

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

APPLICATION NO:	1-4531208697
APPLICATION FOR:	On-premises liquor licence for a catering service with a sale on other premises authorisation
TRADING HOURS:	Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	AUSTRALIAN BAR & BEVERAGE GROUP PTY. LTD
APPROVED MANAGER	TBC
LICENCE NAME	Liquid Infusion
PREMISES ADDRESS:	6/3 Kanoona Avenue, ST IVES, NSW 2075
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

LIQUID INFUSION

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 a catering service with sale on other premises authorisation, application number 1-4531208697.

On 30 April 2017, 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 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. 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
3. The premises must be operated at all times in accordance with the Plan of Management dated March 2017, as may be varied from time to time after consultation with the Local Area Commander, NSW Police Force.
4. 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.
5. The sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only, or pre-arranged public functions.
6. The sale on other premises authorisation cannot be exercised at music festivals or concerts.
7. The licensee must actively promote drug and alcohol harm minimisation strategies.
8. 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.
9. The licensee must ensure that all alcoholic drinks are opened prior to serving to prevent stockpiling.
10. No drink commonly referred to as a "shot" is to be sold or supplied after 10:00 PM.
11. The following drinks must not be sold or supplied at any time:
 - a. Any drink commonly referred to as a "shooter", a "slammer" or a "bomb" that is designed to be consumed rapidly
 - b. Doubles (does not apply to genuine cocktails)
 - c. Ready to drink (RTD) packaged beverages exceeding 5% alcohol by volume.
12. At any function or event that has been arranged or organised by the licensee (as opposed to a function or event at which the licensee is only providing catering services as defined by the Liquor Act) at which the sale on other premises authorisation is to be exercised, the licensee must employ fully licensed security guard(s) at the ratio of one security guard per 100 patrons attending or part thereof.
13. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing 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, and retain all material and implements associated with the act

of violence in accord with Crime Scene Preservation Guideline, issued by NSW Police Force, and

- b. Make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and
- c. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 1 June 2016 (DOC16/062721) and application notices (DOC16/062725)
- (2) Certificate of Advertising declaration by applicant on 17 November 2016 (DOC16/167889)
- (3) Plan at grant of proposed premises (DOC16/070094)
- (1) ASIC Current Organisation Extract for the organisation licensee, Australian Bar and Beverage Group dated 7 March 2016 (DOC16/062722)
- (2) Plan of Management updated March 2017 (DOC17/076355)
- (3) Ku-ring-gai Council letter dated 11 April 2016 confirming that development consent is not required for the business to operated from the premises (DOC16/069286)
- (4) Ku-ring-gai LAC submission dated 7 December 2016 which requests conditions to be imposed on the licence (DOC16/167966)
- (5) A submission from the Secretary, dated 16 December 2016 seeking conditions to be imposed on the licence (DOC16/174540)
- (6) Email correspondence dated 8 November 2017 (DOC16/144688), 9 December 2016 (DOC16/170242), 19 December 2016 (DOC16/175398), 31 January 2017 (DOC17/020607), 11 March 2017 (DOC17/050896) and finally 23 March 2017 (DOC17/062887) from the Authority to the applicant requesting additional information.
- (7) Email correspondence from the applicant dated 22 November 2016 (DOC16/161657), 12 December 2016 (DOC16/171550), 9 January 2017 (DOC17/007716), 1 February 2017 (DOC17/021356), 15 February 2017 (DOC17/032911), 7 April 2017 (DOC17/076255) and finally 26 April 2017(DOC17/076994) in response to the requests for additional information and supporting documentation.

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. 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 a catering service with a sale on other premises authorisation is to operate as 'exempt' development under State Environmental Planning Policy.
- (2) Police raised no objections to the grant of the licence for the premises and agree with the implementation of the conditions included in the Plan of Management.
- (3) Ku-ring-gai Council have raised no objections to the grant of the licence for the premises.
- (4) The Secretary's delegate has requested conditions to be imposed on the licence. The applicant's response to the proposed conditions has been considered.
- (5) The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol, and provides measures in place to ensure that the operation of the licence will be in accordance with the legislation.
- (6) I am satisfied that the statutory advertising requirements have been met.

5. Overall social impact

The applicant wishes to provide catering services for a range of events primarily for corporate clients but may also provide functions for weddings, promotional activities, weddings etc. 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 amenity impacts on the local and broader community.

6. 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 proposed use as a home business is exempt development under State Environmental Planning Policy.
- (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: 30 April 2017

Olgica Lenger

A handwritten signature in blue ink that reads 'O. Lenger'.

Manager Licensing (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>