Liquor & Gaming NSW

V2.0

NSW Department of Customer Service

Liquor & Gaming NSW

Application number:	APP-0007873680	
Application for:	Online packaged liquor licence- delivery only	
Trading hours:	Monday Tuesday Wednesday Thursday Friday Saturday Sunday	08:00AM to 06:00PM 08:00AM to 06:00PM 08:00AM to 06:00PM 08:00AM to 06:00PM 08:00AM to 06:00PM 08:00AM to 04:00PM 10:00AM to 04:00PM
Applicant:	THE CRE8IVE GROUP PTY LTD ABN 82633685015	
Licence name:	The Cre8ive Group Pty Ltd	
Premises address:	UNIT 4, 8 WATTLE RD BROOKVALE NSW 2100	
Issue:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an Online packaged liquor licence- delivery only.	
Legislation:	Section 45(1) of the *Liquor Act* 2007	

Online packaged liquor licence- delivery only

The Cre8ive Group 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 Customer Services, has decided to grant the application for a Online packaged liquor licence- delivery only application number APP-0007873680.

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: 11 November 2020

Kieran McSherry

A/Senior Licensing Officer, New Licensing and Special Events
Liquor, Gaming and Racing NSW
Delegate of the Independent Liquor & Gaming Authority

STATEMENT OF REASONS

Analysis of Submissions and statutory requirements

(1) Submissions were received and considered as summarised at Table [3]. In relation to the submissions received, while there were no concerns raised about the potential impact of granting the licence, I have imposed the standard suite of conditions.

(2) Appropriate consent is in place for the use of the premises as an Online packaged liquor licence- delivery only; the business operates from a commercial premises.

(3) Police have no objections to this application and have provided a suite of standard conditions to apply to the licence.

(4) Council have raised no concerns and do not object to the grant of this liquor 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 Online packaged liquor licence- delivery only will not be detrimental to the local or broader community of NSW.

Overall social impact

(1) Positive benefits

The granting of the licence will provide customers in the suburb of Brookvale and the wider community of NSW with the ability to order alcohol from the safety of their home during the COVID pandemic. The applicant proposes to expand the current online gift business to include liquor to complement the gifting range. Recent market research has shown that the current customer base has developed an interest in purchasing a premium gift hamper which includes select items including premium liquor, garnishes & accessories.

Police and Council have raised no objections to the grant of the liquor licence.

(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 (DF20/012747)

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, Delegate's 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.	**0000050 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 02:00am and 08:00am Monday to Saturday and 04:00am to 10:00am Sunday 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.	**0000130 Restricted trading & NYE (std)** Retail sales Good Friday Not permitted December 24th Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday Christmas Day Not permitted December 31st Normal trading
3.	**No walk-up** The licensee must ensure that the sale of liquor is limited to taking orders over the telephone or by facsimile or mail order, or through an Internet site.
4.	**No Tastings** The licensee must ensure that no tastings are conducted on the premises.
5.	**No advertising** No advertising or promotional material relating to liquor is to be displayed outside the premises.

Materials considered by the ILGA delegate

TABLE 3: Submissions analysis	
Stakeholder submissions	
1.	**NSW Police** • Submission received 16 October 2020 • Police detailed they have no objection to the granting of the liquor licence
2.	**Norther Beaches Council** • Submission received 6 August 2020 • Council has reviewed its records for the subject premises and has no objection to this application

TABLE 4: Document analysis		
Details		**Dated received/comment**
1.	Application form	Lodged 7 October 2020
2.	Plan of proposed licensed area	Details storage and admin area
3.	Certification of Advertising	Signed and dated 14 October 2020.
4.	Plan of management	RSA practices in place and details no same day delivery.
5.	National Police Certificate ID RSA competency card Licensee training	No issues Drivers licence, Passport and Medicare card CCH10995330 Exp 17/09/2025 Start date 18/09/2020
6.	Correspondence from Council and Police- no objections.	

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 Plan of Management and other 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 are 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.