



Ms Danielle Beddoes
Wine Country Retreat Pty Ltd
by email: info@winecountryretreat.com.au

20 April 2022

Dear Ms Beddoes

Application No.	APP-008932364
Applicant	Danielle Beddoes
Application for Licence name	Packaged Liquor Licence Wine Country Retreat Pty Ltd
Trading hours	Monday to Sunday 10:00 AM – 10:00 PM
Premises	1476 Wine Country Drive, Rothbury NSW 2320
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a packaged liquor licence – Wine Country Retreat Pty Ltd**

The Independent Liquor & Gaming Authority considered the application above at its meeting on 17 November 2021 and, pursuant to section 45 of the *Liquor Act 2007*, decided to **approve** the application, subject to imposing conditions as set out in Schedule 1.

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 8:00am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00am.

Statement of reasons

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

If you have any questions, please contact the case manager, Mr Jason Owston, at jason.owston@liquorandgaming.nsw.gov.au.

Yours faithfully

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

STATEMENT OF REASONS

DECISION

1. On 27 August 2021, Ms Danielle Beddoes (“Applicant”) lodged with Liquor & Gaming NSW (“L&GNSW”), for determination by the Independent Liquor & Gaming Authority (“Authority”), an application (“Application”) for a packaged liquor licence (“Licence”) for the premises at 1476 Wine Country Drive, Rothbury NSW 2320 (“Premises”).
2. The Authority considered the Application at its meeting on 17 November 2021 and decided to grant the Licence under section 45 of the *Liquor Act 2007* (“Act”).
3. In reaching this decision, the Authority has had regard to the relevant material before it and the legislative requirements under the Act and the Liquor Regulation 2018.
4. A preliminary notification of this decision was sent to the Applicant on 30 November 2021, together with the licence document for the Premises.

MATERIAL CONSIDERED BY THE AUTHORITY

5. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
6. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
7. In accordance with its *Guideline 6*, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), NSW Department of Health, and Australian Bureau of Statistics (“ABS”).
8. A list of the material considered by the Authority is set out in Schedule 2.

LEGISLATIVE FRAMEWORK

9. 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:
 - a) Section 3: Statutory objects of the Act and relevant considerations.
 - b) Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
 - c) Sections 29-31: Specific provisions in respect of a packaged liquor licence.
 - d) Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
 - e) Section 44: Submissions to Authority in relation to licence applications.
 - f) Section 45: Criteria for granting a liquor licence.
 - g) 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.
10. An extract of these sections is set out in Schedule 3.
11. 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

12. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

Validity, procedural and trading hour requirements

13. The Authority is satisfied on the material before it that:
- a) the Application has been validly made and meets the procedural and trading period requirements under sections 11A, 12 and 40 of the Act,
 - b) if the Licence were to be granted, liquor would be sold in accordance with the authorisation conferred by the Licence as required by section 29 of the Act, and
 - c) sections 30 and 31 of the Act do not apply to the Application, as the Premises is not intended to operate as is contemplated by the sections.
14. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements.

Fit and proper person, responsible service of alcohol, and development consent requirements

15. Pursuant to section 45 of the Act, the Authority is also satisfied that:
- a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
 - b) practices would be in place from the commencement of licensed trading at the Premises to facilitate the responsible serving of alcohol, having regard to the plan of management documentation for the Premises and the conditions to be imposed on the licence, and
 - c) the requisite development consent is in force, based on the Development Consent in respect of the Premises, issued by Cessnock City Council on 28 June 1996, and the Notice of Determination issued by Coolamon Shire Council on 2 January 1997.

Community impact

Local and broader communities

16. For the purpose of this decision and consistent with its position in *Guideline 6*, the Authority is satisfied that the relevant "local community" is the community within the suburb of Lovedale, and the relevant "broader community" comprises the Local Government Area ("LGA") of Cessnock.

Licence density

17. The Authority notes that, compared to the NSW state average:
- a) Lovedale and Cessnock LGA have a **higher** saturation of packaged liquor licences.
 - b) Lovedale and Cessnock LGA have a **higher** saturation of licences authorised to sell packaged liquor (this includes packaged liquor, club and hotel licences).
 - c) Lovedale and Cessnock LGA have a **lower** clustering of packaged liquor licences.
 - d) Lovedale and Cessnock LGA have a **lower** clustering of licences authorised to sell packaged liquor (this includes packaged liquor, club and hotel licences).

Crime data

18. The relevant BOCSAR data indicates that, in the year to June 2021:
- a) the Premises was located within hotspots for incidents of alcohol-related assault, domestic and non-domestic assault, and malicious damage to property.
 - b) There was no offence data calculated for the suburb of Lovedale.
 - c) Cessnock LGA recorded **higher** rates of alcohol-related domestic assault and malicious damage to property, and **lower** rates of alcohol-related non-domestic assault, late-night alcohol related non-domestic assault, alcohol-related non-domestic serious assault and alcohol-related offensive conduct, compared to the NSW state average.

Alcohol-related health data

19. The most recent HealthStats NSW data available at the time of the Authority's decision indicates that Cessnock LGA recorded a **higher** than average level of alcohol-attributable deaths for the period 2017/2018, and a **lower** than average level of alcohol-attributable hospitalisations for the period 2017/2018-2018/2019.

SEIFA

20. The Authority notes that ABS Socio-Economic Index for Areas ("SEIFA") data as at 2016 indicates that Lovedale and Cessnock LGA were relatively advantaged and disadvantaged respectively compared to other suburbs and LGAs in NSW.

Business model

21. The Authority notes that the proposed business model involves the Premises operating a small (12 square metres) 'standalone' packaged liquor outlet to sell a range of Australian produced liquor products, including craft beer, spirits and local wines from the Hunter Valley wine region. The proposed Licence will be adjacent to the Wine Country Retreat. The Authority notes that an application to change licence boundaries was also submitted and granted, which will allow the retreat to accommodate the Application.

Purported benefits

22. The Authority has had regard to the Applicant's purported benefits, including:

- The Applicant's intention to provide a packaged liquor outlet which will specialise in small batch Hunter Valley wines, beers and spirits that are unique and not otherwise readily available in the local community
- The Applicant's intention to provide smaller producers from the Hunter Valley region (that do not currently have access to a cellar door) the opportunity to sell their product
- The Applicant's intention for smaller producers to work with other similar producers and provide unique opportunities for locals and visitors alike to meet small producers, to try handcrafted local products and have the opportunity to purchase them.

Stakeholder submissions

23. The Authority has had regard to the submissions from:

- a) **NSW Police Force**, which notes that Police do not object to the Application, however, Police requested that should the Application be granted, a CCTV condition, plan of management condition and a local liquor accord condition should be added to the Licence in the interests of public safety
- b) **L&GNSW Compliance**, which did not identify any adverse findings regarding the Application, however requested that the Premises update its plan of management to address risks and strategies to identify local wine tour and party bus style events, and that the Applicant join the local liquor accord
- c) **Cessnock City Council** ("Council") which notes that Council does not object to the Application
- d) **Transport for NSW** ("Transport"), which did not support nor object to the Application. The Authority notes Transport's concerns relate to alcohol-related casualty crashes occurring in Cessnock LGA. The Authority further notes that Transport has recommended that the Applicant consider joining the local liquor accord, encourage staff to visit Transport's website regarding drink and drug driving penalties, draw customer's attention to the safe party kit available on Transport's website and display a copy of the safe party checklist inside the Premises

- e) **One member of the public**, a commercial competitor, who objects to the Application on the basis that the Applicant provided insufficient evidence in the CIS, meaning it cannot be determined whether the Application would have a detrimental impact on the wellbeing of the local or broader community. The member of the public submits that the Applicant provided little to no information regarding the operation of the Applicant's business, the purpose of the Application, staff training and responsible service of alcohol measures, the impact on the community and the benefits of the Licence. The member of the public also raises concerns regarding the saturation of packaged liquor licences in the broader community. Finally, the member of the public submits that appropriate licence conditions should be imposed on the Licence including:
- i. the Licence should not operate with a greater overall level of impact that what could be reasonably expected from the information contained in the CIS, Application and other supporting information
 - ii. the Applicant must adopt a comprehensive plan of management that is complied with at all times
 - iii. the Premises installs and maintains an adequate CCTV system consistent with the Authority's standards
 - iv. the Applicant maintains an incident register
 - v. the Licence be restricted to selling boutique liquor products that are produced within the region.

24. The Authority has also had regard to the Applicant's submission in response and notes:

- a) the Applicant has agreed not to sell more than 10% of other complementary liquor products that are not produced in the Hunter Valley
- b) the Applicant has consented to the Police request to have a CCTV and plan of management condition imposed on the Licence, and that the Applicant has made endeavours to participate in the local liquor accord
- c) Police and Council do not object to the Application and L&GNSW Compliance did not identify any adverse findings in relation to the Applicant
- d) the Applicant notes the member of the public objecting to the Application is a commercial competitor. The applicant disputes suggestions the Application has not been through the due diligence process or been held up to a high standard. Regardless, the Applicant consents to conditions being imposed on the Premises Licence which are substantively similar to those suggested by the member of the public.

Findings of concern

25. Having regard to the relevant statistics and the submissions received, including the Applicant's reply submissions, the Authority finds that:

- a) crime rates in Cessnock LGA for alcohol-related domestic assault and malicious damage to property are higher than the comparable NSW averages, and
- b) the density of packaged liquor licences and outlets authorised to sell packaged liquor were notably higher than the NSW averages.

Mitigating factors

26. The Authority notes that there may be a risk that if the Licence were to be granted, liquor sold from the Premises will, over time, 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.

27. The Authority is nevertheless satisfied that the risk is sufficiently mitigated by the following:

- a) relatively small size of the area (12 square metres) in which liquor will be sold or supplied
- b) relatively moderate licensed trading hours
- c) absence of any objections from agency stakeholders
- d) an application to change licence boundaries was submitted to reduce the licence boundaries of the on-premises licensed venue with lodgings to accommodate the proposed packaged liquor outlet, and has since been approved by the Authority
- e) the proposed packaged liquor outlet will be adjacent to the Wine Country Retreat
- f) the business owner is an experienced operator with a clean compliance record
- g) the Licence will be governed by a specialised liquor products condition.

CONCLUSION

28. Having considered the positive and negative social impacts that are likely to flow from granting the Licence, the Authority is satisfied that the overall social impact of granting the Licence would not be detrimental to the well-being of the local and broader communities.

29. The Authority is also satisfied that the other legislative criteria for the granting of the Licence have been met.

30. Accordingly, the Authority has decided to grant the Licence under section 45 of the Act.



Philip Crawford

Chairperson

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

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the Liquor & Gaming NSW website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The NCAT website is at <http://www.ncat.nsw.gov.au/>.

Schedule 1 – Licence conditions to be imposed Wine Country Pty Ltd

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 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. Restricted trading & NYE (std)
Retail sales

Good Friday	Not permitted
December 24 th	Normal trading Monday to Saturday 8:00 AM to 12 midnight Sunday
Christmas Day	Not permitted
December 31 st	Normal trading
3. 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. The premises is to be operated at all times in accordance with the Plan of Management dated October 2021 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 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,
 - (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. Incident Register
 - 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:
 - (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 Act,
 - (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 inspector:
 - (a) make any such incident register immediately available for inspection by a police officer or inspector, and
 - (b) allow a police officer or 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
8. Specialised liquor products
- 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:
 - (a) craft beer
 - (b) craft cider
 - (c) craft spirits
 - (d) boutique wines (including sparkling wines and champagne)
 - (e) organic and natural liquor products
 - (f) liquor products packaged under labels owned by the Business
 - (g) wine produced in the Hunter Valley wine region in which the premises is located
 - 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 (except products packaged under labels owned by the Business) 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.

Definitions

- 5) For the purposes of this condition:
 - (a) Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer:
 - I. 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;
 - II. 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
 - III. 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).
 - (b) Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:
 - I. 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;
 - II. 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
 - III. which will certify that the cider is made from liquid consisting only of juice (no concentrates).
 - (c) Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:
 - I. 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

- II. 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.
- (d) 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).
- (e) 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.
- (f) Organic and natural liquor products are defined as:
 - I. Organic liquors (including organic wines) that bear a recognised organic certification logo;
 - II. 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 additions in wine-making (whether or not the wine is certified as organic);
 - III. 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
 - IV. 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); and
- (g) 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 (i.e., not owned by a larger wine company at the time the licensee purchases wine wholesale from the supplier).

Schedule 2 – Material considered by the Authority Wine Country Pty Ltd

Application material

1. Trading hours and 6-hour closure period and proposed licence conditions.
2. Floor plan for the Premises, dated 27 October 2020, indicating the proposed liquor sales area.
3. Completed application dated 27 August 2021.
4. Completed certification of advertising dated 31 August 2021.
5. Completed Category B Community Impact Statement dated 1 September 2021.
6. ASIC business records in relation to the Applicant extracted on 28 September 2021.
7. Plan of Management documents for the Premises, titled WINE COUNTRY RETREAT PTY LTD MANAGEMENT PLAN and dated October 2021.

Development consent

8. Notice of determination of a development application issued by Cessnock City Council on 28 June 1996, approving the development application 118/696/67 for the Premises.
9. Notice of determination of application issued by Coolamon Shire Council on 8 January 1997, approving the development consent of building application 712/1996 for the Premises.

Liquor & Gaming LiveData Report

10. L&GNSW Liquor & Gaming LiveData Report for the suburb of Lovedale, generated on 26 October 2021, which sets out that:

Outlet diversification

- a. There are **20** authorised liquor licenses in Lovedale. Of these, **3** are authorised to sell packaged liquor. This includes **2** packaged liquor licences and **1** hotel licence.

Outlet density (annual rate per 100,000 residents)

- b. saturation of packaged liquor licences in Lovedale (**412.4**) and Cessnock LGA (**95.4**), is **higher** compared to NSW (**30.5**).
- c. saturation of licences authorised to sell packaged liquor in Lovedale (**618.6**) and Cessnock LGA (**174.6**), is **higher** compared to NSW (**76.1**).
- d. clustering of packaged liquor licences in Lovedale (**1**) and Cessnock City LGA (**2.1**), is **lower** compared to NSW (**3**).
- e. clustering of licences authorised to sell packaged liquor in Lovedale (**0.7**) and Cessnock LGA (**1.5**) is **lower** compared to NSW (**7.2**).

Offence data (annual rate per 100,000 residents)

In the year to June 2021:

- f. alcohol-related domestic assault in Lovedale was not calculated, alcohol-related domestic assault in Cessnock LGA (**141.7**) was **higher** compared to all NSW (**115.7**).
- g. alcohol-related non-domestic assault in Lovedale was not calculated, alcohol-related non-domestic assault in Cessnock LGA (**76.7**) was **lower** compared to all NSW (**98.3**).
- h. late-night alcohol-related non-domestic assault in Lovedale was not calculated, late-night alcohol-related non-domestic assault in Cessnock LGA (**18.3**) was **lower** compared to all NSW (**28.6**).
- i. alcohol-related non-domestic serious assault in Lovedale was not calculated, alcohol-related non-domestic serious assault in Cessnock LGA (**18.3**) was **lower** compared to all NSW (**36.2**).
- j. alcohol-related offensive conduct in Lovedale was not calculated, alcohol-related offensive conduct in Cessnock LGA (**8.3**) was **lower** compared to all NSW (**24.9**).

- k. malicious damage to property in Lovedale was not calculated, malicious damage to property in Cessnock LGA (**933.6**) was **higher** compared to all NSW (**658.3**).

Alcohol-attributable hospitalisations & deaths (per 100,000 residents)

- l. In the period 2017/2018 the alcohol-attributable death rate in Cessnock LGA (**23.4**) was **higher** compared to the average across all of NSW (**20**).
- m. In the period 2017/2018-2018/2019 the alcohol-attributable hospitalisation rate in Cessnock LGA (**453.5**) was **lower** compared to the NSW average (**542.1**).

SEIFA

- n. According to the SEIFA Index of Relative Economic Advantage & Disadvantage, households in Lovedale and Cessnock LGA are socio-economically advantaged and disadvantaged respectively (**top 12%** and **bottom 9%** of NSW households, in terms of household income and residents in skilled occupations).

Stakeholder submissions

11. Submission from Transport of NSW, dated 30 August 2021.
12. Submission from a member of the public, dated 13 October 2021.
13. Submission from NSW Police, dated 17 October 2021.
14. Submission from Cessnock City Council, dated 20 October 2021.
15. Submission from L&GNSW Compliance, dated 20 October 2021.

Other relevant information

16. Plan of Lot 22 DP1226054 from Rennie Golledge Pty Ltd, map of Cessnock LGA and Google map images extracted from the Google website, showing the location and photos of the Premises in map view.
17. Correspondence between L&GNSW staff and the Applicant between 31 August 2021 and 2 November 2021 in relation to the assessment of the Application.
18. Correspondence between L&GNSW staff between 13 September 2021 and 15 September 2021 in relation to extending noticeboard approval due to CISB deficiencies.
19. Cellar Door Tasting and Sales Product List.

Schedule 3 – Relevant extracts from the *Liquor Act 2007*

Wine Country Pty Ltd

3 Objects of Act

- (1) The objects of this Act are as follows—
 - (a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
 - (b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
 - (c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
- (2) In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following—
 - (a) the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
 - (b) the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
 - (c) the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life.
 - (d) the need to support employment and other opportunities in the:
 - (i) live music industry; and
 - (ii) arts, tourism, community and cultural sectors.

11A Special licence condition—6-hour closure period for licensed premises

- (1) This section applies in relation to—
 - (a) any licence granted on or after 30 October 2008, and
 - (b) any licence in force before that date, but only if an extended trading authorisation granted on or after that date is in force in relation to the licensed premises concerned.
- (2) A licence to which this section applies is subject to the condition that liquor must not be sold by retail on the licensed premises for a continuous period of 6 hours (as determined in accordance with this section) during each consecutive period of 24 hours (the 6-hour closure period).
- (3) Except as provided by subsection (4), the 6-hour closure period for any particular licensed premises is the period that is approved for the time being by the Authority.
- (4) In the case of a licence—
 - (a) granted on or after 30 October 2008 but before the date on which this section (as inserted by the *Liquor Legislation Amendment Act 2008*) commenced, or
 - (b) granted by the Local Court (as provided by clause 25 of Schedule 1) at any time after the date on which this section commenced,the 6-hour closure period for the licensed premises is, subject to subsection (5), the period from 4 am to 10 am.
- (5) The Authority may at any time, on application by the licensee or by the Secretary or the Commissioner of Police, or on its own initiative, approve of licensed premises having a different 6-hour closure period than—
 - (a) the period as last approved by the Authority, or
 - (b) the period specified in subsection (4).
- (6) Any such application by the licensee must be accompanied by the fee prescribed by the regulations.
- (7) To avoid doubt, during the 6-hour closure period for any licensed premises—
 - (a) the licensed premises are not authorised to stay open for the retail sale of liquor on the premises, and
 - (b) the licensee is not authorised to sell liquor by retail for consumption away from the licensed premises.
- (8) This section has effect despite any other provision of this Act (in particular, those provisions relating to the standard trading period for licensed premises).
- (9) This section does not, however, apply to the sale or supply of liquor to a resident of licensed premises if the liquor is sold or supplied for consumption in the room in which the resident is residing or staying.
- (10) The regulations may also create exceptions to this section.

12 Standard trading period for certain licensed premises

- (1) For the purposes of this Act, the **standard trading period** means—
 - (a) for any day of the week other than a Sunday—
 - (i) the period from 5 am to midnight, or

- (ii) if the regulations prescribe a shorter period—the period as so prescribed, and
- (b) for a Sunday—
 - (i) the period from 10 am to 10 pm, or
 - (ii) if the regulations prescribe a shorter period—the period as so prescribed.
- (1A) Despite subsection (1), the **standard trading period** for a small bar is the period from noon to midnight on any day of the week.

Note—

Small bars are subject to the 6-hour closure period under section 11A.

- (1B) Despite subsection (1)(b), the **standard trading period** for premises to which this subsection applies ends at midnight on a Sunday that falls on 24 or 31 December.
- (1C) Subsection (1B) applies to the following premises or part of premises—
 - (a) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is the sale or supply of liquor for consumption away from the licensed premises—the licensed premises,
 - (b) if the primary purpose of the business carried on on licensed premises to which a packaged liquor licence relates is not the sale or supply of liquor for consumption away from the licensed premises—the part of the premises that is a liquor sales area (within the meaning of section 30) of the licensed premises,
 - (c) if a hotel licence, club licence, on-premises licence or producer/wholesaler licence authorises the licensee to sell liquor for consumption away from the licensed premises—any part of the licensed premises to the extent that it is used for that purpose.
- (2) Any regulation that prescribes a shorter period for the purposes of subsection (1) may—
 - (a) apply to a specified class of licensed premises, and
 - (b) apply in relation to a specified day or days, and
 - (c) in the case of licensed premises on which liquor may be sold or supplied for consumption on the premises as well as for consumption away from the premises—specify different periods for the sale or supply of liquor for consumption on the premises and for the sale or supply of liquor for consumption away from the premises.
- (3) Without limiting subsection (2)(a), a class of licensed premises may be specified by reference to licensed premises that are located in a particular area (however described).

29 Authorisation conferred by packaged liquor licence

- (1) **Retail sales** A packaged liquor licence authorises the licensee to sell liquor by retail in sealed containers on the licensed premises, for consumption away from the licensed premises only—
 - (a) during the standard trading period or such other period as may be authorised by an extended trading authorisation, or
 - (b) in the case of any Sunday that falls on 24 December—from 8 am (or such earlier time as may be authorised by an extended trading authorisation) to midnight on that day.
- (2) **No retail trading on restricted trading days** Despite subsection (1), a packaged liquor licence does not authorise the licensee to sell liquor by retail on a restricted trading day.
- (3) **Selling liquor by wholesale or to employees** A packaged liquor licence also authorises the licensee—
 - (a) to sell liquor by wholesale, at any time on the licensed premises, to persons authorised to sell liquor (whether by wholesale or by retail), and
 - (b) to sell or supply liquor, at any time on the licensed premises, to the employees of the licensee or of a related corporation of the licensee.
- (3A) An extended trading authorisation must not authorise the sale of liquor for consumption away from the licensed premises—
 - (a) on a Sunday that does not fall on 24 or 31 December—after 11 pm, and
 - (b) on any other day—after midnight.
- (4) **Tastings** A packaged liquor licence also authorises the licensee to sell or supply liquor, on the licensed premises and during the trading hours permitted by subsection (1), otherwise than in sealed containers to customers and intending customers for consumption while on the licensed premises, but only for the purposes of tasting.

30 Liquor sales area required if bottle shop is part of another business activity

- (1) If the primary purpose of the business carried out on the premises to which a packaged liquor licence relates is not the sale of liquor for consumption away from the licensed premises, liquor may only be sold under the licence in an area of the licensed premises (**the liquor sales area**) that is adequately separated from those parts of the premises in which other activities are carried out.
- (2) The principal activity carried out in any such liquor sales area must be the sale or supply of liquor for consumption away from the licensed premises.

31 Restrictions on granting packaged liquor licences

- (1) A packaged liquor licence must not be granted for premises that comprise a general store unless the Authority is satisfied that—
 - (a) in the neighbourhood of the premises concerned, no other take-away liquor service is reasonably available to the public, and
 - (b) the grant of the licence would not encourage drink-driving or other liquor-related harm.

(2) A packaged liquor licence must not be granted for premises comprising a service station or take-away food shop.

(3) In this section—

general store means a convenience store, mixed business shop, corner shop or milk bar that has a retail floor area of not more than 240 square metres and that is used primarily for the retail sale of groceries or associated small items.

service station means premises that are used primarily for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products.

take-away food shop means premises that are used primarily for the preparation and sale of food for immediate consumption away from the premises (whether or not food is also consumed on the premises).

40 Licence applications

- (1) Licence applications are to be made to the Authority.
- (2) An application for a licence may be made by—
 - (a) an individual, or
 - (b) a corporation, or
 - (c) in the case of a club licence—a club (or a person on behalf of a club) that meets the requirements specified in section 10 (1) of the *Registered Clubs Act 1976*.
- (3) An application for a licence may not be made by—
 - (a) an individual who is under the age of 18 years, or
 - (b) a person who is disqualified from holding a licence or who holds a suspended licence, or
 - (c) an individual who is a controlled member of a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*.

Note: Controlled members are prohibited from applying for licences—see section 27 of the *Crimes (Criminal Organisations Control) Act 2012*.

- (4) An application for a licence must—
 - (a) be in the form and manner approved by the Authority, and
 - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
 - (c) be advertised in accordance with the regulations, and
 - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.

Note: See also section 48 which requires a community impact statement to be provided with certain licence applications.

- (5) If, before an application for a licence is determined by the Authority, a change occurs in the information provided in, or in connection with, the application (including any information provided in accordance with this subsection), the applicant must immediately notify the Authority of the particulars of the change.

44 Submissions to Authority in relation to licence applications

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the licence.

45 Decision of Authority in relation to licence applications

- (1) The Authority may, after considering an application for a licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence. The Authority may determine the application whether or not the Secretary has provided a report in relation to the application.
- (2) The Authority may, in such circumstances as the Authority considers appropriate, treat an application for a licence as having been withdrawn.
- (3) The Authority must not grant a licence unless the Authority is satisfied that—
 - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, and
 - (b) practices will be in place at the licensed premises as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place, and

- (c) if development consent is required under the *Environmental Planning and Assessment Act 1979* (or approval under Part 3A or Part 5.1 of that Act is required) to use the premises for the purposes of the business or activity to which the proposed licence relates—that development consent or approval is in force.

Note. Section 48 also requires the Authority to be satisfied of certain other matters before granting a hotel, club or packaged liquor licence.

- (4) The regulations may also provide mandatory or discretionary grounds for refusing the granting of a licence.
- (5) Without limiting subsection (3) (a), a person is not a fit and proper person to carry on the business or activity to which a proposed licence relates if the Authority has reasonable grounds to believe from information provided by the Commissioner of Police in relation to the person—
 - (a) that the person—
 - (i) is a member of, or
 - (ii) is a close associate of, or
 - (iii) regularly associates with one or more members of,
a declared organisation within the meaning of the *Crimes (Criminal Organisations Control) Act 2012*, and
 - (b) that the nature and circumstances of the person's relationship with the organisation or its members are such that it could reasonably be inferred that improper conduct that would further the criminal activities of the declared organisation is likely to occur if the person is granted a licence.
- (5A) Without limiting subsection (3)(a), in determining whether an applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates, the Authority is to consider whether the applicant—
 - (a) is of good repute, having regard to character, honesty and integrity, and
 - (b) is competent to carry on that business or activity.
- (6) The Authority is not, under this or any other Act or law, required to give any reasons for not granting a licence because of subsection (5) to the extent that the giving of those reasons would disclose any criminal intelligence.
- (7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—
 - (a) the live music industry,
 - (b) the arts sector,
 - (c) the tourism sector,
 - (d) the community or cultural sector.

48 Community impact

- (1) The object of this section is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community, in particular by providing a process in which the Authority is made aware of—
 - (a) the views of the local community, and
 - (b) the results of any discussions between the applicant and the local community about the issues and concerns that the local community may have in relation to the application.
 - (c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—
 - (i) the live music industry,
 - (ii) the arts sector,
 - (iii) the tourism sector,
 - (iv) community or cultural sector.
- (2) In this section:
relevant application means any of the following—
 - (a) an application for a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (b) an application under section 59 for approval to remove a hotel licence, club licence, small bar licence or packaged liquor licence to other premises,
 - (c) an application for an extended trading authorisation in relation to a hotel licence, club licence, small bar licence or packaged liquor licence,
 - (d) an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
 - (e) an application for an extended trading authorisation in relation to a producer/wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
 - (e1) an application for an extended trading authorisation in relation to a small bar licence (but only if the authorisation will result in trading on a regular basis at any time between 2 am and 5 am),
 - (f) any particular application (or class of application) that is required by the Authority to be accompanied by a community impact statement,

(g) any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations,

but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49(5)(b) or (5A) or 49A(3)(b)).

(3) A relevant application must be accompanied by a community impact statement.

(3A) However, a small bar application is not required to be accompanied by a community impact statement if—

(a) development consent is required under the *Environmental Planning and Assessment Act 1979* to use the premises to which the application relates as a small bar or to sell liquor during the times to which the application relates, and

(b) the local police and the Secretary are, no more than 2 working days after the application for the required development consent, or any variation to that application, is made, notified by the applicant of the making of the application for development consent or of the variation to that application.

(3B) For the purposes of subsection (3A), a **small bar application** means any of the following—

(a) an application for a small bar licence,

(b) an application for approval to remove a small bar licence to other premises,

(c) an application for an extended trading authorisation for a small bar, other than if the authorisation would result in trading on a regular basis at any time between 2 am and 5 am,

(d) an application to vary an extended trading authorisation for a small bar, other than if the variation would result in trading on a regular basis at any time between 2 am and 5 am.

(3C) An application (other than an application under clause 39 of Schedule 1) for a small bar licence is not, despite subsection (3), required to be accompanied by a community impact statement if—

(a) the application relates to the same premises as the premises to which a general bar licence relates, and

(b) development consent has been obtained under the *Environmental Planning and Assessment Act 1979* to sell liquor during the times to which the application relates and those times are specified in the development consent.

(3D) Despite subsection (3), an application for a multi-occasion extended trading authorisation (as referred to in section 49B) is not required to be accompanied by a community impact statement if—

(a) an extended trading authorisation of the kind referred to in section 49(5)(a) is in force in respect of the licensed premises concerned, or

(b) the application is made in respect of club premises that have unrestricted trading hours in accordance with clause 94 of Schedule 2 to the *Registered Clubs Act 1976*.

(4) The community impact statement must—

(a) be prepared in accordance with the regulations and any requirements of the Authority, and

(b) be in the form approved by the Authority.

(5) The Authority must not grant a licence, authorisation or approval to which a relevant application relates unless the Authority is satisfied, after having regard to—

(a) the community impact statement provided with the application, and

(a1) any published cumulative impact assessment that applies to the area in which the premises the subject of the application are located, and

(b) any other matter the Authority is made aware of during the application process (such as by way of reports or submissions),

that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.

(6) The regulations may make provision for or with respect to the following—

(a) the requirements that must be satisfied in relation to the preparation of a community impact statement (including consultation requirements),

(b) the matters to be addressed by a community impact statement,

(c) the information to be provided in a community impact statement,

(d) the criteria for determining the local and broader community for the purposes of a relevant application,

(e) any other matter relating to the preparation and content of a community impact statement.

(7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.