

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

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<b>APPLICATION NO:</b>	1-6275113713
<b>APPLICATION FOR:</b>	Small bar liquor licence
<b>TRADING HOURS:</b>	Monday to Sunday: 12:00 PM to 2:00 AM
<b>APPLICANT:</b>	Christopher John Maney
<b>LICENCE NAME:</b>	II Fingers Gentlemens Barbershop & Bar
<b>PREMISES ADDRESS:</b>	464 Smollett Street, Albury NSW 2640
<b>ISSUE:</b>	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse the liquor licence application
<b>LEGISLATION:</b>	Section 45(1) of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR A LIQUOR LICENCE  
II FINGERS GENTLEMENS BARBERSHOP & 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 1-6275113713.

On 14 November 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. 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.

## STATEMENT OF REASONS

### 1. Material before the ILGA delegate

CM9 Ref: DF17/014410

- (1) Small bar licence application, dated 27 July 2017
- (2) Application Notices
- (3) Certification of Advertising Application, dated 10 September 2017
- (4) Plan of the proposed licensed premises
- (5) ASIC Current Company Extract for BAAN SABAI JAI ASSET HOLDING PTY LTD
- (6) ASIC Business Name Details for II FINGERS
- (7) Copy of the applicant's National Police Certificate, dated 1 September 2017
- (8) Development Consent No. 10.2017.35545.1, granted by Albury City Council on 8 November 2017, for use of the premises as a small bar
- (9) Signed approval from the landlord for use of the outdoor dining area
- (10) Proposed food and drink menu for the venue
- (11) Submission and associated correspondence from NSW Police Force, dated 29 and 30 August 2017, and 7 September 2017
- (12) Submission from the Compliance branch of Liquor & Gaming NSW, dated 7 September 2017
- (13) Email correspondence from Liquor & Gaming NSW to the applicant, requesting further information in support of the application, dated 29 August 2017, 30 August 2017, 6 September 2017, 20 September 2017, 22 September 2017

- (14) Email correspondence from the applicant to Liquor & Gaming NSW, in response to the request for further information, dated 4 September 2017, 15 September 2017, 20 September 2017, 21 September 2017, 5 October 2017, and 9 November 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 Albury, and the “broader community” of the Albury Local Government Area.

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

- (1) This application is for a new small bar and barbershop, located in Albury. The small bar proposes to trade on Fridays and Saturdays from 4:00 PM to midnight, with provision made in the development consent for an additional two events per month. The rest of the time the venue operates as a high-end barbershop and café.
- (2) Development consent is in place for the proposed use of a small bar. The landlord has given the applicant approval to use the outdoor dining area, which is situated on private property.

- (3) Albury Licensing Police made a submission raising concerns that the small bar is located within 50 meters of a large primary school, and in the vicinity of residential dwellings. Following correspondence with the applicant and Liquor & Gaming NSW, Police advised that they were satisfied with the applicant's intention to operate the small bar on Friday and Saturday nights only. Police proposed four licence conditions, all of which have been duly considered by the applicant and Authority delegate.
- (4) The Compliance branch of Liquor & Gaming NSW made a submission raising no objections to the application.
- (5) No other submissions were received.
- (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 diversity of small low risk venues in Albury. Patrons attending the venue will be able to indulge in the high-end barbershop and café, which will be complimented by the offerings of a small bar on Friday and Saturday nights.

### (2) Negative impacts

The small, high-end, low-key nature of the venue provides 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.

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- (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: 14 November 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>