



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

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<b>APPLICATION NO:</b>	APP-0002866035
<b>APPLICATION FOR:</b>	Liquor – on-premises liquor licence for a catering service and function facility.
<b>TRADING HOURS</b>	Monday to Sunday: 10:00 AM to 10:00 PM
<b>APPLICANT:</b>	Mr Kesby, Louis Lloyd Anthony
<b>LICENCE NAME:</b>	Louis L Kesby
<b>PREMISES ADDRESS:</b>	5 Belgrave St KEMPSEY NSW 2440 Australia
<b>ISSUE:</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
<b>LEGISLATION:</b>	Section 45(1) of the Liquor Act 2007

**ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE  
Louis L Kesby**

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-premise liquor licence for a catering service and function facility, application number APP-0002866035.

On 23 June 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- 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

3. 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.

## **STATEMENT OF REASONS**

### **1. Material before the ILGA delegate**

- (1) Application form lodged 9 April 2017 (DOC17/081252)
- (2) Certificate of Advertising declaration, signed and dated 7 June 2017 by the applicant (DOC17/128520)
- (3) Identification and copy of Mr Kesby, Louis Lloyd Anthony RSA Competency Card (DOC17/081256)
- (4) National Police Certificate for the applicant (DOC17/081255)
- (5) Notice of Determination – Development Application T6-17-211 dated 8 June 2017 (DOC17/132068)
- (6) Submission from Kempsey Shire Council dated 1 June 2017 which raised no objection to the application (DOC17/126728).
- (7) Plan at grant of proposed licensed premises (DOC17/128033)
- (8) Premises photos which confirm that the venue is ready to trade (DOC17/128094)
- (9) Email correspondences from the Authority dated 6 June 2017 (DOC17/127016), 7 June 2017 (DOC17/128022), 8 June 2017 (DOC17/128540), 13 June 2017 (DOC17/130829) and again 15 June 2017 (DOC17/132115) to the applicant requesting additional information,
- (10) Email correspondence from the applicant dated 7 June 2017 (DOC17/127711), 8 June 2017 (DOC17/128515, DOC17/128595), 9 June 2017 (DOC17/130734), 13 June 2017 (DOC17/132064), and again 15 June 2017 (DOC17/132064) in response to the requests for additional information and supporting documentation.

### **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

- (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 Kempsey, and the "broader community" of Kempsey Shire Council.

## 5. 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 function/conference center with a catering service is unlikely to result in any significant increase in alcohol-related harm in the local community.
- (2) The proposed licensed premise is an existing function/meeting conference center with a catering service. The premise is envisaged to be used as an extension to the adjacent Café Restaurant, for the purpose of group meetings. The kitchen from the adjoining restaurant will be used to cater the food through. The premise has an approximate patron capacity of 35 and is located in Kempsey.
- (3) Having reviewed all the material, I am satisfied that this application for an on-premises liquor licence with catering class has appropriate Development Consent in place.
- (4) No adverse submissions were received relative to this application.
- (5) The licence will be exercised in accordance with a standard RSA practices that will be in place at the licensed premises to ensure, as far as reasonably practicable, that liquor is sold, supplied or served responsibly on the premises, and that the operation of the premise does not impact detrimentally upon or detract from, the amenity of the neighborhood. For that purpose all staff serving alcohol will have an RSA.

(6) I am satisfied that the statutory advertising requirements have been met.

## 6. Overall social impact

### (1) Positive benefits

The proposed licensed venue is a function center with reduced liquor trading hours and with the emphasis placed on food. The venue intends to provide catering on site for group meetings, conferences, or functions.

### Negative impacts

There have been no objections to the granting of this licence. The business model overview provided by the applicant and conditions imposed on the licence provide a level of certainty that there are unlikely to be any major 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) 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: 23 June 2017



Joanne Zammit  
Coordinator 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>