

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

APPLICATION NO:	APP-0001999087
APPLICATION FOR:	Liquor – on-premises licence
TRADING HOURS:	Catering Service: Consumption on premises Monday to Saturday: 10:00 AM to 07:00 PM Sunday: 10:00 AM to 06:00 PM
APPLICANT:	Dexus Place Pty Limited - GMT
LICENCE NAME:	Dexus Place Pty Limited - GMT
PREMISES ADDRESS:	Governor Macquarie Tower L 15 1 Farrer Pl, SYDNEY, NSW 2000
APPOINTED MANAGER:	A manager is yet to be appointed under Section 66 of the <i>Liquor Act 2007</i> . 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 <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR ON-PREMISES LIQUOR
LICENCE - CATERING SERVICE**

DEXUS PLACE PTY LIMITED - GMT

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, APP-0001999087.

On 22 February 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 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. The premises are to be operated at all times in accordance with the Plan of Management dated January 2017 as may be varied from time to time after consultation with the Local Area Commander.
4. 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.
5. The licensee or its representative must join and be an active participant in the local liquor accord.

6. CCTV footage on premises:

The Licensee shall maintain a CCTV system that meets the following minimum requirements:

1. A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when:
 - i. the person represents not less than 100% of the screen height, and
 - ii. there is an unobstructed view of the person's face.
2. In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas:
 - i. all other public entrances and exits, whether or not in use at the time,
 - ii. staircases,
 - iii. all portions of the floor area accessible to the public where entertainment is provided,
 - iv. toilet external entrances,
 - v. all public accessible areas within the premise excluding toilets and accommodation rooms,
 - vi. the footpath area directly adjacent to the premises, and
 - vii. courtyard and smoking areas.

3. The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
 - i. the person represents not less than 50% of screen height, and
 - ii. there is an unobstructed view of the person's face.
 4. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
 5. Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.
 6. Recordings must:
 - i. be in digital format,
 - ii. record at a minimum of ten (10) frames per second, and
 - iii. commence one hours prior to opening, and operate continuously until at least one hour after closing.
 7. The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
 8. Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30 day period.
 9. When the venue is open and trading, at least one person shall be at the venue who is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
 10. Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, OLGR Inspectors or other regulatory officers upon request.
 11. The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, OLGR Inspectors or other regulatory officers.
 12. Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.
1. Crime Scene Preservation
 - a. Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
 - i. Take all practical steps to preserve and keep intact the area where the act of violence occurred

- ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
 - iii. Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident and
 - iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.
2. The Licensed Premises are not to be themed or operated as a Nightclub. No DJ styled booth, no disco lighting systems and no dance floor area are to be utilised at any time in the premises.
3. A full copy of all current development consents (including approved plans) for the operation of the premises, any Registers required and any required Plan of Managements must be kept on the premises and made available for inspection immediately upon request by Council Officers, Police Officers and/or OLGR Authorised Officers.
4. The following drinks must not be sold or supplied on the Licensed Premises:
 - a. Any drink (commonly referred to as a “shot” or a “shooter”) that is designed to be consumed rapidly.
 - b. Any drink containing more than 50% spirits or liqueur.
 - c. Any drink prepared on the premises that contains more than 30mls of spirits or liqueur (eg. “doubles”).
 - d. Any alcoholic drinks greater than 1.6 standard drinks as per the Australian Alcoholic Guidelines
5. The sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor seating areas.

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 25 July 2016 (DOC/079538)
- (2) Plan of Management for the Premises submitted January 2017 (DOC17/032814)
- (3) Premises plan of the proposed licensed area (DOC16/085699)
- (4) Development consent for the premises (DOC16/153317)
- (5) Certificate of advertising (DOC16/085690)
- (6) ASIC extract (DOC16/085691)
- (7) Submissions from Sydney City Council received 3 August 2017 which raised no objection. (DOC16/089610 & DOC16/158872)
- (8) Submissions from Sydney City Police received 16 December 2016 which raised an objection and also requested that a number of conditions be imposed. (DOC/174395)
- (9) Email correspondence from the applicant, received 13 December 2016, 16 February 2017 & 17 February 2017 (DOC16/171730, DOC17/031659 & DOC17/032802)

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) A submission was received from Sydney City Council which raised no objections.
- (3) A submission was received from the NSW Police Force which raised an objection. Police do not believe that a liquor licence is necessary for the purpose of the business, being to serve as a function room hire facility. However, if the application is granted police request a number of conditions to be imposed on the licence. The applicant has agreed to these conditions.
- (4) The licence will be exercised in accordance with a detailed Plan of Management.
- (5) 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: 22 February 2017



Santina Causa
A/Co-ordinator, 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>