

Mr Luke Nicolson  
Jenkins Legal Services  
By email to: [luke@jenkinslegal.com.au](mailto:luke@jenkinslegal.com.au)

14 December 2023

Dear Mr Nicolson

<b>Application No.</b>	APP-0009534866
<b>Applicant</b>	FLORENCE DIFFEY
<b>Application for</b>	New packaged liquor licence
<b>Application date</b>	23 December 2021
<b>Decision date</b>	1 April 2022
<b>Licence name</b>	Vera Wine Shop Hamilton
<b>Trading hours</b>	Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 09:00 PM
<b>Premises</b>	Unit 2, 67 Beaumont Street Hamilton NSW 2303
<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 new packaged liquor licence – Vera Wine Shop Hamilton**

We first considered the application above on 16 March 2022 and, following the receipt and consideration of further requested information, decided on 1 April 2022 to **approve** the application under section 45 of the *Liquor Act 2007* - with the conditions set out in Schedule 1. Preliminary advice of this decision was provided on 5 April 2022.

**Trading on a Sunday that falls on 24 December**

If a Sunday 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. However, due to the 6-hour closure period for the licence, the premises must not trade earlier than 09:00 am.

**Statement of reasons**

Overall, we are satisfied that 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 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 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. Newcastle City Council approved the modification of development consent DA2021/01396 for the premises on 24 February 2022.

### **Community impact**

#### *Local and broader communities*

The relevant 'local community' is the suburb of Hamilton, and the relevant 'broader community' comprises the Local Government Area of Newcastle.

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

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

- there are 34 authorised liquor licenses, of which 9 are authorised to sell packaged liquor.
- saturation of packaged liquor licences in Hamilton is higher compared to the Newcastle LGA and compared to all of NSW.

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

BOCSAR data shows that, in the year to September 2021:

- the premises were located in hotspots for alcohol-related assault, domestic and non-domestic assault, or malicious damage to property.
- alcohol-related domestic assault in Hamilton was higher compared to the Newcastle LGA and lower compared to all of NSW.
- alcohol-related non-domestic assault, alcohol-related offensive conduct, and malicious damage to property in Hamilton was higher compared to the Newcastle LGA and higher compared to all of NSW.

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

HealthStats NSW data showed that:

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

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

Hamilton and the Newcastle LGA were ranked as relatively 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, with a focus on natural, organic and local Hunter Valley wines.

### **Benefits proposed by applicant**

The applicant proposes that the proposed premises would provide for a boutique wine store in an area that has not been catered for in the market and attract additional people to the area who will in turn visit other premises within the district.

### Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 20 January 2022 (objection), which raises concerns of the very high alcohol-related crime rates, (despite easing in other areas due to the pandemic) and high licence density, in Hamilton.
- L&GNSW Compliance, dated 3 February 2022, which notes no objection.
- Newcastle City Council, dated 1 February 2022, which notes no objection.
- Member of the public, dated 4 January 2022 (in support), which notes full support.
- Member of the public, dated 21 January 2022 (objection), which raises concerns of the potential negative social impact of two bottle shops being located within 20 metres of each other, high licence density in the local and broader community, and lack of supporting evidence for claimed benefits.

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

- the public will benefit from increased competition; new niche store will likely attract new customers to the area increasing expenditure in the local community.
- the proposed new outlet "...will maintain their prices according to other operators in the area. The boutique wine products offered may sit in a higher price bracket. The Licensee is committed to the responsibilities of advertising alcohol..."
- assaults rarely occur in a packaged liquor outlet and the majority of alcohol-related violence is attributable to consumption of alcohol at hotels. Management practices and the training of staff members will also minimise the likelihood of the premises contributing to crime in the Hamilton community.

### Findings of concern

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

However, we are satisfied that these risks are reduced by the following factors:

- crime rates and licence density may be skewed due to higher visitor numbers relative to the lower residential population. Hamilton can be considered a local dining and entertainment hub, containing a higher number of licensed premises servicing a temporary visitor population.
- licence clustering density rates in both Hamilton and the Newcastle LGA are lower than Major Cities and NSW averages for all relevant licence types (except club licences in the Newcastle LGA)
- the rate of alcohol-attributable hospitalisations in the Newcastle LGA are lower than both Major Cities NSW and NSW averages
- indication of an above average level of relative socio-economic advantage in both Hamilton and the Newcastle LGA
- Hamilton being average for relative socio-economic advantage, and the Newcastle LGA being above-average for relative socio-economic advantage

- the harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1, including the specialised liquor products and incident register conditions.

## The material we considered

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

### Application Material

- completed application dated 23 December 2021
- completed Category B Community Impact Statement (CIS) dated 23 December 2021
- completed certification of advertising dated 12 January 2022
- plan of management documents for the premises, titled Alcohol Management Operations Register and dated March 2022
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 5 October 2021, 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 11 January 2022 and 24 February 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 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, Joanne Zammit, at [joanne.zammit@liquorandgaming.nsw.gov.au](mailto:joanne.zammit@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

### Vera Wine Shop Hamilton

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>03:00 AM and 09:00 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>	Retail sales 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>Plan of management</b>	The premises is to be operated at all times in accordance with the Plan of Management dated <b>March 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.
5.	<b>Liquor Accord</b>	The licensee or its representative must join and be an active participant in the local liquor accord.
6.	<b>CCTV</b>	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 ten (10) 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,

		<p>(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</p> <p>(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.</p>
7.	<b>Incident register</b>	<p>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:</p> <ul style="list-style-type: none"> <li>a. any incident involving violence or anti-social behaviour occurring on the premises,</li> <li>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,</li> <li>c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007,</li> <li>d. any incident that results in a patron of the premises requiring medical assistance.</li> </ul> <p>2) The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector:</p> <ul style="list-style-type: none"> <li>a. make any such incident register immediately available for inspection by a police officer or Liquor &amp; Gaming NSW inspector, and</li> <li>b. allow a police officer or Liquor &amp; Gaming NSW inspector to take copies of the register or to remove the register from the premises.</li> </ul> <p>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.</p>
8.	<b>Specialised liquor products</b>	<p>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:</p> <ul style="list-style-type: none"> <li>(a) craft beer</li> <li>(b) craft cider</li> <li>(c) craft spirits</li> <li>(d) boutique wines (including sparkling wines and champagne)</li> <li>(e) organic and natural liquor products</li> <li>(f) wine produced in the Hunter Valley wine region</li> </ul> <p>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. For liquor products available for sale under this sub-clause, the licensee must maintain documentation that stock levels do not exceed either of the specified 10% thresholds.</p>

		<p>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 &amp; Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.</p> <p>4) For every liquor product that is available for sale under sub-clause 1, the licensee must maintain and make available for inspection on the premises documentation from the supplier confirming the location of production, and/or that the product meets the relevant definition specified in this condition.</p> <p><u>Definitions</u></p> <p>For the purposes of this condition:</p> <p>1) Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:</p> <ul style="list-style-type: none"> <li>(a) which is located in Australia and produces less than 40 million litres of beer per annum, or located overseas and produces less than 6 million barrels of beer per annum;</li> <li>(b) where not more than 25 percent of the brewery is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft brewer; and</li> <li>(c) which will certify that the majority of its total beverage alcohol volume is in beers whose flavour derives from traditional or innovative brewing ingredients and their fermentation (flavoured malt beverages are not considered beers).</li> </ul> <p>2) Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:</p> <ul style="list-style-type: none"> <li>(a) which is located in Australia and produces less than 40 million litres of cider per annum, or located overseas and produces less than 6 million barrels of cider per annum;</li> <li>(b) where not more than 25 percent of the producer is owned or controlled (or equivalent economic interest) by an industry participant that is not itself a craft cider producer; and</li> <li>(c) which will certify that the cider is made from liquid consisting only of juice (no concentrates).</li> </ul> <p>3) Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:</p> <ul style="list-style-type: none"> <li>(a) the product of a distillery that has maximum annual sales of less than 100,000 proof gallons or 52,000 cases, or in the case of blended spirits, the product of an independently owned and operated facility that uses any combination of traditional and innovative techniques such as fermenting, distilling, re-distilling, blending, infusing or warehousing to create products with a unique flavour profile; and</li> <li>(b) distilled at a distillery where the spirit has either been run through a still by a craft distiller, or in the case of a blended spirit, the spirit has been distilled originally by a craft distiller.</li> </ul>
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9.	<b>Restricted trading on public holidays</b>	The licensed premises must not commence trading before 10:00 AM on public holidays.
10.	<b>New Applicants with no Licensee or Advanced Licensee Training</b>	Licensee training must be completed no later than 6 months from the date of grant of the liquor licence.