

Our ref: DF24/004317

Mr Grant Cusack
Hatzis Cusack Lawyers

By email to: gc@hatziscusack.com.au

4 March 2024

Dear Mr Cusack

Application No.	APP-0011948502
Applicant	TIMOTHY JOHN PATRICK CARR
Application for	New packaged liquor licence
Application date	19 October 2023
Decision date	21 February 2024
Licence name	Vaucluse Cellars
Trading hours	Monday to Thursday 09:00 AM – 07:00 PM Friday to Saturday 09:00 AM – 08:00 PM Sunday 10:00 AM – 06:00 PM
Premises	Unit 12, 145-161 New South Head Road Vaucluse NSW 2030
Legislation	Sections 3, 11A, 12, 29, 40, 44, 45, 48, 114 and 123 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a new packaged liquor licence – Vaucluse Cellars**

We **approve** the application above under section 45 of the *Liquor Act 2007* — with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

Statement of reasons

Overall, we are satisfied that the social impact of approving the application will not be harmful to the well-being of the local or broader community, while also promoting a balanced and responsible development of the industry.

Our main findings

The local community for the purposes of this decision is Vaucluse. The broader community is the Local Government Area (LGA) of Woollahra.

Positive social impacts

The application proposes a standalone packaged liquor licence on a ground floor retail tenancy with a proposed business model to sell boutique, high quality wines from Australia, France, Spain, and Italy.

We considered the public submission opposing the application, however the application was considered relatively low risk.

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

Negative social impacts

We accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- medium-density hotspot in Vaucluse for the offence of domestic assault
- low-density hotspot in Vaucluse for malicious damage to property
- higher crime rates in the Woollahra LGA for alcohol-related offensive conduct compared to NSW
- higher saturation rates of packaged liquor licences in Vaucluse compared to NSW.

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

- small scale operation with reduced hours
- no hotspots in Vaucluse for offences of non-domestic assault or alcohol-related assault
- crime rates are lower in Vaucluse for all offence categories we considered compared to NSW
- crime rates are lower in the Woollahra LGA for alcohol-related assault and malicious damage to property compared to NSW
- only one packaged liquor licence in the suburb is a walk-up liquor store, and the other five are delivery only business models, therefore saturation of walk-up packaged licences in Vaucluse is lower compared to NSW
- data indicating that Vaucluse and the Woollahra LGA communities may be considered advantaged compared to NSW
- extensive experience of the applicant in managing liquor outlets without any incidents
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a community impact statement (CIS)
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response to them.

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](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you have any questions

Please contact the case manager, Sophie Cartwright, at sophie.cartwright@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb
Chairperson

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

Schedule 1
Licence conditions to be imposed
Vaucluse Cellars

No.	Condition to be imposed	Description
1.	6-hour closure	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 03:00 AM and 09:00 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.	Restricted trading & NYE	<p>Good Friday Not permitted</p> <p>December 24th Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</p> <p>Christmas Day Not permitted</p> <p>December 31st Normal trading Monday to Saturday 10:00 AM to 12:00 midnight Sunday</p>
3.	Social impact	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.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated September 2023 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.	CCTV	<p>1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (i) all entry and exit points on the premises, and (ii) all publicly accessible areas (other than toilets) within the premises. <p>2) The licensee must also:</p> <ul style="list-style-type: none"> (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

No.	Condition to be imposed	Description
		hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
7.	Crime scene preservation	<p>Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:</p> <ol style="list-style-type: none"> 1) take all practical steps to preserve and keep intact the area where the act of violence occurred, 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website, 3) make direct and personal contact with NSW Police to advise it of the incident, and 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred. <p>In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.</p>
8.	Specialised Liquor Products	<ol style="list-style-type: none"> 1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business ("Business"), except as provided by sub-clause 2: <ol style="list-style-type: none"> a. craft beer b. craft cider c. craft spirits d. boutique wines (including sparkling wines and champagne) e. organic and natural liquor products 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. 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 & Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority. 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><u>Definitions</u></p> <p>For the purposes of this condition:</p> <ol style="list-style-type: none"> 1. Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:

No.	Condition to be imposed	Description
		<ul style="list-style-type: none"> (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; (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 (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). <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"> (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; (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 (c) which will certify that the cider is made from liquid consisting only of juice (no concentrates). <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"> (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 (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. <p>4. Boutique wine is defined as wine (other than sparkling wine or champagne) that is manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently owned (i.e. not owned by a larger wine company at the time wine is supplied to the Business).</p> <p>5. Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is not generally considered to be mainstream champagne or sparkling wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.</p> <p>6. Organic and natural liquor products are defined as:</p> <ul style="list-style-type: none"> (a) Organic liquors (including organic wines) that bear a recognised organic certification logo; (b) Wine that is labelled or marketed as organic wine, and is produced from vineyards and farms that are farmed organically or to organic standards, typically with little or no

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		<p>additions in wine-making (whether or not the wine is certified as organic);</p> <p>(c) Wine that is labelled or marketed as natural wine, and is produced from vineyards that are farmed organically or bio-dynamically, and then produced with no additions (additives) in wine-making, including MegaPurple, tartaric acid, enzymes, malabugs, and bottled with lower levels of sulphur or without sulphur (preservative 220); and</p> <p>(d) Boutique wines that are marketed as organic, bio-dynamic or natural wines (including sparkling wine), and manufactured by or on behalf of a boutique wine company which crushes and bottles 250 tonnes or less annually under its own label and is independently-owned (ie not owned by a larger wine company at the time the licensee purchases wine wholesale from the supplier).</p>