



**NSW Department of Industry
Liquor & Gaming NSW**

APPLICATION NO: 1-5020478395
APPLICATION FOR: Small Bar liquor licence
TRADING HOURS: Monday to Sunday: 12:00 PM to 12:00 AM
APPLICANT: Ms Fleur Bradburn
LICENCE NAME: Augustine's Bar
PREMISES ADDRESS: Shop 7-9 98 Woodlark Street
LISMORE NSW 2480
ISSUE: Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
LEGISLATION: Section 45(1) of the *Liquor Act 2007*

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

Augustine's Bar

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 Industry, has decided to grant the application for a small bar liquor licence, application number 1-5020478395.

On 4 April 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

Good Friday	Not permitted
Christmas Day	Not permitted
December 31st	Normal trading

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. The premises must be operated at all times in accordance with the Plan of Management dated 19 January 2017, as may be varied from time to time after consultation with the Local Area Commander, NSW Police Force.

4. A maximum number of fifty (50) patrons are permitted in the premises at any one time.
5. The following drinks must not be sold or supplied after 10:00 pm:
 - a. Any drink commonly referred to as a 'shot' that is designed to be rapidly consumed;
 - b. Any drink containing alcohol mixed with an energy drink;
 - c. No RTD drinks with an alcohol volume greater than 5%.
6. The licensee or its representative must join and be an active participant in the local liquor accord.

CCTV

7. The licensee must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:
 - a. The system must record continuously from opening time until one hour after the premises are required to close (or, in the case of premises that are not required to cease trading, continuously at all times).
 - b. Recordings must be in digital format and at a minimum of 15 frames per second.
 - c. Any recorded image must specify the correct time and date of the recorded image.
 - d. The system's cameras must cover the following areas:
 - i. All entry and exit points on the premises,
 - ii. The footpath immediately adjacent to the premises,
 - iii. All publicly accessible areas (other than toilets) on the premises.
 - e. All recordings made by the CCTV system must be kept for at least 30 days before being re-used, destroyed or deleted.
 - f. The CCTV recording device must be secured within the premises and only be accessible to senior management personnel. At least one staff member must be present on the licensed premises when it is operating, who is authorised to access the CCTV system and able to immediately review recordings.
 - g. Provide any recordings made by the CCTV system to members of NSW Police Force or authorised officers of Liquor and Gaming NSW, within 24 hours of any request to provide such recordings.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 10 October 2016 (DOC16/170616)
- (2) Certificate of Advertising declaration by applicant on 19 January 2017 (DOC17/032991)
- (3) Plan of Management dated 19 January 2017 (DOC17/032990)
- (4) Notice of Determination – Development Application No: No.5.2016.185.1, dated 26 September 2016 (DOC16/170617)
- (5) Submission from Richmond Local Area Command 3 November 2016 with no objections and propose a number of conditions (DOC16/141114)
- (6) A Council submission was received on 28 November 2016 from Lismore City Council with no concerns (DOC16/162449)
- (7) Plan at grant of proposed premises lodged with application and amended on 21 March 2017 (DOC17/060424)
- (8) ASIC Record of Registration for Business Name ‘Augustine’s Bar’ dated 24 January 2017 (DOC17/059169)
- (9) Responsible Service of Alcohol Competency Card with an expiry of 17 November 2020 lodged with application (DOC16/170616)
- (10) National Police Certificate dated 21 October 2016 lodged with the application (DOC16/170694)
- (11) Email correspondence dated 18 January 2017 (DOC17/013636), from the Authority to the applicant requesting additional information, and a second request on 21 March 2017 (DOC17/060150)
- (12) Email correspondence from the applicant dated 23 January 2017 (DOC17/022955) and (DOC17/022953), 24 January 2017 (DOC17/022959), (DOC17/022958) and 21 March 2017 (DOC17/061510) 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 the suburb of Lismore, and the "broader community" is the Lismore Council LGA.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all the material, I am satisfied that this application for a small bar liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.
- (2) Development consent is in place for the proposed use of a small bar.
- (3) Richmond Local Area Command raised no objections to the grant of the licence, however recommend a number of conditions to be imposed on the licence which the applicant has consented to.
- (4) The Lismore City Council raised no objections to the grant of the licence for the premises subject to conditions which were consented to by the applicant.
- (5) The Delegate of the Secretary did not raise any objections.
- (6) 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 premises does not impact detrimentally upon or detract from, the amenity of the neighbourhood.
- (7) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The proposed late-night tapas style wine small bar with maximum patron capacity of 50 persons offers an alternative place for people to socialise in Lismore, in a comfortable setting. The small bar poses low risk to the local or broader community and has been supported by appropriate development consent.

(2) Negative impacts

There have been no objections to the granting of this licence. The Plan of Management provided by the applicant and conditions imposed on the licence provide measures and controls to ensure that the operation of the premises contributes to, and does not detract from community life.

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: 4 April 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>