

Ms Christine Oakes
Licensee
HYBRID WEST END PTY LTD
By email to: [REDACTED]

20 February 2024

Dear Ms Oakes

Application No.	APP-0011732456
Applicant	Christine Oakes
Application for	Small bar with extended trading authorisation
Decision Date	18 October 2023
Licence name	HYBRID WEST END PTY LTD
Trading hours – proposed	Consumption on premises Monday to Wednesday – no trading Thursday to Saturday 12:00 noon – 02:00 AM Sunday 04:00 PM – 12:00 midnight
Premises	537 Hunter Street Newcastle West NSW 2302
Legislation	Sections 3, 11A, 20, 40, 44, 45, 49 and 122 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a small bar licence with extended trading authorisation - HYBRID
WEST END PTY LTD**

We **approve** the application under section 45 of the *Liquor Act 2007* (the Act) with the conditions set out in Schedule 1. Preliminary advice of this decision was provided on 23 November 2023.

Statement of reasons

Overall, we are satisfied that the social impact of approving the application will not 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 20B and 11A of the Act in respect of trading and 6-hour closure periods.

'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 City of Newcastle Council approved the development application DA20023/00105 for the premises on 28 June 2023.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Newcastle West, and the relevant 'broader community' comprises the Local Government Area (LGA) of the City of Newcastle.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Newcastle West shows:

- there are 26 authorised liquor licenses, of which 2 are packaged liquor licences, 1 is a registered club licence, 4 are hotel (full) licences, 1 is a hotel (general bar) licence, 2 are producer/wholesaler licences, 14 are on-premises licences and 2 are small bar licences
- a higher saturation of small bar licences in Newcastle West and the City of Newcastle LGA compared to the NSW rate.

Crime data (annual rate per 100,000 residents)

BOCSAR data shows that, in the year to June 2023:

- the premises were located in high density hotspots for all crime categories normally considered by the Authority
- the incidence rate of alcohol-related domestic and non-domestic assault and malicious damage to property were higher in the City of Newcastle LGA compared to all of NSW.

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

HealthStats NSW data showed that:

- alcohol-related deaths in the City of Newcastle LGA were higher compared to all of NSW
- alcohol-related hospitalisations in the City of Newcastle LGA were lower compared to all of NSW.

ABS Socio-Economic Index for Areas (SEIFA)

Newcastle West and the City of Newcastle LGA were both 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 is for a new small bar licence located in Newcastle West. The venue is located in one of the City of Newcastle's Night-time Strategy precincts and does not propose to trade Monday to Wednesday. The Authority noted that Police concerns regarding management of noise and orderly closing have been addressed in the plan of management (POM).

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 9 August 2023, objected to the application on the grounds that the trading hours on the application were inconsistent with the DA approved hours, and the LGA has a high licence density and high crime statistics
- City of Newcastle Council, dated 30 August 2023, raised no concerns
- L&GNSW Compliance, dated 14 August 2023, raised no concerns

We also considered the Applicant's submission in response, to these submissions, which noted, that the POM had been amended accordingly and was now consistent with the DA approved hours. They also confirmed that an acoustic assessment had been commissioned by RAPT

Consulting, which included several acoustic measure and recommendations to mitigate noise that are all included in the POM.

Findings of concern

The following were areas of concern:

- the premises' location in high-density crime hot spots for all offence categories usually considered by the Authority
- the higher crime rates in the LGA compared to NSW for incidents of alcohol-related domestic and non-domestic assault, and malicious damage
- the higher rate of alcohol-attributable deaths in the LGA compared to NSW
- the higher saturation of small bar liquor licences in the suburb and LGA compared to NSW.

We are satisfied the risks are mitigated by the:

- potential skewing of crime statistics and licence densities due to the suburb having a relatively low population and the venue being located within a business/retail district
- lower rate of alcohol-attributable hospitalisations in the LGA compared to NSW
- indication of above average level of socio-economic advantage in the suburb and LGA compared to NSW
- liquor plan of management incorporating drinks restrictions (no shots/shooters, no stockpiling), and noise mitigation measures
- venue trading only 4 days per week
- harm minimisation measures outlined in the plan of management and licence conditions set out in Schedule 1.

The material we considered

We considered all the material we received about the application, including:

Application Material

- completed application dated 31 July 2023
- completed certifications of advertising dated 31 July 2023
- plan of management documents for the premises, titled Operational Plan of Management and dated 4 May 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, undated, 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 20 September 2023 and 10 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 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, max.costa@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**

Schedule 1 – Licence conditions to be imposed

Hybrid West End, Newcastle West

No.	Condition to be imposed	Description
1.	6-hour closure	Section 11A of the <i>Liquor Act 2007</i> applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of six (6) hours between 04:00 AM and 10:00 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.	Consumption on premises	<p>Good Friday 12:00 noon - 10:00 PM</p> <p>Christmas Day 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)</p> <p>December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later</p> <p>Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.</p>
3.	Liquor plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 04 May 2023 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management 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.
4.	Local Liquor accord	The licensee or its representative must join and be an active participant in the local liquor accord.
5.	CCTV	<p>1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:</p> <ul style="list-style-type: none"> a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times) 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: <ul style="list-style-type: none"> i) all entry and exit points on the premises ii) the footpath immediately adjacent to the premises, and iii) all publicly accessible areas (other than toilets) within the premises. <p>2) The licensee must also:</p>

No.	Condition to be imposed	Description
		<ul style="list-style-type: none"> 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 sub-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.	Crime preservation	<p>Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:</p> <ul style="list-style-type: none"> 1) take all practical steps to preserve and keep intact the area where the act of violence occurred, 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website, 3) make direct and personal contact with NSW Police to advise it of the incident, and 4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred. <p>In this condition, 'staff member' means any person employed by, or acting on behalf of, the licensee of the premises, and includes any person who is employed to carry on security activities (e.g., crowd controller or bouncer) on or about the premises.</p>
7.	Incident register	<ul style="list-style-type: none"> 1) The licensee must maintain a register, in which the licensee is to record the details of any of the following incidents and any action taken in response to any such incident: <ul style="list-style-type: none"> a) any incident involving violence or anti-social behaviour occurring on the premises, b) any incident of which the licensee is aware that involves violence or anti-social behaviour occurring in the immediate vicinity of the premises and that involves a person who has recently left, or been refused admission to, the premises, c) any incident that results in a person being turned out of the premises under section 77 of the Liquor Act 2007, d) any incident that results in a patron of the premises requiring medical assistance.

No.	Condition to be imposed	Description
		<p>2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:</p> <ul style="list-style-type: none"> a) make any such incident register immediately available for inspection by a police officer or Liquor & Gaming NSW inspector, and b) allow a police officer or Liquor & Gaming NSW inspector to take copies of the register or to remove the register from the premises. <p>3) The licensee must ensure that the information recorded in the incident register under this condition is retained for at least 3 years from when the record was made.</p>
8.	Extended Trading authorisation	Extended Trading Authorisation: Whole of the licensed premises.