satisfied, on the basis of the CIS and additional material supplied by the Applicant, that the packaged liquor facility, one of nine retail shops inside a converted warehouse building, by providing a range of premium wines, beers, ciders and spirits in addition to a range of low alcoholic and non-alcoholic wines and beers will increase awareness, choice and availability to shoppers and in this sense may reasonably develop, in the public interest, the liquor industry serving the local and broader community, for the purposes of section 3(1)(b) of the Act.

### **Social Impact – Negative Impacts**

31. Having reviewed all of the material before it, the Authority considers that over time there is a risk that liquor sold from this new licensed business will contribute to the prevailing levels of alcohol related crime, disturbance or adverse impact upon amenity in the local and broader communities from a minority of customers who abuse packaged liquor.

32. While the trading hours are reasonably extensive, the business will not trade after 8:00 pm, reducing the capacity of the Premises to contribute to adverse impacts on local amenity later in the evening on higher risk weekend days.
33. The Authority notes, on the basis of the plan of the Premises, that the licensed area will occupy 95.43 square metres. This is similar in size to many standard packaged liquor outlets.
34. When considering the cumulative impact of adding another licence, LGNSW liquor licence density data satisfies the Authority that the City of Sydney LGA has lower rates of *packaged liquor licences*, *registered club licences* and *full hotel licences* per 100,000 persons compared to New South Wales as a whole. The Authority notes, on the basis of LGNSW liquor licensing records, that the suburb of Rosebery currently has 2 packaged liquor licences, 1 registered club licence and 1 full hotel licence. The Authority does not consider that prevailing licence density *per se* gives rise to any particular cause for concern.
35. The BOCSAR *Report on Crime by LGA and Alcohol Related Status* for July 2010 to June 2015 records that the City of Sydney LGA had rates of *alcohol related domestic violence assault above* the rate for New South Wales as a whole while the alcohol related non-domestic assault rate was substantially above the State wide rate.
36. While the Sydney City crime data is problematic, this business will be located away from the CBD in Rosebery and the likely impact of this business upon the broader community will be more diffuse given its location and the great many licensed premises serving that community, including those in more problematic parts of the City.
37. At the local community level, the BOCSAR Crime Maps between July 2015 and June 2016 indicate that the Premises is located outside of the suburb hotspots for incidents of domestic assault, non-domestic assault and malicious damage to property.
38. The Authority notes that Police do not oppose the Application on the basis of recommended conditions to which the Applicant consents. There is no evidence of prevailing localised packaged liquor related impacts in the local community or the area in which the new licence will operate.
39. The Authority is further satisfied, on the basis of the ABS SEIFA data, that both the suburb of Rosebery and the City of Sydney LGA are relatively advantaged compared to other local government areas and State suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage, with Rosebery ranked in the 7<sup>th</sup> decile on the Index and City of Sydney ranked in the 9<sup>th</sup> decile (with a decile ranking of 10 being the most advantaged)
40. When assessing scope for negative impacts the Authority has also had regard to the reasonably detailed harm minimisation measures set out in the *Management Plan* dated 12 September 2016, the licence conditions to which the Applicant has consented, the additional harm minimisation measures such as CCTV and the location of the business in a boutique retail centre without a street-facing profile.



## Conclusion

41. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding the decision whether or not to grant the Application, as 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 interested parties include NSW Police, the Applicant, Council, RMS, neighbouring occupiers, NSW Health and Department of Community Services and all other parties required to be consulted under the legislation.
42. Having considered together the positive benefits and negative impacts that the Authority is satisfied are likely to flow from granting the Application, the Authority is satisfied for the purposes of section 48(5) of the Act that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
43. The Application is granted pursuant to section 45 of the Act.
44. In making this decision the Authority has had regard to all of the statutory objects prescribed by section 3(1) of the Act and all of the considerations to which it must have regard under section 3(2) – including (a) the need to minimise harm associated with misuse and abuse of liquor (including 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; and (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.

Decision Date: 28 September 2016



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.justice.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. Application Form lodged on 29 March 2016.
2. Notices of the Application sent to various public agencies and other stakeholders.
3. CIS document and supporting material dated 29 March 2016.
4. Additional Information about the Application and CIS dated 29 March 2016. In this 18-page document, the Applicant provides information about the Application, the location of the Premises, manner of operation and facilities to be provided, suitability of the site for a packaged liquor facility, responsible service of liquor, access to liquor by minors, position with Council, completion of the Premises, positive benefits of granting the Application, conditions to be imposed on the licence, the proposed 6-hour closure period, the location of nearby community buildings, facilities and places, notification of stakeholders and issues raised during consultation.
5. The Applicant also discusses (by apparent reference to the social impact factors identified in Authority *Guideline 6*) the type, scale, hours of the Premises, along with measures to be implemented to reduce the potential for alcohol related harms and submits that there will be no adverse impact to the area.
6. Applicant *Management Plan* for the proposed business dated 12 September 2016.
7. Development Application No. D/2015/1908 issued by City of Sydney Council on 26 February 2016 for the use and fit out of a new commercial premises as a licensed bottle shop.
8. Plan or diagram of the Premises highlighting in pink the proposed licensed area and separate plan of the licensed area (attached to DA D/2015/1908 dated 26 February 2016).
9. Google geographical maps depicting an aerial view of the location of the Premises.
10. BOCSAR Crime Maps based upon data from July 2015 to June 2016 detailing hotspots for the concentration of offences near the location indicating that the Premises:
  - (a) Is located outside a *high density hotspot* for incidents of *domestic assault*
  - (b) Is located outside a *high density hotspot* for incidents of *non-domestic assault*
  - (c) Is located outside a *high density hotspot* for incidents of *malicious damage to property*.
11. Liquor licensing records from LGNSW indicating that the suburb of Rosebery already has 1 registered club licence, 1 full hotel licence and 2 packaged liquor licences.
12. Liquor licence density data from LGNSW indicating that the City of Sydney LGA as a whole recorded:

- (a) A rate of **7.67** *packaged liquor licences* per 100,000 persons, which is substantially below the NSW state wide rate of **32.85**.
  - (b) A rate of **2.95** *registered club licences* per 100,000 persons, which is well below the NSW state wide rate of **20.48**.
  - (c) A rate of **5.90** *full hotel licences* per 100,000 persons, which is substantially below the NSW state wide rate of **30.36**.
13. BOCSAR Report on *Crime by Local Government Area and Alcohol Related Status* for July 2010- June 2015.
  14. ABS SEIFA data prepared on the basis of the 2011 Census indicating that the State suburb of Rosebery ranked in the 7<sup>th</sup> decile and the City of Sydney LGA ranked in the 9<sup>th</sup> decile compared to other local government areas and state suburbs in NSW on the Index of Relative Socio-Economic Advantage and Disadvantage (with a decile ranking of 10 being the most advantaged).
  15. Submission from Senior Constable Philip Tucker from the Redfern Police Licensing Office of NSW Police dated 2 May 2016.
  16. Report to the Authority dated 16 September 2016 from the Compliance Branch of the Office of LGNSW.
  17. Submission from Mr David Smith, City of Sydney (Council), dated 5 April 2016.
  18. Email submission from the Applicant dated 16 September 2016. The Applicant advised the range of products that will be stocked and provided comment on the responses, and lack thereof, to the Community Impact Statement.
  19. Email submission from the Applicant dated 15 September 2016. The Applicant provided comment on the risk factors, advised he will be joining and participating in the Local Liquor Accord, commented on mitigating strategies that apply to a Packaged Liquor Licence and undertook to install, operate and maintain a CCTV system according to the conditions of the DA and NSW Police in their report on the application.
  20. Email submission from the Applicant dated 14 September 2016 in which the Applicant consents to the imposition of seven conditions upon the licence (including those requested by Police).