

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

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| APPLICATION NO: | 1-6784381778 |
| APPLICATION FOR: | Small bar liquor licence |
| TRADING HOURS: | Monday to Sunday: 10:00 AM to 2:00 AM |
| APPLICANT: | SKIN BOOST PTY LTD |
| LICENCE NAME: | Christopher Hanna |
| PREMISES ADDRESS: | 13-15a Bridge St, SYDNEY NSW 2000 |
| ISSUE: | Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application |
| LEGISLATION: | Section 45(1) of the <i>Liquor Act 2007</i> |

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

Christopher Hanna

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 a small bar liquor licence, application number 1-6784381778.

On 25 June 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

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| Good Friday | Not permitted |
| Christmas Day | Not permitted |
| December 31st | Normal trading |

Note: Trading is also allowed after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

STATEMENT OF REASONS

1. Material before the ILGA delegate

CM9 Ref: DF18/007397

- (1) Application for small bar liquor licence and extended trading authorisation for a small bar, signed 7 May 2018
- (2) Notice of development application, dated 27 April 2018
- (3) Signed Local Consent Authority Notice, Police Notice and Site Notice dated 8 May 2018
- (4) ASIC Company Extract dated 11 September 2017 for Mirramba Pty Ltd, Skin Boost Pty Ltd dated 13 September 2017 and SGB Facility Services Pty Ltd dated 11 September 2017
- (5) Additional information in respect to the application for the small bar application accompanies the application
- (6) Food Menu for the proposed small bar
- (7) Plan of Management dated April 2018
- (8) Plan of the proposed licensed premises lodged with application
- (9) Email correspondence from Liquor & Gaming NSW to the applicant's Agent sent 23 May 2018, requesting further information
- (10) Police submission received 28 May 2018
- (11) Email correspondence from Liquor & Gaming NSW to the applicant's Agent sent 29 May 2018, requesting response to submission
- (12) Email correspondence from the applicant to Liquor & Gaming NSW in response to requisitions and Police submission, dated 1 June 2018
- (13) Amended Development Consent dated 1 June 2018 with approved use of part of ground floor for the purpose of a licensed beauty salon, hairdresser and small bar with ancillary functions, including associate alterations. Development Application No. D/2017/817/B granted by City of Sydney Council on 1 June 2018. The hours of operation are restricted to between 9am and 1am Monday to Sunday, approval to operate for a period of 1 year until 2.00am Monday to Sunday.
- (14) Application for surrender of on-premises liquor licence LIQO660034018 signed 4 June 2018
- (15) Certification of Advertising Application, signed by the applicant on 6 June 2018
- (16) Appointment of Manager application signed 5 June 2018

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. Community impact test

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- (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 the granting or removal of:
 - a. a small bar licence,
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an on-premises licence relating to a restaurant that, in the case of a new licence, includes an application for a primary service authorisation,
 - d. an on-premises licence relating to a karaoke bar, a catering service or a vessel,
 - e. an application for a producer/wholesaler licence that, in the case of a new licence, includes an application for a drink on-premises authorisation
 - f. an application for ongoing extended trading hours to permit the sale of liquor after midnight in relation to any of the above licence types.
- (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 Sydney, and the "broader community" of the City of Sydney Council LGA.

5. Analysis of Submissions and other Materials

- (1) Application for a small bar liquor licence for a small bar located on the ground floor at 13-15A Bridge Street, Sydney with a patron capacity of 100 persons.
- (2) The Premises is currently the subject of an on-premises licence granted in November 2017. The intention is to operate the Premises pursuant to a small bar licence, rather than the existing on-premises licence LIQO660034018.
- (3) An application to surrender the on-premises licence has been lodged with this application.
- (4) The applicant declares that L&GNSW and local police were notified of the application for development consent within 2 days of lodgement.
- (5) An application to modify existing development consent was lodged with City of Sydney Council on 27 April 2018.

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- (6) A copy of the Council approval dated 1 June 2018 has been provided D/2017/817/B for the Premises to operate as a small bar together with salon/hairdressing facilities. The Premises operate as a high end/upmarket venue, catering for a more affluent clientele.
- (7) The proposed licence hours to apply to the small bar licence are from 10.00 am until 2.00 Monday to Sunday.
- (8) Quality food will be available at all times the licence is being exercised. A copy of the menu has been provided. At a minimum, food that is commensurate with the responsible consumption of liquor will be available at all times that liquor is being sold, supplied and consumed on the premises.
- (9) The current manager appointed to the licence Mr Wissam Badawi, LIQXA911019837 is to be appointed to the small bar licence.
- (10) Adequate responsible service of liquor practices is currently in place to ensure that liquor is consumed responsibly and to prevent intoxication. These practices will continue to apply upon the grant of the small bar licence. An updated Plan of Management has been approved by Council and Police and accompanies the application.
- (11) The Compliance branch of L&GNSW raised no objection to the application.
- (12) NSW Police Force submitted that although there are a number of licensed venues in the vicinity of the proposed licensed premises, including a number of late trading venues and 24-hour business, there has been a reduction in alcohol related harms, however there is evidence to show that alcohol related assaults are still of concern in this location as compared to NSW state average. Police do not object to the application and confirm that the applicant, who has been in operation for over 10 years, has had no adverse incidents recorded. Police proposed a number of licence conditions intended for purpose of public safety, which were duly considered by the applicant and Authority delegate.
- (13) Further, the venue will not be utilising any outdoor area, nor will it be providing live entertainment.
- (14) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The granting of the licence will contribute to the diversity of venues in the Sydney CBD, which will enable patrons to enjoy a drink with or without a meal, whilst enjoying beauty services in a safe and sophisticated setting.

(2) Negative impacts

A range of factors suggest that the small bar is unlikely to have any significant negative impact on the local or broader community, including, the existence of the current on-premises restaurant with primary service authorisation, and the fact that that the venue will not be providing live entertainment nor utilising any outdoor area. Further, the Plan

of Management and licence conditions will serve to mitigate any potential negative impacts.

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) In making this decision under delegation of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to grant with conditions the licence application.

Decision Date: 25 June 2018



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.



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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>