

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

01 February 2023

Dear Mr Schwartz

Application No.	APP-0010167270
Applicant	Anthony Charles Leybourne Smith
Application for	Packaged liquor licence
Licence name	BWS – Beer Wine Spirits
Trading hours	<u>Retail</u> Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 09:00 PM
Premises	6 Well Street, BRANXTON NSW 2335
Legislation	Sections 3, 11A, 12, 29-31, 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 - Beer Wine Spirits**

The Independent Liquor & Gaming Authority considered the application above, and decided on 16 December 2022 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Transfer to a suitable and qualified person

The licence must not be exercised unless and until Liquor & Gaming NSW has granted a transfer of the licence to a suitable and qualified person.

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 agency or substantial 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, Mr Roger Ha, at roger.ha@liquorandgaming.nsw.gov.au.

Yours faithfully



Caroline Lamb

Chairperson

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

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the [Liquor & Gaming NSW website](#) and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The [NCAT website](#).

Concise statement of reasons

Key facts

Application No.	APP-0010167270
Applicant	Anthony Charles Leybourne Smith
Application for	Packaged liquor licence
Licence name	BWS – Beer Wine Spirits
Premises	6 Well Street, BRANXTON NSW 2335
Trading hours	<u>Retail</u> Monday to Saturday 09:00 AM – 09:00 PM Sunday 10:00 AM – 09:00 PM
Application date	15 August 2022
Decision	Approved under section 45 of the <i>Liquor Act 2007</i>
Decision date	16 December 2022

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 and any applicable authorisations;
- 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*, 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 44: Submissions to the Authority in relation to licence applications.
- 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.

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

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

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities through the provision of increased convenience and choice.

The Applicant has sought the licence due to the unique proximity to the Hunter Valley and the large population growth that the local community is expecting will allow for the sale of liquor products to the local residents and aid in the ever-growing tourist population that visits that area each year.

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:

- higher than average liquor licence density in the local and/or broader community.
- relative socio-economic disadvantage in the local and/or broader community.
- location of the premises near facilities for disadvantaged and vulnerable community groups.

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

- relatively small size of the area in which liquor will be sold or supplied.
- relatively moderate licensed trading hours.
- absence of any objections from agency stakeholders or members of the community.
- 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 facilitates the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.

Yours faithfully



Caroline Lamb

Chairperson

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

Schedule 1 – Licence conditions to be imposed BWS – Beer Wine Spirits

1. 6-hour closure

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 03:00 AM and 09:00 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. 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. Participation in the local liquor accord

The licensee or its representative must join and be an active participant in the local liquor accord.

5. Liquor 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:
 - (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.