



Mr Tony Schwartz

Back Schwartz Vaughan

By email to: licensing@bsv.com.au

5 December 2023

Dear Mr Schwartz

Application No.	APP-0011696838
Applicant	Bac Hospitality Pty Ltd
Application for	New hotel (full) + minors area authorisation
Decision Date	18 October 2023
Licence name	Mitch Hotel
Proposed trading hours	Consumption on premises: Whole of the licensed premises other than the footpath Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Consumption on premises: Footpath area during daylight savings months Monday to Sunday 10:00 AM – 10:00 PM Consumption on premises: Footpath area during non-daylight savings months Monday to Sunday 10:00 AM – 9:00 PM Take away Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Premises	52 Mitchell Road Alexandria NSW 2015
Legislation	Sections 3, 11A, 12, 14, 15, 16, 40, 44, 45 48 and 121 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority
Application for a new hotel (full) + minors area authorisation – Mitch Hotel

We **approve** the application under section 45 of the *Liquor Act 2007* - with the conditions set out in Schedule 1.

Approved manager or individual licensee

The licence cannot be exercised unless and until the Authority or Liquor & Gaming NSW has been notified that:

- the licence is transferred to an individual licensee, or an approved manager is appointed; and
- the licensee or approved manager is a suitable and qualified person.

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

We are satisfied that:

- the application is valid and meets the Act's requirements for procedural fairness
- 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.

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. Development Application 10008 of 2002 was granted by the Land and Environment Court of New South Wales on 29/01/2004. Footway approval FA/2023/428 was granted by City of Sydney Council on 15/09/2023.

Community impact

Local and broader communities

The relevant 'local community' is the suburb of Alexandria, and the relevant 'broader community' comprises the Local Government Area of Sydney.

Diversity and density of licensed outlets

L&GNSW Liquor & Gaming LiveData Report for Alexandria shows:

- there are 91 authorised liquor licenses, of which 48 are authorised to sell packaged liquor. This includes 26 packaged liquor licences, 7 Hotel (full) licences, 12 Producer/Wholesaler's and 3 small bar licences.
- saturation of Hotel (full) licences in Alexandria is higher compared to the Sydney LGA and higher compared to all of NSW.

Crime data (annual rate per 100,000 residents)

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

- the proposed premises is in a low-density hotspot for domestic assault
- alcohol-related domestic assault in Alexandria was lower compared to the Sydney LGA and lower compared to all of NSW.
- alcohol-related non-domestic assault in Alexandria was substantially lower compared to the Sydney LGA and lower compared to all of NSW.
- alcohol-related offensive conduct in Alexandria was lower compared to the LGA and to all of NSW.

- malicious damage to property in Alexandria was substantially lower compared to the Sydney LGA and lower compared to all of NSW.

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

HealthStats NSW data showed that:

- alcohol-related deaths in the Sydney LGA are similar to the NSW average.
- alcohol-attributable hospitalisation rate in the LGA is higher than in NSW

ABS Socio-Economic Index for Areas (SEIFA)

Alexandria and the LGA of Sydney were ranked as 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 hotel licence with a minor's area authorisation and standard trading hours.

The site previously had a hotel licence attached to it (known as Fratelli Fresh LIQH400100302, prior to that the Buckland Hotel) from 01/07/1936 until 11/01/2022 when it was cancelled by Liquor and Gaming NSW for non-payment of the annual licence fee. Approval would re-instate a hotel licence to the site.

Benefits proposed by applicant

The applicant proposes that there would be these benefits:

- increased choice to customers in the suburb of Alexandria
- improvement to community amenity - contributing to the sustainability and well-being of the local economy and community by providing a quality venue
- employment opportunities
- contributes to the balanced development of the liquor industry, as its approval is consistent with the expectations, needs and aspirations of the community
- experienced and professional team operating under industry "good management standards"

We also note 5 submissions by members of the public to support the reinstatement of the hotel licence at the premises.

Stakeholder submissions

We considered the submissions from:

- NSW Police Force, dated 6 July and 21 August 2023, objecting to the proposal, noting concerns around live amplified music at the venue and requested a 12-month trial for security on weekends
- Local Council, between 21 June 15 September, which note that development consents are valid
- L&GNSW Compliance, dated 18 August 2023, which notes no objection
- Transport for NSW, dated 22 June 2023, which notes concerns around alcohol related crash statistics and local alcohol-related issues, but no objection
- Local Aboriginal community, dated 25 August 2023, which notes no objection
- 11 submissions made by members of the public, dated between 8 June 2023 and 21 August 2023 with common concerns about the premises being located in a residential area

on opposite site of a high school, potential noise disturbances, increased traffic and footpath use as well as the risk for an increase in anti-social behaviour in the area.

We also considered the applicant's submission, in response to these submissions, which notes that the venue's proposed trading hours are within standard hours and includes both reasonable and practical measures within the updated liquor plan of management.

Findings of concern

We note that the LGA of Sydney has a higher license density than the NSW average and crime rates in the LGA for all categories usually considered by us are also higher than across the state. 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, and in other areas of the State.

However, we are satisfied that these risks are reduced by the following factors:

- standard trading hours
- lower crime rates in Alexandria than in NSW for all categories usually considered by the Authority
- the proposed premises not being located in a crime hotspot for non-domestic assault, malicious damage to property or alcohol-related assault
- crime rates in the LGA (City of Sydney) may be skewed when considering the population size compared to the number of transient visitors the area attracts from both locally and internationally visitors
- data describing the socio-economic advantage in both Alexandria and the Sydney LGA as above average
- venue will not operate gaming; and take away sales only taking place over the bar counter
- development consent restricts live entertainment and includes the LA10 condition to minimise amplified music
- 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 3 August 2023
- completed Category B Community Impact Statement (CIS) dated 27 July 2023
- completed certifications of advertising dated 7 August 2023.
- plan of management documents for the premises, titled 'Liquor Plan of Management Mitch Hotel, 52 Mitchell Road, Alexandria' and dated 21 August 2023
- ASIC business records for the Applicant and associated companies
- floor plan for the premises, indicating the proposed licensed area, minors area authorisation area and footway 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 11 September and 15 September 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, Glenn Barry, at Glenn.Barry@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

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

Schedule 1 – Licence conditions to be imposed

Mitch Hotel

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 4:00 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.	Social impact	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 reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
3.	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>
4.	Take away sales	<p>Good Friday: Not permitted.</p> <p>December 24th: Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight on Sunday</p> <p>Christmas Day: Not permitted</p> <p>December 31st: Normal trading Monday to Saturday, 10:00 AM to 12:00 midnight on Sunday</p>
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> <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

		<p>least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and</p> <p>(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.</p>
6.	Crime scene 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> <ol 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. 5) 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 (eg. crowd controller or bouncer) on or about the premises.
7.	Plan of management	<p>The premises is to be operated at all times in accordance with the Plan of Management dated 21 August 2023 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.</p>
8.	Incident register	<ol 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: <ol 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 <i>Liquor Act 2007</i>, d. any incident that results in a patron of the premises requiring medical assistance. 2) The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector: <ol 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

		<p>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> <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>
9.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
10.	Minors Area	Minors Area Authorisation: Whole of the licensed premises excluding the kitchen and sanitary facilities.
11.	No gaming activities	No Gaming machines may be operated on the licensed premises.