



Tony Schwartz
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27 April 2020

Dear Tony

Application No.	1-7629590108
Applicant	Anthony Charles Leybourne Smith
Application for	Removal of a packaged liquor licence
Licence number	LIQP724006483
Licence name	BWS - Beer Wine Spirits
Current premises	Shop 65B Ballina Fair Shopping Centre Fox & Kerr Streets Ballina NSW 2478
Current trading hours	Monday to Saturday 5:00 am to 11:00 pm Sunday 10:00 am to 10:00 pm
Proposed premises	Tenancy 2 Epiq Lennox Estate 5 Snapper Drive Lennox Head NSW 2478
Proposed trading hours	Monday to Saturday 8:00 am to 9.59 pm Sunday 10:00 am to 9:59 pm
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 45, 48 and 59 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for the removal of a packaged liquor licence – BWS - Beer Wine Spirits**

The Independent Liquor & Gaming Authority considered the application above, and decided on 15 April 2020 to **approve** the application under section 59 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Removal of the licence

Notwithstanding the approval of the application, the subject licence (LIQP724006483) remains at Shop 65B, Ballina Fair Shopping Centre, Fox & Kerr Streets, Ballina subject to the same conditions and trading hours in force immediately before the approval of this application, until Liquor & Gaming NSW is notified that the licence has been removed.

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, Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Philip Crawford', enclosed in a thin black rectangular border.

Philip Crawford

Chairperson

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

Concise statement of reasons

Key facts

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Decision	Approved under section 59 of the <i>Liquor Act 2007</i>
Decision date	15 April 2020

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;
- 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* ("the Act"), 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 45: Criteria for granting a liquor licence.

- 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.
- Section 59: Requirements for an application to remove a liquor licence to another premises and the determination of such an application.

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

Local and broader community

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Lennox Head, and the broader community is the Local Government Area of Ballina.

Positive social impacts

The Authority notes that the applicant proposes to move the licence to a new neighbourhood shopping centre which will form part of new master planned “Epiq Lennox” development, which is expected to accommodate some 1,500 residents. The Authority considers that the removal of the packaged liquor licence to the proposed premises would likely benefit the local community through the provision of increased liquor access, choice and convenience.

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:

- slightly higher than average alcohol-related non-domestic assault rate the broader community; and
- higher than average level of alcohol-attributable deaths the broader community.

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

- the removal of the licence will result in a reduction of 24 trading hours per week;
- the removal of the licence within the LGA will not increase the density of packaged liquor licences in the broader community;
- significantly lower than average density of packaged liquor licences in the local community;
- absence of crime hotspots in the local community;
- significantly lower than average crime rates in the local community;
- absence of any objections from agency stakeholders or members of the community;
- relative socio-economic advantage in the local and broader community;
- lower than average level of alcohol-attributable hospitalisations in the broader community; and
- harm minimisation measures 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 59 of the Act.

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Philip Crawford

Chairperson

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

Schedule 1 – Licence conditions to be imposed BWS - Beer Wine Spirits, Lennox Head

1. 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 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. Restricted trading & NYE (std)
Retail sales

Good Friday	Not permitted
December 24 th	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31 st	Normal trading
3. 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 removing this licence to the premises at Tenancy 2, Epiq Lennox Estate, 5 Snapper Drive Lennox Head.
4. The premises is to be operated at all times in accordance with the policies and procedures of the Endeavour Group Limited, as submitted to the Independent Liquor and Gaming Authority (“the Authority”) in support of the licence application and as may be varied from time to time after consultation with the Authority. A copy of these documents 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.
5. The licensee or its representative must join and be an active participant in the local liquor accord.
6. 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 six (6) 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 to 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 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.
7. Incident register
 - 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:
 - 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:
 - 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.