

Ms Nicole Beath

JDK Legal

By email to: [n.beath@jdklegal.com.au](mailto:n.beath@jdklegal.com.au)

16 November 2023

Dear Ms Beath

<b>Application No.</b>	1-8535651491
<b>Applicant</b>	LIQUORLAND (AUSTRALIA) PTY LTD
<b>Application for</b>	Removal – packaged liquor licence
<b>Current licence name</b>	Vintage Cellars
<b>Current trading hours</b>	Monday to Saturday 05:00 AM – 12:00 AM Sunday 10:00 AM – 10:00 PM
<b>Current premises</b>	C21, 99 Jones Street Ultimo NSW 2007
<b>Proposed licence name</b>	Liquorland
<b>Proposed trading hours</b>	Monday to Saturday 09:00 AM – 08:00 PM
<b>Proposed premises</b>	Ground Floor, 151 Glebe Point Road Glebe NSW 2037
<b>Legislation</b>	Sections 3, 11, 12, 29, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority**  
**Application for a removal of a packaged liquor licence – Vintage Cellars (proposed to be Liquorland)**

The Independent Liquor & Gaming Authority (Authority) considered the application above and decided on 20 September 2023 to **refuse** the application under section 59 of the *Liquor Act 2007* (the Act).

**Statement of reasons**

Overall, we are concerned that approving the application is likely to be detrimental to the well-being of the local and 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.

**'Fit and proper person'**

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates.

#### Responsible service of alcohol

Procedures for the responsible service of alcohol have been provided as part of the application.

#### Development consent requirements

A development consent cannot be issued for the premises as it is a local heritage item.

#### Community impact

##### *Local and broader communities*

The relevant 'local community' is the suburb of Glebe, and the relevant 'broader community' comprises the Local Government Area of the City of Sydney.

##### *Diversity and density of licensed outlets*

L&GNSW Liquor & Gaming LiveData Report for Glebe shows:

- there are 30 authorised liquor licenses, of which 26 are authorised to sell packaged liquor
- saturation of package liquor licences in Glebe is higher compared to the City of Sydney and significantly higher compared to all of NSW.

##### *Crime data (annual rate per 100,000 residents)*

BOCSAR data for the year to March 2023 shows that:

- the proposed premises is located in high-density hotspots for alcohol-related domestic and non-domestic assault, alcohol related disorderly conduct, and malicious damage to property
- alcohol-related domestic assault and malicious damage to property in Glebe was higher compared to both the City of Sydney and all of NSW
- alcohol-related non-domestic assault and alcohol-related disorderly conduct in Glebe was lower compared to the City of Sydney and higher compared to all of NSW.

##### *ABS Socio-Economic Index for Areas (SEIFA)*

As at 2021 Glebe and the City of Sydney were advantaged in terms of household income and residents in skilled occupations compared to other suburbs and local government areas in NSW.

#### Business model

We note that the proposed business model involves the sale of alcohol for consumption away from the premises, with two click & collect bays.

#### Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- a new opportunity to serve a wider demographic of local customers, residents, and visitors to Glebe
- increased shopping convenience by providing two click & collect bays
- formal training of team members and on-the-job training would make a small, but positive contribution to the skill base of the local community.

We believe that these proposed benefits are limited by the lack of concrete evidence of community support for the application. We were not persuaded that consumers are not already well serviced by existing outlets in Glebe.

#### Stakeholder submissions

We considered the submissions from:

- **NSW Police Force**, dated 27 January 2023, which notes:
  - the community is already well-served with bottleshops (nine within 600m of the premises)
  - increasing even more alcohol availability by one premises does make a difference
  - the association between alcohol-outlet density and assaults in the area is an on-going issue for police
  - the application is a risk due to its proximity with primary and secondary schools and vulnerable persons in accommodation locations (located throughout the suburb)
  - The Old Fire station, 100m from the proposed venue, is a meeting place for Glebe Alcoholics Anonymous.
- **City of Sydney Council**, dated 1 February 2023, which notes it does not support the proposed hours in the application. It was further noted that a development consent cannot be issued for the proposed premises as it is a local heritage item.
- **L&GNSW Compliance**, dated 10 February 2023, which notes there was no adverse history in regards to the applicant. It was further noted that even though there are objections (proximity to schools, licence saturation of the area, and low socio-economic backgrounds of residents), it is reasonable to conclude that both locations have similar risks.
- **NSW Health**, dated 25 January 2023, which notes:
  - high density of packaged liquor licences near the proposed premises may result in aggressive price discounting, an increased rate of assault and violence (including domestic violence)
  - the site is a short distance from two childcare centres (Amigoss Spanish Bilingual Child Care and Sydney Day Nursery Glebe – Childrens Education & Care Centre) and Glebe Public School; alcohol advertising may increase the rate of early adolescent drinking as much as 50%
  - alcohol related issues have an impact on emergency department presentations and late-night ambulance call outs
  - the proposed premises is within walking distance of key social disadvantage and drug related harm areas; social housing and homelessness.
- **Transport for NSW**, dated 13 March 2023, which:
  - requests the licensee maintains awareness of any specific local alcohol-related issues impacting the community
  - encourages the licensee to participate in the local Liquor Accord
  - requests the licensee considers providing access to public education material within the premises which focuses on drink driving prevention, including information on alternative transport options available such as taxi /ride share services and public transport
- **One member of the public (in support)** of the application, which notes the licence will create a 'one destination shopping experience' and strengthen an existing tenancy mix, provide choice to customers, provide a point of difference (boutique style liquor offered compared to its competitors), and respect to an older more discerning demographic/target market.
- **Fifteen members of the public (objecting)**, which note:
  - Glebe as a suburb has dense public housing/social housing; high number of disadvantaged residents in the area
  - potential increase in alcohol-related crime
  - high saturation of existing packaged liquor licences servicing the local community
  - proposed premises is located within proximity to sensitive facilities; this is an unsuitable location for another bottleshop
  - the licence is inappropriate and will not enhance the social amenity of the area; would be detrimental to many residents.

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

- the number of packaged liquor licences that are operating in the local community are less than what is stipulated by police
- consideration must be given to the nature of the application being a short distance removal from the existing premises; compliance and harm risks are similar
- the applicant is in the process of submitting a new development consent for the premises to amend hours (if this application is granted) to trade between 09:00 AM - 11:00 PM (Monday to Saturday) and 10:00 AM - 10:00 PM (Sunday)
- the applicant consents in the meantime to the following trading hours; 09:00 AM – 08:00 PM (Monday to Saturday) and no trading on Sunday or public holiday
- there is no evidence that the proposed premises will increase the allurements of young people passing the site and no evidence that suggests the approval of the licence removal will affect underage drinking; mitigating measures in plan of management and CCTV
- acknowledges the high density of packaged liquor licences however this can be mitigated by the short distance of the removal, low population and bottleshop is offering boutique liquor which will give greater choice and convenience for residents and visitors of the local community
- the applicant will implement the measures and will be a member of the local Liquor Accord
- acknowledges 'an extensive list of stakeholders and special interest groups were notified of the application (over 500 notices issued) with only few public submissions received'
- little weight should be given to the submission lodged by the commercial competitor, referencing the Authority's previous comments that "the Authority takes considerable care when assessing opinions of local commercial competitors and accepts...such licensed businesses are likely driven by anti-competitive motives, which diminishes the weight [of the submission]"
- the Liquor Act 2007 does not necessitate a means test ('need' should bear no weight on any decision to grant the application)
- the commercial competitor does not specify the 'sensitive facilities' but acknowledges that Glebe Public School is more than 400m from the premises (but no submission has been received from them)
- potential negative impacts can be mitigated by the applicant being an experienced operator (with known excellent compliance record and responsible retailing)
- Ethos Urban prepared a Social and Economic Statement.

### **Findings of concern**

In considering the application, we were concerned by the strong objections received by agencies and the local community. The proposed premises would be located within proximity to sensitive facilities such as Glebe House, childcare centres and Glebe Public School.

At almost four times the NSW rate, the high saturation rate of packaged liquor licences in the suburb was considered. It was also noted that the rate of alcohol-attributable hospitalisations is significantly higher in the local government area compared to NSW.

Although the proposed premises is a short distance from the current premises, it would be located within a high-density hotspot for all crime categories considered by the Authority.

As such, there is a significant risk that if the licence was granted, liquor sold from the premises could lead to increased alcohol-related crime, health and other social and amenity issues, while aggravating existing problems in the local and broader community.

The risks may be mitigated by the following:

- SEIFA data indicates an above-average level of socio-economic advantage and disadvantage in both the suburb and local government area

- packaged liquor licence saturation rates in the local government area would remain unchanged
- proposed to operate reduced hours with no trade on Sundays or public holidays.

However, on balance, we are concerned that the likelihood of adverse social impact from approving the application outweighs any benefit to the local or broader community and accordingly, approval of the application is not in the public interest.

## **The material we considered**

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

### **Application Material**

- completed application dated 22 December 2022
- completed Category B Community Impact Statement (CIS) dated 22 December 2022
- completed certification of advertising dated 28 August 2023
- plan of management documents for the premises, titled Coles Liquor NSW Management Strategies and House Policy for the Responsible Service of Alcohol
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated October 2022, indicating the proposed licensed area
- Ethos Urban prepared a Social and Economic Statement dated 28 July 2023.

Under [Guideline 6](#), we have 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.

### **Submissions**

- submission from NSW Police Force, dated 27 January 2023
- submission from the City of Sydney Council, dated 30 November 2022
- submission from L&GNSW Compliance, dated 10 February 2023
- submission from NSW Health, dated 25 January 2023
- submission from Transport for NSW, dated 13 March 2023
- submissions from 16 members of the public, between 22 November 2022 and 24 February 2023.

### **Other relevant material**

- correspondence between L&GNSW staff and the applicant between 20 January 2023 and 29 August 2023 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.

## **The law that applies**

These sections of the *Liquor Act 2007* apply to this application:

- Section 3: Statutory objects of the Act and other 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 about a packaged liquor licence.
- Section 40: Minimum requirements to apply for a liquor licence.
- Section 44: Submissions about licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including

making sure that it won't harm the local or wider community's well-being.

We also considered [Guideline 6](#) to assess the likely social impact to the local and broader community.

This decision will be published on the [Liquor & Gaming NSW website](#).

**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](mailto:leonie.jennings@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely



Caroline Lamb

**Chairperson**

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