



Ms Nicole Beath
JDK Legal
by email to: n.beath@jdklegal.com.au

8 November 2022

Dear Ms Beath

Application No.	1-8239967211
Application date	28 March 2022
Applicant	Duncan Campbell Cozens
Application for	Removal – package liquor licence
Licence name	Red Bottle Ultimo
Proposed trading hours	<u>Retail</u> Monday to Saturday 09:00 AM – 10:00 PM Sunday 10:00 AM – 08:00 PM
Current trading hours	<u>Retail</u> Monday to Saturday 05:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
Proposed premises	Lower Ground Floor, 1-7 Castlereagh Street, Sydney NSW 2000
Current premises	66 Bay St ULTIMO NSW 2007
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45, 48 and 59 of the Liquor Act 2007

**Decision of the Independent Liquor & Gaming Authority
Application for a removal – package liquor licence – Red Bottle Ultimo**

The Independent Liquor & Gaming Authority considered the application above and decided on 13 October to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Trading on a Sunday that falls on 24 December

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 09:00 AM.

Concise statement of reasons

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

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager Zof El Hussein
zof.el.husseini@liquorandgaming.nsw.gov.au

Yours faithfully



Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Concise statement of reasons

Key facts

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Current premises	66 Bay St ULTIMO NSW 2007
Decision	Approved under section 45 of the Liquor Act 2007
Decision date	13 October 2022

Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application.
- Category B community impact statement.
- Premises plan setting out the proposed boundaries of the licensed premises and any applicable authorisations.
- Plan of management for the licensed business at the premises.
- Development consent for the premises.
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 29-31: Specific provisions in respect of a packaged liquor licence.
- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.

- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Sydney, and the broader community is the Local Government Area of Sydney.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of increased convenience and choice.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the following:

- the proposed premises is located in high-density hotspots for incidents of domestic assault, non-domestic assault, and alcohol-related assault in the suburb and a medium density hotspot for incidents of malicious damage to property;
- there is a higher liquor licence saturation in the suburb compared to the NSW average;
- there are higher crime rates in the suburb and LGA compared to the NSW average, and
- there are higher rates of alcohol-attributable hospitalisations and deaths in the LGA compared to the NSW average.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- relatively moderate licensed trading hours;
- absence of any objections from agency stakeholders or members of the community;
- the outlet density for the suburb will not increase with this removal;
- experience of the applicant as an operator of multiple licensed premises with sound compliance records, and
- the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitates the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.

Yours faithfully



Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Schedule 1 – Licence conditions to be imposed Red Bottle Ultimo

6-hour closure

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 six (6) hours between 3:00 AM and 9:00 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.

Retail sales

- | | |
|---------------------------|--|
| 2. Good Friday | Not permitted |
| December 24 th | Normal trading Monday to Saturday
8:00 AM to 12 midnight Sunday |
| Christmas Day | Not permitted |
| December 31 st | Normal trading |

Restricted trading on public holidays

3. The sale and supply of liquor at the licensed premises must not commence before 10:00 AM and must cease by 8:00 PM on public holidays, and customers must not be permitted to access the liquor sales area outside those hours.

Social impact

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 removing this licence to the premises at Lower Ground Floor, 1-7 Castlereagh Street, Sydney, NSW 2000.

Liquor Accord

5. The licensee or its representative must join and be an active participant in the local liquor accord.

Plan of management

6. The premises is to be operated at all times in accordance with the Plan of Management dated March 2022 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.

Crime scene preservation

7. Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:
 - 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
 - 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
 - 3) make direct and personal contact with NSW Police to advise it of the incident, and
 - 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.
 - 5) In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g. crowd controller or bouncer) on or about the premises.

Incident register

8. Incident register
 - 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident:

- (a) any incident involving violence or anti-social behaviour occurring on the premises,
 - (b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises,
 - (c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,
 - (d) any incident that results in a patron of the premises requiring medical assistance.
- 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
- (a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and
 - (b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises.
- 3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

CCTV

9. Closed-circuit television system

- 2) 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 ten (10) 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 premises.
- 3) 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.