



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

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<b>APPLICATION NO:</b>	APP-0002152634
<b>APPLICATION FOR:</b>	On-premises liquor licence for a restaurant with catering service and sale on other premises authorisation
<b>TRADING HOURS:</b>	Monday to Sunday: 10:00 AM to 10:00 PM
<b>APPLICANT:</b>	VANESSA KNIGHT
<b>LICENCE NAME:</b>	Apache Salute
<b>PREMISES ADDRESS:</b>	110b Boundary St PADDINGTON NSW 2021
<b>ISSUE:</b>	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 with restaurant class, catering service and sale on other premises authorisation.
<b>LEGISLATION</b>	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR AN ON PREMISES  
LICENCE**

**APACHE SALUTE**

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 restaurant with catering service and sale on other premises authorisation, application number APP-0002152634.

On 31 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 3:00 AM and 9:00 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            12:00 noon - 10:00 PM

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 after midnight into the early morning of Good Friday and Christmas Day if authorised by an extended trading authorisation. Trading must cease at the time specified under the authorisation. The latest time that can be specified is 5:00 AM.

3. Consumption on premises

Good Friday Normal trading

Christmas Day Normal trading

December 31st Normal opening time until normal closing time or 2:00 New Year's Day, whichever is the later.

4. 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 after consultation with the Local Area Commander NSW Police.
5. No drinks commonly referred to as, shots, shooters, and/or bombs are to be sold or supplied.
6. 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.
7. The sale on other premises authorisation can only be utilised for functions, occasions or events that 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 5 September 2016. (DOC16/098619)
- (2) Certificate of Advertising declaration forwarded 8 September 2016. (DOC16/099656)
- (3) Plan of Management dated December 2015. (DOC17/005355)
- (4) Development Consent from Woollahra Municipal Council, (554/2005/1) issued 27 October 2005. (DOC16/098621)
- (5) Plan of proposed licensed area. (DOC17/098622)
- (6) Footway licensing agreement, issued 15 September 2014. (DOC16/098626)
- (7) National Police Certificate, identification documents and RSA competency card for applicant Vanessa Knight. (DOC16/098625, DOC16/098623)
- (8) Secretary, Department of Justice submission dated 7 October 2016. (DOC16/119921)
- (9) Email correspondence dated 17 December 2016 from the Authority to the applicant requesting additional information. (DOC16/174659)
- (10) Email correspondence dated 23 December 2016 from the applicant in response to the Authority email, including submission on the the imposition of licence conditions. (DOC17/005350)

## 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:
  - 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) Local and Broader Community - for the purposes of this decision, the delegate is satisfied that the relevant “local community” is the community within the suburb of Paddington and the “broader community” of Woollahra Municipal Council.

#### **5. Analysis of Submissions and other Materials**

- (1) Having reviewed all the material, I am satisfied that this application for an on-premises restaurant with catering class and sale on other premises authorisation has appropriate Development Consent in place.
- (2) The Secretary of the Department of Justice has raised no issues.
- (3) 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 neighbourhood.

- (4) A list of conditions to be imposed on the licence was forwarded to the applicant for comment and the response was duly considered.
- (5) I am satisfied that the statutory advertising conditions have been met.

## 6. Overall social impact

### (1) Positive benefits

The applicant intends to operate a restaurant with a patron capacity of 28, in addition to having a catering service and sale on other premises authorization added to the licence.

### (2) Negative impacts

Police and Council have not forwarded submissions. No adverse submissions have been received. The licence will be operated in accordance with harm minimisation measures outlined in the Plan of Management provided by the applicant.

## 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: 31 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>