



Mr Tony Schwartz  
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18 December 2017

Dear Mr Schwartz

<b>Application No.</b>	APP-0003222600
<b>Application for</b>	Packaged Liquor Licence
<b>Trading hours</b>	Monday to Saturday 8:00 am – 10:00 pm Sunday 10:00 am – 8:00 pm
<b>Applicant</b>	Mr Anthony Charles Smith
<b>Licence name</b>	BWS - Beer Wine Spirits
<b>Premises</b>	Level 7, Northpoint Shopping Centre 100 Miller Street NORTH SYDNEY NSW 2060
<b>Issue</b>	Whether to grant a packaged liquor licence
<b>Legislation</b>	Sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the <i>Liquor Act 2007</i>

### Independent Liquor and Gaming Authority Decision

#### Application for a packaged liquor licence – BWS – Beer Wine Spirits, North Sydney

The Independent Liquor and Gaming Authority (“the Authority”) has considered your application on behalf of the Applicant for a new packaged liquor licence (“the Application”). Pursuant to section 45 of the *Liquor Act 2007* (“the Act”), the Authority has decided to **approve** the Application subject to the following conditions:

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 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 and NYE (std)  
Retail Sales  
Good Friday Not permitted  
December 24<sup>th</sup> Normal trading Monday to Saturday, 8:00 am to 10:00 pm Sunday  
Christmas Day Not permitted  
December 31<sup>st</sup> 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 be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.

4. The premises is to be operated at all times in accordance with the Endeavour Drinks Group Liquor Store House Policy and Best Practice Policies and Interventions documents, as submitted to the Independent Liquor and Gaming Authority in support of the licence application and as may be varied from time to time after consultation with the Alcohol Licensing Enforcement Command of NSW Police. 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. 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 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.
6. The licensee must join and be an active participant in the local liquor accord.

Please note that the licence cannot be exercised unless and until the Authority has been provided with evidence that the premises is complete and ready to trade and notified of the appointment of an approved manager to the licence or the licence has been transferred to an individual licensee.

If you have any questions, please contact the case manager via email to [charles.rivers@liquorandgaming.nsw.gov.au](mailto:charles.rivers@liquorandgaming.nsw.gov.au).

Yours faithfully



Philip Crawford  
Chairperson  
For and on behalf of the Independent Liquor and Gaming Authority

## Statement of Reasons

### Decision

1. On 4 August 2017, Mr Anthony Charles Smith (“Applicant”) lodged an application for a packaged liquor licence for premises located at Level 7, Northpoint Shopping Centre 100 Miller Street NORTH SYDNEY 2060 (“Premises”) with Liquor and Gaming NSW (“L&GNSW”) for determination by the Independent Liquor and Gaming Authority (“Authority”).
2. Pursuant to section 45 of the *Liquor Act 2007* (“Act”), the Authority decided to approve the Application.
3. In making this decision, the Authority has had regard to the material before it, the legislative requirements under sections 3, 11A, 12, 29, 30, 31, 40, 45 and 48 of the Act, and the relevant provisions of the Liquor Regulation 2008.

### Material Considered by the Authority

4. The Authority has considered the Application, the accompanying community impact statement (“CIS”), and all submissions received in relation to the Application.
5. The Authority is satisfied that procedural fairness was afforded to the Applicant and interested parties regarding this decision, as all parties required to be notified of the Application were provided with the opportunity to make submissions.
6. In accordance with the Authority’s Guideline 6, the Authority has also had regard to relevant L&GNSW liquor licensing records and data published by Bureau of Crime Statistics and Research (“BOCSAR”), Healthstats NSW, and Australian Bureau of Statistics (“ABS”).
7. The material considered by the Authority is listed in the Schedule.

### Legislative framework

8. The Authority has considered the Application in the context of the following legislative provisions

#### Objects of the Act

9. The objects of the Act, as set out in section 3, are to regulate the supply of liquor in line with the expectations and needs of the community, and facilitate the balanced and responsible development of the liquor industry and related industries.
10. In the pursuit of these objectives, section 3 requires the Authority to, in determining a liquor licence application, have due regard to the need to minimise alcohol related harm, encourage responsible liquor supply practices, and ensure that the supply of liquor does not detract from the amenity of community life.

#### Trading hours and six-hour closure period

11. Section 12 of the Act sets out the standard trading period for different types of liquor licences. Additionally, section 11A imposes a condition on all licences prohibiting the sale of liquor by retail on the licensed premises for a continuous period of 6 hours during each consecutive period of 24 hours.

#### Minimum procedural requirements

12. Section 40 of the Act prescribes procedural requirements for a liquor licence application to be validly made to the Authority.

#### Fit and proper person, responsible service of alcohol, and development consent

13. Section 45 of the Act provides that the Authority may only grant a licence if it is satisfied that:

- a) the applicant is a fit and proper person to carry on the business to which the proposed licence relates,
- b) practices will be in place to ensure the responsible service of alcohol and to prevent intoxication on the premises, and
- c) the applicable development consent required for use of the premises for the business to which the proposed licence relates is in force.

#### Community impact statement

14. Section 48 of the Act requires certain applications, including an application for a packaged liquor licence, to be accompanied by a CIS prepared in accordance with the relevant requirements.
15. Section 48(5) provides that the Authority may only grant the licence if it is satisfied that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community, having regard to the CIS and any other matter brought to its attention.

#### Provisions specific to packaged liquor licence

16. Further legislative provisions specific to a packaged liquor licence are set out in sections 29, 30 and 31 of the Act.
17. Section 29 prescribes the period and manner in which a licensee can sell or supply liquor.
18. Section 30 requires a separate liquor sales area to be set up on the licensed premises if its primary business is not to sell liquor for consumption away from the premises.
19. Section 31 sets out certain restrictions on the granting of the licence to general stores, service stations and take-away food shops.

#### **Key findings**

20. Having regard to the information before it and relevant legislative requirements, the Authority makes the following findings in relation to the Application.

#### Validity, procedural and trading hour requirements

21. The Authority finds that:
  - a) the Application has been validly made and meets the procedural requirements under section 40 of the Act,
  - b) the proposed trading hours for the Premises meet the requirements under sections 11A and 12 of the Act in respect of trading and 6-hour closure periods, and
  - c) the proposed use of the Premises as a bottle shop satisfies the requirements under section 29 of the Act and renders sections 30 and 31 not applicable.

#### Fit and proper person, responsible service of alcohol, and development consent

22. Pursuant to section 45 of the Act, the Authority is also satisfied that:
  - a) the Applicant is a fit and proper person to carry on the business to which the proposed licence relates, given that no concerns regarding the Applicant's probity were raised upon consultation with relevant law enforcement agencies,
  - b) practices will be in place from the commencement of licensed trading at the Premises to ensure the responsible service of alcohol, having regard to the Applicant's "House Policy" and "Best Practice Policy & Interventions" documents and the conditions imposed on the licence, and
  - c) the requisite development consent is in force, based on Development Consent Certificate D337/16 issued by North Sydney Council on 25 November 2016.

### Community impact statement

23. Pursuant to section 48 of the Act, the Authority finds that the CIS submitted with the Application was prepared in accordance with the relevant requirements. The Authority has taken into consideration the CIS and other available information in making the findings below about the social impact of the Premises on the local and broader communities.
24. For the purpose of this decision and consistent with its position in Guideline 6, the Authority is satisfied that the relevant “local community” is the community within the suburb of North Sydney, and the relevant “broader community” comprises North Sydney Local Government Area (“the LGA”).

### Positive social impacts

25. The Authority notes that the ABS Socio-Economic Indexes for Areas (“SEIFA”) data places both North Sydney and the LGA in the 10th decile on the Index of Relative Socio-economic Advantage and Disadvantage in Australia and NSW. The Authority therefore accepts that North Sydney and the LGA can reasonably be described as areas with a significant socio-economic advantage.
26. The Authority accepts the Applicant’s contention that granting the licence will provide an additional measure of convenience and choice to the local community, particularly to customers of the adjoining Woolworths Supermarket who wish to engage in “one stop shopping” by purchasing liquor items together with grocery and other items from a store in close proximity.
27. The Authority notes the Applicant’s contention that the Premises will offer customers a “comfortable and convenient shopping environment” by providing a “state of the art” liquor outlet with modern fixtures and fittings, and will contribute to the improvement of community amenity given its convenient location adjacent to a Woolworths Supermarket and in a newly refurbished building.
28. The Authority nevertheless considers that the benefits of granting the licence are limited in a number of ways.
29. First, the Authority notes the “walk up” nature of the Woolworths Supermarket adjacent to the Premises, and that trolleys will not be provided to customers. This will likely mean that customers may only be able to purchase what they can carry, which may serve to limit the volume of alcohol purchased in single transactions.
30. Further, the Authority notes that the Premises will be smaller than a typical Beer Wine & Spirits store (“BWS”) and will not stock pallets of chilled beer which may further reduce the volume of packaged alcohol purchased in single transactions.

### Negative social impacts

31. The Authority notes that the packaged liquor outlet density in the LGA is more than double the NSW state average, and the density in North Sydney is almost three times higher than the state average.
32. The Authority notes, from the BOSCAR Crime Maps for the year ending June 2017, that the Premises is located in a high density hotspot for incidents of alcohol related assault, non-domestic assault and malicious damage to property, and in a medium density hotspot for incidents of domestic assault.
33. The Authority notes that incidents of assault and alcohol related non-domestic assault are occurring at higher than average rates in North Sydney compared to the average rates in NSW, noting that for the year ending June 2017, the suburb recorded:
  - a) a rate of 928.9 per 100,000 persons of the population for incidents of assault, which is higher than the NSW rate of 825.1, and

- b) a rate of 335.4 per 100,000 persons of the population for incidents of alcohol related non-domestic assault, which is significantly higher than the NSW rate of 134.3.
34. The Authority is satisfied that incidents of alcohol related domestic assault and malicious damage to property is occurring at lower than average rates in North Sydney, noting that for the year ending June 2017, the suburb recorded:
- a) a rate of 103.2 per 100,000 persons for incidents of alcohol related domestic assault, which is slightly lower than the NSW rate of 116.2, and
  - b) a rate of 748.3 per 100,000 persons for incidents of malicious damage to property, which is slightly lower than the NSW rate of 817.3.
35. The Authority notes that for the year ending June 2017, the LGA recorded:
- a) a rate of 455.8 per 100,000 persons for incidents of assault, which is lower than the NSW rate of 825.1,
  - b) a rate of 235.9 per 100,000 persons for incidents of alcohol related domestic assault, which is higher than the NSW rate of 116.2,
  - c) a rate of 122.6 per 100,000 persons for incidents of alcohol related assault, which is lower than the NSW rate of 134.3, and
  - d) a rate of 428.3 per 100,000 persons for incidents of malicious damage to property, which is lower than the NSW rate of 817.3.
36. The Authority is concerned, based on the Healthstats NSW data, that alcohol attributable hospitalisations for the LGA are higher than the NSW average, but notes that alcohol attributable deaths are occurring at lower rates than the NSW average.
37. The Authority also notes the concerns raised by NSW Health in their objection regarding:
- a) the high liquor outlet density of North Sydney,
  - b) the location of the Premises in high density hotspots for alcohol related assaults,
  - c) liquor offences being the fourth highest offence category reported for the LGA,
  - d) the location of the Premises in a designated alcohol free zone,
  - e) data showing that the Northern Sydney Local Health District has the highest number and rate of alcohol-attributable hospitalisations in NSW, and
  - f) the location of the Premises near schools, increasing student's exposure to alcohol and alcohol related advertising.
38. However, the Authority notes that none of the other stakeholders consulted, including North Sydney Council and NSW Police, opposed the granting of the licence.
39. The Authority further notes the demonstrated ability of the operator of BWS to sell liquor responsibly. In particular, the Authority notes the Endeavour Drinks Group "Liquor Store House Policy" and "Best Practice Policies and Interventions" documents submitted in support of the Application and is satisfied that the implementation of these policies will mitigate the risk of alcohol related harm.
40. The Authority has considered the submission made by NSW Police, including its request to increase CCTV surveillance at the Premises, and impose trading limitations on 31 December. Based on the material before it, the Authority considers it appropriate to impose a licence condition in respect of CCTV, but does not consider it necessary to impose trading limitations for 31 December, noting that no other packaged liquor outlet in the area is subject to such limitations and the Applicant's response in relation to the NSW Police submission.
41. The Authority has also considered the submission made by a member of the public requesting that the trading hours of the Premises be restricted to 10:00AM – 10:00PM. The Authority notes that the proposed trading hours of the Premises are supported by the relevant development consent and in the circumstances does not consider it necessary to limit the hours.

### Overall social impact

42. Having considered the positive and negative impacts that are likely to flow from granting the licence, the Authority is satisfied that the overall social impact of granting the licence would not be detrimental to the well-being of the local and broader communities.
43. Furthermore, the Authority is satisfied that a decision to grant the licence would be consistent with the objects of the Act to regulate the supply of liquor and facilitate the responsible development of the liquor industry in line with community expectations and needs.
44. Accordingly, the Authority has decided to approve the Application.



Philip Crawford  
Chairperson

#### **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 and gaming website <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/decisions-of-interest.aspx> 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 is at <http://www.ncat.nsw.gov.au/>.

## Schedule

### Material before the Authority

1. BOCSAR Bureau Brief, titled 'Understanding crime hotspots' by Melissa Burgess April 2011.
2. ABS SEIFA data based on the 2011 Census for North Sydney and the LGA on the Index of relative Socio-Economic Advantage and Disadvantage.
3. Healthstats data showing alcohol attributable deaths in the LGA for the period 2012-13 and alcohol attributable hospitalisations in the LGA for the period 2012-13.
4. NSW Crime Statistics for the two years to June 2017, published by BOCSAR, showing the counts, rates and two year trends of assault, alcohol related assault (domestic and non-domestic) and malicious damage to property in North Sydney and the LGA.
5. Endeavour Drinks Group plan of management, updated June 2016.
6. Document titled "Liquor store "House Policy" – NSW".
7. Document titled "Woolworths Best Practice Policy and Interventions".
8. Floor plan dated 5 September 2016 indicating the Premises' proposed liquor sales area.
9. Notice of determination of development application no. 337/16, issued by North Sydney Council on 25 November 2016, in relation to the Premises.
10. Submission from Roads and Maritimes Services, dated 30 March 2017, in relation to the Application.
11. Submission from Northern Sydney Local Health District, dated 5 April 2017, in relation to the Application.
12. Submission from Aboriginal Affairs, Department of Education, dated 6 April 2017, in relation to the Application.
13. Submission from the North Sydney Council, dated 1 May 2017, in relation to the Application.
14. BOCSAR crime maps for the year to June 2017, indicating the location of the proposed Premises relative to hotspots for alcohol related assault, domestic assault, non-domestic assault, and malicious damage to property.
15. The Applicant's response to the submissions received, dated 25 July 2017, with additional information attached.
16. Completed Category B CIS form, signed by the Applicant and dated 31 July 2017, with accompanying documents provided by the Applicant in support of the CIS.
17. Completed application dated 4 August 2017.
18. Certification of Advertising Application signed by the Applicant and Mr Schwartz, solicitor for the Applicant, dated 7 August 2017.
19. Submission from Family & Community Services, dated 14 August 2017, in relation to the Application.
20. Submission by a member of the public, dated 17 August 2017, in relation to the Application.
21. Submission from NSW Police, dated 22 August 2017, in relation to the Application.
22. Liquor Licensing records from L&GNSW as at 28 August 2017 listing all packaged liquor licenses in North Sydney and the LGA.



23. Google map images extracted from the Google website on 6 October 2017, showing the location and photos of the Proposed Premises in map view, earth view and street view.
24. Extract of from the Bureau of Crime Statistics and Research website, titled, 'Definitions and explanations', extracted on 13 October 2017.