

Mr Tony Schwartz
Back Schwartz Vaughan

By email to: licensing@bsv.com.au

8 December 2023

Dear Mr Schwartz

Application No.	APP-0010232827
Applicant	Anthony Charles Leybourne Smith
Application for	Packaged liquor licence
Licence name	BWS Kellyville
Trading hours	Monday to Saturday 09:00 AM – 10:00 PM Sunday 10:00 AM – 10:00 PM
Premises	2A Hector Ct, Kellyville NSW 2155
Legislation	Sections 3, 11A, 12, 29, 30, 31, 40, 44, 45 and 48 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority Application for a packaged liquor licence – BWS Kellyville

We considered the application above and decided on 13 October 2022 to **approve** the application under section 45 of the *Liquor Act 2007* (Act) with the conditions set out in Schedule 1.

Preliminary advice of this decision was provided on 30 November 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.

Trading on a Sunday that falls on 24 December

If any Sunday falls on 24 December, the 6-hour closure period overrides the statutory provision that would otherwise allow trading from 8:00 AM. However, due to the 6-hour closure period for the licence, the premises must not trade earlier than 09:00 am.

Statement of reasons

Overall, we are satisfied 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 Liquor 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. Law enforcement agencies raised no concerns about their integrity.

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. The Hills Shire Council approved the development application Ref: 970/2017/JP/B on 10 December 2021.

Community impact

Local and broader communities

The relevant ‘local community’ is the suburb of Kellyville and the relevant ‘broader community’ comprises the Local Government Area of The Hills Shire.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming Live Data Report for Kellyville shows:

- there are 20 authorised liquor licenses, of which 8 are authorised to sell packaged liquor
- saturation of packaged liquor licences in Kellyville is lower compared to both The Hills Shire LGA and all of NSW but higher for The Hills Shire LGA than for both Kellyville and all of NSW.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that in the year to June 2022:

- the premises are not located in hotspots for all crime categories usually considered by the Authority
- the incident rate for Kellyville and the Hills Shire LGA for all crime categories considered by the Authority was lower than for all of NSW.

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

Health Stats NSW data available for the Hills Shire show:

- alcohol-related deaths were lower compared to all of NSW
- alcohol-related hospitalisations were lower compared to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

Kellyville and The Hills Shire LGA were ranked as relatively advantaged in household income and residents in skilled occupations compared to other suburbs and LGAs in NSW.

Business model

The proposed business model involves a stand-alone packaged liquor licence (PLL) within the Kellyville shopping centre.

Benefits proposed by the applicant

The applicant proposes the following benefit:

The supermarket and new store will offer customers one-stop grocery shopping, and an increase in choice and convenience that the public anticipate finding in any modern-day supermarket environment.

Stakeholder submissions

We considered the following submissions:

NSW Police – raised no objection to the licence but recommended conditions be imposed and requested the inclusion of CCTV at 15 frames a second.

Local Council – noting that the development consent in place specifies the trading hours are to be from 09:00 AM Monday to Saturday, not 08:00 AM.

L&GNSW Compliance – supports the imposition of CCTV and plan of management conditions on the licence.

Transport for NSW – requested the licensee maintain awareness of local alcohol-related issues that impact the community and encouraged the licensee to participate in the local liquor accord.

Local Aboriginal community – did not object to the application. The applicant notified the NSW Aboriginal Land Council.

Public submissions – three submissions raised concerns about the presence of similar stores nearby, the large population of minors and the potential of the licence to encourage intoxicated teenagers or adults in the area. There was one submission in support of the application.

We also considered the applicant's response to these submissions which notes that trading hours have been amended to start 09:00 AM Monday to Saturday, and the additional security arrangements afforded by the store's location in a shopping centre.

Findings of concern

Kellyville is in a high-density hotspot for domestic assault and malicious damage and is a low-density hotspot for alcohol-related assault. There is a high saturation of packaged liquor licences in the suburb.

However, we are satisfied the risk is adequately mitigated by:

- all 4 crime categories usually considered by the Authority being lower in both the suburb and LGA compared to NSW
- both Kellyville and the LGA have above-average levels of socio-economic advantage
- both alcohol-attributable hospitalisations and deaths in the LGA area are lower than the state average
- the premises not having direct street frontage, being located in a shopping centre that will have its own security.

Material considered

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

Application material

- completed application dated – 22 June 2022
- completed Category B Community Impact Statement (CIS) dated 12 April 2022
- completed certifications of advertising dated 30 June 2022
- plan of Management documents for the premises dated July 2021
- ASIC business records for the Applicant and associated companies.
- floor plan for the premises, dated 8 December 2021 indicating the proposed licensed area to which the ETA will apply.

- data published by the Bureau of Crime Statistics and Research (BOCSAR), NSW Department of Health and the Australian Bureau of Statistics (ABS), and relevant L&GNSW liquor licensing records.

Other relevant material

- submissions received
- Google map images extracted from the Google website showing the location and photos of the Premises in map view
- correspondence between L&GNSW staff and the applicant between 12 July 2022 and 2 September 2022 in relation to the assessment of the Application.

We also considered [Guideline 6](#) to assess the likely social impact on the local and broader community.

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 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, Glenn Barry, at glenn.barry@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Sarah Dinning
Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed

BWS Kellyville

No.	Condition to be imposed	Description
1.	6-hour closure	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 3:00 AM and 9:00 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	Retail sales Good Friday Not permitted December 24 th Normal trading Monday to Saturday, 8:00 AM to 12:00 midnight Sunday Christmas Day Not permitted December 31 st Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight Sunday
3.	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.
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 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.
6.	CCTV	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 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: (i) all entry and exit points on the premises, and (ii) all publicly accessible areas (other than toilets) within the premises. 2) The licensee must also:

		<ul 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 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.
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