

Mr Brett Tobin  
Hatzis Cusack Lawyers  
By email to: [bt@hatziscusack.com.au](mailto:bt@hatziscusack.com.au)

9 February 2024

Dear Mr Tobin

<b>Application No.</b>	APP-0009921335
<b>Applicant</b>	MR EFFIE ALI
<b>Application for</b>	New packaged liquor licence
<b>Application date</b>	9 June 2022
<b>Decision Date</b>	23 November 2022
<b>Licence name</b>	Cellarbrations
<b>Trading hours</b>	Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 08:00 PM
<b>Premises</b>	15 Jones Avenue Mount Warrigal NSW 2528
<b>Legislation</b>	Sections 3, 11A, 12, 29, 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 – Cellarbrations**

We approve the application under section 45 of the *Liquor Act 2007* (the Act) with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence. Preliminary advice of this decision was provided on 20 December 2022.

**Statement of reasons**

Overall, we are satisfied 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 do not 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 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. Shellharbour City Council approved the complying development certificate CDC0041/2022 for the premises on 22 February 2022.

## Community impact

### *Local and broader communities*

The relevant 'local community' is the suburb of Mount Warrigal, and the relevant 'broader community' comprises the Local Government Area (LGA) of Shellharbour.

### *Diversity and density of licensed outlets*

L&GNSW Liquor & Gaming Live Data Report for Mount Warrigal shows:

- there is 1 authorised liquor license in the form of a producer/wholesaler
- saturation of packaged liquor licences in the Mount Warrigal is lower compared to both the Shellharbour 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 were located in a hotspot for incidents of malicious damage to property and alcohol-related domestic assault, and close to a hotspot for incidents of alcohol-related non-domestic assault
- the incident rate for Mount Warrigal and the Shellharbour LGA for all crime categories we considered were lower compared to all of NSW.

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

Health Stats NSW data showed that:

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

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

Mount Warrigal was ranked as relatively disadvantaged whilst the Shellharbour LGA was ranked as no more advantage/disadvantage in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

## Business model

The proposed business model involves a 'standalone' package liquor store in a retail precinct strip in Mount Warrigal for liquor consumption away from the premises. No same-day liquor delivery service will be provided.

## Benefits proposed by the applicant

The applicant proposed that the location was convenient, with nearby liquor stores across a busy, congested road. The applicant suggested that neighbouring suburbs attract a large number of visitors for work and travel.

## Stakeholder submissions

We considered the following submissions:

- NSW Police Force, dated 20 July 2022, objected to the application suggesting it would be detrimental to the well-being of the local and broader community. They raised concerns about the location of the premises, submitting that it was close to schools, parks, 10 other packaged liquor stores (2.5 km distance) and close to hotspots for all crime categories. They were concerned that the increased availability of alcohol would lead to more alcohol-related offences, crime in neighbouring suburbs and the availability of alcohol to minors.
- Shellharbour City Council, dated 10 June 2022 and 22 June 2022, which raised no concerns.
- L&GNSW Compliance, dated 7 July 2022 and 29 July 2022, which raised no concerns.

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

The applicant contended the crime rates for the Mount Warrigal and the Shellharbour LGA were below the NSW average. They submitted that the location of the premises was convenient, with nearby liquor stores across a busy, congested road and that neighbouring suburbs attracted large numbers of visitors for work and travel. They also noted that the premises faced away from, and out of sight of, the nearby school and that fencing prevented access.

### Findings of concern

There is a risk that if the licence was granted, liquor sold at or 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.

We are satisfied that the risks are mitigated by the:

- crime rates in the Mount Warrigal and the Shellharbour LGA being lower than the NSW average
- low licence saturation rates in both the Mount Warrigal and the Shellharbour LGA, with this application being the first packaged liquor licence to operate in Mount Warrigal
- rate of alcohol-attributed hospitalisations being lower in the Shellharbour LGA compared to NSW
- 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

- completed application dated 9 June 2022
- completed Category B Community Impact Statement (CIS) dated 9 June 2022
- completed certifications of advertising dated 1 July 2022 and 5 August 2022
- plan of management documents for the premises, titled X and dated June 2022
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 25 January 2022, indicating the proposed licensed area.

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 1 July 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](#).

#### **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.

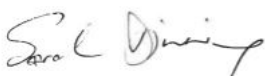
An application for review must be made no later than 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to apply.

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, [leonie.jennings@liquorandgaming.nsw.gov.au](mailto: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  
Cellarbrations**

No.	Condition to be imposed	Description
1.	<b>6-hour closure</b>	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 six (6) hours between <b>3:00 AM and 9:00 AM</b> 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.	<b>Restricted trading &amp; NYE</b>	Good Friday Not permitted December 24 <sup>th</sup> Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday Christmas Day Not permitted December 31 <sup>st</sup> Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday
3.	<b>Social impact</b>	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.	<b>Liquor Accord</b>	The licensee or its representative must join and be an active participant in the local liquor accord.
5.	<b>Plan of management</b>	The premises is to be operated at all times in accordance with the Plan of Management dated <b>June 2022</b> 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.	<b>CCTV</b>	<ol style="list-style-type: none"> <li>1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements: <ol style="list-style-type: none"> <li>(a) the system must record continuously from opening time until one hour after the premises is required to close,</li> <li>(b) recordings must be in digital format and at a minimum of <b>ten (10) frames</b> per second,</li> <li>(c) any recorded image must specify the time and date of the recorded image,</li> <li>(d) the system's cameras must cover the following areas: <ol style="list-style-type: none"> <li>(i) all entry and exit points on the premises, and</li> <li>(ii) all publicly accessible areas (other than toilets) within the premises.</li> </ol> </li> </ol> </li> <li>2) The licensee must also: <ol style="list-style-type: none"> <li>(a) keep all recordings made by the CCTV system for at least 30 days,</li> <li>(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</li> <li>(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.</li> </ol> </li> </ol>
7.	<b>Public Holiday trading hours</b>	The licensed premises must cease to trade by <b>8:00 PM</b> , on public holidays.