



NSW Department of  
Industry Liquor & Gaming  
NSW

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<b>APPLICATION NO:</b>	1-4994689710
<b>APPLICATION FOR:</b>	On-premises liquor licence for Catering Service and Sale on Other Premises Authorisation.
<b>TRADING HOURS:</b>	Monday – Saturday: 6:00 am to 12:00 am Sunday: 10:00 am to 10:00 am
<b>APPLICANT:</b>	Flash Camp Pty Ltd
<b>LICENCE NAME:</b>	Flash Camp
<b>PREMISES ADDRESS:</b>	20-22 Fletcher Street, Byron Bay, NSW 2481
<b>ISSUE:</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application.
<b>LEGISLATION</b>	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE**

**Flash Camp 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 Industry, has decided to **grant** the application for an on-premises liquor licence for catering service with sale on other premises authorisation, application number 1-4994689710.

On 28 April 2017 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 six hours between 12:00am and 6:00am during each consecutive period of 24 hours. The licensee must comply with this six-hour closure period along with any other limits specified in the trading hours for this licence.



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2. Consumption on premises - Catering
  - Good Friday            Normal trading
  - Christmas Day        Normal trading
  - December 31st        Normal opening time until normal closing time or 2:00AM on  
New Year's Day, whichever is the later
3. The boundary for the each campsite premises must be defined by a physical barrier, and ensure that a physical boundary is always in place for the purposes of there being no doubt as to what the boundaries of the licensed premises actually are.
4. The Licensee must ensure that the licence will not be exercised at a major licensed event such as a music festival, motor racing event, or other live entertainment event.
5. The premises are to be operated at all times in accordance with the Plan of Management dated 12 April 2017 as may be varied from time to time after consultation with the Local Area Commander of NSW Police.
6. The sale on other premises authorisation can only be utilised for functions, occasions, or events, which are by invitation only.
7. 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 register must be maintained.
8. 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.
9. Immediately after the person in charge of the Licensed Premises becomes aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
  - a. Take all practical steps to preserve and keep intact the area where the act of violence occurred.
  - b. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police.
  - c. Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident; and
  - d. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
10. Food of a nature consistent with the responsible sale, supply, and service of alcohol will be made available whenever liquor is sold or supplied.
11. There is to be no stockpiling of drinks commonly known as shots, shooters, slammers, or bombs that are designed to be consumed rapidly, or any alcoholic drinks that are mixed with an energy drink. Not more than one of these types of drinks is to be served to a patron at the one time.
12. Licensee must ensure that Flash Camp wristbands are worn by all patrons (both adults and minors with differing colours) whenever a camping event is associated with any major event.
13. Security must be in place at a ratio of 1:100 patrons at each campsite that is linked to a major live entertainment event.
14. The licensee must not permit patrons to bring liquor into the licensed area.
15. No liquor may be taken out of the defined licensed area. Signage to that effect is to be

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prominently displayed at each exit point from the licensed area.

## 1. STATEMENT OF REASONS

### 2. Material before the ILGA delegate

- (1) Application form lodged 10<sup>th</sup> of October, 2016 (DOC16/120888)
- (2) Certificate of Advertising declaration by applicant on 17<sup>th</sup> of January, 2017 (DOC17/013000)
- (3) Plan of Management dated 12<sup>th</sup> of April, 2017 (DOC17/080608).
- (4) Notice of Development Application (DA) No. 99/0490 issued by Byron Bay Council 15<sup>th</sup> of February, 2000 (DOC17/069213).
- (5) Lease permitted use as tourist holiday stay apartments dated the 28<sup>th</sup> of August, 2009 (DOC17/061762).
- (6) Occupation Certificate from Council issued 13<sup>th</sup> of June, 2000 (DOC17/050007).
- (7) Plan at grant of proposed premises (DOC17/076196).
- (8) Breakfast menu for the venue (DOC17/061754).
- (9) RSA Competency Card is missing. Approved Manager yet to be appointed.
- (10) Police Submission states Police are aware that the licenced premises is for the office area located at Byron Bay and that the applicant is planning to sell liquor on another premises as per the application. Police state the following conditions: 1) the provision of catering service must be for fee or gain – functions must be pre-booked and a register must be maintained. 2) The Licensee must adhere to the Alcohol Management Plan dated 23<sup>rd</sup> September, 2016. Police do not object to the application (DOC17/039732).
- (11) Council letter states DA is in place. Council do not raise any objections, nor have any conditions (DOC16/159113).
- (12) Email correspondence dated the 19<sup>th</sup> of October, 2016, (DOC16/128643), 9<sup>th</sup> of January, 2017 (DOC17/005347), 3<sup>rd</sup> of March, 2017 (DOC17/044181), 30<sup>th</sup> of March, 2017 (DOC17/068809 and DOC17/069216), 31<sup>st</sup> of March, 2017 (DOC17/069909 and DOC17/070206), and the 12<sup>th</sup> of April, 2017 (DOC17/079274) from the Authority to the applicant requesting additional information.
- (13) Email correspondence from the applicant dated the 21<sup>st</sup> of November, 2016 (DOC16/159118), 17<sup>th</sup> of January, 2017 (DOC17/012996), 7<sup>th</sup> of March, 2017 (DOC17/049126), 9<sup>th</sup> March 2017 (DOC17/049206) 22<sup>nd</sup> of March, 2017 (DOC17/061747 and DOC17/061763), 29<sup>th</sup> of March, 2017 (DOC17/067061), 31<sup>st</sup> of March, 2017 (DOC17/069720 and DOC17/069909) and 3<sup>rd</sup> of April, 2017 (DOC17/070361) in response to the requests for additional information and supporting documentation.

### 3. 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:

#### 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, and
  - 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) 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 Byron Bay, and the “broader community” of the Byron Shire Council LGA.

#### 5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for an on-premises liquor licence for glamour camping with catering class and sale on other premises authorisation has appropriate Development Consent in place.
- (2) The Byron Shire Council has not raised any objections to the grant of the licence for the premises.
- (3) Tweed/Byron Local Area Command have not objected to the application but have requested conditions to be imposed
- (4) The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol measures in place at each of the venues.
- (5) I am satisfied that the statutory advertising requirements have been met.

## 6. Overall social impact

### (1) Positive benefits

The proposed camping venues - with a patron capacity of 250 persons (when not linked to a major event), intends to bring a unique glamour camping experience (glamping) to the state of NSW. This will be undertaken by organising various high-class camping accommodation sites around NSW, which will include catered food.

The campsite risk level will vary due to the capacity size when linked to a major festival. As a stand-alone venue, the Flash Camp poses a low-risk to the local or broader community, as the venue is limited to 250 patrons on generally isolated camping spots.

### 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. The Police, Council and the public have not raised any concerns regarding the application that emphasise any potential negative impacts.

## 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.



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Decision Date: 28 April 2017

Santina Causa  
A/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>