



Mr Tony Schwartz  
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12 January 2022

Dear Mr Schwartz

<b>Application No.</b>	APP-0009005022
<b>Applicant</b>	Australian Vintage Ltd
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	McGuigan Wines
<b>Premises</b>	447 McDonalds Rd Pokolbin NSW 2320
<b>Trading hours</b>	Monday to Sunday 10:00 am – 6:00 pm
<b>Legislation</b>	Sections 3, 11A, 12, 29-31, 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 – McGuigan Wines**

The Independent Liquor & Gaming Authority considered the application above, and decided on 23 December 2021 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

The Authority notes that the applicant currently operates a producer/wholesaler licence at the premises, and that the grant of the packaged liquor licence is conditional on the surrender of producer/wholesaler licence no. LIQW824004279.

**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 8:00 am. In accordance with the 6-hour closure period for the current licence, the Premises must not trade earlier than 10:00 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, Wendy Yeung, at [wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au](mailto:wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au).

Yours faithfully

A handwritten signature in blue ink, appearing to read 'P. Crawford', enclosed in a thin black rectangular border.

Philip Crawford  
Chairperson

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

## Concise statement of reasons

### Key facts

<b>Application No.</b>	APP-0009005022
<b>Applicant</b>	Australian Vintage Ltd
<b>Application for</b>	Packaged liquor licence
<b>Licence name</b>	McGuigan Wines
<b>Premises</b>	447 McDonalds Rd Pokolbin NSW 2320
<b>Trading hours</b>	Monday to Sunday 10:00 am – 6:00 pm
<b>Application date</b>	20 September 2021
<b>Decision</b>	Approved under section 45 of the <i>Liquor Act 2007</i>
<b>Decision date</b>	23 December 2021

### 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
- Liquor & Gaming LiveData report for Pokolbin
- 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 44: Submissions to Authority in relation to licence applications.
- 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 Cessnock.

### Positive social impacts

The Authority notes that the purpose of this application is to replace the existing producer/wholesaler licence at the premises with a packaged liquor licence. This will enable the applicant to address the expected shortfall in grape supply in Pokolbin by permitting the sale of a range of fruit-based liquor products produced at other production facilities operated by the applicant, including a small selection of complementary liquor products, at the premises.

### 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:

- significantly higher than average saturation of packaged liquor licences in the local and broader communities
- higher than average rates of alcohol-related domestic assault and malicious damage to property in the broader community (with rates in the local community not calculated due to the low population count)
- higher than average level of alcohol-attributable deaths in the broader community
- relative socio-economic disadvantage in the broader community.

The Authority notes, however, that Pokolbin is situated in the Hunter Valley wine region, a popular tourist destination with a large influx of visitors, which may skew density and crime figures.

Furthermore, the Authority considers that these risk factors are sufficiently mitigated by the following:

- relatively moderate licensed trading hours
- absence of any objections from agency stakeholders or members of the community
- Pokolbin is amongst the most advantaged suburbs in NSW
- lower than average level of alcohol-attributable hospitalisations in the broader community
- the business model at the premises of a cellar door limited to the sale of liquor products packaged under labels owned by the business (with a maximum 10% of other complementary liquor products)
- the sound compliance history of the premises under the existing producer/wholesaler licence
- harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

### 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.

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Philip Crawford  
Chairperson

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

## **Schedule 1 – Licence conditions to be imposed McGuigan Wines**

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 <sup>th</sup>	Normal trading Monday to Saturday 8:00 AM to 12 midnight Sunday
Christmas Day	Not permitted
December 31 <sup>st</sup>	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 18 August 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. 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 sub-clause 2:
    - (a) liquor products packaged under labels owned by the Business
  - 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.