

NSW Independent Liquor & Gaming Authority

Our ref: DF25/068869

Mr Joshua Ungaro

HTA legal

17 November 2025

Dear Mr Ungaro

Application No.	1-9537072353
Applicant	Miss Karen Risby
Application for	Change of licence conditions
Application date	3 July 2025
Decision date	15 October 2025
Licence name	Muswellbrook Hotel
Licence number	LIQH400116594
Licensed trading hours	Monday to Saturday 05:00 AM – 03:00 AM Sunday 05:00 AM – 12:00 AM
Premises	46 Market Street Muswellbrook NSW 2333
Legislation	Sections 3 and 53 of the <i>Liquor Act 2007</i> Section 3 of the <i>Gaming Machines Act 2001</i>

Decision of the Independent Liquor & Gaming Authority

Application to revoke licence condition – Muswellbrook Hotel

We **refuse** the application to revoke a licence condition under section 53(2)(a) of the *Liquor Act 2007* (**the Liquor Act**).

Statement of reasons

Having considered the objects of the *Liquor Act* and the *Gaming Machines Act 2001* (**the Gaming Machines Act**) we are not satisfied that approving the application would facilitate the balanced development of the liquor and gaming industries. Nor are we satisfied that revoking the condition would minimise harm associated with the misuse and abuse of gambling activities, or foster responsible conduct in relation to gambling.

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Impact of *ILGA v Whitebull & Ors [2023] NSWCA 224*

The court in *ILGA v Whitebull & Ors [2023] NSWCA 224* (the **Whitebull decision**) confirmed the Authority's power to impose conditions in relation to the operation of gaming machines under section 53 of the Liquor Act.

The principles in the Whitebull decision underpin the Authority's decision making under section 53 of the Liquor Act.

Our main findings

The local community for the purposes of this decision is the Statistical Area 2 (**SA2**) and the Local Government Area (**LGA**) of Muswellbrook.

The Muswellbrook Hotel (the **Hotel**), located in a Band 3 SA2 area, has 5 gaming machine entitlements. Despite the relatively small number of gaming machines, gambling intensity at the venue is approximately double that at comparable venues.

In addition, the extended hours of gaming offered and the presence of several location factors including a SEIFA score of 1, all point to the high potential for gaming harm.

Accordingly, in April 2025, the Authority imposed a responsible gambling officer (**RGO**) condition on the licence, although the venue objected to that condition. The Authority noted the submissions from the applicant to revoke the RGO condition citing the ministerial direction and government policy, and an operational and financial burden.

However, the Authority considered that the Hotel's risk factors have remained unchanged since April 2025, and continue to indicate higher risks than for other venues and communities.

The submissions and material from Liquor & Gaming NSW (**L&GNSW**) identify several risk factors which suggest that the grant of the application may increase the harm associated with the misuse and abuse of gambling activities or that the application may not facilitate the balanced development, in the public interest, of the gaming industry, including:

- banding – the venue is in a Band 3 SA2 statistical area; Band 1 indicates lower risk and Band 3 indicates higher risk
- location factors – the SA2 has some location factors including higher rates of Aboriginal and Torres Strait Islander people, single people, people with lower education levels and a low SEIFA
- gaming intensity – the average profit per gaming machine is higher than the SA2 average, LGA average and comparable venues
- post-midnight gaming – the venue has 18 hours of post-midnight gaming, with 6 of those in the higher risk post-2am period
- gambling participation – the gambling participation rate for gaming machines in the local health district (18.7%) is above the NSW rate (14.3%).

The submissions and material from both L&GNSW and the applicant identify factors which may mitigate against the risk factors, including:

- number of gaming machine entitlements – the venue has 5 gaming machine entitlements. Under the current legislation, only venues with more than 20 gaming machine entitlements are required to employ a RGO
- gambling prevalence – the percentage of moderate and high-risk gamblers for the local health district (3.9%) is lower than the NSW rate (4%)

- post-midnight gaming – while the venue’s licensed trading hours are extended, based on current CMS trading data, it appears that only minimal gaming activity occurs past midnight.

We also considered the applicant’s submissions providing specific reasons for the request to revoke condition 6040, the responsible gambling officer condition:

- Ministerial Direction & Government Policy:
 - the Minister for Gaming and Racing directed that RGOs are only required in venues with more than 20 gaming machine entitlements
 - the Authority must not impose licence conditions that contradict government policy or legislative frameworks unless justified by venue-specific circumstances
 - the Hotel in question has only 5 gaming machine entitlements, making the requirement for an RGO inconsistent with both policy and the Ministerial Direction.
- Legislative & Regulatory Inconsistency:
 - condition 6040 conflicts with Part 4 of the Gaming Machines Act and Part 3 of the *Gaming Machines Regulation 2019*
 - clause 50C of the Regulation mandates RGOs only for venues with 21–99 gaming machine entitlements
 - Imposing Condition 6040 on a hotel with 5 GMEs violates the express provisions of the law and Ministerial Directions.
- Operational & Financial Burden:
 - the Hotel is a small regional venue with limited staff and high turnover
 - compliance with Condition 6040 requires costly Advanced RCG training for nearly all staff, creating ongoing financial strain.
 - these burdens are disproportionate given the Hotel’s modest gaming operations.
- Lack of Justifying Circumstances:
 - no evidence suggests the Hotel poses elevated gambling harm risks
 - the venue serves a regular local clientele and maintains standard harm minimisation practices.
- Alignment with Legislative Objectives:
 - condition 6040 undermines the Gaming Machines Act’s goal of balancing industry development with harm minimisation
 - revoking the condition would support responsible gambling while ensuring the viability of a small regional business.

In summary, the applicant states it contradicts government policy, legislative intent, and imposes undue hardship without justification.

Taking into consideration the objects of the Liquor Act and the Gaming Machines Act, the risk factors and their mitigation, and material from L&GNSW and the applicant, we are not satisfied that the application minimises harm associated with the misuse and abuse of gambling activities and may not facilitate the balanced development, in the public interest, of the gaming industry. Accordingly, we have determined that the application should be refused.

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
- the legislation
- liquor licence documents

- applicant response to assessment and submissions
- gaming plan of management
- application conditions
- location factors
- venue maps and images
- daily net meter report for proposed venue
- L&GNSW compliance materials

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

This decision will be published.

If you have any questions

Please contact Liquor & Gaming NSW at: new.applications@liquorandgaming.nsw.gov.au if you have any questions.

Yours sincerely



Caroline Lamb

Chairperson

NSW Independent Liquor & Gaming Authority