



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

APPLICATION NO: APP-0004753757

APPLICATION FOR: Liquor – On-premises Liquor Licence – Catering Service with Sale on other premises authorisation

Catering service:
Monday to Friday: 10:00 AM to 04.30PM
Saturday and Sunday: Not trading

TRADING HOURS: Sale on Other premises:
Monday to Friday 03:00PM to 12:00 AM
Saturday 12.00PM to 12:00 AM
Sunday 10.00AM to 10.00PM

APPLICANT: THE SYDNEY MIXOLOGISTS PTY LIMITED

LICENCE NAME: The Sydney Mixologists

PREMISES ADDRESS: 9 Kitchener St, ST IVES, NSW 2075 AUSTRALIA

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 catering service liquor licence with sale on other premises authorisation.

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

ILGA DELEGATED DECISION – APPLICATION FOR

**ON-PREMISES LIQUOR LICENCE – CATERING SERVICE WITH SALE ON
OTHER PREMISES AUTHORISATION**

THE SYDNEY MIXOLOGISTS PTY LIMITED

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



Liquor & Gaming

decided to grant the application for an on-premises liquor licence for a catering service with sale on other premises authorisation, application number APP-0004753757.

On 09 October 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. Retail closure period

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. Restricted trading & NYE - Catering Service

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 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.

STATEMENT OF REASONS

1. Material before the ILGA delegate (DF18/015609)

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

- (1) Application form lodged on 04 September 2018
- (2) Plan of proposed licensed area (Home office with permission from Council to store liquor on premises).
- (3) Certification of Advertising signed 06/09/2018
- (4) The approved manager notice has been forwarded in support of the application
- (5) ASIC report for THE SYDNEY MIXOLOGISTS PTY LIMITED
- (6) Letter from Council dated 31/07/2018 stating that they are exempt from DA and have permission to store liquor on site as long as the business use remains ancillary to the residential use. Council has no objection to application.



Liquor & Gaming

- (7) Correspondence from Liquor and Gaming NSW to the applicant.
- (8) Responses from applicant and consent to conditions imposed by Liquor and Gaming NSW

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

Liquor & Gaming

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 St Ives, the “broader community” of Ku-ring-gai Council LGA and the state of NSW given that the licence is endorsed with a sale on other premises authorisation

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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 an on-premises catering liquor licence with sale on other premises authorisation is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) The applicant will process sale in her home office, however she intends to use her sale on other premises authorisation to cater for small scale private events and corporate events for a patron capacity number of up to 50.
- (3) The home office to be licenced is 9 Kitchener St, ST IVES, NSW 2075 AUSTRALIA
- (4) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (5) No submissions have been received objecting to the application.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The proposed licence will provide a unique cocktail catering service to small scale events and functions up to 50 patrons. Food will always be available at these functions

(2) Negative impacts

The nature of the licence sought means that there are unlikely to be any amenity 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



Liquor & Gaming

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: 09 October 2018

Wendy Yeung Wye Kong

A Licensing Co-ordinator (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>