



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

APPLICATION NO:	APP-0004908817
APPLICATION FOR:	Liquor – on premises catering service with a sale on other premises authorisation
TRADING HOURS:	Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10.00 PM
APPLICANT:	Vincent Hernandez
LICENCE NAME:	BBR AGENCY PTY LTD
PREMISES ADDRESS:	2 22 Glen Ave, RANDWICK, NSW 2031
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on premises catering service liquor licence.
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
On premises-catering service liquor licence**

BBR AGENCY PTY LTD

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 NSW in the Department of Industry, has decided to grant the application for an on premises catering service liquor licence with a sale on other premises authorisation, application number APP-0004908817.

On 29 November 2018 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

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

2. Restricted trading & NYE (catering service)

Consumption on premises

Good Friday Normal trading

Christmas Day Normal trading

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

3. No drinks commonly referred to as shots, shooters, slammers, and/or bombs, or any drink designed for rapid consumption are to be sold or supplied.

4. A separate Plan of Management is to be prepared in relation to any major event (defined as an event, function or occasion where 150 or more patrons attend) at which the licence is to be exercised and is to contain any specific necessary requirements such as relating to security, supervision, alcohol management etc concerning the event. This Plan of Management is to be completed for each corresponding event and supplied to the nearest LAC to the event."

5. Liquor is not permitted to be stored at the licensed premises address.

6. 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.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF18/018306)

The decision made by the delegate having reviewed the application and supporting documents;

- (1) Application form lodged on 12 October 2018
- (2) Plan of proposed licensed area (home office offices)
- (3) Signed Certification of Advertising
- (4) National Police Certificate dated 26 October 2018 and RSA Competency card for the proposed licensee.

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- (5) A comprehensive plan of management has been forwarded in support of the application.
- (6) Redfern Licensing Police have forwarded a submission, dated 18 October 2018, with no objection to the licensed premises in Rosebery but have requested a condition to be imposed on the licence, if granted.
- (7) Correspondence from City of Sydney Council dated 12 November 2018 objecting to the proposed licence address in Rosebery as development consent is required but not in place. An alternative licensed premises address was forwarded, a home office in Randwick. The delegate has granted a reduced noticeboard period of 14 days and the application has been re advertised 12 November 2018. All relevant stakeholders were informed of this amendment.
- (8) Confirmation from Randwick City Council, dated 14 November 2018, that the application satisfies the criteria for a “home office”, therefore no development consent is required. Council have also requested conditions to be imposed which have been duly considered buy the delegate.
- (9) A copy of the lease agreement between the Entertainment Quarter and BBR Agency for the Moving Beds event in Moore park has been forwarded.
- (10) Correspondence from Liquor and Gaming NSW to the applicant.
- (11) Responses from the applicant and consent to conditions imposed by Liquor and Gaming NSW.

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,
 - (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.

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- (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.

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),

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- 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 Randwick, and the “broader community” of City of Sydney LGA due to the fact that a sale on other premises authorisation has also been granted

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on premises-catering service liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The licensed premises is a home office will be used for administrative purposes with the sale on other premises authorisation being exercised to conduct functions/events off site.
- (3) Initially an office suite in Rosebery was proposed however this has since been amended to a home office in Randwick. The application has been re advertised and the delegate has approved a reduced submission period of 14 days. No objections from any stakeholders have been forwarded.
- (4) A comprehensive plan of management has been forwarded by the proposed licensee in support of this application.
- (5) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) No submissions have been received objecting to the application.
- (7) I am satisfied that the statutory advertising requirements have been met.

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6. Overall social impact

(1) Positive benefits

The licensee has organised several previous events such as Bastille Day and Moving Beds (an open air cinema with the novelty of inflatable beds for seats). This liquor licence will provide the flexibility of catering for events through an on premises-catering service liquor licence as opposed to a limited licence.

(2) Negative impacts

The nature of the licence sought means that there are unlikely to be any amenity impacts on the local 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 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.
- (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.



Department
of Industry

Liquor & Gaming

Decision Date: 29 November 2018

A handwritten signature in black ink that reads 'Zammit'.

Joanne Zammit

Licensing Manager (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>