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6 April 2020

Dear Mr Cusack,

<b>Application No.</b>	APP-0006354214
<b>Applicant</b>	Healesville Distilling Pty Ltd
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	Four Pillars Laboratory
<b>Premises</b>	Shop 4, 406-410 Crown Street Surry Hills NSW 2010
<b>Trading hours</b>	Monday to Sunday 10:00 AM – 9:59 PM
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor and Gaming Authority  
Application for a packaged liquor licence – Four Pillars Laboratory, Surry Hills**

The Independent Liquor and Gaming Authority (“Authority”) considered the application above, and decided on 11 March 2020 to **approve** the application under section 45 of the *Liquor Act 2007* (NSW), subject to imposing the conditions set out in Schedule 1 upon the licence.

**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 and Gaming NSW (“LGNSW”) has been provided with evidence that the premises is complete and ready to trade.

**Approved manager or individual licensee**

Please note that the licence cannot be exercised unless and until the Authority or LGNSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

**Concise statement of reasons**

A concise statement of reasons is enclosed with this letter. In the interest of efficient finalisation of matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications that are refused, partially approved or the subject of stakeholder objections.

A concise statement 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* (NSW). The document 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 [danielle.hatton@liquorandgaming.nsw.gov.au](mailto:danielle.hatton@liquorandgaming.nsw.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin black rectangular border.

Philip Crawford

**Chairperson**

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

## Concise Statement of Reasons

### Key facts

<b>Application No.</b>	APP-0006354214
<b>Applicant</b>	Healesville Distilling Pty Ltd
<b>Application for</b>	Packaged Liquor Licence
<b>Licence Name</b>	Four Pillars Laboratory
<b>Premises</b>	Shop 4, 406-410 Crown Street Surry Hills NSW 2010
<b>Trading Hours</b>	Monday to Sunday 10:00 AM to 9:59 PM
<b>Application Date</b>	23 October 2019
<b>Decision</b>	Approval of licence under section 45 of the <i>Liquor Act 2007</i>
<b>Decision Date</b>	11 March 2020

### Material considered by the Authority

The Independent Liquor and Gaming Authority (“Authority”) has considered the following material:

- Application material for the new packaged liquor licence lodged on 23 October 2019 (“Application”) accompanied by: Liquor and Gaming NSW (“LGNSW”) form TDEC5 titled *Declaration: liquor licence application by proposed licensee* signed by Mr Donald Gregor and Matthew Jones (directors of the corporate applicant) and dated 14 October 2019; evidence of notification to stakeholders mandated by legislation; Australian Securities and Investments Commission (“ASIC”) organisation extracts for Healesville Distilling Pty Ltd (“the Applicant”) and Osmal (Holdings) Pty Ltd (the premises owner); ASIC record of registration for business name “Four Pillars Laboratory”; Plan of Management dated May 2019 (and a plan/diagram of the premises (“Premises”)).
- Category B Community Impact Statement (“CIS”) signed (by what appears to be Mr Gregor’s signature) and dated 14 October 2019 accompanied by a list of stakeholders and special interest groups notified of the Application; a map depicting relevant alcohol restricted areas; a map depicting the area notified of the Application and a 12-page document providing additional information about the proposed new licensed business, prepared by the Applicant’s legal representative Hatzis Cusack Lawyers (“Hatzis Cusack”).
- Stakeholder submissions on the Application from: Leading Senior Constable Ping Liu of Surry Hills Police Area Command of NSW Police (“Police”) dated 20 November 2019; Compliance branch of LGNSW dated 19 December 2019; City of Sydney Council (“Council”) dated 23 October 2019, 25 October 2019, 28 October 2019 and 29 October 2019 (including correspondence from Milestone Town Planning dated 25 October 2019); NSW Roads and Maritime Services dated 22 July 2019 and NSW Aboriginal Affairs dated 19 July 2019. The Applicant’s response to these submissions was also before the Authority.
- Correspondence between licensing staff and the Applicant’s legal representative Hatzis Cusack between 28 February 2020 and 26 November 2019 including a two-page submission from the Applicant dated 28 February 2020; a two-page submission from the Applicant dated 18 February 2020 and a seventeen-page submission from the Applicant dated 13 January 2020.
- Certificates of Advertising signed by Mr Grant Cusack of Hatzis Cusack and Mr Cameron Mackenzie (a director of the corporate Applicant) dated 13 January 2020.
- An updated Plan of Management for the proposed licensed business dated February 2020.
- Updated diagram of the Premises highlighting the proposed licensed area and entry/exit points.
- Decision on application for development consent D/2019/1171 issued by Council on 3 January 2020 (“DA”) for use and fitout of shops 3 and 4 of the Premises address as a licensed small bar with ancillary distillery, packaged liquor retail shop, and education and training space including alterations to the existing shopfront and installation of signage.

- Decision of the Authority refusing an application to remove Porters Liquor Surry Hills dated 26 July 2018.
- Statistics sourced by licensing staff from LGNSW, Bureau of Crime Statistics and Research (“BOCSAR”), NSW Health and Australian Bureau of Statistics (“ABS”) in respect of the socio-economic status, liquor licence density, alcohol-related crime rates, and health issues in the relevant local and broader communities.

Google geographical maps depicting the location of the Premises.

### **Legislative requirements**

The Authority has considered the Application in the context of the following sections of the *Liquor Act 2007* (NSW) (“Act”) and the associated clauses of the *Liquor Regulation 2018* (NSW) (“Regulation”):

- 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 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 had regard to its *Guideline 6* and information noted therein when considering the overall social impact of approving the Application for the purposes of section 48(5) of the Act.

### **Key findings**

In accordance with Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Surry Hills, and the broader community is the Local Government Area of City of Sydney (“LGA”). Having regard to the material before it and the relevant legislative requirements, the Authority makes the following findings.

#### Key legislative requirements

The Authority finds that:

- The Application meets procedural and information requirements under sections 40 and 48(4) of the Act and clauses 20 through 29 of the Regulation on the basis of the Application and CIS material and the Certificates of Advertising dated 13 January 2020.
- The trading hours determined for the licence (agreed by the Applicant in its 13 January 2020 submission) and daily six-hour liquor cessation period meet the requirements of sections 11A, 12 and 29 of the Act in respect of potential trading hours for a business with this licence type.
- The corporate Applicant is a fit and proper person, for the purposes of section 45(3)(a) of the Act, noting the absence of any probity concerns raised in submissions from Police and LGNSW.
- Practices will be in place from the commencement of licensed trading on the Premises to ensure the responsible serving of alcohol and prevent intoxication for the purpose of sections 45(3)(b) of the Act, on the basis of the Plan of Management dated February 2020.
- The requisite development consent permitting the conduct of the relevant business or activity permitted by this licence type on the Premises is in force for the purpose of section 45(3)(c) of the Act. This finding is made on the basis of the DA issued by Council on 3 January 2020.

### Positive social impacts

The Authority accepts, as contended in the Applicant's 13 January 2020 submission that granting this licence will provide a "flagship" facility in NSW showcasing liquor products carrying the Four Pillars label that have been distilled in the Yarra Valley, Victoria. The licensed business will operate from the lower ground floor of the building with a separate small bar in the floor above.

The Authority notes that in addition to selling its own quality products, the Applicant proposes to run courses for small groups that will involve attendance at both licensed premises housed in the one building. The Authority accepts the Applicant's description of the business model as a "unique boutique facility" which will involve customers being able to learn more about the products and how they are made through educational programs and workshops.

Notwithstanding that the LGNSW list of licensed premises as at 14 January 2020 indicates that there are 18 packaged liquor outlets in the suburb of Surry Hills, the Authority considers that granting this licence will provide some additional convenience and choice to members of the local and broader community seeking to purchase specialist, quality craft liquor products, in particular those under the Four Pillars brand label.

Noting that no objections were received in response to this Application, the Authority is satisfied that granting the licence will advance the statutory object of regulating liquor in a manner consistent with the "expectations, needs and aspirations" of the local and broader community, for the purposes of section 3(1)(a) of the Act.

The specialist nature of the proposed business model will facilitate the balanced development of the industry advancing the statutory object in section 3(1)(b) of the Act. The Authority gives significant weight to this benefit.

In the absence of clear commitments regarding hiring policies or sufficient evidence modelling the predicted customer movements in relation to nearby businesses, the Authority has placed limited weight on the contended community benefits of increased employment and strengthening the viability of nearby businesses.

However the Authority is able to infer, on the information provided about the specialist nature of this business, that granting the licence may encourage some visitors to the area, which would contribute to the responsible development of the related tourism industry (advancing the statutory object in section 3(1)(c) of the Act). The Authority gives some weight to this benefit.

### Negative social impacts

The Authority accepts that the operation of a new packaged liquor licence may, over time, contribute to alcohol-related adverse social impacts affecting the local and broader communities. Having regard to the risk factors identified in Authority Guideline 6, the following factors are adverse to an assessment of the overall social impact of granting the Application:

- Licence density in the suburb and the LGA. As at 14 January 2020, licence density per 100,000 persons for packaged liquor stores in the suburb and LGA are already above the NSW average.
- The Premises is located within a local and broader community experiencing widespread concentrations of crime and elevated crime rates.
- The BOCSAR hotspot maps from October 2018 to September 2019 indicate that the Premises is located in high-density hotspots for incidents of alcohol-related assault, domestic assault, non-domestic assault and malicious damage to property.
- The suburb and LGA are exposed to elevated BOCSAR crime rates per 100,000 persons for the year to September 2019 for incidents of alcohol related domestic assault (205.0 for the suburb, 201.4 for

the LGA and 117.7 for NSW), alcohol related non-domestic assault (565.2 for the suburb, 603.2 for the LGA and 118.8 for NSW), malicious damage to property (1640.1 for the suburb, 1120.1 for the LGA and 727.9 for NSW) and alcohol-related disorderly conduct (offensive conduct) (299.2 for the suburb, 290.2 for the LGA and 35.0 for NSW).

- Alcohol attributable deaths in the LGA are slightly elevated with the NSW Healthstats data recording a higher spatially adjusted rate per 100,000 population (18.5) compared to NSW (17.4) for the period between 2016 and 2017.
- Alcohol attributable hospitalisations in the LGA are elevated with the NSW Healthstats data recording a higher spatially adjusted rate per 100,000 population (764.2) compared to NSW (555.6) for the period between 2016 and 2018.

The Authority is nevertheless satisfied that these risk factors are mitigated by the following factors pertaining to this proposal:

- The small scale and genuinely specialist nature of the licensed business, at some 30 square metres.
- Police expressly advise no objection to the Application.
- No adverse submissions or concerns as to local amenity were received from local residents or other stakeholders.
- The licence will be subject to a condition restricting the business to the sale of specialised liquor products. Substantial weight has been given to this factor.
- The licence will be subject to harm minimisation provisions set out in the *Plan of Management* dated February 2020, with the Plan enforceable by way of a licence condition.
- Socio-economic disadvantage is not a compounding risk factor. The suburb and LGA are both ranked in the highest decile (10<sup>th</sup> decile) on the Index of Relative Socio-Economic Advantage and Disadvantage.
- Sydney LGA is populated by a high number of tourists and workers in addition to residents.

### 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 granting the licence will not be detrimental to the well-being of the local or broader community for the purposes of section 48(5) of the Act.

Accordingly, the Authority grants the Application pursuant to section 45 of the Act.



Philip Crawford  
Chairperson

#### **Important Information:**

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* (NSW) 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 the New South Wales Civil and Administrative Tribunal ("NCAT") for an administrative review under the *Administrative Decisions Review Act 1997* (NSW).

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/independent-liquor-and-gaming-authority/ilga-and-l-and-gnsw-decisions> 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 1 – Licence conditions to be imposed Four Pillars Laboratory

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 24<sup>th</sup>    Normal trading Monday to Saturday  
8:00 AM to 10:00 PM Sunday  
Christmas Day    Not permitted  
December 31<sup>st</sup>    Normal trading
3. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being 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 dated **February 2020** 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. 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 to the premises, and
      - (ii) all publicly accessible areas (other than toilets) within the 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. 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 packaged under labels owned by the Business
  - 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.

- 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.

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 Act,
  - (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 inspector:
  - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
  - (b) allow a police officer or 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.