

**NSW Department of Justice
Liquor & Gaming NSW**

APPLICATION NO: APP-0001820275

APPLICATION FOR: Liquor – on-premises liquor licence for a restaurant with catering service and sale on other premises authorisation.

TRADING HOURS:
Restaurant:
Monday - Saturday: 10:00 AM – 12:00 AM
Sunday: 10:00 AM – 10:00 PM
Catering service:
Monday - Saturday: 10:00 AM – 12:00 AM
Sunday: 10:00 AM – 10:00 PM
Sale on other premises authorisation:
Monday - Saturday: 10:00 AM – 12:00 AM
Sunday: 10:00 AM – 10:00 PM

APPLICANT: Blackbird Artisan Bakery Pty Ltd

LICENCE NAME: Blackbird Artisan Bakery Pty Ltd

PREMISES ADDRESS: 6-18 John Street (MAITLAND GAOL)
EAST MAITLAND NSW 2323

APPOINTED MANAGER: Approved manager to be appointed

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for on-premises liquor licence.

LEGISLATION Section 45(1) of the *Liquor Act 2007*

**ILGA DELEGATED DECISION – APPLICATION FOR ON-PREMISES LIQUOR
LICENCE FOR A RESTAURANT WITH CATERING SERVICE AND SALE ON
OTHER PREMISES AUTHORISATION**

BLACKBIRD ARTISAN BAKERY 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 Justice, has decided to grant the application for an on-premises liquor licence for a restaurant with catering service and sale on other premises authorisation, APP-0001820275.

On 10 December 2016, 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 this 6-hour closure period along with any other limits specified in the trading hours for this licence.

2. Consumption on premises (Catering Service and SOOPA)

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|---|--|
| Good Friday | 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area) |
| Christmas Day | 12:00 noon - 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area) |
| December 31st | Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later |
| <p>Note: Trading is also allowed at other times on Good Friday and Christmas Day if authorised by an extended trading authorisation. Liquor can only be served with or ancillary to a meal in a dining area after 5:00 AM on Good Friday and Christmas Day.</p> | |

3. Consumption on premises (Restaurant)

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|---------------|--|
| Good Friday | Normal trading |
| Christmas Day | Normal trading |
| December 31st | Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later |

4. The sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only.
5. The business of providing the catering service must be for fee, gain or reward. Functions held pursuant to the catering service must be pre-booked. A Catering Service booking register must be maintained.
6. The licensee must ensure that no shots, shooters or slammers are served to any patron at any time.
7. Alcohol is not to be provided unless food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied;
8. The licensee is to be responsible for the provision of food.

9. The licensee must give written notice of any proposal to provide catering services at a function to be held under the authorisation to the local police and council for the area in which the function is to be held no less than 14 days before the date of the function.

STATEMENT OF REASONS

1. Material before the ILGA delegate

The decision made by the delegate had the application and other relevant material:

- (1) Application form lodged 3 May 2016 (DOC16/042629)
- (2) Plan of Management dated 25 November 2016 (DOC16/163963)
- (3) EVAT report and accompanying email from Compliance & Enforcement Branch received 20 May 2016 (DOC16/052046)
- (4) Plan of the proposed licensed area (DOC16/160266)
- (5) DA LD 00-862 granted by Maitland City Council on 1 November 2000 (DOC16/058026)
- (6) ASIC Company Extract for Blackbird Artisan Bakery Pty Ltd dated 30 May 2016 (DOC16/058019)
- (7) Submission from Maitland City Council received 5 May 2016 (DOC16/044375)
- (8) Photographs of the proposed licensed premises showing that the premises is complete and ready to trade, received 20 October 2016 (DOC16/160007)
- (9) Certificate of advertising dated 5 May 2016 (DOC16/164008)
- (10) Email correspondence between the applicant and Liquor & Gaming NSW requesting and providing further information and consenting to the imposition of the proposed conditions, dated 19 September 2016, 10 October 2016, 20 October 2016, 24 November 2016, 25 November 2016 and 30 November 2016 (DOC16/106771, DOC16/120767, DOC16/160005, DOC16/160272, DOC16/162800, DOC16/164081)

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 3A 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.

1. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The proposed licensed premises is a restaurant with catering and sale on other premises authorisation. A submission was received from Maitland City Council advising that development consent is required and in place.

- (3) Compliance & Enforcement provided an EVAT report and an accompanying email advising that “Liquor & Gaming NSW does not intend to carry out any further assessment of this application at this time”. No concerns were raised.
- (4) No other submissions were received.
- (5) The licence will be exercised in accordance with a Plan of Management that details measures to be employed to ensure the responsible service of alcohol.
- (6) I am satisfied that the statutory advertising requirements have been met.

2. Overall social impact

No objections have been received to this application, which relates to an existing business. A number of conditions have been imposed on the licence. The licence will be operated in accordance with harm minimisation measures prescribed by those conditions and outlined in the Plan of Management provided by the applicant.

3. 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 Plan of Management 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) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (6) 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 on-premises licence application (for a restaurant and catering service) with a sale on other premises authorisation with conditions.

Decision Date: 10 December 2016



Olgica Lenger

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.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>