



Ms Nicole Beath
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11 December 2019

Dear Ms Beath

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| Application No. | 1-7322466721 |
| Applicant | Mr Steven Coleman |
| Application for | Removal of a packaged liquor licence |
| Licence Number | LIQP700352655 |
| Licence Name | Vintage Cellars |
| Trading Hours | Monday to Saturday 9:00 AM to 9:59 PM Sunday 10:00 AM to 8:00 PM |
| Current Premises | Part G, 36 Carrington Street Sydney NSW 2000 Suite 1, 60 Carrington Street Sydney NSW 2000 |
| Proposed Premises | Sydney NSW 2000 |
| Legislation | Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48 and 59 of the <i>Liquor Act 2007</i> (NSW) |

Decision of the Independent Liquor and Gaming Authority Removal of Packaged Liquor Licence – Vintage Cellars

The Independent Liquor and Gaming Authority (“Authority”) considered the above application at its meeting of 16 October 2019 when it decided, pursuant to section 59 of the *Liquor Act 2007* (NSW) (“Act”), to grant the removal of the licence subject to the imposition of the following licence conditions:

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 **2:00 AM and 8:00 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**

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| Good Friday | Not permitted |
| December 24 th | Normal trading Monday to Saturday, 8:00 AM to 10:00 PM Sunday |
| Christmas Day | Not permitted |
| December 31 st | 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 removing this licence to the premises at Suite 1, 60 Carrington Street, Sydney, NSW 2000.
4. The premises is to be operated at all times in accordance with the Coles Liquor NSW Management Strategies and House Policy for the Responsible Service of Alcohol documents, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents 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 Authority.

5. The licensee or its representative must join and be an active participant in the local liquor accord
6. **CCTV**
 - 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 on 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. **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.
8. This licence is located in the Sydney CBD Entertainment Precinct. Additional licence conditions apply under the Liquor Act and Regulation and do not appear on this document. To find out more information about the Sydney CBD Entertainment Precinct, including the conditions that apply to this licence type, visit: www.liquorandgaming.nsw.gov.au

Removal of the licence

The licence remains at Part G, 36 Carrington Street, Sydney NSW 2000 subject to the same conditions and trading hours in force immediately before the approval of this application, until Liquor and Gaming NSW is notified that the licence has been removed.

Concise statement of reasons

A concise statement of reasons for the application 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 of reasons 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) ("GALA Act").

The concise statement of reasons 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 andrew.whitehead@liquorandgaming.nsw.gov.au.

Yours faithfully



Murray Smith
Deputy Chairperson
For and on behalf of the Independent Liquor and Gaming Authority

Concise statement of reasons

Key facts

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|--------------------------|---|
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| Proposed Premises | Sydney NSW 2000 |
| Application Date | 23 August 2019 |
| Decision Date | 16 October 2019 |

Material considered by the Independent Liquor and Gaming Authority (“Authority”)

- Application material for the removal of the licence lodged on 23 August 2019 (“Application”) including evidence of notification to stakeholders mandated by legislation and relevant company extracts from the Australian Securities and Investments Commission.
- Category B community impact statement (“CIS”) dated 21 August 2019 including a list of stakeholders and special interest groups notified, a map of outdoor alcohol restrictions in Sydney, a map depicting the CIS notification zone, a 6-page additional information document (including attachments) about the proposed liquor store and a 3-page document on the proposed 6-hour liquor cessation period.
- Licensing authorities granted by Steven Coleman to Liquorland (Australia) Pty Ltd (including its solicitors, representatives, nominated person or Directors and Secretary) to “Give Particulars, Appear & Act” and for “Power of Attorney” in relation to Liquorland (Australia) Pty Ltd both dated 14 September 2017.
- Liquor and Gaming New South Wales (“LGNSW”) Receipt/Tax Invoice dated 23 May 2019.
- Premises plan provided by the Applicant indicating the proposed licensed boundary of the new premises.
- Stakeholder submissions in relation to the Application (including from NSW Roads and Maritime Services dated 26 March 2019, City of Sydney Council (“Council”) dated 21 March 2019 and 28 August 2019, Family and Community Services dated 29 March 2019, NSW Police dated 30 August 2019 and 20 September 2019 and LGNSW Compliance dated 19 September 2019), and the Applicant’s response to those submissions.
- Coles Liquor NSW Management Strategies and House Policy for the Responsible Service of Alcohol.
- Certificate of Advertising signed by Mr Tim O’Meara under power of attorney for the Applicant dated 5 September 2019.
- Correspondence between licensing staff and the Applicant between 25 June 2019 and 23 September 2019 regarding *inter alia* notification requirements, proposed conditions and requisitions from staff.

- Complying Development Certificate (“CDC”) J190196 issued by Vic Lilli & Partners on 13 September 2019.
- Statistics sourced 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.
- OneGov licence record for Vintage Cellars as at 24 September 2019.
- Google geographical maps depicting the location of the proposed premises.

Legislative requirements

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

- Section 3: Statutory objects of the Act and relevant considerations.
- Section 11A: 6-hour closure period.
- Section 12: Standard trading period.
- 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.
- Section 59: Provisions relating to the removal of licence to other premises.

The Authority has also had regard to its *Guideline 6* when considering the overall social impact of granting 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 the overall social impact test is the suburb of Sydney, and the broader community is the local government area (“LGA”) of Sydney (“Sydney LGA”).

Key legislative requirements

The Authority finds that:

- The Application and CIS meet minimum procedural and information requirements under sections 40, 48(4) and 59(2) of the Act and clauses 20 through 29 of the Regulation on the basis of the Application, CIS and certificate of advertising dated 5 September 2019.
- The proposed licensed trading hours and daily six-hour liquor cessation period agreed by Applicant in its 16 September 2019 submission meet the requirements specified by sections 11A, 12 and 29 of the Act.
- The Applicant is a fit and proper person for the purposes of section 45(3)(a) of the Act on the basis of the lack of probity concerns raised by Police and LGNSW.
- Practices will be in place from the commencement of licensed trading on the proposed premises to ensure the responsible serving of alcohol and prevent intoxication for the purpose of sections 45(3)(b) and 59(5) of the Act, on the basis of the Coles Liquor NSW Management Strategies and House Policy for the Responsible Service of Alcohol, provided with the Application.

- The requisite development consent permitting the conduct of a packaged liquor licensed business on the proposed premises during the granted trading hours is in force for the purpose of section 45(3)(c) of the Act, on the basis of CDC J190196 and Council's submission dated 28 August 2019.
- The restriction in section 47F(3) of the Act with respect to the removal of a packaged liquor licence within the Sydney CBD is satisfied, on the basis of the CIS material and Applicant's 16 September 2019 submission, ensuring that the licensed area of the proposed new premises (at 167 square metres) is smaller than the current premises (at some 211 square metres).

Positive social impacts

The Authority notes the information provided in the CIS that the Applicant is proposing to move this licence within the same suburb and LGA, only 65 metres away from the current premises.

The Authority accepts, as contended in the CIS, that the licence ceased trading on the current premises in 2019 because the existing premises were no longer available due to expiration of the lease. The Authority is satisfied that removing the licence will enable a licensed business that has been recorded as granted in 2005, to continue to serve patrons, residents and visitors frequenting this part of the Sydney CBD.

In the absence of any community opposition to the proposal, the Authority is satisfied that granting the Application will advance, to a moderate extent, the expectations needs and aspirations of the community in furtherance of the statutory object in section 3(1)(a) of the Act.

The Authority is satisfied, on the information provided in the CIS, that relocating the licence to the proposed location with a modern refitted premises, will provide modest benefits through the balanced development, in the public interest, of the local and broader community, advancing the statutory object in section 3(1)(b) of the Act.

Negative social impacts

The Authority accepts that the operation of a packaged liquor licence at this new location 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:

- The extensive trading hours.
- The location of the proposed premises within very large concentrations of crime as evidenced by the BOCSAR hotspot maps from July 2018 to June 2019.
- Elevated rates per 100,000 persons compared to NSW in the suburb and LGA for incidents of alcohol-related domestic assault, alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct (offensive conduct) for the year to June 2019.
- NSW Department of Health Healthstats data for the LGA records that the spatially adjusted rate per 100,000 population for alcohol attributable deaths (2015 to 2016) and alcohol attributable hospitalisations (2015 to 2017) are above NSW wide rates.

The Authority finds that these risk factors are mitigated by the following factors:

- The size of the licensed premises has been reduced upon removal, from 211 square metres at the current premises to 167 square metres at the proposed premises.
- The licensed trading hours recorded on the licence record will be reduced some 32 hours per week upon removal of the licence.
- The Application concerns a licence removal, not a new licence, that will occur within the same suburb and LGA that are in very close proximity to each other.
- Police expressly advise no objection to the Application.
- No concerns as to local amenity nor sensitivities with the proposed premises are raised by any agencies with a law enforcement capacity (Council, LGNSW and Police), nor residents or others in the neighbourhood.
- ABS Socio-Economic Indexes For Areas data based on the 2016 census indicates that the suburb ranked in the 9th decile and the LGA in the 10th decile on the Index of Relative Socio-Economic Advantage and Disadvantage. That is, socio economic disadvantage is not a compounding factor.
- The licence will be subject to the harm minimisation provisions set out in the *Coles Liquor NSW Management Strategies* and *House Policy for the Responsible Service of Alcohol* policy documents, which will be enforceable by way of a licence condition.
- Prior to ceasing to trade in 2019, the business had been operating from the current premises for a lengthy period of time without any adverse trading history.

Overall social impacts and 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 approving the removal of 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 59 of the Act.



Murray Smith
Deputy 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/>.