

Mr Bruce Bulford
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20 September 2018

Dear Mr Bulford,

Application No. 1-6623922024
Applicant Mr David Richard Owens
Application for Packaged liquor licence
Licence name George's Cellar & Store
Trading hours Monday to Sunday 10:00 AM – 8:00 PM
Premises Shop 14, 10-16 Bream Street
COOGEE NSW 2034
Legislation Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the *Liquor Act 2007*

**Decision of the Independent Liquor and Gaming Authority
Application for a packaged liquor licence – George's Cellar & Store**

The Independent Liquor and Gaming Authority considered, at its meeting on 18 July 2018, the Application above and, pursuant to section 45 of the *Liquor Act 2007*, has decided to **approve** the Application 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 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.
4. The premises is to be operated at all times in accordance with the Plan of Management and House Policy dated December 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.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("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,
 - (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, 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.
7. No alcohol other than wine may be displayed in the basement level of the licensed premises. For the purposes of this condition:
- (a) "wine" includes still, sparkling, and fortified wines, as well as cider, perry or mead.

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.

Licence cannot be exercised until premises is ready to trade

Please note that the licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been provided with evidence that the premises is complete and ready to trade.

If you have any questions, please contact the case manager
at danielle.hatton@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 4 January 2018, Mr David Richard Owens ("Applicant") lodged with Liquor & Gaming NSW ("L&GNSW"), for determination by the Independent Liquor and Gaming Authority ("Authority"), an application ('Application') for a packaged liquor licence ('Licence') for the premises at Shop 14, 10-16 Bream Street, Coogee ('Premises').
2. The Authority considered the Application at its meeting on 18 July 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 in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and
- d) sections 30 and 31 of the Act do not apply to the Application, as the Premises is not intended to operate as is contemplated by the sections.

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 and House Policy 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 Development Application No. DA/91/2011 in respect of the Premises, issued by Randwick City Council on 14 April 2011, and subsequent Complying Development Certificate No. 173554, issued by City Plan Services Pty Ltd on 5 March 2018.

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 Coogee, and the relevant “broader community” comprises Randwick Local Government Area (“the LGA”).

Positive social impacts

25. The Authority notes that the Premises is located amongst a small cluster of neighbourhood shops in a predominantly residential part of Coogee. The Authority notes that the Premises comprises of two levels: the main store area at ground level, and a basement level featuring an extensive wine cellar. The ground floor, in addition to liquor, will also carry a supplementary range of grocery items.
26. The Authority accepts the Applicant’s contention that the Premises will provide convenience shopping for residents living nearby, who will be able to satisfy their liquor and basic grocery needs locally without requiring special trips further afield, as well as increased choice.
27. The Authority acknowledges that the Applicant is an experienced licensee, having previously been the licensee or manager of three packaged liquor licences and one hotel liquor licence.
28. The Authority acknowledges that the Applicant had organised two surveys with a combined total of 169 participants, the vast majority of who supported the proposal. The Authority is satisfied that there is some level of community support for the proposal.
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.

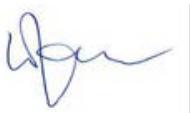
Negative social impact

30. The Authority accepts that the density of packaged liquor licences per 100,000 of population in Coogee is higher than the corresponding NSW figure, however concedes that the LGA has a lower than average density of packaged liquor licences. The Authority also concedes that both Coogee and the LGA have a lower than average density of hotel liquor licences.
31. The Authority notes from the BOCSAR Crime Maps for the year ending December 2017 that the Premises is located in a high-density hotspot for incidents of domestic assault, and in a medium-density hotspot for incidents of malicious damage to property.
32. The Authority notes from the BOCSAR data that, for the two years to December 2017:
 - a) the rates of incidents of alcohol-related domestic and non-domestic assault, and malicious damage to property were lower for the LGA compared to NSW;
 - b) the rate of incidents of alcohol-related domestic assault in Coogee fell by 44% from 2016 to 2017, bringing it below the NSW state average;
 - c) the rates of incidents of alcohol-related non-domestic assault and disorderly conduct (offensive conduct) were significantly higher in Coogee compared to the NSW state average; and
 - d) the rate of incidents of malicious damage to property was significantly lower in Coogee compared to the NSW state average.

33. The Authority also notes from the most recent HealthStats NSW data available at the time of its consideration that the LGA recorded a higher level of alcohol attributable hospitalisations and a lower level of alcohol attributable deaths compared to the corresponding NSW figures.
34. The Authority has considered submissions received from NSW Police Force, Randwick City Council, and L&GNSW Compliance, in which concerns were raised regarding the increased density of packaged liquor licences in the local and broader communities, and the potential corresponding increase in alcohol-related harm and public drinking, as well as potential amenity impacts.
35. The Authority has also considered three submissions that were received from local residents, in which concerns were raised regarding amenity impacts, density of packaged liquor licences in the local and broader community, and the proximity of the Premises to a children's playground.
36. The Authority has considered the Applicant's response, which noted that Coogee and the LGA are popular tourist destinations, accounting for the high density of licensed outlets. The Applicant also noted that BOCSAR maps illustrate that violent conduct in Coogee is largely confined to the beachfront and main shopping strip, almost a kilometre in distance from the Premises.
37. The Authority acknowledges the Applicant's contention that density statistics for Coogee appear skewed, due to four of the six existing packaged liquor licences being restricted to online sales only, however the Authority notes that the same limitations also exist in respect of an unknown number of the many packaged liquor licences located across NSW, and are not accounted for in the calculation of the density of packaged liquor licences per 100,000 of the state's population.
38. Whilst, as noted above, there is evidence of some alcohol-related health harms in the local and broader communities, the Authority considers these indicators of vulnerability to be mitigated by the relatively small size of the Premises, measuring 88m², the Applicant's experience in managing licensed premises, the imposition of special licence conditions, and by the Applicant's adherence to the measures stipulated in its Plan of Management document.

Overall social impact

39. The Authority has had regard to the ABS data available at the time of its decision that as at 2011, Coogee was among the most advantaged suburbs, and the LGA among the most 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 does not draw any specific inferences from it, other than to note that it does not raise any apparent concerns.
40. 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.
41. 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.
42. 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/lnga/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 Coogee 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 2017 outlining the proportion of offences in the LGA by day of week and time of day.
4. Premises plan dated 2 November 2017 for the Premises.
5. ASIC Current Organisation Extract in relation to the business owner, dated 20 November 2017.
6. Submission from Roads & Maritime Services dated 21 November 2017 in relation to the Application.
7. Completed Category B Community Impact Statement dated 20 December 2017.
8. NSW crime statistics for the two years to December 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 Coogee and the LGA.
9. Plan of Management and House Policy for the Premises, dated December 2017.
10. Public submission dated 4 January 2018 in relation to the Application.
11. Completed application dated 4 January 2018.
12. Copy of the public consultation site notice, police notice and local consent authority notice signed by the Applicant on 4 January 2018.
13. NSW National Police Certificate in relation to the Applicant, issued 5 January 2018.
14. Public submission dated 20 January 2018 in relation to the Application.
15. Submission from Randwick City Council dated 24 January 2018 in relation to the Application.
16. Public submission dated 26 January 2018 in relation to the Application.
17. Certification of Advertising Application, signed and dated 6 February 2018.
18. Submission from NSW Police Force dated 15 February 2018 in relation to the Application.
19. Notice of Determination of Development Application No. DA/91/2011, issued by Randwick City Council on 14 April 2011, and subsequent Complying Development Certificate No. 173554, issued by City Plan Services Pty Ltd on 5 March 2018.
20. Google map images extracted from the Google website on 14 May 2018, showing the location and photos of the Premises in map view, earth view and street view.
21. Submission from L&GNSW Compliance dated 16 May 2018 in relation to the Application.
22. L&GNSW liquor licensing records as at 20 May 2018, outlining the density of all types of liquor licences in Coogee, the LGA and NSW, and listing all packaged liquor licences in Coogee and the LGA.
23. HealthStats NSW report in relation to the LGA, extracted 21 May 2018.
24. Correspondence between L&GNSW staff and the Applicant between 8 May 2018 and 3 July 2018 in relation to the assessment of the Application.
25. Report to Liquor and Gaming NSW prepared by Design Collaborative Pty Limited, dated May 2018.
26. Email correspondence from Randwick City Council, dated 22 June 2018.