

NSW Independent Liquor & Gaming Authority

Our ref: DF25/018631

Mr Tony Schwartz
BSV Liquor and Gaming lawyers

8 April 2025

Dear Mr Schwartz

Application No.	APP-0013712169
Applicant	Vincent Lou Trading Pty Ltd
Application for	New packaged liquor licence
Application date	28 October 2024
Decision date	31 March 2025
Proposed licence name	Bay Grocer
Proposed trading hours	Monday to Saturday 06:30 AM – 07:00 PM Sunday 10:00 AM – 06:00 PM
Approved trading hours	Monday to Saturday 08:00 AM – 07:00 PM Sunday 10:00 AM – 06:00 PM
Proposed premises	63 Tennyson Street Byron Bay NSW 2481
Legislation	Sections 3, 11A, 12, 30, 31, 40, 44, 45, 48, 53, 114 and 123 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application for a new packaged liquor licence – Bay Grocer

We first considered this application at the meeting of 19 February 2025 and, following consideration of further information, decided on 31 March 2025 to **partially approve** the application above under section 45 of the *Liquor Act 2007* (the Act) – with the conditions set out in Schedule 1. The 6-hour closure period overrides any condition of the licence.

The partial approval relates to the request to trade from 06:30 AM (Monday to Saturday). We approve trading from 08:00 AM only (Monday to Saturday).

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.

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Mixed-use checkouts must be closed outside licensed hours

Under section 103(2) of the Act, any counter or place used to sell or supply liquor under the licence, including any mixed-use checkouts in the liquor sales area, must be closed to the public outside the licensed trading hours.

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 Byron Bay. The broader community is the Local Government Area (LGA) of Byron.

Positive social impacts

The application sought to operate a liquor sales area in a supermarket within a residential area of Byron Bay. The proposed licence will include the specialised liquor products condition for craft products, as well as a restriction of no cask wine, clean skins, ready to drink (RTD) drinks or discounting by more than 20%.

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

Negative social impacts

This application was the subject of objections from Police, NSW Health the Local Aboriginal Lands Council and two members of the public relating principally to outlet density in the area and high rates of crime. We considered that these concerns might be mitigated by the Liquor Plan of Management requiring the licensee to prevent consumption of alcohol in the seating area in front of the premises.

We accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the:

- high-density crime hotspots in the suburb for non-domestic assault, malicious damage to property and alcohol related assault; medium-density hotspot for domestic assault
- crime rates for all categories we considered being higher in the suburb and LGA than in NSW (however, we recognise that these statistics may be skewed due to the suburb and LGA being tourist destinations, particularly in the summer months)
- saturation of packaged liquor licences (as well as all other licence types providing takeaway liquor facilities) in the suburb and the LGA being higher than the NSW average (however, three of the packaged liquor licences in the suburb are online delivery only)
- rate of alcohol attributed deaths in the LGA being higher when compared to NSW.

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

- Socio-Economic Indexes for Areas (SEIFA) data indicating an above average level of socio-economic advantage and disadvantage in the suburb and LGA compared to other communities in NSW
- rate of alcohol attributed hospitalisations in the LGA being lower than the NSW average

- liquor being sold via a liquor sales area of 13 m² and conditioned with the specialised liquor products restriction; as well as no RTDs, casks, cleanskins, or deep discounting
- 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 Statement of Risks and Potential Benefits
- 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 Liquor & Gaming NSW at: new.applications@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

Independent Liquor & Gaming Authority

Schedule 1: Licence conditions to be imposed – Bay Grocer

No.	Condition to be imposed	Description
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 6 hours between 02:00 AM and 08:00 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	Good Friday: Not permitted December 24th: Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday Christmas Day: Not permitted December 31st: Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday
3.	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.
4.	Liquor accord	The licensee or its representative must join and be an active participant in the local liquor accord.
5.	Liquor plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 22 January 2025 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.	CCTV	<ol style="list-style-type: none"> 1. The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/specialty store in accordance with the following requirements: <ol style="list-style-type: none"> a. the system must record continuously from opening time until one hour after the supermarket/specialty store 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: <ol style="list-style-type: none"> i. all entry and exit points to the supermarket/specialty store, and ii. all publicly accessible areas (other than toilets) within the liquor sales area. 2. The licensee must also: <ol style="list-style-type: none"> a. keep all recordings made by the CCTV system for at least 30 days, b. ensure that the CCTV system is accessible at all times the system is required to operate pursuant to sub-clause

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		<p>1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and</p> <p>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.</p>
7.	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"> 1. take all practical steps to preserve and keep intact the area where the act of violence occurred, 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, 3. make direct and personal contact with NSW Police to advise it of the incident, and 4. comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred. <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>
8.	Incident register	<ol style="list-style-type: none"> 1. The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident: <ol style="list-style-type: none"> a. any incident involving violence or anti-social behaviour occurring on the premises, b. any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises, c. any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007, d. any incident that results in a patron of the premises requiring medical assistance. 2. The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector: <ol style="list-style-type: none"> a. make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and b. allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises. 3. The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.

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9.	Adequate separation	The liquor sales area must be adequately defined from the rest of the supermarket in accordance with the premises plan as approved by the Independent Liquor and Gaming Authority on 31 March 2025 or any premises plan subsequently approved by the Authority.
10.	No RTDs, casks, cleanskins, deep discounting	The licensee must not sell at the premises any of the following products: 1. ready to drink (RTD) pre-mixed alcohol products; 2. cask wine; 3. clean skin wines; and 4. alcohol products discounted by more than 20%.
11.	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. craft beer b. craft cider c. craft spirits d. boutique wines (including sparkling wines and champagne) e. organic and natural liquor products 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 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. <u>Definitions</u> For the purposes of this condition: 1. Craft beer is defined as beer that is not generally considered to be mainstream beer, and is produced by a craft brewer: 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; 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

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		<p>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).</p> <p>2. Craft cider is defined as cider that is not generally considered to be mainstream cider, and is produced by a craft producer:</p> <p>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;</p> <p>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</p> <p>c. which will certify that the cider is made from liquid consisting only of juice (no concentrates).</p> <p>3. Craft spirits are defined as spirits that are not generally considered to be mainstream spirits and are:</p> <p>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</p> <p>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.</p> <p>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).</p> <p>5. 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.</p> <p>6. Organic and natural liquor products are defined as:</p> <p>a. Organic liquors (including organic wines) that bear a recognised organic certification logo;</p> <p>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);</p> <p>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</p>

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		<p>(additives) in wine-making, including MegaPurple, tartaric acid, enzymes, malabugs, and bottled with lower levels of sulphur or without sulphur (preservative 220); and</p> <p>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).</p>
12.	Liquor sales area	The liquor sales area at 13 sqm cannot be increased by more than 50% without the applicant completing a change of boundaries application, full notification and SoRPE that must be determined by the Authority.