



Customer
Service

Liquor, Gaming & Racing

**NSW Department of Industry
Liquor, Gaming & Racing**

APPLICATION NO:	1-7564753401.
APPLICATION FOR:	On-Premises Liquor Licence catering service, public arena and events, sale on other premises authorisation, extended trading authorisation
LIQUOR TRADING:	Catering service/Public arena and events Monday to Saturday: 10:00 AM to 12:00 AM
APPLICANT:	BLUESFEST SERVICES PTY LTD
LICENCE NAME:	Annual Byron Bay Bluesfest
PREMISES ADDRESS:	30 Tanner Lane, TYAGARAH, NSW 2481
ISSUE:	Whether a delegated Liquor, Gaming & Racing employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on-premises liquor licence for catering service
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
On-Premises Liquor Licence
Annual Byron Bay Bluesfest**

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 catering service, application number 1-7564753401.

On 6 March 2020 and after careful consideration of the application and other material, the delegate decided to approve the application, subject to the following conditions:

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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 this 6-hour closure period along with any other limits specified in the trading hours for this licence.
2. Consumption on premises-restricting trading & NYE

Good Friday	Normal trading
Christmas Day	Normal trading
December 31st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
3. The licensee must not exercise the sale on other premises authorisation at locations/venues where there is already a current and valid liquor licence in force.
4. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing injury to a person on the premises, the person must:
 - a. Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence in accord with Crime Scene Preservation Guideline, issued by NSW Police, and
 - b. make direct and personal contact with the Police Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
 - c. comply with and directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.
5. The premises is to be operated at all times in accordance with the Plan of Management dated 7 February 2020, 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. A separate Plan of Management is to be prepared for any major event where the patron capacity exceeds 300.

Where the patron capacity of any given event exceeds 300, the licensee must advise the relevant

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Local Area Command, Local Council and LGNSW, no later than 30 days prior to the event taking place.

Where the patron capacity of any given event exceeds 1,000, the licensee must advise the relevant Local Area Command, Local Council and LGNSW, no later than 42 days prior to the event taking place.

For any major event the licensee must:

- a. Prepare a separate comprehensive Plan of Management in consultation with the Local Area Command that has jurisdiction over the area where the event will be held and,
 - b. Provide a copy of the Plan of Management to the Local Area Commander.
7. Food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be available during liquor trading hours.
 8. The licensee must provide a contact number for each event manager for events with patron capacity exceeding 300 and must ensure that they are contactable for the duration of the event.
 9. The licensee shall comply with any directions of the Secretary of Liquor and Gaming NSW or his or her delegate or the Commander of the Tweed/Byron Police District or his or her delegate concerning the manner of operation of the licence or the conduct of the event as may be issued to the licensee in writing. Directions may relate to but are not restricted to, intoxication, and the responsible service of liquor, standards to be observed on the premises for preventing the misuse or abuse of liquor the levels of noise emanating from the licensed premises, the steps that need to be taken to prevent patrons from disturbing the neighbourhood and the hours during which liquor may be sold or supplied under the authority of the licence on that particular day.
 10. All liquor supplied must be opened to avoid stockpiling.
 11. The Licensee must actively promote liquor harm minimisation strategies, including on the event's website
 12. The licensee must ensure adequate system of lighting to ensure patron safety and monitoring of liquor compliance is implemented throughout the licensed area and remains lit during the hours of darkness of the event. Lighting must include sufficient lighting at the entrance point to each "bar area" so staff or security are able to easily read patron identification, driver's licence, wrist bands without the aid of a secondary light source.

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13. Non-removable wristbands or similar device to be used for every patron, wristbands or similar devices issued to minors will be of a distinctly different colour or design to those issued to other patrons.
14. The licensee must not permit staff to consume liquor while engaged in the sale or supply of liquor including during any meal or other break.
15. The licensee must ensure a sign stating the area is licensed is to be clearly displayed at each public entrance to the licensed area.
16. The licensee must ensure signage indicating liquor is not to be removed from the licensed area is prominently displayed near each public exit.
17. The licensee must ensure all bar staff wear clothing that clearly identifies them as Bar Staff and employees of the licensee.
18. The licensee must ensure all “bar areas” are defined by a perimeter fence, crowd control barriers or building structure.
19. The licensee must ensure all “bar areas” have crowd control measure in place by corralling or the use of a race barriers to provide orderly patron attendance to the bar and assist with assessment of intoxication by security and bar staff.
20. The licensee must ensure the sale and supply of alcohol beverages at events with patron capacity exceeding 300, is limited to a 4,2,1 basis being:
 - a. Commencement of trade to 22:00 PM, a maximum of 4 drinks per patron
 - b. 22:00 PM to 11:00 PM, a maximum of 2 drinks per patron
 - c. 11:00 PM to cease of trade, a maximum of 1 drink per patron
21. The Licensee or approved manager or employees and agents of the licensee must not sell or supply the following drinks on the licensed premises, except for beverages served in those bars nominated in the Event Alcohol Plan of Management, in accordance with the restrictions nominated in the Plan:
 - a. Any drink commonly referred to a “Shot” (that is contains no more than 30ml of spirits or liqueur and that is designed to be consumed rapidly)
 - b. Any “Cocktail” containing more than one 30ml nip of spirit or liqueur;
 - c. Liquor other than wine (including medium and low strength beer, cider, pre-mixed spirits and ready-to-drink beverages) where the alcohol by volume content is more than 5%;
 - d. Any drink containing more than 50% spirits or liquor;

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22. The licensee must ensure that during trading hours, any drink (whether or not it contains liquor) sold or supplied for consumption on the licensed premises is not served in a glass container, except for those bars nominated in the event's Alcohol Plan of Management, where the licensee must ensure the glass is not removed from those bars.
23. The licensee must ensure minors are not permitted entry to any "bar area" except as stated in the Event Alcohol Management Plan, where the minor must be in the company of a responsible adult who is 25 years or older.
24. The licensee must ensure signage is prominently displayed at each "bar area" indicating minors are not permitted in the "bar area".
25. The licensee is to make all reasonable efforts to ensure that all liquor supplied to patrons is consumed or disposed of within thirty (30) minutes of closing.
26. Free drinking water be made readily available at each bar service area independent of any bar service queuing system. Each free drinking water point (including any water service stations within the general public area) have sufficient and substantial signage indicating its availability and location. A substantial sign is more than A3 size paper with typed text and must be visible in low light or illuminated by some means.
27. The licensee must ensure that security personnel as determined by the security management plan are engaged at all times whilst liquor is being sold or supplied. For the purpose of this condition only those security performing duties on or about the licensed area or the immediate perimeter are to be counted.
28. The licensee must ensure at least one (1) uniformed licensed security officer is stationed at each public entry and exit of the "bar area" whilst that bar is in operation.
29. The licensee must ensure at least one (1) uniformed licensed security officer is stationed at each open entry and exit lane of the public access areas to the licensed area during trading hours.
30. The licensee must ensure at least one (1) responsible service of alcohol RSA marshal roams within each "bar area" whilst the bar is in operation.
31. All security staff in the licensed area except those working the stage barriers and senior staff or controlling the access to the licensed area and all RSA marshals are to wear hi visibility shirts, jackets, vests.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF19/016830)

The decision made by the delegate having considered the application, and the following information:

- (1) Application form lodged on 24 October 2019
- (2) Plan of proposed licensed area
- (3) A Community Impact Statement (category A) has been forwarded.
- (4) An extended trading authorisation application has been forwarded.
- (5) An Alcohol Plan of Management dated 7 February 2020 has been forwarded in support of the application.
- (6) Certification of Advertising
- (7) An Appointment of manager notice for the proposed manager has been forwarded.
- (8) Development consent D.10.2014.753.3 issued 16 April 2019 by Byron Shire Council, which modifies the conditions of consent for the Community Events Facility, located at 30 Tanner Lane Tyagarah, NSW 2481.
- (9) Correspondence from the Secretary to Liquor and Gaming NSW, dated 2 March 2020 has been forwarded with no objection.
- (10) Email correspondence from Liquor and Gaming NSW to the applicant's agent requesting additional information and consent to the imposition of a number of licence conditions
- (11) Email correspondence in response from the agent and consent to conditions.
- (12) 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,

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- (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.

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

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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 TYAGARAH and the "broader community" of Byron Shire Council

5. Analysis of Submissions and other Materials

- (1) Having reviewed the material, I am satisfied that this application for an on-premises liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (3) I am satisfied that the statutory advertising requirements have been met.
- (4) Development approval for the proposed premises use is in place.
- (5) Both Police and Liquor and Gaming NSW Compliance have not objected to the grant of the liquor licence. I will impose most of the police requested conditions in addition to plan of management conditions.

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- (6) Although police have requested no liquor by volume content over 4%, (condition 21) I have considered the applicant's request for a 5% limit and have amended the condition to reflect the higher percentage. I have also amended condition 20 relating to the amount of liquor patrons can purchase between 11:00 PM and cessation of liquor sales.
- (7) I am satisfied that the proposed licensee has completed the relevant licensee/approved manager tiered industry training as per legislative requirements.

6. Overall social impact

(1) Positive benefits

Byron Bay Bluesfest is an annual music event, normally authorised under a special event function licence. The applicant wishes to hold a number of events at the venue each year, ranging from the annual Bluesfest to corporate and private events. An on premises-catering service/public event classes would essentially permit the applicant to avail of a permanent liquor licence for the venue.

(2) Negative impacts

The nature of the licence sought together with a suite of conditions and a detailed alcohol plan of management should ensure that there are unlikely to be any amenity impacts on the local community. No objections were received in relation to this application

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 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 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.

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- (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 application with conditions.

Decision Date: 6 March 2020



Joanne Zammit

A/Manager, 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>



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