

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

APPLICATION NO: 1-4205903383

APPLICATION FOR: Liquor – on-premises liquor licence with catering service and sale on other premises authorisation

TRADING HOURS: Catering Service:
Monday to Saturday: 10:00 AM to 12:00 AM
Sunday: 10:00 AM to 10:00 PM
Sale on other premises authorisation:
Monday to Saturday: 10:00 AM to 12:00 AM
Sunday: 10:00 AM to 10:00 PM

APPLICANT: Mr Alexander James Cadger

LICENCE NAME: Blonde Butler

PREMISES ADDRESS: 25 Summerfield Cct
CAMBRIDGE GARDENS 2747

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

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

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

BLONDE BUTLER

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 – 1-4205903383.

On 27 October 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	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. No liquor is to be stored or consumed on the licensed premises.
4. The sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only.
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. 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. The licensee is to be responsible for the provision of food.
7. 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.
8. 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.
9. No drinks commonly referred to as shots, shooters, slammers, and/or bombs are to be sold or supplied.
10. The premises are to be operated at all times in accordance with the Plan of Management dated 11 October 2016, as may be varied from time to time in consultation with the Local Area Commander.

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 22 March 2016 (DOC16/024560)
- (2) Sale on other premises authorisation form lodged 22 March 2016 (DOC16/024565)
- (3) EVAT report and email from Compliance dated 14 April 2016 which raised no concerns (DOC16/035851)
- (4) Plan of the proposed licensed area (DOC16/024568)
- (5) NSW National Police Certificate dated 29 July 2016 (DOC16/085733)
- (6) Identification documents provided 22 March 2016 (DOC16/024563)
- (7) RSA Interim Certificate dated 8 January 2016 (DOC16/024562)
- (8) Submission from Penrith City Council received 3 February 2016 advising that development consent is not required (DOC16/024566)
- (9) Submissions from St Marys Local Area Command dated 13 April 2016 and 25 October 2016 which raised no objection to the application (DOC16/034839 and DOC16/134957)
- (10) Certificate of advertising dated 15 July 2016 (DOC16/078140)
- (11) Plan of management dated 11 October 2016 (DOC16/124393)
- (12) Responses to requests for additional information, including consent to proposed conditions, received 21 July 2016, 26 July 2016, 11 October 2016 and 24 October 2016. (DOC16/078104, DOC16/079519, DOC16/124401, DOC16/124403 and DOC16/135178)

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 3A 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 for a catering service with sale on other premises authorisation is unlikely to result in a significant increase in alcohol related issues in the local community.

- (2) The proposed premises is a home based office which will process online and telephone orders for a catering service. Penrith City Council has provided a submission stating that a DA is not required to permit the proposed activity.
- (3) Emails were received from St Marys Local Area Command advising that NSW Police does not object to the application.
- (4) I am satisfied that the statutory advertising requirements have been met.

4. 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 application, 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 licence with catering service and sale on other premises authorisation application with conditions.

Decision Date: 27 October 2016



Olgica Lenger

Manager 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.

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>