



Customer Service
Liquor Gaming & Racing

APPLICATION NO:	APP-0005921527
APPLICATION FOR:	On-premises liquor licence for Karaoke Venue
TRADING HOURS:	Monday to Saturday: 05:00 PM to 12:00 AM Sunday: 05:00 PM to 10:00 PM
APPLICANT:	LIEN ANH KIM PTY LTD - Kim Anh Hoang
LICENCE NAME:	Viet Pho Bar & KTV
PREMISES ADDRESS:	313 Chapel Road BANKSTOWN NSW 2200
ISSUE:	Whether a delegated Liquor Gaming & Racing employee on behalf of the Independent Liquor Gaming & Racing Authority (ILGA) should grant or refuse an application for an on-premises liquor licence for karaoke venue.
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR
On-Premises liquor licence
Viet Pho Bar & KTV

Under delegation issued by the Independent Liquor and Gaming Authority under section 13 of the Gaming and Liquor Administration Act 2007, a designated Public Service employee or other Public Service employee of Liquor Gaming & Racing in the Department of Customer Services, has decided to grant the application for an on-premises liquor licence for karaoke venue, application number APP-0005921527.

On XX September 2019 and after careful consideration of the application and other material, the delegate decided to approve the application, subject to the following conditions:

Conditions imposed:

1. 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

Liquor Gaming & Racing

this 6-hour closure period along with any other limits specified in the trading hours for this licence.

2. 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 at other times on 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. Only liquor sold or supplied under the authority of the licence is permitted on the licensed premises. The licensee must not permit patrons to bring liquor onto the premises.
4. The licensee must ensure that containers of liquor are opened prior to serving.
5. No drinks designed to be consumed rapidly, for example 'shots', 'shooters', 'slammers', 'bombs' are to be sold or supplied at the premises.
6. The sale and supply of bottles of spirits is prohibited.
7. Liquor must not be sold, supplied or consumed in any karaoke room in which a minor is present, unless the minor is accompanied and in the presence of a responsible adult as defined under the Liquor Act 2007.
8. The door to each individual karaoke room must have a glass insert placed in it and kept clear at all times for the purposes of supervision of persons using the room.
9. The licensee must notify the Police Area Commander, NSW Police Force or his/her representative, of all serious incidents.

Serious incidents include any incidents involving an act of violence causing an injury to a person on the premises, including, but not limited to, any injury sustained by a patron that requires medical treatment.

The licensee must ensure that, immediately after the licensee or a staff member becomes aware of an incident on the licensed premises involving an act of violence against any person or property, the following is adhered to:

- a. The licensee or a staff member must take all practical steps to preserve and keep intact the area where the act of violence occurred, in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police Force.

Liquor Gaming & Racing

- b. The licensee or a staff member must make direct and personal contact with the Police Area Commander, NSW Police Force or his/her delegate and advise the Commander or delegate of the incident.
 - c. The licensee or the staff member must comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
 - d. For the purpose of this condition, “staff member” in relation to subject premises 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 activities as a crowd controller or bouncer on or about the premises.
10. The licensee must ensure that an incident register is kept on the premises; and that any incident involving any staff member and/or security personnel; the physical contact and/or physical restraint; the ejection of a member of the public from the premises; or when a patron, staff member or security personnel is injured as a result of an assault; is recorded in this register. The licensee must ensure to record the full names of the staff involved in the incident, and produce the register immediately upon request by members of the NSW Police Force, or authorised officers of Liquor and Gaming NSW.
 11. At least one (1) uniformed licensed security officer is to be provided on Thursdays to Saturdays from 8.00 pm until close or until the last person has left the immediate vicinity of the premises whichever is the later.
 12. The licensee must ensure that staff wear name tags and/or uniforms identifying themselves to patrons and authorities that they are working at the premises.
 13. The licensee must ensure signs are permanently displayed in each karaoke room stating “Liquor must not be sold or supplied to persons under the age of eighteen (18) years”.
 14. 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 six (6) 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.

The licensee must also:

- (a) keep all recordings made by the CCTV system for at least 30 days,

Liquor Gaming & Racing

- (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.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF19/009445)

The decision made by the delegate had the application and other relevant material:

- (1) Application form lodged on 11 June 2019
- (2) Plan of proposed licensed premises
- (3) Plan of Management
- (4) Certification of Advertising dated 1 August 2019
- (5) Applicant's consent to conditions
- (6) ASIC extract for LIEN ANH KIM PTY LTD
- (7) Emails from applicant and letters from Canterbury-Bankstown Council
- (8) Police submission with conditions
- (9) Compliance submission with no adverse findings against the applicant and owners
- (10) Evidence of completion of the relevant tiered industry training

2. 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,

Liquor Gaming & Racing

- (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.

3. 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.

Liquor Gaming & Racing

4. 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.
- (2) The test applying under section 48(5) relates to delegated decisions in relation to:
 - a. the grant or removal of a small bar licence (where required),
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an application for extended trading hours to permit the sale of liquor after midnight in relation to a small bar (where required), an on premises relating to a restaurant that includes an application for a primary service authorisation, an on premises licence relating to a karaoke bar, a catering service or a vessel, and an application for a producer/wholesaler licence that includes an application for a drink on premises authorisation.
- (3) 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.
- (4) Local and Broader Community - for the purposes of this decision, the delegate is satisfied that the relevant "local community" is the community within the suburb of Bankstown, and the "broader community" of Canterbury-Bankstown Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence for karaoke venue is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The proposed licensed premises is the first floor of a two storey commercial building in the CBD area of the suburb.
- (3) Development consent for purposes of karaoke venue is in place.

Liquor Gaming & Racing

- (4) The licence will be exercised in accordance with the Plan of Management provided to the Authority.
- (5) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) I am satisfied that the statutory advertising requirements have been met.
- (7) I am satisfied that the proposed manager has completed the relevant licensee/approved manager tiered industry training as per legislative requirements.

6. Overall social impact

(1) Positive benefits

The granting of the licence will complement and enhance the services offered by the business.

(2) Negative impacts

The conditions imposed by the Delegate in addition to the RSA measures in place will ensure that there will be no negative impacts to the community.

7. Conclusion

- (1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether or not to grant the application, as 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.
- (2) In accordance with section 45(3)(a) of the Act I am satisfied that the proposed manager is a fit and proper person to carry on the business or activity to which the proposed licence relates.
- (3) Having considered the venue management plan 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.

Liquor Gaming & Racing

- (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 application with conditions.

Decision Date: 25 September 2019



Joanne Zammit
Coordinator Licensing (Business Licensing)

Liquor & Gaming NSW
Delegate of the Independent Liquor & Gaming Authority

Important Information:

In accordance with Clause 5 of the Gaming and Liquor Administration Regulation 2008, 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 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 on line 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>