



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

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<b>APPLICATION NO:</b>	1-5582746946
<b>APPLICATION FOR:</b>	Liquor – On-premises Vessel
<b>TRADING HOURS:</b>	Monday to Saturday: 11:00 AM to 12:00 AM Sunday: 11:00 AM to 10:00 PM
<b>APPLICANT:</b>	BELL PROPERTY HOLDINGS PTY LTD
<b>APPROVED MANAGER</b>	Joel Rose (LIQXA911019153)
<b>LICENCE NAME:</b>	GHOST II
<b>PREMISES ADDRESS:</b>	594 New South Head Road, Rose Bay, NSW 2029
<b>ISSUE:</b>	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 vessel licence.
<b>LEGISLATION</b>	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR  
ON-PREMISES (VESSEL) LICENCE**

**GHOST II**

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 (vessel) licence, application number 1-5582746946

On 26 June 2017 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 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.

2. The licensee is to maintain an approved Incident Register with incidents and details of the action taken to be recorded in the Incident Register at all times.
3. The following drinks must not be sold or supplied at any time:
  - a. Any drink (commonly referred to as a shot, shooter, slammer or bomb) that is designed to be consumed rapidly.
  - b. Doubles (does not apply to genuine cocktails).
  - c. Ready to Drink (RTD) packaged beverages exceeding 5% Alcohol by Volume.
4. The licensee is to ensure that no patron is stockpiling drinks and that a single person has no more than two unconsumed drinks at any one time that are for their consumption
5. 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).
6. The licensee must ensure that immediately after the licensee or a staff member becomes aware of any incident involving an act of violence causing an injury to a person on the premises, the following is adhered to:
  - a. The licensee and/or staff take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police;
  - b. The licensee and/or staff 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. The licensee and/or staff comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

In this condition:

"staff" , 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.

"on the premises" includes incidents which occurred in the immediate vicinity of the premises (eg. footpath) where there is evidence of direct involvement with the venue.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate

The decision made by the delegate had the application, the accompanying community impact statement (CIS-Category A) and other relevant material:

- (1) Application form lodged 27 February 2017 (DOC17/040438)
- (2) ASIC Company Extract for the applicant (DOC17/092151)
- (3) Certificate of Advertising dated 22 April 2017 (DOC17/086640)

- (4) Plan of Management for the premises dated April 2017 (DOC17/092131)
- (5) Plan of the proposed licensed area (DOC17/092105)
- (6) Current Certificate of Survey and Operation for vessel (DOC17/102097)
- (7) A submission from the Secretary outlining the key points of the application and that no further assessment is required at this time, dated 10 May 2017. (DOC17/101984)
- (8) A submission from Marine Area Command advising that NSW Police has no objection to the application and proposing a list of conditions, dated 3 May 2017. (DOC17/104258)
- (9) Email correspondence between the applicant and L&GNSW requesting and providing additional information and consenting to the imposition of the proposed conditions, dated 21 and 28 April 2017 (DOC17/086920, DOC17/103925)

## **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.
- (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),
  - 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 Rose Bay and the "Broader Community", the Sydney Harbour Area where the majority of cruises are scheduled to take place.

## 5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on-premises (vessel) liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community. The vessel is a high end luxury yacht, which can be hired for four hours at a time, marketed for corporate events.
- (2) Police made a submission raising no objections to the on-premises liquor licence, however, they have requested a number of conditions be imposed. The applicant adequately addressed Police concerns in a submission in response.
- (3) I am satisfied that the Certificate of Survey provides adequate assurance the vessel is fit for hire.
- (4) The licence will be exercised in accordance with a Plan of Management and licence conditions that addresses the responsible service of alcohol, and provides measures to ensure that the operation of the premises does not impact detrimentally upon or detract from, the amenity of the neighbourhood.
- (5) I am satisfied that the statutory advertising requirements have been met.

## 6. Overall social impact

### (1) Positive benefits

This application is for a high end luxury yacht which can be hired for a cruise around Sydney Harbour. The vessel has a patron capacity of 120 and will be moored at Rose Bay. The business will be hosting high end events such as corporate evenings and because of this Police are not concerned the vessel will cause additional work for them. The granting of the licence will complement and enhance the services offered by the business.

**(2) Negative impacts**

The Plan of Management provided by the applicant and conditions imposed on the licence provide a level of certainty that there are unlikely to be any major 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.

Decision Date: 26 June 2017



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.justice.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.justice.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>