



Mr Tim Calvert

JDK Legal

By email to: [t.calvert@jdklegal.com.au](mailto:t.calvert@jdklegal.com.au)

20 December 2023

Dear Mr Calvert

<b>Application No.</b>	APP-0011569795
<b>Applicant</b>	Sercon Investments Pty Ltd
<b>Application for</b>	New packaged liquor licence
<b>Decision Date</b>	18 October 2023
<b>Licence name</b>	IGA Brunswick Heads
<b>Proposed trading hours</b>	Monday to Saturday 9:00 AM – 7:00 PM Sunday 10:00 AM – 7:00 PM
<b>Premises</b>	Shop 6, 19 Booyun Street Brunswick Heads NSW 2483
<b>Legislation</b>	Sections 3, 11A, 12, 29, 40, 44, 45, 48 and 114 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority  
Application for a new packaged liquor licence – IGA Brunswick Heads**

We **refuse** the application under section 45 of the *Liquor Act 2007*.

**Statement of reasons**

Overall, we are concerned that the social impact of approving the application is likely to 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

'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. Byron Shire Council approved the development application DA 84/227 for the premises on 29 June 1984.

### Community impact

#### *Local and broader communities*

The relevant 'local community' is the suburb of Brunswick Heads, and the relevant 'broader community' comprises the Local Government Area (LGA) of Byron.

#### *Diversity and density of licensed outlets*

L&GNSW Liquor & Gaming LiveData Report for Brunswick Heads shows:

- there are 14 authorised liquor licences, of which 4 are authorised to sell packaged liquor. This includes 2 packaged liquor licence, 1 registered club licence and 1 hotel licence
- the saturation of packaged liquor licences is higher compared to the Byron LGA and higher compared to all of NSW

#### *Crime data (annual rate per 100,000 residents)*

Bureau of Crime Statistics and Research (BOCSAR) data for the year to March 2023 shows that:

- the premises is located in a high-density hotspot for malicious damage to property; in a medium-density hotspot in the suburb for non-domestic assault; and in a low-density hotspot in the suburb for domestic assault and alcohol related assault
- alcohol-related domestic assault was higher in the Byron LGA compared to all of NSW
- alcohol-related non-domestic assault was significantly higher in the Byron LGA compared to all of NSW
- alcohol-related offensive conduct was higher in the Byron LGA compared to all of NSW
- malicious damage to property was higher in the Byron LGA compared to all of NSW

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

HealthStats NSW data shows that:

- alcohol-related deaths in the Byron LGA were higher compared to the NSW average
- alcohol-related hospitalisations in the Byron LGA were lower compared to the NSW average

#### *Australian Bureau of Statistics (ABS) Socio-Economic Index for Areas (SEIFA)*

Brunswick Heads shows an average level of being relatively advantaged and the Byron LGA shows high levels of being relatively advantaged 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 new packaged liquor licence to be located within an IGA supermarket, with a liquor sales area of 39.6 m<sup>2</sup> and reduced trading hours.

### Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- 'one stop shop' convenience — the proposed premises will be situated wholly within the current IGA supermarket and will provide a one stop shopping experience in the heart of Brunswick Heads
- promotion of local products – the applicant seeks to focus on selling locally produced beers, wines and spirits

- increased competition
- increased employment opportunities and economic activity
- potential contributions to local community groups and sports

We believe that these proposed benefits are limited by the lack of evidence of community support for the application.

#### Stakeholder submissions

We considered the submissions from:

- Local Council, dated 25 May 2023, which notes no objection provided that trading hours are limited as proposed in the application and the peace and quiet in the local community remains
- L&GNSW Compliance, dated 2 June 2023, which notes no adverse finding and no objection
- NSW Health, dated 22 June 2023, objecting to the proposal noting concerns around the existing high outlet density in the area as well as high crime rates in the Byron LGA
- Transport for NSW, dated 16 June 2023, which notes concerns for drink-driving and alcohol related casualty crashes in the Byron LGA, and a request for the licensee to participate in the local liquor accord, no objection
- Local Aboriginal community, dated 31 May 2023, objecting to the proposal noting no support for any liquor or gaming licences in the area
- 5 submissions from members of the public, noting concerns around anti-social behaviour outside the premises, potential noise disturbances and littering near residential area and a potential increase in homelessness and alcoholism in the community. Submissions also questioned the need for an additional packaged liquor licence in the local community
- We further note that NSW Police Force did not provide a response to the notice of intention or the application

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

- that general concerns identified by NSW Health are unlikely to result in actual harm
- their willingness to consider extra initiatives that Transport NSW suggested
- that it is an experienced operator of packaged liquor stores and extensive mitigating measures are stipulated in the liquor plan of management and house policy

#### Findings of concern

There is a risk that if the licence was granted, liquor sold from the premises will contribute to an increase in alcohol-related crime, health and other social and amenity issues in the local and broader communities, and in other areas of the State.

We note that the premises is located in a high-density hotspot for malicious damage with evidence of saturation of liquor outlets. Incident rates of alcohol attributed deaths are higher in the LGA compared to NSW and the lack of public transport in the area also raised concerns. We further note the objections from NSW Health, the Local Aboriginal community and members of the public.

The risks may be mitigated by the:

- relatively small size of the area in which liquor will be sold and limited trading hours
- crime rates for the offences usually considered by us have not been calculated by BOCSAR for the suburb due to the small size of the population

- incident rates of alcohol attributed hospitalisations are lower in the LGA compared to NSW

However, on balance, we are concerned 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 24 May 2023
- completed Category B Community Impact Statement (CIS) dated 12 May 2023
- completed certification of advertising dated 2 August 2023
- plan of management documents for the premises, titled Plan of Management IGA Brunswick Heads and dated July 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, indicating the proposed licensed area and liquor sales area

Under [Guideline 6](#), we also considered: data published by BOCSAR, NSW Department of Health, ABS and relevant L&GNSW liquor licensing records.

#### Other relevant material

- submissions received
- correspondence between L&GNSW staff and the applicant between 11 August 2023 and 25 August 2023 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're 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 28 days after being notified that 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, Wendy Yeung, at [wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au](mailto:wendy.yeung.wye.kong@liquorandgaming.nsw.gov.au) if you have any questions.

Yours sincerely



Caroline Lamb

**Chairperson**

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