

**NSW Department of Customer Service**

**Liquor & Gaming NSW**

Application number:	1-8129951201	
Application for:	Removal of a packaged liquor licence	
Trading hours:	Monday to Thursday Friday and Saturday Sunday	09:00 AM to 08:00 PM 09:00 AM to 09:00 PM 10:00 AM to 07:00 PM
Applicant:	INLOM PTY LTD	
Licence name:	Beaumont Bottle Barn	
Licence number:	LIQP700358432	
Premises address:	1 / 75 - 77 Beaumont St HAMILTON NSW 2303	
Issue:	Whether a delegated Liquor & Gaming NSW employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for the removal of a packaged liquor licence.	
Legislation:	Sections 45(1) and 59 of the <i>Liquor Act 2007</i>	

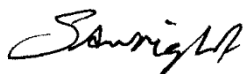
**REMOVAL OF A PACKAGED LIQUOR LICENCE**

**Beaumont Bottle Barn**

Under delegation issued by the Independent Liquor and Gaming Authority under section 13 of the *Gaming and Liquor Administration Act 2007* and section 59(3) of the *Liquor Act 2007*, a designated Public Service employee or other Public Service employee of Liquor & Gaming NSW in the Department of Customer Services, has decided to grant the application for the removal of a packaged liquor licence, application number 1-7735623078.

After careful consideration of the application and other material, the delegate decided to approve the application, subject to conditions listed in table 1.

Decision Date: 24 December 2021



Susan Wright

**A/Director, Licensing  
Liquor, Gaming and Racing NSW  
Delegate of the Independent Liquor & Gaming Authority**

## STATEMENT OF REASONS

### Analysis of Submissions and statutory requirements

- (1) No submissions have been received objecting to the application.
- (2) Appropriate consent is in place for the use of the premises as a packaged liquor licence.
- (3) I am satisfied that the applicant has been provided with an opportunity to consider and comment upon the conditions contained in the licence document.
- (4) I am satisfied that the statutory advertising requirements have been met.
- (5) Having reviewed all the material, I am satisfied that granting this application for the removal of a packaged liquor licence will not be detrimental to the local or broader community.

### Overall social impact

#### (1) Positive benefits

The granting of the licence removal will continue to provide the benefits of convenience shopping for customers of Beaumont Bottle Barn, and create employment opportunities for, residents of and visitors to the local area (suburb of Hamilton) and the broader community (Newcastle Local Government Area).

#### (2) Mitigation of potential negative impacts

I am satisfied that the business model, conditions imposed, and any other information contained in the application will provide that the lawful operation of the premises will not be detrimental to the local or broader community.

In particular, the Plan of Management and licence conditions will serve to mitigate any potential negative impacts.

### Conditions considered by the ILGA delegate (DF21/019000)

All requests to impose conditions on the licence are reviewed on a case by case basis and a merit-based assessment is conducted.

In considering whether a proposed condition has merit, delegates consider: (a) whether the need for the condition has been adequately established (b) whether the benefits of imposing the condition are likely to outweigh the costs and (c) whether the proposed condition is proportionate to the potential harm identified.

Table 1 sets out the conditions which I have decided to impose on the licence.

TABLE 1 - Proposed conditions imposed on the licence:	
1.	Social impact

	<p>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 reasonably be expected from the information contained in the Community Impact Statement, application and other information submitted in the process of removing this licence to the premises at 1 / 75-77 Beaumont Street HAMILTON NSW 2303.</p>
<b>2.</b>	<p><b>Liquor Plan of management</b></p> <p>The premises is to be operated at all times in accordance with the Liquor Plan of management dated December 2021 as may be varied from time to time after consultation with NSW Police. A copy of the Liquor 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>
<b>3.</b>	<p><b>Closed circuit television system (CCTV)</b></p> <p>1) The licensee must maintain a closed-circuit television (CCTV) system on the licensed premises ("the premises") in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>(a) the system must record continuously from opening time until one hour after the premises is required to close,</li> <li>(b) recordings must be in digital format and at a minimum of ten (10) frames per second,</li> <li>(c) any recorded image must specify the time and date of the recorded image,</li> <li>(d) the system's cameras must cover the following areas: <ul style="list-style-type: none"> <li>(i) all entry and exit points on the premises, and</li> <li>(ii) all publicly accessible areas (other than toilets) within the premises.</li> </ul> </li> </ul> <p>2) The licensee must also:</p> <ul style="list-style-type: none"> <li>(a) keep all recordings made by the CCTV system for at least 30 days,</li> <li>(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</li> <li>(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.</li> </ul>
<b>4.</b>	<p><b>Incident Register</b></p> <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"> <li>(a) any incident involving violence or anti-social behaviour occurring on the premises,</li> </ul>

	<p>(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,</p> <p>(c) any incident that results in a person being turned out of the premises under section 77 of the Act,</p> <p>(d) any incident that results in a patron of the premises requiring medical assistance.</p> <p>2. The licensee must, if requested to do so by a police officer or inspector:</p> <p>(a) make any such incident register immediately available for inspection by a police officer or inspector, and</p> <p>(b) allow a police officer or 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>
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**TABLE 2 – Proposed conditions to be revoked from the licence:**

5.	<p><b>Existing condition no. 2015</b></p> <p>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 removing this licence to 38 Beaumont St, Hamilton.</p>
6.	<p><b>Existing condition no. 3010</b></p> <p>The Independent Liquor &amp; Gaming Authority approved the removal of the licence to 38 Beaumont St, Hamilton on 31 October 2013.</p>

**Materials considered by the ILGA delegate**

**TABLE 3: Submissions analysis**

Stakeholder submissions	
1.	<p><b>NSW Police</b></p> <ul style="list-style-type: none"> <li>Police state no objections or concerns, request conditions as per above in table 1, and confirm nil adverse holdings.</li> </ul>
2.	<p><b>Local consent authority</b></p> <ul style="list-style-type: none"> <li>Council advise no objection to the application, do not request any conditions, and confirm development consent is in place for the proposal.</li> </ul>
3.	<p><b>The Secretary (Compliance Unit, Liquor &amp; Gaming NSW)</b></p> <ul style="list-style-type: none"> <li>The Liquor &amp; Gaming NSW Compliance Unit state no objections, do not request any conditions, and confirm nil adverse holdings.</li> </ul>

<b>TABLE 4: Document analysis</b>		
<b>Details</b>		<b>Assessed as compliant</b>
1.	Application form and Notices	Yes
2.	Community Impact Statement – Category B	Yes
3.	Certification of Advertising	Yes
4.	Development consent	Yes
5.	Premises plan	Yes
6.	Plan of management	Yes
7.	ASIC documents	Yes

## Conclusion

- (1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether to grant the application. All of those required to be notified of the application were provided with the opportunity to make written submissions and all submissions received were considered and helped inform this decision. The decision was made by the delegate having reviewed the application statement, business model and risk analysis, stakeholder submissions and other relevant material.
- (2) In accordance with section 45(3)(a) of the Act I am satisfied that the proposed licensee is a fit and proper person to carry on the business or activity to which the proposed licence relates.
- (3) Having considered the venue plan of management and related material, under section 45(3)(b) of the Act, I am satisfied that practices will be in place at the premises as soon as the licence is granted that ensure, as far as reasonably practicable, that all reasonable steps are taken to prevent intoxication on the premises, and that those practices will remain in place.
- (4) Consistent with section 45(3)(c) of the Act requiring development consent from the local council, I am satisfied that the required development consent or approval is in force.
- (5) In making this decision under delegation from of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to grant the liquor licence removal application with conditions.

**TABLE 5: Relevant extracts from the Liquor Act 2007**

### Legislative framework, statutory objects and considerations

In determining the application, the delegate has considered relevant provisions of the Act, including the objects and considerations that are prescribed by section 3, which state:

#### 3 Objects of Act

1. The objects of this Act are as follows:
  - a. to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
  - b. to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
  - c. to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
2. In order to secure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
  - a. the need to minimise harm associated with misuse and abuse of liquor (including the harm arising from violence and other anti-social behaviour),
  - b. the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
  - c. the need to ensure that the sale, supply and consumption of liquor contributes to, and does not detract from, the amenity of community life,
  - d. the need to support employment and other opportunities in the-
    - (i) live music industry, and
    - (ii) arts, tourism, community and cultural sectors.

#### TABLE 6: Statutory tests

1. In determining an application for a licence, under section 45(3) of the Liquor Act 2007, the delegate must also be satisfied that:
  - (a) the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
  - (b) practices will be in place as soon as the licence is granted that ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises and that those practices will remain in place, and
  - (c) if development consent is required under the *Environmental Planning and Assessment Act* 1979 (or approval under Part 4 Division 4.1 or Part 5.1 of that Act is required), to use the premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.

- (d) the proposed approved manager/licensee has completed the relevant tiered industry training as per legislative requirements.

**TABLE 7: Community impact test**

1. Under section 48(5) of the Liquor Act 2007, the delegate must not grant a licence, authorisation or approval of a kind prescribed by section 48(2) of the Act unless the Authority is satisfied, having regards to the Community Impact Statement, where required, and any other matter the delegate is made aware of during the Application process, that the overall impact of the licence, authorisation or approval in question being granted will not be detrimental to the local or broader community.

The Community Impact Statement provides the Authority with information about the views of relevant stakeholders and other aspects of the local community in which the proposed licensed premises is to be located. This includes, for example, the proximity of the licensed premises to hospitals or health facilities, nursing homes, schools and places of worship.

**TABLE 8: Removal of licence to other premises**

1. Under section 59 of the Liquor Act 2007, a licensee may apply to the Authority for approval to remove the licence to premises other than those specified in the licence.
2. An application for approval to remove a licence to other premises must—
  - (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations and such information and particulars as may be prescribed by the regulations, and
  - (c) be advertised in accordance with the regulations, and
  - (d) comply with such other requirements as may be approved by the Authority or prescribed by the regulations.
3. An application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises. Accordingly, the provisions of Division 1, in particular, extend to an application for the removal of a licence to other premises as if it were an application for a licence.
4. The approval to remove a licence to other premises takes effect when the Authority endorses the licence to the effect that those other premises are the premises to which the licence relates.

**TABLE 9: Important Information:**

In accordance with Clause 5 of the Gaming and Liquor Administration Regulation 2016, this decision is reviewable by ILGA.

The licence applicant and persons who were required to be notified of the application and who made a submission can apply for an application for review. An application for a review must be lodged with ILGA within 28 days of the date of the publication of this decision. An application fee applies. For

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original applicants, the review application fee is the same as the initial application fee. For non-original applicants, the application fee is \$100.

For ILGA reviews of delegated decisions, make an application for review via the Liquor and Gaming Application Noticeboard at: <https://www.liquorandgaming.nsw.gov.au/Pages/public-consultation/online-application-noticeboard/online-application-noticeboard.aspx>. The Review Application form can be accessed online via the Application Number hyperlink.

Further information can be obtained from the Reviews page on the Liquor & Gaming website at: <https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>