

# NSW Independent Liquor & Gaming Authority

Our ref: DF24/028337

Mr Grant Cusack  
Hatzis Cusack Lawyers

18 December 2024

Dear Mr Cusack

Application No.	APP-0013362282
Applicant	WINE GALLERY PTY. LTD.
Application for	New hotel (full) licence with minors' area authorisation
Application date	1 August 2024
Decision date	12 December 2024
Licence name	Good Pair Days
Trading hours	<u>Consumption on premises: Indoor area</u> Monday to Saturday 07:00 AM – 11:00 PM Sunday 07:00 AM – 10:00 PM <u>Consumption on premises: Outdoor area</u> Monday to Sunday 07:00 AM – 10:00 PM <u>Takeaway sales</u> Monday to Sunday 10:00 AM – 10:00 PM
Premises	Shop 6, 353-359 Crown Street Surry Hills NSW 2010
Legislation	Sections 3, 11A, 12, 14, 15, 40, 44, 45, 48, 53, 114 and 121 of the <i>Liquor Act 2007</i>

## Decision of the Independent Liquor & Gaming Authority Application for a new hotel (full) licence with minors' area authorisation – Good Pair Days

We **approve** the application above under section 45 of the *Liquor Act 2007* – with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

## 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

We are satisfied that the overall impact of approving the application will not be detrimental to the well-being of the local or broader community.

### Our main findings

The local community for the purposes of this decision is Surry Hills. The broader community is the Local Government Area (LGA) of City of Sydney.

#### *Positive social impacts*

The new hotel will operate a boutique liquor business on the ground floor of a 7-storey building that houses the Adina Accommodation Hotel and other commercial businesses and will not operate gaming machines. The hotel licence will replace the on-premises licence of 'Caffe Bartolo' that has operated at the same site since 2001.

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:

- venue being located in a high density crime hotspot for all categories we considered
- higher crime rates in the suburb and LGA compared to NSW for all categories we considered
- higher saturation rate of hotel licences in both the suburb and LGA compared to NSW
- higher rate of alcohol-attributable hospitalisations in the LGA compared to NSW.

*Note: the hotel's location is in an area which attracts a large population of visitors relative to the local residential population. This has the effect of distorting both crime rates and licence saturation figures, which are calculated based on residential figures alone.*

However, we are satisfied that these risk factors are reduced by the:

- lower rate of alcohol-attributable deaths in the LGA compared to NSW
- Socio-Economic Indexes for Areas (SEIFA) data indicating an above average level of relative socio-economic advantage and disadvantage in the suburb and LGA compared to other communities in NSW
- venue's reduced trading hours and by the fact that it will have less patrons on site compared to the current on-premises licence 'Caffe Bartolo'
- boutique liquor business model and a specialised liquor products condition on the licence
- 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 to them.

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

This decision will be published in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

### **Opportunity for review**

The applicant and anyone who was notified of the application and made a submission, may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later 28 days after the decision is published on the 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 Liquor & Gaming NSW if you have any questions.

Yours sincerely



Caroline Lamb

**Chairperson**

**Independent Liquor & Gaming Authority**

## Schedule 1: Licence conditions to be imposed – Good Pair Days

No.	Condition to be imposed	Description
1.	6-hour closure	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 <b>01:00 AM and 07:00 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.	Restricted trading & NYE	Consumption on premises Good Friday 12:00 noon – 10:00 PM Christmas Day 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area) December 31 <sup>st</sup> Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.
3.	Take away sales	Good Friday Not permitted December 24 <sup>th</sup> Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight on Sunday Christmas Day Not permitted December 31 <sup>st</sup> Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight on Sunday
4.	Minors' Area	Minors Area Authorisation: Whole of the licensed area.
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated <b>July 2024</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.	Overall impact	The business authorised by this licence must not operate with a greater overall level of overall impact on the well-being of the local and broader community than what could reasonably be expected from the information contained in the application and other information submitted in the process of obtaining the licence.
7.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
8.	Complaints register	<ol style="list-style-type: none"> <li>1. A complaints register is to be maintained at the premises at all times which records the following:               <ol style="list-style-type: none"> <li>a. the name and number of the complainant</li> <li>b. the time and date on which the complaint was received</li> <li>c. the nature of the complaint, and</li> <li>d. the measures taken to resolve the complaint.</li> </ol> </li> <li>2. Details of complaints received, either in person or over the phone, must be:               <ol style="list-style-type: none"> <li>a. recorded in the complaints register, and</li> <li>b. reported to the duty manager.</li> </ol> </li> <li>3. A mobile or dedicated contact number for the duty manager is to be published on the hotel's website, and on a sign to be posted at the premises entrance. If requested,</li> </ol>

No.	Condition to be imposed	Description
		the duty manager's contact details must be provided to complainants. A messaging service must be in place if the dedicated contact number is unattended.
9.	CCTV	<ol style="list-style-type: none"> <li>1. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements: <ol 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 (or, in the case of a premises that is not required to cease trading, continuously at all times),</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: <ol style="list-style-type: none"> <li>i. all entry and exit points on the premises,</li> <li>ii. the footpath immediately adjacent to the premises, and</li> <li>iii. all publicly accessible areas (other than toilets) within the premises.</li> </ol> </li> </ol> </li> <li>2. The licensee must also: <ol 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> </ol> </li> </ol>
10.	Crime scene preservation	<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>
11.	Incident Register	<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:</li> </ol>

No.	Condition to be imposed	Description
		<ul 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> </ul> <p>2. The licensee must, if requested to do so by a police officer or Liquor &amp; Gaming NSW inspector:</p> <ul 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> </ul> <p>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.</p>
12.	No gaming activities	No gaming machines may be operated on the licensed premises.
13.	No liquor sales	The sale and supply of liquor at the licensed premises must not commence before 10:00 AM.
14.	Specialised Liquor Products – Take away Sales	<p>1) The licensee must ensure that only the following liquor products are sold or supplied by the licensed business (“Business”) for take away or delivery by the licensed business, except as provided by sub-clause 2:</p> <ul 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> <li>e. organic and natural liquor products</li> </ul> <p>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.</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 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><u>Definitions</u> For the purposes of this condition:</p>

No.	Condition to be imposed	Description
		<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 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</li> <li>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.</li> </ol> </li> <li>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).</li> <li>5. Boutique champagne and sparkling wine is defined as champagne or sparkling wine that is not generally considered to be mainstream champagne or sparkling</li> </ol>

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		<p>wine, that is, champagne or sparkling wine that is not commonly sold by major liquor retailers.</p> <p>6. Organic and natural liquor products are defined as:</p> <ul style="list-style-type: none"> <li>a. Organic liquors (including organic wines) that bear a recognised organic certification logo;</li> <li>b. 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);</li> <li>c. 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</li> <li>d. 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).</li> </ul>
15.	Trial period – indoor area	<p>If the local consent authority does not approve the continuation of the trial period in the development consent <b>one year from the date of the Occupation Certificate</b> (or as may be extended from time to time), the trading hours of the premises (<b>for the indoor area</b>) will revert to 10:00 AM to – 10:00 PM (Monday to Sunday).</p> <p>A copy of the relevant development consent is to be kept on the premises, and made available for inspection on the request of a police officer, council officer, Liquor &amp; Gaming inspector, or any other person authorised by the Independent Liquor &amp; Gaming Authority.</p>
16.	Licence not to be exercised	<p>The licence is not to be exercised unless the on-premises licence, LIQO624009164, has either been surrendered, or a change of boundaries application has been granted reducing the licence to a nominal area of the premises where the licence is to be held in a dormant capacity.</p>
17.	No TAB or KENO	<p>No TAB facilities or KENO facilities are to be provided at the licensed premises</p>