



Grant Cusack
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by email to: gc@hatziscusack.com.au

12 October 2022

Dear Mr Cusack

Application No.	APP-0010212301
Application date	18 July 2022
Applicant	Jacqueline Xu
Application for	Packaged liquor licence
Licence name	Pennant Hills Cellars
Proposed trading hours	<u>Retail</u> Monday to Wednesday 09:00 AM to 08:30 PM Thursday to Saturday 09:00 AM to 09:00 PM Sunday 10:00 AM to 08:00 PM
Premises	74 Yarrara Road, Pennant Hills NSW 2120
Legislation	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 – Pennant Hills Cellars**

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

Approved manager or individual licensee

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified of the appointment of an approved manager to the licence, or the licence has been transferred to an individual licensee.

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 Eloise Ryan-Mackie at eloise.ryan-mackie@liquorandgaming.nsw.gov.au

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Murray Smith', written in a cursive style.

Murray Smith

Deputy Chairperson

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

Concise statement of reasons

Key facts

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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;
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- 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, and
- 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 Pennant Hills, and the broader community is the Local Government Area of Hornsby.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through:

- the provision of increased convenience and choice;
- same-day delivery risk mitigation measures that have been incorporated into the liquor plan of management;
- the proposed licensed premises is located near the main transport hub for the suburb and will service local residents, visitors to the area and local businesses, and
- the business owner has a history of managing liquor stores responsibly in NSW.

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 following:

- while crime rates in the suburb are lower compared to NSW, on average rates are higher when compared to the relevant broader community;
- the premises is located near medium density hotspots for incidents of assault (domestic assault) and a low density hotspot for malicious damage to property in the suburb;
- there are higher rates of alcohol-attributable hospitalisations in the broader community compared to NSW; and
- there is a higher outlet density in the suburb when compared to the broader community.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- there are no public or agency objections;
- there is lower outlet density in the suburb when compared to NSW;
- health data indicates above average socio-economic advantage in both the suburb and broader community;
- there are lower rates of alcohol-attributable deaths in the broader community compared to NSW, and
- the harm minimisation measures are 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.

Yours faithfully



Murray Smith
Deputy Chairperson
For and on behalf of the **Independent Liquor & Gaming Authority**

Schedule 1 – Licence conditions to be imposed Pennant Hills Cellars

1. 6-hour closure period

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 03:00 AM and 09:00 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 24th Normal trading Monday to Saturday 8:00 AM to 12 midnight Sunday

Christmas Day Not permitted

December 31st Normal trading

3. Restricted trading on public holidays

The licensed premises must cease to trade by 8:00 PM, on public holidays.

4. 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.

5. The licensee or its representative must join and be an active participant in the local liquor accord.

6. Plan of management

The premises is to be operated at all times in accordance with the Plan of Management dated July 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.

7. 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 sub-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.