

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

APPLICATION NO:	1-5572559648
APPLICATION FOR:	Liquor - packaged liquor licence (online)
TRADING HOURS:	Monday to Sunday: 10:00 AM to 10:00 PM
APPLICANT:	Citizen Wealth Industry Pty Ltd
APPROVED MANAGER	Mr Yunlong Zhang (LIQXA911018792)
LICENCE NAME:	Pearl Red
PREMISES ADDRESS:	9 Cicada Glen Rd, INGLESIDE, NSW 2101
ISSUE:	Whether the delegate of the Independent Liquor & Gaming Authority (the Authority) should grant the liquor licence application relating to Pearl Red.
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR
PACKAGED LIQUOR LICENCE (ONLINE)**

Pearl Red

The Independent Liquor & Gaming Authority (the Authority) may grant a liquor licence pursuant to section 45 of the *Liquor Act 2007* (the Act). This application seeks an online packaged liquor licence (application number 1-5572559648). The Authority has delegated this function to Coordinator Licensing, Liquor & Gaming NSW (L&GNSW) pursuant to the *Gaming and Liquor Administration Act 2007*. The delegate has determined to grant the application relating to Pearl Red and has imposed 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. Retail sales

Good Friday	Not permitted
December 24th	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday

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Christmas Day	Not permitted
December 31st	Normal trading

3. The sale of liquor shall be limited to orders taken over the telephone or by facsimile or mail order, or through an Internet site.
4. Liquor must not be stored at the licensed premises address.

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 31 January 2017 (DOC17/034095)
- (2) Category A Community Impact Statement (CIS) document lodged with the application (DOC17/034101)
- (3) ASIC Company Extract for the applicant (DOC17/034102)
- (4) Certificate of Advertising dated 21 April 2017 (DOC17/090192)
- (5) Plan of Management for the premises dated April 2017 (DOC17/090193)
- (6) Plan of the proposed licensed area (home based office for the purposes of taking orders online or via internet) (DOC17/034097)
- (7) Notice of Determination of a Development Application 242/1993 to use Unit 1 for the purposes of wholesale and retail and artificial flowers, craft & general goods. (DOC16/126921)
- (8) A submission from Northern Beaches Council advising that the venue qualifies for the purposes of a "home business" dated 11 May 2017. (DOC17/107890)
- (9) A submission from Manly Police Licensing Office advising that NSW Police has no objection to this application, dated 3 May 2017. (DOC17/096593)
- (10) Email correspondence between the applicant and L&GNSW requesting and providing additional information and consenting to the imposition of the proposed conditions, dated 21 April 2017 (DOC17/087133), 27 April 2017 (DOC17/090199 and DOC17/090218 and DOC17/090246).

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 Ingleside and the “Broader Community”, is the entire state of NSW. This is because the nature of the licence allows for convenient access to liquor by persons located anywhere in NSW.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an online packaged liquor licence is unlikely to result in any significant increase in alcohol-related harm in the local community.

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- (2) The sale of liquor will be limited to taking orders over the telephone or by facsimile or mail order, or through an internet site.
- (3) The proposed licensed premises comprises of a home office, at which online orders will be received and processed.
- (4) Northern Beaches Council have forwarded a submission with no objections.
- (5) A submission from Manly Police Licensing Office raised no objections.
- (6) No objections were received from members of the public.
- (7) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (8) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The proposed licence will provide convenient access to liquor by taking orders online, by phone, fax or mail order, and delivery to customers via courier. No sales will be made in person at the licensed premises.

(2) Negative impacts

No objections were received prior to granting this application. 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.



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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: 23 June 2017

A handwritten signature in black ink, appearing to read 'Mary Butterfield'.

Mary Butterfield

A/Manager Licensing (Business Licensing)

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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>