



Ms Lindsay Cornish

Pyramid Liquor Licensing

By email to: lindsay@pyramidliquor.com.au

23 October 2023

Dear Mr Cornish

Application No.	APP-0010089564
Applicant	M.S CELLARS WINE EXCHANGE 1 PTY LTD
Application for	New packaged liquor licence
Licence name	MS Cellars
Trading hours	Retail Monday to Sunday 10:00 AM – 10:00 PM
Premises	150 Longueville Road, Lane Cove NSW 2066
Legislation	Sections 3, 11, 12, 29, 30, 40, 44, 45, 48 and 114 of the <i>Liquor Act 2007</i>

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

The Independent Liquor & Gaming Authority (Authority) considered the application above and decided on 19 September 2022 to **approve** the application under section 45 of the *Liquor Act 2007* with the conditions set out in Schedule 1.

We provided you with our preliminary advice of this decision on 19 October 2022.

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

The Community Impact Statement (CIS) meets the relevant requirements.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business relates, as law enforcement agencies raised no concerns about their integrity.

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. Lane Cove Council approved the development application DA32/2022 for the premises on 27 April 2022.

Community impact

Local and broader communities

The 'local community' is the community in the suburb of Lane Cove, and the 'broader community' comprises the Local Government Area of Lane Cove.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Lane Cove shows:

- there are 46 authorised liquor licenses, of which 16 are authorised to sell packaged liquor. This includes 10 packaged liquor licences, 3 registered club licences, 1 full hotel licence and 2 Producer/Wholesaler.
- saturation of packaged liquor licences in Lane Cove is higher compared to both the Lane Cove LGA and all of NSW

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that in the year to June 2022:

- 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 Lane Cove was higher compared to the Lane Cove LGA and lower compared to all of NSW.
- alcohol-related non-domestic assault in Lane Cove was higher compared to the Lane Cove LGA and lower compared to all of NSW.
- alcohol-related disorderly conduct in Lane Cove was lower compared to both the Lane Cove LGA and all of NSW.
- malicious damage to property in Lane Cove was lower compared to both the Lane Cove LGA and all of NSW.

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

The most recent HealthStats NSW data available show that between 2018/19 – 2019/20:

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

ABS Socio-Economic Index for Areas (SEIFA) SEIFA

Data as at 2016 shows that Lane Cove and Lane Cove LGA were relatively advantaged in household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

The proposed business model involves a 'standalone' packaged liquor licence in the suburb of Lane Cove. The store will be located in the 'Lane Cove Village' shopping precinct and sell premium and vintage wines. It will have a climate-controlled storage option.

MS Cellars will not provide a same-day delivery service but may occasionally deliver liquor.

Benefits proposed by the applicant

The applicant proposes that the business model is low risk and is different to existing offerings in the area. More than half of the product lines will be boutique or imported products that are not available at other liquor retailers.

The premises will be fitted out with 17 fridges, 12 of which will be designated wine fridges to keep expensive wines secure and stored to ensure their long-term integrity and quality.

These proposed benefits are limited by the lack of concrete evidence of community support for the application. However, we also note that there was no objection raised by members of the community.

Stakeholder submissions

We considered the submissions from:

NSW Police Force – dated 15 June 2022

NSW Police was concerned that the store is close to several specialty stores, commercial buildings and residential dwellings. They recommended that the conditions about social impact, a liquor plan of management, the liquor accord and CCTV be imposed.

L&GNSW Compliance – dated 18 June 2022

L&GNSW Compliance did not raise any adverse findings against the licensee or manager. It recommended that measures should be included in the liquor plan of management if the applicant offers delivery of alcohol and CCTV conditions should be imposed.

Local Council – dated 9 June 2022

The Local Council advised that a consent is in place.

NSW Health – dated 24 May 2022

NSW Health raised concerns about:

- the higher rate of alcohol-attributable hospitalisations in the Lane Cove LGA compared to NSW
- data that indicates alcohol-related visits to the Royal North Shore Hospital were 51% higher than the state average
- the high saturation and clustering rate of packaged liquor licences in Lane Cove compared to NSW, which may encourage alcohol-related violence.

NSW Health recommended that these 2 conditions be imposed:

- The licence be restricted to boutique wines and spirits not readily available in mainstream packaged liquor licences.
- That the store does not sell discounted wines, casks, clean skin wines or other discounted alcoholic products.

Public submissions

One submission was received from a member of the public on 11 June 2022 who submitted that:

- there are already a high number of packaged liquor licences available in the suburb and MS Cellars will not offer anything unique
- the location near fast-food stores may draw in minors
- alcohol-related crimes and youth consumption may increase if another packaged liquor licence was granted.

Applicant's submissions in response

We also considered the applicant's response to these submissions. The applicant consented to the conditions recommended by NSW Police. They also consented to the no-discount wines condition proposed by NSW Health but did not agree to restrict sales to boutique wines.

The applicant noted that the only public submission was from a competitor. They argue that their business model differs from existing offerings in the area and that most of their product lines will not be available at other liquor retailers.

Findings of concern

Lane Cove is a high-density hotspot for incidents of malicious damage to property and a medium-density hotspot for incidents of domestic assault, non-domestic assault and alcohol-related assault.

The saturation of packaged liquor licences in the suburb is double the NSW rate and the saturation of packaged liquor licences in the Lane Cove LGA is higher than the NSW rate.

The rate of alcohol-attributable hospitalisations is higher in the Lane Cove LGA than in NSW.

The risks may be mitigated by the:

- low crime rates across all categories usually considered by the Authority
- lower rate of alcohol-attributable deaths in the Lane Cove LGA compared to NSW
- data indicating an above average level of socio-economic advantage in both the suburb and the Lane Cove LGA
- the applicant's proposal to cater to a specific clientele and demographic who seek premium and vintage wines
- harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1.

The material we considered

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

Application Material

- Completed application dated 16 May 2022.
- Completed Category B Community Impact Statement (CIS) dated 11 May 2022.
- Completed certifications of advertising dated 15 June 2022.
- Plan of Management documents for the premises, titled M.S Cellars Plan of Management Packaged Liquor Licence (Liquor Store) and dated 7 September 2022.
- ASIC business records for the Applicant and associated companies.
- Floor plan for the premises, dated 11 May 2022, indicating the proposed liquor sales area.

Under [Guideline 6](#), we have 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.

Submissions

- Submission from NSW Police Force – dated 15 June 2022
- Submission from L&GNSW Compliance – dated 18 June 2022
- Submission from Local Council – dated 9 June 2022
- Submission from NSW Health – dated 24 May 2022
- Submission from Ms Michelle Warren (licensee of the Birdwood Lane Cellar) – dated 11 June 2022.

Other relevant material

- Correspondence between L&GNSW staff and the applicant between 31 May 2022 and 8 September 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.

The law that applies

These sections of the *Liquor Act 2007* and clauses of the Liquor Regulation 2018 apply to this application:

- Section 3: Statutory objects of the Act and other 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 about a packaged liquor licence.
- Section 40: Minimum requirements to apply for a liquor licence.
- Section 44: Submissions about licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements to apply for a Community Impact Statement (CIS), including making sure that it won't harm the local or wider community's well-being.
- Sections 114E–114G: Specific provisions about same-day liquor deliveries.

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

This decision will be published on the [Liquor & Gaming NSW website](#) under section 36C of the *Gaming and Liquor Administration Act 2007*.

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, Leonie Jennings, at leonie.jennings@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

M.S. 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 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.	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.
3.	Restricted trading & NYE	<p>Retail sales</p> <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>
4.	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 hours

		of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 7 September 2022 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.	Incident register	<ol style="list-style-type: none"> 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"> 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 Liquor Act 2007, 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 Liquor & Gaming NSW inspector: <ol style="list-style-type: none"> a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and b) allow a police officer or Liquor & Gaming NSW 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.
7.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.