

Ms Nicole Beath

JDK Legal

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

13 November 2023

Dear Ms Beath

<b>Application No.</b>	1-8629661303
<b>Applicant</b>	LIQUORLAND (AUSTRALIA) PTY LTD
<b>Application for</b>	Removal – packaged liquor licence
<b>Current licence name</b>	Liquorland Express
<b>Current trading hours</b>	Monday to Sunday 10:00 AM – 10:00 PM
<b>Current premises</b>	Tenancy G20, Broadway Shopping Centre 1 Bay Street Glebe NSW 2037
<b>Proposed licence name</b>	Vintage Cellars
<b>Proposed trading hours</b>	Monday to Saturday 09:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
<b>Proposed premises</b>	5/81 Macleay Street Potts Point NSW 2011
<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 – Liquorland Express (proposed to be Vintage Cellars)**

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**

The necessary development consent is in force. The City of Sydney Council approved the development application D/2023/312 for the premises on 25 July 2023.

### **Community impact**

#### *Local and broader communities*

The relevant 'local community' is the suburb of Potts Point, 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 Potts Point shows:

- there are 27 authorised liquor licenses, of which 7 are authorised to sell packaged liquor
- although the saturation of packaged liquor licences in Potts Point is lower than the City of Sydney, both the suburb and the LGA have very high rates of licence saturation.

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

BOCSAR data for the year to March 2023 shows that:

- the proposed premises would be located in hotspots for alcohol-related assault, domestic and non-domestic assault, and malicious damage to property
- alcohol-related assault (domestic and non-domestic) and alcohol-related disorderly conduct in Potts Point is high compared to both the City of Sydney and all of NSW
- rates of malicious damage to property in Potts Point was comparable to the City of Sydney but high when compared to all of NSW.

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

The most recent HealthStats NSW data available show that between 2019/20 – 2020/21:

- alcohol-related deaths in the City of Sydney were marginally lower compared to the NSW average
- alcohol-related hospitalisations in the City of Sydney were higher compared to the NSW average.

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

As at 2021 Potts Point and the City of Sydney were 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 sale of alcohol for consumption away from the premises.

### **Benefits proposed by applicant**

The applicant proposes that there would be these benefits:

- the proposed premises would offer increased shopping convenience by providing Vintage Cellars range of fine wine, champagne, premium spirits and craft beer sourced from Australia and across the globe at competitive prices
- 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. Without disputing the quality of the Vintage Cellars offering, we were not persuaded that consumers are not already well serviced by existing outlets in Potts Point.

### Stakeholder submissions

We considered the submissions from:

- **NSW Police Force**, dated 3 May 2023, which notes that Potts Point is a high-density hotspot for alcohol related crime and the proposed premises would be located within a high concentration of residential premises, as well as in and near an alcohol-free zone area
- **L&GNSW Compliance**, dated 10 May 2023, which notes there was no adverse history in regards to the applicant
- **Two members of the public (in support)** of the application, which note that the brand would make a good addition to the precinct
- **Seven members of the public (objecting)**, which note that there is no need for another packaged liquor store in the community; a lack of parking; vulnerable groups/homelessness and alcohol related assaults in the community; and a sensitive facility, Wayside Chapel, located within two blocks of the proposed premises. Concerns were also raised that the Liquorland brand was monopolising trade and creating unfair competition with other local businesses.

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

- the Liquor Act 2007 does not necessitate a "needs test" and the concern from the submitter that the community is already well serviced and there is no need for another bottle shop is a 'different concern to that of outlet density'
- there is no evidence to suggest that there is any presence of at-risk groups in the local community, including homeless individuals, instead the local community is considered 'among the least disadvantaged in NSW'
- the higher rate of alcohol-related assaults can be attributed to the location of the proposed premises in the Sydney CBD. The area facilitates high-levels of entertainment visitors annually therefore counts and rates are heavily skewed in comparison to other towns and LGA's
- increased competition will not have a detrimental impact on the local community
- the concern around at-risk groups 'can be allayed by the absence of objection from mandatory stakeholders such as NSW Health, Department of Justice etc; the applicant is an experienced operator and the bottle shop will operate reduced hours
- the applicant issued over 500 notices of intent, with the small number of objections received 'this demonstrates overwhelming support, or at least, the local community sees it as uncontentious'.

### Findings of concern

In considering the application, we observed the original proposal for a hybrid model (small bar in a bottle shop) had reverted to bottle shop only which would be twice the size of the current location.

At almost three 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.

Concerns were raised in relation to the location of the proposed premises being within high-density crime hotspots for alcohol-related assault (domestic and non-domestic), alcohol-related disorderly conduct, and malicious damage. Additionally, the proposed premises would be located approximately 200 metres from the Wayside Chapel, which is a sensitive facility for the vulnerable and homeless people in the local community.

Although no agency objections have been received, the Police have raised concerns in relation to the location of the proposed premises being within a high-density hotspot for alcohol related crime, in an area of concentrated residential premises, and near an alcohol-free zone.

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.

However, on balance, we are concerned that the social impact of 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 9 March 2023
- completed Category B Community Impact Statement (CIS) dated 9 March 2023
- completed certification of advertising dated 2 June 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 23 February 2023, indicating the proposed licensed area.

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 3 May 2023
- submission from L&GNSW Compliance, dated 10 May 2023
- submissions from nine members of the public, during October 2022.

#### **Other relevant material**

- correspondence between L&GNSW staff and the applicant between 30 March 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**