

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

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| APPLICATION NO: | APP-0003052577 |
| APPLICATION FOR: | On-premises liquor licence for a catering service with sale on other premises authorisation |
| TRADING HOURS: | Monday to Saturday: 10:00 AM to 12:00 AM Sunday: 10:00 AM to 10:00 PM |
| APPLICANT: | Debbie Joy Alexander |
| LICENCE NAME: | Alexander Hospitality |
| PREMISES ADDRESS: | Suite 19-20, 9/401 Pacific Highway ARTARMON NSW 2064 |
| 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

ALEXANDER HOSPITALITY

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-premises liquor licence with sale on other premises authorisation, application number APP-0003052577.

On 22 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.
2. Consumption on premises

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| 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. A separate Plan of Management is to be prepared for any major event where the patron capacity exceeds 300.

Where the patron capacity of any given event exceeds 300, the licensee must advise the relevant Local Area Command, Local Council and LGNSW, no later than 30 days prior to the event taking place.

Where the patron capacity of any given event exceeds 1,000, the licensee must advise the relevant Local Area Command, Local Council and LGNSW, no later than 42 days prior to the event taking place.

For any major event the licensee must:

- a) Prepare a separate comprehensive Plan of Management and Security Management Plan in consultation with the Local Area Command that has jurisdiction over the area where the event will be held and,
- b) Provide a copy of the Plan of Management, Security Management Plan and Local Licensing Agreements (where applicable) to the Local Area Commander.

The licence cannot be exercised unless a copy of the Plan of Management, Security Management Plan and Local Licensing Agreements (where applicable), as agreed with the Local Area Commander, is provided to Liquor and Gaming NSW no later than two business days prior to the commencement of the event.

4. **Crime Scene Preservation**

- a. Immediately after the person in charge of the Licensed Premises become aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:
 - i. Take all practical steps to preserve and keep intact the area where the act of violence occurred
 - ii. Retain all materials and implements associated with the act of violence in accordance with the crime scene preservation guidelines issued by the NSW Police
 - iii. Make direct and personal contact with the Local Area Command or his/her delegate and advise the Commander or delegate of the incident and
 - iv. Comply with any directions given by the Commander or delegate to preserve or keep intact the area where the violence occurred.

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

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application for on-premises liquor licence with sale on other premises authorisation, received 9 June 2017
- (2) Signed Certification of Advertising Application
- (3) Plan of the proposed licensed premises
- (4) Email correspondence dated 13 December 2016 from Willoughby Council to the applicant advising that the intended use of the premises is an exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- (5) Copies of the applicant's identification, RSA Competency Card and National Police Certificate
- (6) Liquor Plan of Management
- (7) Submission from the Licensing Officer, North Shore Local Area Command, raising no objection to the application, received 22 June 2017
- (8) Submission from the Compliance branch, L&GNSW, raising no objection to the application, received 11 August 2017
- (9) Email correspondence from Liquor & Gaming NSW to the applicant, requesting additional information in support of the application, dated 31 July 2017
- (10) 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 Artarmon, and the “broader community” of the Willoughby LGA.

5. Analysis of Submissions and other Materials

- (1) This application is for an on-premises liquor licence for a catering service that proposes to cater for a range of private functions, ticketed public events, festivals and community events, with patron capacities of between 1,200 and 15,000 patrons.
- (2) The proposed licensed premises comprises a commercial office, with functions and events to be conducted away from the licensed premises, pursuant to the sale on other premises authorisation. The applicant has obtained written confirmation from Willoughby Council that the intended use of the premises is an exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- (3) The Compliance branch of L&GNSW and North Shore Licensing Police made submissions raising no objections to the application.
- (4) No other submissions were received in respect of this application.
- (5) The applicant has provided a suitable Plan of Management which addresses the responsible service of alcohol and harm minimisation measures that will be implemented upon the exercise of the licence.
- (6) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The granting of the licence will contribute to the responsible development of a number of industries including hospitality, entertainment and live music, as the applicant proposes to cater at a variety of public and private events.

(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 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: 22 August 2017



Matt Weber
A/Manager Licensing (Business Licensing)

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>