



Mr David Sylvester
Sylvester & Browne Lawyers
By email to: [REDACTED]

16 March 2023

Dear Mr Sylvester

Application No.	APP-0010309112
Applicant	WAVE DINING PTY LTD
Application for	New On-premises - public theatre entertainment venue with extended trading authorisation
Licence name	Bon Bon's
Proposed trading hours	<u>Consumption on premises</u> Monday to Saturday 12:00 PM – 2:00 AM Sunday CLOSED
Premises	Ground Floor, 6 Bridge Street, Sydney NSW 2000
Legislation	Sections 3, 11, 12, 25, 40, 44, 45, 48 and 49 of the <i>Liquor Act 2007</i>

**Decision of the Independent Liquor & Gaming Authority
Application for a new On-premises liquor licence with public theatre entertainment venue
class and extended trading authorisation – Bon Bon's**

The Independent Liquor & Gaming Authority considered the application above and decided on 16 December 2023 to **approve** the application under section 45 of the *Liquor Act 2007*, subject to imposing conditions as set out in Schedule 1.

Concise statement of reasons

A concise statement of reasons for this decision is attached at the end of this letter.

In the interest of efficient finalisation of determined matters in a high-volume liquor and gaming jurisdiction, the Authority will only produce a detailed statement of reasons for applications which are refused, partially approved or the subject of stakeholder objections.

A concise statement of reasons is produced for non-contested applications that have been approved by the Authority, in cases where a statement of reasons is required to be published for the application under section 36C of the *Gaming and Liquor Administration Act 2007*.

The concise statement of reasons briefly sets out the material considered by the Authority, the legislative requirements, and the Authority's key findings.

If you have any questions, please contact the case manager, Wendy Yeung, at wendy.yeung@liquorandgaming.nsw.gov.au.

Yours faithfully



Murray Smith

Deputy Chairperson

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

Important Information:

In accordance with section 13A of the *Gaming and Liquor Administration Act 2007* a relevant person (the Applicant or a person who was required to be notified of the prescribed Application and who made a submission to the Authority or the Secretary in respect of the prescribed Application) who is aggrieved by this decision may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

An application to NCAT must be made within 28 days of notice of this decision being published on the [Liquor & Gaming NSW website](#) and be accompanied by the fee prescribed by the regulations.

For more information please contact the NCAT Registry at Level 10 John Maddison Tower, 86-90 Goulburn Street Sydney. The [NCAT website](#).

Concise statement of reasons

Key facts

Application No.	APP-0010309112
Applicant	WAVE DINING PTY LTD
Application for	New On-premises - public theatre entertainment venue with extended trading authorisation
Licence name	Bon Bon's
Premises	Ground Floor, 6 Bridge Street, Sydney NSW 2000 <u>Consumption on premises</u>
Trading hours	Monday to Saturday 12:00 PM – 2:00 AM Sunday CLOSED
Application date	22 August 2022
Decision	Approved under section 45 of the <i>Liquor Act 2007</i>
Decision date	16 December 2022

Material considered by the Authority

The Authority has considered the following material in determining the application:

- Application material, including evidence of notification to specified stakeholders and the community about the application;
- Category B community impact statement;
- Premises plan setting out the proposed boundaries of the licensed premises and any applicable authorisations;
- Plan of management for the licensed business at the premises;
- Development consent for the premises;
- Statistics sourced from Liquor & Gaming NSW, Bureau of Crime Statistics and Research, NSW Health and Australian Bureau of Statistics in respect of the socio-economic status, liquor licence density, alcohol-related crimes rates, and health issues in the relevant local and broader communities; and
- Stakeholder submissions in relation to the application, and the applicant's response to those submissions.

Legislative requirements

The Authority has considered the application in the context of the following sections of the *Liquor Act 2007*, and the associated clauses of the Liquor Regulation 2018:

- Section 3: Statutory objects of the Act and relevant considerations.
- Sections 11A and 12: Standard trading period for liquor licences and a mandatory 6-hour period during which liquor cannot be sold.
- Sections 25: Specific provisions in respect of a on-premises licence.

- Section 40: Minimum procedural requirements for a liquor licence application to be validly made.
- Section 44: Submissions to Authority in relation to licence applications.
- Section 45: Criteria for granting a liquor licence.
- Section 48: Requirements in respect of a CIS, including a requirement that the Authority must not approve the application unless it is satisfied, having regard to the CIS and other available information, that the overall social impact of doing so will not be detrimental to the well-being of the local or broader community.
- Section 49: General provisions in respect of ETAs.

The Authority has also had regard to its Guideline 6 in considering the overall social impact of approving the application pursuant to section 48 of the Act.

Key findings

In accordance with its Guideline 6, the Authority finds that the relevant local community for the purposes of this decision is the suburb of Sydney, and the broader community is the Local Government Area of Sydney.

Positive social impacts

The Authority is satisfied on the material before it that the proposal set out in the application, if approved, would likely benefit the local and broader communities by –

- providing a different type of lawful entertainment that is sought out by certain members of the community and tourists, in a well-maintained venue in keeping with appropriate legislative standards;
- making an active commitment on the part of the Licensee and Senior Management to maintain good community relations where possible, and
- being an active member of the local liquor accord.

Negative social impacts

The Authority accepts that the proposal may, over time, contribute to an increase in alcohol-related harm in the local and broader communities, including alcohol-fuelled violence, health problems and/or social and amenity issues, having regard to the following:

- venue premises is in Sydney CBD within a CIA area;
- the premises is located within high density hotspots for domestic & non-domestic violence and malicious damage to property;
- there are high rates of alcohol-related crimes across all areas within the suburb compared to NSW;
- the extended trading with late entertainment may result in increases in the consumption of alcohol and risks of intoxication;
- there is a higher density of liquor outlets in Sydney CBD and Sydney LGA, including late night on-premises, hotels, bars and clubs, and
- there are higher rates of alcohol attributed hospitalisations in the Sydney LGA compared to NSW.

The Authority is nevertheless satisfied that these risk factors are sufficiently mitigated by the following:

- no objections from police, council, compliance or the public were received;

- the venue will be offering a specific type of niche entertainment service;
- the business practice aims at supporting the revitalisation of Sydney's nightlife economy;
- the plan of management has been prepared in consultation with the New South Wales Police Force and Liquor and Gaming NSW, and
- the harm minimisation measures set out in the plan of management and licence conditions as set out in Schedule 1.

Overall social impacts and conclusion

Having considered the positive and negative social impacts that are likely to flow from the applicant's proposal, the Authority is satisfied that the overall social impact of approving the application will not be detrimental to the well-being of the local or broader community.

The Authority is also satisfied that the other legislative requirements for the approval of the application have been met.

The Authority finds, having regard to the above, that approving the application is consistent with the statutory objects and considerations of the Act to regulate the liquor industry in line with the community's expectations, needs and aspirations, and facilitate the balanced and responsible development of the liquor industry and related industries.

Accordingly, the Authority approves the application under section 45 of the Act.



Murray Smith

Deputy Chairperson

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

Schedule 1 – Licence conditions to be imposed Bon Bon's

1. Retail closure period

Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on the licensed premises for a continuous period of 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. Restricted trading & NYE (std)

Consumption on premises

Good Friday 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

Christmas Day 12:00 noon – 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)

December 31st Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.

3. Social impact

The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.

4. Participation in the local liquor accord

The licensee or its representative must join and be an active participant in the local liquor accord.

5. Plan of Management

The premises is to be operated at all times in accordance with the Plan of Management dated 11 November 2022 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. Extended Trading Authorisation

Extended trading Authorisation: whole of the licensed premises

7. Requirement to maintain an incident register

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:
 - (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.
- 2. The licensee must, if requested to do so by a police officer or Liquor & Gaming NSW inspector:
 - 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.
- 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

8. Crime scene preservation

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:

- 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.

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.

9. CCTV

- 1) The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - 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:
 - (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.
- 2) The licensee must also:
 - 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.

10. No persons under 18

Any person under the age of eighteen (18) years shall not, for any purpose, enter the premises.

11. Partitioning

Any place within the licensed premises in which entertainment is provided shall not be partitioned so as to prevent observation of the activity in that place.

12. No spruiking

There is to be no spruiking or touting for business immediately outside the premises or in the near vicinity of the premises.

13. Doorways and windows

All external doorways and windows are to be screened to prevent any viewing of entertainment from outside the premises.

14. Entertainers

Entertainers who leave the defined stage area are to wear at least a 'G' string.

15. No sex acts

The simulation of a sex act is not permitted by entertainers.

16. No audience participation

Physical audience participation in any entertainment offered is prohibited other than placement of money or money equivalent in the clothing of the performers.

17. No prostitution

The licensee will manage the premises in such a manner so as to ensure prostitution does not occur on the premises.