

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

APPLICATION NO: 1-4970926153

APPLICATION FOR: Liquor – on-premises licence
Catering service and Sale on other premises authorisation

TRADING HOURS: Consumption on premises
Monday to Saturday: 12:00 PM to 12:00 AM
Sunday: 12:00 PM to 10:00 PM

APPLICANT: Mr Ian Anderson

LICENCE NAME: Whats Crackling? Catering

PREMISES ADDRESS: 32 Canberra St
WENTWORTH FALLS NSW 2782

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 *Liquor Act 2007*

**ILGA DELEGATED DECISION – APPLICATION FOR ON-PREMISES LIQUOR
LICENCE FOR CATERING SERVICE AND SALE ON OTHER PREMISES
AUTHORISATION**

WHATS CRACKLING? CATERING

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 catering service and sale on other premises authorisation, 1-4970926153.

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 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 23 December 2016 as may be varied from time to time after consultation with the Local Area Commander.

4. No drinks commonly referred to as shots, shooters, slammers, and/or bombs are to be sold or supplied.

5. 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.

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 2 August 2016 (DOC16/115877)
- (2) Sale on other premises authorisation form – 2 August 2016 (DOC16/115888)
- (3) Plan for licensed premises (DOC16/177507)
- (4) Certificate of advertising dated 12 January 2017 (DOC17/010441)
- (5) Plan of Management for the Premises dated 23 December 2016 (DOC16/010442)
- (6) Premises plan of the proposed licensed area (DOC16/177507)
- (7) NSW National Police Certificate issued 1 June 2016 (DOC16/115881)
- (8) Business Name Registration document (DOC16/115880)
- (9) Applicant ID documents (DOC16/115882)
- (10) Submissions from Blue Mountains City Council received 11 January 2017 which raised no objection. (DOC17/008114)
- (11) Email correspondence from the applicant, providing additional information and consent to conditions, received 12 January 2017 (DOC17/010440)

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 for catering service with sale on other premises authorisation is unlikely to result in any significant increase in alcohol-related harm in the Local Community.
- (2) A submission was received from Blue Mountain City Council which raised no objections. The Council has advised that as long as the business complies with definition of home business, a development consent is not required to permit the proposed activity.
- (3) The licence will be exercised in accordance with a Plan of Management.
- (4) I am satisfied that the statutory advertising requirements have been met.

5. Overall social impact

No public submissions have been received raising concerns or 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 is not required.
- (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: 14 January 2017



Olgica 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>