

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

APPLICATION NO:	APP-0003071389
APPLICATION FOR:	On-premises liquor licence with health and beauty services and catering service classes
TRADING HOURS:	Monday to Saturday: 10:00 AM to 10:00 PM Sunday: 10:00 AM to 8:00 PM
APPLICANT:	Mrs Bobbie Leigh Brenton
LICENCE NAME:	Blow Blowdry Bar
PREMISES ADDRESS:	Shops 5 and 6, 32-34 Cronulla Street CRONULLA NSW 2230
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 <i>Liquor Act 2007</i>

ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE

BLOW BLOWDRY 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 an on-premise liquor licence for a hair salon, application number APP-0003071389.

On 23 August 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.

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2. Consumption on premises – Health and beauty services provider
 - 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 – 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
4. The catering services are only permitted for pre-booked functions providing health and beauty services.
5. The sale, supply or consumption of liquor on the premises is restricted to those persons undertaking hairdressing/beauty treatment, except for pre-booked functions.
6. Prior to serving, all liquor must be stored in an area that is not readily accessible to members of the public.
7. Patrons must either be seated or have an allocated seat whilst consuming liquor, with the exception of pre-booked functions.

STATEMENT OF REASONS

1. Material before the ILGA delegate

RM8 Ref: DF17/010784

- (1) Application for on-premises liquor licence, lodged 15 June 2017
- (2) Certification of Advertising Application, signed and dated by the applicant on 27 July 2017
- (3) Complying Development Certificate No. NW17/2076 issued by Newland Wood Building Certification on 9 June 2017 for the fit out of the premises as a hair salon
- (4) Plan of the proposed licensed premises
- (5) ASIC company extracts for the business owner and premises owner
- (6) ASIC Record of Registration for Business Name for Blow Blowdry Bar
- (7) Liquor plan of management for the venue
- (8) Proposed food menu for the venue
- (9) Copies of the applicant's identification, RSA Interim Certificate and National Police Certificate
- (10) Submission from Miranda Licensing Police, dated 20 June 2017, objecting to the use of the word "Bar" in the proposed licence name, on the grounds that it is misleading
- (11) Further submission from Miranda Licensing Police, dated 1 August 2017, raising a number of concerns in respect of the application
- (12) Email correspondence from Liquor & Gaming NSW to Miranda Licensing Police, dated 7 August 2017, forwarding the applicant's response to the police submission, and inviting further comment
- (13) Submission from a local resident raising concerns regarding the proposed liquor trading hours and operation of the venue
- (14) Email correspondence from Liquor & Gaming NSW to the applicant, requesting additional information in support of the application, dated 26 July 2017, 2 August 2017
- (15) Email correspondence from the applicant to Liquor & Gaming NSW, in response to the request for further information, dated 7 August 2017

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 Cronulla, and the "broader community" of the Sutherland Shire LGA.

5. Analysis of Submissions and other Materials

- (1) This application is for a new high end "blow dry bar" hair salon located in Cronulla. The applicant also proposes to hold private functions at the venue, such as pre wedding celebrations, birthday parties or business events. The sale and supply of alcohol will be ancillary to the provision of hair and beauty services.
- (2) Police made a submission raising concerns that the use of the word "Bar" in the licence name is misleading as it could imply that the venue is a bar. A blow dry bar is a type of hair salon that specialises in hair styling. I am satisfied that the blow dry bar concept is well known and recognised as a type of hair salon, rather than a drinking establishment. Accordingly, I am satisfied that the proposed licence name is considered to be appropriate.

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- (3) A further submission was received from police raising concerns regarding the patron capacity, menu, application for a catering licence, and the proposed licence name. The applicant provided a submission in response which adequately addressed all the concerns raised by police. Police were forwarded the applicant's submission in response, and were invited to provide further comment, however no response was received.
- (4) A submission was received from a member of the public which raised concerns that the late trading hours of the venue would pose a risk to the local community. The submitter was also concerned that the patron capacity would result in the venue being operated in a different manner to a hair salon. The applicant's submission in response, together with a number of licence conditions, provide assurance that the sale and supply of liquor will be restricted to customers undertaking blow dry services and will not be available to the general public.
- (5) The licence will be exercised in accordance with a plan of management and licence conditions 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.
- (6) I am satisfied that the statutory advertising requirements have been met.
- (7) Having reviewed all the material, I am satisfied that this application for an on-premises liquor licence for a beauty services provider and catering service is unlikely to result in any significant increase in alcohol-related harms in the local community.

6. Overall social impact

(1) Positive benefits

Blow Blowdry Bar is the first service of its kind in the Sutherland Shire. The granting of the licence will complement and enhance the services offered by the business, and will provide the community with a unique venue at which to enjoy hair and beauty services and events.

The premises poses a low risk to the local and broader community is supported by the appropriate development consent.

(2) Negative impacts

The plan of management 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.

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- (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 August 2017



Matt Weber
A/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>