

NSW Department of Customer Service Liquor & Gaming NSW

Application number:	APP-0009635832	
Application for:	Liquor - on-premises licence - Vessel	
Trading hours:	Monday - Saturday Sunday	10:00 AM – 12:00 AM 10:00 AM – 10:00 PM
Applicant:	Marianne Barratt	
Licence name:	Weathersfield Yacht Charters	
Premises address:	Abbotsford Bay, ABBOTSFORD, NSW 2046	
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 - Vessel.	
Legislation:	Section 45(1) of the <i>Liquor Act</i> 2007	

Liquor - on-premises licence - Vessel Weathersfield Yacht Charters

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 - Vessel, application number APP-0009635832

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: 31 March 2022

Nicola Taylor

Manager Licensing
Liquor and Gaming NSW
Delegate of the Independent Liquor & Gaming Authority



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 Vessel.
- (2) Police have no objection
- (3) I am satisfied that the applicant has provided consent to imposing the conditions contained in the licence document.
- (4) I am satisfied that the statutory advertising requirements have been met.
- (5) Having reviewed all the material, I am satisfied that granting this application for a Liquor on-premises licence Vessel will not be detrimental to the local or broader community.
- (6) Plan of management
- (7) Plan
- (8) Certificate of survey

Overall social impact

(1) Positive benefits

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

(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.

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.

TΔRI	E 1 - Proposed conditions imposed on the licence:	
IADL		
	Section 11A of the Liquor Act 2007 applies to this licence. Liquor must not be sold by retail on	
1	the licensed premises for a continuous period of 6 hours between 04:00 AM and 10:00 AM during	
1.	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.	Restricted trading days and NYE Consumption on premises Good Friday Normal trading	
	Christmas Day Normal trading	
	December 31 st Normal opening time until normal closing time or 2:00 AM on New Year's Day,	
	whichever is the later	
	Liquor must be sold/supplied with another product or service Liquor may only be sold or	
3.	supplied for consumption on the licensed premises with, or ancillary to, another product or	
	service that is sold, supplied or provided to people on the licensed premises.	
	Requirement to provide food on licensed premises Food of a nature and quantity consistent	
4.	with the responsible sale, supply and service of alcohol must be available whenever liquor is	
	sold or supplied.	
5.	Drinking water to be available free of charge	
J .	The licensee must ensure that free drinking water is available at all times at or near the bar	
	areas	
6.	Sydney CBD entertainment precinct	
	The licensee must not cause or permit any passengers to board from or disembark to any part	
	of the Sydney CBD entertainment precinct (whether from the berthed vessel or by a tender or other means) during the general late trading period (after midnight). The restriction does not	
	apply in relation to the period between midnight and 3am on 1 January in any year (New Year's	
	Eve).	
7.	No liquor to be removed from the vessel	
	The licensee must ensure liquor is not removed from the licensed premises.	
8.	Plan of management	
0.	The premises is to be operated at all times in accordance with the Plan of Management dated	
	February 2022 as may be varied from time to time after consultation with the NSW Police	
	Marine Area Commander. 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, or Liquor,	
	Gaming and Racing inspector	
9.	Crime scene preservation Immediately after the person in charge of the licensed premises	
	becomes aware of an incident involving an act of violence causing injury to a person on the	



	premises, the person must: 1. Take all practical steps to preserve and keep intact the area where the act of violence occurred, and retain all material and implements associated with the act of violence in accordance with the Crime Scene Preservation Guidelines issued by NSW Police, and 2. Make direct and personal contact with the NSW Marine Area Command Supervisor or his/ her delegate, and advise the Supervisor or delegate of the incident, and comply with any directions given by the Supervisor or delegate to preserve or keep intact the area where the act of violence occurred.
10.	Staff not to consume liquor The licensee must not permit staff to consume liquor on the licensed premises while engaged in the sale or supply of liquor (including during any meal or other break).
11.	No dance parties The licensee must not permit dance party events to be conducted on the premises. For the purpose of this condition a dance party event means an event, whether a ticketed event or otherwise, which is open to the public and where the primary activity is entertainment provided by live DJ/DJ's and/or other live performances for the purpose of dancing. This includes the vessel being part of a group of vessels or part of a land-based activity which involves an event that could be described as a "Dance Party" or where amplified music is the main reason for the event or gathering. Note: The above condition is not intended to include wedding ceremonies/receptions, corporate events, and school formals at which DJ entertainment or other live performances of electronic dance music is provided ancillary to the event.
12.	Identification of bar staff. The licensee must ensure that all staff will wear clothing that clearly identifies them as employees of the Licensee
13.	Liquor accord (Sydney Harbour) The licensee or their representative is to join and be an active participant in the Vessels Liquor Accord.
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TABL	E 2 – Proposed conditions not imposed on the licence:	Proposed by:	Reason code (see table 9)
1.	NIL		

Materials considered by the ILGA delegate

TABLE	TABLE 3: Analysis of submissions	
Stakel	Stakeholder submissions	
1.	NSW Police	
	No objection	



2.	Local consent authority	
	Not received	
3.	Public	
	Not received	

TABLE	TABLE 4: Document analysis		
Details		Dated received/comment	
1.	Application form	Lodged 30/01/2022	
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.	Certificate of survey	Compliant	
7.	Correspondence from Applicant		
8.	Correspondence from Police		

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.

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 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.

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

Α	Do not impose. Already covered by the Liquor Act.
В	Do not impose. Already covered/already a condition in the DA.
С	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.
	Do not impose. Small Bars are considered low risk.
E	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).
Н	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.

