



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

APPLICATION NO: APP-0001878414

APPLICATION FOR: Liquor – on-premises licence
Accommodation, Catering Service and Sale
on other premises authorisation:
Consumption on premises

TRADING HOURS: Monday & Tuesday: Closed
Wednesday to Friday: 18:00 to 22:00
Saturday: 18:00 to 22:30
Sunday: 14:00 to 22:00

APPLICANT: THE OUTDOOR ADVENTURE COMPANY
PTY LTD

LICENCE NAME: The Outdoor Adventure function licence

PREMISES ADDRESS: 256 Webbs Creek Rd, WEBBS CREEK NSW
2775 Australia

APPOINTED MANAGER: A manager is yet to be appointed under
Section 66 of the *Liquor Act 2007*. Under this
same section, the licensee must not cause or
permit the conduct of business under the
licence for a period of more than 28 days.

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

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

ILGA DELEGATED DECISION – APPLICATION FOR ON-PREMISES LIQUOR LICENCE WITH ACCOMMODATION , CATERING SERVICE AND SALE ON OTHER PREMISES AUTHORISATION

THE OUTDOOR ADVENTURE FUNCTION LICENCE

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 an on-premises liquor licence with catering service and sale on other premises authorisation, APP-0001878414.

On 20 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 04:00 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

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 31st	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. The premises are to be operated at all times in accordance with the Plan of Management dated December 2016 as may be varied from time to time after consultation with the Local Area Commander.
4. No drinks commonly referred to as shots, shooters, slammer, and/or bombs are to be sold or supplied.

5. Functions held pursuant to the Catering Service must be pre-booked. A Catering Service booking register must be maintained.
6. The sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only.
7. Where the patron capacity of any given function/ event exceeds 500 patrons, the licensee must give written notice to the relevant Local Area Command (Police) and Local Council of the event no later than 30 days prior to the event. The written notice must include:
 - a. The address of the premises where the function is to be held, and
 - b. The name of the occupier of those premises, and
 - c. The nature of the function, and
 - d. The number of persons for whom the catering services are to be provide at the function, and
 - e. The date on which and the hours during which the function is to be held, and
 - f. A comprehensive plan of Management and Security Management Plan.
8. The licensed area must be defined and signs prominently displayed to show the boundaries of the liquor licence.
9. The licensee must supply substantial food of a nature and quality consistent with the responsible sale, supply and service of alcohol whenever liquor is sold or supplied.
10. The licensee or an employee of the licensee must be present at all functions where alcohol is sold or supplied.

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 15 August 2016 (DOC/088769)
- (2) Plan of Management for the Premises submitted December 2016 (DOC16/167321)
- (3) Premises plan of the proposed licensed area (DOC16/167322)
- (4) Appointment of manager notice dated 14 September 2016 (DOC/104334)
- (5) Submissions from Hawkesbury City Council received 9 September 2016 and 14 September 2016 which raised no objection. (INW16/50902 & DOC16/105507)
- (6) Submissions from Hawkesbury Local Police received 5 September 2016 which raised no objection but requested that a number of conditions be imposed. (DOC/117349)
- (7) Email correspondence the applicant, received 1 December 2016 & 6 December 2016 (DOC16/166537 & DOC16/167320)

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 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. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence is unlikely to result in any increase in alcohol-related harm in the Local Community.
- (2) The proposed licensed premises is primarily for accommodation with various additional uses including camping grounds, wedding receptions, school camps, conferences and team-building activities. The applicants seek an on-premises licence.
- (3) A submission was received from Hawkesbury City Council which raised no objections. The original development consent could not be located by the Council. However, Council found sufficient evidence of subsequent development approvals relating to the subject land, indicating that the Council has accepted the land-use in the past and previously granted development consent.
- (4) EVAT Assessment Report was obtained and the risk factor assessment returned results that were low to moderate. The only factor with a high risk assessment was maximum number of patrons permitted in the venue.
- (5) A submission was received from the NSW Police Force which raised no objections. However, numerous conditions were imposed due to the remoteness of the location and the need to ensure appropriate pre-planning for police in

anticipation of events and functions with large numbers of attendees. The applicant has agreed to these conditions.

- (6) The licence will be exercised in accordance with a detailed Plan of Management.
- (7) I am satisfied that the statutory advertising requirements have been met.

5. Overall social impact

No public submissions have been received opposing the grant of the licence. A number of conditions have been imposed on the licence. The licence will be operated in accordance with harm minimisation measures outlined in the Plan of Management provided by the applicant.

6. 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) 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 on-premises liquor licence application with conditions.



Decision Date: 20 December 2016

A handwritten signature in black ink, appearing to read 'C. Bass-Kendzy', followed by a long horizontal line.

Name: Catherine Bass-Kendzy

Position: 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>