

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

29 September 2023

Dear Mr Schwartz

Application No.	APP-0011376753
Applicant	JOHNSTON BROS PTY LTD
Application for	Hotel licence with minors area authorisation
Application date	3 May 2023
Decision date	16 August 2023
Licence name	O'Connell Hotel
Trading hours	Consumption on premises Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM Takeaway Monday to Saturday 10:00 AM – 12:00 midnight Sunday 10:00 AM – 10:00 PM
Premises	2408 O'Connell Road O'Connell NSW 2795
Legislation	Sections 3, 11A, 12, 15, 40, 44, 45, 48, and 121 of the <i>Liquor Act 2007</i>

Decision of the Independent Liquor & Gaming Authority
Application for a hotel licence with minors area authorisation – O'Connell Hotel

We **approve** the application above 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 until the Authority or Liquor & Gaming NSW is 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

The statement of reasons will be published on the [Liquor & Gaming NSW website](https://www.liquorandgaming.nsw.gov.au) 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



Caroline Lamb
Chairperson

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

STATEMENT OF REASONS

Our decision

We have considered the objects of the *Liquor Act 2007* (the Act) and the relevant legislative provisions and have approved the application under section 45 of the Act.

Overall, we are satisfied that the social impact of approving the application will not be harmful to the well-being of the local or broader community.

The decision achieves the aim of the Act to regulate the liquor industry to meet the community's expectations, needs, and aspirations, while also promoting a balanced and responsible development of the industry.

Our main findings

The local community for the purposes of this decision is O'Connell. The broader community is the Local Government Area (LGA) of Oberon.

Positive social impacts

We are satisfied that the proposal would benefit the local and broader communities by providing increased convenience and choice.

The premises will be the only hotel licence operating in the suburb and will provide a bar, function area, six accommodation rooms, dining space and outdoor beer garden, with takeaway available over the bar (no dedicated bottle shop).

Negative social impacts

We accept that the proposal could contribute to an increase in alcohol-related harm in the local and broader communities because of the higher crime rate for incidents of alcohol-related domestic assault in the Oberon LGA compared to NSW rates.

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

- premises not being located in any crime-density hotspots for categories usually considered by the Authority
- lower crime rates in the Oberon LGA for incidents of alcohol-related non-domestic assault, malicious damage to property and alcohol-related disorderly conduct
- lower alcohol-attributable hospitalisation rates in the Oberon LGA compared to NSW
- indication of an above average level of relative socio-economic advantage in O'Connell
- premises adopting a family friendly venue business model
- harm-minimisation measures outlined in the plan of management and licence conditions, as set out in Schedule 1.

The material we considered

We considered the following material when making our decision:

- the application material — including evidence that stakeholders and the community were notified about the application
- a community impact statement (CIS)
- the plan of the licensed premises and any authorisations
- a plan of management for the licensed business
- a development consent for the premises
- statistics from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics on the socio-economic status, liquor licence density, alcohol-related crimes rates and health issues in the local and broader communities
- stakeholder submissions and the applicant's response them.

We also considered [Guideline 6](#) to assess the likely social impact to the local and broader community.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'Catherine Ambrose'.

Chairperson

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

Schedule 1 – Licence conditions to be imposed O'Connell Hotel

No.	Condition to be imposed	Description
1.	Restricted trading - 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>
2.	Restricted trading - 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>
3.	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.
4.	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.
5.	Plan of management	The premises is to be operated at all times in accordance with the Plan of Management dated 27 April 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.
6.	Liquor Accord	The licensee or its representative must join and be an active participant in the local liquor accord.
7.	CCTV – licence other than PLL	<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:

No.	Condition to be imposed	Description
		<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 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.
8.	Incident register	<p>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:</p> <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. <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>
9.	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> <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

No.	Condition to be imposed	Description
		<p>4) comply with any directions given by NSW Police to preserve or keep intact the area where the violence occurred.</p> <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 (eg. crowd controller or bouncer) on or about the premises.</p>
10.	Minors area	Minors Area Authorisation: whole of the licensed premises excluding back of house areas, kitchen, toilets and accommodation areas.
11.	No gambling activities	No gaming machines may be operated on the licensed premises.