



Mr Grant Cusack
Hatzis Cusack Lawyers
By email to: gc@hatziscusack.com.au

11 December 2023

Dear Mr Cusack

Application No.	APP-0009841830
Applicant	Vans Fresh Food Pty Ltd
Application for	Packaged liquor licence
Licence name	Van's Fresh
Proposed trading hours	Retail Monday to Saturday 8:00 AM – 9:00 PM Sunday 10:00 AM – 8:00 PM
Premises	Tenancies 210 & 211 Westfield Chatswood 1 Anderson Street, Chatswood NSW 2067
Legislation	Sections 3, 11A, 12, 40, 44, 45, 48 and 114 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority – Application for a packaged liquor licence – Van's Fresh

We first considered the application above on 13 October 2022 and, following the receipt and consideration of further requested information, decided on 23 November 2022 to **approve** the application under section 45 of the *Liquor Act 2007* - with the conditions set out in Schedule 1.

We provided you with preliminary advice of this decision on 9 December 2022.

Approved manager or individual licensee

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been 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.

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

Overall, we are satisfied that the social impact of approving the application will not be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

We are satisfied that:

- the application meets the Act's requirements for procedural fairness and trading period
- the sale of liquor would comply with the licence's authorisation.
- sections 30 and 31 of the Act don't apply to this application.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates.

Responsible service of alcohol

Procedures for the responsible service of alcohol will be in place at the premises from the start of licensed trading, under the plan of management and the conditions on the licence.

Development consent requirements

The necessary development consent is in force. Willoughby Council approved the modification of development consent DA-1995/602/A for the premises on 17 November 2021.

Community impact

Local and broader communities

The 'local community' is the community in the suburb of Chatswood and the 'broader community' comprises the Local Government Area of Willoughby.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report (March 2022) for Chatswood shows:

- there are 124 authorised liquor licenses, of which 30 are authorised to sell packaged liquor. This includes 20 packaged liquor licences, 4 registered club licences, 4 hotel licences and 2 Producer/Wholesalers.
- saturation of packaged liquor licences in Chatswood is higher compared to both the Willoughby LGA and all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that in the year to June 2022:

- the premises were located in hotspots for alcohol-related assault, domestic and non-domestic assault or malicious damage to property.
- the premises were located close to hotspots for incidents of alcohol-related domestic assault and malicious damage to property in areas that are likely to be serviced by the licence
- alcohol-related domestic assault in Chatswood was the same as the in Willoughby LGA and lower compared to all of NSW
- alcohol-related non-domestic assault in Chatswood was higher compared to the Willoughby LGA and lower compared to all of NSW
- alcohol-related disorderly conduct in Chatswood was higher compared to the Willoughby LGA and lower compared to all of NSW.

- malicious damage to property in Chatswood was higher compared to the Willoughby LGA and lower compared to all of NSW.

Alcohol-related health data (per 100,000 residents)

The most recent HealthStats NSW data available show that between 2018/19 and 2019/20:

- alcohol-related deaths in Willoughby LGA were lower compared to the NSW average
- alcohol-related hospitalisations in Willoughby LGA were higher compared to the NSW average.

ABS Socio-Economic Index for Areas (SEIFA) SEIFA

Data as at 2016 shows that Chatswood and Willoughby LGA have a high level of relative socio-economic advantage in household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

The proposed business model involves operating a liquor sales area in an existing grocery store and supermarket.

Proposed benefits

The applicant proposes that there would be these benefits:

- 'One stop shop' convenience — Benefits consumers who wish to purchase packaged liquor while shopping at the supermarket
- Increased choice for customers with additional new product lines.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 5 May 2022, which notes that the location does not present a risk to the community, a request of imposing additional conditions and to align trading hours with standard hours for packaged liquor outlets, no objection
- L&GNSW Compliance, dated 11 May 2022, which notes no adverse history in regard to this application and a recommendation to impose additional conditions, no objection
- Willoughby Local Council, dated 31 May 2022, which notes the suggestion to amend trading hours, no objection
- NSW Health, dated 20 May 2022, objecting to the proposal noting concerns about the saturation of packaged liquor licences in the suburb, local alcohol-related hospitalisations and the impact of high crime rates.
- Transport for NSW, dated 30 March 2022, which notes the need to be aware of local alcohol-related issues impacting the community, to consider road safety measures and requests to impose an additional condition to participate in the local Liquor Accord, but no objection
- One submission received by a member of the public, dated 21 April 2022, objecting to the proposal noting concerns around safety and disputed the premises' suitability for the location.

We also considered the Applicant's submission in response, to these submissions, which notes the following:

- consent to all proposed conditions
- proposed trading hours are similar to other supermarkets in Chatswood with a packaged liquor licence

- based on the crime statistics for Chatswood for the past 10 years, both Chatswood and LGA experience very low rates of liquor related crime.

Findings of concern

There is a risk that if the licence was granted, liquor sold from the premises will 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.

The premises is located in a high-density hotspot for incidents of non-domestic assault, alcohol-related assault and malicious damage to property and medium-density hotspot for incidents of domestic assault. In addition, Chatswood and the Willoughby LGA have a higher license density than the state average.

We are satisfied that the risk is reduced by these factors:

- relatively small liquor sales area
- data indicating above-average socio-economic advantage in both the suburb and LGA
- the proposed store will be located within the Chatswood Westfield shopping centre without street frontage
- alcohol-attributable deaths are lower in the LGA compared to NSW
- harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1.

The material we considered

We considered all the material we received about the application, including:

Application Material

- Completed application dated 20 April 2022
- Completed Category B Community Impact Statement (CIS) lodged 14 April 2022
- Completed certification of advertising dated 28 July 2022.
- Plan of Management documents for the premises, titled Updated Management Plan for the operation of a proposed packaged liquor department to be located within Van's Fresh and dated April 2022
- ASIC business records for the Applicant and associated companies
- Floor plan for the premises indicating the proposed licensed area and liquor sales area

Under [Guideline 6](#), we have also considered: data published by Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material

- Submissions received
- Correspondence between L&GNSW staff and the applicant between 28 April 2022 and 10 November 2022 in relation to the assessment of the Application.
- Google map images extracted from the Google website showing the location and photos of the Premises in map view.

The statement of reasons will be published on the [Liquor & Gaming NSW website](#) under section 36C of the *Gaming and Liquor Administration Act 2007*.

If you're not happy with this decision

If the applicant, or a person who was notified of the application and made a submission, is unhappy with this decision, they may apply to [NCAT](#) for a review of the decision.

An application for review must be made no later than 28 days after being notified that the decision is published on the [Liquor & Gaming NSW website](#). There is a fee to apply.

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, Zof El Hussein, at zof.el.husseini@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely

A handwritten signature in blue ink that reads "Sarah Dinning". The signature is written in a cursive style.

Sarah Dinning

Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed

Van's Fresh

No.	Condition to be imposed	Description
1.	6-hour closure period	Section 11A of the <i>Liquor Act 2007</i> applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 2:00 AM and 8:00 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.	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.
3.	Restricted trading & NYE	<p>1) Restricted trading & NYE (std)</p> <p>Retail sales</p> <p>Good Friday Not permitted</p> <p>December 24th Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday</p> <p>Christmas Day Not permitted</p> <p>December 31st Normal trading</p>
4.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated April 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.
6.	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 23 November 2022 or any premises plan subsequently approved by the Authority.
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

		<p>4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</p> <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 (e.g. crowd controller or bouncer) on or about the premises.</p>
8.	Incident register	<p>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:</p> <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 <i>Liquor Act 2007</i>, d) any incident that results in a patron of the premises requiring medical assistance. <p>2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:</p> <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. <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>
9.	CCTV	<p>1) The licensee must maintain a closed-circuit television (CCTV) system at the supermarket/general store in accordance with the following requirements:</p> <ol style="list-style-type: none"> a) the system must record continuously from opening time until one hour after the supermarket/general 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/general store, and (ii) all publicly accessible areas (other than toilets) within the liquor sales area. <p>2) The licensee must also:</p> <ol style="list-style-type: none"> a) keep all recordings made by the CCTV system for at least 30 days,

		<p>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</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>
--	--	--