

**NSW Department of Justice
Liquor & Gaming NSW**

APPLICATION NO: 1-4987592370

APPLICATION FOR: Liquor – Small Bar

TRADING HOURS: Monday to Thursday: 12:00 PM to 10:00 PM
Friday to Saturday: 12:00 PM to 12:00 AM
Sunday: 12:00 PM to 8:00 PM

APPLICANT: David Cowie

LICENCE NAME: Edition Book Bar

PREMISES ADDRESS: Ground Floor 181 Harris Street, PYRMONT
NSW 2009 Australia

ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a small bar liquor licence.

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

ILGA DELEGATED DECISION – APPLICATION FOR SMALL BAR LIQUOR LICENCE

Edition Book Bar

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 Justice, has decided to grant the application for a small bar liquor licence, 1-4987592370.

On 16 December 2016, 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. The licensee or its representative must join and be an active participant in the local liquor accord.
3. The premises are to be operated at all times in accordance with the Plan of Management dated 21 November 2016 as may be varied from time to time after consultation with the Local Area Commander.
4. A maximum number of eighteen (18) patrons are permitted in the premises at any one time.
5. No entertainment will be provided.
6. CCTV footage on premises:

The Licensee shall maintain a CCTV system that meets the following minimum requirements:

(1) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:

- a. the person represents not less than 100% of the screen height, and
- b. there is an unobstructed view of the person's face.

(2) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:

- a. all other public entrances and exits, whether or not in use at the time,
- b. staircases,
- c. all portions of the floor area accessible to the public where entertainment is provided,
- d. toilet external entrances,
- e. all public accessible areas within the premise excluding toilets and accommodation rooms,
- f. the footpath area directly adjacent to the premises, and
- g. courtyard and smoking areas.

(3) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:

- a. the person represents not less than 50% of screen height, and
- b. there is an unobstructed view of the person's face.

(4) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.

(5) Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.

(6) Recordings must:

- a. be in digital format,
- b. record at a minimum of ten (10) frames per second, and
- c. commence one hour prior to opening, and operate continuously until at least one hour after closing.

(7) The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.

(8) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.

(9) When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.

(10) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, L&GNSW Officers or other regulatory officers upon request.

(11) The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, L&GNSW Officers or other regulatory officers.

(12) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

7. Signage to be Displayed

(a) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principal entry. The signage shall state:

Approved hours of operation

Monday to Thursday: 12:00 PM to 10:00 PM

Friday to Saturday: 12:00 PM to 12:00 AM

Sunday: 12:00 PM to 8:00 PM

(b) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises, in such a manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

Upon leaving please respect local residents by minimising noise

(c) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the premises. The signage shall state:

Approved patron capacity is limited to: 18

(d) Signage specified in sub clause (a) and (b) is to be erected prior to the commencement of operations.

8. Maximum Patron Capacity

(a) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the premises. The signage shall state:

Approved patron capacity is limited to 18

(b) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entrance to separate internal area of the premise. The signage shall state:

Approved patron capacity is limited to 18

(c) Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).

(d) Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises; in such manner that it would be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:

Upon leaving please respect local residents by minimising noise

(e) Signage specified in sub clause (a) and (d) is to be erected prior to the commencement of operations.

(f) No patron shall be permitted to take glasses or open containers of liquor off the premises

9. Neighbourhood Amenity

(a) The management of the premises:

- i. Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.
- ii. Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.
- iii. Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.
- iv. Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.

(b) An **adequate queuing system** for patrons must be implemented at the main entrance of the licensed restaurant so as to ensure that if patrons are queuing to gain entry they do not obstruct or impede pedestrian traffic flow.

10. Crime Scene Preservation

Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an 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
- (b) Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
- (c) Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident and
- (d) Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

11. The license is to operate business in accordance with a suitable Plan of Management. A copy of this Plan of Management is to be retained on the premises and produced on request by a Police Officer or other authorised person.
12. The Licensed Premises are not to be themed or operated as a Nightclub.
 - (a) No dance floor is to be located on the premise or installed to support entertainment
 - (b) Entertainment is strictly limited to light entertainment which includes background music.
 - (c) No DJ's undertaking live mixing for dancing, live band or concert performs to be permitted.
13. A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or L&GNSW Authorised Officers.
14. The following drinks must not be sold or supplied on the Licensed Premise:
 - (a) Any drink (commonly referred to as a 'shot' or a 'shooter') that is designed to be consumed rapidly.
 - (b) Any drink containing more than 50% spirit or liqueur
 - (c) Any drink prepared on the premise that contains more than 30mls of spirits or liqueurs (e.g. 'doubles').
15. The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation.

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 7 October 2016 (DOC16/119750)
- (2) Community Impact Statement Category B signed 23 September 2016 (DOC16/119752)
- (3) Plan of Management for the Premises and Security Plan provided by the Applicant 21 November 2016 (DOC16/157316)
- (4) EVAT report provided on 21 November 2016 (INT16/50825)
- (5) Premises plan of the proposed licensed area (DOC16/119753)
- (6) Submission from City of Sydney Local Area Command dated 23 November 2016 (DOC16/153722)
- (7) Development Consent from City of Sydney Council dated 12 October 2016 (DOC16/157932)
- (8) Submissions from City of Sydney Council received 13 October 2016 (DOC16/126856)
- (9) A food and drink menus provided with the application (DOC16/167577)
- (10) A copy of the certificate of registration of business name for 'Edition Book Bar' (DOC16/167578)
- (11) Email correspondence from the Authority to the applicant requesting information in relation to the application sent 22 November 2016
- (12) Email correspondence from Agent on behalf of the applicant providing responses to request for additional information, imposition of conditions and Police submission, received 25 November 2016

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 4 div 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

The applicant notified Police and the Secretary of the development application within 2 working days of lodgement of their application. Therefore, a community impact statement is not required under sub-s 48(3A)(b) of the *Liquor Act 2007*.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for a small bar in Pyrmont, with appropriate Development Consent in place.
- (2) Following public exhibition of the application, no adverse submissions were received.
- (3) A council submission was received, and no matters of concern were raised with the application. Development Application was approved by council for use of the premises as a bookshop and licensed café and/or bar for 18 patrons.

- (4) Police submissions were received and no matters of concern were raised so long as a number of conditions were complied with.
- (5) An EVAT Report was provided on 21 November 2016 outlining the assessment of risk. Its recommendation was that the licence be granted with a number of further conditions imposed due to high risk factor assessment.
- (6) The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol, management of patron behaviour, prevention of liquor service to minors and security when required.
- (7) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

- (1) **Positive benefits**
The licence will be operated from Harris Street, Pyrmont. The bar is a small bar with low capacity. The social impact that the premises will have on an already busy area would be low.
- (2) **Negative impacts**
In the EVAT, the assessment of risk demonstrated that the premises is positioned in a high-risk area where there has been a high amount of alcohol related assaults and alcohol related offensive behaviour. However, a Plan of Management provided by the Applicant and conditions imposed on the licence provide a level of certainty that there is unlikely to be any major impact 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.
- (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) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.

- (6) 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 small bar liquor licence application with conditions.

Decision Date: 16 December 2016

Catherine Bass-Kendzy

A/Director 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>

