



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

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<b>APPLICATION NO:</b>	1-6677186373
<b>APPLICATION FOR:</b>	On-premises liquor licence with primary service authorisation.  <b>Accommodation:</b> The licence authorises the sale of liquor for consumption on the licensed premises at any time on any day to a resident (or a guest of a resident while in the resident's company) or to an employee of the licensee.
<b>TRADING HOURS:</b>	<b>Restaurant; conference facilities; primary service authorisation:</b> Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10.00 AM to 10.00 PM
<b>APPLICANT:</b>	Mantra Management Pty Ltd
<b>APPROVED MANAGER:</b>	Benjamin O'Reilly
<b>LICENCE NAME:</b>	Mantra Albury Hotel
<b>PREMISES ADDRESS:</b>	524 Smollett Street ALBURY NSW 2640
<b>ISSUE:</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a packaged liquor licence (online).
<b>LEGISLATION</b>	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR  
ON-PREMISES LIQUOR LICENCE WITH PRIMARY SERVICE AUTHORISATION**

**Mantra Albury Hotel**

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 with primary service authorisation., application number 1-6677186373.

On 6 April 2018, 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: restaurant

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 31<sup>st</sup>    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 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.

3. Consumption on premises: catering service

Good Friday      Normal trading

Christmas Day    Normal trading

December 31<sup>st</sup>    Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

4. This licence authorises the sale of liquor for consumption on the licensed premises only – at any time on any day to a resident (or a guest of a resident while in the resident's company) or to an employee of the licensee. Liquor must not be sold to a guest of a resident or to an employee of the licensee for consumption on the licensed premises, or to a resident for takeaway from the premises, between the hours of 4:00AM and 10:00AM. Liquor sold to a resident between the hours of 4:00AM and 10:00AM must only be sold or supplied for consumption in the room in which the resident is residing or staying.

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### 5. Crime scene preservation

Immediately after the person in charge of the licensed premises or a staff member becomes aware of any incident involving an act of violence causing injury to a person on the premises, the person in charge of the licensed premises and/or staff member must:

- 1) take all practical steps to preserve and keep intact the area where the act of violence occurred,
- 2) retain all material and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by NSW Police, as published from time to time on the Liquor and Gaming NSW website,
- 3) make direct and personal contact with NSW Police to advise it of the incident, and
- 4) comply with any directions given by NSW Police 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 premises, and includes any person who is employed to carry on security activities (eg. crowd controller or bouncer) on or about the premises.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate (DF18/003062)

The decision made by the delegate had the application, the accompanying community impact statement (CIS-Category A) and other relevant material:

- (1) Application forms, lodged on 15 February 2018
- (2) Application Notices
- (3) Appointment of Manager Notice
- (4) Category A Community Impact Statement (CIS)
- (5) Maps of Albury CBD Alcohol Free Zones and Alcohol Prohibited Areas
- (6) Plan of proposed licensed area
- (7) Certificate of Advertising Application, signed and dated 19 March 2018
- (8) ASIC Current Organisation Extract for Mantra Management Pty Ltd, and Albury R Holdings Pty Ltd

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- (9) Plan of Management for the venue, dated 1 March 2018
- (10) Development Consent No. 10.2010.30491.9, as amended on 14 April 2016 by Albury City Council
- (11) Submission from Albury City Council, received 5 April 2018, raising no objection, and noting that development consent is required and in place
- (12) Email correspondence between Liquor & Gaming NSW and the applicant, dated 7 March 2018 and 29 March 2018

## 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:

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- 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 4 Division 4.1 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:
  - a. the grant or removal of a small bar licence (where required),
  - b. a packaged liquor licence (limited to telephone/internet sales),
  - c. an application for extended trading hours to permit the sale of liquor after midnight in relation to a small bar (where required), an on premises relating to a restaurant that includes an application for a primary service authorisation, an on premises licence relating to a karaoke bar, a catering service or a vessel, and an application for a producer/wholesaler licence that includes an application for a drink on premises authorisation.
- (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.

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- (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 Albury, and the “broader community” of Albury City Council LGA.

### 5. Analysis of Submissions and other Materials

- (1) This application is for an on-premises liquor licence, with primary service authorisation, for Mantra Albury, an eight-storey accommodation premises comprising of 146 hotel rooms, restaurant and bar, and conference facilities, with 300 patron capacity.
- (2) The premises is situated in the Volt Lane precinct of the Albury CBD, within close proximity of the art gallery, botanic gardens, and La Trobe University.
- (3) I am satisfied that appropriate development consent which permits the proposed activity is in place.
- (4) Only a single submission was received in respect of this application, from Albury City Council, who raised no objections.
- (5) The applicant and business owner is also the licensee of Peppers Manor House, Mantra Pavilion Wagga Wagga, and Mantra Wollongong.
- (6) The applicant has provided a Plan of Management, which addresses the measures to be implemented to ensure the responsible service of alcohol, and that the operation of the venue does not detract from the amenity of the local community.

### 6. Overall social impact

#### (1) Positive benefits

It is anticipated that the granting of the licence would have a positive impact on the local community through its contribution to the tourism industry and creation of employment opportunities.

#### (2) Negative impacts

It is not anticipated that the granting of the liquor licence to an accommodation premises that is part of a well-known hotel group, that is primarily intended to cater to tourist, business travellers, and conference and function attendees, will be detrimental to the wellbeing of the local or the broader 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

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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 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 liquor licence application with conditions.

Decision Date: 6 April 2018



**Joanne Zammit**  
**Coordinator, 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



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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.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.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>