

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

APPLICATION NO:	1-4580818116
LICENCE NUMBER	LIQP770016659
APPLICATION FOR:	Packaged liquor licence – removal (online)
TRADING HOURS:	Monday to Sunday: 10:00 AM to 06:00 PM
APPLICANT:	CADEAU & BLISS PTY LIMITED
APPROVED MANAGER	Mr Nigel Van Hamburg
LICENCE NAME:	Cadeau & Bliss Pty Ltd
CURRENT ADDRESS	24 Hodgson Ave, CREMORNE POINT, NSW 2090
PROPOSED PREMISES ADDRESS:	34 Bradleys Head Road, Mosman, NSW 2088.
ISSUE:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a packaged liquor licence – removal (online).
LEGISLATION	Section 59 of the <i>Liquor Act 2007</i>

**ILGA DELEGATED DECISION – APPLICATION FOR PACKAGED LIQUOR
LICENCE – REMOVAL (ONLINE)**

Cadeau & Bliss Pty Ltd

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 a packaged liquor licence – removal (online), 1-4580818116.

On 12 December 2016, and after careful consideration of the application and other material, the delegate decided to approve the application.

Licence Conditions:

- (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 04:00AM and 10:00AM 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) Retail sales

Good Friday	Not permitted
December 24th	Normal trading Monday to Saturday 8:00 AM to 10:00 PM Sunday
Christmas Day	Not permitted
December 31st	Normal trading

- (3) The business authorised by this licence must not operate with a greater overall level of social impact on the well being of the local and broader community than what could be reasonably expected from the information contained in the Community Impact Statement, application and other information submitted in the process of obtaining this licence.
- (4) Limited to the sale of liquor only by means of taking orders over the telephone or by facsimile or mail order, or through an Internet site.
- (5) The licensee must conduct the licence in accordance with its management plan.

STATEMENT OF REASONS

1. Material before the ILGA delegate

The decision made by the delegate had the application, the accompanying community impact statement (CIS-Category A) and other relevant material:

- (1) Application form – Lodged 20 May 2016 (DOC16/067454)
- (2) Community Impact Statement (CIS) document and supporting material accompanying the application, dated 7 May 2016. (DOC16/167456)
- (3) Premises plan of the proposed licensed area (home office based business for the purposes of taking orders online or via internet) (DOC16/067457)
- (4) ASIC extract for the organisation applicant CADEAU & BLISS PTY LIMITED (DOC16/067458)
- (5) Licence document dated 2 December 2016 (DOC16/165517)
- (6) Submission from Mosman Council received 3 April 2016, which raised no objection and advised that “development consent is not required to permit the proposed activity.” (DOC16/067460)
- (7) A submission from Harbourside LAC received 16 June 2016, which raised no objection to the application. (DOC16/072361)
- (8) An email from the applicant received 5 December 2016. (DOC16/166383)
- (9) Plan of Management (DOC16/166454)

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) According to section 59(3) of the *Liquor Act 2007*, “an application for approval to remove a licence to other premises is to be dealt with and determined by the Authority as if it were an application for the granting of a licence in respect of those other premises”.
- (2) 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:
 - a. the grant or removal of a small bar licence (where required),
 - b. a packaged liquor licence (limited to telephone/internet sales),
 - c. an application for extended trading hours to permit the sale of liquor after midnight in relation to a small bar (where required), an on premises relating to a restaurant that includes an application for a primary service authorisation, an on premises licence relating to a karaoke bar, a catering service or a vessel, and an application for a producer/wholesaler licence that includes an application for a drink on premises authorisation.
- (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 Mosman and the "Broader Community", the entire state of NSW. This is because the nature of the licence allows for convenient access to liquor by persons located anywhere in NSW.

5. Analysis of Submissions and other Materials

- (1) Having reviewed all of the material, I am satisfied that this application for the removal of an online packaged liquor licence is unlikely to result in any significant increase in alcohol-related harms in the local community. The sale of liquor will be limited to by means of taking orders over the telephone or by facsimile or mail order, or through an internet site.
- (2) The proposed licensed premises comprises of a home office, at which online orders will be received and processed. Alcohol will not be stored at the proposed licensed premises and customers will not be able to attend the licensed premises. A submission was received from Mosman Council confirming that development consent is not required to permit the proposed activity.
- (3) A submission from the Harbourside LAC raised no objection to granting the application.
- (4) I am satisfied that the statutory advertising requirements have been met.

6. Overall social impact

(1) Positive benefits

The licence will be operated from a home office by internet and telephone only. Customers will not be attending the premises.

(2) Negative impacts

No objections were received to the granting of this application. As this is an online business, no customers will be attending the premises in order to purchase liquor. The sale of liquor will be limited to by means of taking orders over the telephone or by facsimile or mail order, or through an internet site. The nature of the licence sought means that there are unlikely to be any amenity 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) 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.
- (3) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (4) In making this decision under delegation from of the Authority, all statutory objects and considerations prescribed by section 3 of the Act were considered and accordingly, I have determined to grant the packaged liquor licence removal application.

Decision Date: 12 December 2016



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>