

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

APPLICATION NO:	1-4963764078
APPLICATION FOR:	Removal of an 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:	Natalie Kunovsky
LICENCE NAME:	Bella Events
PREMISES ADDRESS:	6 Celia Road KELLYVILLE NSW 2155
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
BELLA EVENTS**

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 catering service with Sale on Other Premises Authorisation, application number 1-4963764078.

On 29 March 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 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 licensee must give written notice of any proposal to provide catering services at a function to be held under the authorisation to the local police and the local council for the area in which the function is to be held. The notice must include the following:

(a) address of premises where function is to be held;

(b) the name of the occupier of those premises,

(c) the nature of the function,

(d) the number of persons for whom catering services are to be provided at the function,

(e) the date on which, and the hours during which, the function is to be held,

(f) the notice must be given not less than 14 days before the date on which the function is to be held.

4. 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.

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

6. No liquor sold or supplied pursuant to this licence is to be stored or consumed on the licensed premises.

7. Alcohol is not to be provided unless food of a nature and quantity consistent with the responsible sale, supply and service of alcohol is made available whenever liquor is sold or supplied.

8. The licensee is to be responsible for the provision of food.

9. The sale on other premises authorisation can only be utilised for functions, occasions or events, which are by invitation only.

10. The licensee must not exercise the sale on other premises authorisation at locations/venues where there is already a current and valid liquor licence in force.

STATEMENT OF REASONS

1. Material before the ILGA delegate

- (1) Application form lodged 6 September 2016 (DOC16/113261)
- (2) Existing liquor licence for Bella Events (DOC16/175251)
- (3) Plan of the proposed licensed premises (DOC16/113263)
- (4) Submission from the licensing officer, Hills Local Area Command, dated 14 October 2016, advising that Police do not object to the application (DOC16/132357)
- (5) Certification of Advertising Application, signed and dated by the applicant on 20 December 2016 (DOC17/053494)
- (6) Local Consent Authority Notice, signed by the Development Assessment Coordinator, Hills Shire Council, on 7 September 2016, indicating that development consent is not required to permit the proposed activity (DOC17/053504)
- (7) Email correspondence dated 19 and 20 December 2016 from the Authority to the applicant requesting additional information and the applicant's consent to the proposed conditions (DOC16/175337, DOC16/175574)
- (8) Email correspondence from the applicant to the Authority dated 21 December 2016 in response to the requests for additional information and consenting to the proposed conditions (DOC16/177639)

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 Kellyville, and the “broader community” of Sydney, given the nature of the licence.

5. Analysis of Submissions and other Materials

- (1) This application is for the removal of an existing liquor licence to a new premises.
- (2) The proposed licensed premises is an office that operates a catering service and sale on other premises authorisation. A submission was received from the Hills Shire Council advising that development consent is not required to permit the proposed activity.
- (3) Police raised no objections to the grant of the removal application.
- (4) No other submissions were received.
- (5) I am satisfied that the statutory advertising requirements have been met.
- (6) Having reviewed all of the material, I am satisfied that this application for an on-premises liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community.

6. Overall social impact

(1) Positive benefits

No objections have been received to this application, which relates to an existing catering business. The proposed licensed premises is an office. Functions will not be held at the premises.

(2) Negative impacts

The licence will be operated in accordance with harm minimisation measures prescribed by the conditions imposed on the licence.

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: 29 March 2017



Joanne Zammit
Coordinator, 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>