



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

DOC/16/029205

Application no: APP-0001599127
Application for: On premises with Catering class
Proposed trading hours: Indoor liquor trading:
Monday – Wednesday: 10:00am - 9:00pm
Thursday & Sunday: 10:00am - 10:00pm
Friday & Saturday: 10:00am - 12:00 midnight
Outdoor Liquor trading:
Monday – Sunday: 10:00am – 5:30pm
Applicant: Kayla Atkins
Proposed licence premises name: BoxGrove Bathurst
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 licence with catering class licence and impose conditions for that licence.
Legislation s45(1)

ILGA DELEGATED DECISION

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 with conditions the following licence application to APP-0001599127

On 17 August 2016, and after careful consideration of the Application and other material, the delegate decided to approve the Application.

Conditions imposed:

- 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.
- Consumption on premises
 - 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.



- 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.
- No drinks commonly referred to as shots, shooters, slammer, and/or bombs are to be sold or supplied.
- The licensee is to operate the premises at all times in accordance with the Plan of Management dated June 2016 as may be varied from time to time in consultation with the Local Area Commander.
- Copies of the Plan of Management and all development consents are to be kept on the premises and made available for inspection by NSW police and the Liquor and Gaming Inspectors.
- The licence cannot be exercised unless and until the Independent Liquor & Gaming Authority has been provided with evidence that the premises at this location is complete and ready to trade.

STATEMENT OF REASONS

1. Material before the ILGA delegate

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

- 1.1. Application form – lodged 4/February 2016
- 1.2. Development Approval (if required) No2015/0319 dated 29 January 2016 issued by Bathurst Regional Council.
- 1.3. NPC RSA competency card details and ID of proposed licensee, Kayla Atkins
- 1.4. EVAT and Compliance report submitted by the Secretary OLGR, dated 29 April 2016, , indicating no concerns
- 1.5. Submission from Bathurst Council, received 24 February 2016 detailing that DA2015/0139 is currently in place for the premises.
- 1.6. Submission from police dated 7 March confirming that police have no concerns with the application provided that a Plan of management is in place for the venue.
- 1.7. Email correspondence from the Authority to the applicant including applicant's consent to the imposition of the licence conditions.
- 1.8. Plan of management for the venue, signed by the licensee, detailing how the liquor licence will be managed.
- 1.9. Risk report for the venue.
- 1.10. Premises plans.

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

3.1 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.

3.2 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

In determining an application for a licence, under section 45(3) of the *Liquor Act 2007*, the delegate must also be satisfied that:

- 3.1 the applicant is a fit and proper person to carry on the business or activity to which the proposed licence relates,
- 3.2 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
- 3.3 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.

4 Analysis of Submissions and other Materials

The application is for an on premises with catering service for a function centre outside Bathurst. The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol, management of patron behaviour, prevention of liquor service to minors and security when required. I am satisfied this application is for a low risk business model.

There were no submissions opposing the grant of this licence and I am satisfied that the statutory advertising standards have been met.

I am satisfied that the statutory advertising requirements have been met.



5 Overall social impact

No public submissions have been received opposing the grant of this application. Chifley Local Area Command, Bathurst Regional Council and the Secretary, OLGR have not raised any concerns relating to the application.

6 Conclusion

- 6.1 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. The interested parties are NSW Police, the Licensee and (other parties who may be affected).
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 Having considered together the positive benefits and negative impacts that I am satisfied are likely to flow from granting the Application, I am satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
- 6.6 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 with conditions the licence application.

Decision Date: 17 August 2016

Joanne Zammit
Coordinator, 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>