



Ms Margaret Gosper

By email to: marg@gosperrawlings.com.au

10 February 2023

Dear Ms Gosper

Application No.	APP-0010457763
Applicant	BAR & RESTAURANT SOLUTIONS PTY LTD
Application for	New package liquor licence (delivery only)
Licence name	Rustic French
Trading hours	<u>Retail</u> Monday to Saturday 10:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM
Premises	Karovel House, 92 Pitt Street, Sydney, NSW 2000
Legislation	Sections 3, 11, 12, 29, 30, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a new packaged liquor licence (delivery only) – Rustic French**

The Independent Liquor & Gaming Authority considered the application above and decided on 18 January 2023 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 10:00 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, Leonie Jennings, at leonie.jennings@liquorandgaming.nsw.gov.au.

Yours faithfully



Caroline Lamb

Chairperson

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

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 & Gaming NSW website](#) 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](#).

Concise statement of reasons

Key facts

Application No.	APP-0010457763
Applicant	BAR & RESTAURANT SOLUTIONS PTY LTD
Application for	New package liquor licence (delivery only)
Licence name	Rustic French
Premises	Karovel House, 92 Pitt Street, Sydney, NSW 2000
Trading hours	<u>Retail</u> Monday to Saturday 10:00 AM – 12:00 Midnight Sunday 10:00 AM – 10:00 PM
Application date	21 August 2022
Decision	Approved under section 45 of the <i>Liquor Act 2007</i>
Decision date	18 January 2023

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 A 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: 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.

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 choice by providing the purchase of French products via online sales.

The business will not provide a same-day liquor delivery service. The applicant has noted in their plan of management that they will consult with police and update the plan of management if they plan to provide same-day delivery in the future. Delivery will take place within the Sydney CBD, Eastern suburbs, Inner West, Southern suburbs, and North Shore providing the convenience of online shopping for customers.

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 premises is located in the cumulative impact area – 3 Wynyard Station and surrounds;
- the premises is located within a high-density hotspot for incidents relating to all four crime categories the Authority considers;
- there are higher incident rates in the Sydney suburb compared to NSW across all four crime categories the Authority considers;
- there is a higher saturation of packaged liquor licences in the Sydney suburb compared to NSW, and
- there is a higher rate of alcohol-attributable hospitalisation in the Sydney LGA compared to NSW.

Noting that the business model is for delivery-only across NSW, the Authority also accepts that the proposal may contribute to alcohol-related harm in other areas of the State.

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

- absence of any objections from agency stakeholders or members of the community;
- Heath data indicates an above average level of relative socio-economic advantage and disadvantage in both the Sydney suburb and Sydney LGA;
- there are lower rates of alcohol-attributable death rates in the Sydney LGA compared to NSW;
- the business does not propose a same-day delivery service;

- the applicant has consented to the specialised liquor condition, restricting liquor sales to products produced in France, and
- the delivery-only business model and 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 facilitate 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



Caroline Lamb

Chairperson

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

Schedule 1 – Licence conditions to be imposed Rustic French

1. 6-hour closure

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 04:00 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. Retail Sales

Good Friday	Not permitted
December 24th	Normal trading Monday to Saturday, 8:00 AM to 12 midnight Sunday
Christmas Day	Not permitted
December 31st	Normal trading Monday to Saturday, 10:00AM to 12:00 midnight on a Sunday

3. Social impact

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. Plan of management

The premises is to be operated at all times in accordance with the Plan of Management dated 9 December 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.

5. Liquor Accord

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

6. No walk-up sales

Limited to the sale of liquor only by means of taking orders over the telephone or by facsimile or mail order, or through an Internet site.

7. Liquor storage

No liquor products for sale under this licence are to be delivered to, or stored at, the licensed premises.

8. No tastings

The licensee must ensure that no tastings are conducted on the premises.

9. No advertising

No advertising or promotional material relating to alcohol is to be displayed outside the licensed premises.

10. No same day deliveries

Alcohol is not permitted to be delivered to a customer (other than a person authorised to sell liquor) on the same business day as the order is placed.

11. Specialised liquor products

- 1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business ("Business"), except as provided by clause 2:
 - a) liquor products produced in France
- 2) Other complementary liquor products, provided that those other products do not exceed more than 10% of the total product lines or 10% of the total products stocked on the premises at any one time, are also permitted. For liquor products available for sale under this sub-clause, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds.
- 3) The licensee must ensure that a list of the product lines and products stocked by the Business at any one time is kept at the premises and made available for inspection on the request of a police officer, Liquor & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
- 4) For every liquor product that is available for sale, the licensee must maintain and make available for inspection on the premises documentation from the supplier confirming the location of production, and/or that the product meets the relevant definition specified in this condition.