

Mr Tony Schwartz
Back Schwartz Vaughan
By email to: licensing@bsv.com.au

16 April 2024

Dear Mr Schwartz

Application No.	APP-0012094862
Applicant	Endeavour Group Limited
Application for	New packaged liquor licence
Decision Date	20 March 2024
Licence name	BWS - Beer Wine Spirits
Proposed trading hours	Monday to Saturday 9:00 AM – 9:00 PM Sunday 10:00 AM – 9:00 PM
Premises	Banora Village Shopping Centre, Shop S2 59 Darlington Drive Banora Point NSW 2486
Legislation	Sections 3, 11A, 12, 29, 40, 44, 45, 48, 114 and 123 of the <i>Liquor Act 2007</i>

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

We **refuse** the application under section 45 of the *Liquor Act 2007 (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 meets the Act's requirements for procedural fairness and trading period
- the sale of liquor would comply with the proposed 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. Tweed Shire Council approved the development application DA/20-0443 for the premises on 7 March 2022.

Community impact

Local and broader communities

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

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming Harm Minimisation and Community Impact Data Report for Banora Point shows:

- although saturation of packaged liquor licences is low compared to both the Tweed LGA and all of NSW, there are 7 authorised liquor licenses, of which 6 are authorised to sell packaged liquor. This includes 3 packaged liquor licences, 2 registered club licences and 1 Producer/ Wholesaler.

Crime data (annual rate per 100,000 residents)

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

- the premises were located in a high-density hotspot for domestic assault and in a medium-density hotspot for malicious damage
- alcohol-related domestic assault in Banora Point was higher compared to the Tweed LGA and to all of NSW
- incident rates for alcohol-related non-domestic assault, alcohol-related offensive conduct and malicious damage to property were lower in Banora Point compared to the Tweed LGA and to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

Banora Point is a community with a below average, and the Tweed LGA with an average, level of relative socio-economic advantage 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 'standalone' liquor store. The primary purpose of the proposed licence is the retail sale of packaged liquor on the licensed premises for consumption away from the licensed premises.

Benefits proposed by applicant

- increased convenience and choice through one-stop shopping
- improved neighbourhood safety, security as well as amenity and access
- increased employment and career opportunities

The applicant also contends that weight should be given to its experience in operating liquor stores.

We believe that these proposed benefits are limited by the limited amount of concrete evidence of community support for the application. However, we also note that there was no objection raised by members of the community.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 25 January 2024 and 18 January 2024, objecting to the proposal and if the application is granted, raising concerns about the potential increase in alcohol-related anti-social behaviour and crime in the area with already existing high crime rates in comparison to NSW average. Rates of drink-driving across the Tweed Byron Police district

are the highest in the state. It was also noted that the suburb is already serviced sufficiently by existing licensed premises

- Local Council, dated 20 December 2023, which notes no concerns in relation to the application, no objection
- L&GNSW Compliance, dated 21 December 2023, which notes no adverse history relevant to the application, no objection
- NSW Health, dated 21 December 2023, objecting to the proposal raising concerns about the outlet density in the area as well as the potential increase of the already high alcohol related crime rates
- Local Aboriginal Community, dated 9 October 2023, objecting to the proposal noting their intent to foster the best interests of Aboriginal People
- One submission from a member of the public in support of the application

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

- NSW Police are relying on data for the Tweed LGA
- BOCSAR data suggests that the 2-year trend is down and the 5-year trend is stable and that official drink drive data confirms a low number of recorded offences in the Tweed LGA in the last 12 months
- the existing Coles supermarket and Liquorland store have vacated the centre and it is proposed that they be replaced by a new Woolworths supermarket and the proposed new BWS store
- there is no evidence that pre-determined demand increases when a new bottleshop opens in a community that already has access to bottle shops.

Findings of concern

Local concerns suggest there is a risk that if the licence was granted, liquor sold at 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 note that the proposal seeks to establish the licence in a predominantly residential estate in a community burdened with high rates of domestic assault and malicious damage. We are concerned about the impact of high liquor density in an area with high rates of domestic violence and youth crime, and potential for secondary supply to minors in the area. We are influenced by submissions received from NSW Police, NSW Health and the local Aboriginal Land Council who objected to the proposal.

Our concerns may be mitigated by the:

- proposed reduced hours with no street frontage
- lower crime rates in the suburb compared to NSW average for alcohol-related non-domestic assault, malicious damage, and alcohol-related disorderly conduct
- saturation of packaged liquor licences in Banora Point being lower than the NSW average
- harm minimisation measures outlined in the plan of management

However, on balance, we consider 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.

The material we considered

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

Application Material

- completed application dated 30 November 2023
- completed Category B Community Impact Statement (CIS) dated 27 November 2023
- completed certification of advertising dated 30 November 2023
- plan of management documents for the premises, titled Policies and Procedures of Endeavour Group Limited effective June 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 22 February 2023, indicating the proposed licensed area

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 12 December 2023 and 24 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 disagree 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 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**