

NSW Department of Customer Service
Liquor & Gaming NSW

Application number:	APP-0007478599	
Application for:	On-premises liquor licence for a vessel	
Trading hours: Accommodation	Monday to Sunday	05:00AM TO 05:00AM
Applicant:	JOB DONE BOATING PTY LTD ABN 618 291 053	
Licence name:	Privacy	
Mooring premises address:	1 Balls Head Drive WAVERTON NSW 2060 Australia	
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 liquor licence for a vessel.	
Legislation:	Section 45(1) of the <i>Liquor Act 2007</i>	

On-premises liquor licence for a vessel

Privacy

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 Customer Services, has decided to grant the application for an On-premises liquor licence for a vessel number APP-0007478599.

On 15 December 2020 and 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: 15 December 2020



Nicola Taylor

Manager, Licensing
Liquor, Gaming and Racing NSW
Delegate of the Independent Liquor & Gaming Authority

Analysis of Submissions and statutory requirements

- (1) (a) Submissions were received and considered as summarised at Table [3]. In relation to the submissions received, while there were concerns raised about the potential impact of granting the licence, I am satisfied that these can be addressed by the conditions which I have imposed on the licence.
- (2) Appropriate consent is in place for the use of the premises as an On-premises liquor licence for a vessel.
- (3) On 26 November 2020 the Australian Maritime Safety Authority provided a temporary approval for operations certificate. This approval is valid from 26 November 2020 to 23 February 2021.
- (4) Two submissions were received from Police, on 24 September 2020 and 4 December 2020 Police raised no objection to the grant of the licence and proposed a suit of standard conditions by imposed on the licence.
- (5) I am satisfied that the applicant has been provided with an opportunity to consider and comment upon the conditions contained in the licence document.
- (6) I am satisfied that the statutory advertising requirements have been met.
- (7) Having reviewed all the material, I am satisfied that granting this application for an On-premises liquor licence for a vessel, will not be detrimental to the local or broader community.

Overall social impact

(1) Positive benefits

The granting of the licence will provide patrons with the ability to purchase alcohol as part of the standard events and functions package currently offered by the business rather than having to bring their own alcohol. The anticipated events on the vessel would be executive corporate events, travel groups, small family events with the vessel's predominant voyage area being Sydney Harbour (Port Jackson) area. This type of RSA management is consistent with the proposed licence for vessels. Police have no objection to the grant of the liquor licence and the Australian Maritime Safety Authority have provided a temporary approved operations certificate.

(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

Liquor & Gaming NSW

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detrimental to the local or broader community. In particular, the extensive Plan of Management, House Policy and licence conditions will serve to mitigate any potential negative impacts

Conditions considered by the ILGA delegate

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, and the Table 2 sets out conditions put forwarded for consideration which I have decided not to impose, and the reasons for that decision.

TABLE 1 - Proposed conditions imposed on the licence:	
1.	000050 Retail closure period 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 4:00am and 10:00am 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.	No Shots No drinks designed to be consumed rapidly, for example 'shots', 'shooters', 'slammers', 'bombs' are to be sold or supplied at the premises.
3.	0002290 Plan of Management The premises is to be operated at all times in accordance with the Plan of Management dated July 2020 as may be varied from time to time after consultation with NSW Police and/or Liquor and Gaming NSW. 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, or Liquor & Gaming NSW inspector.
4.	Liquor accord The licensee or their representative is to join and be an active participant in the local Liquor Accord.
5.	Requirement to provide food on licensed premises Food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be available whenever liquor is sold or supplied.
6.	Drinking water to be available free of charge The Licensee must ensure that free drinking water is available at all times at or near the bar areas.
7.	Sydney CBD entertainment precinct The licensee must not cause or permit any passengers to board from or disembark to any part of the Sydney CBD entertainment precinct (whether from the berthed vessel or by a tender or other means) during the general late trading period (after midnight). The restriction does not apply in relation to the period between midnight and 3am on 1 January in any year (New Year's Eve).
8.	No liquor to be removed from the vessel The licensee must ensure liquor is not removed from the licensed premises.

9.	<p>Incident register</p> <p>For vessels authorised to make retail on-premises sales after midnight at least once a week, the licensee must maintain an incident register.</p> <p>The licensee must record any incidents that occur after midnight and details of the action taken.</p>
10.	<p>Crime scene preservation</p> <p>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:</p> <p>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 accordance with the Crime Scene Preservation Guidelines issued by NSW Police, and make direct and personal contact with the NSW Marine Area Command Supervisor or his/her delegate, and advise the Supervisor or delegate of the incident, and comply with and directions given by the Supervisor or delegate to preserve or keep intact the area where the act of violence occurred.</p>
12.	<p>Staff not to consume liquor</p> <p>The licensee must not permit staff to consume liquor on the licensed premises while engaged in the sale or supply of liquor (including during any meal or other break).</p>
13.	<p>No dance parties</p> <p>The licensee must not permit dance party events to be conducted on the premises. For the purpose of this condition a dance party event means an event, whether a ticketed event or otherwise, which is open to the public and where the primary activity is entertainment provided by live DJ/DJ's and/or other live performance/s for the purpose of dancing. This includes the vessel being part of a group of vessels or part of a land-based activity which involves an event that could be described as a "Dance Party" or where amplified music is the main reason for the event or gathering.</p> <p>Note: The above condition is not intended to include wedding ceremonies/receptions, corporate events, and school formals at which DJ entertainment or other live performances/s of electronic dance music is provided ancillary to the event.</p>
14.	<p>Identification of bar staff</p> <p>The licensee must ensure that all staff will wear clothing that clearly identifies them as employees of the Licensee.</p>
15.	<p>Accommodation</p> <p>This licence authorises the sale of liquor for consumption on the licensed premises only – at any time on any day to a resident (or a guest of a resident while in the resident's company) or to an employee of the licensee. Liquor must not be sold to a guest of a resident or to an employee of the licensee for consumption on the licensed premises, or to a resident for takeaway from the premises, between the hours of 4:00AM and 10:00AM. Liquor sold to a resident between the hours of 4:00AM and 10:00AM must only be sold or supplied for consumption in the room in which the resident is residing or staying.</p>
16.	<p>The licence can only be operated whilst the appropriate approval is in place for the vessel.</p>
17.	<p>The licensee is authorised to sell liquor by retail to passengers on board the vessel, for consumption on board the vessel only between the period commencing one hour before the vessel starts any voyage or passage and ending 30 minutes after the voyage or passage is completed.</p>

TABLE 2 – Proposed conditions not imposed on the licence:	Proposed by:	Reason code (see table 9)
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1.	<p>000050 Retail closure period 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 4.00 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.</p>	Police	A
2.	<p>The licensee is authorised to sell liquor by retail to passengers on board the vessel, for consumption on board the vessel only between the period commencing one hour before the vessel starts any voyage or passage and ending 30 minutes after the voyage or passage is completed.</p>	Police	A
3.	<p>The licensee must not permit staff to consume liquor on the licensed premises while engaged in the sale or supply of liquor (including during any meal or other break).</p>	Police	A
4.	<p>The licensee must ensure liquor is not removed from the licensed premises.</p>	Police	A
5.	<p>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:</p> <ul style="list-style-type: none"> 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 accordance with the Crime Scene Preservation Guidelines issued by NSW Police, and b. make direct and personal contact with the Local 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. 	Police	A
6.	<p>The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz- 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.</p> <p>The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz -8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.</p> <p>Notwithstanding compliance with the above, the noise from the licensed premises shall not be</p>	Police	A

	audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am. Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Authority.		
7.	Dance party restriction condition The licensee must not permit dance party events to be conducted on the premises. For the purpose of this condition a dance party event means an event, whether a ticketed event or otherwise, which is open to the public and where the primary activity is entertainment provided by live DJ/DJ's and/or other live performance/s for the purpose of dancing. " (This would include the vessel, been part of a group of vessels or part of a land-based activity which are involved in an event that could be describe as a "Dance Party" or where amplified music is the main reason for the event or gathering).	Police	A
8.	Any events incorporating adult entertainment are strictly prohibited.	Police	F
9.	The licensee must not host stag/bucks nights, hen's nights, under 18 events.	Police	F
10.	The premises are to be operated at all times in accordance with the Plan of Management dated May 2018 as may be varied from time to time after endorsement by the Local Area Commander of the NSW Marine Area Command, NSW Police Force.	Police	A
11.	The licensee, Approved Manager and employees or agents of the licensee must ensure a copy of the liquor licence and Plan of Management is made available upon request by Police or Inspectors.	Police	F
12.	The licensee must actively promote drug and alcohol harm minimisation.	Police	F
13.	The licensee is to notify the NSW Police Marine Area Commander or his/her representative of all serious incidents (serious incidents include any injury sustained by a patron that requires medical treatment or any unscheduled dockings to turn out a person who is intoxicated, violent, quarrelsome or disorderly).	Police	A
14.	The licensee must not permit staff to consume liquor on the licensed premises while engaged in the sale or supply of liquor (including during any meal or other break).	Police	A

Materials considered by the ILGA delegate

TABLE 3: Submissions analysis	
Stakeholder submissions	
1.	<p>NSW Police and Police Marine Command</p> <ul style="list-style-type: none"> Dated 24 September 2020 Dated 4 December 2020 Police have conducted checks on the Licensee and location of the permanent mooring with no adverse findings They have provided no local objection to the grant of the liquor licence and imposed a suit of standard conditions
2.	<p>Australian Maritime Safety Authority</p> <ul style="list-style-type: none"> Dated 26 November 2020 Provided temporary approval number EX07-2729 for operations until February 2021
3.	<p>Public</p> <ul style="list-style-type: none"> On 20 October 2020 a public submission as received detailing concerns about trading hours and noise The applicant responded to this submission 22 October 2020 citing the applicant will adhere to the relevant legislation relating to trading hours and re-iterated passengers would be picked up and dropped off at public wharves

TABLE 4: Document analysis		
Details		Dated received/comment
1.	Application form lodged	27 August 2020
2.	Plan of proposed licensed area	Detailed and compliant
3.	Certification of Advertising	Signed and dated 28 September 2020
4.	Plan of management	Details comprehensive management of safety onboard and RSA practices as per house policy
5.	<p>National Police Certificate</p> <p>ID</p> <p>RSA competency card</p> <p>Licensee training</p>	<p>No issues</p> <p>Medicare card, credit card, drivers licence, passport and birth certificate</p> <p>CCH10347519 exp 03 November 2025</p> <p>Start date 29/09/2020</p>

6.	Certificate of Survey- Australian Maritime Safety Authority	No objections- temporary Approval Number EX07-2729
7.	Correspondence from Police received- no objections	
8.	Correspondence from Public received	

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 organisation 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.

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.

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 organisation 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.

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.

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: 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 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>

TABLE 9: - Reasons for not imposing requested conditions.

A	Do not impose. Already covered by the Liquor Act.
B	Do not impose. Already covered/already a condition in the DA.
C	Do not impose. Not a relevant condition for this licence type. Condition sought is generally only imposed on high risk licence type or in exceptional circumstances. Exceptional circumstances have not been sufficiently made out by the person putting forward the condition.

D	Do not impose. This condition would be more restrictive than similar venues in Kings Cross which remains subject to the lockout laws in 2020.
E	Do not impose. Small Bars are considered low risk. 2016 Review of Small Bars found Venues with a small bar licence have a lower incidence of alcohol-related violence than venues operating as a small bar under another type of liquor licence. Smaller bars have a lower incidence of alcohol-related violence than other types of licensed venue.
F	Do not impose. Already covered in the Plan of Management. Plan of management condition has been imposed.
G	Do not impose. Not in alignment with the business type, risk associated and would impose disproportionate unnecessary financial and operational burden (small business).
H	Do Not Impose. Being part of a liquor accord is not compulsory / on a voluntary basis only. Exceptional circumstances for imposing condition have been sufficiently made out by the person putting forward to the condition.
I	Do not impose – wording not consistent with ILGA/L&GNSW standard conditions – ILGA/L&GNSW standard condition wording has been imposed instead.