



Mr Tony Schwartz

Back Schwartz Vaughan

By email to: tschwartz@bsv.com.au

30 November 2023

Dear Mr Schwartz

Application No.	APP-0010628027
Applicant	Gowing Bros Ltd
Application for	New packaged liquor licence
Decision Date	17 May 2023
Licence name	Shop 1
Proposed trading hours	Monday to Wednesday 9:00 AM – 5:30 PM Thursday 9:00 AM – 7:30 PM Friday to Saturday 9:00 AM – 5:30 PM Sunday 10:00 AM – 5:30 PM
Premises	Shop 1, Port Central 40-42 Horton Street Port Macquarie NSW 2444
Legislation	Sections 3, 11, 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 – Shop 1**

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 may be detrimental to the well-being of the local or broader community.

Our findings

Procedural and trading hour requirements

- 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. Port Macquarie Hastings Council approved the development application DA 2022/188 (shop fitout) for the premises on 13 May 2022.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Port Macquarie, and the relevant 'broader community' comprises the Local Government Area of Port Macquarie-Hastings.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for the suburb of Port Macquarie shows:

- there are 113 authorised liquor licenses, of which 36 are authorised to sell packaged liquor. This includes 14 packaged liquor licences, 5 registered club licences, 8 hotel licences, 7 producer/wholesalers and 2 small bars
- Lower saturation rates of packaged liquor licences in Port Macquarie and in the Port Macquarie-Hastings LGA compared to all of NSW

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to December 2022:

- the premises is located in high-density crime hotspots for all offence categories usually considered by us
- alcohol-related domestic assault in Port Macquarie was slightly higher compared to the LGA and significantly higher compared to all of NSW
- alcohol-related non-domestic assault in Port Macquarie was higher compared to the LGA and higher compared to all of NSW
- alcohol-related offensive conduct in Port Macquarie was higher compared to the LGA and higher compared to all of NSW
- malicious damage to property in Port Macquarie was higher compared to the LGA and higher compared to all of NSW

ABS Socio-Economic Index for Areas (SEIFA)

The suburb of Port Macquarie and the LGA of Port Macquarie-Hastings were ranked as 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 the retail sale of packaged liquor on the premises for consumption away from the premises. The application seeks approval to operate a small standalone liquor store (boutique style operation) consisting of 83 sqm, located within the Port Central Shopping Centre in the CBD of Port Macquarie.

Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- Increased convenience and consumer choice
- Distinct business model due to its proposed boutique style operation
- Employment opportunities

We also considered the letters of support from members of the public, however we believe that the proposed benefits do not outweigh the potential for community harm based on the identified risk factors.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 4 March 2023, objecting to the proposal, which notes concerning alcohol related incidents in the suburb as well as concerns from an 'alcohol related crime enforcement' perspective
- Local Council, dated 1 March 2023, objecting to the proposal, which notes an existing licence in the shopping centre and the fact that the proposed shop is located in an area that is highly used by families and young people
- L&GNSW Compliance, dated 1 March 2023, which notes no objection
- Transport for NSW, dated 9 March 2023, which notes 75 alcohol-related casualty crashes occurring in the Port Macquarie-Hastings LGA between 2017 and 2022, but no objection
- Local Aboriginal community, dated 29 September 2022, which notes no objection

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

- that the application should not be treated as a typical bottle shop due to its boutique style operation
- that BOSCAR rates may be skewed as they fail to consider the significant number of visitors and tourists in the suburb or LGA at any one time
- consenting to proposed conditions including their participation in the local accord

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 proposed premises is located in a high-density crime hotspot in the suburb for all offence categories usually considered by us. High crime rates in both the suburb and LGA raised concerns as well as the rates of alcohol-attributable deaths in the LGA being higher compared to NSW rates.

The risks may be mitigated by the:

- relatively small size of the area (83 sqm) in which liquor will be sold and relatively short trading hours for the premises
- lower rate of alcohol-attributable hospitalisations in the LGA compared to NSW
- high price point for products (no discounted liquor)

However, on balance, we are concerned that the potential for 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 31 January 2023
- Completed Category B Community Impact Statement (CIS) dated 23 January 2023
- Completed certifications of advertising dated 31 January 2023 and 15 February 2023

- Plan of management documents for the premises, titled Plan of Management Shop 1, Port Central, 40-42 Horton Street, Port Macquarie dated 24 April 2023
- ASIC business records for the applicant and associated companies
- Floor plan for the premises, dated 13 May 2022, 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 9 February 2023 and 18 April 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 than 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, Max Costa, at Max.Costa@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**