

Mr Tony Schwartz  
Back Schwartz Vaughan  
By email to: [licencing@bsv.com.au](mailto:licencing@bsv.com.au)

12 September 2023

Dear Mr Schwartz

<b>Application No.</b>	APP-0011488236
<b>Applicant</b>	SMALLS CELLAR PTY LTD
<b>Application for</b>	New packaged liquor licence
<b>Application date</b>	25 May 2023
<b>Decision date</b>	16 August 2023
<b>Licence name</b>	Smalls Cellar
<b>Trading hours</b>	Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 09:00 PM
<b>Premises</b>	142 Oak Road Kirrawee NSW 2232
<b>Legislation</b>	Sections 3, 11, 12, 29, 31, 40, 44, 45, 48, 114 of the <i>Liquor Act 2007</i>

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

We **approve** the application above under section 45 of the *Liquor Act 2007* — with the conditions set out in Schedule 1.

**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. Under the 6-hour closure period for the current licence, the premises must not trade earlier than 9:00 am.

**Approved manager or individual licensee**

The licence cannot be exercised until the Authority or Liquor & Gaming NSW is notified that:

- the licence is transferred to an individual licensee, or an approved manager is appointed; and
- the licensee or approved manager is a suitable and qualified person.

**Statement of reasons**

The statement of reasons will be published on the [Liquor & Gaming NSW website](https://www.liquorandgaming.nsw.gov.au/independent-liquor-and-gaming-authority) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

**If you have any questions**

Please contact the case manager, Wendy Yeung, at [wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au](mailto:wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Caroline Lamb'.

Caroline Lamb

**Chairperson**

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

# STATEMENT OF REASONS

## Our decision

We have considered the objects of the *Liquor Act 2007* (the Act) and the relevant legislative provisions and have approved the application under section 45 of the Act.

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.

The decision achieves the aim of the Act to regulate the liquor industry to meet the community's expectations, needs, and aspirations, while also promoting a balanced and responsible development of the industry.

## Our main findings

The local community for the purposes of this decision is Kirrawee. The broader community is the Local Government Area (LGA) of the Sutherland Shire.

### Positive social impacts

The applicant seeks approval to operate a small standalone boutique liquor store located within a strip of shops in Kirrawee, with reduced trading hours.

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:

- issues with underage drinking and necessity to implement the Liquor Accord 'IDx3' initiative
- higher incident rate of alcohol attributed hospitalisations in the Sutherland Shire compared to NSW
- higher incident rate of malicious damage to property in Kirrawee compared to the Sutherland Shire and NSW
- close proximity to a high density hotspot for domestic and violence and malicious damage to property.

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

- small scale of the licenced area and reduced trading hours
- limited range of boutique products offered at a higher price point
- lower rate of alcohol related domestic and non-domestic assault and disorderly conduct in Kirrawee compared to the Sutherland Shire and NSW
- lower incident rate of alcohol attributed deaths in the Sutherland Shire compared to NSW
- indication of above average level of relative socio-economic advantage in both Kirrawee and the Sutherland Shire compared to NSW
- 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 them.

We also considered [Guideline 6](#) to assess the likely social impact to the local and broader community.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Caroline Lamb'.

Caroline Lamb

**Chairperson**

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

## Schedule 1 – Licence conditions to be imposed Smalls Cellar

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>	<p>Good Friday      Not permitted</p> <p>December 24<sup>th</sup>    Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</p> <p>Christmas Day    Not permitted</p> <p>December 31<sup>st</sup>    Normal trading Monday to Saturday 10:00 AM to 12:00 midnight Sunday</p>
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>Liquor Accord</b>	The licensee or its representative must join and be an active participant in the local liquor accord.
5.	<b>Plan of management</b>	The premises is to be operated at all times in accordance with the Plan of Management dated <b>22 May 2023</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.
6.	<b>CCTV</b>	<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"> <li>(a) the system must record continuously from opening time until one hour after the premises is required to close,</li> <li>(b) recordings must be in digital format and at a minimum of ten (10) frames per second,</li> <li>(c) any recorded image must specify the time and date of the recorded image,</li> <li>(d) the system's cameras must cover the following areas: <ul style="list-style-type: none"> <li>(i) all entry and exit points on the premises, and</li> <li>(ii) all publicly accessible areas (other than toilets) within the premises.</li> </ul> </li> </ul> <p>2) The licensee must also:</p> <ul style="list-style-type: none"> <li>(a) keep all recordings made by the CCTV system for at least 30 days,</li> <li>(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</li> <li>(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.</li> </ul>

7.	<b>Crime scene preservation</b>	<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"> <li>1) take all practical steps to preserve and keep intact the area where the act of violence occurred,</li> <li>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,</li> <li>3) make direct and personal contact with NSW Police to advise it of the incident, and</li> <li>4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</li> </ol> <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.	<b>Incident register</b>	<ol style="list-style-type: none"> <li>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: <ol 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> </ol> </li> <li>2) The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector: <ol 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> </ol> </li> <li>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.</li> </ol>
9.	<b>Specialised liquor products</b>	<ol style="list-style-type: none"> <li>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"> <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> </ol> </li> <li>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</li> </ol>

		<p>documentation that stock levels do not exceed either of the specified 10% thresholds.</p> <p><i>[Note: This sub-clause (and reference to it in sub-clause 1) is usually omitted where only products covered by sub-clause 1(h) are sold, but may be included at the discretion of the decision-maker]</i></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 (except products packaged under labels owned by the Business <i>[delete if not applicable]</i>) 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><i>[Note: This sub-clause is usually omitted where only products covered by sub-clause 1(h) are sold, but may be included at the discretion of the decision-maker]</i></p> <p><u>Definitions</u></p> <p>For the purposes of this condition:</p> <ol style="list-style-type: none"> <li>1. Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer: <ol 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> </ol> </li> <li>2. Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer: <ol 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> </ol> </li> <li>3. Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are: <ol 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</li> </ol> </li> </ol>
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		<p>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</p> <p>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> <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>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>
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