



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

APPLICATION NO: APP-0004106949

APPLICATION FOR: Liquor – on-premises licence for club activity and support with catering service

Club Activity and Support
Indoor Hours
Monday to Saturday: 10:00 AM to 12:00 AM
Sunday: 10.00 AM to 10:00 PM

Outdoor Hours
Monday to Saturday: 10:00 AM to 12:00 AM
Sunday: 10.00 AM to 10:00 PM

TRADING HOURS:

Catering
Indoor Hours
Monday to Saturday: 10:00 AM to 12:00 AM
Sunday: 10.00 AM to 10:00 PM

Outdoor Hours
Monday to Saturday: 10:00 AM to 12:00 AM
Sunday: 10.00 AM to 10:00 PM

APPLICANT: **Manly Life Saving Club Inc.**

LICENCE NAME: Manly Life Saving Club Inc.

PREMISES ADDRESS: Manly Surf Pavilion, South Steyne (corner Ashburner Street) MANLY

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on-premises licence for club activity and support with catering service.

LEGISLATION Section 45(1) of the *Liquor Act 2007*

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

Manly Life Saving Club Inc.

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 licence for club activity and support with catering service, application number APP-0004106949.

On 12 September 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 - catering

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 premise is to be operated at all times in accordance with the Plan of Management dated July 2018 as may be varied from time to time after consultation with the Local Area Commander of NSW Police. A copy of the Plan of Management is to be kept on the premises, and made available for inspection on the request of a Police Officer, Council Officer, Liquor and Gaming NSW Inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
4. The licensee, approved appointed manager in the event the licence is held by a corporation, or his/her representative, must be present whenever the catering service

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business type is being exercised in relation to functions, occasions or events not associated with members of the Club.

5. Liquor may only be sold or supplied on the licensed premises if food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available when liquor is sold or supplied.
6. No drinks commonly referred to as shots, shooters, slammers and/or bombs that are designed to be consumed rapidly are to be sold or supplied pursuant to the licence.
7. No amplified music is to be provided on the balcony after 10.00 pm on any day.
8. No person shall be permitted to take glasses or open containers of liquor off the licensed premises when leaving.
9. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - (a) the system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),
 - (b) recordings must be in digital format and at a minimum of six (6) frames per second,
 - (c) any recorded image must specify the time and date of the recorded image,
 - (d) the system's cameras must cover the following areas:
 - (i) all entry and exit points on the premises,
 - (ii) the footpath immediately adjacent to the premises, and
 - (iii) all publicly accessible areas (other than toilets) within the premises.

The licensee must also:

- (a) keep all recordings made by the CCTV system for at least 30 days,
- (b) ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspector to provide such recordings.

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10. 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.
11. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Authority.

STATEMENT OF REASONS

1. Material before the ILGA delegate

The decision made by the delegate had the application and other relevant material:

- (1) Application form lodged on 28 March 2018
- (2) Plan of proposed licensed premises (indoor and outdoor areas)
- (3) Manly Lifesaving Club Alcohol Plan of management and House Policy
- (4) Certification of Advertising
- (5) Council Approval
- (6) Manly Lifesaving Club Inc. Board of Directors 2018/2019
- (7) Manly Lifesaving Club Inc. Officers 2017/2018
- (8) Applicant's consent to conditions
- (9) Notices and Letters of Intention
- (10) Signed petition in support of the application
- (11) Limited liquor licence for Manly Life Saving Club Inc, LIQL524014895
- (12) Submission from NSW Police Force, dated 03 May 2018
- (13) Public Submissions in support and with objections to the application
- (14) Email correspondence from the applicant to Liquor and Gaming NSW, dated 06 July 2018, 27 July 2018, 27 August 2018 and 29 August 2018

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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

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- d. 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 Manly, and the “broader community” of Northern Beaches Council LGA.

5. Analysis of Submissions and other Materials

- (1) This application is for an on-premises liquor licence, for Manly Life Saving Club Inc., situated in southern section of Manly Beach near the intersection of South Steyne and Ashburner Street.

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- (2) Manly Life Saving Club Inc. is currently the subject of a limited licence, which will be surrendered immediately upon the grant of the on-premises liquor licence. The intention of the on-premises liquor licence is to replace the limited liquor licence.
- (3) The proposed licensed area encompasses the first floor of the Club House including the balcony area.
- (4) The proposed licensed premises will have a patron capacity of 140 persons.
- (5) Development consent has been granted by Manly Council for use of the premises as a surf lifesaving club.
- (6) A submission was received from NSW Police, who did object to the application, however, did propose certain licence conditions.
- (7) Numerous public submissions were received for the application. There was a mixture of those in support and those who object to the grant of the on premises licence.
- (8) The applicant has prepared a Plan of Management which addresses the practices will be in place at the licensed premises to ensure that liquor is sold, supplied or served responsibly on the premises and that all reasonable steps are taken to prevent intoxication on the premises.
- (9) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The granting of the licence will enable Manly Life Saving Club Inc. to replace its current limited liquor licence with a permanent on-premises liquor licence, thereby enabling members of the local and broader community to hold their special events at the Club's iconic and unique premises.

(2) Negative impacts

The liquor licence will be managed by an experienced licensee, and will be operated in accordance to licence conditions. 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

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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: 12 September 2018



Wendy Yeung Wye Kong

**A/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 original applicants, the review application fee is the same as the initial application fee. For non-original applicants, the application fee is \$100.



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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>