



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

APPLICATION NO:	APP-0001658366
APPLICATION FOR:	On-premises liquor licence for a Café/Restaurant with Catering Service and Primary Service Authorisation
TRADING HOURS:	Monday to Sunday:10:00 AM to 10:00 PM
APPLICANT:	Mecca Coffee Roasters Pty Limited
APPROVED MANAGER:	Laura Street
LICENCE NAME:	Mecca Coffee Alexandria
PREMISES ADDRESS:	26 Bourke Road ALEXANDRIA NSW 2015
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for an on- premise liquor licence for a café/restaurant with Primary Service Authorisation
LEGISLATION:	Section 45(1) of the <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR AN ON PREMISES

MECCA COFFEE ALEXANDRIA

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 for a restaurant with Catering Service and Primary Service Authorisation, application number APP-0001658366.

On 14 January 2017, 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 – Restaurant

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. Consumption on premises – Catering Service

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

4. The business authorised by this licence must not operate with a greater overall level of social impact on the well-being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
5. 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 in consultation with the Local Area Commander NSW Police.
6. A copy of the Plan of Management, in addition to the current Development Consent, must be kept on the premises and made available to Police, Council or Liquor and Gaming NSW Inspectors upon request.
7. The licensee is to maintain an approved Incident Register with incidents and details of the action taken, to be recorded in the Incident Register at all times.

8. The premises is to operate with its principal business being that of a restaurant, as defined by the *Liquor Act 2007*, and not as a bar.
9. The kitchen must always be open with substantial food available to patrons whilst the premises is open.
10. The licensee must ensure that a designated seat is available to all patrons consuming alcohol.
11. The number and location of tables and chairs provided for seated dining must be in accordance with the approved floor plans.
12. The sale and supply of liquor must cease 30 minutes prior to the authorised closing times.
13. The licensee or its representative must join and be an active participant in the local liquor accord.
14. The licensee must ensure that the patron capacity does not exceed 70.
15. The licensee must ensure that the behaviour of patrons entering/leaving the premises does not detrimentally affect the amenity of the neighbourhood.
16. The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00 am and 12:00 midnight at the boundary of any affected residence.

The LA10 noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) between 12:00 midnight and 07:00 am at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 12:00 midnight and 07:00 am.

Interior noise levels which, although restricted in accordance with the above condition, still exceed safe hearing levels, are in no way supported or condoned by the Authority.

17. No shots, shooters, slammers, bombs or any drink that is designed to be consumed rapidly or mixed with energy drinks, is to be sold or supplied at the premises.
18. 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.
19. A CCTV surveillance system will be installed at the premises. Physical access to and copies of recordings from the CCTV system are to be made available upon request from NSW Police. There is to be a member of staff present when the premises is operating that can gain access to and operate the CCTV system to allow for immediate playback of footage to assist with identification and investigations. CCTV recordings should be retained for a period of 28 days before being reused or destroyed



20. Immediately after the person in charge of the licensed premises becomes aware of an incident involving an act of violence causing 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, and retain all material and implements associated with the act of violence in accord with Crime Scene Preservation Guideline, issued by NSW Police, and
- b. Make direct and personal contact with the Local Area Commander or his/her delegate, and advise the Commander or delegate of the incident, and (iii) Comply with and directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred, and
- c. Comply with and directions given by the Commander or delegate to preserve or keep intact the area where the act of violence occurred.

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 8 June 2016 (DOC16/065114)
- 2) Certificate of Advertising Application – declaration signed 16 December 2016 (DOC17/00569)
- 3) Plan of Management dated December 2015, revised version submitted on 13 January 2017 (DOC17/005698)
- 4) Development Consent from City of Sydney Council (D/2014/548) issued 8 July 2014, (DOC16/065119) and modified on 11 May 2015 (DOV16/061520)
- 5) Community Impact Statement Category A, forwarded 8 June 2016 (DOC16/065121)
- 6) Appointment of manager - notice for Laura Street forwarded 6 January 2017 (DOC17/005696)
- 7) Floor plan of proposed licensed area (DOC17/005699)
- 8) Police submission dated 16 June 2016, requesting conditions to be imposed on the licence (DOC16/167630)
- 9) Council submission dated 16 June 2016, requesting conditions to be imposed on the licence (DOC16/167633)
- 10) Email correspondence dated 6 December 2016 and 13 January 2017 from the Authority to the applicant requesting additional information and consent to conditions (DOC16/167726, DOC17/010390)
- 11) The applicant's email responses dated 6 January 2017 and 13 January 2017, including consent to the imposition of conditions. (DOC17/005695)

(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. 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) Local and Broader Community - for the purposes of this decision, the delegate is satisfied that the relevant “local community” is the community within the State suburb of Alexandria and the “broader community” of City of Sydney LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for an on-premises café/restaurant with catering class and primary service authorisation has appropriate Development Consent in place.
- (2) Police has raised no objections to the grant of the licence for the premises, however they have requested conditions to be imposed on the licence.
- (3) Council likewise has raised no objections but has requested conditions to be imposed on the licence.
- (4) The licence will be exercised in accordance with a Plan of Management that addresses the responsible service of alcohol, and provides measures to ensure that the operation of the restaurant does not impact detrimentally upon or detract from, the amenity of the neighborhood.
- (5) A list of conditions to be imposed on the licence was forwarded to the applicant for comment and the response was duly considered.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The applicant intends to establish a café/restaurant within the venue which also boasts a coffee roastery business. The applicant also intends to provide “a platform of dinner based events” at the venue. A Plan of Management has been provided to enable compliance with the conditions imposed on the granting of the licence.

(2) **Negative impacts**

Both Police and Council indicate that they have no concerns with the granting of a licence for the premises but have requested conditions to be imposed. The Plan of Management provided by the applicant and conditions imposed on the licence provide a level of certainty that there are unlikely to be any major adverse impacts 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 liquor licence application with conditions.

Decision Date: 14 January 2017



Olga, 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>