

Liquor & Gaming NSW

NSW Department of Customer Service

Liquor & Gaming NSW

Application number:	APP-0009620942	
Application for:	Liquor - on-premises licence – Restaurant - Primary service authorisation	
Trading hours:	Monday - Sunday	12:00 PM – 10:00 PM
Applicant:	Jonathan Woods	
Licence name:	Cranzgots Pizza Cafe	
Premises address:	UNIT 1 1 CAREEL HEAD RD, AVALON BEACH, NSW 2107	
Issue:	Whether a delegated Liquor & Gaming employee on behalf of the Independent Liquor & Gaming Authority (ILGA) should grant or refuse an application for a Liquor - on-premises licence – Restaurant - Primary service authorisation.	
Legislation:	Section 45(1) of the <i>Liquor Act 2007</i>	

**Liquor - on-premises licence – Restaurant - Primary service authorisation
Cranzgots Pizza Cafe**

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 Customer Services, has decided to grant the application for a Liquor - on-premises licence – Restaurant - Primary service authorisation, application number APP-0009620942

After careful consideration of the application and other material, the delegate decided to approve the application, subject to conditions listed in table 1.

Decision Date: 21 February 2022



Kieran McSherry

**Team leader, Licensing; New Licensing and Special Events
Liquor and Gaming NSW
Delegate of the Independent Liquor & Gaming Authority**

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STATEMENT OF REASONS

Analysis of Submissions and statutory requirements

- (1) Appropriate consent is in place for the use of the premises as a Liquor - on-premises licence – Restaurant - Primary service authorisation.
- (2) Council have raised no objections.
- (3) Police have requested a suite of conditions to be imposed upon grant of the liquor licence. I have imposed some of police's recommended conditions whilst considering the liquor trading hours which cease at 10pm and the reduced patron capacity of 40. It is worthwhile noting also that the crime stats for Mona Vale is less than the state average.
- (4) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (5) I am satisfied that the statutory advertising requirements have been met.
- (6) Having reviewed all the material, I am satisfied that granting this application for a small bar liquor will not be detrimental to the local or broader community.

Overall social impact

(1) Positive benefits

The granting of the licence will provide patrons with increased choice to socialise, including to enjoy a meal and/or a social drink and other entertainment consistent with the licence within the suburb of Avalon Beach

(2) Mitigation of potential negative impacts

I am satisfied that the business model, conditions imposed, and any other information contained in the application will provide that the lawful operation of the premises will not be detrimental to the local or broader community.

In particular, the Plan of Management and licence conditions will serve to mitigate any potential negative impacts

Conditions considered by the ILGA delegate

All requests to impose conditions on the licence are reviewed on a case-by-case basis and a merit-based assessment is conducted.

In considering whether a proposed condition has merit, delegates consider: (a) whether the need for the condition has been adequately established (b) whether the benefits of imposing the condition are likely to outweigh the costs and (c) whether the proposed condition is proportionate to the potential harm identified.

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Table 1 sets out the conditions which I have decided to impose on the licence, and the Table 2 sets out conditions put forwarded for consideration which I have decided not to impose, and the reasons for that decision.

TABLE 1 - Proposed conditions imposed on the licence:	
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 04:00 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.	<p>Consumption on premises</p> <p>Good Friday Not permitted</p> <p>Christmas Day Not permitted</p> <p>December 31st Normal trading</p> <p>Note: Trading is 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 5.00AM.</p>
3.	<p>No rapid consumption drinks condition</p> <p>The following drinks must not be sold or supplied on the Licensed Premises:</p> <p>Any drink (commonly referred to as a “shot” or a “shooter”, (with the exception of cocktails) that contains more than 30 mls of spirits or liqueur and that is designed to be consumed rapidly</p>
4.	The premises is to be operated at all times in accordance with the Plan of Management dated January 2022 as may be varied from time to time after consultation with NSW Police. A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of a police officer, council officer, Liquor and Gaming NSW inspector, or any other person authorised by the Independent Liquor and Gaming Authority.
5.	Licensee training must be completed no later than six months from the date of grant of this liquor licence

TABLE 2 – Proposed conditions not imposed on the licence:		Proposed by:	Reason code (see table 9)
1.	<p>CCTV footage on premises:</p> <p>The Licensee shall maintain a CCTV system that meets the following minimum requirements:</p> <p>1) A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when: a. the person represents not less than 100% of the screen height, and</p>	Police	G

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	<p>b. there is an unobstructed view of the person's face.</p> <p>2) In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas: a. all other public entrances and exits, whether or not in use at the time, b. staircases, c. all portions of the floor area accessible to the public where entertainment is provided, d. toilet external entrances, e. all public accessible areas within the premise excluding toilets and accommodation rooms, f. the footpath area directly adjacent to the premises, and g. courtyard and smoking areas.</p> <p>3) The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when: a. the person represents not less than 50% of screen height, and b. there is an unobstructed view of the person's face.</p> <p>4) Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.</p> <p>5) Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.</p> <p>6) Recordings must: a. be in digital format, b. record at a minimum of ten (10) frames per second, and c. commence one hour prior to opening and operate continuously until at least one hour after closing.</p> <p>The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.</p> <p>8) Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30-day period.</p>		
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	<p>9) When the venue is open and trading, at least one person shall be at the venue that is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.</p> <p>10) Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, OLGR Inspectors or other regulatory officers upon request.</p> <p>11) The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, OLGR Inspectors or other regulatory officers.</p> <p>12) Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable</p>		
<p>2.</p>	<p>Maximum Patron Capacity a. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the premises. The signage shall state:</p> <p>b. A comfortable dining position must be available for each patron upon the premises. This will include a seat and access to table/bench space generally in accordance with the approved plans.</p> <p>c. Management are responsible for ensuring the number of patrons in the premises does not exceed the approved capacity specified in sub clause (a).</p> <p>d. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected near the main principle entry to the premises; in such manner that it would</p>	<p>Police</p>	<p>C</p>

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	<p>be reasonable to expect that a person leaving the premises will be alerted to its contents. The signage shall state:</p> <p>e. Signage specified in sub clause (a) and (d) is to be erected prior to the commencement of operations.</p> <p>f. No patron shall be permitted to take glasses or open containers of liquor off the premises.</p> <p>Approved patron capacity is limited to xxx Upon leaving, please respect local residents by minimising noise</p>		
3.	<p>Neighbourhood Amenity a. The management of the premises</p> <p>i Shall ensure patrons do not crowd or loiter in the vicinity of the premises in such manner that pedestrian movement is obstructed or hindered.</p> <p>ii. Shall ensure that the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations. If so directed by Council, the Management is to employ private security staff to ensure that this condition is complied with.</p> <p>iii. Shall record in a Register full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s and any complainant details if provided.</p> <p>iv. Shall respond to any disturbance complaint/s in a timely and effective manner. All actions undertaken by management / staff to resolve such complaint/s shall be recorded in the Register.</p>	Police	C
4.	<p>Crime Scene Preservation a. Immediately after the person in charge of the Licensed Premises become</p>	Police	C

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	<p>aware of an incident involving an act of violence causing an injury to a person on the premises, the person must:</p> <ul style="list-style-type: none"> 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 sale and/or supply of liquor must cease 15 minutes prior to the cessation of the respective hours of operation for the specified indoor seating areas	Police	C

Materials considered by the ILGA delegate

TABLE 3: Analysis of submissions	
Stakeholder submissions	
1.	<p>NSW Police</p> <ul style="list-style-type: none"> • No objection with conditions – majority of the conditions have not been imposed as the nature of the licence type and low capacity identify as low risk
2.	<p>Local consent authority</p> <ul style="list-style-type: none"> • No objection
3.	<p>Public</p> <ul style="list-style-type: none"> • Not received

TABLE 4: Document analysis	
Details	Dated received/comment
1.	Application form
	Lodged 15/01/2022

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2.	Plan of proposed licensed area	Compliant
3.	Certification of Advertising	Compliant
4.	Plan of management	Compliant
5.	National Police Certificate ID RSA competency card licensee training	Compliant
6.	Development consent	Compliant
7.	Correspondence from Applicant	
8.	Correspondence from Council	
9.	Correspondence from landlord	

Conclusion

- (1) I am satisfied that procedural fairness was afforded to the applicant and interested parties regarding the decision whether 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. The decision was made by the delegate having reviewed the application statement, business model and risk analysis, stakeholder submissions and other relevant material.
- (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 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 liquor licence application with conditions.

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TABLE 5: Relevant extracts from the Liquor Act 2007

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.
 - d. the need to support employment and other opportunities in the—
 - (i) live music industry, and
 - (ii) arts, tourism, community and cultural sectors.

TABLE 6: 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 4 Division 4.1 or Part 5.1 of that Act is required), to use the

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- premises for the purposes of the business or activity to which the proposed licence relates – that development consent or approval is in force.
- (d) the proposed approved manager/licensee has completed the relevant tiered industry training as per legislative requirements.

TABLE 7: 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.

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.

TABLE 8: 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.nsw.gov.au/Pages/public-consultation/online-application-noticeboard/online-application-noticeboard.aspx>. The Review Application form can be accessed online via the Application Number hyperlink.

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Further information can be obtained from the Reviews page on the Liquor & Gaming website at:
<https://www.liquorandgaming.nsw.gov.au/Pages/ilga/decisions-of-interest/reviews-of-decisions/reviews-of-liquor-and-gaming-decisions.aspx>

TABLE 9: - Reasons for not imposing requested conditions.

A	Do not impose. Already covered by the Liquor Act.
B	Do not impose. Already covered/already a condition in the DA.
C	Do not impose. Not a relevant condition for this licence type. Condition sought is generally only imposed on high-risk licence type or in exceptional circumstances. Exceptional circumstances have not been sufficiently made out by the person putting forward the condition.
D	Do not impose. This condition would be more restrictive than similar venues in Kings Cross which remains subject to the lockout laws in 2020.
E	Do not impose. Small Bars are considered low risk. 2016 Review of Small Bars found Venues with a small bar licence have a lower incidence of alcohol-related violence than venues operating as a small bar under another type of liquor licence. Smaller bars have a lower incidence of alcohol-related violence than other types of licensed venue.
F	Do not impose. Already covered in the Plan of Management. Plan of management condition has been imposed.
G	Do not impose. Not in alignment with the business type, risk associated and would impose disproportionate unnecessary financial and operational burden (small business).
H	Do Not Impose. Being part of a liquor accord is not compulsory / on a voluntary basis only. Exceptional circumstances for imposing condition have been sufficiently made out by the person putting forward to the condition.
I	Do not impose – wording not consistent with ILGA/L&GNSW conditions – ILGA/L&GNSW condition wording has been imposed instead.