



NSW Department of Industry
Liquor & Gaming NSW

APPLICATION NO:	1-5487326134
APPLICATION FOR:	On-premises liquor licence for a restaurant with catering service and Primary Service Authorisation
TRADING HOURS:	Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	The Tatler Group Pty Ltd
LICENCE NAME:	Harry's Bistro and Bar
APPROVED MANAGER:	Christopher Charles Gardner
PREMISES ADDRESS:	391-397 Bong Bong Street Bowral NSW 2576
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

HARRY'S BISTRO AND BAR

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-premise liquor licence for a restaurant with catering service and Primary Service Authorisation, application number 1-5487326134.

On 24 April 2017, and after careful consideration of the application and other material, the delegate decided to **grant** 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. **Restricted trading & NYE - Restaurant**
Consumption on premises
Good Friday 12:00 noon - 10:00 PM
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

Note: Trading is also allowed after midnight into the early morning of Good Friday and

Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. Restricted trading & NYE - Catering service

Consumption on premises

Good Friday 12:00 noon - 10:00 PM

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

4. The business authorised by this licence must not operate with a greater overall level of social impact on the wellbeing of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. The premises must be operated at all times in accordance with the Plan of Management dated 7 April 2017, as may be varied from time to time after consultation with the Local Area Commander, NSW Police Force.

A copy or extract of the Plan of Management relating to RSA principles and responsibilities must be placed within the licensed premises so that it is visible to staff.

All staff must be provided with a copy of the Plan of Management.

6. No drinks commonly referred to as shots, shooters, slammers, and/or bombs, or any drink designed for rapid consumption are to be sold or supplied.
7. The premise is to operate with its principal business being that of a restaurant as defined by the Liquor Act and not as a bar, with the kitchen to be open and substantial food service to be available to patrons at all times during the approved hours of operation.
8. The licence is authorised for the trading hours fixed by the Authority or such lesser hours as may be approved by the consent authority from time to time.
9. There is to be no live entertainment or amplified music within the premises after 11.00pm (this does not include low level background music).
10. There is to be no amplified music or entertainment in the outdoor areas after 10.00pm (this does not include low level background music).
11. The licensee or its representative must join and be an active participant in the local liquor accord.
12. The Licensee shall maintain a CCTV system that meets the following minimum requirements:

- i. A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable the identity of an individual to be established beyond reasonable doubt when:
 - a) the person represents 100% of screen height, and
 - b) there is an unobstructed view of the persons face

- ii. Recording should be retained for a period of 30 days before being reused or destroyed.
 - iii. Immediate access to the CCTV system and the ability to review recordings on the system is to be granted to NSW Police, L&GNSW Inspectors or other regulatory officer upon request.
 - iv. When the venue is trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
 - v. All surveillance cameras must be operational 30 minutes prior to when the licensed premise opens to trade and continues to record for 30 minutes after the licensed premises ceases to trade.
 - vi. The CCTV system shall be able to reproduce a copy of the recordings on CD, DVD or USB memory stick and must be provided within 24 Hours to NSW Police, L&GNSW Inspector or other regulatory officer upon request.
13. The licensee must ensure that, immediately after the licensee or a staff member or agent becomes aware of an incident involving an act of violence causing an injury to a person on the licensed premises or in the immediate vicinity,
- (a) All reasonable steps are taken to preserve and keep intact the area where the incident occurred, and that any implement or other thing associated with the act of violence is retained in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police Force; and
 - (b) The Hume Local Area Commander or his/her delegate, is advised by the licensee or a staff member or agent of the incident as soon as practicable; and
 - (c) The licensee or staff member complies with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
- In this condition, “staff member” means any person employed by or acting on behalf of the licensee of the licensed premises and it includes any person who is employed to carry on the security activities on or about the premises.
14. The following restrictions and conditions will apply upon the sale/supply alcohol after 10.00pm.
- a) No mixed drinks with any more than sixty (60) mls of alcohol;
 - b) No RTD drinks with an alcohol volume greater than 5%; and
 - c) No more than four drinks may be served to any patron at one time.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form for on-premises liquor licence, lodged 4 January 2017 (DOC17/000486, DOC17/000488)
- (2) Category A Community Impact Statement and accompanying annexures, signed and dated by the applicant on 16 December 2016 (DOC17/000480, DOC17/000482, DOC17/000483)
- (3) Appointment of Manager Notice, signed and dated by the applicant on 7 April 2017 (DOC17/076368)
- (4) Certification of Advertising Application, signed and dated by the applicant on 7 April 2017 (DOC17/076370)
- (5) ASIC Current Company Extract for the applicant and business owner, THE TATLER GROUP PROPRIETARY LIMITED ACN: 070 850 083 (DOC17/000481)
- (6) Plan of the proposed licensed premises (DOC17/000478)
- (7) Development Application No. 16/0407.01, approved by Wingecarribee Shire Council on 14 June 2016 for the use of the premises as a restaurant and small bar (DOC17/000479)
- (8) Local Consent Authority Notice, signed by Wingecarribee Shire Council on 19 December 2016, confirming that development consent is required and in place (DOC17/000487)
- (9) Submission received from the licensing officer, The Hume Local Area Command, on 14 February 2017, advising that Police do not object to the application and proposing a number of licence conditions (DOC17/030095)
- (10) Environment and Venue Assessment Tool (EVAT) Assessment Report prepared by the Compliance branch, Liquor & Gaming NSW on 16 February 2017 (DOC17/031754)
- (11) Liquor Plan of Management dated 7 April 2017 (DOC17/076371)
- (12) Photographs of the outdoor dining area (DOC17/076377)
- (13) Email correspondence from the Authority to the applicant, requesting additional information and the applicant's consent to proposed licence conditions (DOC17/074326, DOC17/075774)
- (14) Email correspondence from the applicant to the Authority in response to the requests for additional information (DOC17/076359, DOC17/076360)

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.

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 the granting or removal of:
 - a. a small bar licence,
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an on-premises licence relating to a restaurant that, in the case of a new licence, includes an application for a primary service authorisation,
 - d. an on-premises licence relating to a karaoke bar, a catering service or a vessel,
 - e. an application for a producer/wholesaler licence that, in the case of a new licence, includes an application for a drink on-premises authorisation
 - f. an application for ongoing extended trading hours to permit the sale of liquor after midnight in relation to any of the above licence types.
- (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 Bowral, and the "broader community" of the Wingecarribee Shire Council LGA.

5. Analysis of Submissions and other Materials

- (1) Harry's Bistro and Bar is a modern and sophisticated bistro which opens onto a lush European 'piazza' style courtyard, located in the newly refurbished "Green Lane" tourist precinct in Bowral, in NSW's Southern Highlands. The venue will showcase local Southern Highlands wines and the menu will feature locally grown produce. The restaurant has a patron capacity of 70, with an additional 120 patron capacity after 6:00 PM for functions.
- (2) 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 harm in the local community.
- (3) Appropriate development consent permitting the proposed activity is in place. Wingecarribee Shire Council raised no objections to the grant of the licence for the premises. This is supported by a signed Council notice.
- (4) A submission was received from the licensing officer at The Hume Local Area Command advising that Police do not object to the application, and proposing a number of conditions to be imposed on the licence.
- (5) No other submissions were received in respect of this application.
- (6) 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.

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

6. Overall social impact

(1) Positive benefits

Harry's Bistro and Bar is located in the newly refurbished "Green Lane" tourist precinct in Bowral. "Green Lane" is a leafy boulevard with boutique shops and eateries. The restaurant enhances the visual appeal of the community, and is likely to attract a more mature clientele. The granting of the licence will enhance and supplement the services of the restaurant, and provide a sophisticated alternative to pubs and clubs at which tourists and locals can enjoy a drink with or without a meal. The premises can also accommodate functions of up to 120 patrons in the lush outdoor courtyard, which will provide the local community with a modern venue at which to hold special events.

(2) Negative impacts

There have been no objections to the granting of this licence. 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 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: 24 April 2017



Santina Causa

A/Coordinator Licensing
Liquor & Gaming NSW



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>