

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

APPLICATION NO: 1-4052809876

APPLICATION FOR: On-premises liquor licence with restaurant and catering class, and sale on other premises authorisation

PROPOSED TRADING HOURS:

Indoor area
Monday to Saturday 11:00AM - 10:00PM
Sunday 11:00AM – 9:00PM

Outdoor area (front)
Monday to Sunday 11:00AM – 9:00PM

Outdoor area (rear yard)
Monday to Sunday 11:00AM – 7:00PM
DST
Monday to Sunday 11:00AM – 6:00PM
Outside DST

APPLICANT: Jason Richard Cursley

PROPOSED LICENSED PREMISES NAME: **The Laneway FCW**

PROPOSED PREMISES ADDRESS: 487-489 Port Hacking Rd
CARINGBAH SOUTH NSW 2229

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

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

ILGA DELEGATED DECISION - APPLICATION FOR AN ON-PREMISES LIQUOR LICENCE WITH RESTAURANT AND CATERING CLASS, AND PRIMARY SERVICE AUTHORISATION – THE LANEWAY FCW

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 with conditions the following application for on-premises liquor licence with

restaurant and catering class, and sale on other premises authorisation, appl. No. 1-4052809876.

On 12 September 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:

- 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.

- Consumption on premises – Restaurant

Good Friday	12:00 PM (noon) to 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
Christmas Day	12:00 PM (noon) to 10:00 PM (liquor can only be served with or ancillary to a meal in a dining area)
December 31 st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later
<p>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.</p>	

- Consumption on premises – Catering

Good Friday	Normal trading
Christmas Day	Normal trading
December 31 st	Normal opening time until normal closing time or 2:00 AM on New Year's Day, whichever is the later

- No drinks commonly referred to as shots, shooters, slammers, and/or bombs are to be sold or supplied.
- 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. The sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only.
7. The number of seats provided must not exceed 75 and must be made up of not more than 60 outdoor seats.
8. The Licensee must accept full responsibility for the behaviour of patrons while on the premises and in the adjoining streets. The Licensee must take all steps necessary to ensure that no noise nuisance occurs from persons entering or leaving the premises.

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 9 February 2016
- (2) Plan of proposed premises – lodged 9 February 2016, stamped with the Development Consent DA15/1016 by the Sutherland Shire Council
- (3) The Laneway FSW House Policy for Responsible Service of Alcohol forwarded 9 February 2016
- (4) Certificate of Advertising Application, signed by the applicant and dated 11 February 2016
- (5) National Police Certificate, RSA competency card and copies of ID for the applicant received 9 February 2016
- (6) ASIC Record of Registration for Business Name – The Laneway FCW dated 24 September 2015
- (7) Development Consent DA15/1016 issued by the Sutherland Shire Council dated 16 November 2015, for alterations and additions to an existing café/flowerist and change to operating hours
- (8) Submission from Sutherland Shire Council received 24 February 2016 with no objection but requesting conditions to be imposed on the licence
- (9) Submission from Miranda Licensing Police, Cronulla Police Station received 4 February 2016 with no concerns or objections
- (10) EVAT Report submitted by the Secretary, 29 February 2016 with no concerns raised
- (11) Applicant's response to submissions and consent to the conditions being imposed on the licence, dated 30 May 2016
- (12) A letter of consent from the owner of the premises Toltol Pty Ltd to use the front part and rear outdoor dining area.

1. 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.

2. 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.

3. 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. Analysis of submissions and other materials

- (1) Having reviewed all the material, I am satisfied that this application for an on-premises liquor licence for a restaurant with a catering service, and sale on other premises authorisation, is a low risk business model.
- (2) The proposed premises will operate with its principal business being that of a restaurant with catering for primarily small corporate functions.

5. Overall social impact

(1) Positive benefits

- (a) The applicant proposes to provide quality food with liquor, and cater for a number of corporate businesses as there is a genuine demand for services in the Sutherland Shire.

(2) Negative impacts

- (a) There were no objections raised by any stakeholders during the consultation period.

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. The interested parties are NSW Police, the Licensee and (other parties who may be affected).

- (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 other 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) Having considered together the positive benefits and negative impacts that are likely to flow from granting the Application, I am satisfied that the overall social impact of granting this licence would not be detrimental to the well-being of these local and broader communities.
- (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 with conditions the licence application.

Decision Date: 12 September 2016



Olga Lenger
Manager, Licensing (Business Licensing)
Liquor & Gaming NSW
Delegate of the Independent Liquor & Gaming Authority