



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

APPLICATION NO:	1-6688261226 & 1-6688261285
APPLICATION FOR:	Removal of on-premises catering service with sale on other premises authorisation. Catering service Monday to Friday: 08:00 AM to 5:00 PM Saturday: 08:00 AM to 12:00 PM
TRADING HOURS:	Sale on other premises authorisation Monday to Saturday: 06:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM
APPLICANT:	David Allison
LICENCE NAME:	Stix Catering
PREMISES ADDRESS:	6/14-18 Chapel Street, MARRICKVILLE, NSW 2204
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the removal of a liquor licence application
LEGISLATION	Section 45(1) of the <i>Liquor Act 2007</i>

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

Stix Catering

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 the removal of an on-premises catering service liquor licence with a sale on other premises authorisation, application numbers 1-6688261226 & 1-6688261285.

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On 14 June 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 2:00 AM and 8:00 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

Good Friday	Normal trading
Christmas Day	Normal trading
December 31 st	Normal opening time until normal closing time or 02:00 AM on New Year's Day, whichever is the later
3. The licensee must not exercise the sale on other premises authorisation at locations/venues where there is already a current and valid liquor licence in force.
4. Security must always be available at functions with a ratio of minimum 1:100 patrons.
OR
The licensee must employ a fully licensed security guard at the ratio of 1:100 whenever the patron capacity of any given function/event exceeds 300.
5. 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.
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 sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only.
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 is to be responsible for the provision of food.
10. The licensee must give written notice of any proposal to provide catering services at a function to be held under the authorisation to the local police and council for the area in which the function is to be held no less than 14 days before the date of the function.
11. The licensee must not exercise the sale on other premises authorisation at locations/venues where there is already a current and valid liquor licence in force.
12. A separate Plan of Management is to be prepared for any major non-private event where the patron capacity exceeds 500 guests.

Where the patron capacity of any non-private event exceeds 500, the licensee must advise the relevant Local Area Command and Local Council, no later than 30 days prior to the event taking place.

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Where the patron capacity of any non-private event exceeds 1,000, the licensee must advise the relevant Local Area Command and Local Council, no later than 42 days prior to the event taking place.

For any major event the licensee must:

- a) Prepare a separate comprehensive Plan of Management, Site Plan, Security Management Plan and Alcohol Management Plan in consultation with the Local Area Command that has jurisdiction over the area where the event will be held and,
 - b) Provide a copy of the Plan of Management, Security Management Plan, Alcohol Management Plan and Local Licensing Agreements (where applicable) to the Local Area Commander.
13. Incident register: The manager/licensee must ensure that all incidents involving staff members (including security personnel) are recorded in the incident register maintained on site, including incidents involving physical contact between staff and patrons, physical restraint of patrons and/or the ejection of patrons from the premises.
14. Crime Scene Preservation: The manager/licensee must ensure that immediately after the licensee or a staff member becomes aware of any incident involving an act of violence causing an injury to a person on the premises, the following is adhered to: (i) The manager/licensee and/or staff take all practical steps to preserve and keep intact the area where the act of violence occurred, retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by the NSW Police.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF18/003482) & (DF18/003491)

The decision has been made by the delegate after reviewing the following information:

- (1) Application form and sale on other premises lodged on 16 February 2018
- (2) Certificate of advertising, signed and dated by the applicant 12th March 2018
- (3) Plan of proposed licensed area (office based)
- (4) Responsible Service of Alcohol Policy
- (5) Development Application DA200500061 issued 26 May 2005
- (6) A submission from Inner West PAC dated 22 March 2018 requesting conditions to be imposed on the licence if granted.
- (7) Information relating to the applicant being 'fit and proper' dated 14 March 2018
- (8) Applicant's consent to conditions
- (9) Email correspondence from the Authority to the applicant requesting additional information in support of the application, dated 12 March 2018 and 9 April 2018.

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- (10) Email correspondence from the applicant to the Authority in response, dated 14 March 2018, 10 April 2018 and 31 May 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:
- 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

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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.
- (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 Marrickville, and the “broader community” of Inner West Council LGA and beyond given the nature of the application.

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5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for the removal of an on-premises catering class with a sale on other premises authorisation is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The licence will be exercised in accordance with the Responsible Service of Alcohol Plan provided to the Authority, in addition to conditions which have been imposed on the licence.
- (3) A submission from Inner West police did not object but did request conditions to be imposed, which has been duly considered.
- (4) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (5) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The applicant intends to provide a catering package to clients for private and corporate events. They intend to cater for both small, intimate events to functions catering to thousands of patrons.

(2) Negative impacts

The 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.

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- (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: 14 June 2018



Wendy Yeung Wye Kong
A/Coordinator (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.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>