



Mr Shane Yasserie
By email to: contact@thecnrcellars.com.au

7 December 2023

Dear Mr Yasserie

Application No.	APP-0009729422
Applicant	THE CNR CELLARS PTY LTD
Application for	Packaged liquor licence
Date of decision	19 September 2022
Licence name	The Cnr Cellars
Trading hours	Monday to Saturday 10:00 AM – 08:00 PM Sunday 10:00 AM – 04:00 PM
Premises	110 Coonong Road, Gymea Bay NSW 2227
Legislation	Sections 3, 11A, 12, 29-31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – The Cnr Cellars**

We **approve** the application under section 45 of the *Liquor Act 2007* - with the conditions set out in Schedule 1. Preliminary advice of this decision was provided on 7 November 2022.

Trading on a Sunday that falls on 24 December

If a Sunday 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. Due to the 6-hour closure period for the licence, the premises must not trade earlier than 10:00 AM.

Statement of reasons

Overall, we are satisfied that the social impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application meets the Act's requirements for procedural fairness and trading period
- the sale of liquor would comply with the licence's authorisation
- sections 30 and 31 of the Act don't apply to this application.

The Community Impact Statement (CIS) meets the relevant requirements.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as law enforcement agencies raised no concerns about their integrity.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

Development consent requirements

The necessary development consent is in force. Sutherland Shire Council approved the development application DA22/0228 for the premises on 9 August 2022.

Community impact

Local and broader communities

The relevant 'local community' is the community in the suburb of Gymea Ba, and the relevant 'broader community' comprises the Local Government Area of Sutherland Shire.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Gymea Bay shows:

- there are 5 authorised liquor licenses
- saturation of packaged liquor licences in Gymea Bay is lower compared to both the Sutherland Shire LGA and all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to March 2022:

- the premises was located close to hotspots for incidents of alcohol-related domestic assault and malicious damage to property in areas that are likely to be serviced by the licence
- crime rates for all categories considered by the Authority was lower in Gymea Bay compared to both the Sutherland Shire LGA and all of NSW.

Alcohol-related health data (per 100,000 residents)

HealthStats NSW data available show that between 2018-2020:

- alcohol-related deaths in the Sutherland Shire LGA were lower compared to the NSW average
- alcohol-related hospitalisations in the Sutherland Shire LGA were higher compared to the NSW average.

ABS Socio-Economic Index for Areas (SEIFA)

SEIFA data as at 2016 shows that Gymea Bay and the Sutherland Shire LGA were relatively advantaged in terms of household income and residents in skilled occupations, compared to other suburbs and LGAs in NSW.

Business model

We note that the proposed business model involves the retail sale of packaged liquor on the premises for consumption away from the proposed premises.

Proposed benefits

The applicant proposes that there would be these benefits:

- boutique and craft liquor products will be made available to the local community with an aim to provide unique and hard to find wines at the request of customers

- this will reduce the need for the local community to depend on the major chain packaged liquor outlets elsewhere in the Sutherland Shire.

Stakeholder submissions

We considered the submissions from:

- Sutherland Shire Council, dated 16 August 2022, which does not object to the application but requests that a plan of management condition be imposed on the licence which includes reference to an incident register, crime scene preservation, CCTV and the implementation of an under 21 ID checking policy.
- NSW Police Force, dated 2 May 2022, which notes there is insufficient adverse data to argue that the application will be detrimental to the well-being of the local and broader community. Police also request that the plan of management include measures to address secondary supply.
- eight members of the public, between 16 March 2022 and 8 April 2022, who raise concerns regarding the likely increase to traffic and parking, pedestrians and noise levels, and potential for anti-social behaviour and alcohol-related crime. It is noted that one member of the public was in support of the application.

We also considered the applicant's submission in response, to these submissions, which notes that:

- the requests of NSW Police and the Sutherland Shire Council have been complied with
- there is an assumption that the local community who already frequent the shops will make use of the proposed premises and therefore increased traffic is unlikely.
- the staff and licensee will promote the Responsible Service of Alcohol and ensure that intoxicated customers are not served
- the proposed premises is for a small boutique retail outlet, specialising in unique products for the local community which will not encourage the irresponsible consumption of alcohol
- it is not expected to create a congregation spot or anti-social behaviour fuelled by alcohol given the proposed use.

Findings of concern

There is a risk that if the licence was granted, liquor sold from the premises will contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, and in other areas of the State.

However, we are satisfied that the risk is reduced by the:

- relatively small size of the area in which liquor will be sold or supplied
- lower than average liquor licence density in the local and or broader community (or both)
- crime rates in Gymea Bay for offences of concern being lower than comparable NSW averages
- harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1

The material we considered

We considered all the material we received about the application, including:

Application material

- Plan of Management documents for the Premises, titled PLAN OF MANAGEMENT and dated August 2022
- completed Category B Community Impact Statement dated 10 February 2022
- completed application dated 14 March 2022
- completed certification of advertising dated 14 March 2022
- ASIC business records in relation to the applicant and associated companies
- Floor plan for the Premises, indicating the proposed licensed area
- notice of determination issued by Sutherland Shire Council on 9 August 2022, approving the development application DA22/0228 for the Premises

Under [Guideline 6](#) we also considered data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material

- submissions received
- correspondence between L&GNSW staff and the applicant between 21 March 2022 and 7 September 2022 in relation to the assessment of the application
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

This decision will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you're not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to lodge the application.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney or visit the [NCAT website](#).

If you have any questions

Please contact the case manager, Leonie Jennings, at Leonie.Jennings@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Sarah Dinning

Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed The Cnr Cellars

No.	Condition to be imposed	Description				
1.	6-hour closure	Section 11A of the <i>Liquor Act 2007</i> 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.	Retail sales	<table><tr><td>Good Friday December 24th</td><td>Not permitted Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</td></tr><tr><td>Christmas Day December 31st</td><td>Not permitted Normal trading</td></tr></table>	Good Friday December 24th	Not permitted Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday	Christmas Day December 31st	Not permitted Normal trading
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Christmas Day December 31st	Not permitted Normal trading					
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 the licence.				
4.	Local liquor accord	The licensee or its representative must join and be an active participant in the local liquor accord.				
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated August 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.				
6.	CCTV	<div>1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises (“the premises”) in accordance with the following requirements:</div> <div><div>(a) the system must record continuously from opening time until one hour after the premises is required to close,</div><div>(b) recordings must be in digital format and at a minimum of ten (10) frames per second,</div><div>(c) any recorded image must specify the time and date of the recorded image,</div><div>(d) the system’s cameras must cover the following areas:<div><div>(i) all entry and exit points on the premises, and</div><div>(ii) all publicly accessible areas (other than toilets) within the premises.</div></div></div><div>2) The licensee must also:</div><div><div>(a) keep all recordings made by the CCTV system for at least 30 days,</div><div>(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</div><div>(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.</div></div></div>				

7.	Specialised liquor products	<ol style="list-style-type: none"> 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: <ol style="list-style-type: none"> (a) craft beer (b) craft cider (c) craft spirits (d) boutique wines (including sparkling wines and champagne) (e) organic and natural liquor products 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. <p><u>Definitions</u></p> <p>For the purposes of this condition:</p> <ol style="list-style-type: none"> 1) Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer: <ol style="list-style-type: none"> (a) which is located in Australia and produces less than 40 million litres of beer per annum, or located overseas and produces less than 6 million barrels of beer per annum; (b) where not more than 25 percent of the brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer; and (c) which will certify that the majority of its total beverage alcohol volume is in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers). 2) Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer: <ol style="list-style-type: none"> (a) which is located in Australia and produces less than 40 million litres of cider per annum, or located overseas and produces less than 6 million barrels of cider per annum; (b) where not more than 25 percent of the producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer; and (c) which will certify that the cider is made from liquid consisting only of juice (no concentrates). 3) Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are: <ol style="list-style-type: none"> (a) the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in the
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		<p>case of blended spirits, the product of an independently owned and operated facility that uses any combination of traditional and innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile; and</p> <p>(b) distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller.</p> <p>4) Boutique wine is defined as wine (other than sparkling wine or champagne) that is manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently owned (i.e. not owned by a larger wine company at the time wine is supplied to the Business).</p> <p>5) Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is not generally considered to be mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.</p> <p>6) Organic and natural liquor products are defined as:</p> <p>(a) Organic liquors (including organic wines) that bear a recognised organic certification logo;</p> <p>(b) Wine that is labelled or marketed as organic wine, and is produced from vineyards and farms that are farmed organically or to organic standards, typically with little or no additions in wine-making (whether or not the wine is certified as organic);</p> <p>(c) Wine that is labelled or marketed as natural wine, and is produced from vineyards that are farmed organically or bio-dynamically, and then produced with no additions (additives) in wine-making, including MegaPurple, tartaric acid, enzymes, malabugs, and bottled with lower levels of sulphur or without sulphur (preservative 220); and</p> <p>(d) Boutique wines that are marketed as organic, bio-dynamic or natural wines (including sparkling wine), and manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently-owned (ie not owned by a larger wine company at the time the licensee purchases wine wholesale from the supplier).</p>
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