

Our ref: DF23/011900

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

18 December 2023

Dear Mr Schwartz

Application No.	1-8412950693
Applicant	ALTIUS PTY LTD
Application for	Amendment to an on premises licence (catering service, accommodation, restaurant) – new primary service authorisation
Decision Date	15 February 2023
Licence name	Pasadena Sydney
Proposed trading hours	Consumption on premises: Accommodation & restaurant Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises: Catering service Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises: Primary service authorisation Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Current trading hours	Consumption on premises: Accommodation & restaurant Monday to Saturday 05:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises: Catering service Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Premises	1858 Pittwater Road Church Point NSW 2105
Legislation	Sections 3, 11A, 12, 24, 25, 40, 44, 45, and 48 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority

Application for an amendment to an on-premises licence (catering service, accommodation, restaurant) – new primary service authorisation – Pasadena Sydney

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 is valid and meets the Act's requirements for procedural fairness and the proposed trading hours for the premises meet the requirements under sections 11A, 12 and 14 of the Act in respect of trading and 6-hour closure periods.
- the Community Impact Statement (CIS) meets the relevant requirements.

'Fit and proper person'

The applicant is a 'fit and proper person' to operate the business to which the proposed licence relates, as 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. Warringah Shire Council approved the development application A212/63 for the premises on 27 March 1963.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Church Point, and the relevant 'broader community' comprises the Local Government Area of the Northern Beaches

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Church Point shows:

- there are 5 authorised liquor licenses, of which 4 are on-premises licences and 1 is authorised to sell packaged liquor.
- saturation of both on-premises and packaged liquor licences in Church Point is higher compared to both the Northern Beaches LGA and to all of NSW.

Crime data (annual rate per 100,000 residents)

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

- the premises were not located in hotspots for alcohol-related assault, domestic and non-domestic assault, or malicious damage to property.
- crime rates at suburb level are not available, however the rates in the Northern Beaches LGA for all categories usually considered by the Authority were lower compared to all of NSW.

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

HealthStats NSW data showed that:

- alcohol-related deaths in the Northern Beaches LGA were lower compared to the NSW average.
- alcohol-related hospitalisations in the Northern Beaches LGA were higher compared to the NSW average.

ABS Socio-Economic Index for Areas (SEIFA)

Church Point and the Northern Beaches LGA were ranked as 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 addition of a primary service authorisation (PSA) to the existing on-premises licence which includes restaurant, accommodation, and catering service (for functions).

A PSA would permit liquor to be sold or supplied for consumption on the licensed premises without requiring it to be ancillary to any other product or service being offered, such as a meal in a restaurant.

Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- customers would be able to buy liquor for consumption on the premises without participating in a genuine meal at the premises, or being a guest at a function, occasion or event at the Premises, or being a guest in the accommodation areas of the premises.

Stakeholder submissions

We considered the submissions from:

- Transport for NSW dated 2 September 2022, which did not object to the application
- NSW Police Force, dated 5 October 2022, which did not object to the application
- L&GNSW Compliance, dated 31 October 2022 which notes a history of disturbance complaints against the venue and raises concerns regarding the venue's current business model (which includes functions and events) and the manner in which the venue would operate should a PSA be approved
- Northern Beaches Council, dated 29 August 2022, 19 and 31 October 2022 objecting to the proposal noting concerns regarding patron numbers being included on the licence. Council advised that patron numbers of 400 is considered excessive and likely to result in a significant amenity impact (noise, parking and traffic)
- 182 public submissions received between 01 September 2022 and 24 October 2022, of which 168 were objections to the application. Issues raised including noise, lack of parking for the venue (parking is shared with offshore residents that live on Scotland Island that pay an annual fee), high patron capacity and pedestrian safety (commuters and school children) are regulated by council. Other objections raise concerns around the suitability of a PSA for this type of venue and the risk of increasing alcohol-related crime and intoxicated patron behaviour which may have a negative impact on the amenity of the local community.

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

- that approval of the application will not expand business operations at the premises and it will not cause an increased adverse impact upon residents
- approval will not increase the patron capacity of the premises nor its approved trading hours, nor expand its drinking environment, nor will it mean there are more functions or events at the premises

- the sale, supply and consumption of alcohol will continue to occur wholly within the permanent licensed area of the premises, and the primary purpose of the licence will continue to be maintained
- if granted, the PSA will allow the licensee to sell or supply liquor to customers without food, but the premises must always meet the primary purpose test of the licence – which means it will continue to serve substantial meals to its customers at all operating times.

Findings of concern

The Authority noted the high number of objections from the local residents, and the significant possible impact on amenity for the community given the potential change to patronage that may arise from approval. While the Authority acknowledged the licensee/venue are strong liquor accord members and have a plan of management in place addressing some issues, there are still many community issues not addressed. Further, the applicant's response to submissions does not adequately address the community amenity issues raised. The Authority considered the primary purpose of the venue to be a restaurant and conference venue, and to grant this approval would enable operation as a bar as well as a restaurant.

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

The risks may be mitigated by the:

- crime rates in the local and broader communities for offences of concern being lower than comparable NSW averages.

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 15 September 2022
- completed Category B Community Impact Statement (CIS) dated 19 September 2022
- completed certifications of advertising dated 23 September 2022
- plan of management documents for the premises, titled Plan of Management, Pasadena Sydney and dated 23 January 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, dated 25 October 2021, indicating the proposed licensed area to which the primary service authorisation will apply.

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 26 September 2022 and 24 January 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 have any questions

Please contact the case manager, Leonie Jennings, at Leonie.Jennings@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Caroline Lamb', is positioned above the printed name.

Caroline Lamb

Chairperson

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