



Ms Jade Hall
Liquor and Gaming Solutions
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4 November 2019

Dear Ms Hall

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|------------------------|---|
| Application No. | APP-0005460309 |
| Applicant | Mr Paul Anthony Stuart |
| Application for | Packaged liquor licence |
| Licence name | Eclectic Wines |
| Premises | 687 Hermitage Road Pokolbin NSW 2320 |
| Trading hours | Monday 10:30 am – 5:30 pm Tuesday – Thursday Closed Friday- Sunday 10:30 am – 5:30 pm |
| Legislation | Sections 3, 11A, 12, 29-31, 40, 45 and 48 of the <i>Liquor Act 2007</i> |

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – Eclectic Wines**

The Independent Liquor & Gaming Authority considered the application above, and decided on 31 October 2019 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to the following 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 4:00 AM and 10:00 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 and NYE (std)
Retail Sales
Good Friday Not permitted
December 24th Normal trading Monday to Saturday
8:00 am to 10:00 pm Sunday
Christmas Day Not permitted
December 31st 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 obtaining this licence.
4. The premises is to be operated at all times in accordance with the Plan of Management dated May 2019 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. The licensee or its representative must join and be an active participant in the local liquor accord.
6. Closed-circuit television system
 - 1) The licensee must maintain a closed-circuit television (CCTV) system at 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 to 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. Craft, boutique and local liquor products
- 1) The licensee must ensure that only craft beer, craft cider, craft spirits, local wines, boutique wines and wine packaged under Eclectic Wines label are sold and supplied on the premises.
 - 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.
 - 3) The licensee must ensure that a list of the product lines and products stocked on the licensed premises 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 craft beer, craft cider, craft spirit, local wine or boutique wine product that is available for sale on the premises, the licensee must maintain and make available for inspection on the premises written documentation from the supplier confirming that the product meets the relevant definition specified in this condition.

Definitions

For the purposes of this condition:

- 1) Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:
 - (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).
- 2) Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:
 - (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).
- 3) Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:
 - (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.
- 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).
- 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.
- 6) Local wine is defined as wine that is sourced from the Hunter Valley wine region.

Existing producer/wholesaler licence must be surrendered

The licence cannot be exercised until the applicant's current producer/wholesaler licence (LIQW880010010) is surrendered.

Trading on a Sunday that falls on 24 December

In the case of any Sunday that falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow the licence to trade from 8 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10 am.

Concise statement of reasons

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which 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*.

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 the case manager at danielle.hatton@liquorandgaming.nsw.gov.au.

Yours faithfully



Philip Crawford
Chairperson
For and on behalf of the Independent Liquor & Gaming Authority

Concise statement of reasons

Key facts

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|-------------------------|---|--------------------|
| Application No. | APP-0005460309 | |
| Applicant | Mr Paul Anthony Stuart | |
| Application for | Packaged liquor licence | |
| Licence name | Eclectic Wines | |
| Premises | 687 Hermitage Road Pokolbin NSW 2320 | |
| Trading hours | Monday | 10:30 am – 5:30 pm |
| | Tuesday – Thursday | Closed |
| | Friday- Sunday | 10:30 am – 5:30 pm |
| Application date | 19 June 2019 | |
| Decision | Approved under section 45 of the <i>Liquor Act 2007</i> | |
| Decision date | 31 October 2019 | |

Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application;
- Category B community impact statement;
- Premises plan setting out the proposed boundaries of the licensed premises and any applicable authorisations;
- Plan of management for the licensed business at the premises;
- Development consent for the premises;
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and 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 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, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Pokolbin, and the broader community is the Local Government Area of Singleton.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of increased liquor access, choice and convenience.

The Authority also accepts that the applicant's proposal to only sell boutique and craft liquor products, and wines produced in the Hunter Valley wine region, distinguishes the proposed business from other packaged liquor stores, and would likely contribute to the development of the local wine and tourism industries.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the:

- higher than average liquor licence density in the local community
- higher than average crime rates in the broader community
- higher than average level of alcohol-attributable deaths in the broader community.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- relatively small size of the proposed licensed area
- relatively moderate licensed trading hours
- the proposed business model limited to the sale of boutique and craft liquor products, and wines produced in the local wine region
- absence of any objections from agency stakeholders or members of the community
- harm minimisation measures set out in the plan of management and licence conditions.

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 application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.



Philip Crawford
Chairperson