

Mr Jim Adams
Adams Hospitality Solutions
By email to: office@adamshospitality.com.au

11 March 2024

Dear Mr Adams

Application No.	APP-0012278179
Applicant	DK RETAIL MANAGEMENT PTY LTD
Application for	New packaged liquor licence
Decision Date	21 February 2024
Licence name	FoodWorks Weston
Trading hours	Monday to Sunday 10:00 AM – 09:00 PM
Premises	94 Cessnock road Weston NSW 2326
Legislation	Sections 3, 11A, 12, 29, 30, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a new packaged liquor licence – FoodWorks Weston**

We decided on 21 February 2024 to **refuse** the application under section 45 of the *Liquor Act* (the Act).

Statement of reasons

Overall, we are concerned that the social impact of approving the application may 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 is valid and meets the Act's requirements for procedural fairness and trading period
- liquor would be sold and supplied in a separate liquor sales area (LSA) at the premises
- [section 31](#) of the Act doesn'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. Cessnock City Council approved the development application for the premises on 10 January 2023.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Weston, and the relevant 'broader community' comprises the Local Government Area (LGA) of Cessnock.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming harm minimisation and community impact data report for Weston shows:

- there are 4 authorised liquor licenses, of which all are authorised to sell packaged liquor. This includes 1 packaged liquor licence, 1 registered club licence and 2 hotel licences.
- saturation of packaged liquor licences in Weston is lower (24.46) compared to the Cessnock LGA (119.44) and to all of NSW (38.97).

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to September 2023:

- the premises were located in high-density hotspots for incidents of alcohol-related assault, domestic assault and malicious damage to property.
- alcohol-related domestic assault and malicious damage to property was higher in Weston compared to the Cessnock LGA and to all of NSW.
- alcohol-related non-domestic assault in Weston was also significantly higher compared to both, the LGA and all of NSW.
- there were no incidents reported in Weston for alcohol-related offensive conduct.

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

ABS Socio-Economic Index for Areas (SEIFA)

The suburb of Weston and the Cessnock LGA were ranked as relatively disadvantaged in terms of household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

We note that the proposed business model involves a dedicated liquor sales area (LSA) within the new FoodWorks supermarket in the town of Weston.

Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- FoodWorks Weston will be the suburb's only local supplier of groceries and allied lines and the inclusion of a LSA is to meet public expectations for a one-stop shopping experience to purchase liquor at the same time as groceries
- increased convenience and choice within the local community
- Increased employment opportunities will be available to the local community
- Population growth in the Cessnock LGA — e.g. Cessnock City Council's development projects 'Weston Commercial Centre Masterplan' suggest that demand for packaged liquor will likely increase
- the proposed LSA will be located inside at the rear of the supermarket and would reduce the prospects for shoplifting of liquor by, for example, minors

However, we were not persuaded that the proposal would be consistent with the objects of the Act. Having considered the submissions made both in support and opposing the application, we do not believe that the proposal would meet the needs of the wider local community and that it would facilitate the balanced development of the liquor industry in the public interest.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 14 December 2023, which notes no concerns around the proposed premises and business model supporting the conditions proposed by L&GNSW Licensing, no objection
- Local Council, dated 17 January 2024, which notes no concerns, no objection
- L&GNSW Compliance, dated 13 December 2023, which notes no adverse history relevant to the application, no objection
- 5 public submissions objecting to the proposal, raising concerns about the already high crime rates in a rather disadvantaged and vulnerable community, the potential increase in anti-social behaviour and noise disturbances in the neighbourhood. The need for an additional premises selling packaged liquor in the area was also questioned.
- 4 public submissions in support of the proposal, claiming that the LSA would meet the demand of the local community and that it would be a positive enhancement for the town, attracting both locals and visitors to the area.

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

- the applicant's consent to the imposition of proposed conditions
- that SEIFA data indicating that Weston is a disadvantage community is in part due to the age of its housing and lack of facilities
- that the accuracy of crime hotspots is questionable as it is reflecting the density of incidents in specific areas, not the number of actual incidents. The applicant contends that Weston's actual crime incidents are relatively low
- that the quoted Cessnock LGA figures are significantly higher than in the suburb, which has rates comparable to NSW. Weston does not have a sizeable commercial centre so does not experience the same level of crime as larger centres in the LGA (notably, Cessnock and Kurri Kurri) attract.

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. We noted that:

- the premises is located in high-density hotspots for alcohol-related assault, domestic assault and malicious damage to property
- Incident rates of alcohol-related assault, domestic assault and malicious damage to property are higher in Weston compared to the Cessnock LGA and to all of NSW
- SEIFA data indicates that Weston and the Cessnock LGA have a below average level of relative socio-economic advantage compared to other communities in NSW

Our concerns are somewhat mitigated by:

- the relatively small LSA with reduced trading hours

- the lower crime incident rates in the suburb and LGA compared to NSW for alcohol-related disorderly conduct
- the fact that there will be no delivery service offered
- harm minimisation measures outlined in the plan of management, including consent to all conditions recommended by L&GNSW Licensing and NSW Police

However, on balance, we are concerned that the likelihood of adverse social impact from approving the application outweighs any benefit to the local or broader community and accordingly, approval of the application is not in the public interest.

Approving the application would therefore be inconsistent with the objects of the legislation which require us to have due regard to:

- the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour)
- the need to ensure that the sale, supply and consumption of liquor, and the operation of licensed premises, contributes to, and does not detract from, the amenity of community life

As a result of our concerns, we cannot be satisfied that the overall social impact of granting the application will not be detrimental to the well-being of the local and broader community.

We do not believe that imposing additional harm minimisation conditions under section 53 of the Act would effectively mitigate the high risks presented.

The material we considered

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

Application Material

- completed application dated 16 November 2023
- completed Category B Community Impact Statement (CIS) dated 16 November 2023
- completed certification of advertising dated 2 December 2023
- plan of management documents for the premises, titled Liquor Plan of Management and House Policy and dated December 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 13/07/23, indicating the proposed LSA.

Under [Guideline 6](#), we 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 24 November 2023 and 18 January 2024 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.

This decision will be published on the [Liquor & Gaming NSW website](#) in accordance with section 36C of the *Gaming and Liquor Administration Act 2007*.

If you are dissatisfied with this decision

If the applicant, or a person who was notified of the application and made a submission, is dissatisfied with this decision, they 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 [Liquor & Gaming NSW 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, Sophie Cartwright, at Sophie.Cartwright@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

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